

TOWN OF NEW DURHAM

Involuntary Merger Restoration of Lots of Records

Time Line: Approximately 30 days from completed application to action by the Board of Selectmen.

Fee: \$25

Procedures

1. Landowners seeking the restoration of involuntary merged lots initially are referred to the Land Use Department. The purpose for this referral is to assess if the subject lot(s) may have been involved in an involuntary merger by the Town, and if so, the party is directed to step 2. The referral provides guidance as to potential ramifications that could arise from the restoration of a lot(s); including, but not limited to tax consequences, and development limitations. If the initial assessment indicates the merger was not done by the Town (not always discernable), or that it is apparent that a merger was a voluntary one, the landowner is advised not to submit an application request. If this finding is challenged, then the request should be treated as if it was for an involuntary merger so that a formal finding can be made. Contact persons for conducting this initial meeting are:

Assessor: Josephine Belville, Whitney Consulting Group, LLC

Administrative Assistant: Susan Stillwell

2. The landowner or authorized agent completes and submits an application for the *Restoration of Involuntarily Merged Lots* located in the Land Use Department.
3. Land Use staff shall inform the landowner that the purpose for this application is to identify the request and to initiate its consideration in a timely manner. For the Town, the application serves to:
 - a) Initially confirm that the request is appropriate for this process. It must be a case where there was an involuntary merger or a case where such a claim requires verification;
 - b) Identification of the property/lot involved;
 - c) Confirmation of ownership (party seeking action is required to be the legal property owner);
 - d) Landowner/party's initial identification as to the purpose for the involuntary merger. The purpose should be related to a Zoning, Taxation or Assessing purpose;
 - e) Securing the signature and contact information from the landowner/party;
 - f) Encouraging the landowner/party (now an applicant) to assist in the Town's discovery process by providing any background information on their request. Copies of submitted materials should be attached to the application along with a narrative and list of submittals. It is recognized that the burden of proof resides with the Town.
 - g) The application is signed by the landowner and certified complete by Land Use staff.

4. The Land Use Department schedules (notice sent to Departments) a modified Technical Review Committee (TRC) meeting within five (5) days of receipt of the completed application to discuss the application and review the research required by the:

- a) Land Use Office records,
- b) Tax Collector records, and,
- c) Assessor records.

This information is used in order to agree upon a formal TRC recommendation to the Board of Selectmen prepared by the Assessor. The burden of proof ultimately lies with the Town so any local and/or county records should be used for this purpose. General approaches to this phase include:

- a) Identifying and accessing whether available information may exist;
- b) Reaching a determination as to if the request is valid;
- c) If valid, identify supporting information and any changes to Town records that would be needed;
- d) If not valid, identify the supporting information that substantiates this finding.

5. Land Use Department forwards the application file with TRC recommendation and documentation to the Town Administrator so the request may be scheduled for the next available Select Board Meeting for review and deliberation.
6. The landowner/applicant is notified of the scheduled meeting by Land Use after notification by Town Administrator of the scheduling of the agenda item.
7. The Board of Selectmen (BOS) renders a decision at the scheduled meeting.
8. Land Use prepares a decision letter that is mailed Return Receipt/Certified to the landowner and/or authorized agent with the right of appeal to the ZBA noted. The application folder with decision letter is filed in the Map/Lot files.
9. A second TRC meeting is scheduled to coordinate any potential changes to records should the submittal be approved by the BOS. The Tax Collector's office, Assessor's Office and Land Use Department formalizes actions that need to be taken to complete this process. Note: at this time, it is assumed that no appeals will be made of the Town's action. Some future effort in this matter will be appropriate if an application is denied.
10. As needed, Town records are changed and when completed, notice is provided to the BOS. Some changes which may be required are GIS map changes, current use status, assessor's records, tax collector's billing records, and recording of developability of the lot.



TOWN OF NEW DURHAM

Application Requesting Restoration of Involuntarily Merged Lots

Pursuant to NH RSA 674:39-aa

PO Box 207, New Durham, New Hampshire 03855

Tel: 603-859-2091

APPLICATION FEE: \$25.00

Date Fee Paid _____

Contact Information (current or address valid for next 30 days):

Name (print): _____

Tel: _____

Street: _____

Cell: _____

Town/City: _____

Zip: _____

E-Mail: _____

Information – Lot/Parcels Involved:

1) Map ____ Lot ____ 2) Map ____ Lot ____

3) Map ____ Lot ____ 4) Map ____ Lot ____

Address: _____

Owner's statement describing how, why, and when the lots were merged by the Town. (Information is intended to assist all parties included in the review.) If more space is needed, please attach an additional page.

Owner is invited to include supporting information, if any, to accompany this application. If additional information is supplied, please describe it briefly so its existence is duly noted.

NOTE: Form must be single sided print.

Involuntary Merger caused by: *Please mark the one that most applies.*

Zoning Purposes: ____ **Assessing Purposes:** ____ **Taxation Purposes:** ____

For the purposes of this statute, the applicant must be the owner, meaning the person or entity that holds legal title to the lots in question. To comply with the requirements of this statute, the involuntary merger of lots must have occurred prior to September 18, 2010. By signing this form, the applicant is presenting themselves as the owner possessing legal title to all lots so involved and that the following lots/parcels of land were Involuntarily Merged by the Town prior to September 18, 2010.

Owners Signature: _____ **Date:** _____

Owners Signature: _____ **Date:** _____

Completed Applications should be filed in the Land Use Department.

Town of New Durham Board of Selectmen

Approved or Denied
Circle One

Date: _____

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

TOWN OF NEW DURHAM

Involuntary Merger Restoration of Lots of Records

Aides for the Applicant:

Process: Applications may be secured from the Land Use Department and when completed should be submitted to this office. Following this submission, the applicant is provided with a copy of the application, and the original is filed with the Office of the Board of Selectmen for scheduling purposes. The application is reviewed by the town to identify pertinent information. Within approximately thirty days from the application's filing, a report is provided to the Board of Selectmen. This report includes recommendations and proposed findings for the Board's consideration. Following their deliberations, the Board is expected to act on the request and this action is subsequently conveyed by a letter of decision to the applicant. All the Board's decisions may be appealed to the Zoning Board of Adjustment in accordance with their procedures. Information on this process is available from the Land Use Department.

Disclaimers: The applicant should be aware of possible consequences that may arise from an action taken under this statute. Whether any subsequent consequence(s) arising from such action would be positive or detrimental is for the applicant alone to assess. This responsibility is born solely by the applicant. The following disclaimers are not meant to be inclusive or comprehensive and possible effects positive or negative are not necessarily limited to these.

- If any owner in the chain of titles voluntarily merged lots/parcels, then all subsequent owners may not seek restoration of this lot/parcel to its pre-merger status.
- An application seeking restoration of lots to their pre-merger status could be approved or denied by the Board of Selectmen based on the merits of the particular situation.
- Lots/parcels that are restored to their pre-merger status are restored without warranty as to suitability for building or the ability to gain any desired regulatory approval from the town.
- Lots/parcels that are restored to their pre-merger status will be formally depicted on the Town's Assessor Maps when the next scheduled update occurs. Notice of the change is noted by the Assessor's Office as an application is approved by the Board of Selectmen.
- Possible tax changes would be processed in the usual fashion meaning any changes will become effective as of April 1st following the date of approval. Thereafter, for example, each lot is going to be subject to a separate tax bill.
- Valuation (the total assessed value) is likely to change following a restoration of lots/parcels to their pre-merger status. The reassessment is going to be based on the change from a subject parcel into one or more lots.

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