HOUSE DOCKET, NO. 3252 FILED ON: 1/20/2023

HOUSE . . . . . No. 1379

The Commonwealth of Massachusetts

PRESENTED BY:

Andres X. Vargas and Kevin G. Honan

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 promote Yes in My Back Yard.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Andres X. Vargas	*3rd Essex*	*1/20/2023*
Kevin G. Honan	*17th Suffolk*	*1/20/2023*
Michelle L. Ciccolo	*15th Middlesex*	*1/25/2023*
Frank A. Moran	*17th Essex*	*1/26/2023*
Christine P. Barber	*34th Middlesex*	*1/26/2023*
James K. Hawkins	*2nd Bristol*	*1/27/2023*
Steven Owens	*29th Middlesex*	*1/30/2023*
David Henry Argosky LeBoeuf	*17th Worcester*	*1/30/2023*
Carol A. Doherty	*3rd Bristol*	*1/30/2023*
Lindsay N. Sabadosa	*1st Hampshire*	*1/31/2023*
Jack Patrick Lewis	*7th Middlesex*	*1/31/2023*
Mike Connolly	*26th Middlesex*	*2/2/2023*
David M. Rogers	*24th Middlesex*	*2/3/2023*
Samantha Montaño	*15th Suffolk*	*2/3/2023*
Jon Santiago	*9th Suffolk*	*2/6/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*2/6/2023*
Jennifer Balinsky Armini	*8th Essex*	*2/8/2023*
Kay Khan	*11th Middlesex*	*2/9/2023*

James B. Eldridge	*Middlesex and Worcester*	*2/10/2023*
Adrian C. Madaro	*1st Suffolk*	*2/21/2023*
Manny Cruz	*7th Essex*	*2/23/2023*
Peter Capano	*11th Essex*	*3/14/2023*
Natalie M. Higgins	*4th Worcester*	*3/23/2023*
Brian W. Murray	*10th Worcester*	*3/29/2023*
Simon Cataldo	*14th Middlesex*	*4/19/2023*
Marjorie C. Decker	*25th Middlesex*	*5/4/2023*
Ruth B. Balser	*12th Middlesex*	*5/12/2023*
Patricia A. Duffy	*5th Hampden*	*5/17/2023*
Kip A. Diggs	*2nd Barnstable*	*5/18/2023*
Carmine Lawrence Gentile	*13th Middlesex*	*7/3/2023*
Shirley B. Arriaga	*8th Hampden*	*7/26/2023*
John Francis Moran	*9th Suffolk*	*9/6/2023*
William F. MacGregor	*10th Suffolk*	*10/31/2023*

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HOUSE . . . . . No. 1379

By Representatives Vargas of Haverhill and Honan of Boston, a petition (accompanied by bill, House, No. 1379) of Andres X. Vargas, Kevin G. Honan and others for legislation to increase housing development. Housing.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to promote Yes in My Back Yard.

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: Chapter 23A of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 68. In order to meet the housing needs of the Commonwealth, there is hereby established a statewide goal of producing 427,000 new units of housing in Massachusetts by 2040. The housing production goal shall also include a goal of having 85,400 units of housing created by 2040 that are affordable to households earning less than 80% of the Area Median Income, with at least 8,500 of these affordable units for households earning less than 30 percent of the Area Median Income. The housing production goal shall also include a goal of having 52,000 units for households earning between 80-120% of the Area Median Income.

The secretary of housing and economic development shall report annually to the clerks of the house of representatives and the senate, who shall forward the report to the house of representatives and the senate, the chairs of the joint committee on housing, and the chairs of the

senate and house committee on ways and means, on progress made towards meeting these housing production goals. The report shall include a breakdown of market-rate units created; units created that are accessible or adaptable for persons with disabilities; units created for persons over the age of 55; and units created by deed restricted affordable housing available to households earning less than 80% Area Median Income, less than 60% Area Median Income, and less than 30% Area Median Income. The secretary of housing and economic development shall also report annually on the number of residential properties purchased by foreign buyers in Massachusetts. As part of the report, the secretary of housing and economic development shall also include information on short term rentals collected as required by Chapter 337 of the Acts of 2018. The secretary of housing and economic development shall also report annually on the number of units, broken down by municipality, on the Subsidized Housing Inventory as maintained by the Department of Housing and Community Development that are income restricted to income eligible households earning 80% or less than the area median income.

