

3/25/11

Members of the Committee on Judiciary:

My name is Joseph D. Masi. I am a former 18 year member of the Watertown Planning and Zoning Commission and also chairman during part of my tenure. In addition, I have served on the Zoning Board of Appeals in Watertown and was employed by The Town of West Hartford as an assistant zoning officer for 11 years until my retirement. I am here to speak against the passage of Raised Bill #1030, An Act Concerning an Appeal of a Decision of a Zoning Board of Appeals.

First of all this act does not only apply to the Zoning Board of Appeals it applies to the decision of a similar board or commission. This means the planning and zoning commission, wetlands agency, conservation commission, etc. This bill basically is wide open with respect to who it applies to. It appears that this is just a rollover of bill 331 that was initially submitted to the Judiciary Committee by Senator Robert Kane.

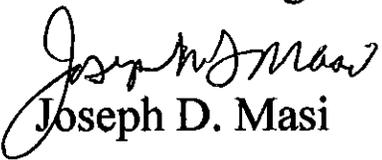
Not only do I oppose this bill, my reasons are as follows:

1. The Planning and Zoning Commission and other land use boards are granted enormous powers by Section 8-2 of the General Statutes. The commission can do great good with these powers or the converse; they can fail the individual or the community with their decisions. As such, it is imperative that the individual have the right without intimidation or financial ruin to bring an appeal to court for remedy.
2. This bill is sponsored by Senator Kane of the 32nd Senatorial District, Watertown being in his district. It is more than coincidence that the Planning and Zoning Commission of Watertown in the last few years under Chairman David Minnich has been sued numerous times. They have just lost two suits and one was remanded to the lower court for a rehearing. There are other suits pending. Each of the suits was brought about by individuals who felt that they were aggrieved by predisposition, conflicts of interest, and the disregard of staff's expert testimony.
3. My family is an example of the unfair treatment by our local board. Fortunately, we won our case Docket # CV-09-4018313S of the Superior Court, Judicial District of Waterbury. The judge in our case ruled that the case not be reheard, but the

board must approve our subdivision. In fact, “the court found that the commission lacked substantial evidence to deny the plaintiffs’ subdivision application for any of the reasons they advanced and as unreasonable and arbitrary.” “Accordingly the court hereby sustains the plaintiffs’ appeal and remands this case to the commission with direction to approve the application”.

4. If we lost our appeal no matter how much we felt we were harmed under Bill 1030 the town could sue us for triple damages. How is this a level playing field? Now that I’ve won the case shouldn’t I be allowed to sue them for triple my costs?
5. The Town of Watertown’s Planning and Zoning Commission has been in existence since 1955 and during all that time no one ever thought of this remedy because it wasn’t necessary. Decisions were based outside of politics and personal feelings, but on the facts of the application and the advice of professional staff. The way it should be.
6. Lastly, if this bill were to pass it would not only involve Watertown but every town in the State of CT. Do these towns even know that this bill is even being proposed? And what would their comments be?

In closing, I find that a local board that is sub-performing and generating enough bad decisions so that there have been numerous lawsuits filed, is a poor reason to support bill #1030, The answer might be to provide for recall of elected and appointed officials, instead of punishing individual aggrieved parties. This is a judicial issue not a legislative issue.


Joseph D. Masi

33 Pleasantview St
Oakville, Ct 06079
1-860-274-6295

The case referred to by Mr. Minnich was remanded back to the Superior Court from the Appeal Court of Appeals since ~~because~~ one of the plaintiffs was determined to be aggrieved. Therefore there ~~would not have~~ the claim that the town and developer were harmed by a ~~jury~~ suit without just cause or solely for delay is on its face not true.