Bill as Introduced

HB 446 – AS INTRODUCED

2003 SESSION

03-0646
08/09

HOUSE BILL ***446***

AN ACT relative to building permits.

SPONSORS: Rep. Bickford, Straf 68

COMMITTEE: Municipal and County Government

ANALYSIS

This bill eliminates the requirement that the building inspector withhold a building permit application if the application was filed after the first legal notice of a proposed change in the building code.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 446 – AS INTRODUCED

03-0646
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to building permits.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Repeal. RSA 676:12, relative to withholding building permits, is repealed.

2 Effective Date. This act shall take effect 60 days after its passage.

HB 446 – AS AMENDED BY THE HOUSE

25mar03... 0585h

2003 SESSION

03-0646
08/09

HOUSE BILL ***446***

AN ACT relative to building permits.

SPONSORS: Rep. Bickford, Straf 68

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill limits the requirement that the building inspector withhold a building permit application to the first legal notice of proposed changes in the building code or zoning ordinance or 120 days, whichever is shorter.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 446 – AS AMENDED BY THE HOUSE

25mar03... 0585h

03-0646
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to building permits.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Building Permits. RSA 676:12 is repealed and reenacted to read as follows:

676:12 Building Permits to be Withheld in Certain Cases.

I. The building inspector shall not issue any building permit within the 120 days prior to the annual or special town or village district meeting if:

(a) Application for such permit is made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7; and

(b) The proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit.

II. After final action has been taken on the proposed changes in the building code or zoning ordinance, the building inspector shall issue or refuse to issue a permit which has been held in abeyance under this section pursuant to a final action under this section.

III. The provisions of paragraph I shall not be applicable in a city or in a county in which there are located unincorporated towns or unorganized places unless the governing body of the city or the county votes by majority vote to be subject to the provisions of such paragraph.

IV. The building inspector may be authorized by the local legislative body to issue a temporary occupancy permit not to exceed 30 days, which may be extended at the discretion of the building inspector.

V. No building permit shall be denied on the grounds of uncompleted streets or utilities when the construction of such streets or utilities has been secured to the municipality by a bond or other security approved by the planning board pursuant to RSA 674:36, III or RSA 674:44, IV; provided, however, that on land which is part of a subdivision plat or site plan, no building shall be used or occupied prior to the completion of required streets and utilities, except upon such terms as the planning board may have authorized as part of its decision approving the plat or site plan.

VI. The provisions of paragraph I shall not apply to any plat or application which has been formally accepted by the planning board pursuant to RSA 676:4, I(b) prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application formally accepted by the planning board pursuant to RSA 676:4, I(b) so long as said plat or application was accepted prior to the first legal notice of said change or amendment.

2 Effective Date. This act shall take effect 60 days after its passage.

Committee Minutes

Date: April 15, 2003
Time: 3:30 PM
Room: 102, LOB

The Senate Committee on Energy and Economic Development held a hearing on the following:

HB 446 relative to building permits.

Members of Committee present:

Senator Bob Odell
Senator Clifton Below
Senator John Gallus
Senator Theodore L. Gatsas
Senator Russell E. Prescott

The Chair, Senator Bob Odell, opened the hearing.

I will open House Bill 446, relative to building permits. I will call on Representative Theberge.

Representative Robert Theberge: I have copies of the current RSA's for you, that are mentioned in this bill. I will try to do the best I can do, I left all my notes home.

Hands out printed copy of RSA 675:7, RSA 676:12 and Committee Report from the Municipal and County Government House Committee.

If I may, I will read the statement of intent as I wrote it for the bill.

Starts reading the Statement of Intent section of the Committee Report from the Municipal and County Government House Committee. (See attached of Committee Report from Municipal and County Government Committee and copies of RSA's attached hereto and referenced as Attachment #1).

If I may summarize, what this does, currently under 675:4 a petition article can be ... needs 120 days prior to any annual town meeting for its

submission. Currently as well, the planning board, any planning board can, just needs to give a public notice or ten days before and follow up with a hearing. The time tables here are skewed. So the planning board can do this at any time, 365 days prior to any town meeting. So what this bill does is the building inspector can deny building permits, but now the planning board has to abide by 674:4. In other words, it places them on the same timetable regarding building permits or zoning permits, changes, ordinances and what not.

