

**Call to Order:**

The meeting was called to order at 7:30 p.m. Present were members Jay Doherty, Joan Duff, Ann Knowles and Associate Member Austin Simko; also present were Paul Materazzo, Director of Planning, Lisa Schwarz, Senior Planner and Jacki Byerley, Town Planner.

**33 Pearson Street:**

Ms. Duff opened the public meeting for 33 Pearson Street, a Site Plan Review Dover – Use.

Ms. Byerley stated the applicant is changing the use of the building from a funeral home to a day care. There will be no interior layout change or additional square footage. A playground will be added to the property and the parking lot will be reconfigured.

Arianne Kindle, the applicant stated that she currently owns a similar facility in Burlington, MA. This location would have no more than 20 children and would operate Monday through Friday from 7:30 a.m. to 5:30 p.m. and a couple hours on Saturday to offer social skills to children on the autism spectrum. The building is up to code for a preschool per the Massachusetts Department of Early Education and Care. The building is handicap accessible, with two handicap accessible bathrooms. The building has also been tested for lead paint.

Michelle Miller, of designLabs, Inc. the architect on the project reviewed the plan and vehicle circulation around the building for parking and drop-off. She stated that the bylaw requires 4 parking spaces for the preschool use, and one parking space for the 2<sup>nd</sup> floor apartment. The property has 6 existing parking spaces. Ms. Miller reviewed the layout of the interior of the building.

Mr. Simko asked if the Dover analysis is altered at all because the building is part residential, or if the whole building is considered Dover. Ms. Byerley said that the change of use from the funeral home to the daycare is triggering the Dover use, and each unit of the building is taken separately.

Ms. Duff asked if the children's arrival time would be staggered. Ms. Kindle stated that from her experience, about 5 children arrive before 9:00 a.m. with the remainder arriving after 9:00 a.m. The parents would pull into the parking lot and follow a one-way circulation to drop the children off at the door under the carport. Mr. Doherty asked what the age range of children would be and Ms. Kindle stated between 2 years, 9 months and 5 years old. Ms. Knowles asked how staggered things get at her facility in Burlington, because she is concerned about parents being able to find a parking spot. Ms. Kindle stated that the normal procedure will be for parents to drop children off with a teacher at the door under the carport, eliminating the need to park. Ms. Knowles asked about parking for special events. Ms. Kindle stated events would be on weekends, and there would be one graduation a year. She noted that there is a Town parking lot 350 ft away from the building. Ms. Knowles stated that the library lot is frequently full. Ms. Kindle noted that she would be willing to approach St. Augustine's Church for permission to use their parking lot for the graduation. Ms. Knowles encouraged her to do that.

Mr. Doherty asked if there is fencing around the playground and the parking lot. He stated that he is concerned for the students in the weekend program. He asked how many students would be

**33 Pearson Street (cont'd):**

in that program. Ms. Kindle stated the playground will have fencing but the parking lot will not. She added that the social skills group is typically 6 students with 3-4 staff.

Ms. Duff asked how many cars would fit lined up around the building. Ms. Miller stated that the building is around 60 ft so she could imagine at least 6-7 cars in the queue. She added that some parents may still park to drop off the child.

Steve Fink of 26 Bateson Drive stated that this is the type of business that he hopes will be drawn to the Historic Mill District. He felt that with the proximity to Town services, the library, etc., this is a huge opportunity for the applicant and the community.

Peter Morris of 112 Pine Street stated that he is happy that the drop-off will be behind the building. He noted that Essex and Pearson Streets can be dangerous. Mr. Doherty added that he liked how the drop-off is looped left to right to maximize space.

Ms. Byerley informed the Board that she had drafted a favorable recommendation to the Inspector of Buildings with 9 standard conditions. Mr. Doherty asked what information the Building and Fire Departments needed from the applicant. Ms. Byerley stated that they had questions on the height of the carport. The carport is a little over 9 ft, and the new construction requires 13.5 ft. The Fire Department has confirmed that they are comfortable with the flow and that they can get into the building.

