



TOWN OF BURLINGTON  
PLANNING BOARD MINUTES  
APRIL 16, 2020

**RECEIVED**

By Town Clerk's Office at 9:11 am, May 26, 2020

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

**Members Absent:** None

**Staff Present:** Planning Director Kristen Kassner, Senior Planner Elizabeth Bonventre, Assistant Planner Brady Caldwell, Principal Clerk Jennifer Gelinas, Recording Clerk Dawn Cathcart

**Others Present:** Attorney Thomas Murphy, Michael Murray, and Shari Ellis.

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

On a Roll Call for attendance: Chairman L'Heureux voted present, Vice Chair Impemba voted present, Clerk Espejo voted present, Member Covino voted present, Member Gaffney voted present, Member Raymond voted present and Member Rappaport voted present.

Ms. L'Heureux called the meeting to order at 7:00 PM. The Town of Burlington will be holding the April 2, 2020 Planning Board as a virtual/electronic meeting due to the current State of Emergency due to the COVID-19 virus. As such, the Governor issued an Executive Order on March 12, 2020 authorizing remote meeting under M.G.L c. 30A, Section 20. Ms. Kassner stated that this meeting is being held via Cisco WebEx. The public can join the meeting via the WebEx link posted on the Town's website, can call in by dialing 408-418-9388. The meeting is being broadcast live on BCAT, and on cable networks and residents can email questions to [Planning@burlington.org](mailto:Planning@burlington.org) or on Facebook live.

**MOTION** - Mr. Espejo made a motion to take items "6.a" out of order for discussion purposes. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

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

**MOTION** - Mr. Espejo made a motion to continue this matter to the Planning Board meeting of May 7, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**MOTION** - Mr. Espejo made a motion to take items "7.a", "7.b", "7.c" and "7.d" together and out of order for discussion purposes. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.



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**7a Public Hearing – Application for Approval of a Special Permit Pursuant to Section 4.3.2.22 “Drive-through” of the Zoning Bylaws – 150 Lexington Street – Arista Development, LLC, Inc., Applicant**

**7.b Public Hearing – Application for Approval of a Special Permit Pursuant to Section 4.4.1.11 “Discharges from Manmade Structures Into the Wetlands” of the Zoning Bylaws – 150 Lexington Street – Arista Development, LLC, Inc., Applicant**

**7.c Public Hearing – Application for Approval of a Special Permit Pursuant to Section 6.1.2.1 “Nonconforming Structures and Premises” of the Zoning Bylaws – 150 Lexington Street – Arista Development, LLC, Inc., Applicant**

**7.d Public Hearing – Application for Approval of a Site Plan – 150 Lexington Street – Arista Development, LLC, Inc., Applicant**

**MOTION** - Mr. Espejo made a motion to continue these matters to the Planning Board meeting of May 7, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**MOTION** - Mr. Espejo made a motion to take items “7.e”, “7.f”, “7.g”, “7.h”, “7.i”, “7.j”, “7.k” and “7.l” together and out of order for discussion purposes. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**7.e Public Hearing – Petition to amend the Zoning Bylaw, Article I.X “Administration and Procedures” as it pertains to permitting procedures – Submitted by the Planning Board**

**7.f Public Hearing – Petition to amend the Planning Board Procedural Rules and Regulations as they pertain to permitting procedures– Submitted by the Planning Board**

**7.g Public Hearing – Petition to amend the Rules and Regulations Governing the Subdivision of Land in Burlington as they pertain to permitting procedures– Submitted by the Planning Board**

**7.h Public Hearing – Petition to amend the Planning Board Special Permit Rules and Regulations as they pertain to permitting procedures– Submitted by the Planning Board**

**7.i Public Hearing – Petition to amend the Planning Board Site Plan Rules and Regulations as they pertain to permitting procedures– Submitted by the Planning Board**

**7.j Public Hearing – Petition to amend the Planned Development Rules and Regulations as they pertain to permitting procedures– Submitted by the Planning Board**

**7.k Public Hearing – Petition to amend the Planning Board Town Center Design Rules and Regulations as they pertain to permitting procedures– Submitted by the Planning Board**

**7.l Public Hearing – Petition to amend the Small Wireless Facility Design Rules and Regulations as they pertain to permitting procedures– Submitted by the Planning Board**



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Ms. Kassner stated that all of these changes are relative to allowing for electronic submission.

**MOTION** - Mr. Espejo made a motion to continue these matters to the Planning Board meeting of May 7, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**MOTION** - Mr. Espejo made a motion to take items “7.q” and “7.r” together and out of order for discussion purposes. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**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.r 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 May 7, 2020 as requested in an email by the Applicant’s engineer on April 10, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**2. Citizens’ Time**

No one came forward.

