



*PB*  
*Keri Ref*

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**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*  
Christopher Tribou  
Blake Robertson

Patricia Flemming, *Secretary*  
Janet Morris  
Marlies Henderson

**Planning Board**  
**Minutes**  
**March 14, 2022 @ 7:00 P.M.**  
**Held via remote zoom**  
**Videod by BATV**

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

<b>Members</b>	<b>Present</b>	
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	
Marlies Henderson	X	
Denise McClure, Acting Interim Director	X	

**Pledge of Allegiance**

**OPEN MIC**

**Kelly Sardina**-I know that you are going to be voting on a minor amendment with the mall project. I just wanted to ask the board if they want to double check with Denise; when that was voted on, that's a PUD and I believe that there is a misunderstanding that when it was voted on February 23 of 2021, we were informed that it was going to be voted on under the new housing choice bill. We did not adopt that new zoning, which is housing choice in the center of Billerica until the Spring of 2021. The other thing is that this is a PUD project, so I don't think the super majority would rule on

that. It would stay voting on 2/3rds vote not a housing choice piece of property. You might want to check with Denise on that voting.

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**Fitzpatrick Wood-Partial Bond Release #3**

Attendees-Jon Metivier

**Denise McClure**-The applicant request to release a portion of the existing bond being held for construction of Fitzpatrick Woods. For \$144,182.43.

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the Bond Release for Fitzpatrick Woods for \$144,182.

Seconded by Chris Tribou

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0-APPROVED**

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**ANR-16 AUSTIN ROAD**

Attendees-Jim Dangora Jr

Homeowner-Paul Dutton

**Jim Dangora Jr.**-The applicant requests to subdivide a parcel a parcel in the Village Residence to create two new lots. Both lots meet the minimum.

**Marlies Henderson**-Asked about the sign that said Lake Side, it doesn't say Sunset. It should be fixed. At the end of Lake side there is a sign that says Private Dock. I don't want to lose any more access to open space.

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the ANR for 16 Austin Road

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0-APPROVED**

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## **B1 PRELIMINARY-WINSOR ROAD**

**Mike Riley**-Made an announcement that the public hearing for B1 preliminary subdivision Plan Winsor Road will be continued to April 11, 2022 incase any residents wanted to speak on behalf of the project.

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## **B2-681 BOSTON ROAD**

**Attendees-Michelle Alpers**

### **MOTION TO OPEN**

**Matthew Battcock** -I make a motion to open the B2 681 Boston Road and waive the reading of the notice

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0-Public Hearing is open**

**Michelle Alpers**-I am moving forward with the plans for the subdivision, and we are at the form B2 of the project.

**Denise McClure**-They do have their variances in place for this project. I have no concerns with this.

**Marlies Henderson**-Is there anything that the board can do to make sure that we do not split ourselves out of the 10% and then open everything up for 40B's?

**Denise McClure**-It takes a lot to kick you out of that 10%. But to say for the Planning Board, No. There is not a lot you can do. The variances are approved for lots like this B2 and at this point it is their property rights to be able to subdivide it because once the variances are approved, they can do it.

### **Comments from Board:**

**Marlies Henderson**-I noticed that the front part of these lots is all wetlands. So, is there also a plan to go to Con Com?

**Michelle Alpers**-Years ago, when we filled in the land here because it needed to be raised for the water table. I had a botanist come out and they did soil and environment testing and his report should be on file with the Town. It was not considered wetlands. There was nothing there, no vegetation or animals that would be considered wetlands. We are keeping as many trees on the property as possible.

