



**BILLERICA PLANNING BOARD**  
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TOWN CLERK  
BILLERICA

Blake Robertson, *Chair*

Edward Giroux, *Vice Chair*  
Secretary Christopher Tribou  
Kelley Sardina

Marlies Henderson,  
Michael Parker  
Evens Cimea

**Planning Board Meeting  
Minutes  
January 9, 2024 @ 7:00 P.M.  
Hybrid  
Videoed by BATV**

Can be Viewed: <https://billerica.cablecast.tv/CablecastPublicSite/?channel=3>

Members	Present
Blake Robertson, Chair	Y
Ed Giroux, Vice-Chair	Y
Marlies Henderson, Secretary	Y
Michael Parker	Y
Chris Tribou	Y
Kelley Sardina	Y
Evens Cimea	N

**Staff**

Erika Oliver Jerram-Director of Planning & Community Development  
Katherine Malgieri-Senior Planner  
Jane Merrill-Associate Planner

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**Open Mic**

No open mic comments.

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Agenda Item 1 - SPSP - SITE PLAN SPECIAL PERMIT - 195 CONCORD RD (PARCEL ID 68-9-1)  
(Continuation of public hearing. Already opened).

Henderson motioned to continue the hearing until February 12, 2024; Giroux seconded. All in favor (6-0). Continued until February 12, 2024.

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Agenda Item 2 – SPSP – SITE PLAN SPECIAL PERMIT – 700 BOSTON ROAD  
(PARCEL ID 80-41-1)

Eric Gerade (applicant), Jim Lamp (applicant).

Gerade gave a presentation<sup>1</sup> on the project updates addressing the concerns of the Planning Board, as well as DPW and BETA's comments.

- No light spill over into residential areas.
- Adding a raised pedestrian crosswalk for traffic calming.
- Improved grading in the parking lot along landscape strips.
- Would work with the Town and Mass DOT in the future to connect the internal sidewalk network to Boston Road.
- Stormwater Basin buffer plantings: Eastern Red Cedar and White Pine.
- Working with the Conservation Commission to include additional stormwater measures.

No public comments.

Parker asked how the site work would be phased. Gerade answered that there would be two construction phases and Market Basket is very aware of the need to remain open during construction.

Sardina had no comments.

Tribou had no comments.

Henderson had no comment.

Giroux had no comments.

Robertson suggested including a condition in the decision regarding eventually connecting the sidewalk network to Boston Road if the state begins to improve the street.

Henderson motioned to continue the public hearing until February 12, 2024; Giroux seconded. All in favor (6-0).

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Agenda Item 3 – SPSP – SITE PLAN SPECIAL PERMIT – 250 TREBLE COVE ROAD  
Anthony Wespiser (consultant), Fred Russell (applicant)

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<sup>1</sup>[https://www.town.billerica.ma.us/DocumentCenter/View/11599/VHB\\_Presentation\\_January\\_9\\_2024](https://www.town.billerica.ma.us/DocumentCenter/View/11599/VHB_Presentation_January_9_2024)

Henderson motioned to open the public hearing; Giroux seconded. All in favor (6-0)

Fred Russell, the head of the DPW, introduced the consultants from Wesson & Sampson. Anthony Wespiser gave a presentation<sup>2</sup> on the proposed Public Works facility at 250 Treble Cove Rd.

#### Project Location

- The project is located at 250 Treble Cove Road on a 68-acre town-owned parcel (59-111-0).
- The site currently houses a dog pound, an existing fueling system, a water treatment facility (270 Treble Cove), and a bulk material storage area.
- Most of the proposed development area is in the northwestern corner of the parcel.
- “Back of yard” operations were moved to the south end of the property by request of the DPW and Town Manager’s office to ensure it did not infringe on nearby residential areas.
- There are two entrances (slides 23 and 28):
  - 250 Treble Cove Rd – south entrance for material deliveries
  - 250 River St Extension - north entrance provides access to visitors and administrative staff.

