



RECEIVED

MAY - 2 2013

Town of Acton
Planning Department

Town of Stow
PLANNING BOARD

380 Great Road
Stow, Massachusetts 01775
(978) 897-5098
FAX (978) 897-2321

April 30, 2013

Senator Daniel Wolf
State House
24 Beacon Street, Room 511B
Boston, MA 02133

Representative Stephen Kulik
Massachusetts State House
24 Beacon Street, Room 238
Boston, MA 02133

Senator James B. Eldridge
State house
24 Beacon Street, Room 413-A
Boston, MA 02133

Representative Kate Hogan
State House
24 Beacon Street, Room 166
Boston, MA 02133

Re: House Bill No. 1859 – An Act promoting the planning and development of sustainable communities.

Dear Senator Wolf, Senator Eldridge, Representative Kulik and Representative Hogan

We are writing to voice some concern about the proposed zoning reform bill known as An Act Promoting the Planning and Development of Sustainable Communities (House Bill 1859). We are pleased to see many changes since the former bills known as Land Use Partnership Act (LUPA), Community Planning Act 2 (CPA2) and Comprehensive Land Use Reform (CLURPA). It appears that most of our concerns have been addressed. Although this bill does make it feasible for communities with private water and septic to “opt –in” we do feel that the same rules should apply to all communities. If this is to be considered to be a “zoning reform” bill all aspects of the bill should apply to all communities.

The following is a list of specific concerns:

Section 10 (40A:6) - The Planning Board feels that the 8-year vesting right is too long. The proposed Section 40Y:5(F) reduces the vesting period to five years for opt-in communities. The five year vesting period should apply to all communities.

Section 20 (40A:9E) – Development Impact Fees. This Section appears to allow impact fees for schools and municipal buildings. However, Section 27 (40Y:5(G)) infers that Impact Fees for schools, municipal buildings and affordable housing are only permissible for opt-in communities.

Development impact fees should be uniform for all communities, including those communities that do not choose or do not qualify as opt-in communities.

The regional planning agency should provide the basic model and rates for which a municipality can adopt without local justification. If the town chooses not to adopt the regional planning agencies model and rates, the municipal should be at liberty to submit their own model and rates for review and approval by the regional planning agency.

Section 21 (40A:9G) – Land Use Dispute Avoidance – This section provides for an optional means of avoiding or minimizing land use disputes. This section states the Application may request of the public official or local board charged with acting on the applicant to undertake a land use dispute avoidance process.....” It is not clear whether the public official or local board must agree to an initial conflict evaluation. We would object to this section if the municipality is forced into a land use dispute avoidance process.

Section 26 (40X) – Consolidated Permitting – This section should be a local option requiring a vote of the legislative body rather than mandatory for the town to accept.

Section 27 (40Y:3(C)) – Planning Ahead for Growth – the Proposed Chapter 40Y:3(C) allows communities to with zoning districts that requires a minimum lot area of 40,000 square feet or more for single family residential development to utilize open space residential design for development of five or more housing units. This section gives the regional planning agency the right to determine that open space residential design is not feasible. We feel strongly that this determination is more appropriately made by the local community who is more familiar with the area.

Section 27 (40Y:5(D through H)) – Effect of certified community status on zoning and land use regulation - This section gives certain privileges to opt-in communities. As stated above, we feel the same rules should apply to all communities.

(D) – Municipality may adopt rate of development measures

(E) – Municipality may adopt natural resource protection zoning

(F) – Minimum vesting period reduced

(G) –Municipality may impose development impact fees for additional off-site public capital facilities; schools, libraries, municipal offices, affordable housing, and public safety facilities. As noted above, although this bill does make it feasible for communities with private water and septic to “opt –in” we do feel that the same rules should apply to all communities. Note: This section appears to be in conflict with section 40A:9E, which states development impact fees shall be used solely for purposes of defraying the costs of off-site public capital facilities. Section 40A:9E does not appear to prohibit impact fees for schools and municipal buildings.

Section 39 (41:81X) – Lot Line Changes – This section allows for the “register of deeds and land court to accept for recording or registration any plan showing a change in the line of any lot, tract, or parcel bearing a professional opinion by a registered professional and surveyor and a certificate by the person or board charged with the enforcement of the zoning ordinance or

the by-law.....” In order for the Town to have a better handle on its records as to lot configuration, we feel that these types of plans should require endorsement by the Planning Board – similar to the current ANR process.

As previously noted, we are pleased to see many changes from the former bills known as Comprehensive Land Use Reform (CLURPA) and Land Use Partnership Act (LUPA). However, we urge you to consider the above noted concerns before moving forward with House Bill 1859.

Sincerely,

Stow Planning Board

Lori Clark, Chair
Stephen Quinn
Ernest Dodd
Leonard Golder
Kathleen Sferra

cc: Don Keeran, Coordinator, Coalition for Zoning Reform
Jim O'Connell, Chair, Zoning Reform Working Group
Jeffrey R. Lacy, AICP
Town of Stow Board of Selectmen
Metropolitan Area Planning Council
Town of Acton Planning Board and Board of Selectmen
Town of Bedford Planning Board and Board of Selectmen
Town of Bolton Planning Board and Board of Selectmen
Town of Boxborough Planning Board and Board of Selectmen
Town of Carlisle Planning Board and Board of Selectmen
Town of Concord Planning Board and Board of Selectmen
Town of Harvard Planning Board and Board of Selectmen
Town of Hudson Planning Board and Board of Selectmen
Town of Lexington Planning Board and Board of Selectmen
Town of Lincoln Planning Board and Board of Selectmen
Town of Littleton Planning Board and Board of Selectmen
Town of Maynard Planning Board and Board of Selectmen
Town of Sudbury Planning Board and Board of Selectmen