



May 13, 2025

RE: Testimony of Build Maine 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 Kara Wilbur, and I am the Chair of Build Maine. We are a statewide group working to align fiscal, economic, environmental, and quality of life goals within our state through pragmatic and common-sense solutions to building our rural and urban communities.

We support this bill and its effort to address structural issues that are holding back development in appropriate locations in Maine. We suggest some adjustments to further align the bill language with smart growth principles.

Removing building permit caps in growth areas

We strongly support removing the ability for municipalities to impose growth caps in designated growth areas and commend this bill for addressing this issue.

Reduce Confusion and tie to Growth Areas

We have some concerns about Section 4 of the bill, which proposes to allow 4 units per lot. It also appears that this section perhaps goes further than LD 2003 by allowing 4 units per lot on water and sewer, even if it's not in a growth area, which disconnects this policy from local planning decisions. We would like to see 4 units per lot tied to Designated Growth Areas.

The language that allows additional units on a lot with one existing unit is confusing when layered with other sections of the statute, versus stating a maximum number of units per lot, which is more clear.

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Prioritize addressing lot area per unit restrictions

We do not believe height bonuses are the best way to accomplish needed density in a way that responds to local municipal policies and conditions on the ground. Typically building height limitations are not the main impediment to gaining sufficient units per lot. The bigger issue is restrictive minimum lot area per unit requirements, setbacks, parking requirements, and other restrictive zoning standards that limit the total number of units and therefore project viability. Instead we 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. We 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.~~

Lot Size Requirements with Minor Adjustments

We strongly support helping reduce lot sizes and appreciate changes made to tie this requirement to locally designated growth areas. We also suggest tying the requirement to where there is also water and sewer infrastructure and removing the language “other comparable sewer systems”, which effectively means any private septic system, which inadvertently expands this standard to all areas.

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.”



Exception Language Might Inadvertently Limit Local Authority

We are concerned that the exception language implies that a municipality can't do administrative review for projects that might otherwise currently or in the future permit administrative review, for example creation of multiple units within an existing building, or creation of more than 4 units on a single lot.

§4364-D. Exception - Notwithstanding any provision of law to the contrary, a municipality only has the authority to conduct an administrative review for an affordable housing density bonus or when the project has 4 or fewer units, or as otherwise determined locally.

Tie Housing Appeals Resolutions Board to Local Planning

Build Maine supports the establishment of a Housing Development Resolutions Board and we commend the Speaker for bringing forward this proposal again. The Policy Action 2025 working group met with practitioners from other New England states to try and understand the approaches and where improvements could be made here in Maine. There are two areas where appeals boards in other states have failed to improve the overall development climate:

1. Projects cited in poor locations far from service centers, in industrial parks, or other sub-standard locations, arguably not ideal for affordable housing and people who don't have access to a personal vehicle.
2. Projects that are significantly over-scaled for their location, further fueling anti-development sentiments.

Our Policy Action working group feels strongly that the Maine version of an appeals board could address these two issues, primarily by linking review criteria to local planning policy.

We also support the concept that "injured parties" should include developers with projects that meet the objectives of the local comprehensive plan, but where the local zoning does not align with the comprehensive plan. This provides a path to bring forward projects that are denied because they don't meet local zoning, but where the denial is in conflict with the goals expressed in the comprehensive plan. We feel strongly that by aligning the appeals process to local planning will support rather than penalize municipalities who have done proactive planning work, and will help incentivise more communities to align their zoning with the planning documents.



To that end, we recommend the following two changes to Section 18-C of the bill.

6. Duties. Notwithstanding any provision of law to the contrary, the board has the power and authority to and shall hear and affirm, reverse or modify, in whole or in part, appeals of a final decision of municipal reviewing authority under subsection 1 regarding questions of housing and housing development. The powers and duties under this subsection include, but are not limited to, appeals concerning:

- A. Decisions on subdivisions or site plans;
- B. Decisions on variances, special exceptions, administrative appeals and ordinance administration;
- C. The use of innovative land use controls;
- D. Growth management controls and interim growth management controls;
- E. Decisions of historic district commissions, heritage commissions and conservation commissions;
- F. Decisions on other municipal permits and fees applicable to housing and housing developments; and
- G. Decisions on mixed-use combinations of residential and nonresidential uses. Such different uses may occur on separate properties as long as the properties are all part of a common scheme of development.

H. Decisions that conflict with the goals of the locally adopted comprehensive plan, and where the zoning does not align with that plan.

16. Standard of review. The board may not reverse or modify a final decision of a municipal reviewing authority except for errors of law or if the board is persuaded by the balance of probabilities, on the evidence before it, that the final decision of a municipal reviewing authority is unreasonable, or where the denial of a project is based on municipal zoning that does not align with the stated goals of the locally adopted comprehensive plan.

20. Procedures and rules. The court ~~may~~ **must** adopt administrative orders and court rules to govern the practice, procedure and administration of the board including criteria to align project review with the objectives outlined in the locally adopted comprehensive plan.

Thank you for your work on this issue.