Senator Bob Odell, D. 8: Do this one more time, tell me the steps that you are talking about.

Representative Robert Theberge: Currently, under 675:4, okay in order to have, if you are going to do a petition article for building permits you need to submit it 120 days prior to any town meeting or special meeting. The planning board, on the other hand, can deal with changes in permits or ordinances with just a notification of a public hearing ten days before. There is a conflict here. What it does in this cause regarding petitioning articles it put everyone on the same timetable so there is no confusion and there is no, I guess putting it bluntly, no monkeying around. So that things can be done legally and legitimately amongst parties, in other words.

Senator Bob Odell, D. 8: Thanks for your testimony, any questions from the committee? Senator Below.

Senator Clifton Below, D. 5: Thank you, good afternoon, Section 1, lines 12, 13, and 14 of the bill that is a new section, roman numeral 3 is inserted into this.

Representative Robert Theberge: For the new section, that is actually old roman numeral 2, 4, 5, and 6 okay. Two is the new one from 1,

Senator Clifton Below, D. 5: Well I am questioning about is 3. Maybe Representative Patten may also have the answer but it says "the provisions of paragraph 1 shall not be applicable in a city or a county", I know Carroll County and I know Coos County it would apply to, "in which there are located unincorporated towns or unorganized places". I can't imagine that we have a city in New Hampshire that has unorganized places. Or maybe it applies the first two, it doesn't apply to any city unless the governing body of the city or the county votes to such provisions. So the intent doesn't apply to cities period or the county are located

Representative Betsy Patten, District 7: in which an unincorporated...

Senator Clifton Below, D. 5: It is so odd that it wouldn't apply to the towns within that county. But I guess the county, does the county sometimes have zoning ordinances for the unincorporated places?

Representative Betsy Patten, District 7: Yes, the county, the county government, the commissioners are the governing body for the unincorporated places, most of the unincorporated places are located in Coos County. We have one in Carroll that is administrated by Coos, and there may be one in Grafton that is also administrated by Coos. So unincorporated places, their governing body is the Commissioners of the county government.

Representative Robert Theberge: There are a number of them in Coos County, and they all dealt with the county budget through the county budget process. And we and the commissioners, we as a delegation and the commissioners oversee those.

Senator Clifton Below, D. 5: Okay thanks.

Senator Bob Odell, D. 8: Any more questions, seeing none thank you for your testimony.

Representative Robert Theberge: I really appreciate it, and I apologize, normally I have all my notes and they make sense to me and should make sense to you. I apologize.

Senator Bob Odell, D. 8: I call on Ben Frost, Office of State Planning.

Ben Frost, Senior Planner, Office of State Planning: Thank you Mister Chairman, and good afternoon. For the record my name is Benjamin Frost, I am a senior planner for the Office of State Planning.

Hands out a letter from Office of State Planning. (Letter attached hereto and referenced as Attachment #2).

OSP supports this bill recognizing that it will provide some guidelines to local officials, particularly planning board in the timing for adoption of local zoning ordinances and amendments to zoning ordinances.

Is this bill necessary, strictly speaking, no. Is it desirable, yes. It is not necessary because we have to some degree, a common law guiding planning boards. But it is desirable because the common law is vague.

There is only one case in New Hampshire that deals with this issue specifically, and that was a 1973 case Socha, S-O-C-H-A verses The City of

Manchester. Which had in a footnote, a reference to planning boards unreasonably posting zoning commitments well in advance of a town meeting. Six months I believe was the reference. So we know from the Supreme Court that six months is unreasonable, but we don't know what becomes reasonable, and this bill would answer that question.

It is consistent certainly as Representative Theberge said, with the petition, zoning amendments timing. So for that reason and the reasons I have stated we support this.

I will be happy to answer any questions.

Senator Bob Odell, D. 8: Any questions from the committee? Seeing none thank you for your testimony. Thank you for coming.

I will now call on Gary Bernier, from the New Hampshire Municipal Association.

Gary Bernier, New Hampshire Municipal Association: Thank you Mister Chairman, members of the committee, once again I am Gary Bernier, staff attorney New Hampshire Municipal Association.

