

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 885

Session of
1975

INTRODUCED BY FAWCETT, RENNINGER, BURNS, WRIGHT, WEIDNER,
WILSON, SHANE, GALLAGHER AND BERLIN, MARCH 20, 1975

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 20, 1975

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 class A
6 through eighth classes, individually or jointly, to plan
7 their development and to govern the same by zoning,
8 subdivision and land development ordinances, planned
9 residential development and other ordinances, by official
10 maps, by the reservation of certain land for future public
11 purpose and by the acquisition of such land; providing for
12 the establishment of planning commissions, planning
13 departments, planning committees and zoning hearing boards,
14 authorizing them to charge fees, make inspections and hold
15 public hearings; providing for appropriations, appeals to
16 courts and penalties for violations; and repealing acts and
17 parts of acts," adding a definition; adding requirements for
18 comprehensive plans; providing for the issuance of special
19 permits for residential development and for the granting of
20 variances; providing standards and procedures for their
21 issuance; imposing requirements on municipalities;
22 authorizing revision of assessed valuation of land in certain
23 cases; and providing penalties.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Section 107, act of July 31, 1968 (P.L.805,
27 No.247), known as the "Pennsylvania Municipalities Planning
28 Code," is amended by adding a clause to read:

1 Section 107. Definitions.--As used in this act, except where
2 the context clearly indicates otherwise, the following words or
3 phrases have the meaning indicated below:

4 * * *

5 (22) "Residential development," a planned residential
6 development or land development, as defined in clause (11), for
7 residential purposes or use.

8 Section 2. Section 301 of the act, amended June 1, 1972
9 (P.L.333, No.93), is amended to read:

10 Section 301. Preparation of Comprehensive Plan.--The
11 comprehensive plan, consisting of maps, charts and textual
12 matter, shall indicate the recommendations of the planning
13 agency for the continuing development of the municipality. The
14 comprehensive plan shall include, but need not be limited to,
15 the following related basic elements:

16 (1) A statement of objectives of the municipality concerning
17 its future development;

18 (2) A plan for land use, which may include the amount,
19 intensity, and character of land use proposed for residence,
20 industry, business, agriculture, major traffic and transit
21 facilities, public grounds, flood plans and other areas of
22 special hazards and other similar uses;

23 (3) A plan for movement of people and goods, which may
24 include expressways, highways, local street systems, parking
25 facilities, mass transit routes, terminals, airfields, port
26 facilities, railroad facilities and other similar facilities or
27 uses;

28 (4) A plan for community facilities and utilities, which may
29 include public and private education, recreation, municipal
30 buildings, libraries, water supply, sewage disposal, refuse

1 disposal, storm drainage, hospitals, and other similar uses;
2 [and]

3 (5) A map or statement indicating the relationship of the
4 municipality and its proposed development to adjacent
5 municipalities and areas; and

6 (6) A capital plan covering a specified period of time for
7 the acquisition, installation, construction, extension,
8 expansion or other improvements of facilities by or for the
9 municipality to carry out the provisions of clauses (3) and (4)
10 of this section and the provisions of Article VII-A of this act
11 which shall include schedules of completion dates for the
12 various improvements and shall be implemented, as necessary from
13 time to time, by capital budgets adopted by the municipality.

14 In preparing the comprehensive plan the planning agency shall
15 make careful surveys and studies of existing conditions and
16 prospects for future growth in the municipality.

17 Section 3. The act is amended by adding an article to read:

18 ARTICLE VII-A

19 Special Permits for

20 Residential Development

21 Section 701-A. Purposes.--In order that the purposes of this
22 act be furthered in an era of increasing urbanization and of
23 growing demand for housing of all types and design; to insure
24 the complete availability of public facilities and services so
25 that all land in the development is capable of residential
26 development in accord with proper planning; to insure that no
27 residential development will begin except in accord with proper
28 planning; to insure that developable land will be accorded a
29 present vested right to develop at such time as facilities and
30 services are available; and to effectively coordinate

residential development with the capital plan and capital budget provided for in section 301 of this act, the powers granted to municipalities in this act shall be subject to the requirements and provisions contained in this article.

Section 702-A. Special Permit Required for Residential Development.--Prior to the issuance of any building permit or final approval of a plat or development plan for residential development, a landowner or developer shall be required to obtain a special permit from the governing body of the municipality.

