



## BILLERICA PLANNING BOARD

Town Hall  
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Michael Parker, *Chair*

Kelley Sardina, *Vice Chair*  
Christopher Tribou  
Edward Giroux

Marlies Henderson, *Secretary*  
Blake Robertson  
Evens Cimea

**Planning Board Meeting  
Minutes  
June 10, 2024 @ 7:00 P.M.  
Hybrid  
Videoed by BATV**

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

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

RECEIVED  
2024 JUL 29 A 9:22  
TOWN CLERK  
BILLERICA

### Staff

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

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### Open Mic

John LaFauci (4 Catherine Ave) looking for status of crosswalk @ 24 Cook St. Erika informed Mr. LaFauci that she has reached out to the tenant on 5/31 and will continue to do so. Mr. LaFauci also mentioned that there is 8 feet of brush at the exit of Shanpauly Rd and has asked that the Town clear the brush to avoid the risk of accidents occurring as currently vehicles must intersect traffic in order to exit. Mr. LaFauci will return next month to check on crosswalk status if there is not one by then.

John Burrows (38 Shawsheen Rd) echoed Mr. LaFauci's comments, brought up Mall construction, and expressed concern that a petitioner article was reviewed for technical compliance.

Agenda Item 1 – ANR – APPROVAL NOT REQUIRED – 56 DUDLEY ROAD  
(PARCEL ID 94-2-4-1)

George Medeiros (Attorney), Steve Dresser (Engineer)

Mr. Medeiros presented the subdivision, which would divide one property into three.

Cimea noted that the buildable area of Lot 3 is over wetlands. Medeiros answered pointing out the wetland areas on the map & that the subdivision control law does not have any requirements regarding wetlands.

Giroux noted the odd shape of Lot 1. Dresser answered that the lot is shaped in order to be compliant with the frontage, buildable area, and lot area requirements.

Robertson commented that he did not have ZBA documents to review. He expressed concern of buildability for Lot 3. He thanked engineer for putting buildable area “circles” on the plan.

Henderson noted the age of the area, but that no historical review would be necessary. She also noted the wetlands and difficulty that Lot 3 will have.

Sardina questioned Mr. Medeiros about his recent appearance in front of ZBA. Medeiros indicated that the Zoning Board variance application (which would have allowed a 4-lot subdivision, shifting Lot 3 away from the wetlands and placing a fourth unbuildable lot over the wetland area) was denied by the ZBA. Therefore, the applicant is moving forward with the 3-lot proposal instead where Approval is Not Required (ANR).

Parker also expressed concern of Lot 3's buildability with wetlands but identified that lots are compliant.

Henderson makes motion to endorse ANR for 56 Dudley Road; seconded by Tribou.

All in favor (7-0). Motion to endorse passes.

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Agenda Item 2 - B2 – SUBDIVISION- 30 RIVERHURST ROAD (PARCEL ID 77-73-4)

John McKenna (Attorney), William Sullivan (Applicant)

Henderson motioned to open the public hearing; Giroux seconded. All in favor (7-0).

McKenna presented, stating that the applicant is looking to subdivide his land into two properties. It does not qualify as an “ANR”. He is aware of the typical Planning Board condition that two (2) shade trees be planted on each lot within the subdivision. McKenna stated the parcel is a mature property with existing tree cover, much of which will be retained.

Robertson mentioned that abutters are concerned about changing the nature of the neighborhood. McKenna confirmed that a variance has been approved and the concerns have been addressed. Robertson questioned whether the driveways will be shared or separate. McKenna confirmed that the driveways will be separate.

Henderson indicated that the plans provided do not have property owner names labeled on abutting lots. In reading the ZBA minutes she saw that neighbor Loftin had an issue with vegetation screening but she cannot tell which lot on the plans belong to Loftin. Sullivan answered that this will be addressed during construction. He has a neighborly agreement with Loftin in place that if she needs planting done, he will do it though it is already heavily wooded.

Parker suggested that the two (2) tree requirement be used as screening to fill area where trees may be removed for septic or driveway construction.

