

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

1 by inserting the following section;-

2 "SECTIONXX: Section 1. Chapter 665 of the Acts of 1956, as amended, is further
3 amended by striking Section 8 and replacing it with the following:

4 There is hereby established in the city of Boston a board to be called the board of appeal,
5 and to consist of nine members and nine alternate members appointed by the mayor and
6 confirmed by the city council in the following manner: one member and one alternate member
7 from four candidates with expertise in environmental protection and climate change nominated
8 by the Conservation Law Foundation; one member and one alternate member from four
9 candidates with a background in urban planning and the design of neighborhoods nominated by
10 the Metropolitan Area Planning Council; one member and one alternate member from four
11 candidates nominated by the Greater Boston Real Estate Board; one member and one alternate
12 member nominated by the Boston Society of Architects; one member and one alternate member
13 from eight candidates, two nominated by the Master Builders Association, two by the Building
14 Trades Employers' Association, two by the Associated General Contractors of Massachusetts,
15 and two by The Contractor's Association of Boston, Inc.; one member and one alternate member
16 from four candidates nominated by the Building Trades Council of Greater Boston; one member

17 and one alternate member selected at large by the mayor with expertise in zoning and the general
18 laws; and two members and two alternate members selected by the mayor each of whom has
19 served for at least one year (1) as an officer or member of the board of directors or similar
20 governing body of a residential neighborhood organization which (a) is a non-profit organization
21 consisting primarily of residents of a specific neighborhood; (b) has at least twenty-five
22 members; (c) allows any resident of the neighborhood to join as a member; (d) has as a principal
23 purpose the preservation of the quality of residential life in the neighborhood; and (e) has been in
24 existence for at least two years; or (2) as a member of a residential neighborhood organization
25 which (a) has been established by the mayor; (b) consists primarily of residents of a specific
26 neighborhood; and (c) has as a principal purpose the preservation of the quality of residential life
27 in the neighborhood; provided that any person appointed from a residential neighborhood
28 organization under this section is a resident of the neighborhood represented by the residential
29 neighborhood organization in which she or he has served. The two members from residential
30 neighborhood organizations shall reside at the time of their respective appointments in different
31 city council districts. The two alternate members from residential neighborhood organizations
32 shall reside at the time of their respective appointments in different city council districts. Of the
33 two members and two alternate members from residential neighborhood organizations, one
34 member and alternate member shall be a homeowner in the City of Boston and the other member
35 and alternate member a renter in the City of Boston.

36 All members and all alternate members of said board shall be residents of the city of
37 Boston. Appointments of members and alternate members of said board shall be for terms of
38 three years and shall serve no more than two terms in total, provided, however, that members
39 serving on the Board at the time this provision comes into effect shall serve no more than 1

40 additional term from that date if so appointed by the Mayor and approved by the Council. Any
41 vacancy in the office of a member or alternate member shall be filled for the unexpired term in
42 the same manner in which the original appointment to such term was made.

43 Each member and each alternate member of said board shall be subject to the provisions
44 of chapter two hundred and sixty-eight A of the General Laws. In addition, notwithstanding the
45 provisions of any general or special law to the contrary, no member or alternate member shall
46 participate in hearing or deciding (a) any appeal involving property in which he has held an
47 ownership interest, or received compensation for services rendered, within five years of the date
48 the appeal was filed with the board; and (b) any appeal involving property in the same
49 geographic zoning district and seeking relief from the same provisions of the zoning regulations
50 as any other appeal pending before the board in which the member or alternate member has a
51 financial or legal interest. A violation of the provisions of the preceding sentence shall be
52 punishable in the same manner as a violation of the provisions of section nineteen of said chapter
53 two hundred and sixty-eight A and shall be subject to the provisions of section twenty-one of
54 said chapter two hundred and sixty-eight A.

55 Upon the absence or disqualification from the hearing of any appeal of a member
56 appointed upon nomination or at large under this section, the alternate member appointed
57 in the same manner as such member shall substitute for such member; provided, however, that
58 upon the absence or disqualification from such hearing of such alternate member, the chairperson
59 shall designate one of the remaining alternate members to substitute for such member.

60 Upon the absence or disqualification from the hearing of any appeal of a member
61 appointed from a residential neighborhood organization under this section, the alternate member

62 appointed from a residential neighborhood organization whose term is concurrent with such
63 member shall substitute for such member; provided, however, that upon the absence or
64 disqualification from such hearing of such alternate member, the other alternate member
65 appointed from a residential neighborhood organization shall substitute for such member; and
66 provided, further, that upon the absence or disqualification from such hearing of such other
67 alternate member, the chairperson shall designate one of the remaining alternate members to
68 substitute for such member.

69 Each member and each alternate member of the board of appeal shall receive for every
70 day or part thereof of actual service two hundred dollars or such sum as may from time to time
71 be

72 fixed by the city council with the approval of the mayor; but no member or alternate
73 member shall so receive in any one year more than twenty-four thousand dollars or such other
74 sum as may from time to time be fixed by the city council with the approval of the mayor. The
75 board shall establish rules and regulations for its own procedures not inconsistent with this act.

