

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1853

6
7 S.P. 663

In Senate, January 4, 1984

8 Reference to the Committee on Local and County Government. Ordered
9 printed and sent down for concurrence.

10 Approved for introduction by the Legislative Council pursuant to Joint
Rule 26.

JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Trafton of Androscoggin.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Clarify the Law Concerning Certain
18 Appeals from Planning Board Decisions.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 30 MRSA §4963, sub-§1, as amended by PL 1983, c.
23 475, §1, is further amended to read:

24 1. Establishment. A board of appeals is estab-
25 lished in any municipality which adopts a zoning or-
26 dinance ~~for the purpose of hearing.~~ The board of ap-
27 peals shall hear appeals from actions or failure to
28 act of the official or board charged with the en-
29 forcement of the zoning ordinance, unless only a di-
30 rect appeal to Superior Court has been provided by
31 municipal ordinance. Such board of appeals shall be
32 governed by section 2411, except that section 2411,
33 subsection 2 shall not apply to boards existing on
34 September 23, 1971.

1 STATEMENT OF FACT

2 The purpose of this bill is to restore the au-
3 thority of a board of appeals to hear appeals from
4 any planning board decision made under a zoning ordi-
5 nance, whether or not the appeal involves a special
6 exception or conditional use. This authority was
7 eliminated by Public Law 1983, chapter 475, section
8 1, which amended the Revised Statutes, Title 30, sec-
9 tion 4963, to provide that the board of appeals gen-
10 erally may hear appeals only from decisions of single
11 enforcement officials, such as a code enforcement of-
12 ficer or building inspector, except in the area of
13 special exceptions and conditional uses. A number of
14 municipalities are using Shoreland Zoning Ordinances
15 which authorize the planning board to make decisions
16 on all permit applications and which grant a right of
17 appeal from those planning board decisions to a local
18 board of appeals. Such appeal provisions are now in
19 conflict with Title 30, section 4963, subsection 1, a
20 result which the Legislature did not intend, since
21 many communities prefer that a local appeal be the
22 first level of appeal.

23 This bill allows boards of appeal to hear appeals
24 from a zoning decision made either by a single offi-
25 cial or by a multi-member board, such as the planning
26 board, unless the municipality has included a provi-
27 sion in its ordinance which states that an appeal
28 shall go directly to Superior Court.

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