**Marlies Henderson**-Will it stay a shared driveway?

**Michelle Alpers**-Yes it will

**Janet Morris**-Will there be a turnaround in the driveway?

**Michelle Alpers**-We will also have a slot to back in and turn around

**PUBLIC COMMENTS:**

None

**MOTION TO CLOSE**

**Matthew Battcock** -I make a motion to close the public hearing for the B2 681 Boston Road

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0 CLOSED**

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the public hearing for the B2 681 Boston Road

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0 APPROVED**

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**B2-430 TREBLE COVE ROAD**

**Attendees:**

John McKenna-Attorney

**MOTION TO OPEN**

**Matthew Battcock** -I make a motion to open the B2 for 430 Treble Cove Road and waive the reading of the notice

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0-Public Hearing is open**

**John McKenna**-The applicant requests to subdivide the land into two lots located in a Rural Residence. The property is accessed through Treble Cove Road, which is an accepted street. They have all variances.

**Comments from the Board:**

**Marlies Henderson**-Do they have to go through the BOH for septic or are they going to go through sewer?

**John McKenna**-They will have the septic approval done, there is no sewer on the street. The BOH approves the septic design.

**Blake Robertson**-The existing building will be removed?

**John McKenna**-Correct

**PUBLIC COMMENTS:**

NON

**MOTION TO CLOSE**

**Matthew Battcock** -I make a motion to close the public hearing for the B2 430 Treble Cove Road  
Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0 CLOSED**

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the public hearing for the B2 430 Treble Cove Road with the comments from DPW

Seconded by Pat Flemming

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0 APPROVED**

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## **SPECIAL PERMIT-RANGEWAY ROAD-CONTRACTORS YARD**

### **Attendees:**

Steve Nelson-Attorney

John Marquis-Owner

David Happ-General Manager

### **MOTION TO OPEN**

**Matthew Battcock**-I make a motion to open the public hearing for the SP 120 Rangeway Road and waive the reading of the notice.

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

### **7-0 Public Hearing is Open**

**Steve Nelson**- We are here this evening to secure a Use Special permit under the zoning by laws in Billerica. They would like to operate a contractor's yard. This project is zoned Industrial, and it is a piece of land that has been vacant for many years. They are looking to use 38k square feet out of 15 acres. He would like to move to wood chipping and wood storage to this location. If the board grants the Use Special Permit, we will have to go back to BOH and Con Com. This is the first step in the process. There will be a 6ft privacy fence in the front of the property. We do need some waivers, under the S3 applications. We are asking for a waiver for Drainage calculation, copies of site and grading plans, traffic study, landscape plans and a consultant retainer. Those don't really apply to a use special permit.

**Denise McClure**-It is a very large site that is unusable. On the waivers, the problem that happens as with this, they are not even building a building, they are just storing things there.

**Mark Lalumiere**-No comments, it is allowed by zoning

### **Comments from Board:**

**Chris Tribou**-What do you know about the vernal pool?

**Steve Nelson**-Con Com will address these, and we don't think that these are on our site

**Pat Flemming**-Will there be a building on this site?

**Steve Nelson**-Not now, maybe one day in the future

**Marlies Henderson**-When you are working with heavy equipment, it is easy to slowly work your way back. I disagree with my colleagues that the land is useless. It was once protected land, how it became industrial is beyond me. What about the wood chipping noise and the neighbors?

**David Happ**-The neighbors are office buildings.

**Steve Nelson**-The abutters were notified, it is all zoned industrial. This use is intended to be used for this industry

**Marlies Henderson**-I have tried for a very long time to make this open space zoning. The industrial area should realize that they are beside a residential area.

**David Happ**-There are no residential areas that abuts us.

**Blake Robertson**-It would be prudent if we got a form established for this Use Special Permit. I do like Marquis, they run a good business, but we had two documents associated with this project that were delivered late today and I ask that this gets continued.

**Denise McClure**-We forwarded the comment as soon as we received them today.

**Blake Robertson**-I believe that we can do better.

**Janet Morris**-Will the noise be above the limits?

**Steve Nelson**-Billerica has a noise bylaw and because of where the site is, it is already at a level. It meets the criteria

**Janet Morris**-What will happen with the other contractor's yard?

**Steve Nelson**-The plan is to move it to this site. The client is considering on leasing it. He won't need it for his operations.

