



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus Jr., Secretary

November 27, 2023

Stephen Wallace
Town Planner
1 Park Street
Butterick Municipal Building
Sterling, MA 01564

Re: Town of Sterling: Pre-Adoption Review Application for Compliance with MBTA Communities/Section 3A of the Zoning Act

Dear Mr. Wallace:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Sterling submitted electronically on August 29, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Sterling's proposed "Multi-Family Overlay District" (MFOD) based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines). **After careful review and analysis, EOHLC has determined that the Application submitted does not demonstrate that the MFOD will meet the requirements of Section 3A and the Guidelines if it is adopted.**

Sterling is designated as an Adjacent small town with 3,117 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum multi-family unit capacity of 156 units and a gross density of 15 dwelling units per acre. There is no minimum land area or district location requirement for Adjacent small towns.

EOHLC identified the following issues which may affect the MFOD's compliance with Section 3A:

1. The MFOD overlaps the exact boundaries of a single parcel that appears as three parcels on Sterling's online assessors' maps. EOHLC required MBTA Communities to submit fully up to date GIS shapefiles of local assessors' parcels in 2022. EOHLC requests confirmation that the assessors maps were fully up to date at the time they were provided. The Compliance Model used to estimate unit capacity relies on accurate parcel data.
2. The MFOD requires a minimum lot size of 5 acres. The proposed area currently is shown as three separate parcels on the local assessors maps. At least one of these three parcels as shown on the local assessors maps does not meet the minimum lot size requirement. Multi-family housing cannot be developed as of right on a non-conforming lot. Since the compliance model provided by the Town in the pre-adoption application treated the district as a single lot, it is not clear how the lot pattern might affect unit capacity. Please note: the Guidelines require that each "district" be a minimum of 5 acres, they do not require a minimum parcel size of 5 acres.

3. The MFOD requires a minimum frontage of 200 linear feet. No documentation in the application shows that any of the parcels in the district has sufficient, or any, frontage. Multi-family housing cannot be developed as of right on a non-conforming lot.
4. Section 301-3.4.1 of Sterling's zoning bylaw requires buildable lots to have street access. A street is defined as "An existing way providing access to the premises in question if that way is either shown on an approved definitive subdivision plan or on the Sterling Official Map as adopted pursuant to MGL c. 41, §§ 81E through 81H, as a public way." The submitted application does not demonstrate that any parcel in the district meets this requirement.
5. Section 301-3.4.2 requires a special permit for driveways that serve more than two lots. If the district consists of three lots as shown on local assessors maps, it appears that a shared driveway cannot be used to provide access to all three lots as of right.
6. MBTA Communities may require non-discretionary site plan review for multi-family housing in Section 3A-compliant zoning districts if the scope of review is within the parameters established by Massachusetts case law for as of right uses, and does not unreasonably delay projects or impose conditions that make them infeasible or impractical. At this time, EOHLC does not opine on whether every criterion listed in Section 301-6.4.6 is within the permissible scope of site plan review, but does recommend that Sterling consult with local counsel for an opinion.

For the foregoing reasons, EOHLC determined that the application submitted does not demonstrate that the MFOD will comply with Section 3A as proposed. The Town must clarify how many lots are in the district and address the frontage and access issues as appropriate based on the correct lot configuration which is needed in order to apply the Town's zoning rules in the compliance model, which relies on accurate lot information. EOHLC encourages the Town of Sterling to continue its diligent efforts to identify a suitable location for a zoning district that allows multifamily housing as of right, consistent with the MBTA Communities law. Please note that this pre-adoption review is limited to the specific issues identified at this stage of review, based on materials provided by the Town of Sterling. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district

If you have questions or need further assistance regarding this determination, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at nathan.carlucci@mass.gov.

Sincerely,



Caroline "Chris" Kluchman
Acting Director, Community Services Division

cc: State Rep. Meg Kilcoyne