



TOWN OF BERLIN

23 Linden Street, Berlin, Massachusetts 01503

www.townofberlin.com

BERLIN ZONING BOARD OF APPEALS

Application Instructions

Adopted: August 11, 2021

Under Massachusetts General Laws and the Berlin Zoning By-law, the Berlin Zoning Board of Appeals (ZBA) is empowered to process applications for Comprehensive Permits, Appeals from Determinations of a Berlin Administrative Officer (e.g. Building Commissioner), Dimensional Variances, Special Permits, and Site Plans. The ZBA Board meets monthly usually on the second Wednesday of each month. The venue and agenda for the Board's meetings are posted on the website www.mytowngovernment.org/01503. Meeting agendas are subject to revision until forty-eight hours prior to the meeting date and time. These meetings are open to the public.

The website www.townofberlin.com/zoning-board-appeals contains these instructions, application forms, a filing deadlines document, an application fee schedule, and a list of the ZBA members. The filing deadlines document explains the filing date that must be met by a petitioner to place a hearing on the agenda for a given meeting of the Berlin ZBA. A hard copy of the application form must be filed with the Berlin Town Clerk (townclerk@townofberlin.com 978.838.2931) during posted office hours (www.townofberlin.com/town-clerk). The Berlin ZBA may be contacted by sending an e-mail to ZBA@townofberlin.com or calling 978.838.0046 during the working hours of the Clerk for Inspectors and Land Use Boards.

Petitioners and the subject properties must be current on their monetary obligations to the Town of Berlin including real estate and property taxes. It is the responsibility of the petitioner to review the individual requirements for those portions of the Berlin Zoning By-law that apply to her/his petition request. Plans that are submitted must conform to the by-law requirements. A copy of the Berlin Zoning By-law may be purchased from the Town Clerk or viewed on the website www.townofberlin.com/zoning-board-appeals. An incomplete application package may cause the ZBA to reject the application after it has been filed with the Town Clerk.

After a petition has been filed with the Town Clerk, the Berlin Zoning Board of Appeals will supply the petitioner with a hearing notice. It is the responsibility of the petitioner to post the hearing notice twice in a newspaper of local circulation (e.g. Clinton Item and Worcester Telegram & Gazette). The first newspaper posting must appear a minimum of two calendar weeks prior to the hearing date. Evidence of the two newspaper postings must be provided to the ZBA a minimum of two calendar days prior to the hearing.

Notification of abutters is the responsibility of the petitioner. Two weeks prior to the hearing date all abutters listed by the Berlin Assessors must be mailed a copy of the hearing notice by United States Postal Service with a return receipt request. These return receipt requests must be supplied to the ZBA a minimum of two days prior to the hearing date.

COMPREHENSIVE PERMITS

Comprehensive Permits are governed by Massachusetts General Law, Chapter 40B. The petitioner needs to follow the guidelines set forth in this state law and adhere to the requirements of all petitions for the number of copies, electronic copies, newspaper postings, abutter lists and other items as they apply.

APPEAL OF A BERLIN ADMINISTRATIVE OFFICER

Individuals aggrieved by a written determination of the Berlin Building Commissioner may appeal to the Berlin ZBA requesting a reversal of the Commissioner's decision. All pertinent information including a copy of the Building Commission's written determination should be attached to the petition filing.

ALL PETITIONS

All applications must include the following as part of the initial filing.

- Fifteen hard copies of the petition and all associated documents
- Electronic copies of all documents associated with the petition that are eleven inches by fourteen inches or less in size must be provided to both the Town Clerk and the Berlin ZBA
- A copy of the written determination of the Zoning /Building Commissioner stating what type of special permit, site plan, or variance is required or a written copy of the Commissioner's decision being appealed
- A certified copy of the list of abutters obtained from the Berlin Board of Assessors (www.townofberlin.com/assessors , assessors@townofberlin.com , 978.838.2256)
- The current fee for the application in a check made payable to the Town of Berlin
- If the petitioner is not the property owner, "proof of standing" in the form of a purchase and sale agreement, rental agreement, or other such document (the property owner's signature must be included on the application)
- A copy of any outstanding enforcement actions or regulatory issues related to this property with any local, state, or federal governmental agency
- Any Berlin Zoning By-law required pre-approval from another Town board or officer
- The Board may request additional information or material it deems necessary to process the petition

FAILURE TO APPEAR

If the petitioner or her/his agent fails to appear on the night and time of the hearing opening without notifying the ZBA in advance, the Board will allow a fifteen-minute grace period. If after fifteen minutes the petitioner or her/his agent fails to appear, the Board may vote to cancel the hearing without prejudice. This will require the petitioner to re-file her/his petition and start the process all over again.

REQUEST FOR A CONTINUANCE

At any time during the hearing process, the petitioner may request a continuance of the hearing to the next Board meeting. This request must be on a form provided by the ZBA and signed by the petitioner. The Board must vote to approve or reject the petitioner's request. An approved request for a continuance will toll all statutory performance dates.

PETITION WITHDRAWAL

The petitioner may request to be allowed to withdraw her/his petition any time after it is filed with the Town Clerk. Any withdrawal request must be signed by the petitioner and filed with the Town Clerk and Zoning Board of Appeals. If the withdrawal is after the hearing has opened, the Board must vote to approve the request.

POST DECISION PROCESS

After the hearing is concluded and the ZBA has voted its decision, a signed copy of the decision will be filed in the Town Clerk's Office. The Town Clerk will send copies of the decision to the petitioner and all abutters. This filing date begins the twenty-day appeal period during which individual(s) aggrieved by the decision may file an appeal. If the twenty-day appeal period passes without an appeal or if any appeal is resolved, the Town Clerk will certify the decision. This certified decision must be filed by the petitioner in the Worcester County Registry of Deeds at her/his own expense. A copy of the Registry of Deeds receipt of the decision must be provided to the Berlin Town Clerk and the Berlin ZBA. No building permit may be issued for the project until the evidence of filing is received by the Town.