



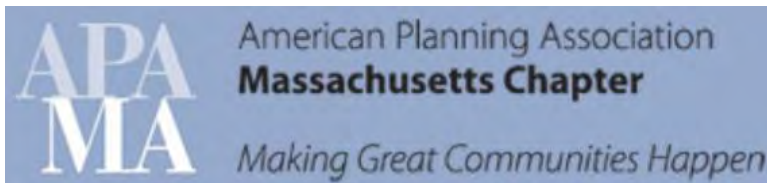
American Planning Association

Making Great Communities Happen

Webinar Series

August 18, 2017

*Zoning Reform in Massachusetts: Where We Have
Been, Where are We Going?*



**MASSACHUSETTS SMART GROWTH
ALLIANCE**



Background of Zoning Reform

Steven J. Sadwick, AICP

APA-MA Past President

MAPD Past President



History of Zoning in Massachusetts

- 1920 first Statewide zoning under Mass. General Law (MGL) Chapter 40 Sections 25-30
- 1933 zoning laws amended MGL Ch. 40 Sections 25-30A
- 1954 MGL Chapter 40A “Zoning Enabling Act”
- 1975 MGL Chapter 40A “The Zoning Act”



Recent Past of Comprehensive Land Use Reform

- 1999 Framingham Representative convenes group to look at MGL Ch. 40A, Sec. 3 Zoning Exemptions
- 2000-2005 Mass. Land Use Reform Act
 - Zoning Reform Working Group convened, broad group of planning, environmental, municipal, and interested parties
 - 7/24/03 Hearing
 - 6/29/05 Hearing (MAPD testified)
- 2006 Community Planning Act (CPA II)
 - APA-MA hires former Senator and Cabinet Secretary that was the creator of the Community Preservation Act as it's advocate

Recent Past of Comprehensive Land Use Reform

- 2007-2010 Community Planning Act (CPA II)
- Began working with Patrick Administration which created Zoning Reform Task Force w/ broad range of stakeholders--- Land Use Partnership Act (LUPA)
 - Hearings on both bills in 2009
 - APA-MA works with homebuilders on a side project
- 2011-2012 Comprehensive Land Use Reform Partnership Act (CLURPA)
 - Mass. Municipal Association stakes out differing positions from Zoning Reform Working Group
 - Hearings in 2011, no bills made it out of committee

Recent Past of Comprehensive Land Use Reform

- 2013 Act Promoting Planning and Development of Sustainable Communities finally gets vote out of committee, but does not make it to the floor for a vote
- 2014 APA-MA hires Arthur Bernard of Travaglini, Eisenberg and Kiley (TEK) to represent them. APA-MA and MAPD partner with Mass. Smart Growth Alliance and MAPC
- TEK successfully brings opposition to the table, but time runs out in the legislative session

Recent Past of Comprehensive Land Use Reform

- 2015-16- Act Promoting Planning and Development of Sustainable Communities, worked with Senate President's Office
- Bill is reported out of Committee and Senate votes to pass the reform bill with over 20 amendments
- Scope of bill changes from a land use reform bill to "An Act Promoting Housing and Sustainable Development"

Recent Past of Comprehensive Land Use Reform

- Both APA-MA and MAPD currently support H.2420 “An Act Building for the Future of the Commonwealth”
 - This bill had hearing in May 2017
- The current Senate bill, S.81 “An Act Promoting Housing and Sustainable Development” is the bill that passed the Senate in the last legislative session.
 - Hearing may occur in September 2017 (different Committee)

