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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TOWNS AND CITIES -- LAND DEVELOPMENT AND SUBDIVISION
REVIEW--UNIFIED DEVELOPMENT REVIEW

Introduced By: Representatives Shekarchi, Costantino, Williams, and Blazejewski

Date Introduced: March 03, 2016

Referred To: House Municipal Government

(Administration)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-22-7 of the General Laws in Chapter 45-22 entitled "Local
2 Planning Board or Commission" is hereby amended to read as follows:

3 ~~45-22-7. **Other duties of a planning board or commission**~~ **Powers and duties of a**
4 **planning board or commission.** -- (a) A planning board or commission shall have the sole
5 responsibility for performing all those acts necessary to prepare a comprehensive plan for a
6 municipality in accordance with the provisions of §45-22.2.

7 (b) Pursuant to §45-23-51, any city or town council may by ordinance empower a
8 planning board or commission to adopt, modify and amend regulations and rules governing land
9 development and subdivision projects within that municipality and to control land development
10 and subdivision projects pursuant to those regulations and rules. The planning board or
11 commission shall also provide for the administration, interpretation, and enforcement of land
12 development and subdivision review regulations, pursuant to §45-23-52.

13 (c) Any city or town council which has chosen to empower the planning board pursuant
14 to subsection (b) of this section shall also grant through the city or town zoning ordinance
15 pursuant to §45-24-46.4 and the city or town land development and subdivision review
16 regulations pursuant to §45-23-50.1, the authority of the planning board or commission to review
17 and approve, approve with conditions, or deny applications for variances and special-use permits.

18 (d) A planning board or commission established under the provisions of this chapter shall

1 make studies and prepare plans and reports on the needs and resources of the community with
2 reference to its physical, economic, and social growth and development as affecting the health,
3 safety, morals, and general welfare of the people. The studies, plans, and reports shall concern,
4 but not necessarily be limited to, the following:

- 5 (1) Land use and land use regulation;
- 6 (2) Transportation facilities;
- 7 (3) Public facilities including recreation areas, utilities, schools, fire stations, police
8 stations, and others;
- 9 (4) Blighted areas including the designation of general areas for redevelopment, renewal,
10 rehabilitation, or conservation;
- 11 (5) Problems of housing and the development of housing programs.
- 12 (6) Environmental protection;
- 13 (7) Natural resource conservation;
- 14 (8) Protection from disaster.
- 15 (9) Economic and social characteristics of the population;
- 16 (10) Preservation of historic sites and buildings; and
- 17 (11) Economic development.

18 ~~(b)~~(e) When directed by the city or town council or by the appointing authority, a
19 planning board or commission shall prepare an annual capital budget and a comprehensive long
20 range capital improvement program for submission to the council, the appointing authority, or
21 other designated official or agency.

22 ~~(e)~~(f) A planning board or commission shall submit an advisory opinion and
23 recommendation on all zoning matters referred to it under the provisions of the city or town
24 zoning ordinance and report on any other matter referred to it, by the city or town council, the
25 chief executive, or the appointing authority.

26 ~~(d)~~(g) A planning board or commission shall perform any other duties that may be
27 assigned to the board or commission from time to time by any act of the general assembly or by
28 any ordinance, code, regulation order, or resolution of the city or town council or by the
29 appointing authority.

30 ~~(e)~~(h) A planning board or commission has authority to call upon other departments,
31 boards, and committees of the city or town and upon regional, state, and federal agencies for
32 information and assistance necessary to the performance of its duties, and shall cooperate with the
33 city or town, regional, state, and federal agencies on matters of community, regional, and state
34 planning and development.

1 ~~(i)~~(i) Each planning board or commission must adopt a provision requiring any person
2 who will be required to file a request for access pursuant to § 24-8-34 to file that request not later
3 than the day on which that person files any document in connection with the project in question
4 with the applicable town or city, and to provide a copy of the request to the town or city.

5 SECTION 2. Sections 45-23-38, 45-23-40, 45-23-41, 45-23-61 and 45-23-63 of the
6 General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as
7 follows:

8 **45-23-38. General provisions -- Minor land development and minor subdivision**
9 **review.** -- (a) Review stages. - Minor plan review consists of two (2) stages, preliminary and
10 final; provided, that if a street creation or extension is involved, or a request for a variance and/or
11 special-use permit is submitted, pursuant to the regulations unified development review
12 provisions a public hearing is required. The planning board may combine the approval stages,
13 providing requirements for both stages are met by the applicant to the satisfaction of the planning
14 officials.

