

Senate Commerce Committee

Aaron Jones 271-2609

SB 281, prohibiting municipalities from denying building or occupancy permits for property adjacent to class VI roads under certain circumstances.

Hearing Date: March 4, 2025

Time Opened: 10:54 a.m.

Time Closed: 11:10 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 changes the requirements that allow a building to be constructed on a lot adjacent to a class VI roadway.

Sponsors:

Sen. Murphy

Sen. Innis

Sen. Pearl

Sen. Perkins Kwoka

Rep. Osborne

Rep. Alexander Jr.

Who supports the bill: Senator Keith Murphy, Senator Mark McConkey, Natch Greyes (BIA), Paul Alfano, Krista Chamberlain, Curtis Howland, James Gardner, Timothy Finney, Bill Alleman

Who opposes the bill: Brodie Deshaies (NHMA), Daniel Richardson, Karen Santoro, Bruce Woodruff, Peter Coffin, Roger Murray

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Keith Murphy

- As a town planner, Senator Murphy had an individual who wanted to build on land they had previously purchased; however, it was located on a Class VI road, and the town refused to approve the permit. If there were a fire hazard, the town believed the road would not be easily traversable.
- Some communities allow individuals to build on Class VI roads if they have a waiver of liability on the deed.
- If someone owns their property, and they have acknowledged that their roads might not support fire and rescue vehicles, then this bill would allow them to build on a Class VI road.
- Senator Murphy said this bill would open up a lot of land for housing.

Paul Alfano

- To get a building permit on a Class VI road or private road, an individual must comply with RSA 674:41.
- Typically, an individual cannot get a building permit unless they are on a Class V road, or the road is shown on a plan approved by a planning board. There are other exceptions, but Mr. Alfano said they are rare.
- This bill would not apply to new developments because their plans must be approved by a planning board. Instead, this bill would apply to one-off cases, such as an individual who wants a building permit to build on 40 acres of land on a Class VI road.
- If an individual is on a Class VI road, they cannot get a building permit without the approval of the board of selectmen with input from the planning board. Mr. Alfano said there is no criteria for the selectmen to apply, so some towns do not approve any building permits.
- Often, towns will have rules that a road cannot be longer than 400 feet or no more than 600 feet. Mr. Alfano said this was arbitrary because there are some roads that are 750 feet, yet they are in better condition than the shorter roads.
- When a board allows a building permit, typically a statement is required that acknowledges that the town is not obligated to maintain the road and they are not liable for damages. Mr. Alfano said his clients are fine with signing the waiver and recording it, then the towns ask them to maintain the road. If they say no, they will not receive their building permit.
- Mr. Alfano said he had a client who was given a building permit, but they did not agree to improve or contribute to improving the road. Subsequently, the town gave a building permit to someone further down the road, and that person was required to make improvements.
- Mr. Alfano said this problem could be addressed in two ways. First, criteria could be set forth on what a selectboard would have to apply. Second, the involvement of the selectboard could be removed and the required acknowledgments could be “beefed up.”
- Mr. Alfano said one of the most common reasons impacting the decisions made by boards is whether an emergency vehicle can get to a house.

Summary of testimony presented in opposition:

Brodie Deshaies, New Hampshire Municipal Association

- This bill would make significant statutory changes, so it would be important for municipalities to amend their zoning ordinances before it goes into effect. To make this bill more workable, Mr. Deshaies asked the Committee to move the effective date to July 1, 2026.
- Under RSA 674:41, a structure can be built on a lot where the only access to the lot is through a Class VI road if the governing body has approved the construction and it has been reviewed by the planning board; if the municipality does not assume responsibility, maintenance, liability, or damages; and if the

property owner has reported the limits of municipal liability to the registry of deeds.

- This bill would remove the requirement that a governing body must approve construction and it must go through planning board review, but it would leave intact the other requirements with slightly different language.
- Mr. Deshaies said restricting construction on Class VI roads was important because the original builder would know that the municipality is not in charge of maintaining the road, yet subsequent purchasers would not be aware.
- Mr. Deshaies said requiring the builder to receive governing body approval before construction provided oversight by ensuring houses are not built in unsuitable places, then sold or rented to unsuspecting buyers.
- Towns do not have these requirements in their zoning ordinances since they exist in state statute.
- If this bill were enacted, Mr. Deshaies said many municipalities would update their zoning ordinances to limit the number of residential units in specific zoning districts, which would create development issues.
- RSA 674:41 does not apply only to housing; it applies to all structures including strip malls or large industrial parks.
- Mr. Deshaies asked the Committee to vote Inexpedient to Legislate on this bill.
- **Senator Innis** said no one would put a strip mall on a Class VI road.
 - **Mr. Deshaies** said they could.

Neutral Information Presented: None