76 Any board or officer of the city or any person aggrieved by reason of being refused a
77 permit by any administrative official under the provisions of the state building code or by reason
78 of any order or decision of the building commissioner or other administrative official in violation
79 of any provision of the state building code or any zoning regulation or amendment thereof
80 adopted under the state building code may appeal to said board of appeal within forty-five days
81 after such refusal, order or decision by paying to the building commissioner a fee of twenty- five
82 dollars* or such other sum as the city council with the approval of the mayor may from time to
83 time prescribe, and by filing with the board or officer from whose refusal, order or decision the

84 appeal is taken a notice of appeal specifying the grounds thereof. Such board or officer shall
85 forthwith transmit to said board of appeal such notice of appeal and all documents and papers
86 constituting the record of the case in which the appeal is taken. Such appeal may be filed
87 electronically or in person at the office of the building commissioner or at Boston City
88 Hall.

89 Said board of appeal shall fix a reasonable time for the hearing of any appeal and give at
90 least twenty days public notice thereof in a newspaper of general circulation in the city and give
91 at least twenty days public notice electronically through relevant city mailing lists and
92 informational portals. Said board of appeal shall also send notice, by mail, postage prepaid, at
93 least twenty days prior to the hearing, to the appellant and to the owners of all property deemed
94 by said board of appeal to be affected thereby, as they appear on the then most recent local tax
95 list, and to any person filing written request for notice of hearings, such request to be renewed
96 yearly in December, and to the Boston Redevelopment Authority. The board shall schedule the
97 hearing in the evening, if the board receives from the mayor or any city councilor and from fifty
98 residents of the neighborhood in which the project is located, prior to the submission of the
99 notice for publication and the mailing of the notice, a written request that the hearing be
100 scheduled in the evening. The notice shall identify the specific variance, exception, or other
101 zoning relief which the appellant is seeking. At the hearing any party whether or not entitled to
102 notice thereof may appear in person or by agent or attorney. The board of appeal may in its
103 discretion administer oaths to all persons testifying at said hearing. No such hearing shall be held
104 any day on which a state or municipal election, preliminary election or primary is held in said
105 city.

106 In acting upon such appeal, said board of appeal may, in conformity with the provisions
107 of this act, reverse or affirm in whole or in part, or may modify, any order or decision, and may
108 make such order or decision as ought to be made, and to that end shall have all the powers of the
109 board or officers from who the appeal is taken and may direct the issue of a permit. The board
110 may in its discretion continue the hearing in order that the appellant may meet with any
111 residential neighborhood organization specified by the board to discuss the appeal, and the board
112 may in its discretion deny the appeal without prejudice in the event the appellant fails to do so.
113 The concurring vote of five members of said board of appeal shall be necessary to reverse any
114 order or decision of any administrative official under this act, or to decide in favor of the
115 appellant on any matter upon which it is required to pass under any zoning regulation or
116 amendment thereof, or to grant any variance in, or exception to, the application of any such
117 regulation or amendment.

118 Standards of review for said board of appeal shall be promulgated in the Boston Zoning
119 Code.

120 Said board of appeal shall cause to be made available contact information for the board,
121 including electronic contact information, an electronic subscription list for notice and
122 advertisement of board hearings, and a detailed record of all its proceedings, which record shall
123 set forth: the reasons for its decision; the vote of each member participating therein; the absence
124 of a member or her or his failure to vote; and any conditions or provisos to which the granting of
125 any variance or exception was made subject by vote of said board of appeal at the hearing. The
126 board shall also produce and publish a report each quarter on the number of variances,
127 exceptions and conditional use permits granted by neighborhood and zoning district.

128 Such record of the vote shall be filed electronically within 10 business days of the
129 hearing, and full report of the hearing withing 60 days, and a print copy shall be made available
130 for any member of the public making such request at Boston City Hall or the office of the
131 building commissioner of the city; provided, however, that the board may for good cause extend
132 the time for such filing.

133 Said board of appeal shall be supported by one or more employees of the city of Boston
134 who shall not be otherwise engaged in real estate, permitting, planning or development
135 within or on behalf of the city, except as to report findings or recommendations of the board to
136 other boards, offices, departments or agencies and to the general public. Such staff shall also
137 educate and update members of the board on updates to the municipal code, zoning code, or
138 other

139 regulations which may impact matters before the board. The mayor of Boston and
140 director of the Boston Redevelopment Authority, or their designees, shall convey such updates to
141 the municipal code, zoning code, or other regulations which may impact matters before the board
142 to the staff of the board of appeal.

143 The commissioner of inspectional services, also known as the building commissioner,
144 shall ensure that an employee within that office, or an individual provided by a non-profit
145 organization under contract with that office, provide neutral advice and guidance explaining to
146 members of the public the standards, procedures, appeal process and all other matters relevant to
147 the Board of Appeal. Such employee or individual shall be present and clearly identifiable at
148 each meeting of the board of appeal and shall be located either at city hall or at the office of the
149 building commissioner.

150 Section 2. To ensure continuity in development and prevent a lack of quorum for the
151 Board of Appeal, members of the Board serving under a prior nomination and legislative
152 authorization shall serve until such time as their term of service expires, until replacement
153 members are appointed or until members currently serving are re-appointed under new
154 legislative authorization.

155 Section 3. This act shall take effect upon its passage."