

**Call to Order:**

The meeting was called to order at 7:30 p.m. in the 3<sup>rd</sup> Floor Conference Room of the Town Offices. Present were Chairman Zachary Bergeron, members Joan Duff and Ann Knowles, and Associate Member Rocky Leavitt. Also present were Paul Materazzo, Director of Planning & Economic Development, Lisa Schwarz, Senior Planner and Tom Urbelis, Town Counsel.

**27-45 Main Street:**

Mr. Bergeron opened the discussion on 27-45 Main Street, Draper Block. Ms. Schwarz stated that the Board was in the middle of reviewing the applicant's request for a major modification in December when the applicant requested that the Board close their hearings and to make a decision on the façade changes only so that they would not be delayed in ordering and purchasing materials for that work. At the time, in addition to the façade, the Board was reviewing landscaping, parking and change of use. The Board had also contracted with a peer reviewer on the parking. The Board closed the public hearings and made a decision on the façade with the agreement that the applicant would refile with the Board to finish the public hearings on the other items that were part of the major modification application when the parking peer review was finished. She noted that the parking peer review is now complete. The discussion item tonight is if the Board feels that the remaining changes to the special permit are major or minor.

Bob Lavoie, an attorney representing the applicant, Touchdown, LLC, stated that the areas of discussion left from the prior application are the landscaping and the parking. The landscaping plan was submitted to the Board for this discussion. The applicant has calculated the parking need as 75 spaces. The original permit stated that if the need did not exceed 89 spaces they would not have to come back to the Board.

Mr. Bergeron noted that the next steps are for the Board to determine if the changes to the plan are major or minor. Ms. Schwarz informed the Board that the determination of if a change is major or minor can be tied to how much of the original special permit has to be changed. She showed the Board highlighted sections of the original special permit that would have to change and stated that in her opinion the cleanest approach would be to for the Board to accept an application for a major modification and once any major modification is issued, it would be recorded at the Registry of Deeds. Mr. Bergeron asked what the Board would be looking at during the major modification process. Mr. Materazzo stated that the Board would review the landscaping, parking and uses. By going through the minor modification process, the special permit would be changed to reflect the uses and plans of what is actually being built.

Ms. Knowles stated that the Board was asked to close the original major modification in the middle of the public hearings, and to make a decision on the façade only. The Board should just pick up where they left off with the public hearings for the major modification. Attorney Lavoie stated in his opinion the changes are minor because only the programming is being changed. Mr. Leavitt stated that the Board extended a courtesy to the applicant for the façade work. The applicant took a calculated risk with the fact that there would be a 20 day appeal period on the next filing for the major modification for the parking, landscaping and programming. The Board still has a right to continue the major modification process.

**27-45 Main Street (cont'd):**

On a motion by Ms. Duff seconded by Ms. Knowles the Board directed the proponent of 27-45 Main Street to submit the major modification documentation to the Planning Board for further consideration and that the filing fee be waived and the advertisement fee to remain. **Vote:** Unanimous (3-0).

**Town Meeting 2019 Articles:**

Mr. Bergeron opened the public hearings on the 2019 Town Meeting Zoning Articles regarding signs and the Senior Residential Community Overlay District.

**Sign Bylaws:**

Mr. Materazzo stated that three Town sponsored articles have been submitted regarding signs. The articles will bring the Town's sign bylaw into compliance with the Supreme Court case of Reed vs. Gilbert, AZ. He noted that interested residents formed a working group to draft the bylaws with Town staff. The bylaw is now more clear and customer/business friendly.

Brad Weeden of 5 Summer Street stated that this was a major modification of the sign bylaw. It is good, but it will still need some work in the future. Mr. Bergeron asked Mr. Weeden if there is anything in his opinion that should be addressed in the bylaw right away. Mr. Weeden stated that the bylaw has some subjective language in it and it needs a professional copy editor.

Ms. Knowles noted that while reading the bylaw it is hard to picture the sizes in your head, so it is hard for her to determine if this is business-friendly. She noted that this bylaw is very careful with how light is directed on signage which is important to townspeople. Mr. Weeden stated that the members of the Design Review Board, who weighed in on these amendments, are very good at imagining what these types and sizes of signs look like.

Mr. Materazzo stated that the DRB submitted a letter to the Board dated February 15, 2019 recommending Town Meeting approval. He noted that in crafting the bylaw, different stakeholders from the community were consulted. What many of the stakeholders saw as a current impediment was the requirement of a variance for signage which is tied to the land. It was suggested that the creation of special permit criteria would be more business-friendly, which is now included in this bylaw.

Tom Urbelis, Town Counsel, stated that the sign bylaw will never have 100% agreement and it is not perfect. The working group undertook a lot of work and there have been many meetings on and drafts of this bylaw. He noted that Mr. Materazzo reached out to the business community for comments, and is continuing to receive comments. If there is a fall Town Meeting there may be additional technical amendments made to the bylaw. The existing bylaw is unconstitutional, and these amendments will bring the Town into legal compliance.

Mr. Bergeron questioned why changes to the bylaw are not being made in two phases, with the Town first tackling the unconstitutional piece. Mr. Materazzo noted that the Town tried that approach at the last Town meeting and had to withdraw the article when it was clear it would not pass. He noted that the Inspector of Buildings is pleased with the clarity of this bylaw.