On a motion by Mr. Simko seconded by Mr. Doherty the Board issued a favorable recommendation with conditions to the Inspector of Buildings for the Site Plan as reviewed for a change of use from a funeral home to a child care facility at 33 Pearson Street.

**Vote:** Unanimous (4-0).

**Town Meeting Warrant Articles:****Article P-48 In-Town Independent Overlay District:**

Ms. Duff opened the public hearing for 2016 Town Meeting Warrant Article P-48 In-Town Independent Overlay District.

Joe Ponti, of 10 Marion Avenue, Chairman of the Council on Aging introduced the article. He stated that the article stemmed from a 2015 Senior Needs Assessment Survey conducted by UMass. The survey was sent to 4,000 residents age 50+ and had a 28% response. The notable response from the survey was that many residents want to ability to live in town independently with services available. This warrant article creates a district with a radius of 1 mile from the center of Town where services are located. He noted that forums have been held at the library to get public feedback in drafting the article.

Peter Morris of 112 Pine Street reviewed the purpose and content of the bylaw. He noted that a special permit is needed for development, it is not as of right. The bylaw includes a sunset clause of 5 years or 100 total units. There is a limit to the number of units per building, per

**Town Meeting Warrant Articles (cont'd):**

project and per lot size, as well as a limit to the size of the dwelling units. No subdivision rights will be granted to any development.

Mr. Morris reviewed the boundary of the overlay district and noted there are somewhere between 100 and 200 lots that could be opportunities for this bylaw. New construction would be allowed on lots greater than 30,000 s.f. Conversion of existing homes would be allowed on medium size lots greater than 15,000 s.f. Non-conforming lots with an area greater than 10,000 s.f. would be allowed to be built on. Mr. Morris stated that the dominant category of wants seemed to be cottage style detached housing for downsizing. A deed restriction would be placed on each unit to restrict the age of owner to 55+. All units would be required to be owner occupied, with a census report provided to the Town each year with no one under the age of 18 allowed to live in the unit. Any development must go through the Design Review Board process, and the DRB must provide a recommendation letter. He noted that the overlay complements the Historic Mill District zoning that provides economic development in a concentrated area. This Bylaw meets the needs of people age 55-85, while assisted living generally meets the needs for those 82+. This bylaw would take care of people for decades and allow more residents to stay in Town.

Mr. Simko asked if the deed restriction would be in perpetuity. Mr. Morris stated that it would be in perpetuity, but if an owner cannot sell after a year on the market, the owner could apply to have the deed restriction removed. The Town has the right of first refusal to buy the unit for affordable housing. Ms. Knowles asked if other communities have had to use the escape clause. Mr. Morris stated other communities have not because the baby boomers are supplying plenty of demand. Ms. Knowles stated that a year seemed like a long time to her and suggested that 6 months is more appropriate. Mr. Ponti stated that they are trying to make it difficult for non-senior occupancy. Mr. Simko asked if there was any way that the deed restriction can be placed on the unit so that if the owner cannot sell the unit to a qualified buyer, when the next buyer sells the unit, it must first be marketed for a year to a qualified buyer. Ms. Schwarz noted that it is a special permit that will be recorded with the project, and Mr. Materazzo agreed that it could be a condition of the special permit. Ms. Schwarz stated that Mr. Simko's suggestion allows for the owner to sell their unit in a reasonable time, but allows the Town another stab at an elderly unit. Mr. Simko stated that he saw no need for the restriction to be at the whim of market fluctuations.

Mr. Doherty asked how the area of the overlay was chosen. Mr. Morris stated that they originally started with a pin on the Park bandstand and drew a mile radius. In working through the area they noted that Shawsheen Village is an area where you can walk to services. They also included major roads that make sense. Mr. Morris stated that if you make the area too small, there won't be as many lots available. This overlay can be a pilot for future areas.

David Brown of 31 Glenwood Road stated that he felt the concept of this article was good. He stated that the deed restriction in perpetuity is not explicitly stated and the escape clause needs to be carefully thought out. He cautioned about undermining the underlying zoning in Town. He noted that there is a family dwelling unit bylaw that could be modified. That bylaw has a five year limit that does not undermine the underlying zoning. Mr. Brown felt that the escape clause cannot be subject to the fluctuating market. The area covers a lot of different zoning districts including areas where residential is not permitted.