#### Site Plan

- South Side (250 Treble Cove)
  - “Knock down pad” – First step of vehicle washing process to clean largest bits of debris.
  - Free standing canopy
  - Salt storage
  - Bulk material bins
- North Side (250 River St ext)
  - Administrative area (slide 30)
  - Workshops
  - Vehicle maintenance operation
  - Vehicle Storage garage
  - Vehicle wash bay

#### Infrastructure Improvements

- Intersection at River St Ext and River St – curb improvements and slight widening of the opening to River St ext.

#### Zoning

- Municipal use building located in a Rural Residence zone – the use is by-right.
- The development complies the dimensional requirements for Rural Residential (slide 45)
- Parking Calculation – required 59 spaces: providing 61.
- Parking space size 9’ x 19’.
- Parking is located near the River St Ext entrance.

Robertson solicited public commentary; there was none.

Sardina had no comments.

Tribou had no comments.

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<sup>2</sup> <https://www.town.billerica.ma.us/DocumentCenter/View/11595/Billerica-Planning-Board-Mtg-FINAL-Presentation?bidId=>

Parker stated that most of the Planning Board voted in favor of the project at the Fall Town Meeting. He expressed concern that the proposed parking plan does not take into consideration the potential expansion of the DPW workforce. Russell answered that he does not foresee DPW's headcount increasing significantly. He stated that the expansion referred to during Town Meeting was the expansion of the fleet of vehicles. Giroux added that the conversation around staffing was about improving the locker rooms and increasing the gender diversity of DPW's staff within the existing headcount numbers.

Henderson asked about constructing a foot bridge over the Dolly Brook. Russell suggested other possible options to get the foot bridge repaired quickly instead of waiting for the project to be completed. Henderson also asked if there could be bike parking added. The applicant said it wouldn't be a problem.

Malgieri stated that BETA is reviewing the parking plan.

Robertson asked why there were 200 vehicles if DPW only has 75 employees. Russell answered that there are 200 pieces of equipment, not just vehicles, and not everything is in use at once. Robertson also asked if the intersection improvement would require any takings. Russell answered no.

Henderson motioned to continue until February 12; Giroux seconded. All in favor (6-0)

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#### **Agenda Item 4 – PERMIT AND CONDITIONS REVIEW – 480 BOSTON ROAD (PLATE 61, PARCEL 205-1)**

Robertson noted that because he had not invited the applicant to the meeting, the Board would just be discussing the project and could not take any action. Robertson then called for public comment.

John Burrows read the conditions from the Planning Board and Conservation Commission decisions for this project. He accused the developer of being in violation of the approval conditions, claimed the Planning Board was being lied to, and suggested the Board revoke the permit approval.

Sardina stated that she believes that the applicant had provided the Board with outdated site plans when the Planning Board approved the applicant's request for a Minor Modification (vote 4-2 in favor) in July 2023. She further stated that the Planning Board voted blindly, and that the applicant should have gone to the Zoning Board of Appeals (ZBA) before seeking approval for the site plan Minor Modification to allow drive-thrus for restaurants.

Henderson asked Planning Staff for clarification on the status of the project with respect to compliance with the previous Planning Board decisions. Jerram answered that she spoke to each department about this project in the week prior to the meeting and that each department stated that all construction conditions have been met. Jerram added that there are some conditions in the previous decisions that have yet to be fulfilled because they are not due yet but would be upon completion of the project

Sardina asked Jerram why the applicant was told by Town Counsel they didn't need to go to the ZBA only to determine later that the applicant did need to go to the ZBA. Jerram answered that in the preliminary discussion, Counsel advised that the applicant did not need to go to the ZBA. However, after the July meeting, Counsel advised that the applicant should seek a Special Permit (not a variance) from the ZBA.

Tribou addressed Mark LaLumiere, Building Commissioner. Tribou asked when the last complaint filed with the Building Department for this project was. LaLumiere answered that it was from a year ago when a resident called about a sinkhole in their yard. LaLumiere reported that the sinkhole was not attributable to the mall. Tribou also asked about the claims of work being done at the site after hours. LaLumiere replied that after hour work was to mitigate runoff during storm activity. LaLumiere added that the developer had been very responsive to him to ensure that the project continues to abide by the decision conditions. LaLumiere also stated that if the Board or the public notices specific conditions not being met to contact the Building Department so it can be addressed and resolved.