Section 703-A. Application for Permit and Fee.--(a) The landowner or developer shall be required to submit an application to the office, official or agency designated by the governing body in such detail as shall be set forth in regulations established by the governing body, including a map showing the location of all land holdings of the applicant in the same ownership in the immediate vicinity and the extent of the land proposed for development.

(b) The fee for each special permit application pursuant to subsection (a) shall be established by the governing body but shall not exceed twenty-five dollars (\$25) plus ten dollars (\$10) for each proposed dwelling unit, payable at the time of said application. Such fee shall not be refundable.

Section 704-A. Review of Application and Findings.--(a) The office, official or agency designated by the governing body shall review the application with respect to all of the standards set forth in section 706-A as to the availability of public services and facilities and projected improvements scheduled in the capital budget and capital plan of the municipality.

1 (b) The reviewing office, official or agency may request
2 reports from appropriate State, county or municipal agencies,
3 boards or officials as may be required. Within forty-five days
4 of the submission of the application, the reviewing office,
5 official or agency shall report his or its findings in writing
6 to the governing body.

7 Section 705-A. Public Hearing and Decision.--(a) The
8 governing body shall proceed to notice the application for
9 public hearing at the first regular meeting of the governing
10 body not less than two weeks after the submission of the written
11 report.

12 (b) The governing body shall within thirty days after
13 conclusion of the public hearing render its decision. In the
14 event of approval of the application without conditions the
15 governing body shall also render its determination as to the
16 number of residential dwellings that shall be permitted to be
17 built pursuant to the requirements of section 707-A.

18 Section 706-A. Standards for Issuance of Permit.--(a) No
19 special permit shall be issued by the governing body unless the
20 residential development has available fifteen development points
21 on the following scale of values:

22 (1) Sewage Disposal

23 (i) Public sewers available..... 5 points

24 (ii) Package sewage plants acceptable..... 3 points

25 (iii) Septic system acceptable..... 3 points

26 (iv) All others..... 0 points

27 (2) Storm Drainage Capacity Available

28 (i) 100% or more..... 5 points

29 (ii) 90% to 99.9%..... 4 points

30 (iii) 80% to 89.9%..... 3 points

1 (iv) 65% to 79.9%..... 2 points
 2 (v) 50% to 64.9%..... 1 point
 3 (vi) Less than 50%..... 0 points
 4 (3) Improved Public Park or Recreation Facility Including
 5 Public School Site
 6 (i) Within 1/4 mile..... 5 points
 7 (ii) Within 1/2 mile..... 3 points
 8 (iii) Within 1 mile..... 1 point
 9 (iv) Further than 1 mile..... 0 points
 10 (4) State, County, or Municipal Major, Secondary, or
 11 Collector Road (s) Improved with Curbs and Sidewalks
 12 (i) Direct access..... 5 points
 13 (ii) Within 1/2 mile..... 3 points
 14 (iii) Within 1 mile..... 1 point
 15 (iv) Further than 1 mile..... 0 points
 16 (5) Fire House
 17 (i) Within 1 mile..... 3 points
 18 (ii) Within 2 miles..... 1 point
 19 (iii) Further than 2 miles..... 0 points
 20 (b) All distances shall be computed from the proposed
 21 location of each separate lot or plot capable of being improved
 22 with a residential dwelling and not from the boundaries of the
 23 entire parcel.
 24 (c) The governing body shall issue the special permit
 25 specifying the number of dwelling units that meet the standards
 26 set forth in this section.
 27 Section 707-A. Vested Approval of Permit.--(a) The governing
 28 body shall issue an approval of the application for special
 29 permit vesting a present right for the landowner or residential
 30 developer to proceed with residential development use of the

1 land for such year as the proposed development meets the
2 required points as indicated in the scheduled completion dates
3 of the capital budget and capital plan as amended or failing to
4 meet such points then for the final year of the capital plan as
5 amended.

6 (b) Any improvement scheduled in the capital budget for
7 completion within one year from the date of application for the
8 special permit shall be credited as though in existence on the
9 date of application. Any improvement scheduled in the capital
10 budget or capital plan more than one year from date of
11 application shall be credited as though in existence as of the
12 date of the scheduled completion.