**Town Meeting Warrant Articles (cont'd):**

Ms. Schwarz stated that the COA did not want to address family dwelling units. She noted that the area of this overlay is in districts that currently allow residential housing. Mr. Brown questioned why the bylaw does not state that it is limited to residential districts. Ms. Schwarz and Mr. Materazzo stated that they would not state that because you do not know what opportunities may arise. Mr. Morris added that the deed restriction is per unit. Mr. Brown asked if the boundary of the overlay follows existing zoning districts. Ms. Schwarz stated that it does not. The boundary makes as much of a circle as possible, however street lines had to be followed. Mr. Brown asked if there is a restriction on maximum lot size. Ms. Schwarz stated that only thirty units are allowed on a parcel of 10 acres. Mr. Brown stated that the bylaw should say 30 units on 10 acres or more. Mr. Morris stated that if someone has more than 10 acres, they have many more development opportunities afforded to them than just this special permit. Mr. Brown noted that there are many areas of imprecise language in this bylaw.

Mr. Ponti asked Ms. Schwarz if they are at a point where it would still be possible to make word changes to the bylaw. Don Robb, 36 York Street stated that insignificant changes would have to be made through an amendment at Town Meeting. Mr. Ponti asked Mr. Brown to take a hard look at the bylaw so that nitpicking does not destroy the intent.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to continue the discussion regarding section 2.2 Overlay Districts for the In-Town Independent Overlay District to March 29, 2016 at 8:00 p.m. **Vote:** Unanimous (4-0).

**Article P-5 CIP - Municipal Services Facility Project – Design and Engineering, Article P-44 Acquisition of 5 Campanelli Drive and Article P-45 Home Rule Legislation – Municipal Services Facility Mitigation Fund:**

Mr. Materazzo introduced Town Manager Andrew Flanagan to discuss these warrant articles related to the moving the Town Yard, all of which are financial in nature.

Mr. Flanagan stated that Article P-44 is to purchase 5 Campanelli Drive to be the new site of a Municipal Services Facility. This purchase will be made from \$2.5 million of Free Cash. Today the Town has a balance of \$5 million in Free Cash. He noted that Weston and Sampson have been working with the Town in regards to cost estimation, and the price of this project increases \$500,000 a year. Article P-5 is a portion of the Capital Improvements Projects which would be \$900,000 for the design phase of the new Municipal Services Facility. Mr. Flanagan estimated that the design phase would take 6 months to complete. Once design is complete in early 2017, the cost estimate will be more accurate. Article P-45 requests that the Town vote to request a Home Rule Petition from the State Legislature to set up a Municipal Services Facility Fund. All revenue generated from the sale of 11 Lewis Street and all associated tax, permit and application revenues, current and future from the site would be placed in this special account and used to pay down debt services.

Mr. Materazzo reviewed 5 Campanelli Drive, a 15 acre parcel off of River Road with 7+ acres of upland. He noted that the purchase of this property would also provide the Town with public parking to access the Merrimack River. Mr. Materazzo stated that he and Mr. Flanagan have met

**Town Meeting Warrant Articles (cont'd):**

with River Road businesses and they are excited to potentially be the first area of Town plowed and are also excited about the open space component.

Ms. Knowles noted that this parcel was on a previous warrant for purchase. She asked what happened in the interim. Mr. Materazzo stated that the purchase price for the parcel has been reduced by \$1 million, and the Town Manager now has a very targeted approach as to how the facility will be built.

Mr. Simko asked what the debt service will be in regards to the \$900,000 appropriation that is part of the capital budget. Mr. Flanagan stated that the land will be purchased for \$2.5 million of Free Cash. He is suggesting that the Town needs to appropriate an additional \$900,000 in cash or debt service per year for design and construction. Year 1 will be \$900,000 cash for the design, year 2 will be \$900,000 in debt service for the construction.

