

Must a Zoning Administrator (ZA) “sign off” on zoning permits approved by the Zoning Board of Adjustment (ZBA)?

No. The ZBA hears appeals from actions or decisions of the ZA, and renders decisions on conditional use applications and requests for variances. The ZA issues the zoning permit based on the ZBA’s decision, but is under no statutory directive to certify the ZBA’s decisions.

The job of the ZA is to literally administer and enforce local zoning bylaws as well as issue zoning permits. “No land development may be commenced within the area affected by the bylaws without a permit issued by the administrative officer.” 24 V.S.A. § 4449(a)(1).¹ In so doing, the ZA has no authority to stray from the precise meaning of the zoning bylaw. If there is a lack of clarity in the zoning bylaw, the ZA must make a decision, and the mechanism for correcting or changing this is an appeal to the ZBA.

The job of the ZBA, in addition to hearing appeals from actions or decisions of the ZA, is to perform a host of development review functions.² When the ZBA renders decisions approving or denying applications, the ZA incorporates these decisions into the zoning permits that are issued to applicants. In this role, the ZA simply creates a paper trail, ensuring that all development review decisions are properly documented and recorded. 24 V.S.A. § 4449.

It has been a practice in some municipalities for the ZA to “sign off” on the ZBA’s decisions. This act bestows upon the ZA a degree of discretion that Vermont law explicitly confers upon the ZBA. To continue to permit the ZA this role in the ZBA’s decision would abrogate the discretion statutorily reserved to the ZBA. One of the main reasons for this split in authority is that the ZBA hears appeals from actions and decisions of the ZA. Conceivably, if the ZA had the authority to certify the ZBA’s decisions, the ZA could refuse to sign a zoning permit, thereby effectively vetoing the ZBA’s decision.

Since there is no statutory requirement that the ZA certify the ZBA’s decisions, the ZA is under no obligation to follow in their predecessor’s footsteps in continuing this practice.

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¹ Note that all references to statutes are to the amended versions, which went into effect on July 1, 2004.

² It is important to note that the new 24 V.S.A. § 4464 (c) enables municipalities to delegate certain zoning review functions to the ZA. In addition, 24 V.S.A. § 4460(e) permits zoning bylaws to authorize appropriate municipal panels to undertake various review functions.