Town of Burlington Planning Board

Minutes of the Planning Board
Meeting of August 17, 2017

1. Chairman Kelly called the August 17, 2017 Regular Planning Board Meeting to order at 7:07 p.m. in the Main Hearing Room of the Burlington Town Hall, 29 Center Street.

Members Present: Member Covino, Vice Chairman Raymond, Chairman Kelly, Member Clerk Perna, Member L’Heureux, and (Member Impemba)

Member Absent: Member Gaffney

Also Present: Senior Planner Morris, Assistant Planner Bonventre

Continuances

MOTION – To take item ‘7.d’ out of order.

APPROVED: 5-0-0

d) Continued Public Hearing – Petition to amend the Zoning Bylaw, Article II “Definitions” and Article IV “Use Regulations” to address and define uses pertaining to structured parking – Submitted by the Planning Board

No testimony was taken on this matter.

MOTION – To continue this matter to the Planning Board meeting of October 19, 2017.

APPROVED: 5-0-0

MOTION – To take item ‘7.e’ out of order.

APPROVED: 5-0-0

e) Continued Public Hearing – Petition to amend the Zoning Bylaw, Article III “Sign Regulations” to permit freestanding monument directory signs within the Town Center Overlay District – Submitted by Heritage Trail, LLC (Shop at Simonds Park)
No testimony was taken on this matter.

**MOTION** – To continue this matter to the Planning Board meeting of September 7, 2017 at the request of the applicant.

**APPROVED: 5-0-0**

**MOTION** – To take item ‘7.f” out of order.

**APPROVED: 5-0-0**

f) Continued Public Hearing – Application for Approval of a Site Plan – 114 Terrace Hall Avenue– Town of Burlington, Applicant

No testimony was taken on this matter.

**MOTION** – To continue this matter to the Planning Board meeting of September 21, 2017 at the request of the applicant.

**APPROVED: 5-0-0**

2. **Citizens Time**

No one spoke.

3. **Announcements**

   - Jennifer Gelinas, Administrative Assistant for the Planning Department, celebrated her 20th anniversary with the Town of Burlington
   - Farmers Market – Every Thursday at 3:30-6:30pm (June 15-October 12) – Grandview Farms
   - DCU Paper Shred Day – Saturday, August 19 at 9-1pm – 15 Greenleaf Way
   - Labor Day – Monday, September 4 – Town Hall Offices will be closed

4. **Legal Notices of Interest**

   NONE

5. **Non-Approvals**

   a) *Application for Endorsement of a Plan Believed Not to Require Approval – 30 Purity Springs Road* – Michael & Dulari Martin, Applicant
Plans & Reports discussed:
- ANR Plan entitled “Assessors Map 22 Lot 221 A.N.R. Subdivision Plan 30 Purity Springs Road Burlington, MA. (Middlesex County),” prepared by Medford Engineering & Survey, dated April 6, 2017

Applicant Representatives:

| Michael Fazio | Attorney | Law Office of Michael J. Fazio, Jr., Esq. |

Mr. Fazio explained this is a lot split, which meets the frontage requirements, hence it was submitted as an ANR. Chairman Kelly noted approving the ANR does not mean these lots are buildable.

Senior Planner Morris commented:
- Lot size/upland deficiencies are noted on the plans, and it is written in the approval
- The building inspector is aware of the deficiencies and won’t issue a building permit without a variance

No departmental reports on the ANR.

Planning Board members supported the staff recommended plan notations.

No public comment was offered.

MOTION – To approve the ANR, with the notation, for the property located at 30 Purity Springs Road, as requested by Michael & Dulari Martin.

APPROVED: 5-0-0

b) *Application for Endorsement of a Plan Believed Not to Require Approval – Corporate Drive
   – The Davis Companies, Applicant

Plans & Reports discussed:
- ANR Plan entitled “Approval – Not – Required Plan of Land 20, 30, and 35 Corporate Drive Burlington, MA (Middlesex County),”

Applicant Representatives:

| Bill Proia | Attorney | Riemer & Braunstein |

Mr. Proia summarized that the 40B comprehensive permit for this property was approved by the Board of Appeals. The lot lines need to be moved around, in response to the Conservation Commission request to pull the building further away from the vernal pool and the wetlands. This is a 40B comprehensive permit hence the lot changes do not need to go through the PDD amendment process. Moving these lot lines will not make abutting properties non-compliant.
Member Impemba arrived to the meeting at 7:21pm.