Robertson wanted to clarify how the conditions regarding the trees will read. Parker confirmed that the condition will be re-written accordingly, with the four trees, at any location.

Henderson motioned to close the public hearing; Tribou seconded. All members approved (7-0).

Motion made by Henderson to waive required location of "street" trees to be used for privacy purposes; seconded by Robertson. All members approved (7-0).

Motion made by Henderson to approve B2 subdivision plan with the waiver; seconded by Giroux. All members voted yes (7-0).

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### Agenda Item 3 - B2 – SUBDIVISION- 354 CONCORD ROAD/ASTRIG WAY (PARCEL ID 95-9-2)

Patrice Ficociello (354 Concord Rd); Ted Murray (Woburn, MA GC & Builder)

Henderson motioned to open public hearing; Giroux seconded. All in favor.

Ficociello presented the application to divide her property into two lots, as she would like to "age in place" by building a smaller residence at the back of her property facing Astrig Way. A "flag lot" configuration off of Concord Road was considered but would not fit with the character of the neighborhood and would create excessive paving through the property. Utilities already come from Concord Road and would extend from there. Ted Murray (her nephew) will buy the existing, large historic home which faces Concord Rd. Murray will act as GC for the construction of her smaller home and is very familiar with the historic nature of the larger home. His role with current employer makes him a great candidate to take care of such a historic 1855 home.

Robertson supported aging in place and moving a new family into Billerica. He asked how this construction would impact the Yankee Doodle Bike Path. Murray has spoken to Ellen Rawlings regarding the bike path dates and has a copy of Mass DOT page 13 document. Murray also stated that there are 3 driveways already on the bike path side and that this new structure will not negatively impact the bike path. Murray said that utilities have been approved by DPW and easement granted from Concord Rd with lower costs compared to tapping into Astrig Way. He also

asked about the water trespass and Murray indicated that they are working with Dresser in order to keep and maintain safe way of access. The applicant is committed to not exacerbating the water problem in the rear.

Parker opened the floor to public comment. Allen & Dianna Marcott (direct abutters) have been neighbors for many years and support the project. They are also "aging in place" and staying within Billerica, which is not easy to do. They did so by renting the large home and moving into a different property in town. Board members Giroux and Sardina echoed the aging in place challenge within Billerica.

Henderson motioned to close the public hearing; Giroux seconded. All in favor (7-0),

Henderson motioned to approve B2 subdivision of 354 Concord Rd/Astrig Way with conditions that the final approved plans and all work within Astrig Way shall conform to DPW standards and to the Yankee Doodle Bike Path plan. Giroux seconded. All in favor (7-0).

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#### Agenda Item 4 – SPSP – SITE PLAN SPECIAL PERMIT – 315-317-319 TREBLE COVE ROAD (PARCEL id 58-2-1-3-2).

Todd Morey & Matthew Costs (Beals Associates); Heather Monica (GPI Traffic Consultants); Jeffrey Sullivan (Northbridge)

Conservation earlier today gave peer review comments on wetland restoration plan. Morey indicated that they have not had a chance to review the report yet but will do so tomorrow. BETA storm water comments are currently in review & response letter has been issued. They are currently working on responses to DPW regarding sewer routing pump stations & easement questions.

Giroux recalls dedicated turn lanes exiting the property but is there any other traffic control being considered such as a stop sign or lights. Heather Monica confirmed that a stop sign & stop line will be used, which are typical for exiting any site driveway.

Henderson said the Board's site walk was eye-opening. She requested a count of the mature trees that will be removed. She also inquired about additional heat island measures such as a green roof and a walking path with trees in parking lot. Morey indicated that they are trying to reduce the amount of parking pavement on the project by up to 24,750sf. Also, because they do not have a tenant yet, they cannot commit to a green roof, since some tenants require specific roof features, like solar power. They will be installing a rain garden in the back (northeastern?) parking lot. With phased parking lot approach, the canopy in the front northwestern area noted in the site walk would remain in place.

