

40:55D-73.1

LEGISLATIVE HISTORY CHECKLIST

(Zoning--Boards of adjustment--inquiries on permissable land use--reply within 45 days)

NJSA 40:55D-73.1

LAWS 1980

CHAPTER 142

Bill No. A977

Sponsor(s) Herman and Stewart

Date Introduced Feb. 21, 1980

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage Yes ~~No~~ Assembly Committee substituted enacted

Date of Passage: Assembly Aug. 4, 1980

Senate June 9, 1980

Date of approval Nov. 12, 1980

Following statements are attached if available:

Sponsor statement Yes ~~No~~ On original and ACS

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 977**

**STATE OF NEW JERSEY**

ADOPTED MAY 5, 1980

Sponsored by Assemblymen HERMAN and STEWART

A SUPPLEMENT to the "Municipal Land Use Law," approved  
January 14, 1976 (P. L. 1975, c. 291; C. 40:55D-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Inquiries as to whether a proposed land use is permissible  
2 under the zoning ordinance or official zoning map shall be submitted  
3 in writing to the board of adjustment which shall issue a written  
4 response within 45 days after the next meeting following receipt  
5 of the request or within such additional time as may be consented  
6 to by the inquirer.

1 2. This act shall be applicable to written inquiries, pursuant to  
2 section 1, submitted prior to the effective date of this act; provided,  
3 however, that the time limits for responding to such inquiries, set  
4 forth in section 1, shall be reckoned from the effective date of  
5 this act.

1 3. This act shall take effect immediately.

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STATEMENT

This bill requires boards of adjustment to respond within 45 days to inquiries as to whether a proposed land use will be permitted under the municipal zoning ordinance. Currently, without such limit, boards of adjustment may delay the commencement of worthy projects for indefinite periods.

ASSEMBLY, No. 977

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 21, 1980

By Assemblymen HERMAN and STEWART

Referred to Committee on Municipal Government

AN ACT to amend "the Municipal Land Use Law," approved  
January 14, 1976 (P. L. 1975, c. 291).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 59 of P. L. 1975, c. 291 (C. 40:55D-72) is amended  
2 to read as follows:

3 59. Appeals and applications to board of adjustment. a. Appeals  
4 to the board of adjustment may be taken by any interested party  
5 affected by any decision of an administrative officer of the munic-  
6 pality based on or made in the enforcement of the zoning ordinance  
7 or official map. Such appeal shall be taken within 20 days by filing  
8 a notice of appeal with the officer from whom the appeal is taken  
9 specifying the grounds of such appeal. The officer from whom the  
10 appeal is taken shall immediately transmit to the board all the  
11 papers constituting the record upon which the action appealed from  
12 was taken.

13 b. A developer may file an application for development with the  
14 board of adjustment for action under any of its powers without  
15 prior application to an administrative officer.

16 *c. Inquiries as to whether a proposed land use is permissible*  
17 *under the zoning ordinance or official zoning map shall be sub-*  
18 *mitted in writing to the board of adjustment which shall issue a*  
19 *written response within 45 days of the receipt of the inquiries or*  
20 *within such additional time as may be consented to by the inquirer.*

1 2. This act shall be applicable to written inquiries, pursuant to  
2 section 1, submitted prior to the effective date of this act; provided,  
3 however, that the time limits for responding to such inquiries, set  
4 forth in section 1, shall be reckoned from the effective date of  
5 this act.

1 3. This act shall take effect immediately.

STATEMENT

This bill requires boards of adjustment to respond within 45 days to inquiries as to whether a proposed land use will be permitted under the municipal zoning ordinance. Currently, without such limit, boards of adjustment may delay the commencement of worthy projects for indefinite periods.

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SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 977**

**STATE OF NEW JERSEY**

DATED: JUNE 26, 1980

The Assembly committee substitute requires inquiries as to whether or not a proposed land use is allowable under the zoning ordinance to be submitted in writing to the board of adjustment. The board would have 45 days after its next meeting following receipt to respond in writing. Since these boards meet regularly on a monthly basis, the response time would work out to be 45 to 75 days. Additional time may be consented to by the inquirer.

The bill is retroactive to any written inquiry previously submitted to a board. However, the time limits for such inquiry would be calculated from the effective date of the act.

The bill does not explicitly provide for any consequences to occur with respect to any subsequent application for zoning approval by the inquirer, in the event the zoning board fails to respond in the required time.

The Senate committee believes that the time provided under the bill is adequate for the zoning board to respond to such an inquiry. Interpretations of the "Municipal Land Use Law" which allow the board 120 days, the same time allowed for complicated site plan and major subdivision approvals, to respond to an inquiry are unreasonable and unfair to the developer who makes a good faith effort to secure information prior to building or submitting an application.