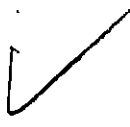


Legislative History for Connecticut Act

HB 5670	PA 86 FAX	1975
House	1488-1496	(9)
Senate	1072-1073	(2)
General Law	57, 422, 424, 453	(4)
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HOUSE

PROCEEDINGS
1975

VOL. 18

PART 3

977-1519

House of Representatives

Thursday, April 17, 1975

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Remark further on the Amendment? The gentleman from the 62nd Representative Russell Post.

REP. POST (62nd):

Mr. Speaker, under the code of ethics I wish to excuse myself from the Chamber on this Bill.

THE SPEAKER:

The Journal will so note sir.

Will you remark further on the Amendment? If not, the question is on its adoption. All those in favor will indicate by saying Aye. Opposed? The Amendment is adopted. The Chair rules it a substantive, by rules it will be referred to the Legislative Commissioner's office.

THE CLERK:

Calendar 430. Substitute for House Bill 5670 AN ACT CONCERNING PROCEDURAL RIGHTS BEFORE A ZONING BOARD OF APPEALS.

THE SPEAKER:

The gentleman from the 11th, Representative Richard Willard.

REP. WILLARD (11th):

I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark sir?

REP. WILLARD (11th):

The Clerk has an Amendment that's short. Could it be read please?

THE SPEAKER:

Clerk please read House "A".

THE CLERK:

House Amendment Schedule "A" offered by Mr. Collins of the 140th, Mr. Willard of the 11th.

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In line 74 delete the words "In the case of a variance" and insert in lieu thereof "When a variance is granted".

THE SPEAKER:

Gentleman from the 11th.

REP. WILLARD (11th):

Mr. Speaker, to explain the Amendment I have to speak very briefly to the subject of the Bill.

THE SPEAKER:

Will the gentleman move the Amendment?

REP. WILLARD (11th):

Move the amendment.

THE SPEAKER:

Question is on adoption of the Amendment, the gentleman from the 11th for remarks.

REP. WILLARD (11th):

It is the feeling that the Bill should clearly reflect that the requirement of giving reasons as to exceptional difficulty or unusual hardship should only be applicable to the case where the variance is granted. There seemed to be some question in the original copy of the Bill as to whether or not that was the intent and therefore the Amendment.

THE SPEAKER:

Remark further on House "A"? Will you remark? The gentleman from the 89th.

REP. DICE (89th):

Mr. Speaker, proponent of the variance, if there is an appeal from the denial of the variance, are we in a position of not having the reasons for the denial?

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Is the gentleman posing a question to the gentleman from the 11th?

REP. DICE (89th):

I am. I'm sorry Mr. Chairman.

THE SPEAKER:

The gentleman from the 11th care to respond?

REP. WILLARD (11th):

I'm sorry, could you repeat it? Someone was talking.

REP. DICE (89th):

If the Commission denies a variance and the party who has requested the variance wants to appeal from the denial, is he then in a position of not having on the record, the facts for the denial? It seems to me...well...that's the question, I'm sorry.

THE SPEAKER:

The gentleman from the 11th.

REP. WILLARD (11th):

No. The Commission would still have to, as I interpret it, the Commission would still have to give a reasons for its action. This particular Bill, and I didn't want to comment too much on the Bill, but the intent of the Bill is to require the wording in 75 the exceptional difficulty or unusual hardship, which to me indicates a more restrictive requirement, stating reason rather than the generally accepted reasons for denial.

THE SPEAKER:

The gentleman from the 89th has the floor.

REP. DICE (89th):

Mr. Speaker, through you again, I'm not sure that I quite understand the response. If a variance, which is to be granted, as I understand the Statute, on the basis of unusual hardship and exceptional difficulty, which they all are,

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is denied, is the reason for the denial to be stated on the record, so that the party who wants to appeal, who lost his variance, didn't get his variance and wants to appeal, is he going to have on the record then, something he can appeal from by the virtue of the Commission's action?

REP. WILLARD (11th):

I would say Yes, but because..it should take a minute to..I'll read the Bill, but the wording that we're adding does not, does not change the requirements that existed prior to adding this particular wording. In other words, this is additional wording, so I assume and if you'll wait a minute, I'll read through the Bill, but we have not changed the existing law regarding stating a decision. In other words, we're adding more than what we had to begin with and I'll read the Bill and see this particular section that you're concerned about.

REP. CLARK (21st):

Mr. Speaker, if I might just comment, briefly I think...

THE SPEAKER:

Well excuse me sir, I believe the gentleman from the 11th still has the floor. Has the gentleman from the 11th concluded his remarks?

REP. WILLARD (11th):

I was answering the question..

THE SPEAKER:

The gentleman from the 11th still has the floor.

REP. WILLARD (11th):

I answered the question so if nobody has any questions..

THE SPEAKER:

In that case, the gentleman from the 89th still has the floor.

REP. DICE (89th):

I'll yield, yes.

THE SPEAKER:

The gentleman from the 21st, Representative Tom Clark.

REP. CLARK (21st):

Just on that point, I might remark Mr. Speaker that I would imagine in the case where a variance is not granted, there would not be exceptional difficulty or unusual hardship. Therefore, it could not be stated.

THE SPEAKER:

The gentleman from the 89th has the floor.

REP. DICE (89th):

I've no further questions at this time. Thank you.