Sardina acknowledged that sidewalks will be a challenge and wonders if we still have a sidewalk fund in place as they had years ago. Jerram confirmed that the use of a sidewalk fund (where site plan applicants had contributed payment in lieu of installing their own) no longer exists. Morey identified that they are working on installation of sidewalk, including connections past the property lines. They are working with Conservation to ensure there are sidewalks over the culvert.

Parker confirmed that the dedicated turn lanes will be on the driveway (existing the site) and not on Treble Cove Rd (entering the site). He also noted that the impact of the loss of trees was brought to

light during the site visit and reiterated Henderson's request for a count of trees. Morey stated that they will write up a short narrative on the number of trees to be removed and replaced.

Robertson is hopeful that the sidewalk gap can be remedied, and conditions need to be more defined.

The chair called for public comment. Barbara Reidy (Maplewood Ave) commented on a different application which held a hearing with the Select Board regarding the storage of hazardous materials. She wanted to know the nature of the new businesses for this application and what safeguards would be in place. Morey responded that it will be marketed as a Research & Development facility. He also stated that whatever tenant goes there will be known by the Town and that the tenant must fit within zoning which defines the use of what can go there.

Henderson motioned to continue until July 8, 2024, made by Henderson; Giroux seconded. All in favor (7-0).

#### Agenda Item 5 – SPSP – SITE PLAN SPECIAL PERMIT – 296 CONCORD ROAD (PARCEL ID 86-108-5)

Will Granbery (Engineer), Liam Feeney (Engineer), Todd Greenfield (Applicant), Phil Paradis (BETA)

Feeney presented the revisions to the site plan, including additional pedestrian connection to satellite parking and a visual barrier between wetlands to the West of the building. They also worked with BETA to ensure all development scenarios would meet the parking requirements. As a result, they reduced the 2<sup>nd</sup> story mezzanine by 3000 SF to ensure compliance with parking standards.

Paradis stated that parking is the only outstanding issue. The mezzanine adjustment should ensure compliance. He also stated that stormwater comments will be addressed with Conservation.

Henderson indicates that the open item is the pedestrian plan. She wants the plan to specifically indicate the location of the historic Narrow Gauge Railroad on the plan.

Robertson expressed support for attracting high-tech businesses to the town.

Parker asked if there has been an update on the culvert that runs near Concord Road. Bohler indicated that they have been working with the culvert on this property and working with Conservation on the existing culvert. Parker also asked about sidewalk connection from site onto Concord Rd. Bohler indicated that currently there are no sidewalks on Concord Rd and they did not plan to connect the campus sidewalks to Concord Rd. Parker thought DPW might have an upcoming Concord Road project, and asked Staff about sidewalks; Staff stated they were not aware of DPW scope, but for previous site plan approvals at this site, the Planning Board did not require public sidewalk, but rather focused on onsite connectivity.

Henderson motioned to continue public hearing to July 8<sup>th</sup>; Giroux seconded. All in favor (7-0).

## Other Business

### MBTA Communities (MGL 40a, 3a)

(1:53:07 – 2:59:30)

Parker provided an update that at the 6/3/24 Selectboard meeting, they voted not to act on the MBTA Communities law until after the Fall Town Meeting. Their intention for this is to allow time to see how the pending litigation is ruled. They also suggested that the Town use commercial properties further up Billerica Ave and not the neighborhood areas initially proposed. Parker corrected this suggestion and noted that work still must occur prior to October in order to be ready for an end-of-year special Town Meeting, especially to explore new district locations. He also corrected that the requirement for at least 40% of the MBTA Communities zoning to be within a half mile radius of the train station. This can be partially obtained through the proposed mills subdistrict, but the Planning Board would explore other locations.

Parker proposed the next course of action to be a joint meeting between the Select Board and the Planning Board, in which to have a working session so that they are working towards a common goal.

Parker asked that the red-lined bylaws be reviewed by the Board and comments given to Staff at least one week prior to the next meeting.

Parker asked Staff for comments. Jerram stated that Staff is previewing location options and will work with Planning Board when the Planning Board is ready.

Giroux asked about compliance deadline of December 31<sup>st</sup> and whether that was a deadline for Town Meeting vote, or a deadline for State's (AG and EOHLIC) approvals. Assorted comments were made. Consensus that as long as Town Meeting voted by then, the State would have no enforcement consequences, although grant eligibility deadlines could be impacted.

