



February 4, 2015

The Honorable Regina Birdsell, Chair
Senate Public and Municipal Affairs Committee
Legislative Office Building, Room 102
Concord, NH 03301

Subject: SB 141, relative to powers of the zoning board of adjustment

Dear Senator Birdsell:

The New Hampshire Planners Association, representing over 200 land use planning professionals in our state working at all levels of government and in the private sector, takes this opportunity to express opposition to SB 141 which alters the minimum number of votes required to approve an appeal before a town's zoning board of adjustment.

Currently, RSA 674:33, III requires the concurring vote of three (3) of the five (5) members of the zoning board of adjustment in order to "reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass." This requirement ensures that what are potentially monumental land use decisions for the community are not made by a minority of zoning board members. This principal was embodied even more strongly in the original 1926 Standard State Zoning Enabling Act, from which New Hampshire's zoning enabling laws are substantially based. In the 1926 standard act, a concurring vote of *four (4)* of the five (5) members was required to decide in favor of an applicant. This minimum concurring vote requirement - which the New Hampshire legislature has already liberalized by requiring only three (3) concurring votes - recognizes the gravity of the decisions zoning boards are tasked to make.

The NHPA understands that in some of our state's smaller communities, regular attendance by board members can be problematic, and that this legislation is a good faith response to that issue. However, we question the wisdom of allowing a situation where a minority of board members are permitted to make weighty, long lasting decisions that could affect the entire community. We think there are better ways to address attendance issues than to eliminate the minimum concurring vote standard that has been a bedrock of zoning law since zoning was conceived. There already are, in fact, other tools available to account for absent members such as the recruiting and appointment of alternates.

For these reasons, we urge you to recommend that SB 141 be found "inexpedient to legislate". Thank you for this opportunity to provide comment.

Sincerely,

Timothy J. Corwin, Esq., AICP
NHPA Legislative Liaison