

Legislative History for Connecticut Act

HB 7988 PA 545 scanned 1977

Senate = P. 3575-3578 (4p)

House = P. 2409-2422 (14p)

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CONNECTICUT
GEN. ASSEMBLY
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PROCEEDINGS
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Is there objection? Hearing none, the bill is retained.

THE CLERK:

Calendar No. 720, substitute for H.B. No. 7988, File No. 613,
An Act Concerning Subdivisions of Land, favorable report of the Committee
on General Law.

MRS. POLINSKY (38th):

Mr. Speaker, I move acceptance of the joint committee's
favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance of the joint committee's favorable
report and passage of the bill and will you remark, madam?

MRS. POLINSKY (38th):

Mr. Speaker, the Clerk has amendment LCO No. 8427. I would
request that the Clerk please read this amendment.

THE SPEAKER:

Will the Clerk please call and read LCO 8427, House Amendment
Schedule "A".

THE CLERK:

House Amendment Schedule "A" LCO 8427 offered by Rep. Polinsky,
38th district, Rep. Barnes, 21st district.

In line 141, delete "two-thirds" and insert in lieu thereof
"three-quarters"

In line 202, delete "or a court on appeal from a"

In line 203, delete "decision of the commission"

In line 229, insert the following after "plan":

"provided the commission shall file on the land records of the
town in which such subdivision is located notice of such expiration and shall

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state such expiration on the subdivision plan on file in the office of the town clerk of such town"

THE SPEAKER:

You have the amendment. What is your pleasure, madam?

MRS. POLINSKY (38th):

Mr. Speaker, I move the adoption of the amendment.

THE SPEAKER:

Question is on the adoption of House Amendment Schedule "A".

Will you remark, madam?

MRS. POLINSKY (38th):

Yes, Mr. Speaker. The raising from two-thirds to three-quarters puts more stringent requirements on the planning commission.

The second portion of that amendment on lines 202 and 203 eliminate the possible undue hardship on the applicant.

And in the final portion of the amendment, it makes clear to the consumer and his attorney such expiration date has occurred.

THE SPEAKER:

Will you remark further on the amendment?

MRS. POLINSKY (38th):

I move for its adoption, Mr. Speaker.

THE SPEAKER:

Will you remark further? If not, the question is on adoption of House Amendment Schedule "A". All those in favor of its adoption will indicate by saying aye. Opposed? The ayes have it, House "A" is ADOPTED, ruled technical.

Will you remark on the bill as amended?

MRS. POLINSKY (38th):

Yes, Mr. Speaker. This sub-division bill was put together with the express idea of clarifying existing law. It is a nuts and bolts bill that addresses six changes in the existing statute.

The first clarifies the definition of a subdivision by specifying that division of land made before a municipality adopts subdivision regulations would not count when determining if at least three lots have been created. And also that lots subdivided prior to local approval of subdivision regulations would not have to be included in an application for subdivision approval of adjacent lots.

The second change would permit a commission to refuse to consider a subdivision application while another application for the same parcel is pending before the commission.

The third change establishes requirements and procedures for a situation where a developer fails to complete a subdivision within the presently required five year period. Among other things, it would require that the commission state the date upon which this five year period expires on the endorsement of approval on an approved plan. This section applies to all subdivisions approved on or after October 1, 1977. If such an expiration occurs the commission shall record this fact on the land records and on the subdivision plan on file with the town clerk.

The fourth change would allow a local commission to adopt subdivision regulations that address sedimentation control and control of erosion caused by wind and water.

The fifth change is designed to keep a developer from, to quote an expression, dangling in the winds between a wetlands agency and a planning commission. If the proposed subdivision site is located on land regulated under the inland wetlands statutes, the applicants would

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file a copy of his application with the agency enforcing the inland wetlands and water course regulations within ten days of filing with the planning commission unless the wetland agency had already reviewed this application. This way the applicant would not, as some have, go all through the subdivision procedure, get his approval and then find he could not get a building permit because he failed to get approval from the wetlands agency.