Planning Board had no comments.

Shari Lynn Ellis, 3 Hickory Lane, TMM precinct 3, requested an update on the project at Town Meeting. Chairman Kelly noted the applicant will not be building this year, because a resident of Maple Ridge appealed the BOA decision. The summary judgement hearing is set for November 14, 2017 at Land Court.

**MOTION** – To approve the ANR for the property located at Corporate Drive, as requested by The Davis Companies.

**APPROVED: 6-0-0**

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**6. Administrative Matters**

a) *Discussion – Zoning Bylaw Review Study Committee (ZBRSC) Presentation*

**Zoning Bylaw Review Study Committee (ZBRSC) Representatives:**

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<thead>
<tr>
<th>Name</th>
<th>TMM precinct</th>
<th>Address</th>
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<tbody>
<tr>
<td>Shari Lynn Ellis</td>
<td>TMM precinct 3</td>
<td>3 Hickory Lane</td>
</tr>
<tr>
<td>David Miller</td>
<td>TMM precinct 4</td>
<td>19 Gloria Circle</td>
</tr>
<tr>
<td>Ernest Zabolotny</td>
<td>TMM precinct 5</td>
<td>33 Paulson Drive</td>
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Ms. Ellis explained that in September 2016 Town Meeting voted in approval of Article 3: Create an Ad Hoc Committee to study and report to Town Meeting on the procedures and any estimated costs to review the Zoning Bylaw. On August 14, 2017 the Zoning Bylaw Review Study Committee was before the Board of Selectmen to explain their conclusions and seek approval to create a Zoning Bylaw Review Committee by adding a new section 2.8 to the Burlington General Bylaws. The BOS denied it, so this item will not be on the September 2017 Town Meeting warrant, but the committee will give a report at Town Meeting.

Ms. Ellis reviewed the conclusions of the study committee and the pros of creating such a committee. Also, it was determined that some money will be needed for the committee for a recording clerk and consultant (legal/zoning).

Possible next courses of action for the ZBRSC:
- Circumvent the BOS, by gathering enough signatures to be added to the January 2018 town meeting warrant
- Call a special town meeting for September’s town meeting

Reasons the Board of Selectmen denied the formation of this committee:
• Request more people involved in the study committee, such as the building department, new moderator, and individuals from the business sector (i.e. - Burlington Chamber of Commerce)
• Unclear the voting/non-voting members of the committee
• Not enough time to incorporate BOS comments, answer questions, and possibly re-write the warrant
• BOS would support, after further discussions, this item going on the January 2018 town meeting warrant, because something does need to be done to the zoning bylaw

Planning Board staff had no comment.

Planning Board commented:
• Zoning Bylaw has been amended over the years in small pieces
• BOS seemed confused by this article

No public comment was offered.

**MOTION** – The Planning Board will continue to support the Zoning Bylaw Review Study Committee efforts, and encourages the committee to keep moving forward.

**APPROVED: 6-0-0**

Ms. Ellis agreed to return before the Planning Board with an update on the Zoning Bylaw Review Committee in the future.

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b) *Discussion – Application for Approval of a Minor Engineering Change – 31 North Avenue - Partners Real Estate & Facilities, Applicant*

**Plans & Reports discussed:**
• Site plan entitled “Proposed Emergency Generator 31 North Avenue Burlington, Massachusetts,” prepared by VHB, dated June 5, 2017

**Applicant Representatives:**

| Jocelyn Mayer | Engineer | Vanasse Hangen Brustlin, Inc. |

Ms. Meyer explained the request to put a natural gas generator on a concrete pad. There will be an extension of the gas line currently in the ground to this generator. The concrete pad is included in the pervious/impervious ratios for the PDD. There is no proposed landscaping for the generator because this is in the back near a loading dock.

Vice Chairman Raymond read the departmental reports into the record.

Senior Planner Morris commented:
• Bollards will be installed for generator protection to meet the utility company requirements
• Included in the decision is the lighting condition

No public comment was offered.