We oppose the bill because it is problematic really from a zoning standpoint. This legislation and the statute that it is going to modify 676:12 fall under the general category in zoning law of nonconforming use regulation.

Essentially a nonconforming use in zoning is a use which is permissible at the time of the zoning change but which the zoning change makes impermissible under New Hampshire law, nonconforming uses are allowed to continued because you have a vested right in them.

676:12, was initially enacted to avoid the creation of nonconforming uses. So once a zoning change is posted, application that would propose something that would contradictory to the zoning change are held in abeyance until the final vote of the town meeting to see if they will adopt the zoning change. If the zoning change is adopted then of course the applications that were pending were denied and if the zoning change fails and the applications are granted.

Apparently, in some towns there have been some bad faith action on the parts of officials who post zoning changes months and months in advance in order to stop development.

To a certain degree you can't legislate against bad faith. That's why the courts are here and you can't stop boards from acting improperly. Theoretically, we operate under the assumption that they will act within the law, but if that is not the case then people have recourse to the courts, because the problem is with this legislation if you set the cut off at 120 days somebody if the zoning change is posted 150 days out that leaves that person 30 days in which to get the permit application in and not be subject to the zoning change and not have to be held in abeyance.

So it is posted 150 days out, the person gets their application in, the building inspection issues the permit. Now you get a scenario where you have a permit that has been issued for what very well could become a nonconforming use. And in fact the developer doesn't even have to act on the permit right away, so you could actually have town meeting happen, have the town meeting adopt the zoning change therefore creating essentially a nonconformity because this use that isn't even built yet conceivably would now be a nonconforming use. So the person or the developer would actually be building new construction nonconforming new construction.

The purpose of the law in nonconforming uses is to extinguish nonconforming use and not create them and not to perpetuate them. The most recent pronouncement on this fact in the New Hampshire Supreme Court was in 1999, in the case of Hurley verses the Town of Hollis. I know this is a concept that has existed in zoning law for forty to fifty years, but in that case the Supreme Court wrote **"The well established policy of zoning law is to carefully limit the enlargement of abstention of nonconforming uses and ultimately to reduce them to conformity as completely and rapidly as possible."**

And that is what I would say 676:12 does right now. If you set this deadline of 120 days, again you could a scenario where a contractor and any applicant actually has permission to build a new nonconforming structure. And so for those reasons we think 676:12 should stay the way it is. And the people treated unfairly by a particular community should do the same thing if they were treated unfairly in any other situation, which is seek relief from the courts.

Senator Bob Odell, D. 8: Thank you very much for your testimony. Any questions, Senator Below.

Senator Clifton Below, D. 5: Thank you Mister Chairman. The minimum amount of time that any zoning or building code change, ...although the building codes should probably gonna be completely removed with the adoption of a state building code later this year. The requirement that that be

removed. I suppose somebody can have a more rigorous requirement. But the zoning ordinance changed, is your understanding, it has to be posted at least 120 days prior to the annual or special meeting?

Gary Bernier: Well petitioned changes, the law as it stands right now, petition changes by a resident of the town and so forth, have to happen between 90 and 120 days prior to the town meeting, so it is my understanding that the 120 days that you see here in this bill, in the manner are trying to mirror that. Now I would like to believe that there is a difference between the petition's changes and the changes that come from the planning board. The fact being, yeah, I suppose we don't want somebody's next door neighbor to say "listen I don't want this thing to be built, I am going to petition the zoning change and stop you from doing this. Verses having a planning board who has the master plan in mind, the capital improvements program in mind, and is actually entertaining zoning amendments in a more thorough analytical standpoint, not using the process to get at particular property owner to stop a particular project.

Senator Bob Odell, D. 8: Any further questions.

Senator Clifton Below, D. 5: So if it is coming from the town, selectmen or the planning board, you know those channels, what is the time frame for getting things posted?

Gary Bernier: Well there is no time frame set right now and as Mister Frost had indicated there is an indication of one Supreme Court case, when you get into six months you are being unreasonable. My understanding of the reason this legislation was originally proposed and written, initially it had just been intended to eliminate 676:12 altogether, but the... it was proposed because of the scenario where you might have a planning board posting a zoning change 8 months, 9 months, 10 months in advance. Knowing that something was coming down the road, some kind of development down the road. So they say lets post a zoning change so we can hold them up. Even though the zoning change ends up not being adopted you have still succeeded holding up the person from that amount of time. But I think it is very clearly the exception to the rule that happens and I would hate to see the exception eat the rule by requiring a change to the statute.

