

Senate Commerce Committee

Aaron Jones 271-2609

HB 296, relative to issuing building permits along private roads.

Hearing Date: April 15, 2025

Time Opened: 9:32 a.m.

Time Closed: 9:53 p.m.

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

Members of the Committee Absent : None

Bill Analysis: This bill adds an alternative condition and provides another pathway to authorization for local governing bodies to erect buildings along private roads and adds additional requirements for subdivisions creating new lots.

Sponsors:

Rep. Ladd

Who supports the bill: Representative Dillon Dumont, Curtis Howland, James Gardner, Haley Demers, Sayre Moskwa, Anne Marie Skinner, Stephen Macleod, Aubrey Freedman

Who opposes the bill: Representative Tom Schamberg, Dawn Merryman, Patricia Bridgeo, Brodie Deshaies (NHMA), Margaret Byrnes (NHMA), Sarahlynn Williams, Sarah McCarthy, Hannah Smith-Catanese, Todd Selig (Town of Durham), Timothy Cook, Jo Beth Dudley (Dalton Select Board), Helen Lloyd-Davies, Maura Annette Chappelle

Who is neutral on the bill: Sharon Monahan

Summary of testimony presented in support:

Representative Dillon Dumont, on behalf of Representative Rick Ladd

- This bill would allow property owners to build along private or Class VI roads thereby empowering and enhancing their property rights.
- This bill was similar to SB 281, which passed the Senate.

Summary of testimony presented in opposition:

Dawn Merryman

- In her town, Class VI roads have led to situations where they have become responsible for taking care of large infrastructure.
- If a property is built on a Class VI road, and it washes out, Ms. Merryman said they are not going to leave individuals there.
- Existing laws protect the individuals building on the road as well as the taxpayers who bear the burden of helping.
- Ms. Merryman asked the Committee to allow local boards to do what they do because they know their own towns.
- **Senator Fenton** asked what a Class VI road was, and if there were buildings on these roads that were not maintained by municipalities.
 - **Ms. Merryman** said they are not maintained by municipalities. In some cases, they can be built on. In Nottingham, they are over their budget due to a large number of Class VI roads that are being taken care of. There are individuals who have lake houses, but they are being built on roads that were never meant for it.
- **Senator Fenton** asked if there was water and sewer on Class VI roads.
 - **Ms. Merryman** said not always, but there are a lot that do have water.
- **Senator Murphy** asked if Raymond required a builder or an owner to sign an acknowledgement or waiver that they would not get any services.
 - **Ms. Merryman** said the town has gone to court, and it has cost the taxpayers an exorbitant amount. The more these roads are opened up, the more this will be seen. After thousands of dollars being spent, they reached an agreement through a court order. She said she could not speak for another town, and the issues they might have in their area. In their own, they were dealing with beaver dams and culverts.
- **Senator McGough** asked for examples when a property owner should not be able to build on their own property that is on a Class VI road.
 - **Ms. Merryman** said she did not sit on the planning board, but she believed rights extended as long as they did not impact others. If an individual purchased a property that they could not get to on a road that did not exist, it was not the town's responsibility to ensure they could get there. This should be left to local boards who know their town layouts and what their infrastructure can handle.

Patricia Bridgeo

- Ms. Bridgeo said this bill was among a list of “Frankenstein” bills that combined redundant information.
- Ms. Bridgeo said there have been instances with private roads that have cost their town and a neighboring one hundreds of thousands of dollars.
- Private roads, Class VI roads, and coach roads, which are in deeds, have caused them to be in court. They have a manual, *The Road Less Traveled*, which is dedicated to these circumstances.

- Ms. Bridgeo said they needed to slow down, and they needed to look at the data, which showed that the state had met its housing needs.
- This bill would bankrupt some towns. Ms. Bridgeo asked if the state would provide aid to towns when a \$700,000 culvert has washed out, or when a private road becomes part of the town’s obligation to plow, maintain, or repair.
- **Senator Ricciardi** said the biggest complaint she has heard is the burden on taxpayers. She doubted the state would step in, so she asked if she would agree that it raised taxes on residents.
 - **Ms. Bridgeo** said she could not speak for the state, but that is why they have local planning boards and zoning boards of adjustment. For their town and a neighboring one, they have seen astronomical costs because there is a road used between them. There has been infighting between the towns on who is responsible for a road that should have been maintained by three individuals, but they cannot be abandoned for health and safety reasons.
- **Senator Ricciardi** said this year there have been a lot of bills. She asked why it was happening.
 - **Ms. Bridgeo** said affordable housing, workforce housing, and low-income housing were dog whistle words. Based on data compiled by the Department of Business and Economic Affairs, they have met the metrics for housing. This is being driven by developers who are being incentivized in every form, such as removing legislation, tax abatements, or future tax breaks. She said there is no housing problem; instead, the state could not keep up with building. There are 1.4 million individuals in New Hampshire, and there are over 685,000 homes, which is equal to 2.1 individuals per home. Individuals will lose their ability to look at each circumstance and control their own destiny. They will do a better job at the local level than the state.

Brodie Deshaies, New Hampshire Municipal Association

- This bill would allow a governing body to approve construction on a private road without review and comment from the planning board, which would add flexibility to their discretion.
- Mr. Deshaies asked the Committee to fix a typo on Line 4, which should say “identified”.
- Under RSA 674:41, I, a building permit cannot be issued for Class VI roads or private unless certain conditions are met. This bill would add a new paragraph stating it “shall be issued” if a road has been built to town standards.
- Mr. Deshaies said this bill preempted the conditions in RSA 674:41, I, related to limits of municipal liability and the recording of a notice. Towns would have to issue building permits without providing notice that they would not maintain the road or be liable for any damage.

- If a road were built to town standards under the new language, they could fall apart in 5 years, yet they are not maintained by the town. This bill could cause confusion for property owners as well as create an additional cost to taxpayers.
- This bill would force construction in unsafe areas because Class VI roads were never designed for development. These roads were historic agricultural pathways for farmers and livestock.
- In the 1960s, a balance was struck to prevent premature and sporadic development, while also allowing some individuals to utilize new property as development increased.
- Mr. Deshaies said it was in the interest of municipalities to not want more roads because the infrastructure might not be adequate for individuals, emergency vehicles, or emergency services. He asked if bridges would be maintained or up to code. If an unkept road is not passable, it could lead to health, safety, and life issues.
- Mr. Deshaies said this bill was confusing because it coupled “after reviewing comment from the planning board” with “subdivisions creating new lots”. Developers would not want planning boards to be the issuer of permits.

Neutral Information Presented: None

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Date Hearing Report completed: April 21, 2025