15 (b) Submission requirements. - Any applicant requesting approval of a proposed minor
16 subdivision or minor land development, as defined in this chapter, shall submit to the
17 administrative officer the items required by the local regulations. Requests for relief from the
18 literal requirements of the zoning ordinance and/or for the issuance of a special-use permit related
19 to minor subdivisions and/or minor land development projects that are submitted under a zoning
20 ordinance's unified development review provisions shall be included as part of the preliminary
21 plan application, pursuant to §45-23-50.1(b).

22 (c) Certification. - The application shall be certified, in writing, complete or incomplete
23 by the administrative officer within twenty-five (25) days or within fifteen (15) days if no street
24 creation or extension is required, according to the provisions of § 45-23-36(b). The running of the
25 time period set forth in this section will be deemed stopped upon the issuance of a certificate of
26 incompleteness of the application by the administrative officer and will recommence upon the
27 resubmission of a corrected application by the applicant. However, in no event will the
28 administrative officer be required to certify a corrected submission as complete or incomplete less
29 than fourteen (14) days after its resubmission.

30 (d) Technical review committee. - The technical review committee, if established, will
31 review the application and will comment and make recommendations to the planning board. The
32 application will be referred to the planning board as a whole if there is no technical review
33 committee. When reviewed by a technical review committee:

34 (1) If the land development or subdivision application does not include a request for

1 [unified development review and the](#) plan is approved by a majority of the committee members,
2 the application is forwarded to the planning board with a recommendation for preliminary plan
3 approval without further review.

4 (2) If the plan is not approved by a majority vote of the committee members [or the](#)
5 [application includes a request for unified development review](#), the minor land development and
6 subdivision application is referred to the planning board.

7 (e) Re-assignment to major review. - The planning board may re-assign a proposed
8 minor project to major review only when the planning board is unable to make the positive
9 findings required in § 45-23-60.

10 (f) Decision. - If no street creation or extension is required, the planning board will
11 approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of
12 certification of completeness, or within any further time that is agreed to by the applicant and the
13 board, according to the requirements of [§45-23-60 and](#) 45-23-63. If a street extension or creation
14 is required, the planning board will hold a public hearing prior to approval according to the
15 requirements in § 45-23-42 and will approve, deny, or approve with conditions, the preliminary
16 plan within ninety-five (95) days of certification of completeness, or within any specified time
17 that is agreed to by the applicant and the board, according to the requirements of § 45-23-63.

18 (g) Failure to act. - Failure of the planning board to act within the period prescribed
19 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
20 failure of the planning board to act within the required time and the resulting approval will be
21 issued on request of the application.

22 (h) Final plan. - The planning board may delegate final plan review and approval to
23 either the administrative officer or the technical review committee. The officer or committee will
24 report its actions, in writing to the planning board at its next regular meeting, to be made part of
25 the record.

26 (i) Expiration of approval. - Approval of a minor land development or subdivision plan
27 expires ninety (90) days from the date of approval unless within that period a plat or plan, in
28 conformity with approval, and as defined in this act, is submitted for signature and recording as
29 specified in § 45-23-64. Validity may be extended for a longer period, for cause shown, if
30 requested by the application in writing, and approved by the planning board.

31 **45-23-40. General provisions -- Major land development and major subdivision --**
32 **Master plan.** -- (a) Submission requirements.

33 (1) The applicant shall first submit to the administrative officer the items required by the
34 local regulations for master plans.

1 (2) Requirements for the master plan and supporting material for this phase of review
2 include, but are not limited to: information on the natural and built features of the surrounding
3 neighborhood, existing natural and man-made conditions of the development site, including
4 topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well
5 as the proposed design concept, proposed public improvements and dedications, tentative
6 construction phasing, and potential neighborhood impacts.

7 (3) Initial comments will be solicited from

8 (i) local agencies including, but not limited to, the planning department, the department
9 of public works, fire and police departments, the conservation and recreation commissions;

10 (ii) adjacent communities;

11 (iii) state agencies, as appropriate, including the departments of environmental
12 management and transportation, and the coastal resources management council; and (iv) federal
13 agencies, as appropriate. The administrative officer shall coordinate review and comments by
14 local officials, adjacent communities, and state and federal agencies.