**3. Announcements**

Ms. Kassner stated that the Planning Staff are all still working remotely. As always, will still be available via e-mail at [Planning@Burlington.org](mailto:Planning@Burlington.org) Staff’s office phones have all been forwarded to our cell phones including the main office line at 781-270-1645. Ms. Kassner stated that the Town Election has been moved to June 6, 2020 and the Town Meeting has be rescheduled for June 10, 2020. All Town offices will be closed on April 20<sup>th</sup> in observances of Patriot’s Day.

**4. Legal Notices of Interest**

There were no legal notices.

**5. Non-Approvals**

There were no non-approvals.

**6. Administrative Matters**

There were no administration matters.



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**7. Matters of Appointment**

**7.d Petition to Amend the Zoning Bylaw, Article II “Definitions” and Article IV “Use Regulations” to Address and Define Uses Pertaining to Short Term Rentals – Submitted by the Planning Board**

Ms. Kassner stated that this is Article #12 and an updated clean version. This article adds the definition for Short Term Rentals and prohibits them in the use tables in Sections 4.2.1.3.3 and 4.3.1.1.2.

Mr. Covino stated that majority of the ZBRC agreed to prohibit them completely in the Zoning Bylaw and General Bylaw to help with enforcement.

Mr. Espejo stated that by prohibiting these we are preserving the sanctity of our residential neighborhoods. Mr. Gaffney agreed, this will save our neighborhoods.

*Shari Ellis, Chair of the ZBRC* – Ms. Ellis stated that the ZBRC wanted to make sure that there is sufficient back up including safety and cost to the Town. She will be meeting with the General Bylaw Committee next week to discuss the corresponding General Bylaw article.

**MOTION** - Mr. Espejo made a motion to continue this matter to the Planning Board meeting of May 7, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**MOTION** - Mr. Espejo made a motion to take items “7.m”, “7.n”, “7.o” and “7.p” together for discussion purposes. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L’Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

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

Attorney Thomas Murphy and Michael Murray appeared for discussion of the zoning articles. Attorney Murphy stated that since the last Planning Board meeting, both the ZBRC and Land Use Committee have voted formally to support these articles with a few little issues.



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Mr. Murray stated that Submittal #6 hasn't changed. This is the definitions article and the use tables. Only a parking deck will be allowed in the BG zone with a Special Permit. Submittal #7 hasn't changed and the ZBRC voted again to remove it from the warrant. Ms. Kassner stated that she agrees with this vote. Submittal #8 are the changes to Section #7 and this has been updated to include restrictions to narrow the lots that would allow a parking structure including 200' buffer from residential properties lot line, it must be at least 150,000 SF and have a restaurant with a function facility with at least 400 occupant load. This would also require green space. With these new restrictions, there are only a few other lots that could qualify under these restricts except they do not have restaurants. They have also added an uplands requirement. Submittal #9 is the rezone of the parcel on Ray Ave to BG. Mr. Murray added that the ZBRC is also submitting an article with definitions that they agree with and they have not changed.

Mr. Murray stated that the lots that would qualify with buffer and size are Café Escadrille, Wayside Commons (there is no restaurant/function facility), 2,10,20 Wall Street (if combined but no restaurant/function facility), the Burlington Mall (there is no restaurant/function facility), 98-108 Middlesex Turnpike (no restaurant/function facility), 51-53 Middlesex Turnpike (no restaurant/function facility), 54-56 Middlesex Turnpike (if combined but no restaurant/function facility).

Ms. Kassner stated that there is no definition for structured parking in the bylaw now and the ZBRC did a great job with the definitions and she does agree with not moving forward with Submittal #7 because that just adds more confusion and they have limited the number of parcels by the restrictions in Section 7.

Mr. Impemba asked if the additional green space was for all levels or parking or just the footprint. Mr. Murray replied just the footprint. Mr. Impemba replied it should be the total square footage. Mr. Murray stated that does not make sense. They are trying to add parking and they have enough green space on site. That may work on a new site, but it is a detriment on a redevelopment site. Mr. Gaffney stated that it could be an equivalent amount of green space on another location. Mr. Impemba stated that another piece of land in town could be donated. Attorney Murphy stated that there are parking and safety issues that will be addressed with the parking structure on this site. In the future, if other properties are developed then green space would be a benefit. Ms. L'Heureux stated that the sites that were identified today but that could change. If a property has a lot of wetlands, they could say that is their green space. Ms. Kassner stated that issue was addressed by adding uplands to the description.

Mr. Espejo stated that the parking deck is being added because they need parking spaces but they could get creative such as a donation to the sculpture park or for sidewalks or boardwalks in Mary Cummings Park.

