



Approved
5/17/21
Kerri Rife

BILLERICA PLANNING BOARD

Town Hall
365 Boston Road Billerica, MA 01821
978-671-0962
978-670-9448 Fax

Michael Riley, *Chairman*

Matt Battcock, *Vice Chair*
Patricia Flemming, *Secretary*
Gary DaSilva

Christopher Tribou
Blake Robertson
Janet Morris

**Special Meeting of the Planning Board
Minutes**

April 8, 2021 @7:00 p.m.
Held via remote zoom
Videod by BATV

Can be Viewed: <https://billerica.cablecast.tv/CablecastPublicSite/show/3216?channel=3>

Members	Present	Absent
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	
Denise McClure, Acting Interim Director	X	

Pledge of Allegiance

Public Hearing-Proposed Zoning Map Amendment-(Article 32)

Attendee: Joe Mercado Owner of Middlesex vet

A motion to open Article 32-336
Boston Road and waive the reading of
the notice

Motioned by: Matt Battcock

Seconded by Gary DaSilva

Members Vote	In Favor	Opposed

RECEIVED
2021 MAY 18 A 9:46
TOWN OF BILERICA

Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Joe Mercado-Gave the history on the adjacent property that he bought so he could expand his business. He would like to change the zoning located at 336 Boston Road from residential to commercial

Questions and comments from the board

The board had no concerns and are happy to see his practice expand

Public Comment

Mike Rosa-Just wanted to say that it is a smart move, and he hopes that he is very successful

A motion to close Article 32-336 Boston Road
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	In Favor	Opposed
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

A motion to approve to Town meeting Article 32-336 Boston Road
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	In Favor	Opposed
--------------	----------	---------

Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Public Hearing-Proposed Zoning Text Amendment-Article 33

Attendee-Jim Dangora Jr-Attorney
Justin Fishlin-Petitioner

A motion to open Article 33-SP-Commercial Kennel and waive the reading of the notice
Motioned by: Matt Battcock
Seconded by : Janet Morris

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Jim Dangora Jr- The petitioner owns property at 14 Republic Rd and would like to open a commercial Kennel in Billerica. In order to do that he needs to amend the zoning permit to commercial kennel use in an industrial zone. Jim Dangora Jr showed the plans for the kennel. The closest residential is 551 ft from the address. He did have a conversation with animal control and thinks that it is a great idea, and it is in demand.

Denise McClure-I think that the general zoning district is the proper place to be putting a kennel.

Mark Lalumiere-You want to put some type of control when it does abutt a residential district. Whether it be an outright prohibition or a distance, it would be a good idea to protect any abutting resident

Jim Dangora Jr-Expressed concern because Billerica House of corrections would be the next residential structure.

Questions from Board

The board discussed the buffer distance to protect the residents. They went back and forth on what the right amount of feet from a residential property should be. They agreed on the correct wording for the condition.

Pat Flemming-Wanted to know if the animals will be left alone at night.

Jim Dangora Jr-Whenever there are animals there will be an attendant on duty

Gary DaSilva-Feels it is the perfect spot to put this district, but we are opening ourselves up for other arts of town. I would like to see it say that it shouldn't abutt any property.

Jim Dangora Jr. Going to check to see if the Billerica House of Corrections is zoned residential

Mark Lalumiere- the jail is currently zoned rural residential. I would say put in a prohibition in a distance and do it from building to primary residential structure, that way if you use a buffer that's on adjacent property and somebody decides to cut down that buffer, you technically have a violation. If you do it, distance from building to building, in this instance she would be covered because you know if you want to call it a residential structure the jail is well over 500 feet away from the property I got talking about Attorney Dangora, it would allow it throughout the industrial districts but it would also prohibit it from being within 500 feet of a residential structure when you have those situations and abutt each other.

Gary DaSilva-Said he would like to see the hours of the dogs being outside from 8am to 8pm and wants to make sure that the dogs have an attendant while outside

Mark Lalumiere-The primary concern of this type of use is noise and we do have a noise bylaw however the noise bylaw does allow a higher decimal level in a industrial zone. You may want to classify that as zone 1, especially if it going to be a 24-hour use.

Pat Flemming-Feels 12 hours is a long time for the dogs to be inside.

Jim Dangora Jr-There will be an indoor play area

Blake Robertson-Thinks the buffer should be at least 250ft. He would like the 40 ft of open space for the dogs to be green space and not asphalt or concrete.

Jim Dangora Jr-Reassured the board that the outside area would be grass or some type of turf.

