

OFFERED BY COUNCILOR GABRIELA COLETTA ZAPATA



CITY OF BOSTON IN CITY COUNCIL

AN ORDINANCE MODERNIZING AND INCREASING TRANSPARENCY AT THE ZONING BOARD OF APPEAL

WHEREAS, The Zoning Board of Appeal (ZBA) is an independent quasi-judicial body created under a 1956 Special Act and currently consists of seven members and seven alternates, with authority to grant variances, conditional use permits, and zoning exceptions that materially shape housing supply, neighborhood character, and equitable development across the City of Boston; *and*

WHEREAS, The ZBA is supported by a limited administrative staff, one Principal Administrator, three Head Clerks, and one vacant position, along with limited legal and constituent services support, despite reviewing hundreds of complex appeals each year; *and*

WHEREAS, The ZBA's current public notice, records, and access systems rely primarily on outdated methods and do not meet modern standards for transparency, accessibility, or meaningful public participation; *and*

WHEREAS, Communities most impacted by displacement, eviction, environmental burdens, and land-use change, including renters, civil-rights advocates, fair-housing experts, and environmental justice stakeholders, are not guaranteed representation on the ZBA; *and*

WHEREAS, ZBA members are not required by statute to receive standardized ethics or conflict-of-interest training, raising concerns about consistency, accountability, and public trust; *and*

WHEREAS, Members of the Board do not consistently receive timely, formal briefings on major zoning reforms, despite such changes having demonstrable impacts on variance patterns and development outcomes; *and*

WHEREAS, Recent zoning modernization efforts have resulted in measurable reductions in variance requests in certain neighborhoods, yet the City lacks a routine, public system for tracking and reporting variances by neighborhood and zoning district; *and*

WHEREAS, Residents, particularly those without legal representation, face significant barriers to accessing zoning records, understanding procedures, and participating

effectively in the appeals process, and would benefit from centralized electronic access and in-person assistance; *and*

WHEREAS, Regular public reporting on variances by neighborhood and zoning district would support evidence-based zoning, highlight systemic mismatches between the zoning code and actual development, and inform future planning efforts; *and*

WHEREAS, The ZBA's enabling statute restricts changes to board size, composition, term limits, and appointment structure, making legislative action necessary to modernize the Board and align it with current planning and equity goals; *and*

WHEREAS, Strengthened conflict-of-interest standards and structural safeguards are necessary to ensure fairness, independence, and public confidence in the ZBA's decision-making; **NOW THEREFORE**

Be it ordained by the City Council of Boston as follows:

That the City of Boston Code of Ordinances, Chapter IX, Section 4 is hereby amended:

SECTION 1. Purpose

Insert in section 9-4.1 following subsection (B):

(C) The Zoning Board of Appeal (the "Board") is critical in determining what development is approved in the City of Boston. The Board must conduct itself in a manner that supports public confidence in its proceedings by avoiding apparent or potential conflicts of interest. The Board is subject to the provisions of G. L. c. 268A and to additional conflict of interest requirements of St. 1956, c. 665, s. 8, as amended, governing the City of Boston Zoning Board of Appeal. These statutes prohibit Board members from participating in proceedings related to 1) projects in which they had an interest in the two years before any application to the Board and 2) projects seeking the same type of relief in the same district as is sought by any project in which a board member has an interest. In order to further the effective implementation of these obligations, promote public confidence in the Board, and reduce the potential for conflicts of interest by promoting greater transparency, and improving the overall efficiency and functioning of the Board, related agencies, entities and processes, the following requirements are imposed.

Insert following provisions after section 9-4.2:

SECTION 2. Ethics and Transparency

Each member and each alternate member of said board shall be subject to the provisions of G. L. c 268A. In addition, notwithstanding the provisions of any general or special law to the contrary, no member or alternate member shall participate in hearing or deciding (a) any appeal involving property in which he has held an ownership interest, or received compensation for services rendered, within five years of the date the appeal was filed with the board; and (b) any appeal involving property in the same geographic zoning district and seeking relief from the same provisions of the zoning regulations as any other appeal pending before the board in which the member or alternate member has a financial or legal interest. A violation of the provisions of

the preceding sentence shall be punishable in the same manner as a violation of the provisions of section nineteen of said chapter two hundred and sixty-eight A and shall be subject to the provisions of section twenty-one of said chapter two hundred and sixty-eight A.

