

Senate Election Law and Municipal Affairs Committee

Tricia Melillo 271-3077

HB 1399, allowing municipalities to permit 2 residential units in certain single-family residential zones.

Hearing Date: April 9, 2024

Members of the Committee Present: Senators Gray, Murphy, Abbas, Soucy and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill allows the expansion of a single family residence within a residential zone in an urban area to no more than 2 residential units without discretionary review or a hearing, if the proposed development meets certain requirements.

Sponsors:

Rep. McWilliams

Rep. Yokela

Rep. Read

Who supports the bill: Representative Rebecca McWilliams, Representative Hope Damon, Representative Josh Yokela, Representative Charlotte DiLorenzo, Ivy Vann, Chris Norwood, Dawn McKinney, Mikey Anair, Jordan King, Curtis Howland, Janet Lucas, Mya Hall, Jonathan Davis, Laura Sokoloski, Heidi Hamer, Geoff Hamer, Ian Jones, Jamila Peguero

Who opposes the bill: Tim Janiker, Natch Greyes (NHMA) Eric Pauer, Jane Aitken, Jim Avallon, Liz Tentarelli, Cindy Kudlik, N. House, B. House, Ken Sheffert, Paul Tudor, Terrance Reiber, Bronwyn Sims, Lori Schreier, Kristen Reynolds, Rosina Lis, Karl Maier, Loretta R Laurenitis, Mary Jean Kellerman

Who is neutral on the bill: Charles Gardner

Summary of testimony presented in support:

Representative Rebecca McWilliams

- The intent of HB 1399 is to increase the missing middle income housing.
- Years ago you were allowed to separate part of your home to create an in-law apartment.
- Zoning has become a lot stricter in New Hampshire and single family residential zones have been created.
- Some are grandfathered but depending on the municipality most single family zoning cannot be multi family.
- This legislation would allow duplexes to be created out of an existing single family home.
- Septic and wells on sites that are not serviced by municipal water or sewer was a concern but would have to be addressed before a single unit is separated into a double unit.
- Existing water and sewer may be from the town so HB 1399 was carefully crafted to allow a ten year stay on the lot needing to connect.

- This gives the municipality time to figure out how to supply the increase of water and sewer services.
- They added language that allows the municipality to apply to the state for a written finding that the housing addition would have an adverse impact upon public health and safety.
- This is an escape hatch if the municipality absolutely cannot provide the added water or sewer or if they find a negative environmental impact.
- There has been a lot of work and negotiations done on the bill because NH desperately needs more multifamily housing.

Representative Hope Damon

- Like the rest of the state her district has an acute need for housing.
- Claremont is one town where employees of Dartmouth Health and the Tech Industries in the Upper Valley seek housing.
- This bill is one way to create more affordable housing for the professional people who desperately need housing.
- This is especially true for Dartmouth Health whose biggest problem is recruiting in all departments because they cannot find affordable housing.
- It is no longer more affordable to live here than it is to live in the suburbs of New York City.
- If they want young people to stay and work in New Hampshire they have to have an affordable place to live.
- Senior citizens are another population that are struggling with staying in their homes because they cannot afford the property taxes.
- This legislation would help both of those populations.
- Senator Abbas commented that on lines 25 – 28, on the first page, it states that a municipality may require a setback of up to 3 feet from the side and asked when that would apply and when that would not apply.
 - Rep. Damon replied that she will defer that question to Mr. Frost.

Chris Norwood – NH Association of Realtors

- They believe this legislation is a property rights bill that supports homeowners who know their property best.
- He understands some of the concerns that those opposed have but believes that the language in the bill provides some guardrails for municipalities to limit where they see fit.
- In the last year the manufactured home median sale price was 150 thousand dollars compared to 450 thousand dollars for a single family home.

Representative Josh Yokela

- He supports this bill and allowing the creating of a duplex out of a single family home.
- Senator Abbas asked how the restrictions on setbacks, listed on page 1, lines 25-28, would apply.
 - Rep. Yokela explained that in the Special Committee on Housing they heard some discussion about what is required by the building code. They wanted to make sure that what was being built was not unsafe.

Ivy Vann

- It is very important to allow increased ability for people to use their property in the way they feel it is best.
- There are many big homes in New Hampshire owned by people who can hardly pay the taxes on them.
- Being able to create two units out of that big home would be a win for so many people.
- She understands people worry about their neighborhood changing but this change is virtually invisible.

Ben Frost – NH Housing

- This is in many ways analogous to the existing obligation that municipalities have to allow accessory dwelling units.
- When that law was being debated in 2016, the question was asked if accessory dwellings were just like allowing duplexes.
- An accessory dwelling is not like a duplex in that it is distinct and different structurally.
- He believes it is similar in that it is two different housing units on the same parcel of land.
- This would impose the same sort of obligation on municipalities that existing law for accessory dwellings already does.
- He does not believe this will result in enormous changes at the local level.
- On page 1, line 6, allowing things by right is an important measure.
- The setbacks would be required to be applicable on at least 50 % of all lots zoned single family.
- Senator Abbas commented that, on line 25 it says, “no setback shall be required for an existing structure,” which would remove any requirements that local zoning has and then it says you can put in the second structure provided you have the same dimensions as the immediate abutter and questioned how that would work if the lots were uniquely different.
 - Mr. Frost replied that the language in line 25 is clarifying that if you have an existing structure, you shall be allowed to convert that to a duplex because you are not changing the setback structure of that building. He continued that it is saying, even if it is otherwise non-conforming you can still convert a single family home into a duplex.
- Senator Abbas commented that his concern is that this would frustrate how they got a variance in the first place by converting it into a multifamily unit.
 - Mr. Frost replied that under current law a multifamily home is 3 or more units. This essentially may result in treating similarly situated properties differently but he believes that is the sort of measure they need to be taking to encourage greater development of housing.

Representative Rebecca McWilliams

- She believes Senator Abbas is looking for floor area ratio.
- Usually, zoning requirements for a single family dwelling allow a certain square footage to take up a certain portion of the total lot area.
- Regardless of what the setbacks are, floor area ratio still needs to be met.
- This bill is silent on floor area ratio so that still applies.

Summary of testimony presented in opposition:

Tim Jandebour

- He believes this bill takes away local control.
- In his town of Northwood, they are working on their master plan and survey responses from residents show that they do not want this legislation.
- Northwood already has many multi-unit affordable homes and he believes this bill is not needed.

Natch Greyes – NH Municipal Association

- It is often the case with zoning that they make maps so people know ahead of time what they can and can't do in their zones.
- He believes the language in lines 3-7 is opposite of how zoning is currently done.
- People cannot just walk up to a lot and build what they want, they have to see if what they want is allowed.
- Based on the formula presented here owners will not know what is allowed.
- The intent of this bill is to expand the applicability of duplexes.
- Municipalities do not look at individual lots and determine if the proposed development falls within the parameters and would be allowed.
- Zoning is adopted at the local level according to the master plan that residents created based on how they want their town to look.
- When people buy properties they do so based on what they assume the neighborhood is going to be like.
- If there is a proposal to change the zone it is usually done at town meeting or during a public process where there is local control.

TJN

Date Hearing Report completed: April 15, 2024