

SUBDIVISION OF LAND

THE FOLLOWING FORM HAS BEEN APPROVED BY THE PLANNING BOARD AND IS  
TO BE USED WHEN APPLYING FOR BOARD APPROVAL UNDER  
SECTION 250-6 (PROVIDING ADEQUATE ACCESS TO EXISTING LOTS)

**TOWN OF MIDDLETON, MASSACHUSETTS PLANNING BOARD**

**Application for a Roadway Improvement Plan**

(date of filing) \_\_\_\_\_ (received by) \_\_\_\_\_ (date) \_\_\_\_\_

To the Middleton Planning Board:

The undersigned hereby submits a Roadway Improvement Plan entitled: \_\_\_\_\_

\_\_\_\_\_  
drawn by \_\_\_\_\_, and dated \_\_\_\_\_  
in accordance with the rules and regulations of the Middleton Planning Board under Section 250-  
6 Providing Adequate Access to Existing Lots.

**Applicant Information**

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

1. Describe the proof that is being submitted along with this application under Section 250-6.A & B that "the lot" has frontage on a street:
  
  
  
  
  
  
2. List any requests to waive the regulations found under Section 250-6:

**NOTE: Each application must contain the materials required by Section 250-6 and a \$300 filing fee. Applicants will also be responsible for the cost of advertising the public hearing required under Section 250-6.G and for recording any approved plan. Proof of recordation shall be submitted to the Planning Board prior to the issuance of a building permit for the parcel(s) the proposed improvement provides adequate frontage for.**



## **§250-6. Providing Adequate Access to Existing Lots [Added 6-10-2009, amended 9-10-2014]**

### **A. Frontage Requirement.**

Prior to issuing a building permit for new construction, the Building Inspector must obtain a determination from the Planning Board that the lot upon which the building is being erected has frontage upon a street.

The Zoning Bylaw defines a street as "a way which, in the reasonable judgment of the Planning Board, has sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic existing and/or resulting from the development of abutting land and for the installation of municipal services to such land(s) and/or buildings located on or to be constructed on such land and which complies with one of the following criteria: (1) a way which the Town Clerk certifies is used as and maintained regularly and consistently as a public way by the Town to the same extent to which other public ways are maintained by the Town; or (2) a way shown on a plan previously approved and endorsed by the Planning Board and recorded at the Registry of Deeds; or (3) a way existing prior to the date on which subdivision control was adopted by the Town."

For a lot which has frontage on one of the aforementioned ways, which lot existed prior to the date on which subdivision control was adopted by the Town (March 15, 1955), but does not meet the construction standards described above (i.e., sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic existing...on such land"), the Planning Board hereby adopts rules and regulations by which an applicant may improve said way without submitting a definitive plan under the Board's "Rules and Regulations Governing the Subdivision of Land in Middleton, MA.

### **B. Applicability.**

Prior to implementing these rules, the Board must find that the lot in question falls under the criteria described in the above paragraphs. To make this determination, the Board requires applicants to submit, as part of their application, the following information:

#### **1. Existence of lot prior to subdivision control.**

To demonstrate that the lot in question existed prior to the date on which subdivision control was adopted by the Town, the applicant shall provide a copy of the recorded deed and plan (if any) as recorded in the Essex County Registry of Deeds, which shows that the lot existed in its current form prior to March 15, 1955.

#### **2. Existence of way.**

a. Town Clerk Certification. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way which the Town Clerk certifies is used as and maintained regularly and consistently as a public way by the Town to the same extent to which other public ways are maintained by the Town," then the applicant shall provide a letter from the Town Clerk in which the above described certification is made.

b. Previously Approved Plan. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way shown on a plan previously approved and endorsed by the Planning Board and recorded at the Registry of Deeds," then the applicant shall provide a copy of the approved definitive subdivision plan or approval not required (ANR) plan as recorded in the Essex County Registry of Deeds, including the book and page number of said recording.

c. Existed Prior to Subdivision Control. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way existing prior to the date on which subdivision control was adopted by the Town, then the applicant shall provide deeds, maps, and other documentation which shows that the road in question existed prior to March 15, 1955 and provide evidence that the

road has a history of being used as a traveled way.

### **C. Submittal requirements.**

The applicant shall submit the following to the Planning Board:

1. Three contact prints of a plan\* certified by a registered land surveyor per CMR 250, drawn to scale of at least one inch to 40 feet (or in lesser detail if approved by the Planning Board), signed and stamped by a registered land surveyor and civil engineer, and showing the following information:

- a. Street name, boundaries, North point, benchmarks, date, scale, legend, and title "Road Improvement Plan."
- b. Names of the applicant, surveyor, and engineer.
- c. Existing and proposed boundary lines of right-of-way.
- d. Existing and proposed traveled way within the right-of-way.
- e. Existing and proposed topography of street.
- f. A locus plan of the subdivision at one inch equals 1,000 feet, showing proposed street and its relation to the surrounding area.
- g. Typical cross section at one inch equals five feet horizontal; one inch equals one foot vertical. Typical cross section of road shall show the width of layout; width and pitch of pavement, including berms and shoulders; and the depth of base course and road pavements.
- h. Signature block and a space for the date of endorsement.

