

Involuntary Merger Restoration of Lots of Records

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

Fee: \$25

Procedures

1. Landowner seeking the restoration of involuntary merged lots initially is referred to the Land Use Department (LUD). The purpose for this referral is to assess if the subject lot(s) may have involved 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 to not submit 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:

Interim Town Planner; Bruce Woodruff
Land Use Administrator, Tina Kelleher

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. LUD 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 else a case where such a claim need verification;
 - b. Identification of the property/lots 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 underlying 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 land owner/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 LUD 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; and,
 - 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 Town Planner. The burden of proof ultimately lies with the town so any local and/or county records should be used to this purpose. General approaches to this phase include:

- a. Identifying and accessing whatever available information may exist;
- b. Reaching a determination as to if the request is valid or not;
- 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. LUD forwards the application file with TRC recommendation and documentation to Administration so that 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 LUD after notification by Administration of the scheduling of the agenda item.
7. The Board of Selectmen (BOS) renders a decision at the scheduled meeting.
8. LUD 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 in order to coordinate any potential changes to records should the submittal be approved by the BOS. The Tax Collector's office, Assessor's office and LUD formalize actions need to be taken so as to complete this process. a. 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 Office of the Board of Selectmen. Some changes that 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.

APPLICATION FEE \$25.00
FEE PAID _____ DATE _____

TOWN OF MOULTONBOROUGH
Application Requesting Restoration of Involuntarily Merged Lots
Pursuant to NH RSA 674:39-aa

P.O. Box 139, Moultonborough, NH 03254
Tel.: 603-476-2347

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

Name (print): _____ Tel: ____ - ____ - ____

Address: _____ Cell (Optional): ____ - ____ - ____

Town/City: _____ Zip Code: _____

E-mail (optional): _____

Information – Lot/Parcels Involved:

Lot/Parcel Information for each: 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 any supporting information, if any, to accompany this
application. If additional information is supplied, please describe it briefly so its existence is
duly noted:**

Involuntary Merger – Caused by - Please Mark the one that most applies:

Zoning Purposes: _____ **Assessing Purposes:** _____ **Taxation Purposes:** _____

Completed Applications should be filed in the Land Use Department.

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 in order to identify pertinent information. Within approximately thirty days from the application's filing of, 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 of the Board's decisions may be appealed to the 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 title 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.
- Valuations, 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.
- Reserved

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. In order 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.

Owner(s) Signature(s): _____ **Date:** _____

Owner(s) Signature(s): _____ **Date:** _____

Owner(s) Signature(s): _____ **Date:** _____

TITLE LXIV
PLANNING AND ZONING
CHAPTER 674
LOCAL LAND USE PLANNING AND REGULATORY POWERS

Regulation of Subdivision of Land

Section 674:39-aa

674:39-aa Restoration of Involuntarily Merged Lots. –

I. In this section:

- (a) "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.
- (b) "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.
- (c) "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:

- (a) The request is submitted to the governing body.
- (b) No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.

III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.

IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.

V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

VI. Municipalities shall post a notice informing residents that any involuntarily merged lots may be restored to premerger status upon the owner's request. Such notice shall be posted in a public place no later than January 1, 2012 and shall remain posted through December 31, 2016. Each municipality shall also publish the same or similar notice in its 2011 through 2015 annual reports.

Source. 2011, 206:4, eff. July 24, 2011. 2016, 327:2, eff. Aug. 23, 2016. 2021, 136:1, eff. Sept. 21, 2021.