Ms. Duff asked what the Home Rule Petition involves for the mitigation fund. Mr. Flanagan stated that the Home Rule Petition is necessary because state statute dictates that revenue generated by the sale of land has to go into a sale of land account and building permits fees have to go into local receipts which is part of local revenue. The Home Rule Petition allows the Town to create the mitigation fund and earmark that money specifically for Town Yard.

Mr. Doherty asked if there is interest in the current Town Yard site. Mr. Materazzo stated that the Town had recently issued a non-binding Request for Information to developers for both the Town Yard Land and 1.3 acres of MBTA land. In one day 10 developers had called for more information. The Town is contacting over 12,000 developers throughout the country. Mr. Doherty asked if the warrant articles are approved if the development would happen quickly. Mr. Flanagan stated that if approved the Baker administration will help spread the word. Mr. Materazzo added that there is a role for the state in development around transit stations.

David Brown of 31 Glenwood Road asked if further Town Meeting action would be necessary for the construction of the facility. Mr. Flanagan stated that it would require a future bond authorization. He added that after the design is complete, there will be a better idea of the cost. Mr. Brown if all costs will be known when it is brought back to Town Meeting. Mr. Flanagan stated that all costs would be known at that time.

Steve Fink of 26 Bateson Drive stated that what has changed is excitement. Don Robb of 36 York Street noted that the Town has become proactive on the Town Yard issue and it should avoid the situation that has occurred with private citizens presenting articles on the Ballardvale Fire Station. This is a concerted effort on the part of the Town. He stated that he also likes the two step process which should keep the costs on point.

Rick Feldman of 10 Knollcrest Drive, former Chair of the Town Yard Task Force stated that the site has been well vetted from previous years. He added that the prior article to move the Town Yard to Campanelli Drive got a majority vote at Town Meeting but it needed a 2/3rds vote.

**254 South Main Street:**

Ms. Duff opened the continued public meeting for 254 South Main Street, Phillips Academy Field House, a Site Plan Review Dover Use.

Steve Garvin, an engineer representing the applicant stated that they have responded to the final DPW and Board of Health Comments. Ms. Byerley stated that the applicant had requested the previous continuance because of a memo from the DPW regarding an issue with the sewer and sewer easement that has now been resolved. The existing Town sewer line in the sewer easement is made of clay pipe. The Department of Municipal Services is concerned that the clay pipe could be damaged during construction. Phillips Academy has agreed to replace the clay pipe with PVC pipe from manhole to manhole.

Ms. Knowles noted that the plant material on the landscaping plan is an unnamed species. She stated that she would like native species to be planted. Mr. Garvin noted that everything in the buffer zone is a native species.

On a motion by Mr. Simko seconded by Ms. Knowles the Board issued a favorable recommendation with conditions to the Inspector of Buildings for the Site Plan as reviewed to construct a 101,500 square foot field house at Phillips Academy. **Vote:** Unanimous (4-0).

**Town Meeting Warrant Articles:****Article P-47 Restaurant Amendment - Amend Zoning Bylaw Section 10.0 Definitions:**

Ms. Duff opened the public hearing on Town Warrant Article P-47 Restaurant Amendment - Amend Zoning Bylaw Section 10.0 Definitions.

Mr. Materazzo stated that the Planning Board and the Economic Development Council have been discussing this for over a year. The current Zoning Bylaw requires a fast-food establishment to petition the ZBA for a Special Permit. This warrant article would remove that ZBA requirement for both fast food and sit down restaurants in the General Business and Mixed Use districts which is hindering businesses today. This article also changes the name of fast food restaurant to limited service restaurant and tweaks the definition to better represent the type of businesses in Town today.

Mr. Doherty stated that he is very much in agreement with this article. He stated that some potential restaurant owners are paying three months' rent before they can even get a ZBA approval or start to build out, and the Zoning Board has never denied this type of application. Mr. Materazzo agreed that this article is going after what is hurting businesses today.

David Brown of 31 Glenwood Road stated that the special permit process provided an opportunity for public review so that the business operates in a way to protect the public. He noted that anyone who wants to open a restaurant has to come to the ZBA, and there isn't a compelling interest. It is clear that the EDC was emphatic that limitation in the General Business district was a top priority. At the next Town Meeting he would like to take a more broad comprehensive approach in regards to the restaurant bylaw.

