

2021 -- S 0307

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LC001377
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING AND PLANNING BOARDS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 18, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-23-63 of the General Laws in Chapter 45-23 entitled "Subdivision
2 of Land" is hereby amended to read as follows:

3 **45-23-63. Procedure -- Meetings -- Votes -- Decisions and records.**

4 (a) All records of the planning board proceedings and decisions shall be written and kept
5 permanently available for public review. Completed applications for proposed land development
6 and subdivisions projects under review by the planning board shall be available for public review.

7 (b) Participation in a planning board meeting or other proceedings by any party is not a
8 cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing
9 violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or
10 willful misconduct.

11 (c) All final written comments to the planning board from the administrative officer,
12 municipal departments, the technical review committee, state and federal agencies, and local
13 commissions are part of the permanent record of the development application.

14 (d) Votes. All votes of the planning board shall be made part of the permanent record and
15 show the members present and their votes. A decision by the planning board to approve any land
16 development or subdivision application requires a vote for approval by a majority of ~~the current~~
17 ~~planning board membership~~ planning board members present at the time of the vote. A decision by
18 the planning board to approve a variance or special-use permit pursuant to any adopted unified
19 development review regulations requires a vote for approval by a majority of the planning board

1 members that were present at the public hearing at which the request was heard.

2 (e) All written decisions of the planning board shall be recorded in the land evidence
3 records within twenty (20) days after the planning board vote. A copy of the recorded decision shall
4 be mailed within one business day of recording, by any method that provides confirmation of
5 receipt, to the applicant and to any objector who has filed a written request for notice with the
6 administrative officer.

7 SECTION 2. Section 45-24-57 of the General Laws in Chapter 45-24 entitled "Zoning
8 Ordinances" is hereby amended to read as follows:

9 **45-24-57. Administration -- Powers and duties of zoning board of review.**

10 A zoning ordinance adopted pursuant to this chapter shall provide that the zoning board of
11 review shall:

12 (1) Have the following powers and duties:

13 (i) To hear and decide appeals within sixty-five (65) days of the date of the filing of the
14 appeal where it is alleged there is an error in any order, requirement, decision, or determination
15 made by an administrative officer or agency in the enforcement or interpretation of this chapter, or
16 of any ordinance adopted pursuant hereto;

17 (ii) To hear and decide appeals from a party aggrieved by a decision of an historic district
18 commission, pursuant to §§ 45-24.1-7.1 and 45-24.1-7.2;

19 (iii) To hear and decide appeals where the zoning board of review is appointed as the board
20 of appeals for airport zoning regulations, pursuant to § 1-3-19;

21 (iv) To authorize, upon application, in specific cases of hardship, variances in the
22 application of the terms of the zoning ordinance, pursuant to § 45-24-41;

23 (v) To authorize, upon application, in specific cases, special-use permits, pursuant to § 45-
24 24-42, where the zoning board of review is designated as a permit authority for special-use permits;

25 (vi) To refer matters to the planning board or commission, or to other boards or agencies
26 of the city or town as the zoning board of review may deem appropriate, for findings and
27 recommendations;

28 (vii) To provide for the issuance of conditional zoning approvals where a proposed
29 application would otherwise be approved except that one or more state or federal agency approvals
30 that are necessary are pending. A conditional zoning approval shall be revoked in the instance
31 where any necessary state or federal agency approvals are not received within a specified time
32 period; and

33 (viii) To hear and decide other matters, according to the terms of the ordinance or other
34 statutes, and upon which the board may be authorized to pass under the ordinance or other statutes;

1 and

2 (2) Be required to vote as follows:

3 (i) ~~Five (5)~~ Four (4) active members, including any alternate members, are necessary to
4 conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself or
5 herself, shall not sit as an active member, and shall take no part in the conduct of the hearing. ~~Only~~
6 A maximum of five (5) active members, including any alternate members, are entitled to vote on
7 any issue;

8 (ii) The concurring vote of ~~three (3) of the five (5)~~ the majority members of the zoning
9 board of review sitting at a hearing are necessary to reverse any order, requirement, decision, or
10 determination of any zoning administrative officer from whom an appeal was taken; and

11 (iii) The concurring vote of ~~four (4) of the five (5)~~ the majority members of the zoning
12 board of review sitting at a hearing is required to decide in favor of an applicant on any matter
13 within the discretion of the board upon which it is required to pass under the ordinance, including
14 variances and special-use permits.

15 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would amend the voting requirements of planning and zoning boards.
- 2 This act would take effect upon passage.

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