



House of Representatives

General Assembly

File No. 11

February Session, 2002

House Bill No. 5068

House of Representatives, March 8, 2002

The Committee on Planning and Development reported through REP. DAVIS of the 50th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING ACTIONS OF ZONING COMMISSIONS ON PETITIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 8-3 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage and applicable to petitions filed on and after said date*):

4 (c) All petitions requesting a change in the regulations or the
5 boundaries of zoning districts shall be submitted in writing and in a
6 form prescribed by the commission and shall be considered at a public
7 hearing within the period of time permitted under section 8-7d. The
8 commission shall [adopt or deny] act upon the changes requested in
9 such petition. Whenever such commission makes any change in a
10 regulation or boundary it shall state upon its records the reason why
11 such change is made. No such commission shall be required to hear
12 any petition or petitions relating to the same changes, or substantially
13 the same changes, more than once in a period of twelve months.

This act shall take effect as follows:	
Section 1	<i>from passage and applicable to petitions filed on and after said date</i>

PD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

Permitting zoning commissions to modify a request to change a zoning regulation or a zoning map's boundaries has no fiscal impact on municipalities.

OLR Bill Analysis

HB 5068

AN ACT CONCERNING ACTIONS OF ZONING COMMISSIONS ON PETITIONS**SUMMARY:**

This bill removes the limits on the kinds of actions zoning commissions can take on a request to change a zoning regulation or a zoning map's boundaries. Current law allows them to adopt or deny these requests. The Superior Court has issued conflicting rulings as to whether the power to approve a request encompasses the power to modify it. The bill allows commissions to act upon the requests without limitation.

EFFECTIVE DATE: Upon passage

BACKGROUND***Related Cases***

The Superior Court has issued conflicting rulings on whether CGS Sec. 8-3(c) allows commissions to modify and approve a developer's request to change a zoning regulation or a zoning map's boundaries. The court initially ruled that the law "clearly and unambiguously grants a planning and zoning commission the authority to adopt or deny a petition requesting a zone change. It does not, however, grant the authority to *modify* a petition" (*Joseph Maccio. v. Town of Southington Planning and Zoning Commission, et. al.*, 10 Conn. L. Rptr. 6 (1993), emphasis in the original).

But in a subsequent case, the court rejected a plaintiff's claim that the statute allowed the commission only to approve or deny the request. The court found "strong policy reasons for not giving CGS § 8-3 (c) the restrictive meaning that Verderame [the plaintiff] claims." A commission acts as a legislative body when it decides zone change requests, the court found. These bodies routinely amend proposals before them; otherwise, they would be "compelled to accept imperfect proposals in imperfect form rather than correct or improve them"

(Verderame v. West Haven Planning and Zoning Commission, 19 Conn. L. Rptr. 638 1997 Ct. Sup. 3389).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Report

Yea 16 Nay 0