

# HOUSE . . . . No. 1708

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Mr. Shattuck of Boston gives notice he will move that the Bill regulating and restricting the use of buildings and premises, the height and bulk of buildings and the occupancy of lots in the city of Boston and for said purposes dividing the city into districts (House, No. 1676), be amended as indicated herein. May 5

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## The Commonwealth of Massachusetts.

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By inserting at the end of subparagraph (1) of section 4 the following:—

except for garages, unless after public hearing the board of street commissioners grants a license therefor. No such license shall be granted where such garage will be detrimental to the residential character of the neighborhood, or increases the fire hazard or tends to cause congestion in any private way used in common with others. From any decision of said commissioners granting any such license any person aggrieved may take an appeal, within fifteen days of notice of the decision, to the state fire marshal, who may after public hearing suspend or revoke any such license,— so that said subparagraph as amended will read as follows:—

(1) Any use permitted in a single residence district, except for garages, unless after public hearing the board of street commissioners grants a license therefor. No such license shall be granted where such garage will be detrimental to the residential character of the neighborhood, or increases the fire hazard or tends to cause congestion in any private way used in common with others. From any decision of said commissioners granting any such license any person aggrieved may take an appeal, within fifteen days of notice of the decision, to the state fire marshal, who may after public hearing suspend or revoke any such license.

In section 9, by striking out, in lines 11 to 13, the words “provided no structural alterations are hereafter made therein, except those required by law, ordinance or regula-

tion," and by striking out, in lines 17 and 18, the words "each in the same single or joint ownership of record at the time it is placed in a use district;" by inserting at the end of line 20, after the word "be", the word:—seriously; and by striking out, in line 21, the words "tend to" and inserting in place thereof the word:—seriously,—so that the first two paragraphs of said section as amended will read as follows:—

*Section 9.* Any lawful use of a building or premises or part thereof existing at the time of the taking effect of this act may be continued, although such use does not conform with the above provisions hereof. In the case of a building or part thereof designed and intended for a non-conforming use, such use in a part thereof may be extended throughout the building or part thereof so designed and intended or changed to any use permitted in a district where such non-conforming use would be permitted and not more detrimental or injurious to the neighborhood.

The building commissioner may grant a permit for the erection of additional buildings or for the enlargement or alteration of existing buildings on the same or an adjacent parcel of land, for a trade, business, industry or other use prohibited in such district where such enlargement or alteration will not be seriously detrimental or injurious to or seriously alter the character of the neighborhood.

In section 18, by striking out lines 7 to 11 inclusive, being the last sentence of the first paragraph of said section, and lines 19 to 28 inclusive, being the last paragraph of said section; so that said section as amended will read as follows:—

*Section 18.* It shall be the duty of the building commissioner of the city of Boston to enforce the provisions of this act in manner and form and with powers similar to those practised or provided under the building law of the city of Boston, chapter five hundred and fifty of the acts of nineteen hundred and seven, as amended.

Upon any well-founded information in writing from any citizen that the provisions of this chapter are being violated

or upon his own initiative, the building commissioner shall take immediate steps to enforce the provisions of this act by causing complaint to be made before the municipal court of the city of Boston or by applying for an injunction in the superior court.

By striking out section 19.

By striking out the first paragraph of section 20, and substituting the following:—

*Section 20.* There shall be a board of zoning adjustment, to consist of five members to be appointed by the mayor in the following manner: one member from two candidates to be nominated by the Boston Central Labor Union; one member from two candidates to be nominated by the Boston Chamber of Commerce; one member from two candidates to be nominated by the United Improvement Association; one member from two candidates to be nominated by the Boston Real Estate Exchange; and one member, who shall be chairman, selected by the mayor. The appointments first made shall be for the term of one, two, three, four and five years, respectively, so that the term of one member will expire each year. All subsequent appointments shall be for the term of five years. Vacancies shall be filled in the same manner in which original appointments are made. The chairman shall be paid a salary of five thousand dollars per annum, and each other member of said board shall be paid twenty-five dollars per day for actual service, but not more than twenty-five hundred dollars in any one year.

and by inserting at the end of the first paragraph of said section as amended the following new paragraphs:—

Any applicant for a permit under this act whose application has been refused may appeal therefrom to said board within ninety days. Any applicant to the building commissioner for a permit who so appeals to the said board shall pay to him a fee of ten dollars before such permit shall be considered by the board. Such fees shall be deposited by the building commissioner with the city collector at least once a week.

The board may vary the application of this act in specific

cases wherein its enforcement would involve practical difficulty or unnecessary hardship and wherein desirable relief may be granted without substantially derogating from the intent and purpose of this act, but not otherwise. No such variance shall be authorized except by the decision of not less than four of the five members of the board, rendered upon a written petition addressed to the board and after public hearing thereon, of which notice shall be mailed to the petitioner and to the owners of all property deemed by the board to be affected thereby as they appear in the most recent local tax list and also advertised in a daily newspaper published in the city of Boston.

The board shall cause to be made a detailed record of all its proceedings, which record shall set forth the reasons for its decisions, the vote of each member participating therein, and the absence of a member or his failure to vote. Such record, immediately following the board's final decision, shall be filed in the office of the building commissioner and shall be open to public inspection, and notice of such decision shall be mailed forthwith to each party in interest as aforesaid.

Any person aggrieved by a decision of the board, whether previously a party to the proceeding or not, or any municipal officer or board may, within fifteen days after the entry of such decision, bring a petition in the supreme judicial court for the county of Suffolk for a writ of certiorari to correct errors of law therein, and the provisions of section four of chapter two hundred and forty-nine of the General Laws shall, except as herein provided, apply to said petition.

No costs shall be allowed against the board unless the court finds that it acted with gross negligence or in bad faith.

by striking out in lines 31 and 32 of said section the words "the unanimous decision of the entire membership," and inserting in place thereof the words: — the decision of not less than four of the five members, — and by inserting in line 38 of said section, before the word "newspaper," the word: — daily —; so that the paragraph as amended will read as follows: —

Either upon petition or otherwise, the board may, subject

to the following conditions, change the boundaries of districts to avoid undue concentration of population, to provide adequate light and air, to lessen congestion in streets, to secure safety from fire, panic and other dangers, to facilitate the adequate provision of transportation, water, sewerage and other public requirements and to promote the health, safety, convenience and welfare of the inhabitants of the city of Boston. Such changes shall be made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land. No such change shall be made except by the decision of not less than four of the five members of the board, excepting only any member or members not qualified to act, rendered after a public hearing thereon, of which notice shall be mailed to the petitioner, if any, and to the owners of all property deemed by the board to be affected thereby as they appear in the most recent local tax list and also advertised in a daily newspaper published in the city of Boston. No member shall act in any case in which he is personally interested either directly or indirectly.

By striking out the first paragraph of section 23, and substitution in place thereof the following: —

*Section 23.* The right to continue an existing non-conforming use or to maintain, repair or reconstruct an existing non-conforming building shall not be affected by this act. Non-conforming use in any building may be changed to another non-conforming use, provided that in connection with such change the building is not altered structurally or substantially and that the proposed use is not substantially different from the existing use.





