



## REBA PRESENTATION

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**(NOTE: This revised outline supersedes the author's outline presented at the REBA luncheon program on November 29, 2016)**

### **ZONING CHANGES ADOPTED IN 2016**

1. Governor's Economic Development Bill (Chapter 219 of the Acts of 2016, effective August 10, 2016)
  - Special Permits and Building Permits
    - Amends G.L. Chapter 40A, Section 6 to extend from 6 months to 12 months the time within which construction must commence to preserve a permit zoning freeze (Section 29).
    - One consequence of this change is the strengthening of the permit freeze protection under G.L. Chapter 40A, Section 6, by giving the permit holder a longer time from permit issuance to commence the work and diligently to prosecute the work to completion.
    - Amends G.L. Chapter 40A, Section 9 to authorize municipalities to amend their zoning ordinances or bylaws to allow special permits to be valid for not more than three (3) years instead of the current two (2) years (Section 30). NOTE: This change would appear to require local adoption.
  - Starter Home Program (Sections 37 through 54 of Chapter 219 of the Acts of 2016, effective January 1, 2017)
    - Amends Chapter 40R to provide the same financial incentives to a municipality to allow smaller single-family homes (maximum 1,850 sq. ft.) on small lots (maximum ¼ acre), so-called "starter homes".

2. Protection for Non-Complying Structures (Chapter 184 of the Acts of 2016, effective November 8, 2016)

- Existing law has (i) a 6 year statute of limitations against removal and cessation for both uses and structures if they began pursuant to a building permit, and (ii) a 10 year statute of limitations against enforced removal of a structure if no building permit can be found.
- The law was unclear about the legal status of a non-complying structure if 10 years elapsed without a challenge being filed. Since not fully grandfathered, in the event of a fire or a casualty, the structure could not be rebuilt except in compliance with current zoning.
- Chapter 184 creates more certainty and protection for such non-complying structures over 10 years old by providing that they shall be treated as legal non-conforming structures under Section 6 of Chapter 40A.
- This new status affords the owner of such a structure the opportunity to seek a Special Permit/Finding from the local special permit granting authority (SPGA) that a proposed change or alteration to the structure is not substantially more detrimental to the neighborhood than the existing structure.
- The new protected status applies to both existing and future structures.
- For non-complying structures between 9 – 10 years old, a municipality has 10 years and 6 months to bring a challenge.

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