

By Mr. Petersen of Marblehead (by request), petition of John H. Stasik for legislation to further regulate zoning in cities and towns. Local Affairs.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT FURTHER REGULATING ZONING.

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 1. Section 3 of chapter 40A of the General Laws, as
2 appearing in the 1998 Official Edition, is hereby amended by
3 striking out the words “nor shall any such ordinance or bylaw pro-
4 hibit, regulate or restrict the use of land or structures for religious
5 purposes or for educational purposes on land owned or leased by
6 the commonwealth or any of its agencies, subdivisions or bodies
7 politic, or by a religious sect or denomination, or by a nonprofit
8 educational corporation”, in lines 26 to 31, inclusive.

1 SECTION 2. Said section 3 of said chapter 40A, as so
2 appearing, is hereby further amended by striking out the third
3 paragraph.

1 SECTION 3. Said section 3 of said chapter 40A, as so
2 appearing, is hereby further amended by adding the following
3 paragraph:—

4 (a) Zoning ordinances or bylaws shall not prohibit the use of
5 land or structures thereon for:

6 (1) educational purposes on land owned or leased by the com-
7 monwealth or any of its agencies, subdivisions or bodies politic or
8 by a nonprofit educational corporation;

9 (2) religious purposes by a religious sect or denomination; or

10 (3) purposes of operating a child care facility.

11 (b) As used in this section the following words shall have the
12 following meanings:

13 “Educational purposes”, only public and nonprofit private pri-
14 mary, secondary and higher educational purposes;

15 “Child care facility”, a day care center or school age child care
16 program, as those terms are defined in section 9 of chapter 28A.

17 (c) The land or structures used for such purposes may, however,
18 be subject to reasonable regulations regarding, but not limited to,
19 the bulk and height of structures, yard sizes, frontage, lot area,
20 building coverage requirements, setbacks, floor area ratio,
21 parking, access and egress, lighting, drainage, landscaping,
22 buffering and open space, and similar matters. Compliance with
23 such regulations may be determined as provided by ordinance or
24 bylaw in each city or town, including through site plan review
25 under which reasonable conditions, safeguards, and limitations to
26 mitigate the impact of a specific use of land or structures on the
27 neighborhood may be imposed pursuant to section 7A of this
28 chapter.

29 (d) In addition, the application of such regulations to particular
30 land or structures used for such purposes may be waived in whole
31 or in part by special permit, and reasonable conditions may be
32 imposed as part of the special permit. The waiver may be granted
33 if the special permit granting authority finds, based upon the evi-
34 dence presented by the one seeking the waiver, that the waiver
35 will not result in substantially more detriment to the neighborhood
36 than the use of the particular land or structures for such purposes
37 without the waiver.