15 (b) Certification. - The application must be certified in writing, complete or incomplete
16 by the administrative officer within sixty (60) days, according to the provisions of § 45-23-36(b).
17 The running of the time period set forth herein will be deemed stopped upon the issuance of a
18 certificate of incompleteness of the application by the administrative officer and will recommence
19 upon the resubmission of a corrected application by the applicant. However, in no event will the
20 administrative officer be required to certify a corrected submission as complete or incomplete less
21 than fourteen (14) days after its resubmission.

22 (c) Technical review committee. - The technical review committee, if established, shall
23 review the application and shall comment and make recommendations to the planning board.

24 (d) Informational meeting.

25 (1) A public informational meeting will be held prior to the planning board decision on
26 the master plan, unless the master plan and preliminary plan approvals are being combined, in
27 which case the public informational meeting is optional, based upon planning board
28 determination.

29 (2) Public notice for the informational meeting is required and must be given at least
30 seven (7) days prior to the date of the meeting in a newspaper of general circulation within the
31 municipality. Postcard notice must be mailed to the applicant and to all property owners within
32 the notice area, as specified by local regulations.

33 (3) At the public informational meeting the applicant will present the proposed
34 development project. [The applicant shall include, as part of the presentation, discussion as to](#)

1 [whether it is anticipated that any variances and/or a special-use permit will be requested for the](#)
2 [proposed development project pursuant to any adopted unified development review procedures.](#)

3 The planning board must allow oral and written comments from the general public. All public
4 comments are to be made part of the public record of the project application.

5 (e) Decision. - The planning board shall, within one hundred and twenty (120) days of
6 certification of completeness, or within a further amount of time that may be consented to by the
7 applicant, approve of the master plan as submitted, approve with changes and/or conditions, or
8 deny the application, according to the requirements of [§45-23-60 and](#) 45-23-63.

9 (f) Failure to act. - Failure of the planning board to act within the prescribed period
10 constitutes approval of the master plan, and a certificate of the administrative officer as to the
11 failure of the planning board to act within the required time and the resulting approval will be
12 issued on request of the applicant.

13 (g) Vesting.

14 (1) The approved master plan is vested for a period of two (2) years, with the right to
15 extend for two (2) one year extensions upon written request by the applicant, who must appear
16 before the planning board for the annual review. Thereafter, vesting may be extended for a longer
17 period, for good cause shown, if requested by the applicant, in writing, and approved by the
18 planning board. Master plan vesting includes the zoning requirements, conceptual layout and all
19 conditions shown on the approved master plan drawings and supporting materials.

20 (2) The initial four (4) year vesting for the approved master plan constitutes the vested
21 rights for the development as required in § 45-24-44.

22 **45-23-41. General provisions -- Major land development and major subdivision --**

23 **Preliminary plan.** -- (a) Submission requirements.

24 (1) The applicant shall first submit to the administrative officer the items required by the
25 local regulations for preliminary plans.

26 (2) Requirements for the preliminary plan and supporting materials for this phase of the
27 review include, but are not limited to: engineering plans depicting the existing site conditions,
28 engineering plans depicting the proposed development project, a perimeter survey, all permits
29 required by state or federal agencies prior to commencement of construction, including permits
30 related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual
31 septic disposal systems, public water systems, and connections to state roads.

32 (3) At the preliminary plan review phase, the administrative officer shall solicit final
33 written comments and/or approvals of the department of public works, the city or town engineer,
34 the city or town solicitor, other local government departments, commissions, or authorities as

1 appropriate.

2 (4) Prior to approval of the preliminary plan, copies of all legal documents describing the
3 property, proposed easements and rights-of-way.

4 (5) Requests for relief from the literal requirements of the zoning ordinance and/or for the
5 issuance of a special-use permit related to major subdivisions and/or major land development
6 projects that are submitted under a zoning ordinance's unified development review provisions
7 shall be included as part of the preliminary plan application, pursuant to §45-23-50.1(b).

8 (b) Certification. - The application will be certified as complete or incomplete by the
9 administrative officer within sixty (60) days, according to the provisions of § 45-23-36(b). The
10 running of the time period set forth herein will be deemed stopped upon the issuance of a
11 certificate of incompleteness of the application by the administrative officer and will recommence
12 upon the resubmission of a corrected application by the applicant. However, in no event shall the
13 administrative officer be required to certify a corrected submission as complete or incomplete less
14 than fourteen (14) days after its resubmission.

