



Making Great Communities Happen
**Connecticut Chapter of the
American Planning Association**

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PLANNING AND DEVELOPMENT COMMITTEE – February 21, 2014

**POSITION STATEMENT ON RAISED BILL 117
AN ACT AUTHORIZING MUNICIPALITIES TO MODIFY ZONING STANDARDS**

INTRODUCTION

The Connecticut Chapter of the American Planning Association has over 420 members who are governmental and consulting planners, land use attorneys, citizen planners, and other professionals engaged in planning and managing land use, economic development, housing, transportation, and conservation for local, regional, and State governments, private businesses and other entities. The Chapter has long been committed to assisting the legislature and State agencies with developing and furthering responsible growth management principles. The American Planning Association is an independent, not-for-profit, national educational organization that provides leadership in the development of vital communities.

Many CCAPA members are responsible for and/or supervise zoning enforcement activities by municipalities.

OVERVIEW

Raised Bill 117 proposes amendments to Section 8-2 of the General Statutes pertaining to the authority of municipalities to create flexible zoning regulations. The bill authorizes a municipality to grant a modification of bulk and dimensional standards by a three-quarters vote of the commission provided specific criteria that are clearly spelled out in the zoning regulations are met.

ANALYSIS

A recent CT Appellate Court decision (*MacKenzie v. PZC*, 146 Conn. App. 406, 2013) raised genuine concern among planners regarding the municipal zoning authority. In its decision, the court ruled that a Zoning Commission does not have the authority to modify a zoning requirement even when the zoning regulations explicitly authorize it. Raised Bill 117 addresses that concern.

Most municipal zoning regulations already contain some standards that may be modified, usually citing specific criteria that must be met for such modifications. In general, these modifications have been applied judiciously for many years to the benefit of communities as well as applicants.

The Zoning Board of Appeals is clearly the only municipal board with the authority to *waive* a zoning regulation through the issuance of a zoning variance, but this process requires the applicant to prove that they are uniquely unable to meet a zoning regulation via “exceptional difficulty or unusual hardship”. This rigorous test and associated costs are a burden on applicants and should only be invoked on rare occasions.

Lastly, there is a strong policy-oriented correlation between Raised Bill 117 and General Statutes § 8-26 Waivers of Certain Subdivision Regulation Requirements.

CCAPA POSITION ON RAISED BILL 117

Planners feel that the ability to modify a zoning regulation under specific, well-defined criteria is a particularly important tool for achieving comprehensive planning goals. Zoning Commissions should be authorized to exercise reasonable flexibility in manner that is clearly outlined, predictable, and fair to all impacted parties.

Because flexibility in the application of the zoning regulations is occasionally necessary to achieve comprehensive planning goals, it is critical that zoning regulations be flexible enough to achieve these goals without the need to prove “exceptional difficulty or unusual hardship” as required for a variance issued by the Zoning Board of Appeals.

CONCLUSION

CCAPA and the CT Homebuilders Association are actively collaborating on a potential revision to Raised Bill 117. Despite our recent efforts, developing a consensus on such a significant issue will take some time and it is important to get the language right. We will continue to collaborate and hope to be able to present a mutually agreeable solution to the Planning and Development Committee in the near future.