Mark Lalumiere-In regard to kennel animals and what is required, I would defer to the Animal Control Officer. She is the one that will be doing the inspection. I wouldn't want to see the regulation get written in such a way that it conflicts with what Animal Control is in charge with. I said it earlier, I just want to restate it as I would recommend an outright probation, not a buffer zone. A distance in a prohibition from a residential zone, because a buffer could be trees and the issue is sound. Unless you set a standard for how the sound has to be lowered, putting up some trees or something is kind of a hit and miss approach it may work may not and no parties will be happy at the end of it.

Denise McClure- I think if we say the commercial kennel, cannot be located within (whatever the board decides) that square footage is, of a residential dwelling within a residential district. So that's saying that you cannot have your kennel

building within let's throw out the 250 feet 500 feet whatever it is within that many feet of a residential dwelling, that's located in a residential district.

Gary DaSilva-You said building to building. I would like to see property to building

The board discussed amongst with Mark Lalumiere and appropriate distance to a resident using the GIS map

Janet Morris-Thinks that they should do it from the property line, persistent barking could be a bad neighbor and it shouldn't be next to residential. Special permit is required for the day use watching dogs, is that correct?

Denise McClure-That is ZBA special permit

Janet Morris-Why is this different, why do we approve a contractor's yard and not this?

Denise McClure-Because the Use Special Permits are with the ZBA

After a lengthy discussion about distance, the board decided to make it 400 feet within a residential dwelling

Public Comments

None

A motion to close Article 33-SP-Commercial Kennel
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

A motion to approve to amendment for 400ft Article 33-SP-Commercial Kennel
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	

Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

A motion to recommend to Town meeting Article 33-SP-Commercial Kennel
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Public Hearing-Proposed Zoning Text and Map Amendment-(Article 29)

A motion to open Article 29- waive the reading of the notice
Motioned by: Matt Battcock
Seconded by : Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Comments from the board

Chris Tribou-Referred to Section q.-Asked if they could make a requirement and have LED lights

Denise McClure-Explained that it is straight out of our bylaw and that technology changes.

Blake Robertson-Wanted to know when the subcommittee met to approve the changes.

Denise McClure-They were approved at the meeting

Blake Robertson-This whole thing seems odd to me, because the task from town meeting was you to at the PUD and fix the PUD but this is not a PUD. This really doesn't belong here. Blake Robertson went over each highlighted area

Denise McClure-The committee discussed this at length through many public meetings that I've written many, have been working in zoning for 25 years. You're looking at doing a flexible product that will require flexibility, that will allow for flexibility by the developer and flexibility, by the planning board. In order to achieve the best development project by project.

Blake Robertson-Lets be practical here, zoning is determinate and so we talk about zoning purposes we're using significant indeterminate terms and so that's self-contradictory and then it doesn't make sense. And it allows significant misunderstanding and misapplication and so it is it is a caution inducing issue here and something we should avoid, quite frankly. Blake Robertson went over each highlighted area

Mark Lalumiere- I understand what you're getting at Blake and you want to define these terms and make them somewhat rigid and defined and somewhat measurable. But on the flip side, you're also tying the hands of the planning board. So, someone regardless of whether you think the project is detrimental to the neighborhood, whether you think it's a bad project, if you've set a definition and they meet it, you've tried your hands on a reason to deny it now. And what we're talking about here is just basic the purpose and authority and statement. What are you trying to accomplish? it's kind of like a master plan, what do you see as a vision, what do you see as goals. That's what's laid out here, and it gives you as playing board member some wiggle room as projects come down; that those terms are to fight so you, as a planning board member can define them for that project when you review it. I think Denise said it, it is really a statement of purpose and authority. What is the purpose of writing this by law they listed below? basically, it's to spur redevelopment and economic development, allow mixed used, housing in certain districts I mean you could certainly go down and trying to define every term, but it could help you now and hurt you later.

Mike Riley gave Blake Robertson the floor to go over each highlighted item and was questioning.

Gary DaSilva-Point of order.

In the spirit of time can we have Blake just say he disagrees with everything instead of disagreeing or every single word.

Mike Riley-Point taken; Blake I do understand that you want to go through this. But we have been having these meeting for several months and we have never heard from you but go ahead and continue Blake.

