

May 13, 2025

RE: Testimony of Ed Libby NEITHER FOR NOR AGAINST for LD 1829, An Act to Build Housing for Maine Families and Attract Workers to Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions

Dear Senator Curry, Representative Gere, and Members of the Committee on Housing and Economic Development,

My name is Ed Libby and I am a resident of Yarmouth. I am a private developer including Affordable Housing projects through Maine Housing, a champion of smart growth, and a housing policy advocate in the communities in which I work and live.

I had high hopes for LD 2003 as did many folks hoping to find common sense solutions to tackle our severe under production of housing in Maine due in large part to barriers to housing embedded in local zoning ordinances. I am excited that Speaker Fecteau is following up on this landmark bill with updates and improvements. However, I suggest a couple of further tweaks based on my own experience trying to utilize LD 2003 in my hometown to produce housing, specifically affordable housing, which has been stymied once again by irrational rules that impede sensible land use.

Specifically, I suggest removing the local authority to impose minimum lot area per unit requirements in growth areas, which is currently making LD 2003 largely ineffective. This zoning standard is broadly considered to be overly restrictive and heavy handed, and more often stands in the way of good projects that fit better into Maine neighborhoods. I would suggest revising Sec. 6. 30-A MRSA §4364-A, sub-§3 by striking the following language which undermines the intent of LD 2003 and this bill:

~~A. Dimensional requirements, including but not limited to setback requirements, for dwelling units allowed under this section that are greater than dimensional requirements, including but not limited to setback requirements, for single-family housing units, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.~~

I suggest replacing the stricken language with, “A municipal ordinance may not establish requirements for lot area per dwelling unit to more than 5000 square feet per unit.”

That language would align with the newly introduced provision in this bill establishing a minimum lot size no greater than 5000 square feet on water and sewer within a growth zone.

I will share my specific experience to demonstrate how this 11th hour compromise amendment to LD 2003 has been used as a tool by municipalities to thwart the ability to produce affordable housing. My town adopted the “intent” of LD 2003 by adding language to its zoning ordinance allowing 4 units per acre, instead of what had been 1 unit per acre in our designated growth zone. I owned 1 acre in our growth zone and hoped to do an affordable development, as defined by LD 2003, by combining the newly adopted 4 units per acre with the “2.5x density bonus” to create an affordable project of 10 units per acre. However, my Town Planner took the position that the 4 units per acre afforded by adopting LD 2003 was a “density bonus” and that the “underlying zoning” of 1 unit per acre was my base density to calculate the affordable development density bonus. In other words, $(2.5 \times 1 = 2.5 \text{ units rounded up to } 3)$ I could only do a 3 unit development with 2 units meeting the affordability requirements of LD 2003. This seemed impossible to me....I could do 4 market rate units on my 1 acre lot, but if I wanted to apply the 2.5x affordable density bonus, I could only do 3 units?!. Does anyone wonder why the State must intercede on these most fundamental impediments to housing production? Please help!

Lot Size Requirements with Needed Adjustments

I strongly support helping reduce lot sizes, but urge tying this to locally designated growth areas, and removing the language “other comparable systems”, which effectively means any private septic system.

Minimum lot size requirements greater than 5,000 square feet per dwelling unit allowed under this section that are located within a locally designated growth area served by a public, special district or other centrally managed water system and a public, special district ~~or other comparable sewer system.~~”

Additionally, I would point out that another bill, LD 1247 is currently making its way through your committee and addresses the minimum lot size in a single bill. I encourage the committee to consider consolidating the minimum lot size provision of LD 1829 into LD 1247 so that it does not get swept up with other issues that may delay its implementation.

By providing a sensible minimum lot size in our designated growth areas on water and sewer, we will unlock the ability for folks to simply sell off a piece of their existing lot to another person who wishes to build a home. This is the traditional and organic way for individual property owners to participate in solving housing production. We need more lots to build on! Most homeowners are not equipped with the technical or financial capacity to build more homes on their lot, nor is financing readily available for such arrangements even if the homeowner could afford it. Instead, they would benefit financially by simply selling some of their land to someone else who would benefit from an additional place to build a housing unit, expanding the supply.