Section 2: Section 1A of Chapter 40A of the General Laws, as so appearing, is amended by inserting the following definition:

"Bus Station" means a building located at the intersection of two or more bus lines, within

which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

Chapter 40A, of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 18. (a) Any zoning regulations adopted pursuant to Chapter 40A shall allow, as of right and with no minimum parking requirements for dwelling units, mixed-use development or multifamily housing with a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A, and be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) Any zoning regulations adopted pursuant to Chapter 40A shall allow, as of right and with no minimum parking requirements for dwelling units, multifamily housing with a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A, and be located not more than 0.25 miles from an eligible location.

(c) Any development permitted pursuant to subsections (a) or (b) which includes ten or more residential units shall set aside a minimum of fifteen percent of the residential units to households earning at or below 80% of the Area Median Income or a minimum of ten percent of the residential units to households earning at or below 50% of the Area Median Income as determined by the U.S. Department of Housing and Urban Development.

(d) If a municipality fails to adopt new regulations or amend existing regulations to comply with the provisions of this section by January 1, 2025, any noncompliant existing regulation shall become null and void and such municipality shall approve or deny applications in accordance with the requirements for regulations set forth in the provisions of this section until such municipality adopts or amends a regulation in compliance with this section.

(e) A municipality shall not use or impose standards to discourage through unreasonable costs or delays the development of housing described in this section.

Section 3: Section 1A of chapter 40A of the General Laws, as so appearing, is hereby amended so that the the definition of an accessory dwelling unit is:

"Accessory dwelling unit", a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities, incorporated within the same structure as a primary dwelling unit or in a detached accessory structure that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress and (ii) is not larger in floor space than ½ the floor space of the primary dwelling unit or 900 square feet, whichever is greater.

Section 3 of chapter 40A of the General Laws, as so appearing, is hereby amended by inserting after the last paragraph the following paragraphs:

No zoning ordinance or by-law shall prohibit or require a special permit for the use of land or structures for an accessory dwelling unit, or the rental thereof, in a residential or mixed-use zoning district.

The use of land or structures for an accessory dwelling unit may be subject to reasonable regulations, including but not limited to dimensional setbacks, short-term rentals of accessory dwelling units and the bulk and height of structures. However, a locality may not impose an ordinance that requires any of the following:

a. Minimum floor space standards greater than is required by state law, as established in the state sanitary code, chapter II

b. Maximum height standards less than 16 feet high

c. Rear or side setback standards that exceed what is permitted under the local zoning code for the primary dwelling or what is applicable to the primary dwelling unit if it is a legally existing non-conforming unit

d. Minimum lot size standards

e. Discretionary design criteria distinct to ADUs that are not imposed on other residential buildings in that district.

f. Off-street automobile parking requirements and minimum parking requirements greater than 1 per unit. Parking requirements may be satisfied through tandem driveway parking.

g. Requirements that the owner of the property reside in either the primary dwelling or the accessory unit.

An accessory dwelling unit shall not be considered to exceed the allowable density for the lot upon which it is located.

Municipalities must adopt the naming convention and definition of an ADU as established herein.

A municipality that does not adopt an ordinance that permits Accessory Dwelling Units as specified in this section shall be subject to the standards established herein. Municipalities are encouraged to adopt less restrictive ordinances.

The Department of Housing and Community Development shall create and implement guidelines for which municipal regulations are permissible.

Nothing in this paragraph shall authorize an accessory dwelling unit to violate the environmental, building, fire, health or sanitary codes, historic or wetlands laws, or ordinances or by-laws.

Section 4: The following section is added to Chapter 40A of the Massachusetts General Laws:-

Section 19. (a) The purpose of this section shall be to promote and incentivize the reuse of vacant commercial parcels and properties for residential and mixed-use housing, by removing barriers to housing development and establishing a streamlined, ministerial approval process for those types of developments.

(b) A development proponent may submit an application for a housing development that shall be a use by right and that shall be subject to a streamlined, ministerial review established under section (d) if the proposed residential or mixed-use development satisfies all of the requirements established in section (c).

For the purposes of this section, "Vacant commercial parcel" shall mean any parcel of land zoned for commercial or mixed-use that has no legal structures or improvements on it. "Vacant commercial property" shall mean a commercial or mixed-use building that is not currently legally occupied or in which no person(s) or entity conducts a lawfully licensed business.

(c) A development project shall be subject to the streamlined, ministerial review process provided by section (d) if the proposed development satisfies all of the following criteria:

1. It is located within a vacant property or on a vacant parcel in an area zoned for commercial or mixed-use purposes.

2. At least 20% of the residential floor space area is dedicated to units affordable to households earning up to 80% of the area median income as determined annually by the U.S Department of Housing and Urban Development

3. The development is a multi-family housing project

4. The development meets all applicable state environmental, fire, building health and sanitary codes, historic or wetlands laws, and any other applicable state ordinances or by-laws.

