

The Great Neighborhoods Bill (H. 2420): What's in it for Planners?

The Great neighborhoods bill is principally a land use bill, dealing with zoning, subdivision control, permitting, and master planning – the daily business of public sector planners. Many of the reforms in H. 2420 of greatest interest to practicing planners simply bring Massachusetts into line with accepted practices and laws on the books in most other states. It's about time!

Some of the reforms are listed below.

- **Zoning Vote:** Allows cities and towns to reduce the vote majority to adopt or amend zoning ordinances or bylaws from the current and difficult super-majority of 2/3 down to a simple-majority (or anywhere in between). This would reflect normal practice across the U.S.

- **Approval Not Required (ANR):** Massachusetts is the only state in the country that uses ANR to create an unlimited number of new building lots along substandard roads without substantive review. The bill adds a section describing the statutory requirements for “minor subdivisions” as an alternative review process for land divisions along existing roads and for smaller subdivisions on new roads. A community may adopt this form of review in place of ANR. Existing ANR procedures remain in effect until regulations of minor subdivisions are adopted by the planning board and legislative body. Minor subdivisions must be defined under local regulations and may include at least six new lots (or more). The time limit for review is either 65 or 95 days, compared with 135 days for a full subdivision. A public hearing is optional, but only if a new road is proposed. Minor subdivision review is limited relative to a regular subdivision. Standards may not exceed those for regular subdivisions, and some limits – such as roadway width, location, paving, road grade – are placed on requirements for existing ways. Serial minor subdivision applications may be prohibited by regulation. If the town chooses to drop ANR, the bill provides a streamlined process for recording plans for minor lot line changes (formerly handled via ANR plans).

- **Vested Rights (Grandfathering):** Eliminates vested right use protections for ANR plans, the dimensional protections for three lots in common ownership, and any protection for preliminary subdivision plans. Corrects the language defect that led to the *Broken Stone* court decision. Establishes less liberal vested rights protection for submitted definitive subdivision plans; the plan only, not the land, is protected if submitted prior to hearing notice of zoning change. The same vested rights protection applies to minor subdivision plans, but for four years. Similarly-designed vesting provisions are provided for building and special permits.

- **Development Impact Fees:** Inserts a new section into the Zoning Act which sets out the statutory requirements for development impact fees, allowing any city or town to require a development impact fee as part of the permit for any proposed development. The impact fee

may only be imposed on construction, enlargement, expansion, substantial rehabilitation, or change of use of a development for the purpose of defraying the costs of off-site public capital facilities to be provided or paid for by the city or town and which are either caused by and/or necessary to support or compensate for the proposed development. Affordable housing projects and agricultural uses are exempted from impact fees. Fees must be used or returned.

Inclusionary Zoning: Inserts a new section into the Zoning Act authorizing cities and towns to require affordable housing in development projects through inclusionary zoning ordinances and bylaws. Off-site units, land dedication, or funds may be provided in lieu of on-site dwelling units. The upper limit of affordability is households earning up to 120% of the area median income (AMI). Some or all of the affordable units can be eligible for the Subsidized Housing Inventory under Chapter 40B provided these units are affordable at 80% of AMI and price-restricted for no less than 30 years. There is a three- year transition period, but written to encompass most existing ordinances or bylaws of this type.

Master Planning: Rewrites section regarding Master Planning to accomplish the following objectives: (1) master plan elements reflect the language of the state's Sustainable Development Principles; (2) all communities must complete five required elements (goals and objectives, housing, natural resources and energy, land use and zoning, and implementation), and are free to choose among the other seven optional elements; (3) superfluous data collection is discouraged; (4) all elements must be assessed against a regional plan, if any; (5) a public hearing is required before adoption; and (6) the plan must be adopted by the local planning board and the legislative body by no greater than a simple-majority vote.

Training for Local Boards: Establishes that the state's Department of Housing and Community Development is authorized, empowered and directed to establish, conduct and maintain an annual program of education, self-evaluation and training for members of local planning boards and zoning boards of appeal. This is to be done in consultation with the Massachusetts Chapter of the American Planning Association, the Massachusetts Association of Planning Directors, and the Massachusetts Association of Regional Planning Agencies. The Department may contract with the Massachusetts Citizen Planner Training Collaborative to provide these services.

Site Plan Review: Inserts a new section into the Zoning Act which standardizes the statutory requirements for site plan review.

Zoning Variances: Increases landowner eligibility to be considered for a lawful variance. Maintains discretionary power to grant or deny variances based on hardship due to property characteristics and listed criteria.