



TOWN OF BURLINGTON  
PLANNING BOARD MINUTES  
AUGUST 19, 2021

**RECEIVED**

By Town Clerk's Office at 9:33 am, Sep 17, 2021

**Members Present:** Vice Chairman William Gaffney, Clerk Paul Raymond, Ernest Covino, Michael Espejo, and Barbara G. L'Heureux

**Members Absent:** Chairman Brenda Rappaport and Joseph Impemba

**Staff Present:** Planning Director Kristin Kassner; Senior Planner Elizabeth Bonventre, and Principal Clerk Jennifer Gelinis (On WebEx)

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

Vice Chairman Gaffney called the meeting to order at 7:01 PM. The Town of Burlington will be holding the August 19, 2021 meeting of the Planning Board as a hybrid meeting due to the expiration of the State of Emergency that was issued due to the Covid-19 virus on March 12, 2020.

Ms. Bonventre stated that the option for remote participation via WebEx is being provided as a courtesy to the public. The meeting will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. The public can join the meeting via the WebEx link posted on the Town's website, or they can call in by dialing 617-315-0704. 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** - Member L'Heureux made a motion to take item "7.m" out of order for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**7.m Continued Public Hearing – Application for Approval of an amendment to a Definitive Subdivision Plan – 4 & 5 Redmond Street – Murray Hills, Incorporated, Applicant**

**MOTION** - Member L'Heureux made a motion to continue this matter to the Planning Board meeting of September 16, 2021 and further the Planning Board agrees to mutually extend the Statutory Deadline to file the decision (Subdivision Form S) to November 10, 2021 as endorsed by the Applicant on August 18, 2021. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**2. Citizen's Time**

*David Miller of 19 Gloria Circle* – Mr. Miller stated that he has concerns with enforcement of the hours of operation of the construction bylaw. On Patriot's Day, they were working at 5 Dartmouth Road. He called the Police but they didn't know the bylaw. He suggested that the Police have access to Planning and Building projects. Vice Chairman Gaffney stated that perhaps a quick training is needed for the Police. Member Covino stated that the Police have access to the planning database. Member L'Heureux stated that the dispatchers should also be trained because they take the calls. Member Covino stated that perhaps the Select Board is the right Board to discuss this. Ms. Kassner stated that she will reach out to the new Police Chief. Mr. Miller stated that he is still having water issues in his garage. Ms. Kassner stated that the Minor Engineering Change work was completed. They are still waiting on the As-Built and Operations Manuals from the applicant.

**3. Announcements**

Ms. Bonventre stated that the Sculpture Park Subcommittee will be meeting on August 23<sup>rd</sup> at 9:00 AM at the Sculpture Park or via Zoom in the event of rain. The Burlington Housing Partnership Committee will be meeting August 24<sup>th</sup> at 6:00 PM via Cisco WebEx. The print deadline for



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September Town Meeting Warrant is August 27<sup>th</sup> by 1:00 PM at Selectmen's Office. The Sculpture Park Grand Unveiling will be on September 2<sup>nd</sup> at 6:00 PM at the Burlington Sculpture Park. Labor Day is Monday, September 6<sup>th</sup> and all Town offices will be closed. The Board of Appeals will be September 7<sup>th</sup> at 7:30 PM at the Town Hall Main Hearing Room and Winnview Heights is scheduled for this meeting. The Zoning Bylaw Review Committee will be meeting on September 8<sup>th</sup> at 6:30 PM via Zoom.

**4. Legal Notices of Interest**

There were no legal notices.

**5. Non-Approvals**

There were no non-approvals.

**6. Administrative Matters**

**6.a Discussion – Petition to Conduct a Housing Needs Assessment – Burlington Housing Partnership, Applicant.**

Mike Runyan and Eileen Sickler appeared for discuss a Housing Needs Assessment. The Burlington Housing Partnership has submitted two articles for Town meeting. The first article is to hire a 3<sup>rd</sup> party to do a Housing Needs Assessment from MAPC. The second article is to work with MHP to form a Municipal Affordable Housing Trust as an independent body. Member Covino stated that the people confuse affordable housing with subsidized low income house. Mr. Runyan stated that we are required to have 10% affordable housing. Ms. Kassner stated that they are currently at 12.6% with the new census data.

Member Espejo stated that affordable housing is critical and not just to Burlington.

