

February 23, 2021 - Representative Jeff Greeson comments

The full House will be in session February 24-25. There are more than 130 bills that are due to be voted on during these two days. Many bills will be handled very quickly as they came out of their respective committees with unanimous agreement as to their recommended fate. However, there will be several controversial bills.

One bill that has my attention is HB-586 relating to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development. This bill came out of committee 15-3 "Ought to Pass" and has garnered the endorsement of Governor Sununu. However, I am prepared to oppose the bill as it is written because of some concerns I have in its wording. Rep. Sue Homola is prepared to propose an amendment that addresses these concerns, and if she is able to put it forth, I am better prepared to go along.

My concerns on this bill as written include:

Training of local officials is already available and is not costly. What is the reason for a test, especially if it is not mandatory? It appears to me that the only beneficiary of this provision is likely the developer's lawyers who will use a board's lack of testing as an argument to overturn denials of large development projects.

The bill also overrides local zoning ordinances which usually allow Housing for Older Persons at much greater density than single family homes. Town residents allow this exception because of reduced demands on a number of town resources, including water and schools. Workforce housing developments are much more demanding on resources and must be addressed separately, as they are presently. This bill would override town restrictions and impose tremendous costs on town residents. The result will likely be huge budget gaps and the unreasonable loss of local authority.

The "inclusionary zoning" section is a fundamental change to current law. This bill amends the definition of Inclusionary Zoning to allow regulations that REQUIRE property owners to produce low income housing. Local ordinances based on this clause would likely be seen as forcible taking of land and lead to litigation.

Another section of this bill forces towns to provide waivers of their local zoning ordinances. Why would towns consider degrading their own local zoning authority? Planning boards would no longer be legally supported in denying claims for non-compliance with town-wide standards which is the very purpose of these boards? Additionally, this bill provides for the reversal of local planning decisions in court, almost automatically. These decisions are currently afforded deference by the courts, but this would be a blow to the finality of a local denial

Another section of the bill imposes a time deadline on a ZBA where none exists at present. Strict time deadlines are not appropriate given that development proposals vary widely in scope and size.

And then there is the advisory board. Can we say “special interests”?

In a nutshell, I see this bill, as written, as being a developer’s dream and ripe for corruption.