Massachusetts Zoning Reform

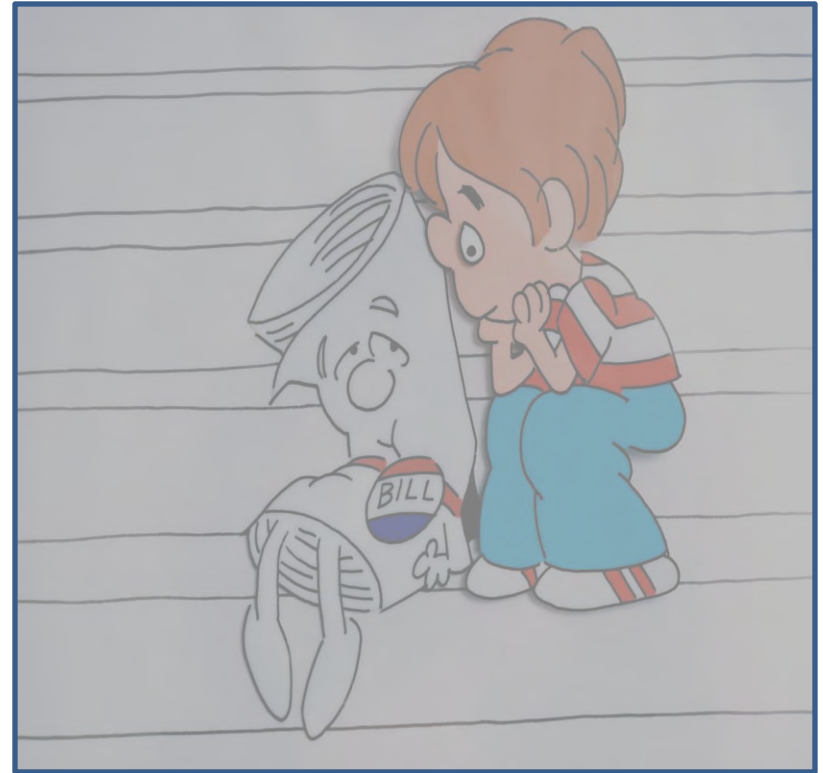
Lizzi Weyant

Manager of Government Affairs
Metropolitan Area Planning Council



2015-2016 Legislative Session

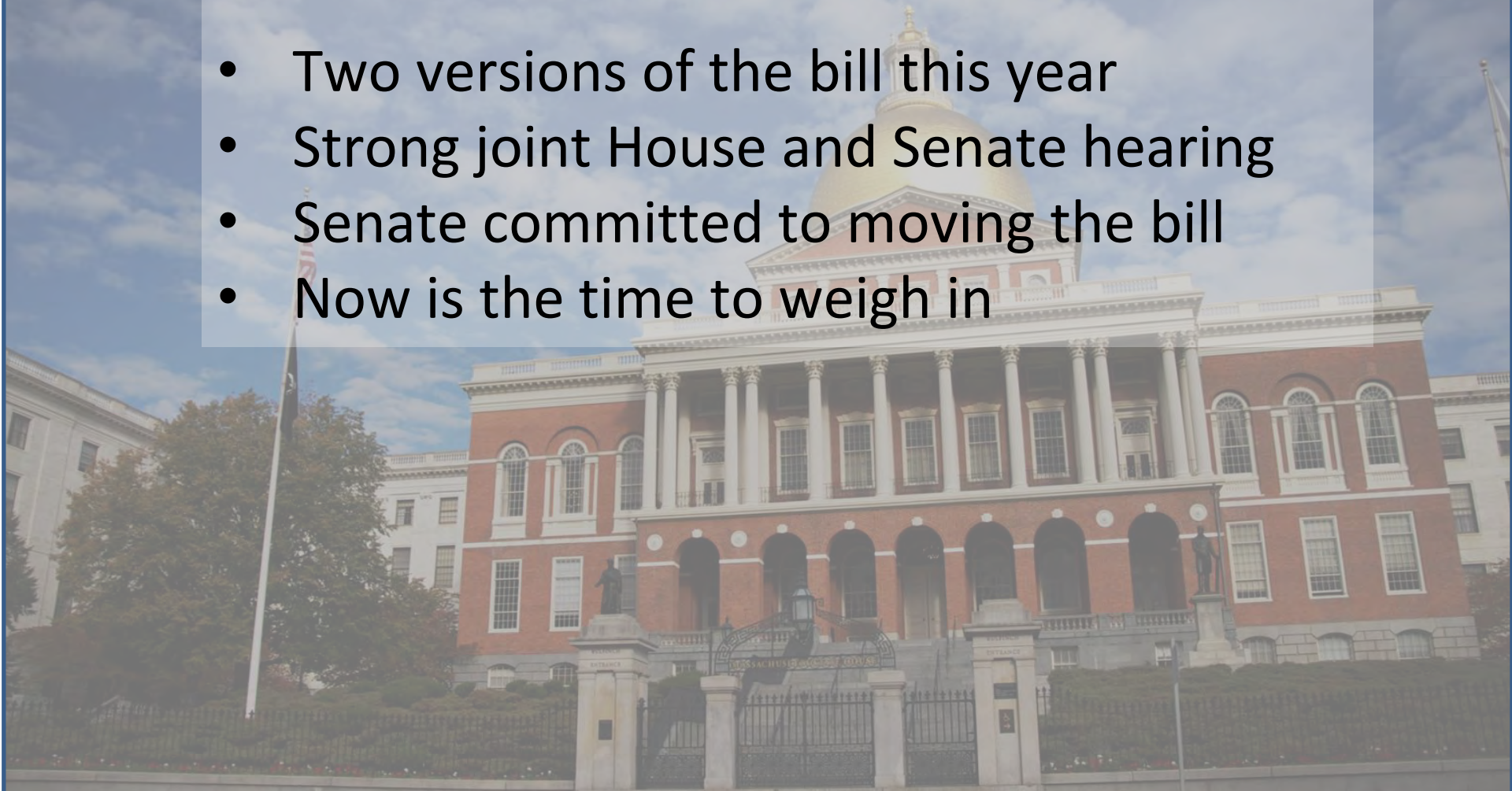
- Legislation passed the Senate
- Included priorities from the Special Senate Commission on Housing
- Didn't get picked up in the House



