

2003 SENATE BILL 237

August 27, 2003 – Introduced by Senators S. FITZGERALD, M. MEYER, BROWN and ZIEN, cosponsored by Representatives McCORMICK, MUSSER, MONTGOMERY, RHOADES, HINES, GUNDERSON, SERATTI, BIES, VAN ROY, ALBERS, FRISKE and KRAWCZYK. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

1 **AN ACT** *to renumber and amend* 59.69 (2) (bm); and *to create* 59.69 (2) (bm)
2 1., 59.69 (2) (bm) 2. and 62.23 (7) (gm) of the statutes; **relating to:** limiting the
3 reasons for which a local government may withhold approval of a conditional
4 use permit.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town that is authorized to exercise village powers (municipality), or county is authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards and other open spaces; the density of population; and the location and use of buildings, structures, and land for various purposes.

Also under current law a municipality or county, or a body that handles zoning issues such as a city plan commission, board of appeals, or county zoning agency (zoning entity), may issue a conditional use permit. Such a permit authorizes a property owner to put the property to a use that is expressly permitted by a zoning ordinance as long as certain conditions are met.

Under this bill, no zoning entity may withhold approval of a conditional use permit for a reason that is not directly related to the requested conditional use permit, nor condition approval of such a permit on the property owner taking, or not taking, some action with respect to an existing use of the property, that is not directly related to the permit.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.69 (2) (bm) of the statutes is renumbered 59.69 (2) (bm) (intro.)
2 and amended to read:

3 59.69 (2) (bm) (intro.) The head of the county zoning agency appointed under
4 sub. (10) (b) 2. shall have the administrative powers and duties specified for the
5 county zoning agency under this section, and the county zoning agency shall be only
6 a policy-making body determining the broad outlines and principles governing such
7 administrative powers and duties and shall be a quasi-judicial body with
8 decision-making power that includes but is not limited to conditional use, planned
9 unit development, and rezoning. The building inspector shall enforce all laws,
10 ordinances, rules, and regulations under this section. The county zoning agency may
11 not do any of the following:

12 **SECTION 2.** 59.69 (2) (bm) 1. of the statutes is created to read:

13 59.69 (2) (bm) 1. Withhold approval of a conditional use permit under this
14 section based on a reason that is not directly related to the requested conditional use
15 permit.

16 **SECTION 3.** 59.69 (2) (bm) 2. of the statutes is created to read:

17 59.69 (2) (bm) 2. Condition the approval of a conditional use permit under this
18 section on the property owner taking some action or refraining from some action with
19 respect to an existing use of the property, or any improvements to the property, that
20 are not directly related to the requested conditional use permit.

21 **SECTION 4.** 62.23 (7) (gm) of the statutes is created to read:

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1 62.23 (7) (gm) *Conditional use permits*. Neither the city council, nor the city
2 plan commission, nor the city plan committee of the city council, nor the board of
3 appeals may do any of the following:

4 1. Withhold approval of a conditional use permit under this subsection based
5 on a reason that is not directly related to the requested conditional use permit.

6 2. Condition the approval of a conditional use permit under this subsection on
7 the property owner taking some action or refraining from some action with respect
8 to an existing use of the property, or any improvements to the property, that are not
9 directly related to the requested conditional use permit.

10 **SECTION 5. Initial applicability.**

11 (1) This act first applies to an application for a conditional use permit that is
12 filed on the effective date of this subsection.

13

(END)