

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1219

Session of
2001

INTRODUCED BY VANCE, HERMAN, NICKOL, McNAUGHTON, CAWLEY,
M. BAKER, CALTAGIRONE, M. COHEN, CORRIGAN, CREIGHTON, DALLY,
DeLUCA, J. EVANS, FLICK, FORCIER, GABIG, GODSHALL, HARHAI,
HENNESSEY, HERSHEY, HUTCHINSON, LAUGHLIN, LEH, MACKERETH,
MANDERINO, MARSICO, McCALL, MELIO, R. MILLER, MUNDY, NAILOR,
ORIE, READSHAW, ROSS, RUBLEY, SATHER, SAYLOR, SCHULER,
SCRIMENTI, SOLOBAY, STABACK, STEELMAN, STERN, STURLA,
E. Z. TAYLOR, THOMAS, TIGUE, WALKO, WANSACZ, WOJNAROSKI,
YUDICHAK, COLAFELLA AND HORSEY, MARCH 29, 2001

SENATOR GERLACH, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
SEPTEMBER 25, 2001

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," further providing for planning commission
21 ~~and~~, for zoning ordinance amendments, FOR CERTAIN FINDINGS, <—
22 FOR HEARINGS AND FOR GOVERNING BODY'S FUNCTIONS.

23 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 202 of the act of July 31, 1968 (P.L.805,
3 No.247), known as the Pennsylvania Municipalities Planning Code,
4 reenacted and amended December 21, 1988 (P.L.1329, No.170), is
5 amended to read:

6 Section 202. Planning Commission.--If the governing body of
7 any municipality shall elect to create a planning commission,
8 such commission shall have not less than three nor more than
9 nine members. [All members of the commission shall serve without
10 compensation, but may be reimbursed for necessary and reasonable
11 expenses.] Except for elected or appointed officers or employees
12 of the municipality, members of the commission may receive
13 compensation in an amount fixed by the governing body.
14 Compensation shall not exceed the rate of compensation
15 authorized to be paid to members of the governing body. Without
16 exception, members of the planning commission may be reimbursed
17 for necessary and reasonable expenses. However, elected or
18 appointed officers or employees of the municipality shall not,
19 by reason of membership thereon, forfeit the right to exercise
20 the powers, perform the duties or receive the compensations of
21 the municipal offices held by them during such membership.

22 Section 2. Section 609(b) of the act, amended May 27, 1994
23 (P.L.251, No.38), is amended to read:

24 Section 609. Enactment of Zoning Ordinance Amendments.--* *

25 *

26 (b) (1) Before voting on the enactment of an amendment, the
27 governing body shall hold a public hearing thereon, pursuant
28 to public notice. In addition, if the proposed amendment
29 involves a zoning map change, notice of said public hearing
30 shall be conspicuously posted by the municipality at points

1 deemed sufficient by the municipality along the tract to
2 notify potentially interested citizens. The affected tract or
3 area shall be posted at least one week prior to the date of
4 the hearing.

5 (2) (i) In addition to the requirement that notice be
6 posted under clause (1), where the proposed amendment
7 involves a zoning map change, notice of the public
8 hearing shall be mailed by the municipality at least ten <—
9 THIRTY days prior to the date of the hearing by first <—
10 class mail to owners of record of THE ADDRESSEES OF REAL <—
11 ESTATE TAX BILLS FOR all real property located within the
12 area being rezoned and to owners of record of all real <—
13 property contiguous to the area being rezoned. Notice
14 under this clause shall be sent to owners of record at
15 their addresses of record., AS EVIDENCED BY TAX RECORDS <—
16 WITHIN THE POSSESSION OF THE MUNICIPALITY. The notice
17 shall include the location, date and time of the public
18 hearing. A GOOD FAITH EFFORT SHALL SATISFY THE <—
19 REQUIREMENTS OF THIS SUBSECTION.

20 (ii) This clause shall not apply when the rezoning
21 constitutes a comprehensive rezoning.