15 (c) Technical review committee. - The technical review committee, if established, shall
16 review the application and shall comment and make recommendations to the planning board.

17 (d) Public hearing. - Prior to a planning board decision on the preliminary plan, a public
18 hearing, which adheres to the requirements for notice described in § 45-23-42, must be held.

19 (e) Public improvement guarantees. - Proposed arrangements for completion of the
20 required public improvements, including construction schedule and/or financial guarantees shall
21 be reviewed and approved by the planning board at preliminary plan approval.

22 (f) Decision. - A complete application for a major subdivision or development plan shall
23 be approved, approved with conditions or denied, in accordance with the requirements of §§ 45-
24 23-60 and 45-23-63, within one hundred twenty (120) days of the date when it is certified
25 complete, or within a further amount of time that may be consented to by the developer.

26 (g) Failure to act. - Failure of the planning board to act within the prescribed period
27 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
28 failure of the planning board to act within the required time and the resulting approval shall be
29 issued on request of the applicant.

30 (h) Vesting. - The approved preliminary plan is vested for a period of two (2) years with
31 the right to extend for two (2) one year extensions upon written request by the applicant, who
32 must appear before the planning board for each annual review and provide proof of valid state or
33 federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good
34 cause shown, if requested, in writing by the applicant, and approved by the planning board. The

1 vesting for the preliminary plan approval includes all general and specific conditions shown on
2 the approved preliminary plan drawings and supporting material.

3 **45-23-61. Procedure -- Precedence of approvals between planning board and other**
4 **local permitting authorities.** -- (a) Zoning board.

5 (1) Where an applicant requires both a variance from the local zoning ordinance and
6 planning board approval, the applicant shall first obtain an advisory recommendation from the
7 planning board, [and the application is not undergoing unified development review pursuant to](#)
8 [§45-23-50.1 and the local zoning ordinance](#), as well as conditional planning board approval for
9 the first approval stage for the proposed project, which may be simultaneous, then obtain
10 conditional zoning board relief, and then return to the planning board for subsequent required
11 approval(s).

12 (2) Where an applicant requires both a special-use permit under the local zoning
13 ordinance and planning board approval, [and the application is not undergoing unified](#)
14 [development review pursuant to §45-23-50.1 and the local zoning ordinance](#), the applicant shall
15 first obtain an advisory recommendation from the planning board, as well as conditional planning
16 board approval for the first approval stage for the proposed project, which may be simultaneous,
17 then obtain a conditional special-use permit from the zoning board, and then return to the
18 planning board for subsequent required approval(s).

19 (b) City or town council. - Where an applicant requires both planning board approval
20 and council approval for a zoning ordinance or zoning map change, the applicant shall first obtain
21 an advisory recommendation on the zoning change from the planning board, as well as
22 conditional planning board approval for the first approval stage for the proposed project, which
23 may be simultaneous, then obtain a conditional zoning change from the council, and then return
24 to the planning board for subsequent required approval(s).

25 **45-23-63. Procedure -- Meetings -- Votes -- Decisions and records.** -- (a) All records
26 of the planning board proceedings and decisions shall be written and kept permanently available
27 for public review. Completed applications for proposed land development and subdivisions
28 projects under review by the planning board shall be available for public review.

29 (b) Participation in a planning board meeting or other proceedings by any party is not a
30 cause for civil action or liability except for acts not in good faith, intentional misconduct,
31 knowing violation of law, transactions where there is an improper personal benefit, or malicious,
32 wanton, or willful misconduct.

33 (c) All final written comments to the planning board from the administrative officer,
34 municipal departments, the technical review committee, state and federal agencies, and local

1 commissions are part of the permanent record of the development application.

2 (d) Votes. - All votes of the planning board shall be made part of the permanent record
3 and show the members present and their votes. A decision by the planning board to approve any
4 land development or subdivision application requires a vote for approval by a majority of the
5 current planning board membership. A decision by the planning board to approve a variance or
6 special-use permit pursuant to any adopted unified development review procedures requires a
7 vote for approval by a majority of the planning board members that were present at the public
8 hearing at which the request was heard.

9 (e) All written decisions of the planning board shall be recorded in the land evidence
10 records within thirty-five (35) days after the planning board vote. A copy of the recorded decision
11 shall be mailed within one business day of recording, by any method that provides confirmation
12 of receipt, to the applicant and to any objector who has filed a written request for notice with the
13 administrative officer.