THE SPEAKER:

Remark further on the Amendment? The question then is on its adoption. All those in favor will indicate by saying Aye. Opposed? The Amendment is adopted. The Chair rules it as technical. Will you remark on the Bill as amended? The gentleman from the 11th.

REP. WILLARD (11th):

Mr. Speaker, the Bill will do two things: Six and one is a new section that will require that whenever a zoning board of appeals is hearing a request for a variance, and an appeal from an order of a zoning enforcement officer, that the appeal will have to be determined before the question is raised regarding the variance requested.

That's simply in the case that if you have a case where a zoning enforcement officer has ruled against something, the party who would then go to the board of appeals, which has the authority to either over-rule his decision or grant a variance. And this specifically says that the board will have to consider whether or not to over-rule the zoning enforcement officer before they would consider whether or not to grant the variance requested.

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Now the language in...on appearing in line 71 through 75 goes to say that if the board does grant the variance, that they have to specifically state for the record, the basis on a...on the basis of either an exceptional difficulty or an unusual hardship. It's an attempt to clearly define board action so that people who are appearing before boards will know exactly where they stand.

I think it's a good Bill and I think it should pass.

THE SPEAKER:

Will you remark further? The gentleman from the 20th, Representative Charles Matties.

REP. MATTIES (20th):

Mr. Speaker, a question through you to the proposer, please.

THE SPEAKER:

Please frame your question.

REP. MATTIES (20th):

Doesn't this Bill actually expand the provisions under which variances or ZBA may grant variances?

THE SPEAKER :

Gentleman from the 11th care to respond?

REP. WILLARD (11th):

No, I would respectfully submit that it does the opposite. In other words, it's saying that the...if the board is going to do it, they've got to clearly say why, so that if anybody has any questions about it, that they know on what the basis of the board acted in granting the variance.

THE SPEAKER:

The gentleman from the 20th has the floor.

REP. MATTIES (20th):

Mr. Speaker, the addition of the words exceptional difficulty or

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unusual hardship appear to expand or expand the latitude that the board has within which to act and again, through you Mr. Speaker, if I may, another question to the proposer?

THE SPEAKER:

Frame your question sir.

REP. MATTIES (20th):

I don't think he's listening.

THE SPEAKER:

The gentleman from the 11th is about to have a question.

REP. WILLARD (11th):

Excuse me I didn't....

REP. MATTIES (20th):

Through you Mr. Speaker, may I have a definition or two, or an example, I should say, or two, of an exceptional difficulty?

THE SPEAKER:

The gentleman from the 11th.

REP. WILLARD (11th):

Comment has been made that maybe I should say get the Bill passed, but...

THE SPEAKER:

Any further response?

REP. WILLARD (11th):

I suppose that an exceptional difficulty would be a case, if you had a septic tank problem and it couldn't be located on a particular part of a lot because of terrain and things like that, that you might have to move your building to another location to accommodate the septic tank. I suppose that that might be deemed an exceptional, exceptional difficulty or an unusual hardship. I'm just trying to give you some...

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REP. MATTIES (20th):

Thank you. Mr. Speaker, it seems to me that..I do oppose this Bill, I shouldn't say it seems to me, I do oppose the Bill because it does appear that we will be increasing rather than narrowing the latitude of the ZBA and therefore, I oppose the Bill.

THE SPEAKER:

Will you remark further on the Bill? Gentleman fro the 14th, Representative Abe Glassman.

REP. GLASSMAN (14th):

Very briefly, all this Bill really does is to require further documentation of some of the decisions of the zoning board of appeals. This is basically what it is, pure and simple and there's no hidden meaning in it. Thank you very much Mr. Speaker.

THE SPEAKER:

Will you remark further on the Bill? The gentleman from the 19th, Representative Robert Shea.

REP. SHEA (19th):

Mr. Speaker, I believe the zoning board of appeals can act in two instances and that is a variance or special exception. A variance would require a hardship and a special exception, I expect, would require an exceptional difficulty.

THE SPEAKER:

Remark further on the Bill? If not, will the Members please be seated and will the staff come to the well? There will be an immediate roll call vote in the Hall of the House. The House of Representatives will vote by roll immediately.

For what purpose does the gentleman rise?

REP. DORAN (30th):

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May I announce that John B. Alessie of the 122nd and Lawrence Palaia of the 121st are necessarily absent from the Chamber on Legislative business?

THE SPEAKER:

Thank you sir. The Journal will so note.

There will be an immediate roll call vote in the Hall of the House. The House of Representatives will vote by roll immediately. Will Members please be seated and the staff come to the well? The machine will be open. Have all the Members voted? Is your vote properly recorded? The machine is still open. Have all the Members voted? The machine will be closed. The Clerk will take a tally. Clerk please announce the tally.

THE ASSISTANT CLERK:

Total Number voting.....	126
Necessary for Passage.....	64
Those voting Yea.....	125
Those voting Nay.....	1
Those absent and not voting.....	25

THE SPEAKER:

The Bill as amended is passed.

THE CLERK:

Calendar 434 Substitute for Senate Bill 226 AN ACT CONCERNING PAYMENT OF MEDICAL SERVICE CORPORATIONS FOR SERVICES OF NATUREOPATHIC PHYSICIANS.

THE SPEAKER:

The gentleman from the 51st, Representative Kevin Johnston.

REP. JOHNSTON (51st):

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate.

THE SPEAKER:

Question is on acceptance and passage in concurrence. Will you remark?