

LOCAL NEWS

## **Billerica Select Board wants to wait for Milton case outcome before deciding on MBTA Communities**

'Right now, I think we do nothing'





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BILLERICA — The Select Board signaled a desire to wait on any action regarding MBTA Communities zoning until the outcome of the Milton court case becomes more clear, though members of the Planning Board, who had already drawn up districts for the zoning, may stand in opposition to that plan.

The MBTA Communities law has seen a level of opposition in just about every city and town it is affecting in eastern Massachusetts, and Billerica seems to be no exception. Even on the Select Board, where unanimity has been rare for big issues, there seemed to be a general consensus of seeing whether the town of Milton's case against the state mandate has any legal merit.

The Planning Board had drawn up a proposal of three subdistricts, but they withdrew the article from the spring Town Meeting warrant because of last-minute changes that were not reflected in the already finalized Town Meeting warrant. Those subdistricts included the neighborhood subdistrict, which stretches along Billerica Avenue and Rogers Street between High Street and the northern tip of Letchworth Avenue; the mills subdistrict featuring the area around the north side of Mill Pond and the North Billerica MBTA station; and the Treble Cove subdistrict, consisting of an area around the intersections of Boston, Chelmsford and Treble Cove roads. The neighborhood and mill districts are in close proximity to each other, and the Treble Cove district is further to the south down the Concord River.

The idea behind the law is to create zoning for denser multifamily housing. Select Board member Michael Riley asked why Billerica, which is compliant with 40B affordable housing standards, is being treated the same as cities and towns that do not comply with those standards.

“We have done our job here, and Billerica should stay in control of our housing production,” said Riley at the June 3 Select Board meeting.

Riley said he has a lot of problems with the MBTA Communities law, but he also understands the need to comply with it, given the possible repercussions from the state for not doing so, which could include the loss of local control when it comes to this zoning. While he wished for Billerica to not have to comply, he said the town should still have a district prepared in case that option completely vanishes — though he and other members of the board seemed to want to make a different plan.

“Centralizing it into one spot is a bad idea. It would forever change the makeup of the community,” said Riley.

Select Board member Dina Favreau agreed to a certain extent, but said the town should take advantage of the fact that the issue is going through the courts in a way that does not involve Billerica, but will affect it.

“Right now, I think we do nothing,” said Favreau. “Other towns are spending the money to take it to court. We don’t have to spend the money to make that decision if we just wait.”

Favreau said she agrees with compliance “to an extent.” However, she was concerned over the idea of the town approving a district, but then the courts finding the MBTA Communities law unconstitutional afterward.

“How would we undo that?” Favreau asked.

Select Board member Michael Rosa also agreed to a certain degree, but was wary of the repercussions of noncompliance if the courts rule in favor of the state.

“I hope it is overturned and is found unconstitutional, but if the state does win, it is not just compliance, it is a loss of control,” said Rosa, also noting that he did not like the Planning Board’s plan.

Rosa and Select Board member Kim Conway advocated for what Acting Town Manager Clancy Main called “compliance hybrid.” Main said this would be a similar strategy to what Chelmsford’s Town Meeting approved, where the zoning is created in a way that is compliant with the letter of the law, but in an area that is highly unlikely to see large-scale housing development.

Main also warned that waiting for the courts to make their rulings carries its own risks. Billerica has a Dec. 31 deadline to be in compliance, but it is likely that the court case goes beyond that date.

At the direction of the board, though, Main said he would hold off on moving the process forward until October, and would not take any action to put an MBTA Communities article on a Town Meeting warrant until the outcome of the Milton case becomes more clear.

After seeing the Select Board's position, Planning Board member Marlies Henderson said in a June 7 phone call that she thinks the Select Board has "no case" to take this process over.

"The Planning Board has worked on this for a year," said Henderson. "We are working with a Dec. 31 deadline, but it also has to be accepted by the Planning Board, Town Meeting, the Executive Office of Housing and Livable Communities and the attorney general. So the time to have this plan approved was this spring."

The next best thing, Henderson said, would be to get it onto the fall Town Meeting warrant and avoid the cost of having a special Town Meeting.

"So now if we miss out on grants, or if we get a special master, that is on them, not because we didn't do our homework," said Henderson, referring to the Select Board.

The Planning Board will likely be discussing the matter further during their scheduled meeting Monday. Planning Board Chair Michael Parker said in a voice message Friday afternoon that he "wants to work in a cohesive manner with all parties in Billerica" when it comes to MBTA Communities.

"We have some more work to do, and they don't want us to do it yet, but we need to do more work in order to be ready for that time," said Parker, adding that he thinks the Planning Board needs to do more community outreach.