Blake continued to go through each one. Each question he had was answered by Denise McClure

Janet Morris-I would like to say that this board was supposed to come before us, and we were supposed to pick it apart. Versus it going before a lawyer and having them picking it apart. So we are actually going through our due diligence. Yes, you have had some hearing, but they were at 3:00 in the afternoon. The last meeting you held had 3 residence, everybody else was either Planning Board or BOS. Us given you the input

is important; you are supposed to have deliberation during the meetings. She continued to talk about the 16 pages from the 2106 bylaw missing and she is she is concerned because now there is only one definition. She feels it is not complete and that they need to wait before it goes before Town meeting. She feels that they want her to rubber stamped it and just send it to Town meeting.

Mike Riley-Before we go to public comment, we formed a sub committee to review this as we were asked from Town meeting. Janet you were asked to be on this committee, you accepted and then you declined. When I asked the members to be on the board, they all have lives, job etc. When I asked them for the personal time, I asked them how I could make it feasible for them. During covid, we agreed that 3:00 wouldn't be so bad, because it is on zoom. I feel like we had more people at our meetings than we would have had if it was in person. We made sure that it was covered by BATV. To say that it was anything but transparent is just not true.

Janet Morris-Since you mention my name. The meeting that you are discussing, Blake was not attending and you were trying to put together a different committee, it wasn't this one. You wanted to make a Smart Growth Committee, was before Town meeting. I said Blake or I should be on that committee and than the next thing you know, you are using that as leverage at a BOS meeting. You have gone to another Selectman and said....

Mike Riley-You are full of bologna and you are reaching hypothesis. Janet, what you are is very accusatory to everybody that you don't like, and I don't have a problem with that. You be you.

Blake Robertson-Mr. Chair, you are way out of order.

Mike Riley-You're out or order

Public Comments

Mike Rosa-BOS-Just a couple of changes that I noticed, and I don't want to upset the board, but I do want to talk about a couple of things. In Section 3, Overlay District, I raised this issue in the Smart Growth Committee, and I see that the language is crossed out and correctly so. But what I noticed is that you didn't add in the zoning map, were the mixed-use overlay is going to be in your area A and B. The were in Mrs. McClure's power point presentation that night but they haven't been inserted into the warrant article.

Denise McClure-Yes, they exist, and the map is there, its just not attached to this at the moment.

Mike Rosa-The only thing that I would ask is, on zone A, the one around the center. The map that Mrs. McClure had up, it still includes the Billerica mall, which we know is going forward with the project under the old PUD zoning and that's not going to change regardless of the withdrawal of if the PUD she be removed from our zoning. I think it would make sense to exclude that from the new center area zoning A. The other thing that I have a little concern with, is directly across the street from that, you have incorporated all the properties across the street from the mall to just before you get to the center. If you look at a lot of those houses, those are historical houses that have historical plaques on them, and I am not quite sure what the intention is of including them on a mixed-use because they are historical, and we don't want to touch them. I do know that they have to go before the Historic Committee within that zone, I am aware of that. They are well maintained historical houses in the center of Town, and I personally don't want to see anything happen to them and I would hope that maybe we could adjust that map so those are removed. Not to flare something up that was discussed, and I brought this up at the meeting, definitions are slightly important, and I brought this up with Ms. McClure. When you talk about the definitions more specifically in the section, Special Permit criteria, these are the requirements for the criteria to get the Special Permit. And in Section A, where it does talk about balance, this board changes through the years and the vision that you have could change as people on the board change. The developer may say, I think 60% residential and 40% commercial is a good balance,

and the board may say no and you could deny that based on that. But he could than appeal your decision because technically, it's a balance but not the balance that you agree with. He continued to go over some definitions.

End of Public Comments

A motion to close the Public Hearing, Article 29-Proposed Zoning Text and Map Amendment
Motioned by Gary DaSilva
Seconded by: Matt Battcock

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson		X
Janet Morris		X

A motion to recommend to Town meeting Article 29-Proposed Zoning Text and Map Amendment
Motioned by: Gary DaSilva
Seconded by Matt Battcock

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson		X
Janet Morris		X

Public Hearing-Proposed Zoning Text and Map Amendment-(Article 30)

A motion to open Article 30- waive the reading of the notice
Motioned by: Matt Battcock
Seconded by : Chris Tribou

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

The board all supports this

Public Comment

No Comments

A motion to close the Public Hearing, Article 30-Proposed Zoning Text and Map Amendment
Motioned by Gary DaSilva
Seconded by: Matt Battcock

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

A motion to recommend to Town meeting Article 30-Proposed Zoning Text and Map Amendment
Motioned by: Gary DaSilva
Seconded by Matt Battcock

