

After 12 years of debate, state laws regulating local development near change; would promote walking, biking, preservation

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Friday, April 25, 2014

(Published in print: Monday, April 28, 2014)

It's taken a dozen years or so, but changes in the state's laws that regulate development in local communities appears closer than ever to approval by the Legislature. That would be welcome news for many planning officials who call the existing rules bizarre, Byzantine and antiquated.

A key element is reform of a provision in the state's subdivision control law that many planners say fosters front-lot development and roadside sprawl. The so-called "approval not required" provision allows many lots to be created and developed along road frontage almost automatically. Many communities now would rather encourage development in clusters, away from scenic roads or in village-like settings but find they have too little control to accomplish this goal which is considered more sustainable and aesthetically pleasing.

The proposed changes promote "residential districts that encourage walking and biking, preservation of open space that promotes active recreation, improved access to healthy food choices and reduced exposure to pollution."

State Rep. Stephen Kulik, D-Worthington, said the approval not required provision "has been a major issue for small towns in Franklin County and rural Mass., the way a lot of development has happened over the years, where the community doesn't really have a say. It doesn't fit into a community's master plan, it eats up road frontage and places a burden on municipalities to improve substandard roads. It's a costly, not very smart way to grow."

The changes also would allow communities to require affordable housing as part of developments under some circumstances, and to assess "impact fees" providing for anticipated consequences of a development.

Championed over the years by Shutesbury Planning Board member Jeffery Lacy and Kulik, the current proposal has cleared one House committee. It is now before the Ways and Means Committee, of which Kulik is vice chairman.

"This is the only time the bill has made it out of committee with enough time to actually pass it in the same session," said Lacy, one of its principal drafters over the years.

The proposed legislation, which has nearly 60 co-sponsors, is endorsed by groups including American Farmland Trust, Conservation Law Foundation and state associations of conservation commissions,

planning directors, affordable housing advocates, and even the American Heart Association, Health Resources in Action and Health Care for All.

The Pioneer Valley Regional Planning Commission has also endorsed the bill.

Adding local options

Franklin Regional Planning Board Chairman Jerry Lund of Leyden said there are a number of things in the current subdivision regulations that are “archaic.”

The proposed legislation adds a local option for a minor subdivision process, with a shorter review period and reducing road width requirements.

“It lets cities and towns call on developers to fix up crappy roads, so they’re suitable for development, instead of putting houses on them and just walking away,” said Lacy, who comes at the problem as a Planning Board and Zoning Board member in Shutesbury as well as with experience as a state technical assistant to 14 watershed communities and a private land use consultant.

The bill also provides for a longer life span for special permits and allows communities to lower the threshold for how many votes are needed to approve special permits. And it calls for streamlining the approval process for developments by allowing permits to be applied for simultaneously, with a provision for a joint public hearing.

The bill cleans up the rules governing variances, which Lacy said are now so narrow that some communities grant none while others “grant them willy-nilly. These kinds of permitting reforms will really be beneficial and not hurt communities in any way.”

Kulik, a chief sponsor of the bill, said, “We view this as kind of a streamlined, basic good land-use and zoning bill, that ... looks at good land-use tools for local officials.”

He believes there are also provisions developers will like, such as a more streamlined, predictable permitting process, with a mechanism that provides for mediation instead of costly, drawn-out legal battles.

House Speaker Robert DeLeo “is very interested in seeing this bill move forward this session,” said Kulik, who met with him last week. Once the House gets past its budget debate next week, he said, “I’m pretty optimistic that over the next three months, we can move this bill and get it over the finish line.”

That’s despite continued opposition from the Home Builders and Remodelers Association of Massachusetts. It cites among its concerns elimination of approval not required zoning and sanctioning of impact fees.

“The time to reform zoning is now,” wrote Kulik and Massachusetts Smart Growth Alliance Executive Director André Leroux and others in a joint essay after the latest version of the bill was introduced. “Our state’s demographics and real estate market are changing. Towns are desperate to create places where their children and their parents can afford to live and remain a part of the community. Private investment is flowing to places where employees can walk or bike to work, and well as socialize, shop, and play. We can’t create enough of these places with our current set of rules.”

On the Web: <https://malegislature.gov/Bills/188/House/H1859> <http://ma-smartgrowth.org/issues/placemaking-zoning/policy-agenda-2013/http://www.hbrama.com/Data/governmentaffairs/zoningreform/writtensubmissiono/hbamltrs1859.pdf>

<http://www.gazettenet.com/search/11721950-95/after-12-years-of-debate-state-laws-regulating-local-development-near-change-would-promote>