**Janet Morris**-When he leases it, will it remain a contractor's yard?

**Steve Nelson**-They would have to get a special permit from the either the zoning or planning board.

**Mark Lalumiere**-I would want them to come before the Planning Board, I can't imagine he is going to rent it to another competitor.

**Mike Riley**-You are putting a 6 ft fence on the property. It is a 15-acre parcel, and you are using a little bit under

**Steve Nelson**-Yes. The area of intended use is 38,000 sq ft.

**Mike Riley**-This is a good spot for a contractor's yard, will the trees remain.

**Steve Nelson**-There may be some trees removed to satisfy BOH.

**Public Comment:**

None

**MOTION TO CLOSE**

**Matthew Battcock** -I make a motion to close the public hearing for Special Permit Rangeway Road

Seconded by Pat Flemming

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-No

Blake Robertson-No

Mike Riley-Yes

**5-2 CLOSED**

**Janet Morris**-Asked if Mr. Lalumiere was comfortable with the conditions

**Mark Lalumiere**-I don't have an issue with it because it will be addressed by the BOH & Con Com

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the public hearing for Special Permit Rangeway Road with waivers mentioned.

Seconded by Chris Tribou

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-No

Blake Robertson-No

Mike Riley-Yes

**5-2 APPROVED**

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**B1 PRELIMINARY SUBDIVISION-WINSOR ROAD**

Applicant requested to continue to April 11, 2022

**MOTION TO CONTINUE**

**Matt Battcock**-I make a motion to continue B1-Winsor Road to April 11, 2022

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes



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**PUD MINOR ADMENDMENT-480 BOSTON ROAD**

Attendees:

Jim Dangora Jr-Attorney  
Ted Williams-Allen & Major

**Jim Dangora Jr.** Here to discuss the minor amendments. They are proposing minor changes to the 18,000 +/- sq ft retail/restaurant space. First, the approved freestanding building contiguous to the retail/restaurant space is being modified consistent with the layout required to provide for the needs of a nationally recognized coffee shop. Secondly, the layout of the additional proposed restaurant has been enlarged slightly to accommodate the prototypical needs of a regionally recognized full-service restaurant chain. You will also not that the minor change call for the elimination of the proposed drive thru on the east end of the new retail/restaurant building and adjacent parking to the storefronts for customer convenience.

**Tim Williams**-Shared his screen to show the plans covering the minor modifications

**Jim Dangora Jr**- We don't have much more to add, these are minor modifications as defined in the bylaw. We would like to move forward

**Denise McClure**-I would like to remind the board that this project was permitted under the PUD overlay district and when it comes back looking at some changes. Its governed by a PUD overlay district through a process that talks about modifications to the approved plan. It talks about minor and major modifications, what distinguishes the two is that a minor modification does not change the overall concept of the PUD. So as they are tweaking and it calls for the allowance under the minor modification for the changing of foot prints, height, FAR all of those things but it focuses more, as long as it the concept of the PUD is the same. With that it is a written approval from the Planning Board that says it is a minor modification. This is the only one that we have permitted under this. I did speak with Town Counsel to make sure that we were doing the process correctly as this is not required to be a public hearing. Town Council agrees that this is a minor modification.

**Comments from Board:**

**Matt Battcock**-you changed the pads on the retail/restaurant. These are positive changes.

**Jim Dangora Jr**-Based on the location, the feedback from this will help market and bring them new business.

**Chris Tribou**-Why did you move the dog park? Did you get any comments from the residents? I think the minor improvements are in improvement.

**Jim Dangora Jr.**-No. They wanted to keep it and to pull the building further from Tower Farm we had to move it.

**Chris Tribou**-Any affect traffic wise?

**Tim Williams**-The traffic impact don't change. We haven't changed anything. No need to get it modified

**Pat Flemming**-I am happy to see the apartment came down. What is happening to the Kmart building?

**Jim Dangora Jr.**-The front part of the building will be cut back so it will be flush with the building. They are taking down 40,000 sq ft of Kmart space. The street appeal will be improved.

