

**HOUSE . . . . . No. 298**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_

PRESENTED BY:

*Angelo J. Puppolo, Jr.*

\_\_\_\_\_

*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 improving housing opportunities.**

\_\_\_\_\_

PETITION OF:

| NAME:                         | DISTRICT/ADDRESS:   | DATE ADDED:      |
|-------------------------------|---------------------|------------------|
| <i>Angelo J. Puppolo, Jr.</i> | <i>12th Hampden</i> | <i>2/17/2021</i> |
| <i>Bud L. Williams</i>        | <i>11th Hampden</i> | <i>3/15/2021</i> |

**HOUSE . . . . . No. 298**

By Mr. Puppolo of Springfield, a petition (accompanied by bill, House, No. 298) of Angelo J. Puppolo, Jr. and Bud L. Williams relative to zoning ordinances and by-laws and improving housing opportunities. Community Development and Small Businesses.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act improving housing opportunities.

*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 9 of chapter 40A, as so appearing, is hereby amended by  
2 inserting after the second paragraph the following paragraph:-

3 Zoning ordinances or by-laws shall permit multifamily development by right in one or  
4 more zoning districts that together cover not less than 1.5% of the developable land area in a city  
5 or town and which, by virtue of its infrastructure, transportation access, existing underutilized  
6 facilities, and/or location, are suitable for multifamily residential development. Zoning  
7 ordinances or by-laws shall establish a housing density for by-right multifamily development in  
8 such zoning districts of not less than twenty (20) dwelling units per acre. As used herein,  
9 “multifamily housing” means apartment or condominium units in buildings which contain or will  
10 contain more than three (3) such units.

11 SECTION 2. Section 9 of chapter 40A, as so appearing, is hereby amended by  
12 striking out, in the fifth paragraph, the words “open space residential developments or”.

13 SECTION 3. Section 9 of chapter 40A, as so appearing, is hereby amended by striking  
14 out the sixth paragraph and inserting in place thereof the following paragraph:-

15 Notwithstanding any provision of this section to the contrary, zoning ordinances or by-  
16 laws shall provide that open space residential development shall be permitted by right in  
17 residential zoning districts at the density permitted in the zoning district in which the property is  
18 located upon review and approval by a planning board pursuant to the applicable provisions of  
19 sections 81K to 81GG, inclusive, of chapter 41 and in accordance with its rules and regulations  
20 governing subdivision control. Zoning ordinances and by-laws shall not require the submission  
21 of a plan showing a standard subdivision complying with the otherwise applicable requirements  
22 of the ordinance or by-laws as a condition precedent to the approval of an open space residential  
23 development plan.

24 SECTION 4. Section 81Q of chapter 41, as so appearing, is hereby amended by inserting  
25 after the second sentence the following sentence:-

26 Such rules shall not require the submission of a plan showing a standard subdivision  
27 complying with the requirements of the local zoning ordinance or by-laws as a condition  
28 precedent to the approval of a plan depicting an open space residential development pursuant to  
29 section 9 of chapter 40A.

30 SECTION 5. Section 3 of chapter 40A, as so appearing, is hereby amended by  
31 inserting after the tenth paragraph the following paragraph:-

32 Zoning ordinances and by-laws shall classify “accessory dwelling unit,” as defined  
33 herein, as a use permitted by right in all single-family residential zoning districts. No zoning  
34 ordinance or by-law shall unreasonably regulate the location, dimensions, or design of an

35 accessory dwelling unit on a lot. As used herein, “accessory dwelling unit” is a self-contained  
36 housing unit incorporated within a single-family dwelling or detached accessory structure that is  
37 clearly subordinate to the single-family dwelling and complies with the use, dimensional, and  
38 design requirements of the local zoning ordinance or by-law.

39

40 SECTION 6. Chapter 40A is hereby amended by inserting after the Section 7 the  
41 following section:-

42 Section 7A. Site Plan Review

43 (a) As used in this section, “site plan review” shall mean a separate review under a  
44 municipality’s zoning ordinance or by-law, by the planning board, of a plan showing the  
45 proposed on-site arrangement of, parking, pedestrian and vehicle circulation, utilities, grading  
46 and other site features and improvements existing or to be placed on a parcel of land, in  
47 connection with the proposed use of land or structures. Under site plan review, an applicant  
48 proposing the development or redevelopment of land for a use that is authorized by right under  
49 the local zoning ordinance or by-law presents a plan and other information relevant to the site  
50 design of the proposed development to the planning board, which may take input from municipal  
51 departments and parties in interest. Such review shall take place under this section only where  
52 the proposed use does not require a special permit or variance under the local by-law or  
53 ordinance.