14 SECTION 3. Chapter 45-23 of the General Laws entitled "Subdivision of Land" is hereby
15 amended by adding thereto the following section:

16 **45-23-50.1. Special provisions -- Unified development review. --** (a) When a municipal
17 zoning ordinance provides for unified development review pursuant to §45-24-46.4, the local
18 regulations must include procedures for the filing, review and approval of applications, pursuant
19 to this section.

20 (b) Review of variances and special-use permits submitted under the unified development
21 review provisions of the regulations shall adhere to the following procedures:

22 (1) Minor subdivisions and land development projects. Requests for relief from the literal
23 requirements of the zoning ordinance and/or for the issuance of a special-use permit related to
24 minor subdivisions and land development projects shall be submitted as part of the application
25 materials for the preliminary plan stage of review, and a public hearing on such requests shall be
26 held prior to consideration of the preliminary plan by the planning board or commission. The
27 planning board or commission shall conditionally approve or deny the request(s) for the
28 variance(s) and/or a special-use permit before considering the preliminary plan application for the
29 minor subdivision or land development project. Approval of the variance(s) and/or special-use
30 permit shall be conditioned on approval of the final plan of the minor subdivision or land
31 development project.

32 (2) Major subdivisions and land development projects. If known to the applicant at the
33 time of application for master plan review, any anticipated requests for relief from the literal
34 requirements of the zoning ordinance and/or for the issuance of a special-use permit related to

1 major subdivisions and land development projects shall be discussed as part of the applicant's
2 presentation to the planning board or commission during the public informational meeting
3 required as part of the master plan stage of review. Any discussion regarding such requests shall
4 be made known to the planning board or commission prior to their making a determination on the
5 master plan. Official requests for relief from the literal requirements of the zoning ordinance
6 and/or for the issuance of a special-use permit related to major subdivisions and land
7 development projects shall be submitted as part of the application materials for the preliminary
8 plan stage of review, and a public hearing on such requests shall be held prior to consideration of
9 the preliminary plan by the planning board or commission. The planning board or commission
10 shall conditionally approve or deny the requests for the variance(s) and/or a special-use permit
11 before considering the preliminary plan application for the major subdivision or land
12 development project. Approval of the variance(s) and/or special-use permit shall be conditioned
13 on approval of the final plan of the major subdivision or land development project.

14 (3) Decision. The time periods by which the planning board or commission must approve
15 or deny applications for variances and special-use permits under the unified development review
16 provisions of the local regulations shall be the same as the time periods by which the board must
17 make a decision on the applicable review stage of the subdivision or land development project
18 under review.

19 (c) All applications for variances and/or special-use permits submitted under the
20 development review provisions of the regulations shall require a public hearing, held pursuant to
21 §45-23-50.1(b), which meets the following requirements:

22 (1) The required public hearing shall be held during a meeting at which the associated
23 subdivision or land development project is to be considered and/or heard by the planning board or
24 commission.

25 (2) The required hearing for the variance and/or special-use permit may be combined
26 with any required public hearing for the subdivision and/or land development.

27 (3) Public hearing notice shall adhere to the requirements found in §45-23-42(b).

28 (4) The notice area for notice of the public hearing shall be specified in the local
29 regulations, and shall, at a minimum, include all property located in or within not less than two
30 hundred feet (200') of the perimeter of the area included in the subdivision and/or land
31 development project.

32 (5) Public notice shall indicate that a dimensional variance, use variance and/or special-
33 use permit is to be considered for the subdivision and/or land development project.

34 (6) The cost of all public notice is to be borne by the applicant.

1 (d) The time periods by which the planning board or commission must approve or deny
2 applications for variances and special-use permits under the unified development review
3 provisions of a zoning ordinance shall be the same as the time periods by which the board must
4 make a decision on the applicable review stage of the subdivision or land development project
5 under review.

6 (e) Requests for the variance(s) and/or special-use permits that are denied by the planning
7 board or commission may be appealed to the board of appeal pursuant to §45-23-66.

