

Real Estate Alert

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Major Changes to the Massachusetts Zoning Act Expand Development Rights

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On July 9, 2026, Governor Healey signed legislation making sweeping amendments to the Massachusetts Zoning Act (G.L. c. 40A). The changes took effect immediately and significantly improve the legal landscape for homeowners, developers, and property owners seeking permits.

Many of these amendments are designed to reduce permitting uncertainty, expand development opportunities and remove procedural obstacles that have historically delayed projects.

Here are the changes that are likely to have the greatest practical impact.

Your Zoning Rights Now Vest Much Earlier

Perhaps the most significant change is that zoning protection now begins when an application is filed—not when a permit is issued.

Previously, if a municipality adopted a zoning amendment while your application was pending, the new zoning could potentially affect your project.

Under the new law, filing an application for a building permit, special permit or other zoning entitlement generally freezes the applicable zoning before later zoning amendments take effect.

The law also doubles the time to commence construction under a building permit—from 12 months to 24 months—and tolls that period while other required permits are being pursued.

Practical takeaway: Developers have substantially greater protection against zoning changes occurring in the middle of the permitting process.

Many Additions to Nonconforming Homes Can Now Be Built As of Right

For decades, owners of homes on undersized lots often needed discretionary approval from the zoning board before expanding their homes—even where the addition complied with current setback, height and dimensional requirements.

That changes dramatically.

Now, if a structure or residential use is nonconforming because of lot size, frontage, lot coverage, floor area ratio, or similar dimensional issues, alterations may proceed as of right provided the project complies with current height, setback and story requirements.

Practical takeaway: For many homeowners, this eliminates an entire trip to the zoning board.

The Variance Standard Has Been Fundamentally Rewritten

Massachusetts has long had one of the country's most restrictive variance standards.

The Legislature has now abandoned the familiar "substantial hardship" standard in favor of a new "practical difficulty" standard.

Boards are directed to weigh the benefits of granting the variance—including the public interest in supporting housing production—against any detriment to the neighborhood.

The traditional hardship factors have not disappeared entirely, but they are now discretionary considerations rather than mandatory elements.

Exactly how broadly courts will interpret "practical difficulty" remains to be seen, but the statute clearly gives zoning boards substantially greater flexibility to grant relief where appropriate.

Practical takeaway: Variances should become more attainable, particularly for projects that previously failed to satisfy Massachusetts' notoriously restrictive hardship standard.

Some Previously Protected Lots Receive Even Greater Protection

The statute previously protected certain preexisting residential lots from later increases in dimensional requirements.

That protection now extends beyond single- and two-family residential lots, potentially benefiting commercial and other development sites as well.

Nonconforming Uses Receive Additional Protection

Municipalities could previously declare a nonconforming use abandoned after two years of nonuse.

That period has now been extended to four years.

What Do These Changes Mean?

These amendments reflect a clear legislative effort to reduce permitting barriers and encourage new housing and development throughout Massachusetts.

Not every project will suddenly become approvable. Many of the new provisions will require interpretation by zoning boards and, eventually, the appellate courts. But the overall direction of the legislation is unmistakable: applicants now have stronger statutory protections than they did just a week ago.

If you have a project that was previously denied, delayed or considered impractical because of zoning constraints, it may be worth taking another look.

CONTACT

If you are planning a residential addition, subdivision, commercial development, or other land use project, we'd be happy to discuss how these amendments may affect your property. Please contact [Shawn M. McCormack](#) or a member of our [Real Estate Practice](#).