1. **Call Planning Board Meeting to Order**

Ms. L’Heureux called the meeting to order at 7:01 PM.

The Planning Board presented long term member Jack Kelly with a memorial chair for all his years of service.

Town Administrator Paul Sagarino introduced Melisa Tintocalis, the new Economic Development Director. Mr. Sagarino thanked the Board for supporting the creation of this very important position. Ms. Tintocalis has worked previously in Lexington, Somerville, and San Diego, CA. She has a Master’s Degree in Planning from the University of Michigan. Ms. Tintocalis stated that she has been on the job for about a month and has had interviews with stakeholders in the Town. There is a passion for this community from the residents and she looks forward of being a part of that.

**MOTION** - Mr. Espejo made a motion to take item “7.c”, “7.d”, “7.e” and “7.f” together and out of order for discussion purposes. The motion was seconded by Mr. Raymond and unanimously voted 7-0.

7.c **Continued Public Hearing - Petition to amend the Zoning Bylaw, Article II “Definitions” and Article IV “Use Regulations” to address and define uses pertaining to Parking Structures – Submitted by Escadrille Realty, LLC**

7.d **Continued Public Hearing - Petition to amend the Zoning Bylaw, Article V “Dimensional Regulation Schedule” as it pertains to parking structures – Submitted by Escadrille Realty, LLC**

7.e **Continued Public Hearing - Petition to amend the Zoning Bylaw, Article VII “Parking Structures” to modify the requirements for parking garages – Submitted by Escadrille Realty, LLC**

7.f **Continued Public Hearing - Petition to rezone property to the General Business (BG) District – 1-3 Ray Avenue – Ray Avenue Trust, Applicant**

**MOTION** - Mr. Espejo made a motion to continue these matters to the Planning Board meeting of February 20, 2020 as requested by the Applicant’s attorney in an email dated February 4, 2020. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

**MOTION** - Mr. Espejo made a motion to take items “7.g,” and “7.h” together and out of order for discussion purposes. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

7.g **Continued Public Hearing – Application for Approval of a Special Permit Pursuant to Section 4.3.2.6 “Outdoor Storage of Supplies and Equipment Incidental to Permitted Uses.”**
Subject to Requirements for Location, Lighting, Screening, Fencing, Cover and Safety Precautions” of the Zoning Bylaws – 376 Cambridge Street – The Granite Place, Inc. – Applicant
7.h  Continued Discussion – Application for Approval of a Minor Engineering Change – 376 Cambridge Street – The Granite Place, Inc. – Applicant

MOTION -  Mr. Espejo made a motion to continue these matters to the Planning Board meeting of February 20, 2020 as requested by the Applicant’s engineer in an email dated February 6, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0.

MOTION -  Mr. Raymond made a motion to take item “7.i” out of order for discussion purposes. The motion was seconded by Mr. Espejo and unanimously voted 7-0.

7.i  Continued Public Hearing – Application for Approval of Special Permit Pursuant to Section 4.3.22.2 “Solar Energy System, Ground-Mounted” of the Zoning Bylaws – 50 Margaret Street – Northeast Solar Services d/b/a Revolusun - Applicant

MOTION -  Mr. Raymond made a motion to continue this matter to the Planning Board meeting of June 4, 2020 as requested by the Applicant in an email dated February 4, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0.

2. Citizens’ Time

No one came forward.

3. Announcements

Ms. Bonventre stated that the deadline for zoning warrant articles for the May Town Meeting will be Tuesday, February 11th at 4:30 PM. The last day to register in the Presidential Primary will be Wednesday, February 12th until 8:00 PM at the Town Clerk’s office. February 12th is also the last day to take out papers for the Town Election. The Town Clerk will be open until 5:00 PM. The last day to return papers for the Town Election will be February 14th at 5:00 PM. All Town Offices will be closed on Monday, February 17th for President’s Day. The Zoning Bylaw Review Committee will meet on Wednesday, February 12th at 6:00 PM. Mr. Covino stated that the date was changed for this meeting and we met last night.

4. Legal Notices of Interest

There were no legal notices.

5. Non-Approvals

There were no non-approvals.