Mr. Covino stated that he is fine with how it is proposed and the language allows for the Planning Board to determine an alternative public benefit. Mr. Covino added that this only allows a parking deck in the BG zone. Ms. Kassner replied that was correct. Mr. Covino stated that in the definition for Function Facility, "business or" should be added prior to social events.

Mr. Raymond stated that we should talk with Conservation to see if they know of any potential area for green space or an area for a small park.

Mr. Gaffney stated that we should look into establishing design standards and look to see if they could include a traffic light at Ray Ave.





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Ms. Rappaport stated that “business” should be added in front of social events. There should be a benefit to the Town and we should be able to see the potential design standards.

Ms. L’Heureux stated that we should have some design review of the structure and she shares the concerns with the green space. The Town is not getting any benefit and she is uncomfortable with the definition for Function Facility and its unintended consequences. Ms. L’Heureux asked if the parking deck could be completely enclosed and is the Town getting any additional green space from the Escadrille property. Attorney Murphy replied there will be no additional green space and the parking deck is not enclosed. Mr. Murray stated that the entire site has enough green space and we should get credit for it. Ms. L’Heureux stated that a parcel has been added to the other property that has no land and the Town is taking a risk without any reward. Attorney Murphy stated that with the restrictions they are reducing the unintended consequences. This will improve traffic in the area and help with public safety.

Shari Ellis, Chair of the ZBRC – Ms. Ellis stated that the option for green space gives the Planning Board the opportunity to decide what is needed and where.

Monte Pearson, Chair of the Land Use Committee – Mr. Pearson stated that it doesn’t make sense to take away parking to add green space when they need parking. The Planning Board could request that a blinking yellow traffic light at Ray Ave be added that could be activated by the Police when needed. The Board could also require design features to the parking structure so it doesn’t look like a parking structure. Mr. Pearson stated that a better definition is needed for green space. Mr. Pearson proposed the following two definitions: 2.7.4.1 **Green Space**: a mixed area of lawn, plants, and trees suitable as habitat for birds and animals and/or for passive recreational usage and 2.7.4.2 **Landscaping**: the use of plants, trees, and lawn for aesthetic purposes. In this way, the public, developers, planners, and the Planning Board know exactly what is at stake during negotiations in the planning process.

Mr. Impemba stated that the applicant could look at replicating green space in area near the down town area.

Mr. Covino stated that he likes the new definitions but doesn’t agree that the square footage of the ground should be counted against the green space calculation.

Attorney Murphy stated that in the bylaw, green space is considered pervious surfaces and if you add these definitions it may have a ripple effect in the bylaw.

Mr. Murray asked if there will be design control for the structure but how could that be written in the zoning bylaw. Ms. Kassner stated that we could look at other districts to see what the Planning Board has design controls and will send out examples.

Mr. Gaffney stated that we should also look at other towns bylaws, not just our bylaw. Ms. Kassner stated that she will look at different pathways.

Ms. Ellis agreed with Attorney Murphy, impervious/pervious surfaces are throughout the bylaw. The definitions seem similar but they should be looked at.

Ms. Kassner stated that the Planning Board’s job is to make a recommendation to Town Meeting. They can recommend approval or denial but they need to make a recommendation.



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**MOTION** - Mr. Espejo made a motion to continue these matters to the Planning Board meeting of May 7, 2020. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**8. Minutes – 02/20/20, 03/05/20, and 04/02/20**

**MOTION** - Mr. Espejo made a motion to take Planning Board minutes of February 20, 2020, March 05, 2020 and April 02, 2020 together for approval. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**MOTION** - Mr. Espejo made a motion to approve the Planning Board minutes of February 20, 2020, March 05, 2020 and April 02, 2020 as submitted. The motion was seconded by Ms. Rappaport and voted 5-0-1. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

**9. Other Business**

**9.a Discussion**

**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**

Mr. Covino asked if the Master Plan could be worked on during this time. Ms. Kassner stated that is the plan. Ms. L'Heureux asked that the Staff start sending out portions of the Master Plan that are completed. Ms. Kassner stated that they will start to roll out sections next week.

Ms. Kassner asked that if any members have discussion points for the next meeting, just let them know ahead of time so they can prepare.

**9.f New Business**

There was no unfinished business.



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**MOTION** - Mr. Espejo made a motion to adjourn the April 16, 2020 Planning Board meeting at 9:05 PM. The motion was seconded by Ms. Rappaport and unanimously voted 7-0. On a roll call vote, Chairman L'Heureux voted yes, Vice Chair Impemba voted yes, Clerk Espejo voted yes, Member Covino voted yes, Member Gaffney voted yes, Member Raymond voted yes and Member Rappaport voted yes.

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*