



nerrej

Zoning and land use planning

September 26, 2013 - Front Section

House Bill 1859, if it becomes law, will replace the Massachusetts Zoning Act, Chapter 40A. In my opinion, it would adversely impact the building of housing in Mass. There is a scarcity of permitted land in Mass. We do not need legislation which would further hamper the building of new housing. The purpose of this column is to discuss one aspect of House Bill 1859 which would hurt home building in Mass.

House Bill 1859 would replace 81P Approval Not Required Plans ("ANR") with a new subdivision approval process. ANR plans are often called Form A plans.

ANR has always been an important provision for developers. It allows for a developer to submit a plan to the planning board and to avoid subdivision approval. If an applicant's plan has frontage that is not less than the frontage required by the local zoning ordinance or by-law for the erection of a building on each lot, the planning board must endorse the plan as an ANR Plan. To replace ANR with a new "Minor Subdivision" approval process would hinder home building in Massachusetts. It would mean more regulation. The home building industry needs less regulation; it does not need more regulation. The elimination of ANR lots will hurt housing production. There are also aspects of House Bill 1859 involving a curtailment of lot freeze protection which would be harmful to home builders. House Bill 1859 is problematic and should be defeated.

The enactment of House Bill 1859 will call into question almost four (4) decades of case law involving zoning. Massachusetts does not need a new Zoning Act. Rather, local zoning ordinances and by-laws need to be modernized to allow concepts such as smaller lots, cluster zoning by right, bonuses for inclusionary zoning and more protection for residential subdivisions from subsequent changes in zoning.

Saul Feldman is a real estate attorney with Feldman & Feldman, P.C., Boston, Mass.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540