The last change would prevent a commission to adopt regulations under which the commission could waive specific requirements under the subdivision regulations by a three-quarters vote of all members. The bill requires that in order to use this section, the specific conditions under which a waiver could be considered must be established and that for each waiver granted, the commission must state the reason for granting the waiver.

Mr. Speaker, I move the acceptance of the joint committee's favorable report and passage of the bill as amended by House Amendment Schedule "A".

THE SPEAKER:

Will you remark further on the bill as amended? Will you remark further on the bill?

MR. DODES (88th):

Thank you Mr. Speaker. Through you a couple of questions, Mr. Speaker.

THE SPEAKER:

Please frame your question.

MR. DODES (88th):

On line 140 the phrase "certain requirements" is spelled out in

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the bill. I would like to have the proponent of the bill give me some examples of what certain requirements you had in mind when the bill was put together.

THE SPEAKER:

The lady from the 38th to respond.

MRS. POLINSKY (38th):

Mr. Speaker, through you, sir I think what we had in mind was that the certain requirements would have to be most expressly spelled out such as a local planning commission might adopt regulations that say section a through f of the regulations may be waived if and then they'd have conditions and a through f might be showing underground utilities, showing roadways, showing landscaping, what the intent of this section of the regulation is to do is for that individual who may possibly want to leave land to his heirs prior to his death and wishes to take his hundred acres and divide it in four or six parcels. It would be a little ludicrous for him to have to show all the underground utilities, roadways and all the other requirements that are normally required if a subdivision is to be not only approved but built on in the immediate future.

MR. DODES (88th):

Thank you. Through you again Mr. Speaker.

THE SPEAKER:

The gentleman from the 88th still has the floor.

MR. DODES (88th):

Two further questions. On line 199, rather 198, the new section dealing with planning commissions not being required to use subdivision applications while other applications for subdivision of the same or substantially the same parcel is pending before the commission, again specifically

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what kind of example did you have in mind when that was put into the bill.

THE SPEAKER:

The lady from the 38th care to respond?

MRS. POLINSKY (38th):

Yes, Mr. Speaker. It has come to our attention and we had-- this had been addressed in several bills that were brought to General Law that some developers used numerous submittal of subdivision applications on the same site or substantially the same site with substantially the same plans to harass planning commissions and this problem is addressed in this portion of the bill.

THE SPEAKER:

The gentleman from the 88th still has the floor.

MR. DODES (88th):

Thank you. Another question, Mr. Speaker, in line 212, the phrase "due consideration" is used in relationship to the action that the planning commission has to take after the wetlands agency or other appropriate agency sends in a report. What does "due consideration" mean considering there is nothing in here that would say anything in regard to a mandatory requirement to accept the report from the other agency either to pass or disapprove the subdivision.

THE SPEAKER:

The lady from the 38th care to respond?

MRS. POLINSKY (38th):

Thank you Mr. Speaker, I would. I think the inland wetlands statutes take care of themselves. What we were saying in effect here is that the planning commission, assuming the wetlands commission sent a report that said, hey man, there's a lot of wetlands in there and we want to have a

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permit procedure and it's going to take some time. The planning commission might, in making its decision, either hold up its decision, if that were possible within the relevance of a time period or might decide that they would have to deny until such time as a permit were given by the wetlands agency. But I don't think we wanted to tie the wetlands statutes so tightly to the subdivision statutes that you were almost making them into one decision-making body.

THE SPEAKER:

The gentleman from the 88th still has the floor.

MR. DODES (88th):

If I may speak to the motion in regard to adoption of the resolution.

THE SPEAKER:

You have the floor sir.

MR. DODES (88th):

I find myself between a rock and a hard place on this matter. There's been a lot of work put into this bill. It's a combination of seven previous bills that were submitted to General Law and this bill is a combination of those seven.

I think it's important for the chamber to note that this matter is not or should not be taken lightly. It's a matter of planning and zoning and subdivisions can be quite important as you can imagine to the future of any community in this state. I have some grave concerns about this bill and I think it is important that I get these concerns on the record and to you so that you can understand what they are. I will not belabor the point and will not spend much time in going through it but I will proceed right now to explain my concern.