Evens asked about Select Board's discussion and vote. Discussion followed that they may have been overreaching into the Planning Board's purview (Henderson), that after a year of intense outreach and discussion, the Planning Board couldn't agree, so how would adding 5 more voices help (Tribou) but that a joint meeting may be the solution (Parker). Other members were happy with the Select Board's involvement and do not want to adopt any zoning if the state power is overturned (Robertson/Sardina). Ultimately, Town Meeting is in control of zoning, which is typically submitted by Planning Board and staff, rather than petitioners.

Discussion included locations as well, where comments varied from the desire to choose "lousy parcels, no intention of units to be added" (Robertson) to "if we are going to work towards compliance, let's work towards compliance" (Henderson). Further concern that trying to seek out new locations under any motive would require more work with less time, and would not receive the same level of outreach as the first draft had. Sardina provided her calculation that in 10 monthly meetings, discussion totaled 9.5 hours and stated that grant money should have been sought for additional outreach.

At one point, Henderson moved that the Planning Board vote to continue to work towards compliance. Parker stated it was not necessary, as the Board will continue working on it, recalling that their next step is to review the bylaws to check off that step in our process. Then they move toward the maps. Staff will work with maps and resident proposed areas. And ultimately a Special Town Meeting before December 31<sup>st</sup> to be compliant with the state.

Parker invited public comment.

Dina Favreau (Select Board member) said that the vote of the Select Board was not a binding resolution & agreed that the authority is still with the Planning Board. She is willing to work with the Planning Board, stating that if the Court rules that the law is legally sound, then the Town must comply. If they rule that it is unconstitutional, however, then the Town would not need to comply. She feels that there is time and that through the work that the staff and Board have put in already, the framework is there. The boards must work together to make sure this is done correctly.

Barbara Reidy (Maplewood Dr) commented that she has worked in government compliance for 36 years and that lawmakers do not always get it right in what is feasible. She would not rush towards compliance on something that is as "clear as mud". Agrees with Select Board that the Town should wait and see the outcome of the other litigation so that it is built right. She also expressed frustration that the MBTA station building is closed. She suggested closing the train station stop and sending riders to the Lowell or Wilmington stations instead. She expressed support in housing generally, and wants housing costs to lower.

Favreau re-approached and asked if there is a financial impact report on this. Erika commented that it was only required if we were doing something outside the box. We decided that we would work within the requirements rather than adding the additional cost. Favreau feels that it would be a good idea for the practice to still be done as it will provide the public with a better Impact vs Revenue visual. Tribou expressed concern that locations would be needed in order to do such an analysis and Favreau countered that it can be done on a basic formula and perhaps technical funding could be done through NMCOG. Erika said that she would speak with NMCOG but they are already past their original technical assistance grant timeline, which was scheduled to be done by Spring. Henderson cautioned all that financial impacts specifically about children like the cost of education should not be considered, as federal law indicates that we cannot base zoning on family composition.

Additional discussion debated whether zoning could be "undone" or not. The confusion appeared to lie with the "simple majority" that is required to adopt zoning which increases housing, while the standard super-majority is required for other zoning, such as repealing or lessening the zoning if the State law changes.

Dawn and Eric McDowell (46 Rogers St) commented on earlier discussion about whether compliance deadline required State's review, or just Town Meeting approval, citing Section 9 of the compliance guidelines which indicate the "Deadline to submit" compliance application is 12/31. She also identified her support for compliance, but that her earlier request was to reduce the neighborhood subdistrict's overall portion of the MCMOD areas. They further referred to the FAQ responses on the ability of the infrastructure to handle more units, specifically along Rogers Street. They also asked why their suggestion which was presented in February (correction, March) and revised in May was not put out to the public. They also expressed concern that by-right uses would prevent the Board from asking for design conditions, like they did with applications earlier in this meeting such as additional landscaping. Parker asked Staff to respond to this, because if all the regulation boxes are checked, then what can the Board do? Parker compared it to an "ANR" (Item 1) where if it complies, there is no discussion. Malgeri clarified it is more like the site plan for Treble Cove (Item 4) where the Board is focused on the design of the site, not the tenants that would occur inside the buildings. Jerram added that Site Plan review is about working with applicants to make the site better, such as screening, landscaping, and driveways. It is not about

saying “no you can’t build that here”. Parker and Sardina both expressed concern with this limitation.

