

2-15-23

Re: H.68

Comments/Questions – Local Zoning:

- First, I agree that additional development of existing lots, or redevelopment of existing lots is a viable approach to expanding the housing stock but there are several considerations about state level permits and jurisdictional triggers that may jeopardize the desired results. There are also considerations to be made to allow local authorities to review certain development to ensure all concerns are addressed.
- Instead of “Duplex” could the term be **“Two Family Structures or Two Single Family Dwellings”**? Duplexes share a roof and if neither unit is owner occupied, the construction is subject to State Fire Safety Permits. If the units can be on the same lot but there’s the option to be detached, that will not be necessary and will save the extra step and the cost and time of the State permits.
- Four unit buildings on lots which are currently for single family dwellings is allowed in several zoning districts with the issuance of a conditional use permit. H.68 would extend four unit buildings to the MDR and LDR districts however those districts do not typically have both municipal water and sewer and therefore it is not likely that more than two family dwellings would be constructed in those districts, even with the passing of this bill. The one thing that is lost in the bill is the ability of the DRB to go through the Conditional Use Criteria with an applicant. Those include:
 1. Emergency Services
 2. Education facilities
 3. Water, sewer or other municipal utility systems
 4. Recreational facilities
 5. Conservation or other designated natural area
 6. Solid waste disposal facilities
 7. Character of neighborhood
 8. Traffic
 9. Bylaws in effect
 10. Utilization of renewable energy resources
 11. Minimum lot size
 12. Distance from adjacent or nearby uses
 13. Site plan review
 14. Other bylaw standards
 15. Parking
 16. Loading/Unloading

That’s a lot review that would normally be done that will not be under the direction of the town and there’s no option to address local concerns. A better approach would be:

“create a Statewide zoning standard to treat Two Family Structures or Two Single Family Dwellings on one lot, as an allowed use in residential zoning districts and up to Four Units per lot as a “Conditional Use” in areas of residential zoning districts served by municipal water and sewer.”

- Accessory Dwelling Units. I don't see the need for these now that two family dwellings are an allowed use and ADU's are more restrictive in that they have limitations on size and one of the structures has to be owner occupied. I don't see anyone applying for these given a choice between the two. Financing for ADU's is tough with the owner occupied requirement. It cuts out investors as buyers intending to own properties as non owner occupied.
- Minor subdivision – How many lots is a “minor”

General Comments:

- From a DRB perspective, are we now reviewing projects based on the potential total units? And therefore, are we requiring traffic studies, stormwater, sewer, water, etc, to factor total units? Given the 4-1 jump on lots with municipal water and sewer, as a board, we may have to consider a subdivision with 30 lots as a 120 unit development?
- New subdivisions of as little as 3 lots, if required to be reviewed as a 12 unit project, will trigger Act 250 by virtue of total units being 10 or more in a town with zoning.
- For existing lots no Act 250 – will construction of units be considered “Development” under Act 250 and therefore trigger jurisdiction with the development of 10 or more units in a town with zoning? Or 6 or more in a town with no zoning? If no state wastewater or other permit is required, a project review sheet will not be issued?
- For existing lots subject to Act 250, will single family lots developed with four units per lot trigger jurisdiction? If a 20 units single family development was permitted but can now be developed with 80 units, would an amendment be required? If there are multiple owners, who bears the cost of amending the land use permit?
- Will existing Act 250 development or developments with Stormwater permits be required to have those permits and infrastructure amended given that additional construction and parking will likely increase the impervious surfaces in the common plan of development beyond the threshold for amendment.
- Will developments/lots that pre-dated stormwater permits trigger jurisdiction if the impervious surfaces in the common plan of development exceed the jurisdictional trigger? I believe its one half acre now?
- Will two units and four units per lot be exempt from wastewater rules in towns with no zoning?

Again, I agree with increasing density as an effective way to address the housing shortage. I do feel, however, that a conditional use process be applied to 3 or more units per lot to address any potential local concerns. I also think that if there is not careful consideration in the language about what state permits will not be triggered by the additional construction, the developments will be dragged into state level permitting and, unless there are means to pay for this permitting and the potential improvements or infrastructure, most projects undertaken by individuals will be abandoned.

Best Regards,



Jim Fecteau