

TOWN OF BURLINGTON  
PLANNING BOARD MINUTES  
MARCH 05, 2020

**Members Present:** Chair Barbara G. L'Heureux, Vice Chair Joseph Impemba (Late Arrival), Clerk Michael Espejo, Ernest E. Covino, William Gaffney, Paul R. Raymond, and Brenda Rappaport

**Members Absent:** None

**Also Present:** Planning Director Kristen Kassner, Senior Planner Elizabeth Bonventre and Assistant Planner Brady Caldwell

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

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

MOTION - Mr. Raymond made a motion to take items "7.e," "7.f," "7.g," "7.h," "7.i," and "7.j" together and out of order for discussion purposes. The motion was seconded by Mr. Espejo and unanimously voted 6-0.

**7.e Continued Public Hearing - Application for Approval of Special Permit pursuant to Section 12.1.5 "PD Special Permit" of the Zoning Bylaws –20 North Avenue – VulcanForms, Inc., Applicant**

**7.f Continued Public Hearing - Application for Approval of a Special Permit pursuant to Section 1.5.1 "Light Manufacturing or Processing Plants" of the Zoning Bylaws –20 North Avenue – VulcanForms, Inc., Applicant**

**7.g Continued Public Hearing - Application for Approval of a Special Permit pursuant to Section 1.5.2 "Laboratories engaged in research experimental and testing activities including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, medicine and physics subject to the Planning Board making the findings set forth in Section 8.3.7.4 of the Zoning Bylaws and subject to the applicable rules and regulations of the Board of Health" of the Zoning Bylaws –20 North Avenue – VulcanForms, Inc., Applicant**

**7.h Continued Public Hearing - Application for Approval of a Special Permit pursuant to Section 1.5.4 "Hazardous and toxic materials/chemical use storage, transport, disposal or discharge" of the Zoning Bylaws –20 North Avenue – VulcanForms, Inc., Applicant**

**7.i Continued Public Hearing - Application for Approval of Special Permit pursuant to Section 1.5.5 "Generation or storage of hazardous waste limited to the volumes classified as very small quantity generator" of the Zoning Bylaws –20 North Avenue – VulcanForms, Inc., Applicant**

**7.j Continued Discussion – Application for Approval of a Minor Engineering Change – 20 North Avenue – VulcanForms, Inc. Applicant**

MOTION - Mr. Raymond made a motion to continue these matters to the Planning Board meeting of March 19, 2020 as requested by the Applicant's attorney in an email dated March 5, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 6-0.

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MOTION - Mr. Raymond made a motion to take items “7.l” and “7.m” together and out of order for discussion purposes. The motion was seconded by Mr. Espejo and unanimously voted 6-0.

**7.l 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.m Continued Discussion – Application for Approval of a Minor Engineering Change – 376 Cambridge Street – The Granite Place, Inc. – Applicant**

Ms. Kassner stated that she spoke with Mr. DiPietro and the applicant is agreeable to most of the comments from the Planning Board. They do want to still discuss the granite in the front of the building.

MOTION - Mr. Raymond made a motion to continue these matters to the Planning Board meeting of March 19, 2020 as requested by the Applicant in an email dated March 3, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 6-0.

**2. Citizens’ Time**

No one came forward.

**3. Announcements**

Ms. Bonventre stated that the last day to register for town wide elections is Friday, March 13<sup>th</sup> at 8:00 PM at the Town Clerk’s office. The Town wide rabies clinic will be held on Saturday, March 14<sup>th</sup> at 8:00 AM at the DPW. Middlesex 3 will be meeting on March 18<sup>th</sup> at 8:00 AM to discuss The Future of Regional Transportation with US Congressman Seth Moulton at Middlesex Community College in Bedford. The Citizen Planner Training Collaborative Conference will be Saturday, March 21<sup>st</sup> at 9: 15 AM at Holy Cross in Worcester. The last day to submit a general warrant article for the May Town Meeting is Friday, March 27<sup>th</sup> by 1:00 PM in the Selectmen’s office.

Mr. Impemba joined the meeting at 7:07 PM.

**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**

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Ed Champy appeared for the continue discussions of the Minor Engineering Change for General Walker Estates. Ms. Kassner stated that letters and emails from abutters have been submitted for the record.

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Mr. Champy stated that the peer review will have a site visit next week and then a report for corrective actions will be submitted 1 to 2 weeks following the site visit. They have installed a temporary fence but it blew over in the wind. That was corrected today and bracing will be added. The large excavator, van and dump truck have been removed. There is a bobcat and small excavator still on site that is ours and we will be using that for the expected demolition that will be occurring once the cease and desist order has been lifted. There is some asbestos in the floor tiles that they will have to remove as part of the Board of Health checklist. The plan moving forward is to submit the construction paperwork for remaining houses on Dartmouth Road and Francis Wyman. They will remedy the issues brought up by the peer review. Drainage calculations will be done and they hope to construct the remaining houses and be done with the site.