**MOTION** – To approve the Minor Engineering Change for the property located at 31 North Avenue as requested by Partners Real Estate & Facilities.

**APPROVED: 6-0-0**

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### 7. Matters of Appointment

a) Continued Public Hearing – Petition to amend the Zoning Bylaw to add a new Section 10.8: “Prohibition on Marijuana Establishments” – Submitted by the Planning Board

Member L’Heureux stated this item will not be voted on tonight because the state laws are still fluctuating, and it is unclear where it might end up. She shared voting numbers from the last presidential election for the recreational marijuana question: (86% of all eligible voters in Burlington voted)

- Against: 7,662 (54%)
- In Favor: 6,303
- Blank: 254

To the best of Member L’Heureux understanding, Charlie Baker, Governor of Massachusetts, had mentioned that if a community voted against recreational retail sales, then a referendum vote may not be necessary, and it could simply be prohibited by the BOS/Town Meeting. Also, zoning could not change a medical to a recreational marijuana sales facility.

Planning Board staff distributed to the Planning Board Town Council’s memo on recreational marijuana retail sales in Massachusetts.

**Opposed to prohibition:**

Michelle Wexelblat, 32 Peach Orchard, asked what the necessity of taking action is. Member Covino explained no matter what Burlington voted for, in favor or against, a zoning bylaw needs to be put in place to reflect that.

Richard Kazanjian, 17 Marigold Way, suggested selling marijuana at the pharmacy. Member L’Heureux explained marijuana is illegal federally; hence it cannot be sold at a pharmacy.

Kelley Lax, 31 Terrace Hall Avenue, noted selling marijuana would increase tax revenue for Burlington and a study said that crime was reduced by legalizing marijuana in Colorado. Chairman Kelly stated there is still a negative impact to police because they have to patrol the borders to prevent trafficking and there is no way to test to see if someone is under the influence
of marijuana. The hospitals also have had a leap in the amount of patients admitted to the ER for marijuana in Colorado.

Alan Wexelblat, 32 Peach Orchard, asked would the prohibition cover the cultivating of marijuana. Assistant Planner Bonventre answered yes.

MOTION – To continue this matter to the Planning Board meeting of September 7, 2017.

APPROVED: 6-0-0

b) *Public Hearing – Application for Approval of a Special Permit pursuant to Section 3.1 “Personal Service Businesses such as but not limited to hair salons, and health spa” of the New England Executive Park Planned Development District – 200 District Avenue – Style Savants, LLC d/b/a Mane & Mani, Applicant

Plans & Reports discussed:


- Tenant space plan entitled "Maine & Mani @ The District, Burlington – Floor Plan," prepared by Mandarina Interior Design Studio, dated April 14, 2017.

Applicant Representatives:

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<tr>
<th>Name</th>
<th>Title</th>
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<tbody>
<tr>
<td>Marc Vaughan</td>
<td>Attorney</td>
<td>Riemer &amp; Braunstein LLP</td>
</tr>
<tr>
<td>Saverio Fulciniti</td>
<td>Principle</td>
<td>Mane &amp; Mani</td>
</tr>
<tr>
<td>Leah Harsfield</td>
<td>Developer</td>
<td>National Development</td>
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Mr. Vaughan explained the request for Mane & Mani to occupy 1,600 square feet of the building at 200 District Avenue. Currently, Pressed Café occupies the other portion of the building. The business would be a style bar (wash and blow dry), and manicures/pedicures; no haircutting, chemicals or dye. These uses are by right, but the building is within an aquifer water resource area, hence it requires a special permit.

Vice Chairman Raymond read the departmental reports into the record.

Planning Board staff had no comment.

Planning Board discussed:

- This does not require Board of Health approval; the instruments used would be dry heat sterilized and that exceeds the state requirements
- Smell of the nail polish remover will not negatively impact Pressed Café

Planning Board requested:
• Lighting, and no temporary sign conditions added to the decision

No public comment was offered.

**MOTION** – To close the public hearing on this matter.

**APPROVED: 6-0-0**

**MOTION** – To approve the special permit for property located at 200 District Avenue as requested by Style Savants, LLC d/b/a Mane & Mani.