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I am very much concerned about a planning commission having the right to waive any of its regulations. If you will note in the file copy, they are eliminating the phrase that does presently specifically prohibit planning commissions from waiving their regulations. I recognize that the proposed bill does say certain requirements have to be listed in the regulations to allow the commission to waive its regulations. I am very much concerned about the basic principle of a legislative body in this case a planning commission also having the right to act as a judicial body in waiving its regulations. The counterpart to that, as we all recognize, is the zoning board, the zoning commission rather cannot waive its regulations but there is a board of appeals for that purpose. I am not suggesting a planning board of appeals. I am rather bringing out my concern about the potential for a planning commission having the right to waive its regulations and the potential also of unequal treatment of people that come before that commission.

My second concern is the one in which the planning commis- (record
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sion has got to give "due consideration" to the report of the inland wetlands commission. I agree that right at this moment there is no mechanism by which planning commissions and inland wetlands commissions are in any way, shape or form required to contact each other or interact with each other. This is a step in the right direction although I do not think it goes far enough. At present, this particular proposal does clarify some situations that exist. I think it is quite frankly more than a nuts and bolts bill. I think this is a very important piece of legislation.

I am going to reluctantly support the legislation simply because of the fact that I have a bill before General Law and I have been told that during the interim, the General Law Committee is going to study my bill and

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in hopes that it can come out next year and briefly stated, that bill would allow for the formation of a development commission within a community not mandated but a permissive situation whereby all activities dealing with land use, planning, zoning, inland wetlands, conservation, economic development would be handled by one commission so that the right hand knows what the left hand is doing and then also setting up what would be called a development board of appeals whereby people would have recourse for relief if they could not meet the letter of the law of those regulations as opposed to now, other than zoning, if you're turned down by inland wetlands or a planning commission, your only recourse is to the courts.

I suggest you pay careful attention to this kind of legislation. It affects every single one of us and every single one of our communities and can have either a detrimental or excellent far reaching effects on the communities. Thank you Mr. Speaker.

THE SPEAKER:

Further remarks on the bill as amended?

MR. BERMAN (19th):

May the Journal note that I have disqualified myself due to a possible conflict of interest?

THE SPEAKER:

The Journal will so note, sir.

Further remarks?

MRS. EMMONS (101st):

Mr. Speaker, a question to the proponent of the bill.

THE SPEAKER:

Please frame your question, madam.

MRS. EMMONS (101st):

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Yes, it's in relation to lines 210 to 214. My inquiry is, if an individual who was interested in subdividing a piece of land has not gone to inland wetlands first and sends a copy of the proposed subdivision to inland wetlands, if inland wetlands does not respond to planning and zoning can that person assume that they are not going to take, inland wetlands would take no further action in the matter?

THE SPEAKER:

The lady from the 38th to respond.

MRS. POLINSKY (38th):

Mr. Speaker, I'm not an expert on inland wetlands regulations but it's my understanding--well, it would seem to me if they went to the planning and zoning procedure without going through the wetlands agency and there were wetlands involved, the wetlands agency could stop the building the issuance of a building permit. Now whether the statutes, and I'm no expert on the wetlands statutes, say if they don't respond in x number of days or weeks or whatever, we would assume that there is no problem, I don't know whether the wetlands statutes address that question or how they address it.

THE SPEAKER:

The lady from the 101st has the floor.

MRS. EMMONS (101st):

Well then another question, sir. I think from what you're saying then you would assume that if you were to buy a lot that had been subdivided from a subdivision that had not really been seen by inland wetlands, you would not be sure that you could be issued a building permit?

THE SPEAKER:

The lady from the 38th to respond.

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MRS. POLINSKY (38th):

Again, are you talking about lots that were made, were filed prior to the inland wetlands--adoption afterwards? Again, I don't know the inland wetlands statutes that well and I prefer not to address something I don't know that well.

THE SPEAKER:

Will you remark further on the bill as amended?