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Public Hearing-Proposed Zoning Text Amendment-(Article 27)

Presented by Mike Rosa-BOS

A motion to open Article 27- waive the reading of the notice
Motioned by: Matt Battcock
Seconded by: Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Mike Rosa-This article is parallel article along with the next one in line to the article that you just unanimously voted. This is to remove the PUD language from our zoning bylaw. The way that the Select Board put in, versus the way the Planning Board put it in, is that you did it all in one article, we broke it up into two. And at this point and time, I think we all recognize the importance of getting rid of the old PUD. I would hope that the Planning Board support this article along with the upcoming article to do that as a safeguard to basically have a plan B. The last thing that we want to see happen at Town meeting is have the mixed-use article passed and this be defeated. One of the problems that you have is to remove this you need a 2/3rds vote. To pass the mixed use, is only a majority vote. I would like to get the support of the Planning Board and keep this as a backup plan and if we feel that we don't need it after your articles are done, we can instantly withdraw it on Town Meeting floor.

Questions from the Board

Mike Riley-Who worked on this article?

Mike Rosa-The Board submitted it, the Town Manager and I drafted it.

Mike Riley-Did you guys vote on it?

Mike Rosa-We voted to put in this placeholder, yes.

Mike Riley-What was the cote?

Mike Rosa 3-2

Chris Tribou-Talked about the order of the articles

Blake Robertson-This is a commonsense article and provides safe guards for our Town.

Janet Morris-I don't understand why people would vote for 30 and not here. I think we should protect this Town. There is no reason why you should vote for one and not the other.

Chris Tribou-Because it is redundant

Janet Morris-If it is truly redundant, your thought would be the same.

Mike Riley-That's exactly what we did with a 7-0 vote.

Public Comments

None

A motion to close the Public Hearing, Article 27-Proposed Zoning Text Amendment
Motioned by Gary DaSilva
Seconded by: Matt Battcock

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

A motion to recommend to Town meeting Article 27-Proposed Zoning Text Amendment
Motioned by: Matt Battcock
Seconded by Janet Morris

Members Vote	Yay	Nay

Michael Riley, Chairman		X
Matthew Battcock, Vice-Chairman		X
Patricia Flemming, Secretary		X
Gary DaSilva		X
Chris Tribou		X
Blake Robertson	X	
Janet Morris	X	

Public Hearing-Proposed Zoning Map Amendment-(Article 28)

Presented by Mike Rosa-BOS

A motion to open Article 28- waive the reading of the notice
Motioned by: Matt Battcock
Seconded by: Pat Flemming

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

Mike Rosa-This is basically the same of what we just talked about. It is to remove the PUD overlay that was blindly placed on 140 parcels of land.

Comments from the Board:

Chris Tribou-gave his thoughts on this and wanted to know what the point is because this is what the Planning Board is supposed to do.

Mike Rosa-Town meeting is the zoning authority, not the Planning Board. He gave a few addresses for example, Allen Road, The Mills, River St, Knights of Columbus. To say that it doesn't work, the way that it has been working, I don't agree with.

Chris Tribou-Than what is the job of the Planning Board?

Mike Rosa-The Planning board does not do zoning, that is Town Meeting. The Planning Board works thru the same details with the project.

Blake Robertson-This is a commonsense article, the PUD is flawed, and it needs to be fixed

Janet Morris-Talked about article 30

Chris Tribou-I understand it. It's just redundant to have it twice, its just confusing. Have one article.

Janet Morris-Just because it is coming from a different source doesn't mean you should put at risk. Just because it is coming from a BOS doesn't change the fact that the PUD language is flawed.

Janet Morris-Can we make an amendment to add those parcels then?

Janet Morris-I will make a motion for a friendly amendment to add those parcels to the list.

John Curran-Mr. Chairman, you can not do that. That is double jeopardy. That article was presented 6 months ago

Janet Morris-I withdraw the friendly amendment

A motion to close the Public Hearing, Article 28-Proposed Zoning Map Amendment
Motioned by Matt Battcock
Seconded by: Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

A motion to recommend to Town meeting Article 28-Proposed Zoning Map Amendment
Motioned by: Matt Battcock
Seconded by Janet Morris

Members Vote	Yay	Nay
Michael Riley, Chairman		X
Matthew Battcock, Vice-Chairman		X
Patricia Flemming, Secretary		X
Gary DaSilva		X
Chris Tribou		X
Blake Robertson	X	
Janet Morris	X	

Make a motion to adjourn
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	Yay	Nay
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	