Member L'Heureux asked if the fees are replenished by builders. Mr. Runyan stated that is one way and the other is to charge a fee for demolition. Member L'Heureux stated that the questions is how do we ensure affordability and we need to balance affordability of different housing options and getting too dense in the community. A partnership with a developer should be looked at and the Trustees shouldn't be involved with sales of units due to a potential conflict of interest.

Vice Chairman Gaffney asked why we would wait to add a fee for demolition permits and asked what the percentage of Town's have Affordable Housing Trusts. Mr. Runyan stated that he is not sure what the percentages are. Ms. Kassner stated that the Affordable Trust Fund has to be set up before any fees are taken. If the CPA passes, then a trust is needed. We need to adopt certain criteria under MGL and this will help flush out the questions. Ms. Kassner noted that for a 40B rental project all the units count towards our affordable number but only 25% of the units are affordable.

**MOTION** - Member L'Heureux made a motion to recommend favorably on the petition to fund a Housing Needs Assessment. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**MOTION** - Member Espejo made a motion to take items "7.a" and 7.b" together for discussion purposes. The motion was seconded by Member L'Heureux and unanimously voted 5-0-0.



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**7. Matters of Appointment**

**7.a Public Hearing – Application for Approval of a Special Permit Pursuant to Section 3.7 of the New England Executive Park PDD “Restaurants” – 100 District Avenue – JRS Restaurant, Inc. Applicant**

**7.b Discussion – Application for Approval of a Minor Engineering Change – 100 District Avenue – JRS Restaurants, Inc. Applicant**

Attorney Mark Vaughn of Riemer & Braunstein LLP and Renato Valentin appeared for a Special Permit and Minor Engineering Change for 100 District Avenue, Tavern In The Square. Attorney Vaughn stated that they had temporary outdoor seating during COVID and they would like to use the seating on the patio for permanent outdoor seasonal seating. There will be 56 seats and it will not be enclosed. This allows flexibility with spacing of tables and options for the patrons. Ms. Kassner stated that a building permit would be required to make it more of a permanent seating and the work should be done and inspected prior to opening in the spring.

Member Espejo asked if the location is where the igloos were and is there a barrier. Attorney Vaughn replied yes, the location is the same and there are railings. Ms. Kassner stated that they would like the Police to review the railings and typically bollards or planters are required.

Member L’Heureux asked if this will cause a parking issue especially at lunch time. Ms. Kassner stated that the applicant would need to talk with the owner. Attorney Vaughn stated that the parking is shared with the office park and the employees would be parking off site near the rear of the hotel. Attorney Vaughn added that the kitchen is small so they can’t process a larger amount of seats. Ms. Kassner stated that the parking needs to be well managed.

Member Covino stated that planters are better than bollards.

Vice Chairman Gaffney stated that if there are umbrellas, then there should be no writing on them. He would like to see a plan of the bollards/planters. Attorney Vaughn stated that there are mature trees and a large lawn area between this area and the street. They would prefer not having to add planters/bollards. Vice Chairman Gaffney disagreed and believes there should be something to enhance landscaping and provide safety. Attorney Vaughn asked that a condition be added that the plan for the bollards/planters be reviewed by staff and the chair.

There were no questions from the audience.

**MOTION** - Member L’Heureux made a motion to close the public hearing on this matter. The motion was seconded by Member Covino and unanimously voted 5-0-0.

**MOTION** - Member L’Heureux made a motion to approve the request of JRS Restaurants, Inc. for a Special Permit pursuant to Section 3.7 “Restaurants” of the New England Executive Park Planned Development District Zoning Provisions to permit an increase in the total number of seats allowed from 374 seats to 420 seats with 56 seats to be utilized on a newly constructed 1,431 +/- square foot patio area, for property located at 100 District Avenue in the New England Executive Park Planned Development (PD) District and Aquifer (A) District, subject to the terms and conditions contained in exhibit “A” attached. The motion was seconded by Member Espejo and unanimously voted 5-0-0.



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**MOTION** - Member L'Heureux made a motion to approve the request for approval of a Minor Engineering Change for property located at 100 District Avenue to permit the construction of a permanent exterior patio/deck with a 56 exterior seating capacity as reflected on the red-lined site plan entitled "Patio Overlay Site Plan," prepared by Vanasse Hangen Brustlin, Inc., dated August 17, 2021 ("Site Plan") consisting of one (1) sheet and a red-lined floor plan entitled "Tavern In the Square 100 District Avenue Burlington, MA," prepared by Sousa Design Architects, dated June 11, 2021 consisting of one (1) sheet, subject to the following revisions, terms, and conditions as amended. The motion was seconded by Member Covino and unanimously voted 5-0-0.