8 SECTION 4. Sections 45-24-41 and 45-24-42 of the General Laws in Chapter 45-24
9 entitled "Zoning Ordinances" are hereby amended to read as follows:

10 **45-24-41. General provisions -- Variances.** -- (a) An application for relief from the
11 literal requirements of a zoning ordinance because of hardship may be made by any person,
12 group, agency, or corporation by filing with the zoning enforcement officer or agency an
13 application describing the request and supported by any data and evidence as may be required by
14 the zoning board of review or by the terms of the ordinance. The zoning enforcement officer or
15 agency shall immediately transmit each application received to the zoning board of review and a
16 copy of each application to the planning board or commission.

17 (b) A zoning ordinance provides that the zoning board of review, immediately upon
18 receipt of an application for a variance in the application of the literal terms of the zoning
19 ordinance, may request that the planning board or commission and/or staff report its findings and
20 recommendations, including a statement on the general consistency of the application with the
21 goals and purposes of the comprehensive plan of the city or town, in writing, to the zoning board
22 of review within thirty (30) days of receipt of the application from that board. The zoning board
23 shall hold a public hearing on any application for variance in an expeditious manner, after receipt,
24 in proper form, of an application, and shall give public notice at least fourteen (14) days prior to
25 the date of the hearing in a newspaper of general circulation in the city or town. Notice of hearing
26 shall be sent by first class mail to the applicant, and to at least all those who would require notice
27 under § 45-24-53. The notice shall also include the street address of the subject property. A
28 zoning ordinance may require that a supplemental notice, that an application for a variance is
29 under consideration, be posted at the location in question. The posting is for information purposes
30 only and does not constitute required notice of a public hearing. The cost of notification shall be
31 borne by the applicant.

32 (c) A zoning ordinance may provide for unified development review, pursuant to §45-
33 24-46.4. Applications for dimensional and use variances submitted under a unified development
34 review provision of a zoning ordinance shall be submitted to the administrative officer of the

1 [planning board or commission, pursuant to §45-24-46.4\(a\). Applications submitted under the](#)
2 [unified development review provisions of a zoning ordinance shall have a public hearing, which](#)
3 [shall be noticed according to the requirements of §45-23-50.1\(b\).](#)

4 (d) In granting a variance, the zoning board of review, [or, where unified development](#)
5 [review is enabled pursuant to §45-24-46.4, the planning board or commission, shall require](#)
6 ~~requires~~ that evidence to the satisfaction of the following standards is entered into the record of
7 the proceedings:

8 (1) That the hardship from which the applicant seeks relief is due to the unique
9 characteristics of the subject land or structure and not to the general characteristics of the
10 surrounding area; and is not due to a physical or economic disability of the applicant, excepting
11 those physical disabilities addressed in § 45-24-30(16);

12 (2) That the hardship is not the result of any prior action of the applicant and does not
13 result primarily from the desire of the applicant to realize greater financial gain;

14 (3) That the granting of the requested variance will not alter the general character of the
15 surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive
16 plan upon which the ordinance is based; and

17 (4) That the relief to be granted is the least relief necessary.

18 ~~(d)~~(e) The zoning board of review, [or, where unified development review is enabled](#)
19 [pursuant to §45-24-46.4, the planning board or commission,](#) shall, in addition to the above
20 standards, require that evidence is entered into the record of the proceedings showing that:

21 (1) in granting a use variance the subject land or structure cannot yield any beneficial use
22 if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of
23 neighboring land or structures in the same district and permitted use of lands or structures in an
24 adjacent district shall not be considered in granting a use variance; and

25 (2) in granting a dimensional variance, that the hardship suffered by the owner of the
26 subject property if the dimensional variance is not granted amounts to more than a mere
27 inconvenience. The fact that a use may be more profitable or that a structure may be more
28 valuable after the relief is granted is not grounds for relief. The zoning board of review has the
29 power to grant dimensional variances where the use is permitted by special use permit if provided
30 for in the special use permit sections of the zoning ordinance.

31 **45-24-42. General provisions -- Special-use permits.** -- (a) A zoning ordinance shall
32 provide for the issuance of special-use permits approved by the zoning board of review, [or, where](#)
33 [unified development review is enabled pursuant to §45-24-46.4, the planning board or](#)
34 [commission.](#)

1 (b) The ordinance shall:

2 (1) Specify the uses requiring special-use permits in each district;

3 (2) Describe the conditions and procedures under which special-use permits, of each or
4 the various categories of special-use permits established in the zoning ordinance, may be issued;

5 (3) Establish criteria for the issuance of each category of special-use permit, that shall be
6 in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance
7 of the city or town;

