

**MEMORANDUM**

**November 14, 2024**

**TO:** **BOSTON REDEVELOPMENT AUTHORITY**  
**D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY (BPDA)**  
AND KAIROS SHEN, DIRECTOR

**FROM:** AIMEE CHAMBERS, DIRECTOR OF PLANNING  
KATHLEEN ONUFER, DEPUTY DIRECTOR OF ZONING  
JEFFREY HAMPTON, SENIOR ZONING PLANNER  
RACHEL ELMKIES, PLANNER II

**SUBJECT:** REPORT ON ZONING BOARD OF APPEAL RECOMMENDATIONS  
BETWEEN 7/2024 AND 9/2024

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**SUMMARY:** This Memorandum informs the Boston Redevelopment Authority d/b/a Boston Planning & Development Agency (“BPDA”) Board of trends in the recommendations to the Zoning Board of Appeal between 7/2024 and 9/2024.

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**BACKGROUND**

The Zoning Board of Appeal (“ZBA”) is a quasi-judicial body of seven members who are appointed by the Mayor. The ZBA hears requests for conditional use permits, variances, and similar zoning relief. While the ZBA is housed in the Inspectional Services Department (“ISD”) of the City of Boston, the Director provides non-binding recommendations to the ZBA for their consideration. Each recommendation is provided in a letter which includes basic information about the project, the planning context surrounding the project, and an analysis of the zoning implications (such as the applicability and/or obsolescence of the provisions of the Boston Zoning Code (the “Code”). These letters can now be found online by scheduled ZBA hearing date at [bostonplans.org/zoning/zoning-board-of-appeals](https://bostonplans.org/zoning/zoning-board-of-appeals).

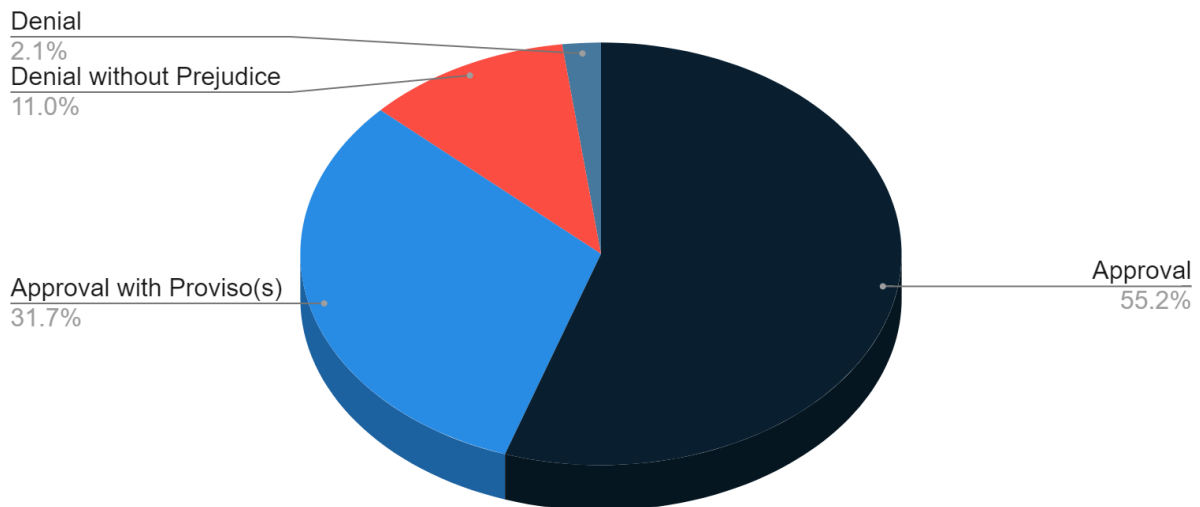
On June 15th, 2023, the BPDA Board voted to grant authorization to permit the Director to make these recommendations on behalf of the Board. As part of this change, the Board requested that staff present quarterly reports which summarize and highlight trends in the recommendations and ZBA cases. This fifth report

includes data from the ZBA hearings starting in July 2024 (7/16/2024) through the last ZBA hearing in September of 2024 (9/24/2024).

**PLANNING DEPARTMENT RECOMMENDATIONS**

Overall, the Director made 145 recommendations over 8 ZBA hearings from 7/16/24 to 9/24/24. This figure does not include Article 80 developments, since staff do not write Article 80 recommendations. Instead, they forward the approved Board memo to the ZBA as the recommendation. Over this quarter and the last, the overall number of recommendations has continued to decline—from 205 last quarter to 145 this quarter.