MRS. BARNES (21st):

Mr. Speaker, I rise to support this bill. In response to requests by the American Institute of Planners, by the Connecticut Federation of Planning and Zoning Agencies and by numerous other legislators, the sub-committee on zoning in the General Law Committee considered suggestions to amend various sections of the statutes in order to make more clear existing law for the municipality. These changes were made in three bills, the first of which is before us today. For the most part, the changes do not significantly change the responsibilities of local boards but rather they make more uniform the standards and the timetables boards are to follow. Such increased consistency should help developers who have to deal with a number of municipalities in the course of their work. Thank you.

THE SPEAKER:

Are you prepared to vote?

MRS. MC CLUSKEY (86th):

Mr. Speaker, thank you Mr. Speaker. I rise to support this bill. I would like to address myself particularly to lines 197 through 203 which deals with the planning commission not being required to consider more than one application at a time. I believe that this provides a protection to planning commissions that is sorely needed. It would correct a problem

that was occurred in the North Branford Planning and Zoning Commission where they were faced with three different proposals for the same site at the same time during the process of which there was a court case pending against them by the applicant and in the particular situation, they believed that they were being harrassed by the applicant who approved their second application for fear of having a worse third application forced upon them.

I believe this provides an important protection that planning and zoning commissions already have under the zoning regulations and in regards to the inland wetlands provisions, I have served on both the planning and zoning commission and an inland wetland commission and have found that where the applications are submitted to both at the same time as has been practiced in North Branford, it coordinates the procedure and makes it a much less lengthy and difficult procedure for developers. I think this is a very good bill, and I urge its passage.

MRS. PARKER (31st):

Thank you Mr. Speaker. Through you a question to the proponent of the bill.

THE SPEAKER:

Please frame your question, madam.

MRS. PARKER (31st):

In lines 227 to the end, it notes a five year period during which the town will not call the bond. If the subdivision has been completed but the sidewalks, etc. have not been completed, is it your interpretation that the town would have to wait the five year period?

THE SPEAKER:

The lady from the 38th to respond.

MRS. POLINSKY (38th):

If I understand your question, the subdivision would not be

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completed until such work had been done, and, therefore, you'd have to give the full five years before calling that bond.

MRS. PARKER (31st):

Mr. Speaker, I am in favor of this bill. However, the answer that I received to my question raises some serious concerns. Builders are honest. They do what they are supposed to do. However, there are builders that develop a subdivision, sell each lot and have not completed the streets, the drainage, etc. and if the town has to wait five years before the bond is called, I think we are placing an undue hardship on the property owners of the subdivision.

THE SPEAKER:

The Chair is not of the impression that the lady has framed a question. I'm not quite clear. The Chair is under the impression that after the question, the lady was speaking to the bill and the merits thereof.

MRS. PARKER (31st):

Thank you madam. Will you remark further on the bill as amended? If not, will the members please be seated, will the staff come to the well, staff and guests come to the well. The machine will be open. Have all the members voted and is your vote properly recorded? If so, the machine will be closed and the Clerk will take a tally.

MR. DELLA VECCHIA (81st):

Mr. Speaker, in the affirmative please.

THE SPEAKER:

The gentleman from the 81st in the affirmative.

MR. SERRANI (144th):

Mr. Speaker, in the affirmative, please.

THE SPEAKER:

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The gentleman from the 44th in the affirmative.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	139
Necessary for Passage.....	70
Those Voting Yea.....	139
Those Voting Nay.....	0
Those Absent and Not Voting.....	12

THE SPEAKER:

The bill as amended is PASSED.

THE CLERK:

Calendar No. 721, substitute for H.B. No. 8225, File No. 614,
An Act Concerning Support Enforcement, favorable report of the Committee
on Human Services.

MR. O'NEILL (34th):

Mr. Speaker, may this item be referred to the committee on
Judiciary.

THE SPEAKER:

Is there objection? Hearing none, so ordered.