**APPROVED: 6-0-0**

c) *Public Hearing – Application for Approval of a Definitive Subdivision Plan – 3 Lexington Street – Lexington Trust, Applicant*

**Plans & Reports discussed:**
- Definitive Subdivision Plan entitled “3 Lexington Street, A definitive Subdivision in Burlington, Middlesex County, Massachusetts submitted by Robert W. Murray, Trustee of Lexington Trust, on June 30, 2017 prepared by Commonwealth Engineering, Inc. dated June 27, 2017

**Applicant Representatives:**

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<tr>
<th>Name</th>
<th>Role</th>
<th>Company</th>
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<tbody>
<tr>
<td>Phyllis Etsell</td>
<td>Developer</td>
<td>Murray Hills, Inc.</td>
</tr>
<tr>
<td>Adam Murray</td>
<td>Developer</td>
<td>Murray Hills, Inc.</td>
</tr>
<tr>
<td>David Romero</td>
<td>Engineer</td>
<td>Commonwealth Engineering</td>
</tr>
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Mr. Romero explained the plan to demo the house and building a road, with 3 lots. The Cul-de-sac road would be 150 foot long; with utilities and drainage (drainage meets the standards). The applicant is requesting a sidewalk waiver. Parcel A is a non-buildable lot (1,700 square feet), and will be maintained by Murray Hills until they figure out what to do with it. Lot 1 will have frontage on Lexington, and the other two lots will have frontage on the new road. One of the lots will need to go before the Conservation Commission because there is Bordering Vegetative Wetlands on it. The road will become a public way.

Senior Planner Morris recommended the Planning Board discuss:
- Reduce the width of the road (24 feet is what’s on the plan)
- Update the sidewalk on Lexington Street in exchange for the sidewalk waiver
- Vegetated island in the cul-de-sac to reduce pavement
- Add some street lighting

Mr. Romero noted 3 changes to the plans:
- Sharpened radius coming on to the new road reduced pavement; cannot reduce the bulb of the road because of turn around purposes
- Reduced number of sewer man holes
- Moved hydrant, to prevent it from being covered by a pile of snow in the winter

Vice Chairman Raymond read the departmental reports into the record.

The Safety officer requested a street light, and Mr. Romero agreed to put it opposite the hydrant to prevent it from being hit by the snow plows.

Planning Board discussed:
- Type of sidewalk on Lexington Street
- Fire/Police Department would have an issue with having driveway instead of the full cul-de-sac
- Maintenance and materials for an island in the middle of cul-de-sac
- Deed Lot A to the neighbor, because if the strip is not maintained it could cause a line of sight issue

Shari Lynn Ellis, 3 Hickory Lane, TMM precinct 3, noted the approved Article 14 – Sidewalk Restoration/Upgrade from the Town Meeting of May 2017. The article breaks sidewalks into three categories: Gateway, collector, and neighborhood. Each road in Burlington is put into one of these categories, and based on the category is the type of sidewalks that are constructed on that road. Lexington Street is a collector road; hence the sidewalk would need to be granite curbing and asphalt. (See Appendix A attached)

Robin Chaykin, 11 Lexington Street, inquired about the size of the houses. Ms. Etsell is not sure the size but does not expect it to be too big because of the BVW buffer.

Planning Board requested the decision include:
- Speak with the safety officer about the impact of this subdivision on the nearby crosswalk
- Approve the waiver in exchange for:
  - Lexington Street sidewalk in front of lot 1: leave the granite curbing, remove the asphalt, and fill in with cement concrete
  - Build an island/add pavers in the middle of cul-de-sac if it is feasible to do so
  - Add a street light in cul-de-sac

**MOTION – To close the public hearing on this matter.**

**APPROVED: 6-0-0**

**MOTION – To approve the sidewalk waiver for the property located at 3 Lexington Street as requested by Lexington Trust.**

**APPROVED: 6-0-0**

**MOTION – To accept the definitive subdivision plan for the property located at 3 Lexington Street as a complete and proper submission.**
MOTION – To approve the definitive subdivision plan for the property located at 3 Lexington Street as requested by Lexington Trust as amended.

APPROVED: 6-0-0

8. Minutes

February 2, 2017

MOTION – To approve the Planning Board minutes of February 2, 2017.

APPROVED: 5-0-1 (Member Impemba abstained)

March 2, 2017

MOTION – To approve the Planning Board minutes of March 2, 2017.

