

Senate Energy and Natural Resources Committee

Max Taylor 271-1403

SB 231, relative to road frontage requirements and setbacks for wetlands.

Hearing Date: March 4, 2025

Time Opened: 9:00 a.m.

Time Closed: 9:36 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This bill adopts limits on road frontage requirements and setbacks for wetlands and lot lines to improve housing density, ensuring these requirements do not exceed 50 feet and are consistent with existing shoreland protection and environmental standards.

Sponsors:

Sen. Murphy
Rep. Osborne

Sen. Innis
Rep. Alexander Jr.

Sen. Pearl

Who supports the bill: Senator Keith Murphy (District 16), Sara Holland (NH Realtors)

Who opposes the bill: Brodie Deshaies (New Hampshire Municipal Association), Barbara Richter (New Hampshire Association of Conservation Commissions), Meredith Hatfield (The Nature Conservancy), Matt Leahy (Forest Society)

Who is neutral on the bill: None.

Summary of testimony presented in support:

Senator Keith Murphy

Prime Sponsor, Senate District 16

- Senator Murphy introduced SB 231, explaining that it would set a maximum setback requirement of 50 feet for lot lines and road frontage.
- He stated that the bill addresses zoning abuses that have contributed to New Hampshire's housing shortage. He argued that excessive setback requirements have been used to restrict development rather than for health and safety.

- Senator Murphy referenced Lyme, NH, where the setback requirement is 150 feet. Thus, builders need over 8 acres for a single-family home which Senator Murphy described as unreasonable.
- Senator Murphy clarified the bill does not override local or state environmental protections. He emphasized the bill only seeks reasonable limits to zoning rules.
- Senator Pearl asked if SB 231 would limit just setbacks or both setbacks and road frontage requirements.
 - Senator Murphy stated the bill would limit both setbacks and road frontage requirements, preventing municipalities from requiring more than 50 feet for either.
- Senator Pearl asked whether the bill would override existing zoning rules, such as Loudon's agricultural district, which currently requires 400 feet of road frontage.
 - Senator Murphy responded the bill would override those rules but indicated he would be open to amending the bill to focus solely on setbacks if the committee preferred.
 - Senator Murphy referenced an example from a constituent in Hooksett, NH, with a large property. The constituent was limited to one house due to insufficient road frontage. Senator Murphy emphasized this example highlights how zoning restrictions have been a barrier to housing.
- Senator Watters asked how the bill would interact with existing storm protection standards, specifically questioning whether the bill limits setbacks to a maximum of 50 feet, or if additional setbacks based on environmental needs could still apply.
 - Senator Murphy clarified that the intention of the bill is not to override local or state environmental protections, but to ensure setback requirements remain reasonable.
 - Senator Murphy confirmed that municipalities could still require additional setbacks beyond the initial 50-foot reference line when necessary for environmental protection.
- Senator Rosenwald asked how many towns would be affected by the setback portion of the bill.
 - Senator Murphy estimated about five or six towns, acknowledging more could be impacted by the frontage requirements.
- Senator Rosenwald asked how the 50-foot limit was chosen.
 - Senator Murphy explained it was based on common zoning practices in New Hampshire towns. He noted most towns already use setbacks of 50 feet or less.

- Senator Rosenwald asked how the bill could affect emergency vehicle access to “keyhole lots” in densely developed areas, such as Nashua, where narrow driveways could make it difficult for firetrucks to reach homes.
 - Senator Murphy responded that the bill would not impact densely developed districts since these areas already have road frontage and setback requirements much smaller than the 50-foot limit proposed by the bill.
- Senator McConkey stated his support for the road frontage requirement, emphasizing practices in New Hampshire towns. Additionally, he noted most towns already use setbacks of 50 feet or less.

Sarah Holland

New Hampshire Association of Realtors

- Ms. Holland stated the New Hampshire Association of Realtors supports SB 231, as they believe the bill is a tool for increasing housing opportunities by limiting excessive lot size and setback requirements imposed by municipalities.
- Ms. Holland explained many local zoning regulations restrict housing development by requiring large lot sizes, increased setbacks, and frontage requirements, which make land less affordable and limit buildable space.
- She stated the bill would allow nonconforming lots that previously met local requirements to be developed under modern standards rather than being rendered unusable.
- The association acknowledges the bill covers two separate issues: wetlands setbacks and road frontage requirements, but believes both changes would help alleviate New Hampshire’s housing shortage.
- Ms. Holland clarified that the bill does not override the Shoreland Water Quality Protection Act, meaning shorelines with existing buffer zones would still be protected.
- She addressed the concerns raised about firetruck and emergency vehicle access, stating that driveways are typically 20 feet wide, and since most roads are 50 feet wide, emergency access should not be an issue.
- Senator Watters asked if the bill’s language creates contradictions between the 50-foot setback limit and existing environmental regulations.
 - Ms. Holland acknowledged that the language may need clarification but stated shorelines and wetlands have distinct protections that remain in place.
- Senator Waters asked if an exception for agricultural districts could be added to avoid unintended consequences.
 - Ms. Holland stated she would need to consult with her group before offering an opinion.

