

**RESOLUTION**

**TOWNSHIP OF SOUTH ORANGE VILLAGE**

**ZONING BOARD OF ADJUSTMENT**

**WHEREAS** bills have been introduced in the New Jersey Senate (S1534) and New Jersey Assembly (A2586) with the stated purpose of “equalizing the standing of private and public colleges before land use agencies;” and

**WHEREAS** these bills would exempt private colleges from the regulatory framework for non-governmental land use applicants as set forth in the Municipal Land Use Law at N.J.S. 40:55D-1, et seq.; and

**WHEREAS** the Zoning Board of Adjustment of the Township of South Orange Village (the “Zoning Board”) has studied this proposed legislation and deliberated thereon;

**IT IS HEREBY RESOLVED:**

1. The Zoning Board of the Township of South Orange Village strongly opposes this legislation on the grounds that it is contrary to the policies and goals of the Municipal Land Use Law as well as the ordinances and planning documents of South Orange Village.

2. The Municipal Land Use Law requires private land owners to seek and obtain approvals from the local land use board before developing land except in instances of single or two-family housing. This requirement is intended to provide for the orderly development of land in accordance with the planning goals and ordinances adopted by the municipality where the land is situated.

3. By exempting private colleges from the application/approval process the proposed legislation would create a separate class of privileged landowners whose interests are distinct and inconsistent with the public interest when it comes to land use decision-making.

4. Private colleges already enjoy the enhanced status of being deemed “inherently beneficial.” (See Hughes v. Monmouth University, 394 N.J. Super, 207, 228 (Law Div. 2006) aff’d., 394 N.J. Super. 193 (App. Div. 2007), cert. denied, 192 N.J. 599 (2007) This elevated status reduces their burden of proof when they seek use variances.

5. The Zoning Board recognizes that Seton Hall University is a valuable member of the South Orange community, and that it contributes to the educational, economic, social, religious and athletic stature of our town. The Zoning Board also recognizes, however, that Seton Hall may not always agree with The Zoning Board's interpretation of the Village Master Plan and ordinances. This has been made clear in the University's recent attempts to have overturned a Zoning Board decision denying the University’s application to convert a home in a small residential neighborhood into an office building for faculty and admissions. Seton Hall

appealed this case, unsuccessfully, all the way to the New Jersey Supreme Court. Were these bills to become law, any "advisory" position taken by the Village could easily be ignored by the University. If land use planning is to reach its desired goals, the Master Plan and ordinances of a municipality must be applied equally to all private landowners, must be interpreted by the appropriate land use bodies, and must not be interpreted by an entity whose primary goal is meeting its own self-interest.

6. Seton Hall is situated primarily within a University zoning district, affording Seton Hall extensive latitude to add to or expand uses within that district for any University purpose. A danger of the proposed legislation is that it would allow private universities to expand outside of such special use districts, and beyond their main campus boundaries, to satisfy their expansion and/or relocation goals. Without the binding review provided by municipal planning and zoning boards, these expansions could have a negative impact on the community within which a university resides.

7. The effect of this legislation is not limited to those few New Jersey municipalities with private universities currently operating within the municipality. A municipality without a university would also be at risk as a university no longer would have to consider how its entry would fit within local ordinances, or accord with a Master Plan.

8. This legislation will encourage other private, non-profit entities to seek a similar exemption from local zoning jurisdiction, creating even more disruption to the orderly development of land.

9. For all these reasons we urge the defeat of this ill-advised legislation.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Chairman on the 16 day of July, 2012.

  
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Donald Reeves, Chairman