Ms. L'Heureux asked if the asbestos has been removed. Mr. Champy replied not yet but testing has been completed. Ms. L'Heureux stated that nothing should be done with the asbestos or brick removal until the cease and desist has been lifted. Mr. Champy stated that the brick and asbestos are two separate issues and will be removed separately. They would like to remove the brick at the same time they are cleaning up the yard. Ms. L'Heureux stated that the site is still not cleaned up. There are pipes and debris still on site.

David Miller of 19 Gloria Circle – Mr. Miller stated that he has a list of issues: In the Minor Engineering Change, there are inconsistencies with 4-bay and swale. The driveway at 5 Dartmouth Road looks like it is going to collapse. He invited all the Planning Board members to view this site from his back yard. On 5 Dartmouth Road, they have an irrigation system on top of the infiltration system. It was supposed to be left in a natural state but it is now lawn. The house at 4 Dartmouth Road was supposed to be a tear down, now they are going to rehab it. The house is sitting at an angle to the street because the cul-de-sac is removed. Mr. Miller stated that Mr. Sacca should not work on this project since he was the root cause of some of the issues and asked if he was going to do more work on this site. Mr. Champy stated that they did give him some site work when they first bought the site but it is their intention to finish the project on their own except for their subcontractors. Mr. Miller stated that FF Jorges from Waypoint is not capable of watching over the site and was also a participant in wrong doings. This project should only use professionals. Mr. Champy stated the he or his partner, will be the project managers on site. Mr. Miller stated that in November 2019, the Board told him to remove vehicles and debris from the site and he didn't. On February 18<sup>th</sup>, the Board told him to remove the debris, vehicles and install on fence and it wasn't until February 24<sup>th</sup> that the fence was installed and it fell over in a day. Ms. L'Heureux agreed that the debris and vehicles should have been removed by February 18<sup>th</sup> as promised. Mr. Miller asked if the new houses were going to have to comply with the new Stretch code. Ms. Bonventre stated that they can check with the Building Department.

Reginald Griffin of 25 Gloria Circle – Mr. Griffin asked when this moves forward will the building plans be the same as what was originally submitted. Mr. Champy replied that there are 3 new plans that are different than the original submittal. Ms. Kassner stated that we need specific details and plans that update the access to 4 Dartmouth Road. Mr. Champy stated that the house at 101 Francis Wynn is close to the original submission, the houses on Dartmouth Road have been pushed back.

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Ms. Kassner stated that the subdivision sheet of the plan require the applicant to show lot layout, access, and drainage. The applicant would also need a Notice of Intent from the Conservation Commission. Mr. Griffin asked if the Planning Board would approve the new plans. Ms. Kassner replied it would depend but the Planning Board can also comment on the Notice of Intent. Mr. Griffin stated that an infiltration system was required to service the 3 new houses and asked if this was still planned for the new design. Mr. Champy stated that 101 Francis Wyman had a cul-de-sac which required the infiltration. When the ZBA approved the lesser frontage the drainage will be less because the cul-de-sac is removed and each house will have its own drainage. Mr. Griffin asked if roof gutters go into the infiltration system. Mr. Champy replied typically yes, but the drainage calculations will decide. Mr. Griffin asked who decides. Ms. Kassner stated that the drainage is reviewed by the Board of Health, Conservation and Engineering. They will also have the peer review for 3 and 5 Dartmouth Road and the pre and post development runoff must be the same or better. Mr. Griffin asked what happens to the original perc test data. Ms. Kassner stated that test pits for the infiltration systems will be part of the peer review. Mr. Griffin stated that the Town of Burlington needs to visit this site on a more frequent basis. Ms. Kassner agreed and stated that they need to coordinate with Town staff and added that the Building Department staff will be going out in the field more often during construction.

Marjorie Smith of 105 Francis Wyman Road – Ms. Smith stated that she is right next door to 101 Francis Wyman and there is a very old stone wall that separates our properties and she wants to make sure that this wall stays intact. There are large pine tree stumps that are close to the wall. A few years ago, the previous owners pull apart some of the stone wall to find the property markers and she was told it would be put back together but they never did. Ms. Kassner stated that the original decisions states that the wall must be protected. Mr. Champy stated that he will make sure the wall stays protected.

Fred Robbins of 7 Williams Circle – Mr. Robbins stated that we hired an engineer for the original project and now it sounds like the drainage is being changed. Ms. Kassner stated that they submitted a Minor Engineering Change and we have hired a peer review, which is an independent consultant to review all the proposed grade and drainages changes. Mr. Robbins asked who was responsible because things were not done to the approved plan. Ms. L’Heureux stated that things were done to the site after the occupancy permit was issued. Mr. Robbins stated that the drainage and maintenance of the infiltration system was supposed to be the responsibility of the homeowners association. Ms. Kassner replied that it is the contractor’s responsibility until the project is done then it transfer to the homeowners association. Mr. Robbins stated that we are all downhill from this project and asked what the status of the project is. Ms. Bonventre stated that the cease and desist is still on the site but public utilities are not under that stoppage. Ms. L’Heureux stated that if anyone sees work being done, they should contact the Planning or Building Departments. Mr. Robbins stated that given their history, he is concerned what will happen when they get the go ahead to continue. Ms. L’Heureux stated that the Town needs to be diligent with inspections and if they don’t follow their agreement then another cease and desist will be issued.