Senator Bob Odell, D. 8: Any other questions? Senator Gatas.

Senator Theodore L. Gatsas, D. 16: I think the case that you were relating to Socha verses Manchester,the rezoning went from 98 units to 48 units. They reduced the amount of units in that apartment complex.

I assume that is what you were saying is that you just can't, if a permit has been applied for, then a zoning change can't happen to prevent that from happening again.

Gary Bernier: If your site plan or subdivision plan, or building permit application are already received by the town prior to the posting of the zoning change then they are not affected by the zoning change. But if they come in after the zoning change has is posted and that zoning change would not allow what the proposal is, then the proposal is held in abeyance. And so the problem apparently in some situations is the planning board or selectmen trying to get these changes posted for the purposes of slowing or stopping something. Of course, the bottom line is once the thing is defeated at the town meeting the project moves forward anyway. In fact, the application process goes forward and the planning board still has to hold hearing and so forth even during the pending of the zoning change, they just can't get final approval.

Senator Bob Odell, D. 8: Any more questions? Seeing none, thank you for your testimony. Representative Patten is in favor of the legislation, but does not choose to speak.

Representative Betsy Patten: Can I answer some questions.

Thank you Mister Chairman, members of the committee. For the record, my name is Betsy Patten, and I represent Carroll County, District 7, which is the towns of Moultonboro, Tuftonboro, and Wolfeboro.

I also am the Chairman of Municipal and County Government, and we did discuss this bill, and the originator and sponsor of the bill just wanted to get rid of the ability to have building permits withheld in certain cases. Because they felt there was abuse going on at the local level that the planning board could and post and hold a hearing on a zoning change or a building code change. Which again will probably be mute with a state building code in affect now. But, for the fact is, is that it was the opinion of myself and a lot of our committee members that you could only do a zoning change in a town at an annual meeting. While that is only right now, only that restriction is only for petitioners that want to ask for a zoning change or building code change to the planning board to go through that process.

And as we looked at it, and I talked with some of my committee members, and also the Office of State Planning, we felt that it would be more appropriate that if the petitioners in a town needed to do the same thing and their zoning change or building code change would only happen at an annual

meeting that perhaps it would be a good restriction also for the planning board so that they would not be abuse of the power.

I do take an exception to one thing that Ben said, even though we worked very closely in Municipal and County and Office of State Planning. I don't believe that this is so much a, in with nonconforming uses, is the fact, is as it could very well be used and it is under building permits in the planning and land use regulations, that there could be abuse of power by the local community and the building, planning board.

Though I know that most of our planning boards are very open and honest. There is sometimes, there is some rush to be more a little bit more restrictive than what the regulations say. And I do believe that this would be a good change, so what happens is both the petitioners and the planning board would be on the same restricted timetable. And I do note that in line 4 of the bill it says "the building permit within the 120 days prior to the annual or special town or village district meeting", that every once in a while the word special comes in and looks at that. So maybe it is appropriate only for zoning changes to be done at an annual meeting in a town. And that's something if you need to look at, and that would be fine. But, I just want you to know that we at Municipal and County and the House agreed with this and thought it was a good policy and will answer any questions. But that is a counter to a different argument.

Senator Bob Odell, D. 8: Thank you very much, Representative. Any questions from the committee? Senator Below.

Senator Clifton Below, D. 5: Thank you, Representative Patten you didn't get any sense that if a town's proposing such as a zoning change, are there any particular requirements as to how far in advance it has to be posted?

Representative Betsy Patten: No, and if you look specifically and technically at it, the posting, the time for the building permits to be withheld right now is attached to the posting of the hearing. So that posting of the hearing is not attached to any town meeting, annual meeting, even a special meeting. So that what happens, again it probably doesn't happen very often, but there is some rules and some communities that restrict growth and if you can't do it with a growth ordinance you might be able to do it in another manner. And I think that it would be good to have everyone on same footing.

