

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4881

STATE OF NEW JERSEY

DATED: JANUARY 25, 2021

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 4881.

This bill would prohibit the appeal of a municipal land use decision on the basis of a deviation from some requirement of law because a meeting was held by virtual or remote means during a declared emergency.

The “Municipal Land Use Law” (MLUL), P.L.1975, c.291 (C.40:55D-1 et seq.), requires municipal agencies (planning boards, boards of adjustment, and municipal governing bodies) to meet, consider, and take action on applications for development within specific time constraints. However, the State’s coronavirus-related emergency declarations have imposed social distancing restrictions that limit or prohibit in-person public meetings. To comply with these requirements and restrictions, municipal agencies may have to transition to virtual meeting. This bill would encourage municipal agencies to operate under the MLUL by virtual means during a declared emergency and assure developers that a land use approval will not be overturned on appeal because an application for development was considered at a virtual meeting.

Under the bill, a decision of a municipal agency under the MLUL that is based, in whole or in part, on a virtual meeting, could not be appealed on grounds attributable to convening the meeting by virtual means. These grounds would include, but not be limited to, the lack of a physical quorum, lack of proper notice, or lack of a reasonable opportunity to be heard, provided that reasonable public notice and provision for public input were made under the circumstances. This bill is consistent with two recent enactments, section 1 of P.L.2020, c.11 (C.10:4-9.3), and section 8 of P.L.2020, c.34 (C.52:27D-18.11), neither of which specifically reference the MLUL or decisions made thereunder. The bill also requires a municipal agency to hold a virtual meeting consistent with guidance documents issued by the Division of Local Government Services (DLGS) in the Department of Community Affairs and published on the DLGS website on or before the date of the meeting.