

# HOUSE . . . . No. 2679

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 11, 1953.

The committee on Cities, to whom were referred the Bill to authorize the preservation of the integrity of official maps (House, No. 1585) and the report of the special commission (including members of the General Court) established (under Chapter 55 of the Resolves of 1951 and revived and continued by Chapter 89 of the Resolves of 1952) to investigate and study the zoning and municipal planning laws of the Commonwealth and the organization and powers of the city planning board of the city of Boston (House, No. 2249, App. II), report the accompanying bill (House, No. 2679).

For the committee,

CLIFTON H. BAKER.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Three.

AN ACT TO AUTHORIZE THE PRESERVATION OF THE INTEGRITY OF OFFICIAL MAPS ADOPTED UNDER THE LAW PROVIDING AN IMPROVED METHOD OF MUNICIPAL PLANNING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 81F of chapter 41 of the General Laws, as  
2 appearing in section 4 of chapter 340 of the acts of  
3 1947, is hereby amended by inserting before the  
4 article "A" in line 1 the following:— (1), — and  
5 by adding at the end the following three para-  
6 graphs:—

7 (2) For the purpose of preserving the integrity of an  
8 official map as adopted under section eighty-one E,  
9 and as changed or added to under this section, any  
10 city or town which has adopted such a map may by  
11 ordinance or by-law provide that no permit shall be  
12 issued by the inspector of buildings of such city or  
13 town, or the board or officer having power to issue  
14 permits under the building or zoning ordinance or  
15 by-law of such city or town, for the erection of a  
16 building in the location of a proposed way, or in the  
17 strip of land adjacent to a public way proposed to be  
18 included in such way by the widening thereof, as  
19 shown on such official map.

20 (3) In a city or town which has adopted the or-  
21 dinance or by-law authorized by paragraph (2) of  
22 this section, any person aggrieved by the inclusion  
23 of his land within the location of a proposed way on  
24 an official map, or within a strip of land adjacent to  
25 a public way proposed to be included in such way on  
26 such map, may, within six months after the change  
27 or addition to such map, under which his land was  
28 so included, was recorded in the registry of deeds,  
29 appeal to the planning board of the town in which  
30 his land is situated. Such appeal shall be in writing,  
31 shall be signed by or on behalf of the person taking  
32 the appeal, and shall state the grounds of the appeal  
33 and the address to which notice of the decision of the  
34 planning board on such appeal shall be sent. Such  
35 planning board, if, after a public hearing of which  
36 ten days' notice has been given by advertisement in  
37 a newspaper of general circulation in the town, finds  
38 that the land of the appellant of which the proposed  
39 location or widening forms a part cannot yield a  
40 reasonable return to the owner if the prohibition  
41 contained in paragraph (2) of this section is literally  
42 enforced, or that such prohibition imposes an un-  
43 necessary or unreasonable hardship upon such owner,  
44 it may rescind or modify such prohibition, leaving in  
45 force such reasonable requirements as will as little as  
46 practicable increase the cost of laying out and con-  
47 structing said proposed public way or widening such  
48 way, as the case may be. In determining such an  
49 appeal the planning board may change the location  
50 of the proposed public way or the proposed widening  
51 of the existing public way if all of the land included  
52 by such change in the proposed way or the proposed  
53 widening is owned by the appellant and he consents

54 in writing to such change and waives his right of  
55 appeal under paragraph (4) of this section. In such  
56 case, no hearing before the city council or a com-  
57 mittee thereof, or before the selectmen, and no action  
58 by the city council or the town meeting, shall be re-  
59 quired to effectuate such change. The planning board  
60 shall forthwith notify the appellant of its action upon  
61 his appeal by registered mail, postage prepaid.

62 (4) Any owner of land aggrieved by the action of  
63 a planning board in denying him the relief prayed for  
64 by him under paragraph (3) of this section, in whole  
65 or in part, or by the failure of the planning board to  
66 render a decision upon his appeal within sixty days  
67 after it was submitted to such board, may appeal to  
68 the superior court sitting in equity for the county in  
69 which such land is situated within fifteen days after  
70 notice of the decision of such board was received at  
71 the address designated by him, or within fifteen days  
72 after the required time aforesaid. The court shall  
73 hear all pertinent evidence and determine the facts,  
74 and if it finds that the enforcement of the prohibi-  
75 tion contained in paragraph (2) of this section, as  
76 modified under paragraph (3) thereof, if so modified,  
77 will constitute the taking of his property for the pub-  
78 lic use without just compensation, or deprive him of  
79 his property without due process of law, or deny him  
80 the equal protection of the laws, it shall modify such  
81 prohibition to such an extent that it shall not con-  
82 stitute such a taking, deprivation or denial, or shall  
83 make such other decree as justice and equity may  
84 require. The foregoing remedy shall be exclusive,  
85 but the parties shall have all the rights of appeal and  
86 exception as in other equity cases.