THE CLERK:

Calendar No. 722, H.B. No. 5663, File No. 615, An Act Concerning
Representation on Regional Planning Agencies, favorable report of the
Committee on State and Urban Development.

MR. BILLINGTON (7th):

Mr. Speaker, may this item be recommitted to the Committee
on State and Urban Development.

THE SPEAKER:

Is there objection? Hearing none, it is so ordered.

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would send directly to the agency or institution the council's determination of the project rather than under the present law to make a recommendation to the Governor, and if there's no objection, I would move it to the Consent Calendar.

THE CHAIR:

Without objection, it is so ordered.

THE CLERK:

Calendar 797, File 613, Favorable Report of the Joint Standing Committee on General Law, Substitute for House Bill 7988, An Act Concerning Subdivisions of Land. (As amended by House Amendment Schedule "A").

THE CHAIR:

Senator Cutillo.

SENATOR CUTILLO:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

Will you remark, Senator?

SENATOR CUTILLO:

May I continue?

THE CHAIR:

You may continue, Senator.

SENATOR CUTILLO:

Thank you. Mr. President, we have in front of us this bill

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and several other pieces of legislation pertaining to subdivisions of land and zoning which have been an accumulation or a condensation of accumulation of around 70 or 80 bills in General Law. Representative Janet Polinsky and Representative Barnes, two ladies from the General Law Committee put in countless hours in putting these bills together to come up with a worthwhile piece of legislation. I think last week some time I brought out one of these bills and there was a question deferred to me on these issues and I begged off because I didn't put the time in that the individuals I have just mentioned had. They are with us today and I'm sure between the two caucus rooms, that is the Senate, ~~the~~ Democratic and Republican caucus rooms, we've had ample time and opportunity to review what is exactly being done. In this instance, we're establishing requirements procedures for the situation where a developer fails to complete a subdivision within the presently required five year period. We are also clarifying the definition of a subdivision permitting planning commissions to waive certain subdivision requirements under specified circumstances. We're adding to the existing regulatory authority of planning commission by permitting them to adopt subdivision regulations which require that proper provision be made for sedimentation control and the control of erosion cause by wind and water. We're permitting a planning commission to refuse to consider an application...

PRESIDENT PRO TEM SENATOR FAULISO:

Please give your attention to Senator Cutillo. This is a

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landmark bill.

SENATOR CUTILLO:

Thank you, Mr. President. It establishes a specified requirements relative to the relationship between the subdivision application and the agency enforcing inland-wetland and water-course regulations within the community. Mr. President, I move acceptance of the bill and if there is no objection I would ask it be placed on the Consent Calendar.

SENATOR GUIDERA:

Mr. President.

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA:

A question through you, Mr. President, to Senator Cutillo. Wouldn't the language of this bill regarding waiver of subdivision regulations, waiver of any portion of the zoning regulation in a particular community by two thirds vote in effect replace the zoning board of appeals within a community. I realize that a waiver is not quite technically the same thing as a variance, but in effect wouldn't you be taking away from a zoning board of appeals a great deal of its duties and responsibilities.

THE CHAIR:

Senator Cutillo.

SENATOR CUTILLO:

Yes. My counsel, Representative Polinsky, whom I have just given credit to in putting this bill together advises me, no.

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SENATOR GUIDERA:

I'd like to know why though, Senator.

SENATOR CUTILLO:

Mr. President, through you.

THE CHAIR:

Senator Cutillo.

SENATOR CUTILLO:

It would have to be specified within the conditions as I'm told by Representative Polinsky.

SENATOR GUIDERA:

Mr. President.

THE CHAIR:

Senator Guidera. Are you moving to have it placed on the Consent Calendar.

SENATOR CUTILLO:

Well, if there is no objection obviously it's off the Consent Calendar. That was my motion.

THE CHAIR:

Thank you. Hearing none, so ordered.

THE CLERK:

Calendar 798, File 538, Favorable Report of the Joint Standing Committee on The Environment. Substitute for House Bill 8170. An Act Concerning Technical Amendments To The Inland Wetlands Act. (As amended by House Amendment Schedule "A").