
The deputy commissioner of capital planning and operations acting for and on behalf of the commonwealth is hereby authorized to acquire by eminent domain, by purchase or otherwise the hereinafter described parcel of public land located in the town of Templeton and presently being used for water department maintenance purposes by said town and to transfer the care, custody and control of said parcel to the department of public works in conjunction with the relocation of the Depot Road Bridge, so-called.

Subsequent to the completion of said bridge relocation, the deputy commissioner of capital planning and operations is authorized to convey said parcel, by deed approved as to form by the attorney general, to the town of Templeton for highway purposes.

Said parcel is shown on a plan of land entitled "Parcel of Land To Be Taken From The Town Of Templeton For The Purpose Of The Relocation of Depot Road And Bridge Over The Boston and Maine Railroad In The Town Of Templeton", which plan is on file with the chief engineer of the department of public works.

Approved December 21, 1990.

Chapter 362. AN ACT PROTECTING CERTAIN PUBLIC COMMONS.

Be it enacted, etc., as follows:

SECTION 1. As used in this act the following words shall have the following meanings:

"Article 38", Article 38 of the Boston Zoning Code as it existed on May first, nineteen hundred and ninety.

"Article 40", Article 40 of the Boston Zoning Code as it existed on September eleventh, nineteen hundred and eighty-nine.

"New shadow", the casting of a shadow at any time on an area which is not cast in shadow at such time by a structure which exists or for which a building permit has been granted on the date upon which application is made to a permit-granting authority for a proposed structure and which would not be cast in shadow by a structure conforming to as-of-right height limits allowed by the Boston or Lynn Zoning Code, whichever is applicable, as in force on May first, nineteen hundred and ninety. New shadow shall not include a de minimis shadow cast by an antenna, fence, flagpole, sign or other similar structure.

"Permit granting authority", any zoning board of appeals, planning board, zoning commission, redevelopment authority or other public body authorized to grant permits or approvals pursuant to chapter forty A, chapter one hundred and twenty-one A or chapter one hundred and twenty-one B of the General Laws, or chapter six hundred and sixty-five of the acts of nineteen hundred and fifty-six, as

amended. Permit granting authority shall not include the Inspectional Services Department in the city of Boston or the Building Department in the city of Lynn, or any body or department succeeding to the duties thereof.

"Structure", a structure, as defined in the Massachusetts state building code, which is: (i) intended to be permanent; and (ii) not located within the boundaries of the Boston Common or the Lynn Common.

SECTION 2. Notwithstanding any provision of chapter forty A, chapter one hundred and twenty-one A, or chapter one hundred and twenty-one B of the General Laws, or chapter six hundred and sixty-five of the acts of nineteen hundred and fifty-six, or any other general or special law to the contrary, no permit granting authority shall take any action which would authorize the construction of any structure which would cast a new shadow on the Boston Common in the city of Boston or the Lynn Common in the city or Lynn; provided, however, that the provisions of this section shall not apply to actions authorizing:

(a) Any structure which casts a new shadow upon the aforementioned commons only during the first hour after sunrise or before seven o'clock in the morning, whichever is later, or the last hour before sunset.

(b) Any structure in the city of Boston included in a development plan or a master plan within a planned development area, all as approved on or before May first, nineteen hundred and ninety, by the city of Boston Zoning Commission in accordance with chapter six hundred and sixty-five of the act of nineteen hundred and fifty-six, as such development plan or master plan may thereafter be amended; provided, however, that such amendment shall not permit construction of a structure which casts additional new shadow on any area of the Boston Common, subject to the one acre exclusion set forth in the second sentence of subsection (c); or

(c) Any structure within the Midtown Cultural District established by Article 38 which casts no new shadow for more than two hours from eight o'clock in the morning through two-thirty in the afternoon on any day from March twenty-first to October twenty-first, inclusive, in any calendar year, on any area of the Boston Common. Notwithstanding the foregoing, authorization may be granted by a permit-granting authority for a structure which casts a new shadow on the Boston Common beyond the aforementioned two hour period if the area shaded at the end of such two hour period does not exceed one acre, such area to be calculated as the sum of the areas of new shadow cast at any time beyond the two-hour limit by all structures in the Midtown Cultural District approved by the city of Boston Board of Appeal after March twentieth, nineteen hundred and eighty-nine, whether or not exempt pursuant to subsection (b).

Any structure within the South Station Economic Development Area established by Article 40 east of Atlantic avenue and north of Beach street which casts a new shadow upon the Boston Common only during the first hour after sunrise or before

eight o'clock in the morning, whichever is later, or during the last hour before sunset.

Approved December 21, 1990.

Chapter 363. AN ACT FURTHER REGULATING AN INDIVIDUAL'S RIGHT TO DO BUSINESS IN THE COMMONWEALTH FOR HABITUAL VIOLATION OF INJUNCTIONS.

Be it enacted, etc., as follows:

Section 8 of chapter 93A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "any", in line 4, the following words:- individual or.

Approved December 21, 1990.

Chapter 364. AN ACT RELATIVE TO VEHICULAR BRIDGES MAINTAINED BY THE DEPARTMENT OF PUBLIC WORKS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 634 of the acts of 1971, as most recently amended by section 1 of chapter 425 of the acts of 1986, is hereby further amended by inserting after the second paragraph the following paragraph:-

The city, town, county or other public entity which controls the public way at the approaches to the removed bridge may request in writing that the department construct a culvert-type passageway sufficient for pedestrians and bicyclists under the said roadway, and the department may construct such passageway; provided, however, that upon completion of the construction of said roadway and passageway, the title to such passageway shall vest in and the maintenance of such passageway shall be the responsibility of the city, town, county or other public entity which requested the department to construct such passageway.

SECTION 2. The construction by the department, acting on behalf of the commonwealth, of any culvert-type passageway sufficient for pedestrians and bicyclists under a roadway as authorized by section one between November seventh, nineteen hundred and eighty-six and March first, nineteen hundred and ninety-one, is hereby ratified, and the title to such passageway is hereby vested in and the maintenance of such passageway is hereby declared to be the responsibility of the city, town, county or other public entity which has title to the roadway and fill which replaced the bridge.

Approved December 21, 1990.