

SENATE No. 1024

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 to streamline zoning appeals.

PETITION OF:

NAME:

Bruce E. Tarr

DISTRICT/ADDRESS:

First Essex and Middlesex

SENATE No. 1024

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1024) of Bruce E. Tarr for legislation to streamline zoning appeals. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act to streamline zoning appeals.

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 17 of Chapter 40A of the General Laws, as appearing in the most
2 recent edition, is hereby amended by striking the words “all members of” in the first sentence of
3 the first paragraph.

4 SECTION 2. Said Section 17 of Chapter 40A of the General Laws is hereby further
5 amended by striking the word, “members” in the second sentence of the first paragraph and
6 inserting in place thereof the word “clerk”.

7 SECTION 3. Said Section 17 of Chapter 40A of the General Laws is hereby further
8 amended by inserting the following at the end of the second paragraph, “Other persons may be
9 permitted to intervene, upon motion, provided that no person may join in the filing of an appeal
10 under this section outside the twenty-day appeal period provided herein.”

SECTION 4. Said Section 17 of Chapter 40A of the General Laws is hereby further amended by inserting a new third paragraph before the paragraph that begins with “The clerk of the court shall...” as follows:

Within thirty (30) days of the filing of a complaint, each plaintiff other than the project proponent shall submit to the court a statement with supporting affidavits of the basis for each plaintiff’s claim of aggrievement. Upon receipt of each plaintiff’s statement of standing, any defendant may, within thirty (30) days, submit a response and supporting affidavits. The court shall hold a hearing, either evidentiary or non-evidentiary, within ninety (90) days of the filing of the complaint, and shall determine whether each plaintiff has individually proven standing as a person aggrieved, by a preponderance of the evidence, with no benefit of any presumption. The court shall dismiss any plaintiff who fails to meet its burden.

SECTION 5. Said Section 17 of Chapter 40A of the General Laws is hereby further amended by striking the second sentence of the paragraph that begins with “The clerk of the court shall...” in its entirety and inserting in place thereof the following:

If there are remaining plaintiffs found to have standing as persons aggrieved, the court shall then hear all evidence pertinent to the authority of the board or special permit granting authority and determine the facts, and, upon the facts as so determined, annul such decision if found to exceed the authority of such board or special permit granting authority or make such other decree as justice and equity may require.

SECTION 6. Section 11 of Chapter 665 of the Acts of 1956, as appearing in the most recent edition, is hereby amended by inserting after the first sentence, the following sentence,

32 “Other persons may be permitted to intervene, upon motion, provided that no person may join in
33 the filing of an appeal under this section outside the twenty day appeal period provided herein.”

34 SECTION 7. Said Section 11 of Chapter 665 of the Acts of 1956 is hereby further
35 amended by inserting the following after the words “fifty thousand square feet of space” in the
36 first paragraph:

37 Within thirty (30) days of the filing of a complaint, each plaintiff other than the project
38 proponent shall submit to the court a statement with supporting affidavits of the basis for each
39 plaintiff’s claim of aggrievement. Upon receipt of each plaintiff’s statement of standing, any
40 defendant may, within thirty (30) days, submit a response and supporting affidavits. The court
41 shall hold a hearing, either evidentiary or non-evidentiary, within ninety (90) days of the filing of
42 the complaint, and shall determine whether each plaintiff has individually proven standing as a
43 person aggrieved, by a preponderance of the evidence, with no benefit of any presumption. The
44 court shall dismiss any plaintiff who fails to meet its burden.

45 SECTION 8. Said Section 11 of Chapter 665 of the Acts of 1956 is hereby further
46 amended in the first paragraph by striking the words “the court shall” in the sentence that begins
47 with “Upon an appeal” and inserting in its place thereof the following: “and if there are
48 remaining plaintiffs found to have standing as persons aggrieved, the court shall then”