



# Senate

General Assembly

**File No. 385**

*January Session, 2005*

Substitute Senate Bill No. 1086

*Senate, April 18, 2005*

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING FLEXIBLE ZONING DISTRICTS, SITE PLANS AND ZONING VARIANCES.***

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

1 Section 1. (NEW) (*Effective from passage*) (a) As part of the zoning  
2 regulations adopted under section 8-2 of the general statutes or under  
3 any special act, the zoning commission of each municipality may  
4 provide for floating and overlay zones and flexible zoning districts,  
5 including, but not limited to, planned development districts, planned  
6 development units, special design districts and planned area  
7 developments. The regulations shall establish standards for such zones  
8 and districts which shall include, but not be limited to, standards for  
9 (1) building height and setbacks from street and property lines, (2) lot  
10 size, (3) floor area ratio and the ratio of a lot to a building, (4) bulk, (5)  
11 use, (6) coverage, (7) off-street parking, (8) performance criteria for air,  
12 light, noise and odor, (9) lighting, (10) utilities, (11) protection of the  
13 air, water, natural resources and historic structures and landmarks,

14 and (12) integration of architecture with the existing area. Flexible  
15 zoning districts established under such regulations shall be designed  
16 for the betterment of the city and the floating and overlay zones and  
17 neighborhoods in which they are located and shall not establish a zone  
18 that is less restrictive with respect to uses than the underlying zone of  
19 the flexible zoning district. Such regulations shall not result in the  
20 expansion of a preexisting, nonconforming use. Notwithstanding the  
21 provisions of this section, no planned development district shall be  
22 approved which would permit a use or authorize the expansion of a  
23 preexisting, nonconforming use where the underlying zone is a  
24 residential zone.

25 (b) If any portion of the project area of a planned development  
26 district or planned development unit has not received final approval of  
27 all necessary detailed plans, such detailed plans may be submitted for  
28 approval after the adoption of regulations creating application  
29 requirements for detailed plans provided (1) such planned  
30 development district or planned development unit was approved prior  
31 to the effective date of this act, and (2) a certificate of occupancy has  
32 been granted for such district or unit.

33 Sec. 2. Subsection (g) of section 8-3 of the general statutes is repealed  
34 and the following is substituted in lieu thereof (*Effective from passage*):

35 (g) The zoning regulations may require that a site plan be filed with  
36 the commission or other municipal agency or official to aid in  
37 determining the conformity of a proposed building, use or structure  
38 with specific provisions of such regulations. If a site plan application  
39 involves an activity regulated pursuant to sections 22a-36 to 22a-45,  
40 inclusive, the applicant shall submit an application for a permit to the  
41 agency responsible for administration of the inland wetlands  
42 regulations not later than the day such application is filed with the  
43 zoning commission. The decision of the zoning commission shall not  
44 be rendered on the site plan application until the inland wetlands  
45 agency has submitted a report with its final decision. In making its  
46 decision the zoning commission shall give due consideration to the

47 report of the inland wetlands agency. A site plan may be modified or  
48 denied only if it fails to comply with requirements already set forth in  
49 the zoning or inland wetlands regulations. Approval of a site plan  
50 shall be presumed unless a decision to deny or modify it is rendered  
51 within the period specified in section 8-7d. A certificate of approval of  
52 any plan for which the period for approval has expired and on which  
53 no action has been taken shall be sent to the applicant within fifteen  
54 days of the date on which the period for approval has expired. A  
55 decision to deny or modify a site plan shall set forth the reasons for  
56 such denial or modification. A copy of any decision shall be sent by  
57 certified mail to the person who submitted such plan within fifteen  
58 days after such decision is rendered. The zoning commission may, as a  
59 condition of approval of any modified site plan, require a bond in an  
60 amount and with surety and conditions satisfactory to it, securing that  
61 any modifications of such site plan are made or may grant an  
62 extension of the time to complete work in connection with such  
63 modified site plan. The commission may condition the approval of  
64 such extension on a determination of the adequacy of the amount of  
65 the bond or other surety furnished under this section. The commission  
66 shall publish notice of the approval or denial of site plans in a  
67 newspaper having a general circulation in the municipality. In any  
68 case in which such notice is not published within the fifteen-day  
69 period after a decision has been rendered, the person who submitted  
70 such plan may provide for the publication of such notice within ten  
71 days thereafter. The provisions of this subsection shall apply to all  
72 zoning commissions or other final zoning authority of each  
73 municipality whether or not such municipality has adopted the  
74 provisions of this chapter or the charter of such municipality or special  
75 act establishing zoning in the municipality contains similar provisions.

