

# Senate Commerce Committee

*Aaron Jones 271-2609*

**SB 84-FN**, relative to zoning procedures concerning residential housing.

**Hearing Date:** January 28, 2025

**Time Opened:** 10:19 a.m.

**Time Closed:** 11:02 a.m.

**Members of the Committee Present:** Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

**Members of the Committee Absent :** None

**Bill Analysis:** This bill sets maximum lot sizes for single-family residential uses based on the type of infrastructure servicing the lot.

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**Sponsors:**

Sen. Murphy

Sen. Innis

Sen. McGough

Rep. Alexander Jr.

Rep. Osborne

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**Who supports the bill:** Senator Keith Murphy, Senator Tim McGough, Chris Norwood (NH Realtors), Rob Dapice (NH Housing), Matt Mayberry (NH Home Builders), Nick Taylor (Housing Action NH), Chris Evans, Dawn McKinney (NH Legal Assistance), Greg Moore (AFP), Curtis Howland, Lori Borrin, Cynthia Whitaker, Curtis Register

**Who opposes the bill:** Brodie Deshaies (NHMA), Daniel Richardson, Gloria Norcross, Scott Burns, Simon Berrio, Bonnie Bruno, Peg Sheets, Audrey Cline, Ray Chadwick, Diane Baringer, Judith Ackerson, Diane Richardson, Jane Aitken, Diane Neumann, Kelly Mullin, Marie Panciocco, L. Montesanto, Rick Hiland, Pat MacMonagle, JoAnn McClellan

**Who is neutral on the bill:** Jim Michaud

**Summary of testimony presented in support:**

***Senator Keith Murphy***

- New Hampshire has the 9th highest median home prices at over \$500,000. These prices are 26 percent higher than Vermont and 21 percent higher than Maine.
- Prices have been set by supply and demand.
- Over the past 5 years, the median single-family home price has risen 69 percent in Merrimack, 64 percent in Hillsborough, 90 percent in Sullivan, and 77 percent in Grafton.

- Senator Murphy said they have heard from employers who have said they cannot find workers. They also have heard from employees who cannot find housing in their price range.
- Due to the high cost of housing, out-of-state businesses have passed over New Hampshire.
  - For example, Smith and Wesson announced their relocation from Springfield, Massachusetts to Tennessee. In their press release, they cited cost of living, affordability, and the availability of qualified labor.
- New Hampshire has the second highest median age in the nation partly caused by a lack of starter homes for young families.
- Senator Murphy said local budgets and property taxes have continued to rise despite building permits having dried up.
- Higher home costs mean higher rents, an increase in homelessness, and less disposable income.
- This situation has developed because the state and towns have discouraged new housing construction whether intentionally or incidentally.
- Permits required for altering terrain or obtaining driveway access can be complicated, tedious, and redundant. In some cases, they can take years to obtain.
- While a lack of urgency from agencies was part of the problem, Senator Murphy said it paled in comparison to the outright obstruction imposed by town planning offices and boards.
- Every inspection, hearing, permit, redraft, appeal, and impact fee must be recouped through the sale of a property. As costs add up, projects may no longer work out or a million-dollar home will be built.
- Initially, lot size minimums were used to ensure lot soils had the ability to absorb effluence and produce enough clean well water. Minimums, however, are the single biggest tool to force developers to build mansions.
- If a builder could build on a half-acre, then 6 homes could be built on a 3-acre lot. These homes would be smaller, yet more cost effective.
- With a 3-acre lot minimum, only one home can be built, and it has to be big and expensive for a profit to be made.
- Local planning officials are elected, and Senator Murphy said they often have limited experience in building or planning.
- Senator Murphy has heard the sentiment that others should be denied the opportunity to own property in their own communities.
- Higher density homes are better for the environment as more space is left undeveloped.
- Senator Murphy said healthy communities have room for all classes and professionals.
- This bill would establish a maximum minimum lot size requirement of 1.5 acres to allow for great density as well as help drive down costs.
- Specifically, this bill would set lot size requirements at 1.5 acres for those who are not served by public water or sewer. For those served by public water, it would be set at 1 acre. For those served by public water and sewer, it would be set at a maximum of .5 acres.

- Buyers could purchase or maintain lots of any size, and builders could better fit homes in appropriately sized lots.

***Chris Norwood, 2025 Vice Chair of the Public Policy Committee, New Hampshire Realtors Association***

- Since the 1980s, 2-acre zoning has been common throughout the state. At that time, it was related to the technology required to put in a septic, leach field, and long driveway.
- Mr. Norwood said the 2-acre zoning concept has leached into areas where there is municipal water and sewer infrastructure that has the ability for excess capacity and density.
- This bill would update zoning ordinances, and it would maintain the goal of RSA 674:16, which grants municipalities power over the health, safety, and general welfare of the community. The New Hampshire Supreme Court has broadly defined community to include neighboring towns.

***Rob Dapice, Executive Director, New Hampshire Housing***

- While this bill would not have an impact on their projects, Mr. Dapice said it was an important piece of the puzzle.
- The state needed to lower barriers to enable the market to respond to the need.
- Outdated sprawl and dimensional requirements along with unpredictable regulatory and permitting processes have taken away builders' freedom to provide consumers with a choice.
- Municipalities could set aside up to half of their land in residential zones for larger lot sizes, but land in medium or high density residential zones could have limits on how large a lot is required to be.
- Mr. Dapice said it would not be onerous for planning boards to change or update dimensional requirements.