Massachusetts Zoning Reform

2017-2018 Session

- Two versions of the bill this year
- Strong joint House and Senate hearing
- Senate committed to moving the bill
- Now is the time to weigh in



Zoning Reform Campaign 2017-18

Larry Field, Deputy Director

MASSACHUSETTS SMART GROWTH
ALLIANCE

www.ma-smartgrowth.org



AIA Massachusetts
A Chapter of
The American Institute of Architects



Four Campaign Goals

1. Housing choices for families and seniors
2. Healthy, active communities with open space & protected natural resources
3. Help communities plan for the future
4. Predictable permitting for businesses & property owners



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Housing Choices

- Multifamily housing where it is needed while allowing for regional and local differences
- Accessory Dwelling Units (ADUs) so that seniors can live with family or caregivers
- Allow artist live-work spaces by special permit statewide
- Illegal to discriminate through land-use decisions



Multifamily Housing Requirement

- Must provide “reasonable and realistic opportunities”
- Can use by right or special permit
- No specified density
- Enforcement by State Attorney General or aggrieved applicant



Promoting Healthy Communities and Protecting Open Space

- Encourages walkable development patterns and a vibrant mix of uses
- Promotes cluster development (OSRD)
- Reduces cookie-cutter development to curb sprawl (ANR reform)
- Provides notice of development projects to local boards of health
- Establishes natural resource protection zoning



Approval Not Required (ANR)

- Favoring ANR promotes sprawl
- Bill gives communities a choice—they can use ANR or they can use minor subdivision rules
- Under minor subdivision rules, time limit for municipal review is still short—65 days for lots on existing roadways



- By using minor subdivision rules, the municipality can require improvements to the existing roads (not possible under ANR)

Planning for the Future

- Enables development impact fees statewide
- Statewide framework for inclusionary zoning
- Make it easier to master plan
- Expand local board training opportunities
- Tightens rules for “grandfathering” (vesting rights)
- Secure additional funding for local planning and rezoning in budget



Development Impact Fees

- Authorizes municipalities to collect impact fees
- Must have rational nexus & be proportional
- Study required, showing the development's contribution to the needed off-site capital facilities
- Type of capital facilities defined, including water/sewer and road infrastructure
- Exemption for deed-restricted housing and agricultural structures



