

Recommendations for Streamlining Boston's Small Business Permitting and Licensing



Report to Mayor Martin J. Walsh

June 16, 2014

Prepared by: Boston City Council Special Committee on Small
Business, Entrepreneurship, and Innovation

City Councilor Michelle Wu, Chair

Summary

The Boston City Council's Special Committee on Small Business, Entrepreneurship, and Innovation, acting on Dockets #0386 (Order for a Hearing Re: Small Business Permitting and Licensing Reform) and #0439 (Order for a Hearing Re: Improved Internal Processes for Permitting and Licensing Small Business) convened a series of hearings, working sessions, and other visits to gather information on the municipal government processes that small businesses in Boston must complete before successfully opening for business. The Committee identified common themes and recommendations to make the permitting and licensing process simpler, faster, and more predictable. Major recommendations include:

- Create a Small Business Liaison position to serve as a point of contact, source of information, and advocate for small business applicants with each agency involved
- Make the Zoning Board of Appeals process more efficient through technology and separation of complex cases from more routine matters
- Streamline the application process so applicants only fill out basic information once
- Provide estimates of processing times for each type of permit or license application

Information Gathering

City Hall Hearing

3/25/14, 2:30PM: Hearing at City Hall with representatives from the Dept. of Innovation and Technology, Dept. of Neighborhood Development Office of Business Development, Inspectional Services Dept. Health Division and Buildings Division, Boston Fire Dept. Fire Prevention Unit, Boston Licensing Board, and the Mayor's Office of Consumer Affairs and Licensing

Neighborhood Listening Tour

4/8/14, 8AM: Hearing at Roslindale Community Center, 6 Cummins Highway, Roslindale

4/14/14, 6PM: Working Session at VietAid, 42 Charles Street, Dorchester

4/22/14, 9AM: Working Session at Mass Bay Credit Union, 147 W 4th Street, South Boston

4/22/14, 6PM: Working Session at Jackson Mann Community Center, 500 Cambridge St, Allston

4/24/14, 9AM: Working Session at Blackstone Comm. Center, 50 W. Brookline St, South End

4/25/14, 8:30AM: Working Session at East Boston YMCA, 215 Bremen Street, East Boston

4/29/14, 6PM: Working Session at Dorchester Arts Collaborative, 157 Washington St, Dorchester

4/30/14, 6:30PM: Working Session at Mattapan Comm. Health Center, 1575 Blue Hill Ave, Mattapan

5/1/14, 8AM: Working Session at Brendan Behan's, 378 Centre Street, Jamaica Plain

5/5/14, 6PM: Hearing at Hibernian Hall, 184 Dudley Street, Roxbury

5/17/14, 2PM: Business Walk door-to-door at small businesses in Chinatown

6/9/14, 9AM: Meeting at Back Bay Association, 229 Berkeley Street, Back Bay

Major Challenges

Boston is a historic city, with a regulatory framework older than most in the country. As a result, small business owners face a permitting and licensing system that is complicated, with many agencies involved and many possible points for unexpected delay. The City must strive for clarity in the process, improved coordination between departments, and a streamlined user experience for applicants. Furthermore, many business owners feel that the current default starting point for entrepreneurs is NO, with the burden wholly on businesses to get to YES. Our goal is to improve the system for clarity, predictability, consistency, and efficiency, as well as to shift the customer service culture such that each applicant feels that the City of Boston values the economic development, opportunity, and vibrancy these businesses bring to our neighborhoods.

Recommendations

Guidance & Advocacy

Although there is great appetite for simplifying the process, small business owners spoke most often of the need for clarity and guidance in navigating the process and setting expectations – the biggest frustrations came from unanticipated delays. The most common request was for a small business advocate who could serve as an overall point of contact and facilitation.

1. Create a Small Business Liaison Position in the Mayor’s Office of Neighborhood Services. Small business owners need a liaison or facilitator within City Hall to serve as point of contact, source of information, and advocate with each agency involved. In addition, the liaison would: a) notify the appropriate Main Streets director about interested businesses, b) explain community process of obtaining neighborhood association support, and c) help applicants plan for additional process from Landmarks Commission, Architectural Access Board, or special zoning districts.

2. Provide comprehensive checklists in multiple languages at each agency. Many agencies already have simple checklists of the requirements to obtain various permits. Not only should these checklists be available online and in person, but they should be translated into multiple languages. To help with coordination, each agency should be trained on which permits from other agencies likely go with their own, and provide those checklists as well. Most importantly, the Fire Department’s requirements should be available at every counter within the Inspectional Services Department (ISD) and pointed out as an area of special attention along with ISD’s process.

3. Have an Information Desk at 1010 Mass. Ave. Just as greeters in City Hall guide visitors to the right floor and office, 1010 Mass. Ave needs a welcome desk for those unfamiliar with the many counters, agencies, and floors. This information desk should have checklists for various permits and trained greeters who can answer basic questions and record feedback.

4. Make customer service a priority, especially at 1010 Mass Ave. Our business owners should feel supported and encouraged for bringing jobs and economic development to the neighborhoods, and they should be treated accordingly by all city agencies. There was feedback from business owners about less-than-courteous treatment at city counters, unnecessarily long waits, or inconsistent levels of professionalism. Every visitor should receive the highest level of customer service and respect.