22 * * *

23 ~~Section 3. This act shall take effect in 60 days.~~ <—

24 SECTION 3. SECTIONS 709(A) AND 908(1.2) AND (9) OF THE ACT <—
25 ARE AMENDED TO READ:

26 SECTION 709. THE FINDINGS.--(A) THE GOVERNING BODY, OR THE
27 PLANNING AGENCY, WITHIN 60 DAYS FOLLOWING THE CONCLUSION OF THE
28 PUBLIC HEARING PROVIDED FOR IN THIS ARTICLE OR WITHIN 180 DAYS
29 AFTER THE DATE OF FILING OF THE APPLICATION, WHICHEVER OCCURS
30 FIRST, SHALL, BY OFFICIAL WRITTEN COMMUNICATION, TO THE

1 LANDOWNER, EITHER:

2 (1) GRANT TENTATIVE APPROVAL OF THE DEVELOPMENT PLAN AS
3 SUBMITTED;

4 (2) GRANT TENTATIVE APPROVAL SUBJECT TO SPECIFIED
5 CONDITIONS NOT INCLUDED IN THE DEVELOPMENT PLAN AS SUBMITTED;
6 OR

7 (3) DENY TENTATIVE APPROVAL TO THE DEVELOPMENT PLAN.

8 FAILURE TO SO ACT WITHIN SAID PERIOD SHALL BE DEEMED TO BE A
9 GRANT OF TENTATIVE APPROVAL OF THE DEVELOPMENT PLAN AS
10 SUBMITTED. IN THE EVENT, HOWEVER, THAT TENTATIVE APPROVAL IS
11 GRANTED SUBJECT TO CONDITIONS, THE LANDOWNER MAY, WITHIN 30 DAYS
12 AFTER RECEIVING A COPY OF THE OFFICIAL WRITTEN COMMUNICATION OF
13 THE GOVERNING BODY NOTIFY SUCH GOVERNING BODY OF HIS REFUSAL TO
14 ACCEPT ALL SAID CONDITIONS, IN WHICH CASE, THE GOVERNING BODY
15 SHALL BE DEEMED TO HAVE DENIED TENTATIVE APPROVAL OF THE
16 DEVELOPMENT PLAN. IN THE EVENT THE LANDOWNER DOES NOT, WITHIN
17 SAID PERIOD, NOTIFY THE GOVERNING BODY OF HIS REFUSAL TO ACCEPT
18 ALL SAID CONDITIONS, TENTATIVE APPROVAL OF THE DEVELOPMENT PLAN,
19 WITH ALL SAID CONDITIONS, SHALL STAND AS GRANTED.

20 * * *

21 SECTION 908. HEARINGS.--THE BOARD SHALL CONDUCT HEARINGS AND
22 MAKE DECISIONS IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

23 * * *

24 (1.2) THE HEARING SHALL BE [HELD] COMMENCED WITHIN 60
25 DAYS FROM THE DATE OF THE APPLICANT'S REQUEST, UNLESS THE
26 APPLICANT HAS AGREED IN WRITING TO AN EXTENSION OF TIME. THE
27 HEARING SHALL BE COMPLETED NO LATER THAN 150 DAYS AFTER IT
28 COMMENCES.