54 (b) Cities and towns may require such site plan review under a local ordinance or by-law  
55 adopted prior to the effective date of this section, or thereafter under this section. Site plan  
56 review may be required before a building permit is granted for the construction, reconstruction,

57 or expansion of structures for a use not requiring a special permit or variance, as well as before  
58 the commencement of site development not requiring a building or special permit. The planning  
59 board may adopt, and from time to time amend, rules and regulations to implement the local site  
60 plan review ordinance or by-law, including provisions for the imposition of reasonable fees for  
61 the employment of outside consultants in the same manner as set forth in section 53G of chapter  
62 44.

63 (c) An ordinance or by-law requiring site plan review, whether adopted under this  
64 section or previously adopted under the municipality's home rule authority, shall comply with  
65 the provisions of this and all following subsections of Section 7A. The ordinance or by-law shall  
66 establish the submission, review, and approval process for applications, which may include the  
67 requirement of a public hearing held pursuant to the provisions of section eleven of this chapter.  
68 Approval of a site plan shall require a simple majority vote of the planning board and the  
69 planning board's written decision shall be filed with the city or town clerk within the time limits  
70 prescribed by the ordinance or by-law, not to exceed 90 days from the date of filing of the  
71 application. If no decision is filed within the time limit prescribed, the site plan shall be deemed  
72 constructively approved as provided in section 9, paragraph 11 of this chapter.

73 (d) The decision of the planning board may require only those conditions that the  
74 applicant has agreed to make or that otherwise are within the planning board's power under the  
75 applicable ordinance or by-law and is determined by the planning board to be necessary to  
76 ensure substantial compliance of the proposed improvements with the requirements of the zoning  
77 ordinance or by-law or to reasonably mitigate any extraordinary direct adverse impacts of the  
78 proposed improvements on adjacent properties. A site plan application may be denied only on  
79 the grounds that: (i) the proposed site plan cannot be conditioned to meet the requirements set

80 forth in the zoning ordinance or by-law; (ii) the applicant failed to submit the information and  
81 fees required by the zoning ordinance or by-law necessary for an adequate and timely review of  
82 the design of the proposed land or structures; or (iii) there is no feasible site design change or  
83 condition that would adequately mitigate any extraordinary direct adverse impacts of the  
84 proposed improvements on adjacent properties.

85 (e) Zoning ordinances or by-laws shall provide that a site plan approval granted under  
86 this section shall lapse within a specified period of time, not less than two years from the date  
87 the planning board files its decision with the city or town clerk, if substantial use or construction,  
88 including substantial investment in site preparation or infrastructure construction, has not yet  
89 begun. The aforesaid minimum period of two years may, by ordinance or by-law, be increased  
90 to a longer period. If an appeal is filed, the commencement of the lapse period shall be measured  
91 from the date of the dismissal of the appeal or entry of final judgment in favor of the applicant.  
92 The period for lapse may be extended for good cause by a majority vote of the planning board.

93 (f) Site plan review decisions may be appealed under Section 17 in the same manner as a  
94 special permit. A complaint by a plaintiff challenging a site plan approval under this section shall  
95 allege the specific reasons why the planning board exceeded its authority in approving the site  
96 plan and shall allege specific facts establishing how the plaintiff is aggrieved by such decision.  
97 The planning board's decision in such a case shall be affirmed unless the court concludes that the  
98 decision exceeded the planning board's authority under subsection (d).

99 (g) The submission and review process for a site plan submitted in connection with an  
100 application for a use that requires a special permit or use variance shall be in conjunction with  
101 the submission and review of such special permit or variance application in a coordinated

102 process and shall not be subject to a separate site plan review hearing or process under this  
103 section or any local ordinance or by-law.

104 (h) In municipalities that adopted a zoning ordinance or by-law requiring some form of  
105 site plan review prior to the effective date of this act, the provisions of this Section 7A shall not  
106 be effective with respect to such zoning ordinance or by-law until one year after the effective  
107 date of this act.

108 SECTION 7. The twelfth paragraph of Section 9 of chapter 40A, as so  
109 appearing, is hereby amended by deleting the words “a two-thirds vote of boards with more than  
110 five members, a vote of at least four members of a five member board, and a unanimous vote of  
111 a three member board” and inserting in place thereof the following words:-

112 the concurring vote of a majority of the members then in office.

113 SECTION 8. The fourth paragraph of Section 15 of chapter 40A, as so appearing, is  
114 hereby amended by deleting the words “all members of the board of appeals consisting of three  
115 members, and a concurring vote of four members of a board consisting of five members” and  
116 inserting in place thereof the following words:-

117 the concurring vote of a majority of the members of the board of appeals then in office.