76 Sec. 3. Section 8-6 of the general statutes is repealed and the  
77 following is substituted in lieu thereof (*Effective from passage*):

78 (a) The zoning board of appeals shall have the following powers  
79 and duties: (1) To hear and decide appeals where it is alleged that  
80 there is an error in any order, requirement or decision made by the

81 official charged with the enforcement of this chapter or any bylaw,  
 82 ordinance or regulation adopted under the provisions of this chapter;  
 83 (2) to hear and decide all matters including special exceptions and  
 84 special exemptions under section 8-2g upon which it is required to  
 85 pass by the specific terms of the zoning bylaw, ordinance or  
 86 regulation; and (3) to determine and vary the application of the zoning  
 87 bylaws, ordinances or regulations in harmony with their general  
 88 purpose and intent and with due consideration for conserving the  
 89 public health, safety, convenience, welfare and property values solely  
 90 with respect to a parcel of land where, owing to conditions especially  
 91 affecting such parcel but not affecting generally the district in which it  
 92 is situated, a literal enforcement of such bylaws, ordinances or  
 93 regulations would result in exceptional difficulty or unusual hardship  
 94 so that substantial justice will be done and the public safety and  
 95 welfare secured, provided that the zoning regulations may specify the  
 96 extent to which uses shall not be permitted by variance in districts in  
 97 which such uses are not otherwise allowed. No such board shall be  
 98 required to hear any application for the same variance or substantially  
 99 the same variance for a period of six months after a decision by the  
 100 board or by a court on an earlier such application.

101 (b) Any variance granted by a zoning board of appeals shall run  
 102 with the land and shall not be personal in nature to the person who  
 103 applied for and received the variance. A variance shall not be  
 104 extinguished solely because of the transfer of title to the property or  
 105 the invalidity of any condition attached to the variance that would  
 106 affect the transfer of the property from the person who initially applied  
 107 for and received the variance.

108 (c) No zoning board of appeals in a municipality which has adopted  
 109 zoning regulations under section 8-2 or any special act shall require a  
 110 person granted a variance to apply again for such variance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

Sec. 2	<i>from passage</i>	8-3(g)
Sec. 3	<i>from passage</i>	8-6

**PD**      *Joint Favorable Subst.*

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:**

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	Cost	Potential	Potential

**Explanation**

Municipalities that choose to authorize floating and overlay zones and flexible zoning districts would incur a workload increase. Since the bill’s provisions are discretionary, it is anticipated that a municipality would incorporate these tools when resources permit.

**OLR Bill Analysis**

sSB 1086

**AN ACT CONCERNING FLEXIBLE ZONING DISTRICTS, SITE PLANS AND ZONING VARIANCES****SUMMARY:**

This bill authorizes floating and overlay zones and flexible zoning districts, which can be used for planning and regulating large-scale developments that do not meet the requirements of a preexisting zone. The authorization extends to all towns, regardless of whether they zone under the statutes or a special act. The bill sets general standards for approving these zones and districts. Towns that choose to allow the zones and districts must incorporate these standards in their zoning regulations.

The bill prohibits zoning boards of appeal (ZBAs) from requiring a person who was granted a variance to reapply for the same variance. This prohibition applies to ZBAs operating under the statutes or special acts.

Lastly, the bill allows all zoning commissions to require site plans, which commissions use to determine if a proposed project conforms to the zoning regulations. Current law authorizes this tool for towns zoning under the statutes. The bill extends this authorization to those that zone under a special act, regardless of whether it explicitly authorizes this. It does not extend to special taxing districts formed under a special act that exercise zoning powers.

EFFECTIVE DATE: Upon passage

**FLOATING AND OVERLAY ZONES AND FLEXIBLE ZONING DISTRICTS**

The bill authorizes two types of land use planning and regulatory concepts, which towns may adopt through regulations: floating and overlay zones and flexible zoning districts. These concepts include planned development districts, planned development units, special design districts, and planned area developments.

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Towns may apply these concepts through their zoning regulations. The regulations must establish standards for:

1. building height and setbacks from streets and property lines;
2. lot size;
3. floor area ratio and ratio of lot to building;
4. bulk, use, and coverage;
5. off-street parking;
6. performance criteria for air, light, noise, and order;
7. lighting and utilities;
8. protecting air, water, natural resources, and historic structures and landmarks; and
9. integrating architecture with the existing area.

Additionally, the regulations cannot allow preexisting nonconforming uses to expand. These are uses that existed before the town adopted or amended its zoning regulations. By law, the town must allow the use to continue, but not expand. The bill specifies that towns may not approve planned development districts that allow a preexisting nonconforming use in a residential zone to expand.

Flexible zoning districts may encompass floating and overlay zones. The bill specifies that proposed districts must be designed for the betterment of the town and the floating and overlay zones and neighborhoods in which they are located. The new zone must be at least as restrictive as the underlying zone.

## **BACKGROUND**

### ***Related Case***

The Connecticut Appellate Court overturned New Haven's approval of a planned development district on the ground that neither the city's special zoning act or the statutes authorized this practice (*Campion et al.*

*v. Board of Alderman of the City of New Haven et a, 85 Conn. 820).*

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 18      Nay 0