

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 450

S.P. 153

In Senate, February 20, 1987

Reference to the Committee on State and Local Government suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by President PRAY of Penobscot

Cosponsored by Representative CLARK of Brunswick, Senator GAUVREAU of Androscoggin, Representative CARROLL of Gray.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Amend the Laws Relating to
Community Living Arrangements.

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

30 MRSA §4962-A, sub-§§1, 2 and 3, as enacted by PL 1981, c. 640, are amended to read:

1. Legislative intent. It is the intent of the Legislature that this section shall affect only single-family all residential zones within municipalities. It is also the intent of the Legislature that persons seeking to site a community living use within a community shall investigate possible sites throughout the community and not limit their consideration to single-family residential zones. It is the intent of the Legislature that persons seeking to site a

1 community living use within a zone will not be pro-
2 hibited solely on the basis of the disability served.

3 2. Permitted or conditional community living
4 use; definition. In order to implement the policy of
5 this State that mentally handicapped or developmen-
6 tally disabled persons should not be excluded by mu-
7 nicipal zoning ordinances from the benefits of normal
8 residential surroundings, a "community living use"
9 shall be considered a permitted or conditional
10 single-family residential use of property for the
11 purposes of zoning. As used in this section, "commu-
12 nity living use" means a state-approved, authorized,
13 certified or licensed group home, foster home or in-
14 termediate care facility for mentally retarded group
15 home, for 8 or fewer mentally handicapped or develop-
16 mentally disabled persons.

17 3. Hearing. A municipality shall, within 30
18 days of action by the office charged with the en-
19 forcement of the zoning ordinance on an application
20 to establish a community living use within a
21 single-family residential zone, hold or schedule to
22 be held, a public hearing, unless a community living
23 use is a permitted use within the single-family resi-
24 dential zone. The failure to hold or schedule the
25 public hearing required by this subsection within the
26 30 days, unless that time period is extended by mutu-
27 al agreement of the parties, shall constitute approv-
28 al of the application.

29 A. The public hearing shall be conducted by the
30 body authorized by the municipality to act as a
31 zoning board of appeals, and interested upon such
32 matters. Interested parties shall be notified.
33 The notice period and procedure for zoning ap-
34 peals, as established by the municipality, shall
35 meet the notice requirements of this section.

36 B. The board of appeals shall receive public
37 comment on the proposed community living use.
38 The board may modify or disapprove the applica-
39 tion only upon a finding of one or more of the
40 following:

41 (1) That the proposed use would create or
42 aggravate a traffic hazard;

1 (2) That the proposed use would hamper pe-
2 destrian circulation;

3 (3) That the proposed use would not permit
4 convenient access to commercial shopping fa-
5 cilities, medical facilities, public trans-
6 portation, fire protection or police protec-
7 tion;

8 (4) That the proposed use would not be in
9 conformance with applicable building, hous-
10 ing, plumbing and other safety codes, in-
11 cluding municipal minimum lot size and
12 building set-back requirements for new con-
13 struction; or

14 (5) That the proposed use would not be in
15 conformance with the density requirements of
16 subsection 4.

17 STATEMENT OF FACT

18 This bill makes several changes in the procedures
19 used by a municipality to enable community living
20 residences to locate there.

21 It also clarifies legislative intent that persons
22 seeking to site a community living use within a zone
23 should not be denied solely on the basis of their
24 disability.

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