5. Publicize estimated timelines for obtaining various permits and licenses based on data. Much of what the Main Streets programs and other expeditors do involves setting reasonable expectations for entrepreneurs, informing them of the various steps and how long each might take. With the City of Boston’s electronic information management system, Hansen, agencies have access to the exact turnaround times for each applicant. Average times should be made public for performance feedback and also to better prepare applicants for the process.

6. Give special focus to helping restaurants open. Restaurants can anchor neighborhood business districts, drawing more people and thereby making streets feel safer

and more active. However, restaurants also face longer delays and more complicated process than other retail operations as they must obtain more permits and often undergo more involved community process. Other cities have had success in restaurant-focused start-up initiatives that center on streamlining the experience and offering guidance.

Coordination & Consistency

With up to a dozen city agencies involved in permitting and licensing a new business, business owners spoke of conflicting requirements from different agencies, delays due to lack of communication between city departments, and rules being applied unevenly to different applicants. Better coordination and consistency are necessary for a fair and smooth process.

7. Align the hours at agencies and counters. When an applicant goes in person to file plans and permits or seek information, it involves an investment of time and often lost wages from taking time off work too. Thus when different counters have hours that do not overlap, or the cashier closes earlier than the rest of the department, it becomes very frustrating not to be able to get everything done in one visit. Hours of operation should be aligned across the board, and the City should consider more evening hours to fit working applicants' schedules.

8. Institute a case manager system. Many business owners expressed frustration about having to recount the specific circumstances and prior instructions received to each new city employee encountered. With a system that connects applications to a specific reviewer, both applicant and reviewer will save time by operating from a shared base of knowledge as much as possible. Although an electronic tracking system should also be used to

record notes, having a single case manager assigned to each business would be ideal.

9. Improve the inspection system with pre-inspections and simultaneous final inspections. One source of delay for small business owners is waiting for each inspector to come, and then scheduling a return visit for final inspection. Other cities have had success in streamlining the process by offering an on-site pre-inspection visit to identify issues, then coordinating necessary inspections from various agencies to occur at the same time in a single visit.

10. Apply zoning code consistently across the board. A system of individual exceptions creates uncertainty and discourages entrepreneurship. The zoning code for commercial districts should be reexamined to allow for more as-of-right uses in line with the neighborhood, rather than driving each applicant before the ZBA and only allowing certain ones to proceed.

11. Combine applications for overlapping permits from different agencies. Some uses require two permits from different agencies with separate applications. For example, ISD Building and the Fire Department each issue a Fire Alarm permit; commercial dumpsters require both a Site Cleanliness License from ISD's Environmental Division and a Dumpster Placement Permit from Fire. If multiple agencies need notification about the same use, that should happen internally without applicants needing to file separate forms. All requirements should be combined in one single application for overlapping permits.

Technology & Efficiency

Continuing our progress in making applications and information available online will save time and money for small

business owners who are often tending to their customers during business hours.

12. Create a single online application portal across agencies. City agencies have made great progress in recent years in moving permit applications online. Currently, ISD's Building Division leads the charge in making their processes accessible online. This needs to be consolidated further and expanded to all agencies, with a single portal that saves applicants' information and allows them to track the status of each permit application.

13. Make all renewals available electronically and by mail, not just in person. Each year, business owners must find time to make the trek to renew various permits and licenses in person. For example, the renewals for Sidewalk Café permits that allow outdoor patios happen in November and December of each year, and business owners must wait in long lines for a simple renewal. Especially for longtime businesses, the renewal process for permits and licenses should be as simple as for resident parking with an online submission or form via mail.

14. Create business profiles to save time for future applications and allow notification for other resources. As businesses expand or entrepreneurs look to open up multiple locations, they should be supported in growing their investment in the city. By connecting the online profiles used for building permits to renewals and other uses, e.g. information on workshops, the City can save time and take into account a business' enforcement record and positive history with the neighborhood.

15. Allow all fees to be paid online and with a single payment. Business owners reported confusion about why they currently

need to write two separate checks for permit fees to ISD and to Fire. Although each agency should maintain their own records, this should not require separate checks or even in-person payments at all. The cashier at ISD currently closes at 3:45PM, far earlier than most businesses can make it in person and 15 minutes earlier than other agencies at 1010 Mass. Ave. Applicants should be able to settle all permit and license fees with a single payment, and they should be able to do so online.

Zoning Board of Appeals

By far, the Zoning Board of Appeals process was reported as most frustrating piece by small business owners. Because applicants must complete the zoning approval process before becoming eligible to apply for Building permits from ISD (unless they receive an increasingly rare At-Risk construction permit and are willing to shoulder the risk of zoning denial), a 6- to 8-month ZBA process to rule on a conditional use can doom a potential business. The ZBA process can be made more efficient through technology and separation of complex cases from more routine matters.