29 * * *

30 (9) THE BOARD OR THE HEARING OFFICER, AS THE CASE MAY

1 BE, SHALL RENDER A WRITTEN DECISION OR, WHEN NO DECISION IS
2 CALLED FOR, MAKE WRITTEN FINDINGS ON THE APPLICATION WITHIN
3 45 DAYS AFTER THE LAST HEARING BEFORE THE BOARD OR HEARING
4 OFFICER. WHERE THE APPLICATION IS CONTESTED OR DENIED, EACH
5 DECISION SHALL BE ACCOMPANIED BY FINDINGS OF FACT AND
6 CONCLUSIONS BASED THEREON TOGETHER WITH THE REASONS THEREFOR.
7 CONCLUSIONS BASED ON ANY PROVISIONS OF THIS ACT OR OF ANY
8 ORDINANCE, RULE OR REGULATION SHALL CONTAIN A REFERENCE TO
9 THE PROVISION RELIED ON AND THE REASONS WHY THE CONCLUSION IS
10 DEEMED APPROPRIATE IN THE LIGHT OF THE FACTS FOUND. IF THE
11 HEARING IS CONDUCTED BY A HEARING OFFICER[,] AND THERE HAS
12 BEEN NO STIPULATION THAT HIS DECISION OR FINDINGS ARE FINAL,
13 THE BOARD SHALL MAKE HIS REPORT AND RECOMMENDATIONS AVAILABLE
14 TO THE PARTIES WITHIN 45 DAYS AND THE PARTIES SHALL BE
15 ENTITLED TO MAKE WRITTEN REPRESENTATIONS THEREON TO THE BOARD
16 PRIOR TO FINAL DECISION OR ENTRY OF FINDINGS, AND THE BOARD'S
17 DECISION SHALL BE ENTERED NO LATER THAN 30 DAYS AFTER THE
18 REPORT OF THE HEARING OFFICER. WHERE THE BOARD FAILS TO
19 RENDER THE DECISION WITHIN THE PERIOD REQUIRED BY THIS
20 SUBSECTION[,] OR FAILS TO [HOLD] COMMENCE OR COMPLETE THE
21 REQUIRED HEARING [WITHIN 60 DAYS FROM THE DATE OF THE
22 APPLICANT'S REQUEST FOR A HEARING,] AS PROVIDED IN SUBSECTION
23 (1.2), THE DECISION SHALL BE DEEMED TO HAVE BEEN RENDERED IN
24 FAVOR OF THE APPLICANT UNLESS THE APPLICANT HAS AGREED IN
25 WRITING OR ON THE RECORD TO AN EXTENSION OF TIME. WHEN A
26 DECISION HAS BEEN RENDERED IN FAVOR OF THE APPLICANT BECAUSE
27 OF THE FAILURE OF THE BOARD TO MEET OR RENDER A DECISION AS
28 HEREINABOVE PROVIDED, THE BOARD SHALL GIVE PUBLIC NOTICE OF
29 SAID DECISION WITHIN TEN DAYS FROM THE LAST DAY IT COULD HAVE
30 MET TO RENDER A DECISION IN THE SAME MANNER AS PROVIDED IN

1 SUBSECTION (1) OF THIS SECTION. IF THE BOARD SHALL FAIL TO
2 PROVIDE SUCH NOTICE, THE APPLICANT MAY DO SO. NOTHING IN THIS
3 SUBSECTION SHALL PREJUDICE THE RIGHT OF ANY PARTY OPPOSING
4 THE APPLICATION TO APPEAL THE DECISION TO A COURT OF
5 COMPETENT JURISDICTION.

6 * * *

7 SECTION 4. SECTION 913.2(B)(2) OF THE ACT, AMENDED DECEMBER
8 18, 1996 (P.L.1102, NO.165), IS AMENDED TO READ:

9 SECTION 913.2. GOVERNING BODY'S FUNCTIONS; CONDITIONAL
10 USES.--* * *

11 (B) * * *

12 (2) WHERE THE GOVERNING BODY FAILS TO RENDER THE
13 DECISION WITHIN THE PERIOD REQUIRED BY THIS SUBSECTION OR
14 FAILS TO [HOLD] COMMENCE THE REQUIRED HEARING WITHIN 60 DAYS
15 FROM THE DATE OF THE APPLICANT'S REQUEST FOR A HEARING AND
16 COMPLETE THE HEARING NO LATER THAN 150 DAYS AFTER IT
17 COMMENCES, THE DECISION SHALL BE DEEMED TO HAVE BEEN RENDERED
18 IN FAVOR OF THE APPLICANT UNLESS THE APPLICANT HAS AGREED IN
19 WRITING OR ON THE RECORD TO AN EXTENSION OF TIME. WHEN A
20 DECISION HAS BEEN RENDERED IN FAVOR OF THE APPLICANT BECAUSE
21 OF THE FAILURE OF THE GOVERNING BODY TO MEET OR RENDER A
22 DECISION AS HEREINABOVE PROVIDED, THE GOVERNING BODY SHALL
23 GIVE PUBLIC NOTICE OF THE DECISION WITHIN TEN DAYS FROM THE
24 LAST DAY IT COULD HAVE MET TO RENDER A DECISION IN THE SAME
25 MANNER AS REQUIRED BY THE PUBLIC NOTICE REQUIREMENTS OF THIS
26 ACT. IF THE GOVERNING BODY SHALL FAIL TO PROVIDE SUCH NOTICE,
27 THE APPLICANT MAY DO SO.

28 * * *

29 SECTION 5. THIS ACT SHALL APPLY ONLY TO APPLICATIONS OR
30 APPEALS FILED AFTER THE EFFECTIVE DATE OF THIS ACT.

1 SECTION 6. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.