13 (c) A landowner or developer may advance the date of
14 authorization by agreeing to provide such improvements as will
15 bring the development within the required number of points for
16 earlier or immediate development. Such agreement shall be
17 secured by either a cash deposit, surety bond or other security
18 sufficient to cover the cost of the proposed improvement, the
19 form, sufficiency, and amount of which shall be determined by
20 the governing body. Unless the governing body provides
21 otherwise, the deposit, bond or security shall be subject to the
22 provisions of sections 509, 510 and 511 of this act.

23 (d) All approved special permits vesting a present right to
24 future development shall be fully assignable without
25 restriction.

26 (e) The temporary restriction on residential development use
27 of the land resulting from the granting of vested approval under
28 this section shall constitute grounds for revising and
29 decreasing the assessed valuation of the land until the
30 expiration of the period of the temporary restriction or until

just time as the land is used for other purposes which would constitute grounds for revising and either increasing or decreasing the assessed valuation.

Section 708-A. Variances Authorized.--(a) The governing body shall have the power to vary or modify the application of any provision of sections 706-A or 707-A of this act upon its determination in its legislative discretion, that such variance or modification is consistent with comprehensive planning for proper land use including the comprehensive plan, official map, capital budget, and capital plan upon which this article is based and with the health, safety, and general welfare of the municipality and its inhabitants.

(b) Only the governing body, and not the zoning hearing board, shall be authorized to grant variances pursuant to this section except that the governing body, in acting upon applications for variances, may consider the standards set forth in section 912 of this act.

Section 709-A. Application for Variance and Fee.--(a) The landowner or developer seeking a variance or modification shall submit an application for a variance to the office, official or agency designated by the governing body in such form and detail as shall be set forth in regulations established by the governing body.

(b) The fee for each application for a variance pursuant to subsection (a) shall be established by the governing body but shall not exceed twenty-five dollars (\$25) plus ten dollars (\$10) for each proposed dwelling unit payable at the time of the application, such fee shall not be refundable.

Section 710-A. Review of Application and Report.--Upon receiving any application for such variance, such application

shall be referred to the planning agency for a report and recommendation with respect to the effect of the proposed variance or modification upon the comprehensive planning of the municipality including the comprehensive plan, official map, capital budget and plan, existing ordinances, laws, and regulations and the health, safety, and general welfare of the municipality and its inhabitants. Such report shall be made in writing and shall be returned by the planning agency to the said governing body within thirty days of such reference.

Section 711-A. Public Hearing and Determination.--The governing body shall proceed to notice the application for public hearing at the first regular meeting of the governing body not less than two weeks after submission of the written report by the planning agency. The governing body shall render its determination within thirty days after conclusion of the public hearing.

Section 712-A. Application of Article.--(a) The provisions of this article shall not apply to plats of subdivisions or land development or to development plans finally approved and filed in the office of the recorder of deeds of the appropriate county prior to the effective date of this article.

(b) The provisions of this article shall not be construed as (i) preventing land otherwise subject hereto from being immediately used for uses other than residential development use except such uses as may be prohibited by zoning ordinances or other ordinances enacted by the municipality, or (ii) authorizing the construction of dwellings or structures containing dwelling units or other development in an area or district authorizing such construction or development pursuant to a zoning ordinance or other ordinance without a special

1 permit required pursuant to this article.

2 Section 713-A. Penalties.--Any person, partnership, or
3 corporation who or which is the owner or agent of the owner of
4 any lot, tract or parcel of land used or intended for use for
5 residential development for which a special permit is required
6 under this article, who or which shall construct any dwelling or
7 structure containing dwelling units or otherwise improve,
8 subdivide or develop such lot, tract or parcel of land without
9 such special permit, shall be guilty of a misdemeanor, and upon
10 conviction thereof, such person, or the members of such
11 partnership, or the officers of such corporation, or the agent
12 of any of them, responsible for such violation shall pay a fine
13 not exceeding one thousand dollars (\$1,000) per lot or parcel or
14 per dwelling or dwelling unit within each lot or parcel. All
15 finest collected for such violations shall be paid over to the
16 municipality whose ordinance has been violated.

17 Section 4. This act shall take effect immediately.