8 (4) Provide for public hearings and notification of the date, time, place, and purpose of
9 those hearings to interested parties. [Special-use permits submitted under a zoning ordinance's](#)
10 [unified development review provisions shall be heard and noticed according to the requirements](#)
11 [of §45-23-50.1](#). Public notice [for special-use permits that are not submitted under a zoning](#)
12 [ordinance's unified development review provisions](#) shall be given at least fourteen (14) days prior
13 to the date of the hearing in a newspaper of general circulation in the city or town. Notice of
14 hearing shall be sent by first class mail to the applicant, and to all those who would require notice
15 under § 45-24-53. The notice shall also include the street address of the subject property. A
16 zoning ordinance may require that a supplemental notice, that an application for a special use
17 permit is under consideration, be posted at the location in question. The posting is for information
18 purposes only and does not constitute required notice of a public hearing. The cost of notification
19 shall be borne by the applicant;

20 (5) Provide for the recording of findings of fact and written decisions; and

21 (6) Provide that appeals may be taken pursuant to §[45-23-66](#) or 45-24-70, [dependent on](#)
22 [the board to which application was made](#).

23 (c) The ordinance additionally may provide that an applicant may apply for, and be
24 issued, a dimensional variance in conjunction with a special use. If the special use could not exist
25 without the dimensional variance, the zoning board of review, [or, where unified development](#)
26 [review is enabled pursuant to §45-24-46.4, the planning board or commission](#) shall consider the
27 special use permit and the dimensional variance together to determine if granting the special use
28 is appropriate based on both the special use criteria and the dimensional variance evidentiary
29 standards.

30 SECTION 5. Chapter 45-24 of the General Laws entitled "Zoning Ordinances" is hereby
31 amended by adding thereto the following section:

32 **45-24-46.4. Special provisions -- Unified development review. --** [\(a\) A zoning](#)
33 [ordinance may provide that review and approval of dimensional variances, use variances and/or](#)
34 [special-use permits for properties undergoing review by the planning board or commission as](#)

1 land development or subdivision projects pursuant to §45-23-36, be conducted and decided by the
2 planning board or commission. This process is to be known as unified development review.

3 (b) If unified development review is desired, such review must be enabled within the
4 zoning ordinance, in accordance with this section, and the local subdivision and land
5 development regulations must be brought into conformance, pursuant to §45-23-50.1.

6 (c) A zoning ordinance that provides for unified development review shall:

7 (1) Specify which types of zoning approval the planning board or commission shall be
8 empowered to grant for which types of projects; and

9 (2) Provide that any person, group, agency or corporation that files an application for an
10 included land development or subdivision project may also file an application for relief from the
11 literal requirements of a zoning ordinance on the subject property, pursuant to §45-24-41, and/or
12 for the issuance of a special-use permit for the subject property, pursuant to §45-24-42, by
13 submitting an application to the administrative officer of the planning board or commission with
14 the other required application materials.

15 (d) A zoning ordinance that provides for unified development review shall specify
16 performance standards that must be met in order for an application to qualify for review under the
17 unified development review provisions of the zoning ordinance.

18 (e) All applications for variances and special-use permits submitted pursuant to this
19 section shall require a public hearing that meets the requirements of §45-23-50.1(b).

20 (f) In granting applications for dimensional and use variances, the planning board or
21 commission shall be bound to the requirements of §§45-24-41(c) and 45-24-41(d) relative to
22 entering evidence into the record in satisfaction of the applicable standards.

23 (g) In reviewing applications for special-use permits, the planning board or commission
24 shall be bound to the conditions and procedures under which a special-use permit may be issued
25 and the criteria for the issuance of such permits, as found within the zoning ordinance pursuant to
26 §§45-24-42(b)(1), 45-24-42(b)(2) and 45-24-42(b)(3), and shall be required to provide for the
27 recording of findings of fact and written decisions as described in the zoning ordinance pursuant
28 to §45-24-42(b)(5).

29 (h) An appeal from any decision made pursuant to this section may be taken pursuant to
30 §45-23-66.

31 SECTION 6. This act shall take effect upon passage.

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LC004995/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- LAND DEVELOPMENT AND SUBDIVISION
REVIEW--UNIFIED DEVELOPMENT REVIEW

- 1 This act would amend the provisions of the law pertaining to subdivisions and zoning
- 2 ordinances to provide for unified development review.
- 3 This act would take effect upon passage.

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LC004995/SUB A
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