

SEPARATE LOT PROTECTION (GRANDFATHERED LOT)

In order to review any claim that a lot qualifies for separate lot protection as described in Chapter 40A, §6 of the MGL, it is necessary to determine, among other factors, if the following statements apply to the lot:

- Does the lot have at least 5,000 sq. ft. and 50ft. of frontage?
- Is the lot located in an area zoned for single or two-family use?
- Did the lot conform to existing zoning when legally created?
- Does the most recent instrument of record prior to the effective date of the zoning change from which the exemption is sought show that the lot was separately owned?
- When conveyed after the zoning change, has the lot retained its separate identity by continually being described as a separate and distinct lot?
- Has the lot been a separate lot and not available for use in connection with adjoining land on the effective date of any zoning requirement which made the lot substandard or more substandard?
- Have the lot lines been unchanged since the date the lot became nonconforming; ie: is the lot the same lot in existence since the effective date of the zoning change from which the exemption is sought?

If all of the above questions were checked, then the lot may be entitled to separate lot protection under the provisions of MGL Ch. 40A, §6 - "Preexisting Nonconforming Uses, Structures and Lots.", depending upon a review of all facts and circumstances. Submit a "Request for Determination of Separate Lot Status" that includes all of the information on the following page.

REQUEST FOR DETERMINATION OF SEPARATE LOT STATUS

Request for Determination must be accompanied by the following documentation.

1. A copy of the Plan of Land (the original plan of subdivision) highlighting the lot(s) in question and any subsequent plans that show the lot filed at the South Essex Registry of Deeds from the present time to the time the last plan was recorded prior to the date of adoption of the zoning amendment that caused the lot to become nonconforming.
2. A copy of the Assessor's Map showing not only the property in question, but also the abutting properties (everything that touches the lot other than at a point), including the identity of owners. Highlight the lot(s) in question.
3. Copies of the Deed(s) of the property in question from the present time to the last Instrument of Record (Deed) prior to the adoption of the zoning amendment(s) that caused the lot to become nonconforming. Highlight who sells to whom, the lot(s) in question, the previous Deed reference and when the lot(s) were recorded.
4. Copies of the Deed(s) of the abutting properties from the present time to the last Instrument of Record (Deed) prior to the adoption of the zoning amendment(s) that caused the lot to become nonconforming. Highlight who sells to whom, the lot(s) in question, the previous deed reference and when the lot(s) were recorded. Documentation must be complete from beginning to end for each property.
5. Any other necessary documentation in support of the above.
6. Make a spreadsheet for the lot in question and each lot abutting the property, listing all owners (past & present), the date the deed was recorded, and each Deed reference.
7. A letter from an attorney, signed under the penalties of perjury, that certifies that the attorney has reviewed the required information, including all deeds and plans filed at the South Essex County Registry of Deeds, and that in his/her professional opinion, the lot(s) are protected under M.G.L. Ch. 40A, §6. A reasonable and concise explanation that includes all required information must be provided, substantiating the Attorney's opinion' as well as an affirmation from the attorney that there is nothing on record at said Registry of Deeds relevant to this inquiry, or may be relevant to this inquiry, that has not been fully disclosed herein.
8. If the party requesting the determination is not the property owner, written consent from the property owner(s) must accompany submission.

NOTE: The Request for Determination Package becomes the property of the Middleton Building Department regardless of approval or denial. Applicant is to initial each item above verifying package completion. Failure to provide the required information shall result in no determination and the package returned incomplete. All submissions shall be legible with no portions obscured or hidden by paper correction fluid.

You have the right to appeal the results pursuant M.G.L. Ch. 40A, Section 8 and 15, to the Middleton Zoning Board of Appeals, provided such an appeal is taken within thirty (30) days from the date of determination.