6. Administrative Matters

6.a  Continued Discussion – Application for Approval of a Minor Engineering Change – 3 & 5 Dartmouth Road (General Walker Estates Subdivision) – General Walker Estates – Applicant

Ms. Kassner stated that the applicant is not here tonight. They have submitted a minor engineering change and on the advice of Town Counsel we recommended a peer review be done. We have engaged the services of BSC Group out of Andover. The paperwork was signed on Monday. The applicant has met with Staff, Building, Engineering, Town Administrator, Town Counsel and Ms. L’Heureux to go over all the issues.
Ms. L’Heureux stated that they received assurances that the applicant would be more directly involved with the remainder of this project. In the short term, all the trucks, equipment and debris will be removed from 101 and 103 Francis Wyman Road and a fence or barrier will be installed. This needs to be done by February 18th. The cease and desist that was issued is still in effect except for the removal of previously mentioned items. Ms. Kassner stated that at this meeting the points were driven home that there needs to be leadership on the site and they need to have control of the site.

**David Miller of 19 Gloria Circle and Town Meeting Member** – Mr. Miller stated that this subdivision abuts 12 properties and involves 7 streets. The properties need to be restored to the approved plan. The abutters have suffered terribly. There have been noise violations with construction starting at 6:15-6:30 AM and 8:00-9:00 PM and working on Sunday. There have been 5 fires in the foundation. At the last meeting Mr. Champy stated all this was done before he was involved and that they did not raise the grade after the occupancy. Both statements are false. They witnessed the work being done. Also Mr. Champy stated that they abutters would get weekly updates. The last email received was on December 16, 2019 and they have not provided weekly updates to the abutters. Mr. Miller stated they have now done work on 2 Dartmouth Road without permits. The Minor Engineering Change should be dead on arrival. Ms. L’Heureux asked that Mr. Miller submit his statement electronically for the record.

Mr. Gaffney asked if there is a conflict with BSC since they represent applicants in front of us. Ms. Kassner stated that there is a hard wall between office sites at BSC. This office from Andover has not represented applicants in front of the Board so there should be no conflict. Ms. Kassner stated that she can follow up with Town Counsel.

Mr. Espejo asked if the email from Tony Matarazzo from 2 Dartmouth Road regarding drainage was going to be addressed. Ms. Kassner stated that will be part of the issues being looked at.

Mr. Raymond stated that there should be a full time watcher that the applicant has to pay for. Ms. L’Heureux stated that they could look into this. Ms. Kassner stated that we can look at how this could be done. Mr. Covino stated that there used to be a General Development Inspector. Ms. Kassner stated that there was an inspector who worked under the engineering department that would help us with our site inspections with ongoing projects. Mr. Covino stated that when the mall started construction they had signs installed with the permitted construction hours and perhaps we should make this project do that and add it to our regulations or to the General Bylaw. Ms. L’Heureux stated that should be added now.

Mr. Miller stated that one last point, the cover letter and plan for the Minor Engineer Change are in conflict from what Mr. Champy stated at the last meeting. The plans say they will do Cape Cod burm to a 4-bay but they said they were going to have a Cape Cod burm to a swale. A 4-bay, which is an open pool of water is not allowed in Burlington.

**Reginald Griffin of 25 Gloria Circle** – Mr. Griffin stated that he echoes everything that Mr. Miller has said.
MOTION - Mr. Raymond made a motion to continue this matter to the Planning Board meeting of February 20, 2020. The motion was seconded Ms. Rappaport and unanimously voted 7-0.
7. Matters of Appointment

MOTION - Mr. Covino made a motion to take items “7.a” and “7.b” together for discussion purposes. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

7.a Public Hearing - Application for Approval of a Special Permit pursuant to Section 4.2.6.10 “Restaurants” of the Zoning Bylaws –75 Middlesex Turnpike (Burlington Mall) – Fogo de Chao Churrascaria (Burlington) LLC, Applicant

7.b Public Hearing - Application for Approval of a Site Plan – 75 Middlesex Turnpike (Burlington Mall) – Fogo de Chao Churrascaria, Applicant

Attorney Mark Vaughn from Riemer & Brunstein, LLP, Jennifer Moulton from Fogo de Chao, Justin Feldhouse from Simon Mall and Jocelyn Mayer from VHB. Attorney Vaughn stated that this will be a full service dining restaurant specializing in Brazilian Steakhouse. This is a nationwide chain with the closest restaurant in Copley Square in the Westin Hotel. This is on the northeast corner of the old Sears building. They will have 363 seats including 86 outdoor patio seats. The outside area will have a roof and walls with sliding glass windows. This is to block the weather elements and will not be a 4-season space.

Ms. Moulton stated that they are excited to come into Burlington. This business started about 30 years ago with 4 brothers coming from Brazil. This is the only authentic Brazilian Steakhouse. Their first location was in Dallas, TX and they now have 42 restaurants in the US and 10 in Brazil. They offer meat served on a spit and a Market Table, which is a specialized salad bar.