**MOTION** - Member Covino made a motion take items "7.c" through 7.f" together for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**7.c Continued Public Hearing - Application for Approval of a Special Permit pursuant to 6.1.1.2 "Expansion of a nonconforming use" of the Zoning Bylaws – 207 Cambridge Street – Phase Zero Design, Applicant**

**7.d Continued Public Hearing - Application for Approval of a Special Permit pursuant to 4.3.2.15 "Storage and disposal of oils and fuels/ petroleum products" of the Zoning Bylaws – 207 Cambridge Street – Phase Zero Design, Applicant**

**7.e Continued Public Hearing - Application for Approval of a Special Permit pursuant to 4.3.2.16 "Storage of hazardous and toxic materials/chemicals for retail sale" of the Zoning Bylaws – 207 Cambridge Street – Phase Zero Design, Applicant**

**7.f Application for Approval of a Site Plan – 207 Cambridge Street - Federal Investment Trust, Applicant**

Attorney Tom Murphy and Jim Kimball appeared for the continued public hearings for 207 Cambridge Street. Mr. Kimball stated that the proposal is to renovate 11,000 SF of retail space for O'Reilly Auto Parts. There will be 4,000 SF for retail and the remainder will be for stock. They have a brand, so there will be some changes to the exterior of the building and a new entrance portal is proposed.

Clerk Raymond asked how big the building was. Mr. Kimball replied 80' wide and 360' long and O'Reilly's will take about a 1/3 of the building.

Ms. Kassner stated that this is a non-conforming use for the warehouse. The lot had split zoning with BG/IG but the entire site was recently zoned BG. They only have 2 years to come in to protect the use. The warehouse use is the pre-existing non-conforming. Member L'Heureux asked if the warehouse space has expanded. Ms. Kassner replied yes. Ms. Kassner stated that no light automotive uses are permitted on this site, such as replacing batteries, replacing windshield wipers, etc.

Mr. Kimball stated that the building will have a brick façade with goose-neck lighting. The signs will have channel letters and they will add landscape planters along the front. There will also be Hardy Board siding added. They are also proposing adding a stone veneer around the foundation and there will be tinted film on the stock room windows. They will also be adding the film on the windows along Cambridge Street.

Member Covino stated that this is an ugly building and there is only so much you can do with it and asked if there will be exterior glazing on the windows. Member Covino stated that he has no problem with the expansion of the warehouse. Will the front entrance along Cambridge Street be used? Mr.



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Kimball stated that it is an emergency egress for employees in the stock room. Member Covino stated that the front of the building along Cambridge Street should be dressed up.

Clerk Raymond stated that the parking needs to be redone to provide definitive parking spaces and drive lanes.

Vice Chairman Gaffney asked if this operation includes wholesale and if so, what the percentage is. Mr. Kimball stated that they do wholesale sell to small businesses and they usually pick up in the morning with small trucks. Ms. Kassner stated that we would need to know the frequency and size of the trucks used. Vice Chairman Gaffney asked if there would be lighting on the right side. Mr. Kimball stated that they are not showing any but they may add some for the egress door. Attorney Murphy stated that one exists there now. Ms. Kassner stated that it would have to face down. Vice Chairman Gaffney asked if there are any local stores that have the mirrored front. Mr. Kimball replied he did not know of any local stores. Vice Chairman Gaffney stated that if mirror windows are being proposed, then he would like to see trees in front of them or perhaps they could look at black out film. The area around the loading dock should be dressed up as well. There are some services that O'Reilly usually does that would not be allowed. Ms. Kassner stated that the State mandates oil recycling so that would have to continue. Member Covino stated that the applicant should look at adding a faux colonial style window. Vice Chairman Gaffney stated that there are two feather signs that were up during the site walk. They were told to take them down and they are back up.

Attorney Murphy stated that as far as the site goes. The building was built in 1970 and the current owner purchased it in 1980. They met with staff in May and agreed to update the site plan to show the dumpster locations, the current building tenants, parking, etc. There was an issue with drainage in the right front corner and they are proposing adding a catch basin even though most of the water comes down from the hill at the end of Woodcrest Ave. They will be appearing before the Board of Health for this proposed drainage. They are also proposing a walk way, enclosing the HVAC system that was installed without permits with an acoustic masonry wall. This will be done with a building permit. The parking calculations have been submitted and they can restripe the parking lot.