Sardina requested that LaLumiere find out how close to the three transformers by the water tower building was allowed; LaLumiere stated he would find out the answer.

LaLumiere also addressed the concern that the restaurant drive-thru was not allowed under the PUD. He stated that the PUD is an overlay while the underlying zoning (General Business) allows for drive-thrus for restaurants with a Special Permit.

Parker noted that recent flooding has impacted residents and caused sediment runoff from the site to infiltrate the nearby storm sewers. He asked for more information about what the Town has done or is doing to resolve this problem. LaLumiere answered that the first two major flooding events identified the inadequacies in the project's stormwater plan and the developer, working with the Department of Public Works (DPW/Engineering), Board of Health (BOH), and BETA, has implemented changes to address these problems. LaLumiere added that those storms caused flooding events all over town, not just at this project site, and that DPW is working on cleaning out the stormwater drains and culverts (though the challenge is that many of these are on private property.) Parker requested that the Town do a better job at being more forthcoming to the public regarding what is being done to hold the developer accountable.

Brenda Risher (193 Salem Rd) agreed with Parker that residents don't really know what the town is doing behind the scenes, and this increases their frustration with the project. She would like town management to increase communication regarding how they are dealing with issues as they arise.

Dina Favreau suggested the Board look at Planning Board approved conditions 11A ("Construction related dust, dirt, and debris shall be controlled on-site. Any off-site impact shall be mitigated fully the day on which it is documented) and 5 ("Failure to comply with any of the conditions herein shall be deemed cause to revoke or modify this approval."). She also expressed concern that the houses in this area may become uninsurable.

John Curran (Town Manager) spoke via Zoom. He addressed the questions about what the Town has done in response to flooding, both at this specific location and town-wide generally. After the August storm, DPW flushed the stormwater systems in multiple locations across town. Town Management also sat down with the developer to create a mitigation plan; the

second rain event happened while this mitigation plan was being implemented and the plan was again revised. There have not been issues at the site since. He stressed that there were stormwater issues all over town because of these events, not only at this location.

Curran also expressed his concern about misinformation about the project being spread, as well as that the Planning Board adding this topic to the agenda without cause, or a hearing notice could expose the Town to legal liability. He expressed some frustration with working with the developers, but stated they have been responsive to the Town and that revoking the permit would not be right or helpful to resolving the situation in the long term.

Parker asked if the Town has back-charged RD management for the DPW's work to clear drainage systems. Curran answered that the Town has not because DPW did work all over town and the flooding is not solely attributable to RD's work on this site and it would not be practical to try to do so.

Giroux stated he was encouraged by the behind-the-scenes work the staff has done to mitigate this problem. He also requested that the Town do more to publicize what is being done in response to issues like this, such as including it in the Manager's newsletter.

Robertson also called attention to condition 11 (debris not controlled on site) and condition 5 (revocation of the permit) from the original Planning Board decision. He expressed hope that the melting snow and the rain (from the night of the January meeting) would not cause any more flooding issues and requested that the Board members consider what, if any, actions should be taken for the next meeting.

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#### Agenda Item 5 – MBTA COMMUNITIES (MGL 40a, 3A)

Jerram presented the outreach and communication plan for January-May.

Tasks	Meetings
<b>JANUARY</b>	
Finalize Mailer	PB x 1
Reach out to Boards & Commissions	Ask A Planner x 4 – Weekly @ Library
Schedule Neighborhood Forum	Learning Session @ COA – January 9 <sup>th</sup>
Plan for Business Owner outreach	
Prep New Meeting in a Box	
<b>FEBRUARY</b>	
Prep for Neighborhood Meeting	PB x 1
Present to Boards & Commissions	Ask A Planner x 4 – Weekly

