



BILLERICA PLANNING BOARD

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TOWN CLERK
BILLERICA

Marlies Henderson, *Chair*

Michael Parker, *Vice Chair*
Christopher Tribou
Edward Giroux

Patricia Flemming, *Secretary*
Blake Robertson
Kelley Sardina

Special Planning Board Meeting

Minutes

March 8, 2023 @ 7:00 P.M.

Via Zoom

Videod by BATV

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

Members	Present Via Zoom
Marlies Henderson, Chair	X
Michael Parker, Vice-Chair	X
Patricia Flemming, Secretary entered @ 7:09	X
Chris Tribou	X
Blake Robertson	X
Edward Giroux	X
Kelley Sardina	X

Staff

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

Marlies Henderson- To clarify, this meeting is a Public Meeting, a Planning Board work-session, and not a Public Hearing, which has different posting requirements. Public is welcome to attend, but the agenda has scheduled no open mic. As Chair, I can still allow members of the public to speak.

The meeting is being recorded by BATV and live streamed. It is a virtual meeting through zoom. I'd like to proceed to roll-call to confirm we have a quorum present. *All members in attendance.*

Pledge of Allegiance

Marlies Henderson- This Special Meeting was added to accommodate a request by resident Mike Rosa, who seeks our feedback on a Zoning Bylaw policy-change which he wrote for the Spring Town Meeting Warrant. The due date for submitting articles is March 13 at 4 PM – and our next scheduled regular meeting is that evening.

Pat Flemming entered the meeting at 7:09pm

Mike Rosa-8:40-48:00-Shared Screen of 5.E.11 re-write (See Attached)-Thanked the board for holding this special meeting. He feels that this needs to be done sooner rather than later and it could be up to a year before the regular codification is completed. He went through each edit where he felt things were lacking and explained his proposal. Edits included:

Section 1. No changes to *Purpose and Authority.*

Section 2. Additional terms added to *Definitions.*

Section 3. No changes to the mapping/locations of the *Overlay Districts.*

Section 4. Restricting occupancy permits of residential uses within *Special Permit Criteria.*

Section 5. No changes to *Use Restrictions.*

Section 6. Reduction of allowable density within *Density Regulations.*

Section 7. Reduction of allowable density within *Density Bonuses.* Removal of Density Bonus available for additional affordable units.

Section 8. Increase of affordable unit minimum with alteration to fractional share and removal of contribution-in-lieu to the *Affordability Requirements.*

Section 9. Increase of mandatory *Design Guidelines* with addition of green strip standards from multi-family zoning district standards.

Section 10. Restricting buildable area standards within *Dimensional Regulations* with standards from multi-family zoning district standards.

Section 11. Increase in multi-family residential parking space calculations with removal of criteria for shared parking and offsite parking from *Parking Requirements.*

Section 12. Additional requirements for the *Application for Special Permit Approval*, including clarifying how metes and bounds are determined, increasing the distance of nearby roadways to be labeled, and quantifying water demand within “Contents” of the Site Plan; widening the illustrated “Site Section” to include abutters of abutters; adding required findings for “Decision Waivers”, and removing the criteria for “Minor” vs “Major Amendments”.

Section 13: No changes to “*Conflict with Other Bylaws*”.

Section 14. No changes to “*Severability*”.

Comments and Questions from the Board-49:00

Blake Robertson commended Mr. Rosa for bringing this forward and protecting the town, as he had also requested a meeting to discuss this bylaw. He stated the project on 279 Boston Road highlighted a number of deficiencies and he was disappointed to hear a number of comments made at that time because of “well you didn’t get that because it wasn’t in your bylaw”.

His recommendations to the proposed rewrite included:

It might be helpful to have a definition of pedestrian activity. One could look at the density bonus as automatically happening because of the design criteria is written and we need to be clear that we are looking for density bonuses to be done by doing more than what we expect from the design criteria. He agrees in increasing affordable housing to 15% and would like to distribute the requirement to 5% affordable, 5% elderly, and 5% veteran. He identified scrivener error and reformatting within design guidelines and further proposed that a requirement for children's recreational equipment be added.

Kelley Sardina stated her understanding with what Mr Rosa is trying to do. She overviewed the history, stating this MUD came before the town in 2021 after removing the PUD, and she does not want to keep bouncing and being reactive which could confuse Town Meeting. She suggested the Board work better with the existing code and to leave it alone and come back in the Fall to clean it all up, including all overlays. She also identified that lots within the MU overlay are typically quite small.

Mr. Rosa responded that there is nothing stopping a developer from coming in anywhere in Town and asking to have this overlay placed on a property.