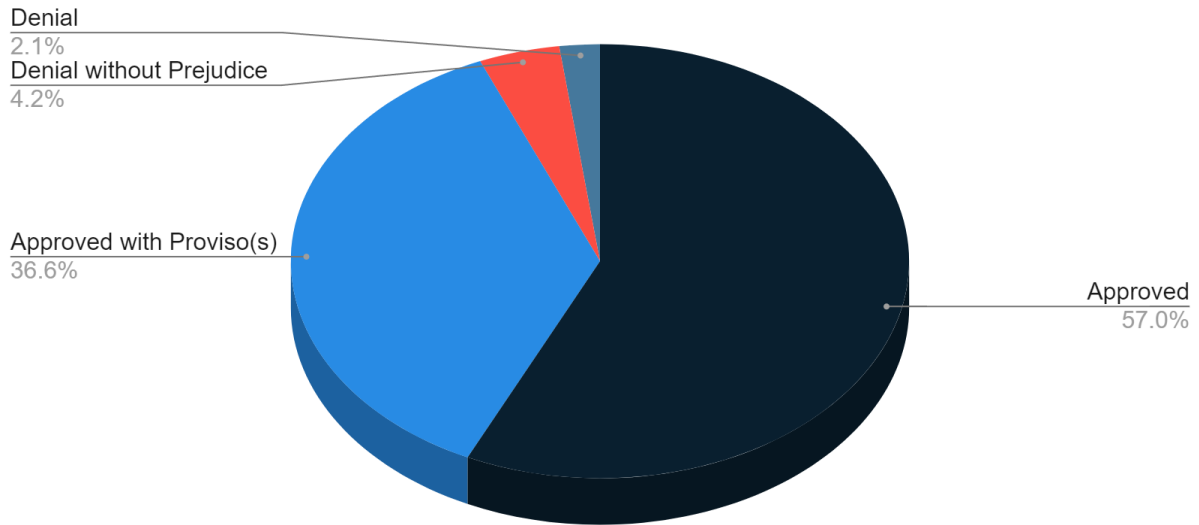
While the reduction in recommendations is interesting- particularly given that the quarter occurs over peak construction season and amidst a modest drop in 30-year fixed mortgage interest rates- it is not enough to suggest that rezonings alone are responsible for this shift. With an accurate picture of by-right development, we will be better equipped to understand this relationship moving forward.



Following another trend observed last quarter, the percentage of staff recommendations for approval has continued to rise: from 36% two quarters ago, to 45% last quarter, to 55% this quarter. The second most common recommendation, approval with proviso(s), decreased slightly from 35% to 32%. Nearly three-quarters (74%) of these cases recommended BPDA Design Review.

This is a 24% increase over last quarter, where 50% had a BPDA Design Review proviso.

**ZBA HEARING RESULTS**



Like last quarter, approval was the most common decision, followed by approved with proviso/s. The ZBA deferred 40 cases for which staff have written recommendations this quarter. (Since ZBA deferrals are not yet decisions, and will be analyzed when the cases do receive a decision, they are not reflected in the chart above.) Of that deferred subset of cases, staff recommended approval the majority of the time.

A breakdown of the 55 ZBA decisions which differed from the Director’s recommendation can be found below.

Planning Department recommendation	ZBA Decision	Count
Approval with Proviso(s)	Approved	17
Approval	Approved with Proviso(s)	15
Denial without Prejudice	Approved with Proviso(s)	10
Approval	Denied without Prejudice	3
Denial without Prejudice	Approved	2
Denial without Prejudice	Denied	2
Denial	Approved	1
Approval with Proviso(s)	Denied	1
Approval with Proviso(s)	Denied without Prejudice	1
Denial	Denied without Prejudice	1

*\*Two cases have been withdrawn. The Director recommended Approval and Denial for those cases.*

Over the past year, ZBA decisions aligned with recommendations more than half of the time. This quarter, alignment reached 62%, similar to last quarter’s 66%. As in last quarter, the most common difference was the Director recommending Approval with Proviso(s) while the ZBA decision was Approval. While there are many potential reasons for this, one could be that the ZBA agrees with the proviso(s) put forth by the Director most of the time. If that was the case, there would be less need for approval with proviso/s decisions over decisions for approval.

The second most common scenario is the opposite: the Director recommended approval for 15 cases, while the ZBA decision was approval with proviso/s. Of these added proviso/s, most dealt with a specific concern that arose after speaking with the proponent at the hearing. Other added proviso/s dealt with parking locations and requirements.

**OTHER TRENDS IN ZBA CASES**

Looking at high-level trends, the average number of days between filing a ZBA application to a hearing date increased between September 2023 and September 2024, from 162 days to 189 days.