Senator Clifton Below, D. 5: So if a town could post it more than a 120 days out, it just wouldn't have the affect of stopping a building permit that might be not possible with the zoning change. But they also could wait and post it 60 days or 90 days, with some internal policy, but in any case the petition

CC

change would, could the petition itself would not be received, would have to be received 90 days in advance but not more than 120? Is that right?

Representative Betsy Patten: Between a 120 and 90 days.

Senator Clifton Below, D. 5: So a petition change is not going to get posted in any further out than 120 days, or something less than that.

Representative Betsy Patten: It would be something less than 120 days.

Senator Bob Odell, D. 8: Anymore questions. Thank you very much. Is that it? Anyone else that would like to speak on House Bill 446? Seeing none, I will close the public hearing on House Bill 446.

Hearing concluded at 3:50 PM.

Respectfully submitted,

Carlene C. Cayes
April 17, 2003

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 446**

TITLE: relative to building permits.

DATE: March 18, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill would have eliminated the requirement that building inspectors withhold a building permit application if the application was filed after the first legal notice of a proposed change in the building code or zoning ordinance. Currently a petitioned article to amend a zoning ordinance has to be submitted within 120 days of an annual meeting. If the amendment proposed might negate a building permit, the building inspector has the authority to withhold the permit. The committee approved an amendment that puts Planning Board proposed amendments on the same time table. The amendment replaces section I of RSA 676:12 to read:

I. The building inspector shall not issue any building permit within the 120 days prior to the annual or special town or village district meeting if:

(a) application for such permit is made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7 and

(b) the proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit.

Vote 11-0.

Rep. Robert L. Theberge
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Municipal and County Government

HB 446, relative to building permits. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Theberge for Municipal and County Government: This bill would have eliminated the requirement that building inspectors withhold a building permit application if the application was filed after the first legal notice of a proposed change in the building code or zoning ordinance. Currently a petitioned article to amend a zoning ordinance has to be submitted within 120 days of an annual meeting. If the amendment proposed might negate a building permit, the building inspector has the authority to withhold the permit. The committee approved an amendment that puts Planning Board proposed amendments on the same time table. The amendment replaces section I of RSA 676:12 to read:

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(a) application for such permit is made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7 and

(b) the proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit. **Vote 11-0.**

Speakers

SENATE COMMITTEE HEARING IN ENERGY & ECONOMIC DEVELOPMENT

Date: **April 15, 2003** Time: **3:30 PM** Public Hearing on **HB 446**

HB 446 – relative to building permits.

Please check box(es) that apply. SPEAKING	FAVOR	OPPOSED	*NAME (Please print)*	*REPRESENTING*
1. ☒	☒	☐	Ben Frost	NH Office of State Planning
2. ☒	☐	☒	Gary Bernier	NH Municipal Association
3. ☒	☒	☐	Robert Theberge	State Rep. Dist. 3
4. ☐	☑	☐	Betsey Patten	Carroll 7
5. ☐	☐	☐		
6. ☐	☐	☐		
7. ☐	☐	☐		
8. ☐	☐	☐		
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18. ☐	☐	☐		
19. ☐	☐	☐		
20. ☐	☐	☐		

Testimony

TITLE LXIV
PLANNING AND ZONING

CHAPTER 675
ENACTMENT AND ADOPTION PROCEDURES

Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

Section 675:7

675:7 Notice Requirements for Public Hearing. –

I. Notice shall be given for the time and place of each public hearing held under RSA 675:2-4 and RSA 675:6 at least 10 calendar days before the hearing. The notice required under this section shall not include the day notice is posted or the day of the public hearing. Notice of each public hearing shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places.

II. The full text of the proposed master plan, zoning ordinance, building code, subdivision regulation, site plan review regulation and historic district regulation, ordinance, or amendment need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice.

Source. 1983, 447:1. 1985, 103:24, eff. Jan. 1, 1986.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 676
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

Building Permits

Section 676:12

676:12 Building Permits to be Withheld in Certain Cases. –

I. The building inspector shall not issue any building permit if application for such permit is made after the first legal notice of proposed changes in the building code or the zoning ordinance has been posted pursuant to the provisions of RSA 675:7 if the proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such a permit. After final action has been taken on the proposed changes in the building code or zoning ordinance, the building inspector shall issue or refuse to issue a permit which has been held in abeyance under this section pursuant to a final action under this section.

