

HOUSE BILL No. 4439

March 8, 2001, Introduced by Rep. Stallworth and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1943 PA 183, entitled
"County zoning act,"
by amending section 23 (MCL 125.223) and by adding section 23c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 23. (1) The county board of zoning appeals shall ~~fix~~
2 ESTABLISH a reasonable time for the hearing of ~~the~~ AN appeal
3 UNDER SECTION 20 and give due notice of the appeal to the par-
4 ties, and decide the appeal within a reasonable time. At the
5 hearing, a party may appear in person or by ~~the~~ AN agent or
6 ~~by~~ attorney. The county board of zoning appeals may reverse or
7 affirm, wholly or partly, or may modify the order, requirement,
8 decision, or determination ~~as in its opinion ought to be made in~~
9 ~~the premises, and to that end~~ AND FOR THAT PURPOSE shall have
10 all the powers of the officer or body from whom the appeal was
11 taken and may issue or direct the issuance of a permit. If there

1 are practical difficulties or unnecessary hardship in ~~the way~~
2 ~~of~~ carrying out the strict letter of the zoning ordinance, the
3 county board of zoning appeals, in passing upon appeals, may vary
4 or modify any of its rules or provisions so that the spirit of
5 the ordinance ~~shall be~~ IS observed, public safety secured, and
6 substantial justice done.

7 (2) The county board of zoning appeals may impose conditions
8 with an affirmative decision, pursuant to section 16d(2).

9 (3) The decision of the county board of zoning appeals
10 ~~shall be~~ IS final. However, SUBJECT TO SECTION 23C, a person
11 having an interest affected by the zoning ordinance has the right
12 to appeal to the circuit court. Upon appeal, the circuit court
13 shall review the record and decision of the county board of
14 zoning appeals to ~~insure~~ ENSURE that the decision meets ALL OF
15 the following requirements:

16 (a) Complies with the ~~state constitution of 1963 and the~~
17 CONSTITUTION AND laws of this state.

18 (b) Is based upon proper procedure.

19 (c) Is supported by competent, material, and substantial
20 evidence on the record.

21 (d) Represents the reasonable exercise of discretion granted
22 by law to the county board of zoning appeals.

23 (4) ~~-(3)-~~ If the court finds the record of the county board
24 of zoning appeals inadequate to make the review required by this
25 section, or that there is additional evidence ~~which~~ THAT is
26 material and with good reason was not presented to the county
27 board of zoning appeals, the court shall order further

1 proceedings before the county board of zoning appeals on
2 conditions ~~which~~ THAT the court considers proper. The county
3 board of zoning appeals may modify its findings and decision as a
4 result of the new proceedings, or may affirm its original
5 decision. The supplementary record and decision shall be filed
6 with the court.

7 (5) ~~(4)~~ As a result of ~~the review required by this~~
8 ~~section~~ AN APPEAL UNDER SUBSECTION (3), the court may affirm,
9 reverse, or modify the decision of the county board of zoning
10 appeals.

11 SEC. 23C. (1) AN AGREEMENT TO PURCHASE PROPERTY CONTINGENT
12 ON AN ORDER, DETERMINATION, OR DECISION OF AN OFFICER, AGENCY,
13 BOARD, OR COMMISSION, THE COUNTY BOARD OF ZONING APPEALS, OR THE
14 COUNTY BOARD OF COMMISSIONERS UNDER THIS ACT OR UNDER AN ORDI-
15 NANCE ADOPTED UNDER THIS ACT IS NOT A BASIS FOR STANDING IN A
16 JUDICIAL PROCEEDING CHALLENGING SUCH AN ORDER, DETERMINATION, OR
17 DECISION.

18 (2) AN AGREEMENT TO PURCHASE PROPERTY CONTINGENT ON AN
19 AMENDMENT TO AN ORDINANCE ADOPTED UNDER THIS ACT IS NOT A BASIS
20 FOR STANDING IN A JUDICIAL PROCEEDING CHALLENGING AN ORDINANCE
21 ADOPTED UNDER THIS ACT.