



BURLINGTON BOARD OF APPEALS

Town Hall, 29 Center Street, Burlington, MA 01803

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Frequently Asked Questions

How do I know what the setbacks are for my zoning district?

The most common request is for front, back and side yard variances.

Minimum front yard: twenty-five (25) feet

Minimum side yard and rear yard: fifteen (15) feet

How do I look up zoning regulations? Is there anyone who can help me?

Burlington Zoning Bylaws http://www.burlington.org/PageLinks/WebZBylaws1_09.pdf

Massachusetts 40B Regional Planning Bylaws:

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40B>

If you are not sure if a variance is needed, request a zoning interpretation from the Inspector of Buildings. The application must be received with thirty days from the date of the decision of the Inspector of Buildings. (Burlington Bylaw 9.5.3).

I've been told that I need to go before the Board of Appeals. Where do I get the application and how is it completed?

Visit the Town Clerk's office to request an application or download an application from the BOA website:

http://www.burlington.org/B_Aapp.pdf

All questions on the application must be completed in full, including map, parcel and zoning information. Read the entire back of the application. All dimensional requirements must correspond with the Inspector of Building's denial letter, the engineer's plan and the legal notice. If they don't, you may be asked to withdraw your application. Save time and frustration by making sure that you complete the application accurately.

What do I need to include in order for the application to be "complete"?

- A copy of the Inspector of Building's decision when necessary;
- A list of abutters within three hundred (300) feet of the property line, certified by the Board of Assessors;
- Four (4) typed mailing labels for each certified abutter – provided by the Board of Assessors;
- Filing fee (\$100.00 for residential and \$250.00 for commercial);
- Description of hardship per MGL, Chapter 40A, Section 10.

When will my hearing take place?

Carefully plan your timeline as it could take up to three (3) months from the time the application is filed to the end of the twenty (20) day statutory appeal period. (MGL Chapter 40A, Section 15). The deadline to receive the completed application is twenty-one (21) business days prior to the day of the hearing. The BOA meets the first and third Tuesday of every month.

Do I need a certified plot plan?

Yes, for any changes to a dwelling, it is imperative.

- Maximum size: twenty-four (24) inches by thirty-six (36) inches;
- Minimum size: eight and one half (8 1/2) inches by eleven (11) inches.
- The scale may not be less than one (1) inch = forty (40) feet.
- The North point must be visible.
- The plan should show all existing or proposed structures and distance to lot lines.
- Remember to include dimensions and locations of any easements and the location of any Flood Hazard District.

What do I need to provide if applying for a sign?

You MUST include a sketch of the proposed sign showing the sign size, type, measure of illumination (lumens), position on building, distance from nearest residentially zoned land and distance from nearest public way. The BOA expects, and you should provide, a sketch or "photographic representation" of how the final design will appear on the property. For more information, review Burlington's Zoning Bylaws, Article XIII: Sign Regulations, Section 13.1.0.

What happens after the hearing?

A Decision of the BOA must be made within one hundred (100) days after the date of the filing of an application (MGL, Chapter 40A, Section 15). When the BOA files its Decision with the Town Clerk, you will also receive a copy of the signed Record of Proceedings with an original legal notice attached, the original Certificate of Grant, the original Decision Letter, and a letter from the BOA. Once the twenty (20) day appeal period passes without an appeal being filed, the applicant, on the 21st day, may pick up a Certified copy of the Decision from the Town Clerk's Office and record it at the Registry of Deeds. A Building Permit is not valid until recorded at the Registry of Deeds. Proof that the decision has been filed at the Registry of Deeds must be brought to the Building Department before a Building Permit will be issued. This is explained in a letter the petitioner receives from the Board of Appeals. (Chapter 40A, Section 11, M.G.L.)

Can I file for a building permit before the appeal period expires?

The Building Inspectors may review your permit application prior to the appeal period expiration; however, you will NOT be issued a building permit until after the mandatory twenty (20) day appeal period expires.

