HOUSE DOCKET, NO. 2172 FILED ON: 1/17/2013

HOUSE . . . . . No. 1098

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Cantwell

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act amending the definition of "uneconomic" in chapter 40B, so called.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James M. Cantwell	*4th Plymouth*

HOUSE DOCKET, NO. 2172 FILED ON: 1/17/2013

HOUSE . . . . . No. 1098

By Mr. Cantwell of Marshfield, a petition (accompanied by bill, House, No. 1098) of James M. Cantwell relative to low and moderate income housing. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1257* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act amending the definition of "uneconomic" in chapter 40B, so called.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The definition of "Uneconomic" in section 20 of chapter 40B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following sentence:—

Notwithstanding the foregoing, no condition or regulation imposed by a board of zoning appeals shall be deemed to render a low or moderate income housing project uneconomic if such condition or regulation: (1) in the opinion of the zoning board of appeals, imposes reasonable limitations concerning the bulk and height of structures, yard sizes, lot areas, setbacks, open space, parking and building coverage; and (2) in the opinion of the zoning board of appeals, operates to prevent the development of a parcel that is physically or environmentally unsuitable for the density of development proposed.

SECTION 2. Said section 20 of said chapter 40B, as so appearing, is hereby further amended by inserting after the word "needs" in line 43 the following:— or (3) in the imposition of such rules or regulations, as may be varied in whole or in part, in the opinion of the zoning board of appeals, reasonably balances the regional need for low or moderate income housing with a municipality's reasonable limitations concerning the bulk and height of structures, yard sizes, lot areas, setbacks, open space, parking and building coverage; or (4) operates to prevent the development of a parcel that is, in the opinion of the zoning board of appeals, physically or environmentally unsuitable for the density of development proposed.

SECTION 3. Section 23 of said chapter 40B, as so appearing, is hereby amended by adding the following paragraph:—

No decision by a board of appeals to deny a comprehensive permit shall be vacated, nor shall a decision by a board of appeals to approve a comprehensive permit with conditions and requirements imposed be ordered modified, where said board of appeals includes as a basis for its decision the need to deny or condition said comprehensive permit due to factors relating to the bulk and height of structures, yard sizes, lot areas, setbacks, open space, parking and building coverage or environmental suitability of the parcel or overall density of the proposed project.