5. The residential density for the development either:

a. Meets or exceeds the minimum allowable residential density for the existing zoning designation for the parcel if existing zoning allows multifamily residential use; or

b. Meets or exceeds the minimum allowable residential density for the nearest zoning district that permits multi-family housing, if the current zone does not allow multi-family residential use

6. The development meets the objective zoning standards for the applicable zone established in subsection 5.

For the purposes of this section, objective zoning standards shall mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. The applicable objective standards shall be those in effect at the time that the development application is submitted to the local government pursuant to this article.

No zoning ordinance or by-law may impose minimum automobile parking requirements, maximum density requirements or subjective design standards on a development application submitted pursuant to this section.

For the purposes of this section, subjective design standards shall mean standards that can be interpreted multiple ways, such as compatibility with neighboring properties or promoting harmony and balance in the community.

(d) If the local government determines that the proposed development meets the criteria established in section (c), it shall approve the project.

If the local government determines that the proposed development does not meet the criteria established in section (c), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the 60 days. If the local government fails to do so, the project shall be granted automatic approval.

Review of the application shall be conducted by the local agency, official, or board responsible for approving or rejecting housing development projects. That review shall be

objective and be strictly focused on assessing compliance with the criteria established in section (c), as well as any reasonable objective standards published and adopted by ordinance or resolution by a local jurisdiction, except those prohibited in section (c).

A local government may adopt an ordinance to implement the provisions of this article.

The Department of Housing and Community Development shall publish guidelines and coordinate with local governments to ensure compliance with the application process established by this law.

Section 5: Section 5 of Chapter 40A of the General Laws, as so appearing, is amended by inserting in paragraph 5 the following after ””in accordance with section 3 of chapter 40R.”:-

(5) an inclusionary zoning ordinance or bylaw, that shall not unduly constrain the production of housing in the area impacted by the inclusionary zoning ordinance or bylaw. The Department of Housing and Community Development shall be responsible for developing guidelines to ensure that municipalities do not adopt inclusionary zoning ordinances or bylaws that constrain the production of housing in that community.

Section 6: The secretary of housing and economic development, secretary of energy and environmental affairs, the secretary of transportation, and the executive director of the Massachusetts Development Finance Agency shall jointly submit a report to the joint committee on housing identifying greyfields sites across the commonwealth, options for redevelopment or reuse that may include housing, public use or facilities, mixed use development, or natural restoration and open space, and identify programs within the appropriate state and quasi-public agencies that can be used to support communities in repurposing underutilized land.

For the purposes of this act, the term greyfields may include, but is not limited to, land with development that is outdated, underutilized, failing, or vacant, including commercial, residential, and industrial properties. This term may also include land that is owned by the commonwealth, its agencies, or its political subdivisions.

Section 7: Section 34 of Chapter 7C of the General Laws, as so appearing, are hereby amended by inserting the following paragraph:-

(c) Prior to disposition of publicly owned real property of the commonwealth pursuant to chapter 7C, the commissioner of capital asset management and maintenance in coordination with the secretary of the executive office of housing and economic development shall determine whether such real property shall be made available for low or moderate income housing pursuant to this chapter. In making such determination the commissioner and the secretary shall take into account the following factors:

(i) existing zoning that limits the siting of low or moderate income housing in the city or town in which the publicly owned real property is located;

(ii) financial or other deterrents to the production of low or moderate income housing in the city or town in which the real property is located; and

(iii) ensuring that real property for disposition under this chapter is fairly made available to all regions of the commonwealth, including gateway municipalities, rural areas and suburban areas.

Upon making the determination that publicly owned real property shall be made to available for disposition under this chapter, the commissioner and the secretary shall,

notwithstanding chapter 7C or any other law to the contrary, declare the property available for development of low or moderate income housing in accordance with this chapter.

Section 8: Section 13 of chapter 21A, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

"A board of health may adopt a local on-site sewage disposal systems regulation, only to the extent that it imposes standards or other requirements that are more stringent than or otherwise exceed those set forth in Title 5 of the State Environmental Code, 310 CMR 15.000, and only if, prior to adoption by the board of health, the Department of Environmental Protection shall review and approve any such proposed on-site sewage disposal systems regulation based upon findings that the proposed regulation has a generally recognized scientific basis, is a recommended best practice technique, is necessary to protect unusual local resources that warrant special or enhanced protection, and does not conflict with Title 5 of the State Environmental Code, 310 CMR 15.000."