Ms. Kassner stated that this is the first tenant space on this side of the mall and there is a lot of interaction with the outdoor space. Since this has a hard roof over the patio if it becomes a 4-season space then they would need to come back in front of the Board. Ms. L’Heureux stated that Redstone has done that as well as Tavern on the Square.

Mr. Impemba read the departmental comments. Mr. Impemba asked if smoking will be allowed in the park area because that maybe an issue with outside seating. Mr. Feldhouse stated that there is a required setback for smoking. Mr. Impemba stated that a sign should be added. Mr. Impemba asked about the green space on the plan. Attorney Vaughn stated that there are planters with shrubs and then there is turf. Ms. Kassner stated that the green space in Lynnfield is turf. Ms. Rappaport stated that she has done yoga in Lynnfield and the turf is actually nice. Mr. Feldhouse stated that the turf was designed for high traffic areas like this use. Ms. L’Heureux asked that they bring a sample of the turf so they can look at it. Ms. Mayer stated that she is not the landscape architect but there will be specialty patio pavers and stamped concrete. The light green space on the plan will be planters with various types of shrubs and perennials. The larger green area will be the artificial turf, benches, lights and trees. Mr. Espejo asked if this green area was already approved. Ms. Bonventre stated that this was already approved during the Sears redevelopment. Ms. Kassner added that we still need a final plan of the exterior spaces and we would like to be involved before the outdoor plans have been finalized. Ms. L’Heureux stated that this is not really pertaining to Fogo de Chao and we should have Mr. Feldhouse come back and discuss the outside areas when it is close to the final stages.
Mr. Espejo stated that he is very excited for this restaurant and asked if this will require special ventilation. Ms. Moulton stated that they will install an odor control unit for the ventilation. Mr. Espejo asked if there will be open flame with the cooking. Ms. Moulton replied yes, but it will be behind the counter.

Mr. Gaffney asked if the doors between the patio and the restaurant will be open or closed. Ms. Moulton replied that the Board of Health requires that they stay closed. Mr. Gaffney stated that there can be no names on umbrellas. Ms. Bonventre stated that they can add that as a special condition. Mr. Gaffney asked if there will be valet parking. Ms. Moulton replied that they usually do have valet parking but not at this site. Mr. Gaffney stated that if that changes, then they would need to come back before this Board.

Mr. Covino asked if Primark is above this restaurant. Mr. Feldhouse replied no. Mr. Covino asked if the completion of the sidewalk is tied into this occupancy of the Sears building. Ms. Kassner replied yes, but with the approval from the Conservation Commission late in the fall, there is now an agreement signed by Simon and the Town that the sidewalk will be completed by a specified date in July 2020 and not tied to a tenant’s occupancy.

Ms. L’Heureux stated that with a roof and walls with windows it is really not an outdoor space. If you bring in heaters then it could be used year round. She would like a condition that the outside space could not be used from December to February and the windows must be open unless there is inclement weather and that no heat can be brought in. Attorney Vaughn stated that they are proposing radiant heat at the roof to take the chill out of the air so they can get 3 seasons out of the space but they would not tie into the HVAC system of the restaurant. Ms. Kassner stated that unlike Redstone and The Tavern, all of the seats including the outside seats are accounted for in the traffic study. Mr. Feldhouse stated that this window system is not air tight so they have no intention of using it during the winter. Ms. L’Heureux stated that she would want to see either the patio is not open December through February or no heat could be added to the patio. Ms. Kassner stated that they can add a condition that the windows are to be opened except during inclement weather, there will be no connection to the HVAC system and if they wish to change the outside seating to 4-season seating then they would have to come back before the Board because it would change the internal square footage of the mall.

Mr. Gaffney requested that a note be sent to the Board of Health pointing out the Nano wall on the plans.

The Board agreed that the conditions that should be added were: if the patio area becomes more than a 3 season use, they would need to come back to the Planning Board, the windows should be open at all times except for inclement weather and the patio area should not be tied into the HVAC system.

There were no questions from the audience.

MOTION - Mr. Espejo made a motion to close the public hearing on 7.a. The motion was seconded by Ms. Rappaport and unanimously voted 7-0.
MOTION - Mr. Espejo made a motion to approve the request of Fogo de Chao Churrascaria (Burlington), LLC, for a Special Permit pursuant to Section 4.2.6.10 “Restaurants” of the Burlington Zoning Bylaw to permit a 363 seat full-service restaurant at 75 Middlesex Turnpike (Burlington Mall), subject to the terms and conditions contained in exhibit “A” attached as amended. The motion was seconded by Mr. Covino and unanimously voted 7-0.