Michael Parker said his history with the PUD and MUD bylaws have not been favorable, and he has voted against them. He had commented then that the quantity of units per acre and density bonuses were too much. He thanked Mr. Rosa for being at the front of these issues and identified overall support. But stated it was done on the fly, and he wants to ensure that that the initiative is supported by more representatives and not just 4 or 5 members of the Board. He wants the rewrite to be done, stating that 15% affordable requirement is great, with more green space and increased setbacks. It needs more than one month and more than one voice. He proposed scheduling multiple meetings between now and Fall Town Meeting to thoroughly review and have the input from all of our members, then bring forward a solid article.

Mr. Rosa responded he had hoped the Board would vote to take this on and submit it as an article. Then host additional meetings in April before Town Meeting in May. Mr. Rosa's concern of waiting till the Fall is that another project might come forward before then. Mr. Parker expressed that Board members are regular people and feels like it is rushed for 6 weeks. They should instead schedule over the next few months so that way they are transparent to the residents.

Chris Tribou expressed that the proposal had massive changes, and everyone would have different ideas. He identified the PUD began in 2016, and as the Mixed Use was being designed to replace it, a moratorium was put in place. He stated the proposed increase in minimum affordability would be too constrictive and not economically feasible. If affordability is increased, density also needs to increase. In the end you will still get plenty of affordable housing. Identified that other topics of review include the MBTA Communities Law Compliance and the whole zoning bylaw review. He admired Rosa's passion and persistence, but stated it needs a longer process.

Ed Giroux agrees with Mr. Parker, that the proposal is trying to do too much at once. Some changes have merit, but he doesn't agree with all of them. Ed asked if Mr. Rosa took this to the Zoning Bylaw Review Committee, to which Rosa responded that he had not and instead based his comments on discussions at previous Planning Board meetings. Ed stated the previous mixed use bylaw draft went through six or so meetings, and this proposal was rushed. Ed asked Staff if any Mixed Use development projects were in the pipeline to which Erika Jerram responded there was not. The notion that any developer can ask that the overlay be applied to any parcel in town as Mr. Rosa stated is merely a scare tactic and is not that simple.

Ms. Flemming stated the questions she had on the proposal were asked and answered already. She thinks Mr. Rosa has done a great job with this but feels they need to have more meetings and go deeper.

Ms. Henderson stated that she wants the recodification done first before policy rewrites, illustrating it as building a wardrobe first and then hanging the shirts individually. She supported revisiting the Mixed Use Overlay code after the recodification is done.

Ms. Sardina brought up that in April 2021, the PUD / MUD rewrite also felt rushed. She wants to stop trying to fix it in pieces and instead freeze the process to overhaul it.

Mr. Rosa appreciated all the comments that the board made and stated their intent is clear. He asked if they would consider a moratorium on the current bylaw until Fall Town meeting, to which Ms. Henderson verified his intent is to not file the rewrite, and that he instead wants the Planning Board to submit a moratorium. Mr. Giroux commented that a proposed moratorium was not on the agenda, although a general “next steps” action was.

Ms. Henderson called on Public Comments.

Public Comments

Mike Riley-Bedford Street- Mr. Riley stated he would withhold technical concerns of the draft, and then identified his previous role on Planning Board and the subcommittee for the Mixed Use Overlay. They took input through six months of meetings with the committee, including professionals, residents, and business owners. He identified Mr. Parker’s previous input which resulted in a lower density in the final draft.

The master plan is our road map and that is where a lot of the zoning came from, it is about connectivity.

Ms. Henderson asked Mr. Rosa what he would like to do next. Mr. Rosa feels a Moratorium should be done by the Planning Board. Ms. Henderson said that they can’t deliberate what was not on the agenda, but the language of the agenda and the potential for a place holder was discussed to further allow for it.

Ms. Henderson stated she was not supportive of the Board submitting it, but if Mr. Rosa submits it, the Planning Board would hold a public hearing per state law at their April meeting and talk about it then.

Mr. Robertson made a motion to put a Moratorium on the mixed-use development for Spring Town Meeting, Seconded by Ms. Sardina.

During discussion, concerns were raised that the moratorium was not on the agenda, and that there was no draft article to consider. Ms. Jerram told the board that they can vote and that she can reach out to Town Counsel to see if it is a standing vote.

Blake Robertson-Yes

Kelley Sardina-Yes

Ed Giroux-No

Chris Tribou-No
Mike Parker-Yes
Marlies Henderson-No
Pat Flemming-No
The motion failed, 3-4.

Ms. Sardina asked if Mr. Rosa does submit it, can the Board make a motion on the floor at Town meeting to which Ms. Jerram stated moratoria have legal requirements, and Ms. Henderson stated that the Board would see his submission at April Planning Board meeting prior to Spring Town Meeting.

Ms. Henderson asked to make a motion to adjourn, moved by Mr. Giroux, seconded by Mr. Parker
Blake-Yes
Kelley-Yes
Mike-Yes
Chris-Yes
Ed-Yes
Pat-Yes
Matlies-Yes

(page holder for draft rewrite)