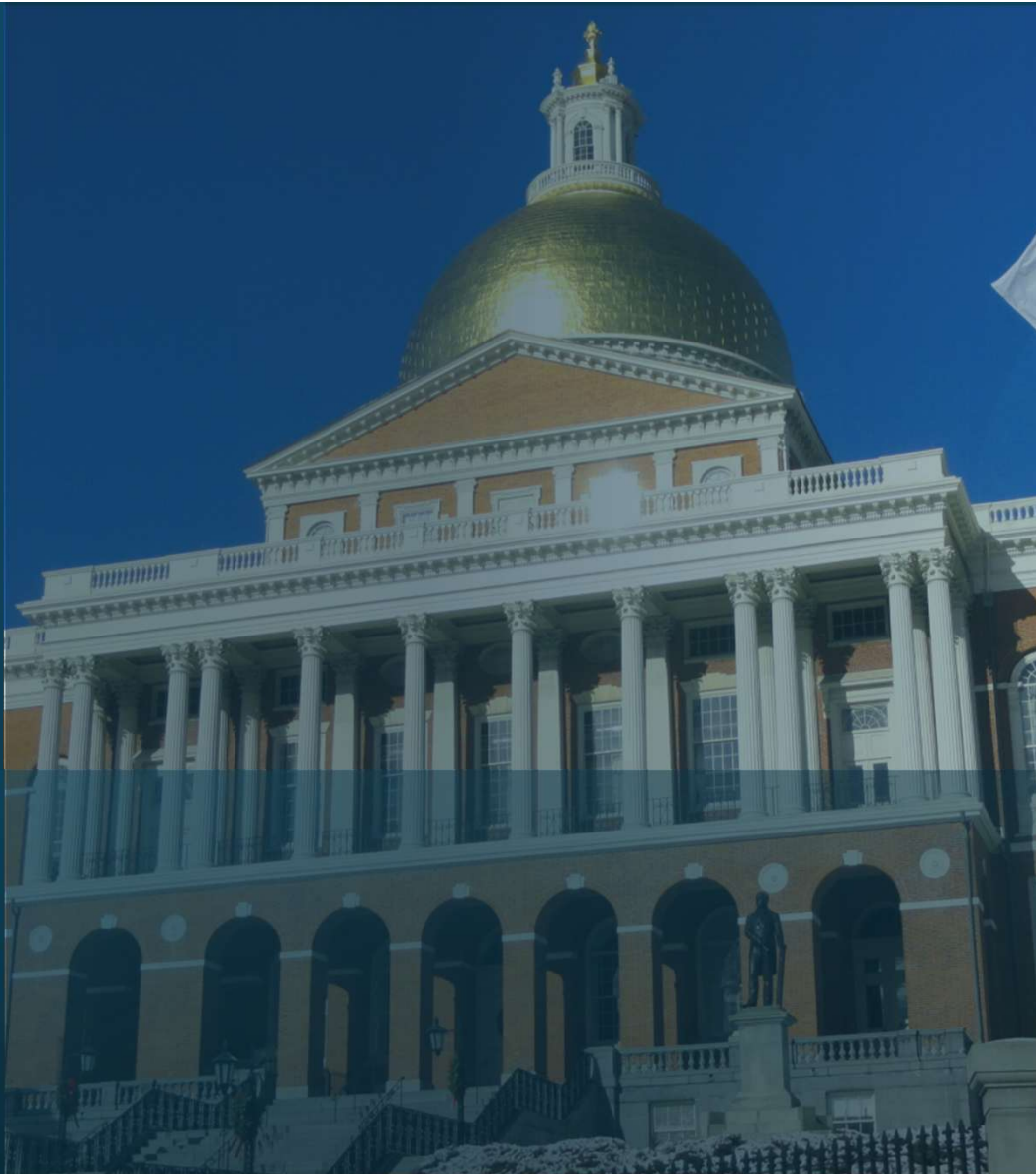




IMPORTANT AMENDMENTS TO G.L. C. 40A

effective 7/1/26

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Section 5



- Notices of public hearings may now be electronically sent to EOHLC, regional planning agencies, and abutting municipalities' planning boards
- Notices must still be
 - Published in a newspaper of general circulation for 2 consecutive weeks, with the first publication not less than 14 days before the date of the hearing
 - Posted in city or town hall for at least 14 days before the hearing
- Notices may also be electronically sent to any owner who files an annual request for such notice
 - This option must be included in the zoning ordinance or bylaw, along with the amount of a reasonable fee for such notice

Section 6

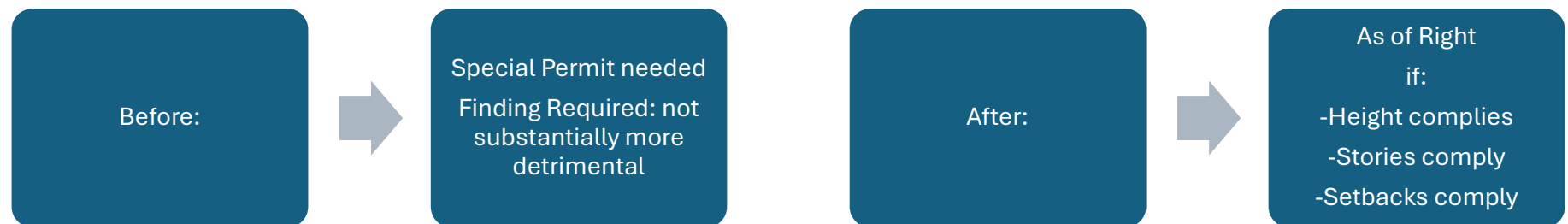
Paragraph 1

Except as hereinafter provided, a zoning ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit ~~issued~~ **or other entitlement applied for under this chapter** before the first publication of notice of the public hearing on such ordinance or by-law required by section five, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.



Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood, provided, however, that pre-existing nonconforming structures or residential uses that do not conform to zoning because of lot size or shape, frontage, lot coverage or floor area ratio requirements may be extended or altered as of right, without the need for a finding by the special permit granting authority under this paragraph, if such extension or alteration complies with the current dimensional regulations regarding height, stories and setback

Nonconforming Structures



Section 5

Section 6

Section 10

Section 11

Section 6

Paragraph 2

(replacement for former paragraph 2)

A zoning ordinance or by-law shall provide that construction or operations under a building permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced not more than ~~12~~ 24 months after the issuance of the **last permit necessary for construction** and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. **The 24-month period shall be tolled during any time the applicant is actively seeking or obtaining other necessary permits.** Construction or operations under a special permit issued pursuant to section 9 or site plan approval pursuant to the local ordinance or by-law shall conform to any subsequent amendment of the zoning ordinance or by-law or of any other local land use regulations unless the use or construction is commenced within a period of 3 years after the issuance of the special permit or site plan approval and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. For the purpose of the ~~prior~~ **preceding** sentence, construction involving the redevelopment of previously disturbed land shall be deemed to have commenced upon substantial investment in site preparation or infrastructure construction, and construction of developments intended to proceed in phases shall proceed expeditiously, but not continuously, among phases.



Additional change: tolling added while applicant is actively obtaining other permits.

Section 6

Paragraph 3

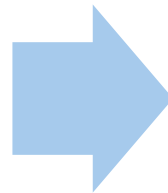
(replacement for former paragraph 3)



A zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of ~~two~~ 4 years or more.

Abandonment

2 Years



4 Years

Section 6

Paragraph 4

Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot ~~for single and two-family residential use~~ which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage. Any increase in area, frontage, width, yard or depth requirement of a zoning ordinance or by-law shall not apply for a period of five years from its effective date or for five years after January first, nineteen hundred and seventy-six, whichever is later, to a lot ~~for single and two-family residential use~~, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of January first, nineteen hundred and seventy-six, and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements but contained at least seven thousand five hundred square feet of area and seventy-five feet of frontage, and provided that said five year period does not commence prior to January first, nineteen hundred and seventy-six, and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership.



Single and two-family restriction removed



Section 10

Paragraph 1

(entire section replaced)

The permit granting authority shall have the power, after a public hearing for which notice has been given by publication and posting as provided under section eleven ~~11~~ and by mailing to all parties in interest, to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such ~~if the~~ permit granting authority specifically finds that ~~a strict enforcement of the ordinance or by-law would result in a practical difficulty~~. In making its determination, the permit granting authority shall weigh the benefits to the appellant or petitioner and to the public interest, including the interest in supporting the production of housing against the detriment to the public health, safety and welfare of the neighborhood, and may also consider: (i) whether the practical difficulty relates to ~~owing to circumstances relating to the soil conditions, shape or topography of such land or structures; and especially affecting such land or structures but not affecting generally the zoning district in which it is located,~~ (ii) ~~whether the literal strict enforcement of the provisions of the ordinance or by-law would involve~~ impose a substantial financial hardship, financial or otherwise, to ~~on the~~ appellant or petitioner or appellant; (iii) ~~whether the benefit sought by the appellant or petitioner can be achieved by some other method feasible for the appellant or petitioner to achieve;~~ and (iv) ~~whether the practical difficulty was self-created.~~; and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.



Except where local ordinances or by-laws expressly permit variances for use, no variance may authorize a use or activity **other than residential**, not otherwise permitted in the district in which the land or structure is located; provided however, that such variances properly granted prior to January **1, 1976**, ~~first, nineteen hundred and seventy-six~~ but limited in time, may be extended on the same terms and conditions that were in effect for such variance ~~upon said effective date~~ **when it was originally granted.**

Section 10 old paragraph 2 text entirely stricken

- ~~The permit granting authority may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.~~

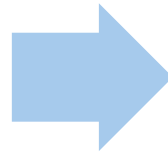
Section 10, new paragraph 2 cont.

If the rights authorized by a variance are not exercised within ~~one~~ **2 years** of the grant of such ~~after the variance was granted, which shall not include the time required to pursue other entitlements necessary to construct the project authorized by the variance or await the determination of an appeal referred to in section 17,~~ such rights shall lapse; provided, however, that the permit granting authority, in its discretion and upon written application by the grantee of such rights, may extend the time for exercise of those rights for a period not to exceed ~~six months~~ **2 years**; and provided further, that the application for an extension shall be filed with the permit granting authority prior to the expiration of such ~~one~~ **the 2-year** period. If the permit granting authority does not grant an extension within ~~thirty~~ **30** days of the date of application therefor and, upon the expiration of the original ~~one~~ **2-year** period, such rights shall only be reestablished after notice and a new hearing pursuant to this section.



Variance Expiration

1 Year



2 Years

Extension available up to 2 additional years

Time pursuing other permits is excluded from the calculation.

Section 11

Paragraph 1



- Similarly to the changes to Section 5, notices of public hearings may now be sent electronically to individuals or specific boards or other agencies required to be notified.

Questions? Many!

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REBA 2026