- Senator Rosenwald asked if the bill limits land use to housing rather than allowing for commercial or manufacturing development.
 - Ms. Holland explained that zoning regulations determine land use, and the bill only reduces minimum frontage and setback requirements for lots designated for development.

Summary of testimony presented in opposition:

Brodie Deshaies

New Hampshire Municipal Association

- Mr. Deshaies stated the New Hampshire municipal association opposes SB 231, particularly the proposed statewide zoning mandate, capping road frontage and setback requirements at 50 feet.
- He stated these changes would negatively impact zoning practices across New Hampshire.
- Mr. Deshaies explained the bill could eliminate important municipal zoning protections, particularly in shoreline and agricultural districts, where larger setbacks are necessary for environmental and land-use planning.
- Mr. Deshaies stated the legislation could conflict with existing state statutes RSA 43-B:3 II and RSA 43-B:82, which prioritize stricter local zoning and environmental regulations.
- He stated that allowing large lots with long, narrow driveways could create accessibility issues for emergency vehicles and increase runoff, negatively impacting wetlands and neighboring properties.
- Senator McConkey questioned the concerns regarding firetruck accessibility, asking how a 50-foot-wide lot differs from a larger lot in terms of emergency access.
 - Mr. Deshaies stated that the issue is the length of the driveways, not the width. He explained that long, narrow driveways make it harder for firetrucks and emergency responders to reach homes, increasing safety risks.
- Senator Pearl asked how many municipalities would be affected by the bill.
 - Mr. Deshaies stated that nearly all towns with zoning regulations would be impacted, as most require more than 50 feet of road frontage.
 - Mr. Deshaies noted that similar zoning changes proposed in other bills this session could effectively eliminate agricultural zoning in the state.

Barbara Richter

New Hampshire Association of Conservation Commissions

- Ms. Richter stated SB 231 would limit municipalities’ ability to enforce wetland and shoreline setback protections, which are crucial for flood control, water quality, and wildlife habitat.
- Ms. Richter stated more than 150 towns in New Hampshire currently have local wetland or shoreline buffer regulations, with setbacks ranging from 25 to 150 feet.
- She emphasized that local decisions should remain under municipal control and should not be restricted by a statewide mandate.
- She stated the bill’s language is unclear and may contradict existing state laws that allow municipalities to enforce stricter environmental protections.
- Ms. Richter highlighted there is no evidence that limiting wetland and shoreline protections would improve housing affordability. Additionally, she stated that towns developed before these regulations often have the highest housing costs.
- She emphasized restricting local setbacks could increase infrastructure costs due to worsening flood risks, leading to a greater tax burden for residents.
- Senator Rosenwald asked if removing the wetland setback limitations from the bill would address NHACC’s concerns.
 - Ms. Richter responded that while it would help, the NHACC believes municipalities should retain full control over all setback decisions, including road frontage.
- Senator Watters asked if the bill’s language conflicts with existing shoreline protection laws.
 - Ms. Richter stated that the bill is unclear. While it references existing shoreline protections, it also appears to impose a strict 50-foot cap on setbacks, while another says that it must be consistent with existing shoreline protections.
 - She noted that shoreline protection laws only apply to certain large water bodies, meaning many wetlands and smaller streams would lose local protections under SB 231.
- Senator Watters asked if Ms. Richter would agree that the bill’s wording appears contradictory, referencing one section that sets a 50-foot cap on setbacks, while another states that it must be consistent with existing shoreline protections.
 - Ms. Richter agreed that the language creates confusion and that some waterways may not be covered under existing state regulations, further complicating municipal enforcement.

Meredith Hatfield
The Nature Conservancy

- Ms. Hatfield stated The Nature Conservancy does not take a position on the issue of road frontage or lot line requirements but is concerned about the bill's potential impact on agricultural zoning.
- Ms. Hatfield emphasized their concern with the limitation on wetland setbacks, stating that municipalities should retain the ability to require setbacks greater than 50 feet when necessary.
- Ms. Hatfield explained that wetlands provide critical environmental benefits, including flood control, water quality protection, and wildlife habitat.
- Ms. Hatfield stated the bill's language is confusing and contradictory, as one section sets a 50-foot maximum for setbacks while another references compliance with existing environmental protections under state law.
- She stated The Nature Conservancy agrees with the New Hampshire Association of Conservation Commissions that protecting wetlands is essential for long-term environmental and infrastructure stability.

Neutral Information Presented: None.

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Date Hearing Report completed: March 7, 2025