Reach out to Organizations Reach out to Businesses	Presentations to Boards and Commissions Neighborhood Meeting @ Hajjar
<b>MARCH - Warrant Closes</b>	
Meetings with Organizations as needed Presentations with Boards & Commissions Continue	PB x 1 Ask A Planner x 4 Additional Boards and Commission meetings as needed Business Owner meeting
<b>APRIL</b>	
Prep for Town Meeting	Select Board Meeting (if nec) PB Public Hearing Fin Com presentation Ask A Planner
<b>MAY - Town Meeting</b>	
Present to Town Meeting	AAP Town Meeting

### Ask A Planner Sessions

#### *Scheduled:*

Wednesday, 1/3 - 2-4pm @ Library

Monday, 1/9 - 11-12 - Learning Session at the COA

Wednesday, 1/10 - 9-11am @ Library

Tuesday, 1/16 - 2-4pm @ Library

Thursday, 1/25 - 9-11am @ Library

Tuesday, 1/30 - 11-12 Learning Session at the COA

Wednesday, 1/31 - 2-4pm @ Library

Parker thanked Jerram for removing the residential parcel from the Treble Cove Subdistrict as the Board requested at the December meeting.

Sardina noted that the Town isn't required to be in compliance with the state law until December 31<sup>st</sup>, 2024 and questioned why the timeline presents the by-law to the Spring Town Meeting.

Tribou stated that it's important to have the zoning by-law go to the Spring Town Meeting to allow for Town Meeting members to have time to give feedback. Fall Town Meeting is a backup plan if there are modifications desired by Spring Town Meeting.

Giroux agreed with Tribou.

Henderson reviewed the multiple outreach methods the Planning Staff has used, including an interactive webpage with the most recent maps and presentations, videos of Planning Board meetings, the October Open House, and the Meeting in a Box tool. She noted that the Meeting in a Box tool was not effective as it was difficult to get residents to participate.

Robertson thanked Merrill for making larger, easier to read maps of the proposed subdistricts and the included parcels. He also stated he was happy to see another Open House but was concerned that there wouldn't be enough information vetted by the State yet to relay to town residents in time for the meeting. Jerram answered the Town can and will continue outreach efforts while waiting for the State to respond. She also added that the Planning Board will hold a public hearing on the proposed zoning prior to Town Meeting, which will be another opportunity for public outreach.

Grace Tucci requested that Planning Staff send out mailers explaining what the MBTA Communities law means for Billerica to everybody in Town. Jerram answered that this is being explored as part of the outreach plan but there have been logistical issues with the printing vendors and timelines.

Henderson replied that the Planning Board cannot send out a town-wide mailer for everything that happens in the Town and that despite all best efforts, there will always be somebody who will not have heard.

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## Agenda Item 6 – DPW FUTURE PROJECT INFO

Robertson called on Parker.

Parker expressed concern that there have been a few cases where new home construction cut into recently repaved streets. He wanted to make sure that the Planning Board and DPW are on the same page regarding the repaving schedule and provided the Board members with the DPW paving schedule. Russell answered that DPW does its best to limit road cuts from new construction, but it is not always in DPW's control. Parker requested that DPW include potential paving schedules as part of their department review for site plans.

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## Minutes

The Board decided to delay voting on the December minutes due to receiving them too late to review.

## Other Business

## Committee Updates

CPC - meeting on Thursday, January 11, 2024 to discuss the funding applications.

OSRP - Two more Open Space public forums planned, January 17<sup>th</sup> and March 20<sup>th</sup>. The survey will be available until January 28<sup>th</sup>.



**Recodification** – First meeting was in December; Robertson asked Board members to send Planning Staff any conflicts they are aware of with the current zoning by-laws to send to Judi Barrett.

### **Staff Updates**

Jerram stated she was still working on setting up a joint meeting with the Historical District Commission and the Billerica Historical Commission to meet with the Historical Survey Planning consultant.

Malgieri stated that staff conducted a site visit on the rear building of 140 Pond St to sign off on the Certificate of Occupancy. Robertson requested staff check the approval decision regarding an installed fence.

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### **Adjournment**

Henderson motioned to adjourn at 11:22pm; Giroux seconded. All in favor (6-0).

Minutes prepared by Jane Merrill.