**Town Meeting Warrant Articles (cont'd):**

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to recommend Town Meeting approval of Article P-47 Table of Use Regulations Restaurants. **Vote:** Unanimous (4-0).

**Article P-43 Street Acceptance:**

Ms. Byerley stated that the Board of Selectmen enter in a warrant article each year for certain private streets to be made public ways. This year the streets to be considered are Newport Circle, Avella Circle, Willoughby Lane and Prides Circle. She informed the Board that Avella Circle is no longer eligible for street acceptance this year because the proponents were not able to complete the necessary paperwork. Newport Circle is ready for acceptance pending favorable review of documents by Town Counsel and the completion of street tree planting. A total of five trees need to be replanted before Town Meeting. If these trees are not planted before Town Meeting the DMS will ask the Board of Selectmen to withdraw their consideration. Town Counsel is currently reviewing their documents further but only minor changes may have to be made. The street has received a partial Certificate of Compliance from the Conservation Commission. Willoughby Lane and Prides Circle which are part of the subdivision Willoughby Estates, need to provide information on maintenance of their detention basin prior to the layout meeting with the Board of Selectmen on March 21<sup>st</sup>.

Ms. Byerley reviewed the street acceptance process. The Planning Board initially recommends to the Board of Selectmen that a street be laid out. The Board of Selectmen then vote to lay out the street. If the Board of Selectmen vote to lay out the street, it then goes to Town Meeting for approval.

On a motion by Mr. Doherty seconded by Mr. Simko the Board recommended acceptance of Newport Circle, Willoughby Lane and Prides Circle as a public way contingent upon a favorable review by Town Counsel and the Department of Municipal Services. **Vote:** Unanimous (4-0).

On a motion by Mr. Doherty seconded by Mr. Simko the Board moved to forward a recommendation to the Board of Selectmen that Avella Circle not be laid out as a public way. **Vote:** Unanimous (4-0).

**Article P-49 Acceptance and Taking of Granli Drive:**

Ms. Byerley stated that Granli Drive is a subdivision approved in 1985 that has been built out for many years. The developer moved on before finishing the street for acceptance. The street is in an okay condition, so not much initial work will have to be done by the Town. This has been approximately a ten year process to get all documents in order with the State, Town and abutters to be able to take the street by eminent domain. The Town was not able to secure a 5 foot easement over one property, however the Department of Municipal Services has confirmed that the 25 foot easement that they have secured is sufficient. Normally a 30 foot easement is required, however the the drainage is not located in that 5 feet.

Ms. Doherty asked if taking the street by eminent domain was the normal process. Ms. Byerley stated that it was the normal process for the taking of a street. She added that the Town most

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recently took Fun Flight Circle by eminent domain, however the Town tries not to have to take the streets and that is why the Board doesn't see the takings often.

On a motion by Mr. Doherty seconded by Ms. Knowles the Board recommended the taking and acceptance of Granli Drive as a public way contingent upon favorable review by Town Counsel and the Department of Municipal Services. **Vote:** Unanimous (4-0).

**Article P-42 Transfer of Land to the Conservation Commission:**

Mr. Materazzo stated that this article is for a land transfer of 96R Bellevue Road and 24 Avery Lane to the Conservation Commission. This land was taken for tax lien purposes and is currently under control of the Town. This article will turn it over to the care, custody and control of the Conservation Commission which the land had always been intended to be conveyed to. This housekeeping article cleans up the ownership and allows the Conservation Commission to begin putting trails on the land.

On a motion by Mr. Doherty seconded by Mr. Simko the Board recommend Town Meeting approval of Article P-42 Transfer of Land to the Conservation Commission on 96R Bellevue Road and 24 Avery Lane. **Vote:** Unanimous (4-0).

**Minutes:**

On a motion by Ms. Knowles seconded by Mr. Doherty the Board approved the meeting minutes of October 27, 2015, November 10, 2015 and December 8, 2015. **Vote:** Unanimous (4-0).

**Adjournment:** The meeting was adjourned at 9:26 p.m.