

Frequently Asked Questions

This FAQ document is intended to provide general advice to applicants, abutters, and citizens who wish to know more about the appeals process for local land use decisions. The advice in this document does not constitute legal advice. The Zoning Board of Appeals is empowered to hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.

The processes described in this document are regulated by Massachusetts State Law. Legal citations are provided so that individuals may conduct their own research. You may browse the state of Massachusetts statutes by pointing your internet browser to this link:

<http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/zoning.html>

General Information on Appeals

Q: I have my approval/permit. Can I start construction or do I have to wait for an appeal period to lapse?

A: Construction and other activities that are completed during the pending appeal period (20 days) for any permit or approval is always “at-risk.” Although the Zoning Board of Appeals may issue approvals for special permits, an appeal can result in a halt to construction and in some cases, removal of construction in furtherance of a permit that is overturned or revoked.

Q: What can be appealed?

A: Almost any decision made by the Zoning Commissioner/Building Inspector can be appealed. Although the reviewing authority, time frames and processes are different, it is important to note that an appeal can occur regarding almost all local actions. Such decisions include but are not limited to: Planning Board Site Plan and Subdivision Approvals and Special Use Permits or Building Inspector can also be appealed.

Q: Do I need an attorney to file an appeal?

A: Although an attorney is not required to file any local appeal, a land owner may wish to consult an attorney at their own cost.

Q: Can the Town of Phillipston staff help me?

A: Staff of the Town of Phillipston can provide objective information regarding the process and copies of public documents that are part of the file in the matter. In terms of strategy and legal rights, such matters should only be discussed with your attorney and cannot be provided by Town of Phillipston staff.

The Appeals Process

Q: What do I need to file an appeal?

A: In order to file an appeal, a person must have “standing”, i.e., the legal right to challenge a decision made by the Zoning Commissioner/Building Inspector. Abutters to the property will always be notified of an appeal hearing and will have opportunity to demonstrate that they are affected directly by the town’s action. For appeals at the local level an appeal application must be filed. These applications can be obtained from the Building Inspector when a denial letter is given.

Q: Where and with whom do I file the appeal?

A: Appeals must be filed with the Town of Phillipston’s Town Clerk.

Q: What is the cost to file an appeal?

A: The current cost is \$180. This covers certified mailings and legal advertisements.

Q: When will my case be heard?

A: The Zoning Board of Appeals meets on the second Wednesday of each month, pending cases to be heard. An application must be submitted a month in advance of a hearing to allow for the appropriate time for certified mailings and legal postings.