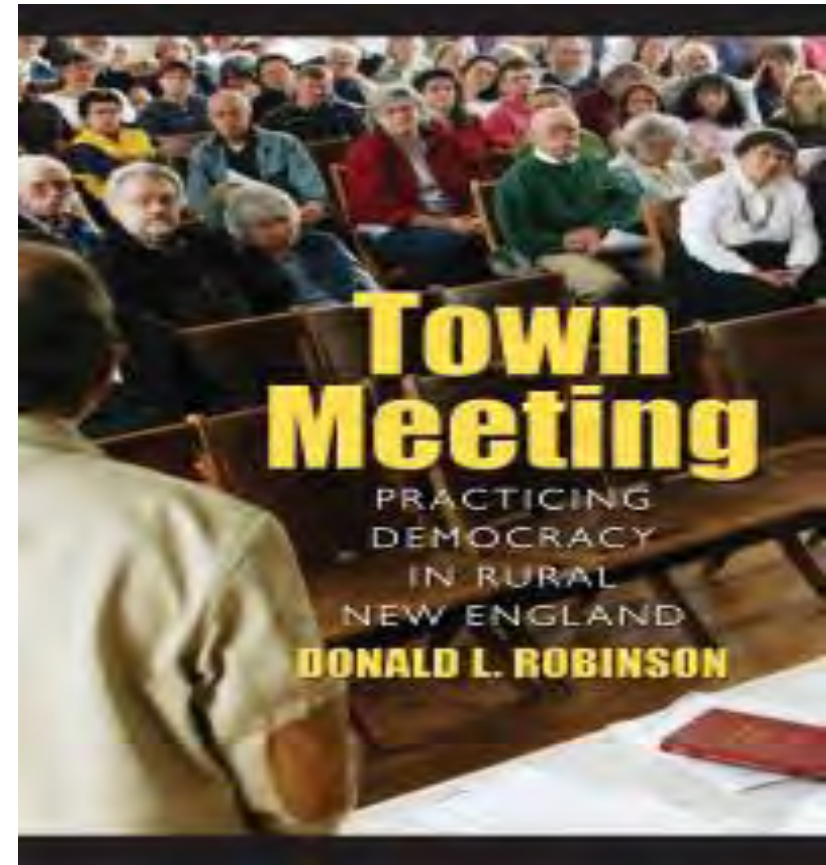
More Predictable Permitting

- Makes variance rules more reasonable
- Allows lower thresholds for zoning and special permit approval by local option
- State law authorizes inclusionary zoning & site plan review with consistent standards
- Minimizes court battles through mediation and modest appeals reforms



Majorities for Zoning Changes and Special Permits

- Bill gives communities a choice—they can use simple majorities or any % up to two-thirds
- For zoning, remains at 2/3 until changed
- For special permits, moved to simple majority but can be raised



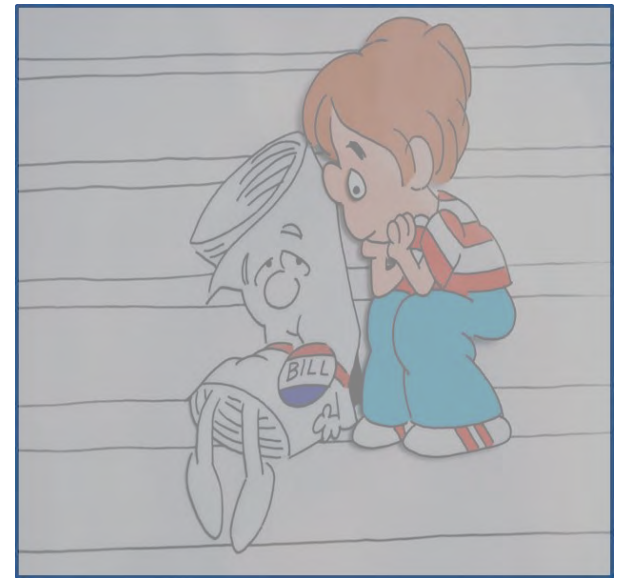
Kristina Johnson, AICP

Assistant Director of Planning and
Community Development
Town of Hudson, MA
President, MAPD



Supporting the House Bill...

- Statutory authorization for form based codes
- Softens the multi-family requirement
- Vesting rights/ANR/3 lots in common loophole eliminated
- Lowering threshold for Special Permit to simple majority
- Simple majority to create 40R districts
- Keeps “Substantial hardship” standard for variances; clearer language for findings.



Broaching Zoning Conversation

- Know your audience; do not get into the weeds
- Initiate conversations with Planning Boards and Zoning Board
- Emphasize the good governance and predicable permitting aspects of land-use reform- especially with opponents
- Underscore that land-use reform is not anti-development
- Engage local APA Chapter, RPA, other allied organizations to help you broach the conversation



Massachusetts Zoning Reform

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