Members Present: Chair Barbara G. L’Heureux, Vice Chair Joseph Impemba, Clerk Michael Espejo, John D. Kelly, Paul R. Raymond, William Gaffney and Ernest E. Covino

Members Absent: None

Also Present: Planning Director Kristen Kassner and Senior Planner Joshua Morris

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

Ms. L’Heureux called the meeting to order at 7:00 PM.

2. **Executive Session**

**MOTION** - Mr. Impemba made a motion to enter Executive Session for the purposes of discussing strategy with respect to pending litigation (Herb Chambers Cambridge Street, LLC vs. Planning Board of the Town of Burlington, Land Court case No. 19 MISC 000268) where an open meeting may have a detrimental effect on the litigating position of the Planning Board and the Chair so declares, and to reconvene in Regular Session at the conclusion of the Executive Session. The motion was seconded by Mr. Covino and unanimously voted 7-0 to go into Executive Session. On a roll call vote, Chairman L’Heureux, Vice Chairman Impemba, Member Clerk Espejo, Member Covino, Member Kelly, Member Gaffney and Member Raymond all voting Yes.

The Board reconvened to their regular session.

3. **Citizens’ Time**

David Miller of 19 Gloria Circle and Town Meeting Member – Mr. Miller stated that the Burlington Public Library was yarn bombed. It’s a fun display of yarn works inside and out. He encouraged the public to go visit the library.

4. **Announcements**

Ms. Kassner stated that the Master Plan Meeting for Mary Cummings Park will be held on June 21st at 8:30 AM in the School Committee Room at the High School.

Ms. Kassner stated that the Zoning Bylaw Review Committee will be meeting on June 26th at 6:00 PM in the Town Hall Annex.

Ms. Kassner stated that all Town offices will be closed on July 4th. Ms. L’Heureux added that there will be a parade and fireworks also to celebrate July 4th.

Mr. Covino passed on condolences to Tom Murphy on the passing of his mother.

Mr. Kelly passed on condolences to Shari Ellis on the passing of her father.

5. **Legal Notices of Interest**

There were no legal notices.
6. **Non-Approvals**

There were no non-approvals.

7. **Administrative Matters**

7.a **Discussion – Application for Approval of a Minor Engineering Change – 17 Terry Avenue – Boardwalk Storage Solutions, LLC - Applicant**

Bob Pouilete of Boardwalk Storage Solutions appeared for a minor engineering change at 17 Terry Avenue. Mr. Pouilete stated that he met with Mr. Morris to review the project before applying for temporary occupancy. We have received two minor engineering changes in the past for a drainage easement and a sump pump in the elevator shaft that was connected to the sewer. This request is for the installation of two propane tanks, HVAC condensers, install bollards and to modify the location of the gate. The gate was changed due to snow concerns. It has been moved about 3'-4' towards the street. The propane tanks are a temporary fix until we can get natural gas to the site. The regulator for the natural gas will be in the same location. Ms. L’Heureux asked if this was on the original plan. Mr. Pouilete replied no. Ms. L’Heureux asked if there was anything else added. Mr. Pouilete stated that down spouts have been added every 40’-50’. They also added additional pipping for infiltration that was inspected by the Town.

Ms. Kassner stated that this started in 2013 so she went thru the special permit and these minor engineering changes and there are some missing items including: 2 shutters are missing; on the existing building they are missing metal trim at the top of the building and trim around the windows; the garage doors visible from the street were supposed to be made of a different material; the utilities should be enclosed with some type of fencing; a decorative brick banding was required for the sidewalk; and key pads have been added that are new and the Fire, Police and Building Departments need access. Mr. Morris stated that the applicant is trying to close out the items and they have agreed to shield the utilities. They would like direction on what type of bricks to use and have a sample of a brick paver.

