

# Senate Commerce Committee

*Aaron Jones 271-2609*

**HB 342**, relative to the approval process for new construction.

**Hearing Date:** May 6, 2025

**Time Opened:** 10:44 a.m.

**Time Closed:** 11:01 a.m.

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

**Members of the Committee Absent :** Senators Ricciardi and Fenton

**Bill Analysis:** This bill allows property owners to build on their property without seeking a variance for minimum lot size or lot coverage if the proposed building density conforms to that of the surrounding neighborhood, as verified by the local planning board.

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**Sponsors:**

Rep. Long

Sen. Innis

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**Who supports the bill:** Representative Patrick Long, Nick Taylor (Housing Action NH), Chris Norwood (NH Realtors), Drew Cline (Josiah Bartlett Center), Vanessa Blais, Lois Cote, James Gardner, Timothy Finney, Curtis Howland, Sarah McCarthy, Grace Murray (NH Youth Movement), Bill Alleman, Jane Haigh, Aubrey Freedman, Jennifer Chisholm, Gale Bailey

**Who opposes the bill:** Brodie Deshaies (NHMA), Cindy Kudlik, Scott Burns, Sharon Monahan, June Hammond Rowan

**Who is neutral on the bill:** No one

**Summary of testimony presented in support:**

***Representative Patrick Long***

- This bill would allow property owners to build on their property in conformity with the existing level of density in their neighborhood without seeking a variance for minimum lot size or coverage requirements.
- Representative Long said he had received complaints from constituents.
  - In this specific ward, homes are built on 50 by 100-foot lots, which is 5,000 square feet.

- Several constituents purchased additional lots, so they could build a rental property or in-law apartment. Since the city increased lot requirements, they could not build on those lots. Depending on how the property was zoned, the requirement was between 6,500 and 12,500 square feet. As a result, Representative Long said they would have to build something that was incongruous with the existing neighborhood.
- This bill addressed some of the objections from last year, particularly the statewide 10,000 square foot cap on minimum lot sizes. Representative Long believed setting the cap on minimum lot sizes based on what was in the existing neighborhood allowed rural communities to maintain their character as well as address their concerns over water and sewer.
- In his neighborhood, they are mostly 5,000 square foot lots. However, the city has required a 6,500 or 7,500 square foot minimum lot square.
- This bill only exempted an individual from requirements regarding minimum lot size or coverage. Other requirements in the zoning code, such as water setbacks, would not be affected.

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

- There are communities that were built prior to zoning. Consequently, those properties are out of compliance when an individual would like to make changes or additions.
- Mr. Taylor said this was an innovative idea to look at context-based density.
- This was not a mandate; instead, a property owner could seek a variance.
- Lot coverage was more difficult to measure when getting down to the specifics of surveying properties in the surrounding area.

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

- For property owners, variances are expensive and time-consuming to obtain.
- Mr. Norwood said they supported private property rights and a commonsense alternative to seeking a variance.
- Variances require that 5 hardships are proven, including that a neighborhood would not be negatively impacted if a variance were sought. Mr. Norwood said Representative Long ensured the hardship would be met.
- If a property was within 1,000 feet of another property, and if they were all similar lot sizes, an individual should be granted the same density.
- **Senator Reardon** said one of her communities raised an issue. On Lines 9 and 10, it stated that a property owner “shall be allowed to build on their property”. She asked if they were talking about building housing units, not a small convenience store.
  - **Mr. Norwood** said he did not see a distinction in the text.
- **Senator Innis** asked Senator Reardon for an amendment to address this issue.

***Drew Cline, President, Josiah Bartlett Center for Public Policy***

- Mr. Cline said communities grew organically until the early 20th century when zoning occurred and the government began to impose arbitrary lines to stop organic growth.
- This bill would restore a measure of organic growth as well as increase the ability to develop a neighborhood in a consistent manner.
- To address Senator Reardon's concerns, Mr. Cline interpreted Lines 5 and 9 as applying to dwelling units.
- **Senator Ricciardi** asked if this bill would supersede a situation where a property has water, such as a brook, and there is a setback required by the town.
  - **Mr. Cline** said the density requirement was being changed. Other measures would likely conform or would still be applicable; however, he said the Committee should check with the prime sponsor.

**Summary of testimony presented in opposition:**

***Brodie Deshaies, New Hampshire Municipal Association***

- A neighborhood is defined as "the properties within a 1,000-foot radius of the subject property's boundary lines." Mr. Deshaies said this was arbitrary, and he was unsure what boundary would be used for determining which properties are a part of a neighborhood. Mr. Deshaies asked if properties within the radius included the entire lot or a section of it.
- In Roman 2, it stated "Notwithstanding any other provisions of law to the contrary, property owners shall be allowed to build on their property without seeking a variance for minimum lot size or percentage of lot coverage if the proposed building conforms to the density of the neighborhood, which shall be assessed based on the density of 51 percent of the properties within a 1,000-foot radius built before the effective date of this section." Mr. Deshaies said what would constitute 51 percent was not determined.
- Section 3 would require the zoning administrator of a municipality to make determinations. Neither this position nor municipal officer is defined in statute. Some municipalities have planners, while others have a planning administrator or a contract planner.
- The use of RGI software or a similar system would be required to make determinations. This software is expensive, and it would require employees or consultants with proper training to read and interpret the data.
- This bill would increase costs for planning departments, and Mr. Deshaies said landowners would be asking them to do an impossible task.
- Mr. Deshaies said this bill was administratively unworkable for a vast majority of municipalities because they are not equipped to make these determinations. Even if the definitions were cleaned up, most municipalities did not have a

software system or an employee who could make specific determinations on behalf of a landowner.

**Neutral Information Presented:** None

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Date Hearing Report completed: May 13, 2025