

## **“The All-Important Zoning Permit”**

By Clifford H. Bloom, Esq.  
Bloom Sluggett, PC  
Grand Rapids, Michigan  
[www.bloomsluggett.com](http://www.bloomsluggett.com)

In general, municipal zoning administrators should not render advisory zoning decisions to applicants or property owners or answer detailed zoning hypotheticals. Why not? There are several reasons. First, that can monopolize a zoning administrator’s time. While most applicants have generally done their homework before applying for a zoning approval, others have not and attempt to rely upon the zoning administrator to “educate” them. They almost rely on the zoning administrator as their *de facto* personal planner or zoning attorney. Second, given that no zoning or application fee has yet been paid, a municipality is subsidizing the inquisitor. Third, most zoning administrators are busy and do not have the time to allow a handful of property owners to monopolize their time. Fourth, in many cases, the landowner often does not tell the zoning administrator all of the relevant facts and circumstances involved (or is mistaken regarding those matters) and the zoning administrator renders zoning advice based upon bad information. Later, if anything goes wrong, the landowner will invariably blame the zoning administrator for bad advice. Finally, the zoning administrator is taking on a potential additional liability for the municipality, which need not be.

Obviously, there is a fine line between being helpful to a questioning property owner and stepping over the line by giving substantive zoning advice. Most municipalities urge their zoning administrators to be helpful to members of the public and be “user friendly.” Providing a landowner with a copy of the municipal zoning ordinance (or copies of the relevant sections), citing to specific sections of the zoning or other ordinance, providing the necessary forms and answering general questions is appropriate. Meeting with a landowner four or five times or

more, engaging in numerous different hypotheticals and rendering decisions in writing or via email before a zoning application has been filed and processed is usually going beyond what a zoning administrator should normally do.

The best way to remedy the situation is to use an application for a zoning permit as a “gateway.” Before matters become too involved, the zoning administrator should indicate to the landowner that he or she cannot go further without the landowner fully filling out a zoning application form, paying the appropriate fee and obtaining a zoning permit or denial. Requiring an applicant to fill out a zoning application will “lock in” the applicant. Should the applicant provide misleading or mistaken information in the zoning permit application, the zoning administrator has it in writing. Requiring an applicant to pay a fee to the municipality (even if the fee is small) will tend to cut down on the number of frivolous inquiries made. Finally, it sets up a formal process whereby an applicant can appeal any denial by the zoning administrator to the municipality’s zoning board or appeals. And, most zoning ordinances contain a time limit for initiating such an appeal.

If a landowner becomes frustrated that the zoning administrator will not provide further information, engage in hypotheticals or render more zoning advice, the zoning administrator can indicate to the landowner that the zoning administrator cannot give the landowner legal or zoning planning advice and that the landowner should consult with their own attorney, zoning planner or engineer. That is not dissimilar to what building inspectors and court clerks routinely tell members of the public who seek to monopolize those officials’ time and expertise.

In summary, while a zoning administrator should always try to be helpful and may provide a landowner with general information regarding zoning questions, when it gets down to the specifics, the landowner should be required to fill out and file a formal zoning application with the municipality and the zoning administrator thereafter should “play it by the book.”