Ms. L’Heureux asked why all the utilities are in front. Mr. Pouilete stated that was the best location due to turning radius of for the Fire trucks and the sprinkler room is on the back side of the wall. Ms. L’Heureux stated that the inside dictates where they can go on the outside. Mr. Pouilete replied yes. Mr. Pouilete stated that the Fire Department has asked for a gap in any fencing so they can access the sprinkler equipment. Ms. L’Heureux stated that the fence will hide the bollards but you could give access to the Fire Department.

Mr. Impemba read the staff comments. Mr. Impemba stated that the fence color should match the clapboard material. Mr. Impemba stated that they had many discussions on what could be seen from the street should be carefully looked at. He has received calls from the neighbors and they are concerned with the yellow bollard near the key pad should be a granite post or something similar and the garage doors should look residential, not industrial. Mr. Gaffney agreed with the comments from Mr. Impemba.

Mr. Kelly asked where the snow storage is. Mr. Pouilete replied there is a snow storage location and if it is too much, it is hauled off site.
Mr. Covino asked if the fence around the bollards would be solid. Ms. Kassner stated that they must be fully concealed.

Ms. L’Heureux stated that the existing sign is awful and should be taken down. It does not fit with all the good work that was done. Mr. Pouilete replied that he will pass that along to the owners. Ms. L’Heureux stated that this process is wrong. An applicant should come in and ask for the changes before doing it, this was done backwards. She agrees that color of the fence should be the same as the clapboard color and asked that a rendering be submitted. She also suggested that the clapboard material be brought down on that side so it is below the fence line; the visible garage doors from the street should be replaced with residential type doors as well as the access door that can be seen; the hot top in the front of the building is patchy and should be at least seal coated if not paved and all the conditions from the original special permit that have not been done need to be completed. Mr. L’Heureux added that the brick banding should match the other projects in this area. Mr. Pouilete asked for a specification on the type of brick required. Ms. L’Heureux stated that the fence type could be approved by the Chair and staff.

**MOTION** - Mr. Covino made a motion to approve the request of a Minor Engineering Change for the property located at 17 Terry Avenue to install two (2) propane tanks, HVAC condensers, bollards, and to modify the location of the gate/fence system as reflected in plan entitled “Utility Site As-Built, 17 Terry Avenue Burlington, MA,” prepared by Brennan Consulting dated June 13, 2019 consisting of one (1) sheet, subject to the following revisions, terms and conditions as amended. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

8. **Matters of Appointment**

8.a **Public Hearing – Application for Approval of a Special Permit Pursuant to Section 4.2.6.9 “Fast Order Food Establishments” of the Zoning Bylaws – 286 Cambridge Street – The Bagel Bar, LLC - Applicant**

Michael Touloupoulos and Laura Toulopoulos appeared for a special permit at 286 Cambridge Street. Mr. Toulopoulos stated that this is the plaza with the Old Town Liquors. They are proposing a small bagel shop. The bagels will be baked offsite and brought in every morning. They will have bagels and coffee. The space has been vacant for over a year and they think this will be a good use in the plaza because the peak hours will be different than most uses. They both have retail and restaurant experience. There will be no venting because they will not cook on site. The parking lot has been updated and the staff has requested an updated existing conditions plan which will be submitted. They will be appearing before the Board of Health next Tuesday for a variance for the grease trap.

Ms. Kassner stated that the parking analysis has shown that the parking is tight and she recommends that employees park off site. This will be open off peak time from the liquor store. If the plan is to put a couple of outside seats, there must be a 4’ wide path for people to walk by. Mr. Toulopoulos stated that they may but a couple of small tables but will keep the path open. Ms. Kassner stated that there should be no more than 4 sheets.

Ms. L’Heureux asked that they look at bollards or planters to protect people seating outside.
Mr. Impemba asked that the applicant look at adding the brick banding at the sidewalk and antique lighting for the site. Mr. Toulopoulos replied that he would look at upgrading the building.

Mr. Raymond stated that there is a lot of in and out traffic.

Mr. Gaffney asked if we have control over signage. Ms. Kassner replied that direct control is not under the Planning Board’s prevue but the Board can make suggestions. Mr. Gaffney stated that the applicant should look at the updated regulations. Mr. Toulopoulos stated that they are just going to replace the sign face in the current sign box.