Ms. Kassner stated that they need approval from the Board of Health for the drainage, they need to file with Conservation. They need detail of the enclosure for the HVAC including size, material, and information of the ac units. The trash needs to be consolidated into one system and we need information on the loading activities.

Member Espejo asked what the flood mitigation will be. Attorney Murphy stated that there is a recessed area that collects water that comes from the hill which then will flow into a catch basin.

Member Covino asked what the right of way easement is for. Attorney Murphy replied it is an easement to get to the parking area.

Member L'Heureux stated that this is a fantastic opportunity to make the building look nicer. What are the hours of operation? Mr. Kimball replied Monday-Saturday 7:30 AM to 10:00 PM and Sunday 7:30 AM to 9:00 PM. Member L'Heureux stated that the lights on the right of the building should be off when the store is closed. She would like more landscaping in the front and asked if a brick strip will be added to the sidewalk. There are 7-8 parking spaces in the front but the main entrance is to the left, so those spaces should be removed and landscape added or make them employee only parking. The sea of asphalt is awful and they should look at adding landscape islands in the parking area. There are



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also storage trailers and dumpsters that should be removed. A full landscape plan should be provided. Vice Chairman Gaffney stated that the storage container near the dumpster should be removed and asked if the shed was permitted. Ms. Kassner stated that the brick strip in the sidewalk may be tricky in this area. Member L'Heureux stated that the grocery store had come in to expand into an empty space for storage and asked if this was done. Mr. Santangelo stated that the space is empty. Member L'Heureux stated that space could be used for storage of the tenants and the storage boxes and shed could be removed.

Debra Walker of 18 Woodcrest Avenue – Ms. Walker stated that she hopes the owners follow through with the noise attenuation around the condensers. The Hello Brothers tenant is lit up like a Christmas tree and has been for 6 weeks. The water issue is starting to erode the road. Ms. Walker asked if the dumpster will be moved to the front right of the property. Ms. Kassner replied no, that was the old plan. Ms. Walker stated that the existing dumpster is getting emptied at 3:30 – 4:00 AM. Ms. Kassner stated that the property owners need to reach out to the dumpster company and tell them they can't empty them at that hour. Attorney Murphy stated that he will reach out to the owners regarding the dumpsters and the lights but added that O'Reilly is not adding any compressors.

Cathy O'Neill of 31 Arthur Woods Avenue - Ms. O'Neill stated that the property owners have owned this property for 40 years and have never fixed anything so why would we trust them now. There are now 4 dumpsters on the property, a shed, and we have rats now. This is the town center and should be a nice site. About 2 years ago, another tenant, MBM, proposed sidewalks, lights, trees, etc. and nothing happened. The trucks are there all hours of the day and the property owners should be held to standards and they aren't. Member L'Heureux asked what our leverage is. We could not sign off on the occupancy permit and the owners should be here at the next meeting. Attorney Murphy stated that he will speak with the owners but this is not a change of use. Member L'Heureux stated that the tenants have done things without permits and this mess needs to be cleaned up. Member Espejo stated that sites like this is the reason why we need a Zoning Enforcement Officer.

**MOTION** - Member L'Heureux made a motion to continue this matter to the Planning Board Meeting of September 2, 2021. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**7.g Continued Public Hearing – Petition to Rezone Property to the High-Rise Industrial (IH) District – 1 Rounder Way – Submitted by David Reinfeld and Lou Frate**

David Reinfeld appeared for the continued public hearing to discuss changing the zoning for 1 Rounder Way from IG to IH district. Ms. Kassner stated that this is an aging site and changing the zoning is a good direction to head in. Mr. Reinfeld stated that the building is mostly empty and they would like to transition it for Life Science. Ms. Kassner asked if the building could be retrofitted for Life Science or would it have to be demolished. Mr. Reinfeld replied that it could be retrofitted.

Member Espejo asked what the occupancy percentage is. Mr. Reinfeld replied there is about 1,600 SF used out of 40,000 SF. Member Espejo asked if there has been interest in Life Science. Mr. Reinfeld replied yes.

Member Covino asked what the previous use of the site was. Mr. Reinfeld replied Rounder Records was first then they had a retail energy supply and energy brokerage business that had about 120 employees.



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Vice Chairman Gaffney asked if the height of the building will change. Mr. Reinfeld replied he was not sure.

There were no questions from the audience.