Parker asked Staff to put together clarifying facts as necessary. He stated that the order of business for next meeting is to review the redline documents so that they can move forward with the written version. Sardina asked for clarification on the maps and text requirements for compliance (details inaudible). Jerram answered that the rule is that a town bylaw cannot contain language that artificially restricts development. Billerica’s does not do this, as it was carefully crafted with NMCOG and has passed the EOHLC preview already. Robertson said that there is language beyond the redlines that also need to be reviewed again. Discussion resulted that Staff needs redline review vs new comments separated to keep the overall documents efficient, while the Boardmembers need to submit all in one for their own efficiency.

Committee Appointments of 4 to be re-appointed at this session. Housing Partnership Parker to Cimea. Resident Employment Committee Parker to Robertson. Street Acceptance Committee Giroux to remain. NMCOG Tribou to Henderson for 3 year term. Board will also have 2 members (Parker & Giroux) who will serve on the Town Manager screening committee if needed.

Parker asked Sardina to get sworn in for the Long Range Master Plan Committee. Sardina indicated that she was already sworn in and is trying to get the committee together.

### Committee Appointments

Parker made the following appointments:

Housing Partnership Committee: Evens Cimea

Resident Employee Monitoring Committee: Blake Robertson

Street Acceptance Committee: Ed Giroux

Northern Middlesex Council of Governments (NMCOG): Marlies Henderson

Parker identified the following appointments, if and when necessary:

Town Manager Screening: Mike Parker and Ed Giroux

LongRange Master Plan: Kelley Sardina

### Minutes

Approval of minutes from May 13 meeting. Henderson moved and Giroux seconded. No discussion. All in favor (7-0).

### Committee Reports

Tribou was at the NMCOG meeting in April. Vision Zero was going around to all. He indicated that he would like Henderson to join him at the next meeting in June to finish up his term and make introductions.

Henderson commented that Open Space and Recreation Plan Committee will likely approve a final draft in their July meeting and will then distribute to other boards such as Planning Board for their acknowledgement and endorsement if they would like to offer it.



Robertson said that Zoning Recodification committee met last month and continues to meet on the 3<sup>rd</sup> Thursday of each month. He identified that they are getting into updated language but it is a slow process and the big public meeting is being postponed. Jerram stated that through Consultant's advice and their own timeline, it is better to aim for Spring Town Meeting 2025, rather than Fall Town Meeting 2024.

## Constituent Reports

none

## Staff Update

Staff is involved with regional plans such as VisionZero, Digital Equity, and At Home in Greater Lowell. Jerram serves on VisionZero advisory committee. All staff attended a Digital Equity charette held in Billerica for stakeholders. Malgieri attended At Home in Greater Lowell summit. Local plans and projects this month include the annual progress report on the town's Municipal Vulnerability Preparedness (MVP) plan. The Historic Preservation Survey will wrap up in July. Phase 2 is online with comments looking to be wrapped up shortly. Ask a Planner will be returning to the library on 2<sup>nd</sup> Wednesdays from 9a to 11a. Farmers Market on last Mondays. Other locations not yet confirmed. Also, Town Hall has new office hours, open later on Mondays and closing earlier on Fridays. Check Town webpage or social media for details. Staff is also still working to find new peer reviewers, as the contracted reviewer BETA is no longer taking new peer review work.

## Adjournment

Henderson motioned to adjourn; Giroux seconded.

Prior to calling the vote, Parker reminded everyone that Sunday is Fathers Day and to remember all our Dads. And on Monday, the Farmers Market returns. He asked all to get out there and show support.

All in favor (7-0). Adjourned at 10:16.

Minutes prepared by Renee Giordano, Jane Merrill, Katherine Malgieri