Ms. L’Heureux stated that she supports local businesses but would like to see a 5 year plan for this plaza. If there is outdoor seating there should be protection such as planters.

Richard O’Neill, owner of 3 Kinney Ave – Mr. O’Neill stated that the entrance off Cambridge Street is impossible to get out of. There is also a question about how many seats. Is it 12 or 20? Mr. Toulopoulos stated that they would like to maximum the number of seats. Mr. O’Neill asked what type of delivery vehicles will be used. Mr. Toulopoulos replied they will be small box trucks. The bagels are delivered early morning. The hours of operation will be 6:00 AM to 3:00 PM. Mr. O’Neill stated that he sat out at the site for two weeks. There were large trucks making deliveries and they were parking and unloading on Kinney Ave. Mr. Toulopoulos stated that he didn’t know about it but can try to fix it. Ms. L’Heureux stated that we could add that as a condition. Mr. O’Neill stated that the dumpsters are blocking the fire lane. Mr. Toulopoulos stated that they are in the fire lane. Ms. L’Heureux stated that those have to move. Ms. Kassner stated that the dumpsters have not been approved for out back or anywhere on this site. They need to file a minor engineering change for the dumpsters. This has to be approved by the Planning Board and the Fire Department. All dumpsters need to be screened. Mr. O’Neill stated that patrons also park on the street even though there are No Parking signs.

Mike O’Neill of 3 Kinney Ave – Mr. O’Neill stated that the end of the road is square and the cars park on both sides of the road. When they do that two-way traffic cannot get down the road. The bagel shop will generate a lot of traffic and they will be in and out. People are going down Kinney to Murray Street to get to the light. Parking is an issue. The police will not come down and if they do the people are gone. Mr. O’Neill requested that the trash be picked up more often and not before 6:00 AM. Ms. L’Heureux stated that we could review traffic 60 days after the store opens. Ms. Kassner stated that we should condition things that the applicant has direct control over. We can require that the employees park and where and when the deliveries are made. Ms. L’Heureux stated that if the applicant has a few cars towed, the word will get out.

Kathy Adams of 11 Pontos Ave – Ms. Adams thanked the applicants for the improvements done on the site but she is also concerned with traffic. Ms. Adams asked that signs be added, “No blocking of intersection”. She is also concerned with the trash on the site.

Joseph Morandi from the Board of Selectmen – Mr. Morandi said a bagel shop is good for the town but he is also concerned with parking. Joe encouraged the applicant and residents to come to the Selectmen and he will work with the Police to see what can be done down there.
Karen Hanson of 2 Kinney Ave – Mr. Hanson stated that they have been good tenants. She is concerned with food being added to the dumpster and attracting rats. Her driveway does get blocked by trucks. Ms. Hanson asked how many seats will there be. Mr. Toulopoulos stated that there will be 12 seats and he can have the dumpster picked up 2 to 3 times a week.

Mr. Espejo thanked the residents for speaking. Mr. Espejo stated that he believes the bagel shop will be an excellent addition. It will complement the other uses at the site because it will have different peak hours. The dumpster issue needs to be addressed.

Mr. Kelly asked what uses would require a special permit and which ones don’t. Ms. Kassner stated that food establishments, labs, pet, massage/wellness needs a special permit but retail and some personnel establishments don’t require special permits. Mr. Kelly stated that this use allows us to put conditions on the use. The early morning dumpster pickup is a problem everywhere. Mr. Kelly stated that the applicant should look at composting options for the food waste.

Ms. L’Heureux stated that if the problem continues with the parking issues the applicant should know that the business may not be allowed to continue.

Mr. Covino stated that there are parking spaces on the side of the pool building that could be used for employees and deliveries. Mr. Raymond stated that employee parking signs could be added to these spots.