**Marlies Henderson**-Asked about the pad on the retail

**Tim Williams**-It is a placeholder for outdoor seating.

**Marlies Henderson**-Can you remind me what the AHA was?

**Jim Dangora Jr.**- 20 Units

**Marlies Henderson**-Did I see that open space went down from 42% to 31%

**Jim Dangora Jr.**- It did but it still complies with the bylaws. The overall open space went from 27% to 25%

**Blake Robertson**-I don't remember seeing the zoning table in our packet, when were they delivered

**Tim Williams**-We delivered the packet in February. It is in the plan on page C102

**Blake Robertson**-This doesn't look like a minor change to me. What is the number and type of the square footage?

**Eric Moran**-It stays the same

**Blake Robertson**-So you eliminated the underground parking, were did the new spots get salted.

**Tim Williams**-We captured 299 spots by moving the building

**Blake Robertson**-Is the parking behind the dollar tree new.

**Tim Williams**-No they were there previously

**Blake Robertson**-This is not a minor, this is a major change

**Janet Morris**-I agree with Blake this is a major change. I would like to ask Denise what attorneys did you speak to?

**Denise McClure**-I spoke to Town Council, KP law. You have to keep in mind that the PUD is written for large projects. They have the same number of units; these are just changes to the footprint.

**Janet Morris**-When you look at this building it is different. It is still a 3-story building, you are removing the parking garage. There is a reduction in the amount of green space. We didn't approve the parking in front of retail. Parking behind the Dollar tree, no one is going to use. You are moving the building; this is a major change. Where are the dumpsters and AC's?

**Tim Williams**-We moved the dumpsters to a centralized area. The proposed tenants for retail, it is all that they needed. They trash remains the same for the residential. It will still operate the same way

**Janet Morris**-How is a fire truck going to navigate now with all of those parking spots behind the building. Anyone who shops there is not going to get into the building if they are backed in the back

**Tim Williams**-The parking spots have always existed and exist there today. The back parking lot is used for employees.

**Janet Morris**-I don't see the connectivity and I hope as the board we do not do this written approval and that we get a second approval if this is a major or minor change. We need a solid council opinion. I don't know if you know but our chair is going around telling everyone. He is naming the store, the coffee shop, and the restaurant. I don't know if you guys are comfortable with that information out there, but it is out there.

**Mike Riley**-I appreciate that it is 20 ft further from Tower Farm Road and 5 feet less in height, it is a great improvement. To see these national chains to come to Billerica is better than them going to our neighbors. Do we have a plan in placed if more dumpsters are needed?

**Tim Williams**- We could accommodate, and we have some opportunities to put the the right side.

**Mike Riley**- I would of like to see them be able to drive over from Rose Hill Manor. I want to make sure that the trash isn't coming in before 7:30am. These changes are positive, it is better. The national retailers coming in have shared their wants and needs. I fully support the changes.

**Janet Morris**-I would like to ask the board, would you park behind the Dollar Store, Burlington Coat factory to go shopping? It is absorbing the parking by going behind the building. It is not safe back there; you could get hit.

**Mike Riley**-It is for employee parking.

**Chris Tribou**-The parking has been existing and I do know that the employees use it. The parking has already been existing for the mall.

**Denise McClure**-It is not a public hearing. You need 4 votes, and it doesn't matter if they weren't on the project before

### **MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the minor amendment 480 Boston Road

Seconded by Pat Flemming

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes  
Janet Morris-No  
Marlies Henderson-Yes  
Blake Robertson-No  
Mike Riley-Yes  
**5-2 Approved**

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**Cont. B2-120 RANGEWAY ROAD**

Attendees:  
Jim Dangora-Attorney  
Steve Dresser-Civil Engineer  
Applicant-George Allen

**Jim Dangora Jr**-This is a continued hearing the question that was raised at the last hearing. The matter has been resolved with the variance. We have filed everything necessary, and it has been dismissed. This project calls for keeping that home. It is on a public street, with the frontage variances in place. It is pretty straight forward.