16. Hold routine denials to a drastically expedited timeline. ISD currently has a deadline of 30 days to respond to applications, and a request for more information on the 29th day satisfies this deadline. The timeline should be drastically shortened for routine zoning denials—such as a Conditional Use or special zoning district—because the applicant cannot join the ZBA queue until they have the denial letter. Certain very clear denials should be able to be issued at the counter, and others that petition for a denial should have a one-week turnaround.

17. Separate out routine matters from complicated uses for an expedited process.

The ZBA schedules a certain number of cases for the agenda of each meeting, with about three meetings held per month. When a backlog develops, applicants have to wait months just for their first hearing. As of mid-June 2014, the ZBA is scheduling cases for October, a 4-month delay that freezes projects. However, not all projects require the same scrutiny and simpler cases, especially for small businesses and homeowners, should not be in the same queue as large-scale development projects. There should be a fast-track system for these applications.

18. Implement technology to shorten unnecessary delays by several weeks.

After the ZBA Board approves an application at a meeting, the applicant must wait for a 20-day appeal period to expire before becoming eligible to seek building permits and other licenses. However, this 20-day period often does not begin running for another 3 or 4 weeks while waiting for the Law Department to approve the draft opinion (1-2 weeks), return it to the next ZBA meeting for signatures by Board members, and then arrange hand-delivery of these documents back to ISD (1-2 weeks). Consultants and attorneys are used to calling repeatedly to speed up the signature and review process, but it should be streamlined across the board. Obtaining electronic signatures from Board members or at least allowing for electronic transmission to ISD would save several weeks of needless wait.

19. Eliminate requirement for ZBA approval of groundwater recharge and other engineering issues. In parts of Boston designated as Groundwater Conservation Overlay Districts, construction projects must show that they will not

damage wood pile foundations by reducing groundwater levels. If a project requires groundwater recharge, it must obtain approval from the Boston Water and Sewer Commission (BWSC) based on plan review, then approval by the ZBA. However, the ZBA approval is based on the engineering analysis and approval at the BWSC and no other separate analyses, but this extra step injects months of delay. This should be eliminated and allow for BWSC approval alone to satisfy groundwater recharge requirements.

Consolidating Requirements

As Boston's regulatory framework grew with the age of the city, permits and licenses were layered on over time. Today, many of these permits routinely go together, and should not require separate applications or designations.

20. Combine or eliminate Non-live Entertainment Licenses.

Small businesses in Boston must obtain licenses to play background music in an establishment, have TVs (with a different category and fee for TVs over 27" wide), jukeboxes, or dart boards. These permits are routinely issued without much scrutiny, adding another step for the very common uses of having background music or TVs with oversight by the Mayor's Office of Consumer Affairs & Licensing. Non-live Entertainment Licenses should be eliminated or combined with permits at ISD.

21. Combine all restaurant health permits.

Boston's Municipal Code currently lists separate permits for milk, eggs, and frozen desserts, for example. Today, these are all regularly offered by restaurants with sanitary standards governed by ServSafe certification and other health permits. The code should be modernized to eliminate the need for separate food permits.

Oversight & Feedback

As changes are implemented, the City should monitor consistency, customer service, and efficiency through continued feedback and analysis of outcomes.

22. Create mechanisms for feedback from applicants. The best way to track customer service performance is to ask the customers. Applicants should be able to submit anonymous reviews of experiences with processes and personnel at various agencies and counters. This feedback could be received through the online application portal or in-person at the Information Desk at 1010 Mass. Ave. after a visit is completed.

23. Monitor consistency and fairness in how the zoning code is applied. The City should publicize the ZBA's rate of denial and approval in convenient summaries, along with reasoning for denial in each circumstance. This will enable better scrutiny and accountability for exceptions and types of appeals granted.

24. Document which employees take in paper forms or plans. A common complaint is that paper plans or hard-copy application forms were lost with no recourse. If the City can better track the date, time, and employee that does intake for plans, there will be better accountability for this frustrating problem. Online submission and plan review would greatly alleviate this.

25. Continue to carefully track turnaround times for various stages of the permitting and licensing process. Data on how long each step of permitting and licensing processes takes should remain public and updated, both to set expectations for applicants and to monitor bottlenecks and potential improvements.

Miscellaneous Concerns

Other specific concerns came up throughout the listening sessions include questions or concerns about the following:

Takeout Licenses: These are currently restricted to individual owners such that when a new owner takes over the exact same concept and name of an existing restaurant with takeout, that new owner must restart the community and zoning process. This should be expanded such that Takeout uses are more often allowed in the zoning code or attached to a business concept rather than individual owner.

Restroom requirements: Small business owners reported a lack of clarity around how many and when restrooms are required for establishments.

Signage requirements: Similarly, small business owners reported inconsistency in signage requirements to open for business, often citing a difference of several inches that caused long delays.

Sewer Bonds: Business owners described requirements of putting up tens of thousands of dollars in bonds for construction, and up to 9 months to get money back afterwards.

Liquor License: The City should have local control of licenses and continue pursuing measures at the State House to obtain this.

Groundwater Recharge: see ZBA above.

Live Entertainment: Currently all live music requests are treated as a Nightclub use according to Zoning and therefore require additional process. It should be simpler for restaurants and businesses to have acoustic musicians playing background music at their establishments.