- A) At the time of appointment to the Board, each member shall disclose all properties or projects in which they or their business associates have business dealings, ownership interests, or investments, and which are likely to be before the Board for any reason. Board members shall disclose any additional such property or project as soon as they become aware that such property or project may come before the Board for any reason. For the purposes of this disclosure requirement, a "business associate" includes any individual, company, or organization with which a member or alternate is acting together to pursue a common business purpose, including partners in a partnership, co-owners of a business, outside employers, or co-members of an LLC.
- B) In addition to limitations imposed by G. L. c 268A, Zoning Board of Appeal members and alternates shall be prohibited from having any subsequent business dealings concerning any project on which they voted, including purchasing, lending, investing, or performing construction, architectural, marketing, sales or brokerage or other services for compensation, for two years after the date of any vote on the project. Prior to accepting appointment to the Board, all members and alternates shall acknowledge this restriction.
- C) Zoning Board of Appeal members and alternates will submit annual statements of financial interest to the City Clerk's Office.
- D) Upon appointment or re-appointment to the Zoning Board of Appeal, members and alternates will undergo comprehensive ethics training, as well as training in Board processes, the Boston Zoning Code, and principles of zoning law. Board staff will be similarly trained, with said training to be updated bi-annually. The Office of Human Resources, in conjunction with Corporation Counsel, will develop these trainings.
- E) The Executive Secretary of the Zoning Board of Appeal shall schedule a business meeting for the Zoning Board of Appeal to consider the creation of any written policies or protocols which, in the judgment of the Board, would facilitate the efficient, predictable conduct of its proceedings and decision.

SECTION 3. Reporting

- A) The Board of Appeal shall make available to the public its contact information, including electronic contact information, and shall maintain an electronic subscription list for notice and advertisement of board hearings. The board shall also maintain and publish a detailed record of all its proceedings, setting forth the reasons for each decision; the vote of each member participating therein; the absence of a member or her or his failure to vote; and any conditions or provisions attached to the granting of any variance or exception. To ensure public access to zoning decisions, the board, with assistance from the Inspectional Services Department, shall make all records, reports, and variance data available on a publicly accessible website and establish a searchable electronic database of past decisions.

- B) The board shall produce and publish a biannual report to the Boston City Council Committee on Planning, Development, and Transportation detailing the number and types of zoning relief granted and denied; a breakdown by zoning district and neighborhood; any variances granted contrary to planning or environmental recommendations; variances granted without meeting hardship standards, including the rationale; and a summary of trends, including instances where Planning Department recommendations differed from board rulings.
- C) The City Council Committee on Planning, Development, and Transportation shall hold a public hearing annually at which the Board of Appeal shall testify regarding its decision-making process and provide justification for variances granted in deviation from hardship standards. The City Council may issue a formal recommendation for procedural reforms to be implemented by the Board; request that the Mayor review and reconsider appointments to the Board of Appeal based on patterns of noncompliance; and propose legislative amendments to strengthen zoning enforcement and limit discretionary approvals.
- D) The Board of Appeal shall be supported by one or more employees of the City of Boston who shall not be otherwise engaged in real estate, permitting, planning or development within or on behalf of the City, except as to report findings or recommendations of the board to other boards, offices, departments or agencies and to the general public. Such staff shall also educate and update members of the board on updates to the municipal code, zoning code, or other regulations which may impact matters before the board. The Chief of the Planning Department, or their designees, shall convey such updates to the municipal code, zoning code, or other regulations which may impact matters before the board to the staff of the Board of Appeal.
- E) The Commissioner of Inspectional Services, also known as the Building Commissioner, shall ensure that an employee within that office, or an individual provided by a non-profit organization under contract with that office, provide neutral advice and guidance explaining to members of the public the standards, procedures, appeal process and all other matters relevant to the Board of Appeal. Such employee or individual shall be present and clearly identifiable at each meeting of the Board of Appeal and shall be located either at City Hall or at the office of the Building Commissioner.
- F) The Commissioner, or their designee, shall work in conjunction with the Mayor's Office of Language and Communications Access, to ensure the provision of translation services, including through assistive technology and/or staff to ensure effective conveyance of technical discussions, at Board hearings.
- G) The Commissioner, or their designee shall:
 - 1) Enable email notification of notice to hearings, deferrals and new hearing dates to those who sign up for email notice;
 - 2) Enable the electronic circulation of plans and petitions to be heard by Zoning Board of Appeal members prior to the hearing date;

- 3) Update and improve the existing online subscription list for residents and other interested parties to receive updates on projects within specific geographic zones; and
- 4) Update and improve the existing database such that it is searchable and contains all pending applications, deferrals, and decided petitions, including the decisions themselves.

SECTION 4. The provisions of this Section are severable, and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity will not affect the remaining provisions, which will remain in full force and effect.

SECTION 5.

This act shall take effect one (1) year after passage.

Filed on: February 25, 2026