MOTION - Mr. Espejo made a motion close the public hearing on 7.b. The motion was seconded by Mr. Covino and unanimously voted 7-0.

MOTION - Mr. Espejo made a motion to approve the request for approval of a Site Plan application of Fogo de Chao Churrascaria (Burlington) LLC, for property located at 75 Middlesex Turnpike (Burlington Mall), to occupy a tenant space with a partially enclosed patio, relocated access/egress doors, and a newly designed façade, as reflected on the redlined Site Plan “Proposed Fogo de Chao 5 Burlington Mall Road 1100 Middlesex Turnpike Burlington Massachusetts,” prepared by Vanasse Hangen Brustlin, Inc., dated January 24, 2020, consisting of three (3) pages, reflecting 13,039 square feet, 363 interior and 86 patio dining seats subject to the following revisions, terms and conditions as amended. The motion was seconded by Mr. Covino and unanimously voted 7-0.

8. Minutes
There were no minutes to approve.

9. Other Business
9.a Discussion

9.a.1 FY21 Department Budget
Ms. Kassner stated that this is the standard budget. The total net increase is 1.67%. Ms. Kassner stated that the Ways and Means meeting will be March 25th at 7:00 PM.

Mr. Gaffney questioned why a support staff employee is making more than the new Assistant Planner. Ms. Kassner stated that you have a 20+ year employee vs. a new college hire. Ms. Kassner added that she relies heavily on their support staff.

Mr. Rappaport stated that there is a typo in the requested column.

Ms. Kassner stated that Brady is starting on February 24th. Mr. Raymond stated that he should do site inspections.

MOTION - Mr. Covino made a motion to approve the Planning Board budget for FY2021 with the one correction. The motion was seconded by Mr. Rappaport and unanimously voted 7-0.

9.a.2 Potential Zoning Warrant Articles in May

9.a.2.a Updating the Permit Submittal Procedure in the Bylaw to Include Online Permitting
Ms. Kassner stated that this will be an easy article to reflect the online permitting in the submittal procedure.
9.a.2.b Prohibition of Short-Term Rentals in the RO District

Ms. Kassner stated that she discussed this with the Zoning Bylaw Review Committee (ZBRC) and they would like to add the State definition for Short Term Rentals and prohibit them in all zones. They have discussed this with Town Counsel. The issue is the State may kick it back and tell us we may have to allow it in one zone. The Board agreed.

9.a.3 Potential Capital Items for May

9.a.3.a Wireless Consultant

Ms. Kassner stated that the last time the wireless bylaw was updated was 1996. There have been numerous changes in the law and we should look at hiring a consultant to look at the legal and infrastructure of our wireless bylaw. She is working on the scope of work. The Board supported this idea.

9.a.3.b Sign Bylaw Consultant

Ms. Kassner stated that the ZBRC has put together a subcommittee to look at signs. Mr. Covino stated that the subcommittee consists of himself, Ms. Willard, Ms. Ellis, Ms. Hughes, and Mr. Murray. They are looking to start possibly addressing signs geographically instead of by zoning district. Ms. Kassner stated that this is a huge undertaking and a consultant would be an asset to work with this subcommittee.

9.a.3.c Mall Rezoning Consultant

Ms. Kassner stated that the 50 year anniversary of the Burlington Mall was in 2018. We need to work with the mall and find out what is coming up next. They are at a point where Macy’s and Simon representatives are willing to sit down with the Town and talk about what is next for this area. We want to be involved and not react to something that is proposed by them.

9.a.3.d Frontage Variance for 121 Lexington Street

Ms. Kassner stated that there is a ZBA filing for a Section 6 Special Permit finding for 121 Lexington Street. They have the required acreage but they are short on the frontage. The Board had no concerns.

9.a.4 iPads

Ms. Kassner stated that the question is does the entire Board want new iPads. They could add a budget line item for 7 new iPads or the IT Department said they could get 3-4 in their budget. Ms. L’Heureux stated that we should just get what is in the IT budget.

9.b Correspondence

There was no correspondence.

9.c Reports from Town Counsel

There were no reports from Town Counsel.
9.d Subcommittee Reports
There were no subcommittee reports.

9.e Unfinished Business
There was no unfinished business.

9.f New Business
There was no new business.

MOTION - Mr. Covino made a motion to adjourn the February 06, 2020 Planning Board meeting at 9:15 PM. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

Respectfully Submitted by Dawn Cathcart,
Recording Clerk