**Marlies Henderson**-Asked that for a condition in the decision that the existing house remains to exist.

**Blake Robertson**-Feels that the documents came to late to review, he is asking to continue this so they can make a well-informed decision.

**The board was happy that it was resolved and feels that it is a great project that they are saving the house.**

**Public Comment**  
**None**

**MOTION TO CLOSE**

**Matthew Battcock** -I make a motion to close the public hearing for the B2 120 Rangeway Road  
Seconded by Marlies Henderson  
Chris Tribou-Yes  
Matthew Battcock-Yes  
Patricia Flemming-Yes  
Janet Morris-Yes  
Marlies Henderson-Yes  
Blake Robertson-Yes  
Mike Riley-Yes  
**7-0 CLOSED**

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the public hearing for the B2 120 Rangeway Road  
Seconded by Marlies Henderson  
Chris Tribou-Yes  
Matthew Battcock-Yes  
Patricia Flemming-Yes

Janet Morris-Yes  
Marlies Henderson-Yes  
Blake Robertson-No  
Mike Riley-Yes  
**6-1 APPROVED**

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**Cont. SPECIAL PERMIT-600 TECHNOLOGY PARK**

**Attendees:**

**Jared Walsh-Bohler**  
**Zack Richards-Bohler**

**Jared Walsh**-Gave a recap from the January meeting. The property contains two (2) existing buildings, paved parking areas, utilities and landscaping amenities, and associated equipment. The proposed project will include the construction of a +/- 64,400 SF Good Manufacturing Practice (GMP) lab building addition, modification to existing parking areas and utilities to accommodate the proposed building, and installation of new stormwater management features. They responded to BETA's comments, and they have closed out the peer review with them.

**Denise McClure**-I spoke to them about a condition of repaving the parking lot. Con Com has already approved this project.

**Marlies Henderson**-Asked about repaving and putting in rain gardens. Asked about taking one of the rows of parking lot out to give an area for safe walking. Feels it would be safer. The sewer line is not on the plan and wanted to know if they could write in sewer former RR for future green land. Asked about doing a green roof.

**Jared Walsh**-When they are existing parking lots it makes it challenging for the rain gardens. The challenge with having a green roof is that the labs do require a lot of roof top equipment.

**The board is very excited about this project coming to Billerica and feels that it is in the perfect location for a life science building. They have come back with everything that the board has asked for. This is what the Town has been asking for.**

**MOTION TO CLOSE**

**Matthew Battcock** -I make a motion to close the public hearing for the SP 600 Technology Park with the conditions mentioned.

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0 CLOSED**

**MOTION TO APPROVE**

**Matthew Battcock** -I make a motion to approve the public hearing for the SP 600 Technology Park

Seconded by Marlies Henderson

Chris Tribou-Yes

Matthew Battcock-Yes

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Blake Robertson-Yes

Mike Riley-Yes

**7-0 APPROVED**

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**OTHER BUSINESS**

**MOTION TO APPROVE THE MINUTES**

**Matt Battcock**-I make a motion to approve the minutes from March 14, 2022

Seconded by Janet Morris

Chris Tribou-Yes

Matthew Battcock-Abstain

Patricia Flemming-Yes

Janet Morris-Yes

Marlies Henderson-Yes

Mike Riley-Yes

Blake Robertson-Yes

**6-0-1-APPROVED**

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**The board thanked Matt Battcock and Mike Riley for their time served on the Planning Board.**

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**ADJOURNMENT**

**Matthew Battcock**-I make a motion to adjourn

Seconded by Chris Tribou

Pat Flemming-Yes

Matt Battcock-Yes

Chris Tribou-Yes

Marlies Henderson-Yes

Janet Morris -Yes

Mike Riley-Yes

Blake Robertson-Yes

**THE BOARD ADJOURNED**

End

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