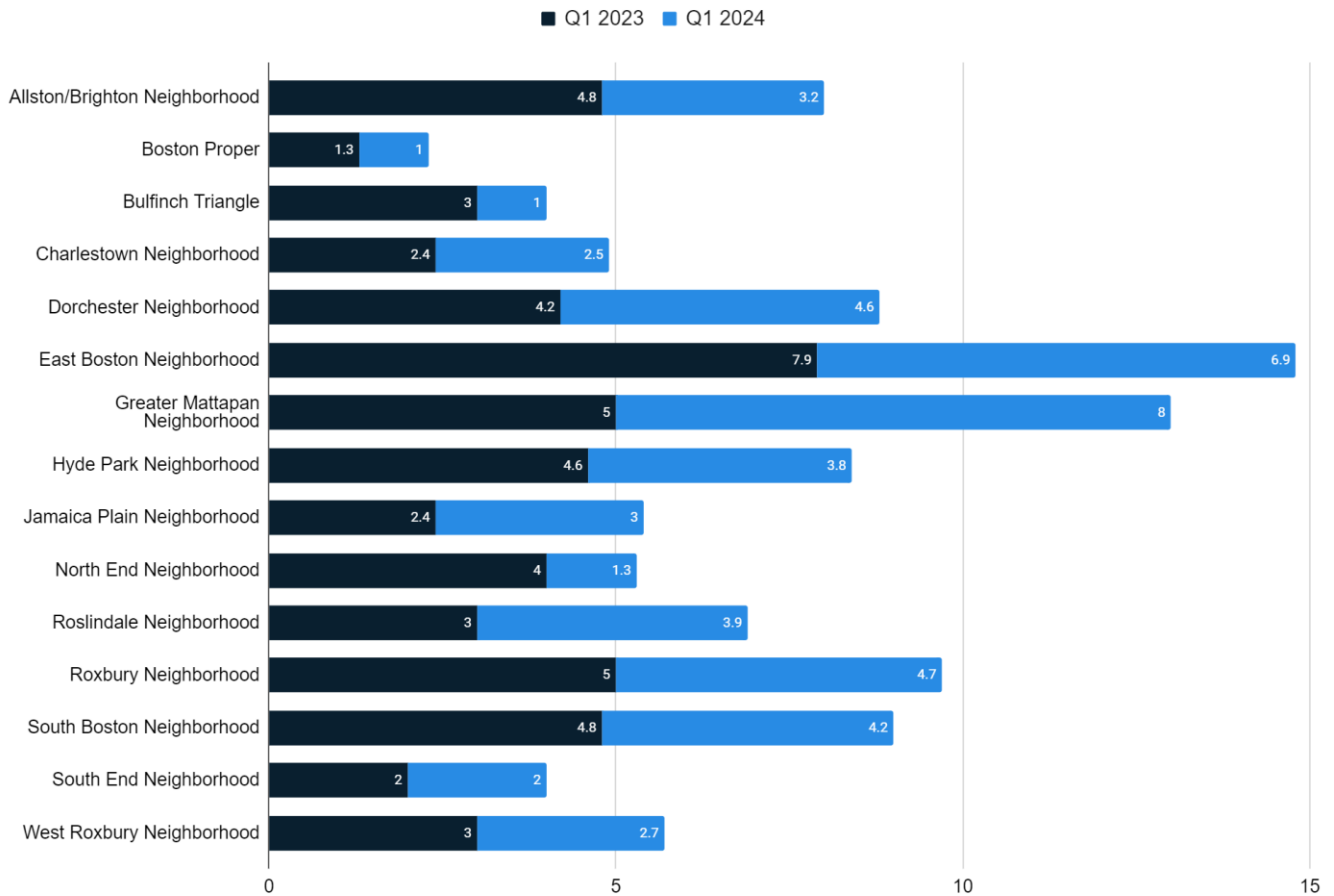
However, looking at the quarter as a whole, two out of three months have seen marked improvements in waiting time on average between submission and hearing dates. In July of 2023, mean days to hearing was 166; in July 2024, that number dropped to 135. Cases filed in August 2024 took 79 days less on average to be heard compared to August of last year.

A previous report discussed “double approvals,” or cases that receive both a recommendation of approval and a ZBA approval decision. These cases are useful in identifying opportunities for broader changes to the Code that could help reduce uncertainty for applicants.

During Q1 and Q2 of the last fiscal year, 57 cases (40% of the total) received this kind of “double approval.” This quarter, that has modestly increased to 42% of cases. As in FY2023, these cases most commonly concern a changing of uses, an expansion of occupancy or an extension of living area, and proviso removal. Reforming Article 8 to modernize land uses and writing updated zoning districts like Squares + Streets will likely help address these issues. However, it will take several more quarters to see the results of this change—and the consistency of this finding across fiscal quarters indicates that there are further opportunities to address other “double approval” areas of the Code.

Turning to neighborhood-level trends, there are changes in average violation patterns between Q1 in 2023 and Q1 in 2024. Of the districts with cases during both quarters, 60% had reductions in the average number of violations per case.

Average Violations Per Case, Q1 2023 vs. Q1 2024



*\*Only zoning districts with planning recommendations for both time periods are shown.*

There is a marked increase of average violations per case from the Greater Mattapan Neighborhood District. There are many possible reasons for this, including irregularities with interpretation of new zoning or developers’ choices about what kinds of buildings to propose. Comparing year over year averages when this data is available may make this relationship more clear.

**CONCLUSION**

While the continuing reduction in cases is promising, it is not possible to entirely disentangle this from larger economic forces. Future reports should continue to track this development and compare nonconformities and violations before and after new zoning is codified to better assess the impacts of rezoning. Comparing

fiscal years will be possible in a few more quarters and allow for more in-depth analysis.