

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(After Deadline)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1336

H.P. 990 House of Representatives, April 23, 1987
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Energy and Natural
Resources suggested and ordered printed.
EDWIN H. PERT, Clerk
Presented by Representative MACOMBER of South Portland.
Cosponsored by Representative MARSANO of Belfast.

STATE OF MAINE

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

AN ACT to Require Recording of Certain
Subdivision and Zoning Variances.

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

Sec. 1. 30 MRSA §4956, sub-§2, as amended by PL
1975, c. 468, §2, is further amended to read:

2. Municipal review and regulation.

A. All requests for subdivision approval shall
be reviewed by the municipal planning board,
agency or office, or if none, by the municipal
officers, hereinafter called the municipal re-
viewing authority.

1 B. The municipal reviewing authority may, after
2 a public hearing, adopt additional reasonable
3 regulations governing subdivisions which shall
4 control until amended, repealed or replaced by
5 regulations adopted by the municipal legislative
6 body. The municipal reviewing authority shall
7 give at least 7 days' notice of such hearing.

8 C. On all matters concerning subdivision review,
9 the municipal reviewing authority shall maintain
10 a permanent record of all its meetings, proceed-
11 ings and correspondence.

12 C-1. Upon receiving an application, the municipi-
13 al reviewing authority shall issue to the appli-
14 cant a dated receipt. Within 30 days from receipt
15 of an application, the municipal reviewing au-
16 thority shall notify the applicant in writing ei-
17 ther that the application is a complete applica-
18 tion or, if the application is incomplete, the
19 specific additional material needed to make a
20 complete application. After the municipal review-
21 ing authority has determined that a complete ap-
22 plication has been filed, it shall notify the ap-
23 plicant and begin its full evaluation of the pro-
24 posed subdivision.

25 D. In the event that the municipal reviewing au-
26 thority determines to hold a public hearing on an
27 application for subdivision approval, it shall
28 hold such hearing within 30 days of receipt by it
29 of a completed application, and shall cause no-
30 tice of the date, time and place of such hearing
31 to be given to the person making the application
32 and to be published in a newspaper of general
33 circulation in the municipality in which the sub-
34 division is proposed to be located, at least 2
35 times, the date of the first publication to be at
36 least 7 days prior to the hearing.

37 The municipal reviewing authority shall, within 30
38 days of a public hearing or within 60 days of receiv-
39 ing a completed application, if no hearing is held,
40 or within such other time limit as may be otherwise
41 mutually agreed to, issue an order denying or grant-
42 ing approval of the proposed subdivision or granting
43 approval upon such terms and conditions as it may

1 deem advisable to satisfy the criteria listed in sub-
2 section 3 and to satisfy any other regulations
3 adopted by the reviewing authority, and to protect
4 and preserve the public's health, safety and general
5 welfare. In all instances, the burden of proof shall
6 be upon the persons proposing the subdivisions. In
7 issuing its decision, the reviewing authority shall
8 make findings of fact establishing that the proposed
9 subdivision does or does not meet the foregoing cri-
10 teria. In addition, whenever the initial approval or
11 any subsequent amendment of a subdivision is based in
12 part on the granting of a variance from any of the
13 applicable subdivision approval standards, that fact
14 shall be expressly noted on the face of the subdivi-
15 sion plan to be recorded in the local registry of
16 deeds or, in the case of an amendment if no amended
17 plan is to be recorded, a certificate indicating the
18 name of the current property owner, identifying the
19 property owner, identifying the property by reference
20 to the last recorded deed in its chain of title and
21 indicating the fact that a variance, including any
22 conditions on the variance, has been granted and the
23 date of the granting, shall be prepared in recordable
24 form and shall be recorded in the local registry of
25 deeds within 30 days of the final subdivision approv-
26 al or the variance shall be invalid. No rights may
27 accrue to the variance recipient or his heirs, suc-
28 cessors or assigns unless and until the recording is
29 made within the 30 days.

30 Sec. 2. 30 MRSAs 4963, sub-§3, as amended by PL
31 1977, c. 630, §6, is further amended to read:

32 3. Variance. A variance may be granted by the
33 board only where strict application of the ordinance,
34 or a provision thereof, to the petitioner and his
35 property would cause undue hardship. The words "undue
36 hardship" as used in this subsection mean:

37 A. That the land in question cannot yield a rea-
38 sonable return unless a variance is granted;

39 B. That the need for a variance is due to the
40 unique circumstances of the property and not to
41 the general conditions in the neighborhood;

- 1 C. That the granting of a variance will not alter
2 the essential character of the locality; and
3 D. That the hardship is not the result of action
4 taken by the applicant or a prior owner.

5 A municipality may, in a zoning ordinance, adopt additional
6 limitations on the granting of a variance, including, but not limited to,
7 a provision that a variance may only be granted for a use permitted in a
8 particular zone. In addition, whenever the board grants a variance under this section,
9 a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and shall be recorded in the local registry of deeds within 30 days of final approval of the variance or the variance shall be invalid. No rights may accrue to the variance recipient or his heirs, successors or assigns unless and until the recording is made within 30 days.
10
11
12
13
14
15
16
17
18
19
20
21
22

23 STATEMENT OF FACT

24 The purpose of this bill is to require municipal
25 subdivision and zoning variances to be recorded in
26 the local registry of deeds within 30 days to provide
27 record notice thereof.

28 2396041387