**MOTION** - Member L'Heureux made a motion to continue this matter to the Planning Board Meeting of September 2, 2021. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**MOTION** - Member L'Heureux made a motion to take items 7.h through 7.k together for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**7.h Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 1 Wall Street – Submitted by the Gutierrez Company**

**7.i Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 2 Wall Street – Submitted by the Gutierrez Company**

**7.j Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 10 Wall Street – Submitted by the Gutierrez Company**

**7.k Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 20 Wall Street – Submitted by the Gutierrez Company**

Scott Weisse from the Gutierrez Company appeared for the public hearing to discuss rezoning for 1, 2, 10 and 20 Wall Street to IH. Mr. Weisse stated that there were a few issues from the last meeting. All residential abutters have been noticed. Most of the buildings are occupied now except a few empty spaces at 10 Wall Street but a lot of the office leases are coming to a close within 2-3 years. There is a changing market and office space is not in high demand. They are proposing to carve out a portion of 2 and 10 Wall Street where the buildings are located and leave them as BG.

Member L'Heureux asked why would you keep 2 and 10 Wall Street as BG. Ms. Kassner stated that currently there is split zoning on 2 Wall Street. Mr. Weisse stated that they have a long term plan with the current tenants. Member L'Heureux stated that she would prefer changing the zoning of 1 & 20 Wall Street only to IH.

Vice Chairman Gaffney asked if there would be a parking problem if these 2 parcels were taken out. Ms. Kassner replied no, the parking requirement is associated with the use. Vice Chairman Gaffney stated that he doesn't understand why only the parking area would be changed to a different zoning. Ms. Weisse replied he would get some more information.

There were no questions from the audience.

**MOTION** - Member L'Heureux made a motion to continue these matters to the Planning Board Meeting of September 2, 2021. The motion was seconded by Member Covino and unanimously voted 5-0-0.

**7.l Continue Public Hearing – To Amend the Zoning Bylaw by Renaming the High-Rise Industrial (IH) District – Planning Board, Applicant**

Ms. Kassner stated that the warrant is closing on August 27<sup>th</sup>. They have proposed 3 options: General Industrial 2 (IG2) District; Innovation Science (IS) District or Innovation (I) District. The majority of the Board liked (I) Innovation District, so that will be the placeholder in the warrant.



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**MOTION** - Member Covino made a motion to continue this matter to the Planning Board Meeting of September 2, 2021. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

**8. Minutes – June 17, 2021 and July 15, 2021**

Vice Chairman Gaffney stated that he hasn't had time to review them so asked that they be continued until the next meeting.

**9. Other Business**

**9.a Discussion**

**9.a.i Master Plan Wrap Up**

Ms. Kassner stated that they are finalizing the contract for Emily Innes Design to finalize the Master Plan.

**9.a.ii Discuss/Appointment to Select Board's Transportation Committee**

Ms. Kassner stated that she will investigate the proposed meeting dates of this committee.

**9.a.iii Housing Partnership Update**

Member Covino stated that they are meeting next Tuesday. They have no formal agreement on the warrant articles yet.

**9.a.iv Sculpture Park Update**

Member L'Heureux stated that there will be an unveiling on September 2<sup>nd</sup> at 6:00 PM of a new sculpture. The Boston Globe will be covering it.

Vice Chairman Gaffney stated that on Monday night the Recreation Committee recognized Nancy Cintley on her retirement and Paul Raymond for his 18 years of service.

**9.a.v Illegal Signage**

Ms. Kassner stated that there is a letter that went out to 11 establishments for illegal signs.

**9.a.vi Airbnb's and Other Short Term Rentals**

Ms. Kassner stated that the number of Airbnb's has increased in Burlington. They need to get the Select Board of the Town Administrator to send out a letter to the Airbnb that they are not allowed in Burlington.

Ms. Kassner stated that the Board's priority list has been created and organized and this also explains the role and duties of the Planning Board.

**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.



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**9.e Unfinished Business**

Ms. Kassner stated that the Winnview Heights will be before the ZBA on September 5<sup>th</sup>.

Ms. Kassner stated that there will be an Executive Session before the next meeting to discuss the Muller Road subdivision.

**9.f New Business**

There was no new business.

**MOTION** - Member Covino made a motion to adjourn the August 19, 2021 Planning Board meeting at 10:45 PM. The motion was seconded by Member Espejo and unanimously voted 5-0-0.

*Respectfully Submitted by Dawn McDowell,  
Recording Clerk*