During the hearing, if I believe that my request will be denied, what are my options?

You can request to withdraw your application, without prejudice, and re-apply to the BOA with new information that you believe will help your request for a variance.

What if my appeal is denied?

Any application that is denied cannot be re-submitted until two (2) year to the date of the final unfavorable action (Burlington Bylaw 9.5.6).

How long may I hold the Variance before starting work?

One year.

⌚ Timelines and Deadlines to Remember

- **21 days** – completed applications must be received within 21 business days, prior to the Board of Appeal’s (BOA) next regular meeting.
- **30 days** – completed application must be submitted within 30 days from the receipt of denial letter from the Inspector of Buildings.
- **65 days** - BOA must hold a hearing within 65 days from the date of receipt of completed application.
- **2 weeks** - legal notice must appear for 2 successive weeks prior to the hearing.
- **2 weeks** - Town Clerk and abutters receive legal notice 2 weeks prior to the hearing.
- **100 days** – the BOA must submit their Decision to the Town Clerk within 100 days from the date the application was filed.
- **20 days** – After the Town Clerk receives the Decision from the BOA, there is a 20 day statutory appeal period. Petitioner may bring paperwork to the Town Clerk for appeal certification on the 21st day.
- **1 year** – Variance granted by BOA must be acted upon within one year of its receipt.
- **2 years** - Waiting period to resubmit an application that has been denied by the BOA.

Common Setbacks/Density Regulations (Article V, Section 5.2.0):

Minimum front yard: twenty-five (25) feet

Minimum side yard and rear yard: fifteen (15) feet

Minimum side yard and rear yard from pool: fifteen (15) feet

Sign Regulations: There are many bylaws relative to signage. Review Article XIII: SIGN REGULATIONS of the Town of Burlington Zoning Bylaws

http://www.burlington.org/PageLinks/WebZBylaws1_09.pdf and request a zoning interpretation from the Inspector of Buildings

BASIC INFORMATION FOR APPLICANTS

Application: Complete all lines on the application, attach a denial letter from the Inspector of Buildings and submit with all required material as requested on the application. Do not leave anything blank, including the description, in order to avoid any ambiguity or uncertainty as to your intent in seeking approval for a variance.

Fee: There is a non-refundable fee (\$100.00 residential and \$250.00 business). Checks/money orders shall be made payable to the “Town of Burlington.”

Deadline: Completed applications must be received 21 business days prior to the regular BOA meeting.

Notification: The Recording Clerk will prepare the Legal notice to be published in the Daily Times for two (2) successive weeks prior to the hearing, and the Town Clerk will post notification two (2) weeks prior to the hearing. (Burlington Bylaw 9.6.1). These notices will contain date, time, place of the public hearing, property address, petitioner’s name, dimensions, and nature of relief requested. (Burlington Bylaw 9.6.4).

The notices must be approved by the petitioner. Notices are mailed to abutting towns and abutters within 300 feet of the property line two weeks prior to the hearing. (Burlington Bylaw 9.6.2).

Meetings: Regular meetings of the Burlington Board of Appeals (BOA) are held on the first and third Tuesday of each month in the Main Town Hall Meeting Room, 2nd Floor, 29 Center Street, Burlington. Confirm the date and location with the legal notice which will be mailed to you and check the town's website in case the meeting is canceled. <http://www.burlington.org/clerk/index.html>

Hardship: Based on MGL, Chapter 40A, Section 10, petitioners must prove hardship when requesting a variance. The description of the hardship must be included with the application and it must be verbally explained at the hearing. Hardships based on MGL:

1. That owing to circumstances relating to the soil conditions shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
2. That desirable relief may be granted without substantial detriment to the public good.
3. That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

Recording Decision at Registry of Deeds in Order to Obtain Permit: M.G.L. Chapter 40A Section 11 states in part that "no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the Decision has been filed in the office of the town clerk and that no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied and that the Decision is recorded in the Registry of deeds The fee for recording or registering shall be paid by the owner or applicant".