Mr. Champy stated that they did not add additional impervious surface at 3 and 5 Dartmouth after it was approved. We haven’t work on this site for over a year and there are large gaps in time that the site sat vacant. They hope to finish the project within a year.

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Ms. L'Heureux asked what is going to happen with the pipes and debris onsite. Mr. Champy stated that it will be removed before next Wednesday.

Mr. Espejo stated that he received an email from Mr. Matarazzo at 2 Dartmouth Road regarding the flooding in front of his property and asked if the electric pole is going to be removed. Mr. Champy stated that the pole will be removed. Ms. Kassner stated that the peer review will address this drainage issue.

MOTION - Mr. Covino made a motion to continue this matter to the Planning Board meeting of March 19, 2020. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

**7. Matters of Appointment**

MOTION - Mr. Espejo made a motion to take item "7.a", "7.b", "7.c" and "7.d" together for discussion purposes. The motion was seconded by Mr. Covino and unanimously voted 7-0.

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

Attorney Tom Murphy and Michael Murray appeared for the continued public hearings on the zoning articles for Escadrille Realty, LLC. Attorney Murphy stated since the last meeting, they have met with the Planning Board subcommittee and the ZBRC. They had two alternatives but Town Counsel has rejected the proposal to change it from BG to IH due to the difference in dimensional requirements on BG and IH. The second proposal was to add additional criteria such as a setback of 200' from any residential district, the lot must be at least 150,000 SF and must have a restaurant with an accessory function facility with a minimum occupancy of 400. This would reduce the number of lots the parking structure would be allowed to 5 or 6 sites. Ms. Kassner stated that the subcommittee met and this would be similar to when Lahey added the parking structure. It limited the zoning to a hospital with a certain number of beds. They will continue to work on refining the language.

Ms. Rappaport agreed with the direction this is going.

Mr. Raymond stated that they need additional parking and if this can get them what they need without being site specific then he is agreeable.

Mr. Impemba agreed but would like to see what other properties are included.

Mr. Espejo agreed with wanting to see the other properties and suggested adding the word "permanent and separate" in front of function hall.

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Mr. Covino stated that he would like to see this restricted for a parking deck only. Mr. Covino stated that the ZBRC is in favor of this direction and voted to keep this in Section 7 instead of Section 10. Ms. Kassner would agree to keep it in Section 7. She advertised for Section 10 to cover both because Section 10 is Special Use Regulations. Mr. Covino stated that the ZBRC will also be adding a definition of function facility to their article. Ms. Kassner stated that she has asked the applicant to provide metrics of parking needed for this type of use.

Ms. L'Heureux stated that she is concerned with unintended consequence and we need to be careful with the wording so someone can't have an area and say it's a function facility. They also need to address the wording of green space and add equivalent green space to the parking structure.

Mr. Murray stated that one of the original articles was to reduce the building coverage from 33% to 25%. This was added to restrict the number of lots but with these new proposed restrictions that is no longer needed and he is afraid it will cause more confusion and would like to withdraw it. Ms. Kassner stated that the ZBRC voted to remove it because it would be less confusing. Mr. Murray stated that he will get a list of properties and including maps. Ms. L'Heureux stated that there should be another subcommittee meeting to look at the changes.

There were no questions from the audience.

MOTION - Mr. Covino made a motion to continue these matters to the Planning Board meeting of March 19, 2020. The motion was seconded by Mrs. Rappaport and unanimously voted 7-0.

**7.m Public Hearing – Petition to rezone property to the High Rise Industrial (IH) District – 200 Summit Drive – Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Burlington January 1998 Realty Trust, Applicant**

Attorney Robert Buckley from Riemer & Brunstein, LLP and Scott Weisse appeared for the public hearing for the rezoning of 200 Summit Drive. Attorney Buckley stated that when the majority of the parcels were rezoned at the January Town Meeting, this parcel was left out due to the fact they could not get the lender consent. They have received it and would like to change the zoning for this parcel to IH.

There were no questions from the audience.

MOTION - Mr. Raymond made a motion to recommend favorably to Town Meeting on the petition to rezone the property at 200 Summit Drive to the High Rise Industrial (IH) District. The motion was seconded by Ms. Rappaport and unanimously voted 7-0.

**8. Minutes**

**9. Other Business**

**9.a Discussion**

There was no discussion.

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**9.b Correspondence**

There was no correspondence.

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**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**

Mr. Covino stated that the majority of the ZBRC has agreed with prohibiting short term rentals.

Mr. Covino stated that the sign in the center, Convenient MD, is allowed by right in the underlying zoning.

MOTION - Mr. Espejo made a motion to adjourn the March 5, 2020 Planning Board meeting at 8:45 PM. The motion was seconded by Mr. Gaffney and unanimously voted 7-0.

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*