\* Note: For an existing road that is adequate in all respects except that it lacks a proper surface, the Planning Board may determine that the plan does not need to be signed and stamped by a professional civil engineer, and need not contain the information described in paragraphs (e), (f) and (g) of this Section C.

2. A submittal fee of \$300.

### **D. Design standards.**

The design standards for road construction in the Town of Middleton are described in the Planning Board's Rules and Regulations Governing the Subdivision of Land in Middleton. As a general rule, however, roads constructed under this Section (§250-6) need conform only to the following minimum standards.\*\*

1. The width of the street right-of-way shall be no less than 20 feet.
2. The minimum width of the traveled way shall be no less than 16 feet. (3)
3. The maximum center-line grade shall be 12%.
4. When the grade exceeds 6% on the approach to an intersection, a leveling area with a slope of not more than 4% shall be provided for a distance not less than 50 feet from the intersecting street.
5. The road construction standards described in the Appendix of the Board's Subdivision Regulations.
6. For a dead-end street, a "T" or "Y" shaped turnaround, of a design satisfactory to the Planning Board.

\*\*Note: In some instances, conditions may warrant either stricter or less restrictive standards than those listed above; such standards may be imposed by the Planning Board in any particular case in which such standard(s) is in the public interest and not inconsistent with the intent and purpose of these regulations.

### **E. Road surface requirements.**

For a way to be of "adequate construction," it must be paved with bituminous concrete (asphalt) or macadam, and be in good condition. However, in certain situations the Board may allow a road surface such as lynn-pak, man-pak, processed gravel, porous bituminous concrete, or other all weather surface,

provided that:

1. The way in question will be serving no more than one additional lot; (2)
2. The grade of the way in question is not more than 5%; and
3. Any of the following three criteria are met:
  - a. The Conservation Commission has requested that the way in question not be paved to minimize the impact of the road on the surrounding wetlands; or
  - b. The way in question is an extension of, or located off of, a public or recognized private way that is not paved with concrete, bituminous concrete, or macadam, and which serves other house lots; or
  - c. the way in question serves as frontage for at least one other existing residential lot.

**F. Length of road improvement required.**

At a minimum, the applicant shall improve the roadway to within the design and road surface standards for a length equal to the required frontage for the lot in question. Based on the condition of the remainder of the subject road, as well as the condition of ways that provide access and egress to and from the subject road, the applicant may be required to make additional street improvement to ensure adequate access. The nature of said improvements shall be determined by the Planning Board.

**G. Plan review and approval.**

Plans submitted in accordance with the above requirements shall be reviewed and acted upon by the Planning Board within 60 days of the submittal. Prior to taking action the Board will hold a public hearing to obtain public comment on the plan. The hearing shall be advertised in a newspaper of local circulation at least seven days prior to the hearing. The cost of advertising the public hearing shall be borne by the applicant.

The Planning Board shall make a final determination on the application no later than 60 days after submittal, and said decision shall be filed with the Town Clerk within said time. If a plan is approved, it shall be signed by the Chairman of the Planning Board or his/her designee. If a plan is found to be unsatisfactory, the Planning Board shall deny the application, and the reasons for denial shall be included in the Board's decision. Once the applicant has addressed the reasons for disapproval and submitted such to the Planning Board, it may be approved by the Board without a public hearing.

**H. Recording of plan.**

The Planning Board's approval under these rules and regulations shall not take effect until an endorsed copy of the plan and decision, certified by the Town Clerk and executed by the developer, has been recorded with the Essex County South District Registry of Deeds. A certified copy of the recorded document shall be submitted to the Board prior to the issuance of a building permit.

**I. Completion of improvements.**

Upon the Chairman's endorsement of the Road Improvement Plan, the applicant may proceed with the improvements. The applicant shall notify the Planning Board or its designee when the improvements are completed. Within 14 days of such notice, the Planning Board or its designee, upon consultation with the Director of Public Works, shall notify the applicant in writing as to whether the road improvements have been satisfactorily completed. If they are found to be unsatisfactory, the Planning Board or its designee shall state the reasons in the letter to the applicant. Once the applicant has addressed the reasons for disapproval to the satisfaction of the Planning Board or its designee, the Planning Board or its designee shall advise the Building Inspector that the roadway provides adequate access to the applicant's lot.