APPROVED: 4-0-2 (Member Clerk Perna and Member Impemba abstained)

March 16, 2017

MOTION – To approve the Planning Board minutes of March 16, 2017, as amended.

APPROVED: 5-0-1 (Member Impemba abstained)

9. Other Business

a) Discussion

1. Under review by Planning Board staff:
   • 161 Bedford Street – Citgo Gas Station
     o Uhaul trucks with lawn signs indicating they are for rent
   • 180 A Cambridge Street - Shaws
     o Money Gram signs
   • 201 Middlesex Turnpike – Sherwin Williams Paint Store
     o feather signs

2. 93 Cambridge Street – Herb Chambers Kia of Burlington

Member Clerk Perna reported and submitted pictures of the Kia cars being parked on the abutting property. Member L’Heureux requested staff call Jerry tomorrow, and if he does not indicate the cars will be moved immediately, contact herself and she will follow up.
3. Wood Frame Construction

Chairman Kelly referred to the Boston Globe article on August 12, 2017 indicating that in East Longmeadow a wood frame building under construction caught fire, prior to the installation of sprinklers and fire alarms; this is similar to the Waltham and Dorchester fires. Burlington should require a written safety plan prior to construction. Assistant Planner Bonventre noted the town cannot enforce using materials above and beyond what the commonwealth requires, but the Planning Board could start asking for a written safety plan. This is in reference to the recently approved 40B residential project at Corporate Drive.

4. 200, 400 & 600 Summit Drive - Millipore Appeal

Board of Appeals continued this matter to their meeting of September 5, 2017.

5. Master Plan Update

Senior Planner Morris explained that staff is scheduling a meeting for September with Judy Barrett for the housing element.

6. Median on Burlington Mall Road/Network Drive

Member Raymond stated the Parks and Recreation Department are struggling to mow these medians, because it is narrow, on dangerous busy roads, and the vertical granite makes it difficult to get the equipment on the median. (This was discussed at the Recreation Commission meeting of August 14, 2017.) He requested staff explore this issue.

7. Summit Drive Trail System

Member Raymond has walked the trail system, and it was well constructed.

8. Cummings Foundation Grant

This foundation gave $100,000 to help improve Mary Cummings Park in Burlington and Woburn.

9. Layering the Zoning Maps

Assistant Planner Bonventre explained this has not occurred yet. Staff is still exploring the most economical way of doing this.

10. Northeastern Suburban Campus

Member Covino gave an update on the school’s future plans for the campus. The building in the back will be partially turned into a testing facility for autonomous flying vehicles. Then in phase
2, they will be looking to expand the size of the building. The school had concerns about employees having pedestrian access to Wayside Commons.

11. 50 South Avenue – former Romano’s Macaroni Grill

Member Impemba noted on December 4, 2014 the Planning Board approved a Minor Engineering Change for “Stockhill Butcherie and Wood Grill” but no activity has occurred on the site. Senior Planner Morris explained this property was before the Conservation Commission on August 10, 2017 for an abbreviated notice of resource area delineation. Planning Board should expect some movement on this site in the future.

12. 34 Cambridge Street - Burlington Beer Works

Planning Board approved the Special Permit at the Planning Board meeting of January 1, 2016. The applicant has recently applied for a building permit.

13. 170 Cambridge Street – Rockland Trust

Member Impemba noticed the paths around Rockland Trust do not have brick banding, which is the theme for the downtown. Senior Planner Morris noted that is not on the plans or in the decision, so it will be a difficult request to make. Also, he will inform 131 Cambridge Street (the dentist) of the brick banding requirement.

b) Correspondence
   None.
c) Reports from Town Counsel
   None.
d) Subcommittee Reports
   None.
e) Unfinished Business
   None.
f) New Business
   None.

MOTION – To adjourn at 10:33 pm.

APPROVED: 5-0-1

Respectfully Submitted, Approved by,

Noelle Judd, Recording Clerk

Carol Perna, Member Clerk

Minutes accepted at the Planning Board meeting of ________________.

Minutes filed with the Town Clerk on ________________.
All decisions are on file with the Town Clerk. All the noted documents are on file and can be viewed in the Planning Department. A DVD recording of the meeting is on file in the Planning Department.