II. The provisions of paragraph I shall not be applicable in a city or in a county in which there are located unincorporated towns or unorganized places unless the governing body of the city or the county votes by majority vote to be subject to the provisions of such paragraph.

III. The building inspector may be authorized by the local legislative body to issue a temporary occupancy permit not to exceed 30 days, which may be extended at the discretion of the building inspector.

IV. No building permit shall be denied on the grounds of uncompleted streets or utilities when the construction of such streets or utilities has been secured to the municipality by a bond or other security approved by the planning board pursuant to RSA 674:36, III or RSA 674:44, IV; provided, however, that on land which is part of a subdivision plat or site plan, no building shall be used or occupied prior to the completion of required streets and utilities, except upon such terms as the planning board may have authorized as part of its decision approving the plat or site plan.

V. The provisions of paragraph I shall not apply to any plat or application which has been formally accepted by the planning board pursuant to RSA 676:4, I(b) prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application formally accepted by the planning board pursuant to RSA 676:4, I(b) so long as said plat or application was accepted prior to the first legal notice of said change or amendment.

Source. 1983, 447:1. 1986, 200:1; 229:3. 1989, 266:31. 1991, 331:3, eff. Aug. 27, 1991.

OFFICE OF STATE PLANNING
STATE OF NEW HAMPSHIRE
2½ BEACON STREET - CONCORD 03301-4497
TELEPHONE: 603-271-2155
FAX: 603-271-1728

April 15, 2003

Senator Bob Odell, Chairman
Senate Energy and Economic Development Committee
Legislative Office Building, Room 102
Concord, NH 03301

Subject: HB 446, Building Permits

Dear Senator Odell:

The Office of State Planning wishes to express its support for HB 446, relative to building permits. If enacted, the bill would help to provide a clear guideline to local officials as to when it is appropriate for them to propose new zoning changes.

Presently, there is no statute that offers guidance on this point, and local planning boards have historically expressed concern over the impact of publicly posting zoning changes well in advance of an annual town meeting.

It has also been suggested that some communities have used the terms of RSA 676:12 to thwart development by re-posting failed zoning amendments shortly after town meeting. Although the NH Supreme Court has in the past frowned on such practices, the State's planning and zoning statutes are silent on the matter.

If you have any questions on this recommendation, please feel free to call me at 271-2155.

Sincerely,

Benjamin D. Frost
Senior Planner

cc: Rep. Patten

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: {Type FLOOR DATE}

THE COMMITTEE ON Energy and Economic Development

to which was referred House Bill 446

AN ACT relative to building permits.

VOTE: 3 to 0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Bob Odell
For the Committee

HB446 Docket

Bill Title: relative to building permits.

Date	Body	Description
1/9/2003	**H**	Introduced and ref to Mun & Cnty Govt; HJ 12, p196
2/5/2003	**H**	==CANCELLED==Hearing Feb 12 10:30 RM301,LOB
2/6/2003	**H**	Rescheduled Hearing Feb 10 11:15 RM301,LOB
3/18/2003	**H**	Maj Report OTP/AM for Mar 25 (Vote 11-0;CC)
3/18/2003	**H**	Prop Comm Am{0585}; HC26, p699-700
3/25/2003	**H**	Passed with Am; HJ 29-pt 1, p880-881 + pt 2, p966
4/3/2003	**S**	Introduced and Ref. Energy & Economic Development; SJ 11, Pg.272
4/11/2003	**S**	Hearing; April 15, 2003, Room 102, LOB, 3:30 p.m.; SC18
5/15/2003	**S**	Committee Report; Ought to Pass , [05/22/03]; SC23
5/22/2003	**S**	Ought to Pass, MA, VV; OT3rdg; SJ 17, Pg.438
5/22/2003	**S**	Passed by 3rd Reading Resolution; SJ 17, Pg.479
5/29/2003	**S**	Enrolled; SJ 18, Pg.522
6/5/2003	**H**	Enrolled; HJ 47, p1495
6/14/2003	**H**	Became Law Without Signature on 6/14/2003 Eff: 8/13/2003 Chap: 0134

Docket Abbreviations