



# CITY OF CONCORD

## REPORT TO THE MAYOR AND CITY COUNCIL

**FROM:** Craig Walker, Zoning Administrator

**DATE:** June 3, 2020

**SUBJECT:** Troy R. Burke – Application for Restoration of Involuntarily Merged Lots Pursuant to RSA 674:39-aa

### **Recommendation:**

It is recommended that Council accept this report which would grant Troy R. Burke's March 12, 2020 application for the restoration of two involuntarily merged properties pursuant to RSA 674:39-aa, submitted to the City Council and which the City Council referred to the Legal Department on April 13, 2020.

### **Background:**

In 2010, the State of New Hampshire amended RSA 674:39-a, to prohibit any city, town, county, or village district from merging preexisting subdivided lots or parcels without the consent of the owner. Prior to this amendment, municipalities were permitted to merge adjacent, undeveloped, or non-conforming lots without the consent of the owner.

In 2011, the legislature also adopted RSA 674:39-aa, to allow an owner of a property which was involuntarily merged prior to September 18, 2010, to request the "governing body" to unmerge the property. In response to a property owner's request to restore involuntarily merged properties, the governing body is required to determine whether the lots were voluntarily merged. *See* RSA 674:39-aa.

For the City Council's convenience, a copy of RSA 674:39-aa is attached to this report. (Attachment A, RSA 674:39-aa).

On January 9, 2012, the City Council adopted the following procedure for reviewing such an application:

- A property owner requesting the restoration of an involuntarily merged property must submit an application for restoration of involuntarily merged lots with supporting documents to the City Clerk's office who will place the item on the next available Council agenda. The application is then referred to the Legal Department.

- Upon a referral from City Council, the Legal Department distributes the application for review and comment to the City Planner, Zoning Administrator, Code Administrator, City Engineer, and the Director of Real Estate Assessments.
- The Zoning Administrator will prepare and submit a written memorandum to the City Council with a recommendation.
- If the request is granted by Council, the Legal Department will prepare and record a Notice of Lot Restoration at the Merrimack Registry of Deeds. The property owner will be required to pay the recording fee.

**Discussion:**

Troy R. Burke is seeking to unmerge two parcels located at 6 Abbott Road (Tax Lot 192/P/104). Mr. Burke acquired the 6 Abbott Road parcel (Lots 37 & 38, Plan 428, Tax Lot P-22/4/2) by warranty deed dated September 6, 2019, from the Estate of George D. Harding, and recorded at the Merrimack County Registry of Deeds (“MCRD”) on September 10, 2019, at Book 3645, Page 2697. (Attachment B, 2019 Warranty Deed). Subsequently, Mr. Burke acquired a parcel of land formerly known as 507 South Main Street (Lots 30, 31, 32, 33 & 34, Plan 428, Tax Lot P-22/4/19) by confirmatory/corrective warranty deed dated November 7, 2019, from the Estate of George D. Harding, and recorded at the MCRD on November 8, 2019, at Book 3654, Page 498. (Attachment C, Confirmatory/Corrective Warranty Deed). This warranty deed corrected the oversight caused by the deed at Book 3645, Page 2697, which failed to describe both tracts of land owned by the Estate of George D. Harding and conveyed to Mr. Burke.

In 1960, Parcel 1 (Lots 37 & 38, Plan 428, Tax Lot P-22/4/2) was conveyed to George D. and Rita M. Harding, as joint tenants with rights of survivorship, by deed of Arthur J. Hugron dated November 28, 1960, and recorded at the MCRD on November 28, 2060 at Book 872, Page 253. (Attachment D, 1960 Deed). In 1964, Parcel 2 (Lots 30, 31, 32, 33 & 34, Plan 428, Tax Lot P-22/4/19) was conveyed to George D. and Rita M. Harding, as joint tenants with right of survivorship, by deed of Clifton M. Lambert dated September 25, 1964, and recorded at the MCRD on October 6, 1964 at Book 950, Page 11. (Attachment E, 1964 Deed).

In 2009, the City administratively merged the two lots into a single lot for tax purposes and given a single street address, which is 6 Abbott Road (Tax Lot 192/P/104). The records show that a single tax bill has been issued for valuing both the lots as one parcel since 2009. It should be noted that prior to 1995, voluntary mergers of properties did not require Planning Board approval.

Based on the review and recommendations of City Staff, it is recommended that the City Council grant Mr. Burke’s request to unmerge the two parcels.