**MOTION -** Mr. Covino made a motion to close the public hearing on this matter. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

**MOTION -** Mr. Covino made a motion to approve the request of The Bagel Bar, LLC for a Special Permit pursuant to Section 4.2.6.9 “Fast Order Food Establishments” to allow for food establishment at 286 Cambridge Street, subject to the terms and conditions contained in Exhibit “A” attached as amended. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

8.b Public Hearing – Application for Approval of a Special Permit Pursuant to Section 4.2.6.9 “Fast Order Food Establishments” of the Zoning Bylaws – 75 Middlesex Turnpike (Burlington Mall) – Macy’s Retail Holdings Inc., - Applicant

Jennifer Owens and Craig St. Jean appeared for the special permit at 75 Middlesex Turnpike. Ms. Owens stated that they are request a special permit to add a Starbucks into the Macy’s store. The food will be pre-made off site and brought in. There will be one turbo chef oven. They are applying for a variance to use an internal grease trap only. Ms. L’Heureux stated that there will be no direct access to the mall and no additional seats. Ms. Owens replied that was correct. Ms. L’Heureux asked why there is an ugly storage container taking up prime parking spaces. Mr. St. Jean stated that is a temporary storage container while they are remodeling. It is holding supplies and the location was worked out with the contractor, the mall representatives and corporate. The container has been there 6 weeks and they should be done renovations by July 27th.
Ms. Kassner stated that there are storage containers in the back of the parking lot that have been there awhile that need to be addressed. Ms. Kassner will follow up and see if the location is allowed. Ms. Kassner stated that this is entirely within Macy’s. Staff has no concerns with this application. This is a huge store. It is over 275,000 SF and asked if anything else is planned. Mr. St. Jean stated that they always try to improve the customer experience in store but there is nothing else planned.

Mr. Impemba read the department comments.

There were no questions from the public.

**MOTION** - Mr. Espejo made a motion to close the public hearing on this matter. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

**MOTION** - Mr. Espejo made a motion to approve the request of Macy’s Retail Holdings Inc. for a Special Permit Pursuant to Section 4.2.6.9 “Fast Order Food Establishments” to allow for food establishment at 75 Middlesex Turnpike (Burlington Mall – Macy’s), subject to the terms and conditions contained in Exhibit “ attached. The motion was seconded by Mr. Covino and unanimously voted 7-0.

9. **Minutes**

There were no minutes to approve.

10. **Other Matters**

10.a **Discussion**

i. **Shoppes at Simonds Park – Free Standing Signs**

Ms. Kassner stated that in February 2017 the developer submitted an amendment to the zoning bylaw to allow them to go to the Zoning Board of Appeals for a free standing monument sign in the Town Center with certain criteria. The Planning Board discussed this and although they didn’t vote, they expressed it should be a vote of Town Meeting not the Zoning Board of Appeals. In August 2017, the Board of Selectmen voted to approve the sign within the Town right of way. A condition was that further discussions would be held with the sign subcommittee with respect to the final lighting design and for the sign. As of today the agreement has not been signed.

Ms. L’Heureux stated that she still believes that this should go to a Town Meeting vote. If the Board of Selectmen set this precedent, they will have other private businesses requesting signs in the right of way that could be a hazard.

**MOTION** - Mr. Gaffney made a motion to send a letter to the Board of Selectmen reaffirming the decision in 2017 that a vote regarding these signs should go to Town Meeting. There is concern regarding setting a precedent and having more private business applying for signs in the right of way. The motion was seconded by Mr. Raymond and unanimously voted 7-0.

10.b **Correspondence**

There were no correspondences.
10.c  Reports from Town Counsel

There were no reports from Town Counsel.

10.d  Subcommittee Reports

There were no subcommittee reports.

10.e  Unfinished Business

There was no unfinished business.

10.f  New Business

There was no new business.

MOTION - Mr. Espejo made a motion to adjourn the June 20, 2019 Planning Board meeting at 9:30 PM. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

Respectfully Submitted by Dawn Cathcart,
Recording Clerk