

## **Massachusetts House of Representatives Bill Summary**

**Bill #:** H.2317

**Title:** An Act relative to zoning

**Sponsor:** Rep. Brian Murray

**Committee:** Municipalities and Regional Government

**Hearing Date:** July 22, 2025

**Current Law:** MGL Chapter 40A, Section 6 governs existing structures, uses or permits; certain subdivision plans and the application of the chapter. Except as otherwise provided for in the law, 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 before the first publication of notice of the public hearing on such ordinance or by-law, 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.

Section 9 regulates the issuance of special permits. The twelfth paragraph governs the process by which an application for a special permit is to be filed with the city or town clerk and the special permit granting authority, which must hold a public hearing within 65 days of the application and render a decision within 90 days of the hearing. A special permit requires a two-thirds vote of boards with more than five members, a vote of at least four members of a five-member board, and a unanimous vote of a three-member board.

Section 10 governs the issuance of variances from zoning ordinances or by-laws when an applicant claims that a hardship would result from the literal enforcement of the ordinance or by-law.

Section 15 governs appeals to the permit granting authority; notice; time; boards of appeal hearings and procedure. The fifth paragraph governs boards of appeal procedures and timelines, notice requirements and deadlines for acting on appeals. All hearings of the

board of appeals shall be open to the public. The decision of the board shall be made within 100 days after the date of the filing of an appeal, application or petition, except in regard to special permits, as provided for in section nine.

Section 17 provides a process for judicial review of a decision by a zoning board of appeals, lists which courts have jurisdiction, the timeline for filing complaints for judicial reviews, and who has standing to file such complaints.

Chapter 150 of the Acts of 2024 amended the law by inserting language providing that adjacent lots under common ownership shall not be treated as a single lot for local zoning purposes if, at the time of recording or endorsement, the lots: (i) conformed to then existing requirements of area, frontage, width, yard or depth, where each such lot has not less than 10,000 square feet of area and 75 feet of frontage; and (ii) are located in a zoning district that allows for single-family residential use. Any single-family residential structure constructed on said lot shall not exceed 1,850 square feet of heated living area, shall contain not less than 3 bedrooms and shall not be used as a seasonal home or short-term rental.

MGL Chapter 30A (State Administrative Procedure), Section 14 governs the process for judicial review (unless the law precludes it) whenever a person is aggrieved by the final decision of any agency in an adjudicatory proceeding. Paragraphs 4 through 6 regulate how an agency shall respond by providing a record of the proceeding, the court conducts a review without a jury, and there is a process by which additional evidence may be presented under certain circumstances.

**Summary:**

The intent of the bill, according to the sponsor, appears to be to streamline and simplify the mechanics of the zoning process, in order to make the process more predictable and allow projects to proceed, thus accelerating local housing development.

- Amends Chapter 40A Section 6 by replacing the word "issued" with new language that would exempt from zoning by ordinances or by-laws "other entitlements" under the chapter that have been applied for before the first publication of notice of a public hearing on such ordinance or by-law. This would have the effect of expanding the existing exemption to include structures, uses lawfully in existence or lawfully begun, and building or special permit applications that were in existence before a change in zoning ordinance or by-law. Currently such structures, uses and permits that have not yet been issued are subject to the zoning laws then in effect.

The section also adds a new sentence which would allow structures on lots with pre-existing nonconformities to be extended or altered as of

right as long as the structure complies with current regulations for height, number of stories, and setback dimensions.

A further provision strikes the second and third paragraphs of Section 6, the effect of which is to state that a zoning ordinance or by-law shall provide that a building permit must conform to any subsequent amendment of the ordinance or by-law unless the use or construction begins within 24 months (currently 12 month) after the issuance of the last permit necessary for construction, unless it is continued through to completion in a continuous and expeditious fashion. This language deletes a reference to a special permit and extends exemptions from zoning amendments beyond the current statutory requirements. It also inserts new language allowing the 24-month period to be tolled (suspended) while the applicant is actively seeking other necessary permits. Construction or operations under a special permit or site plan approval would need to conform to new zoning amendments or land use regulations unless the use or construction starts within 3 years after issuance of the special permit or site plan approval, so long as the work continues through to completion in as continuously and expeditiously as possible. It also provides that an applicant who is engaged in construction for redevelopment on previously undisturbed land shall be deemed to have met the requirements if they substantially invest in site preparation or infrastructure construction and development that proceeds in phases. In addition, this provision authorizes a zoning ordinance or by-law to define and regulate nonconforming uses and structures that have been abandoned or unused for at least four years, an increase from the current two years.

- Amends the law regulating the five-year time period when increases in area, frontage, width, yard or depth requirements in a zoning ordinance or by-law shall not apply to pre-existing, nonconforming structures, by deleting the current reference to lots for single and two-family residential use. The language would apply to any lot that was recorded or endorsed, held in common ownership with any adjoining land and conformed to existing zoning requirements, and had less area, frontage, width, yard or depth requirements than the new dimensional requirements but contained at least 7,500 square feet of area and 75 feet of frontage. This provision would not apply to more than three such adjoining lots held in common ownership. Note: a typo resulted in a duplicate use of the words "a lot".
- Inserts a new sentence at the end of the fifth paragraph of Section 6 of Chapter 40A (the new paragraph added by Section 10 of Chapter 150 of 2024) stating that adjacent lots under common ownership shall not be treated as a single lot for local zoning purposes unless doing so would eliminate a pre-existing lawful

nonconformity as to lot size, frontage or setback, and at least one of those lots is undeveloped.

- Amends the law governing special permits (MGL 40A:9) by inserting a new sentence in the twelfth paragraph that establishes a maximum time limit for holding a public hearing on a pending application for a special permit, so that it shall extend for no more than 150 days after the hearing's starting date.

In addition, the legislation does the following:

- Gives the local permit granting authority additional guidance on whether and how to grant variances from local zoning regulations;
- Amends the zoning board of appeals process; and
- Amends the judicial review process.