***Matt Mayberry, CEO, New Hampshire Home Builders Association***

- Mr. Mayberry said he did not understand why there was a fiscal note. When he served on the Dover Planning Board, they rezoned the entire city at no cost.
- Towns have already determined residential, industrial, commercial, and retail zones.
- This bill would not waive requirements from the Department of Environmental Services (DES), and builders would need the proper soil to support septic systems.
- In 2023, Keene reduced lot sizes from 5 acres to 2 acres in their low density rural district. Mr. Mayberry said the sky did not fall with these changes.
- In New Hampshire, the current median lot size is over 1 acre.

***Nick Taylor, Director, Housing Action NH***

- Starter homes and homes for downsizing have been regulated out of existence through policy decisions.

- According to the New Hampshire Zoning Atlas, only 15 percent of buildable land allows for smaller single-family homes under an acre.
- Mr. Taylor said this bill took into consideration health and safety protections as well as infrastructure and wastewater capacity.
- Studies from NH Housing and the NH Association of Realtors have debunked the school myth.
- In areas where there is no water or sewer, Mr. Taylor said almost a majority of the land would be untouched. This would allow the rural character of the state to continue to exist.
- In Section 5, Mr. Taylor encouraged the Committee to think about whether additional language was needed to take into consideration cases where dimensional regulations would result in an unbuildable lot.

### *Chris Evans*

- Mr. Evans said DES already monitors wells and septic systems across the state.
- Mr. Evans said soil-based and engineered designs should be used, not abstract town lot sizes.
- Some municipalities have arbitrary standards, such as large setbacks for septic systems or larger well radiuses.
- In his town, Mr. Evans said a 50-foot perimeter is required around a lot, which results in almost two acres of land being discarded.
- For many towns, their zoning documents are over 100 pages. These documents do not include subdivision and site plan regulations.
- There is no standardization among municipalities and their ordinances. Often, Mr. Evans said the problem has been the interpretative nature of ordinances.
- DES has provisions for slopes and wetlands. If a plot of land is all ledge, a septic must be above it.
- There has been \$12 million in new properties built in his town, which has caused property taxes to decrease by 4.6 percent.
- If this bill were enacted, it would take a minimum of a year before zoning is changed at the municipal level.
- Mr. Evans said road frontage has become a problem. In Manchester, the cost per foot in a subdivision was \$1,433. As a result, an extra \$200,000 for infrastructure has been added without considering the cost of the land.
- There needed to be higher density and more supply to create affordable housing.
- Mr. Evans suggested the bill needed setback requirements because 250 or 300 feet of frontage could be added at a cost of \$1,000 to \$1,400 per foot. As a result, it would not create an affordable housing situation.
- In Section 4, Mr. Evans believed “potential for development and redevelopment” should be added. This would allow previously approved subdivisions to be redone.
- Mr. Evans said an appeal process, similar to the workforce housing process, should be provided where an applicant could appeal the decisions of a town if they are arbitrary or interpretative. The burden of proof would be on a town to demonstrate the zoning regulation was backed by certain facts.

## Summary of testimony presented in opposition:

### *Brodie Deshaies, Legislative Advocate, New Hampshire Municipal Association*

- The Association was opposed to the state mandating minimum lot sizes.
- In Section 5, it stated “Nothing in this section shall override or supersede applicable municipal zoning regulations unrelated to minimum lot sizes.” There are circumstances, however, where communities need to consider dimension variables, such as slopes, wetlands, and unsuitable soils on land that cannot be developed.
- Some municipalities have larger lot sizes due to their soil type or terrain. By superseding their rights, Mr. Deshaies said it could create health, welfare, or environmental issues.
- Municipal water and sewer systems have an interest in controlling their costs and how fast development occurs because costs are passed onto ratepayers.
- A lot of development in a short timeframe could stress existing infrastructure or require its expansion. As a result, Mr. Deshaies said this bill would be an unfunded mandate.
- This bill would take away local control and the ability of voters to approve lot sizes.
- Municipalities, such as Farmington and Portsmouth, have already accessed state funding to grow their infrastructure and capacity.
- Mr. Deshaies said a one-size-fits-all mandates would not create the intended consequence of more housing because housing cannot be built without infrastructure.
- **Senator Innis** asked if additional property tax revenues would offset the increased expenses created by new housing.
  - **Mr. Deshaies** stated that it depended on who moved into the home. If a family had 2 children, then the average cost of educating each child would be \$20,000. One-time impact fees can be assessed, but those usually go to education instead of infrastructure. While each case could be different, municipalities have seen an increase in costs.

## Neutral Information Presented:

### *Jim Michaud, Town Assessor, Town of Hudson*

- Under RSA 75:8, II(c), assessing officials must consider zoning changes when they are valuing property, even if lot sizes are lowered.
- On April 1, 2026, it is possible there would be an increase in the potential value of an individual’s land that they did not have in 2025. Consequently, this could result in extra taxes.
- Mr. Michaud said this bill could impact an elderly or disabled property owner’s future tax exemption.
- Mr. Michaud asked if the bill could be amended to include property owners who are not serviced by public water or sewer, yet they are required to pay a betterment assessment.

- This bill did not include affordable or workforce housing nor did it include means testing to prevent mansions from being built on small quarter acre lots.

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Date Hearing Report completed: February 7, 2025