**Town Meeting 2019 Articles (cont'd):**

Ms. Duff asked if the business owners were comfortable with being able to comply with the new bylaw. Mr. Materazzo stated that Ann Ormond, the Town's Director of Business Arts and Culture will be hosting breakfast meetings with businesses on the bylaw. He noted that the bylaw was crafted with the intention of not making every existing sign in Town non-compliant. Ms. Knowles stated that she felt this Bylaw is a good start. She added that she was encouraged that businesses have been given an opportunity to weigh in.

Mark Johnson of Johnson & Borenstein, 12 Chestnut Street, stated that a lot of work went into this bylaw and he reviewed two drafts of it and provided comments. He noted that the change from a variance to a special permit is important as it protects existing signs from becoming non-conforming. He added that holding meetings with businesses is important.

On a motion by Ms. Knowles seconded by Ms. Duff the Board continued the Town Meeting bylaw concerning P-46, P-47 and P-48 the amendments to the Zoning Bylaw Section 9.6.3 Signs, and the amendment to the Zoning Bylaw definitions and the amendment to the Zoning Bylaw Article VIII to March 12, 2019 at 7:35 PM. **Vote:** Unanimous (3-0).

**Senior Residential Community Overlay Bylaw:**

Mr. Bergeron invited Mark Johnson, the proponent of this private article to address the Board. Mr. Johnson stated that this article changes the age in the Senior Residential Community Overlay Bylaw from 62 to 55. He stated that this change makes sense because the population in Andover is aging and many residents are moving to over 55 communities in Methuen. This will allow for different housing options for the elderly in Andover. Reid Blute of Pulte Homes stated that the need and desire for a lifestyle change that happens in the late 50s early 60s.

Mr. Urbelis stated that the Zoning Bylaw Study Committee is still having meetings on this article and requested that the Planning Board not make a decision on this article tonight. Mr. Urbelis also noted that if the age is lowered to 55 in the zoning bylaw, and the special permit for the current development in the SRCOD is modified for allow for those 55 and under in the community, the affordable units in that development will no longer count towards the Town's subsidized housing inventory. Mr. Materazzo stated that Mr. Urbelis was correct and noted that the Department of Housing and Community Development regulations state that affordable units designated over 55 have to allow children to live in them in order to qualify as subsidized housing units. Attorney Johnson stated that he is working with DHCD on this issue. He noted that the Town's current subsidized housing percentage is 13.3% and with the loss of these units it would be reduced to 13.1%. Mr. Blute noted that the affordable units will remain affordable, they just will not count towards the subsidized housing inventory.

Judy Higgins of 1 Francis Drive asked if the condominium bylaws would have to change to allow for people under 18 years of age to live there. Attorney Johnson stated that the condominium bylaws would not change.

Mr. Leavitt stated that he has voiced his concerns and displeasure with this amendment when the proponent previously came before the Board. He is not happy with the reason as to why they are requesting the amendment to lower the age.

**Town Meeting 2019 Articles (cont'd):**

Mr. Urbelis noted that there are a number of affordable units in Town that will be coming off the subsidized housing inventory in the near future because at the time of their approval, the affordability provision was not in perpetuity. There will also be a new census coming out shortly that will change the Town's percentage that the Board needs to be cognizant of.

Reid Blute asked Mr. Bergeron if he could ask through the Chair how Mr. and Mrs. Higgin felt about the change. Mrs. Higgins stated that she would welcome younger people into her community.

On a motion by Ms. Duff seconded by Ms. Knowles the Board continued the discussion on the Senior Residential Community Overlay District River Road until March 12, 2019 at 7:00 PM.

**Vote:** Unanimous (3-0).

**Town Charter Articles:**

Mr. Materazzo noted that he provided the Board a memo dated February 21, 2019 outlining the Town Meeting Warrant Articles that the Planning Board needs to vote on to satisfy bond counsel. Many of these articles pertain to capital improvement projects. He recommended that the Board vote to take no position on these articles as detailed on his memorandum. He added that if anyone wanted more information on any particular article, it could be reviewed at a subsequent meeting.

On a motion by Ms. Knowles seconded by Ms. Duff the Board voted to take no position on the articles outlined in Paul Materazzo's memo except for the Spring Grove Cemetery article. **Vote:** Unanimous (3-0).

**Town Meeting Articles Regarding 161 and 163 Andover Street:**

Mr. Urbelis informed the Board that these properties will be the land for the new fire station in Ballardvale. Both of these properties currently have buildings on them. The Ballardvale Historic District Commission prefers that the two buildings be moved, not demolished. These articles will allow the Town to offer them to a private person to move the buildings at that private person's expense. A Town Meeting vote is necessary because the Town has an 'interest in land'. If there is no response to the Request for Proposals to move the buildings, the buildings will be demolished.

Mr. Leavitt questioned the liability of a private person moving the houses from Town-owned property and voiced concern that the Town may be open to lawsuits. Mr. Urbelis stated that the Town is always subject to lawsuits of all kinds. Mr. Leavitt felt it was easier for the Town to demolish the buildings. Mr. Urbelis noted that the RFP responses are due before Town Meeting. If there is no response the articles can be withdrawn from Town Meeting.

On a motion by Ms. Duff seconded by Ms. Knowles the Board moved to recommend approval of the two warrant related to disposition of public buildings articles P-40 and P-41. **Vote:** Unanimous (3-0).

**Town Meeting Article Regarding Spring Grove Cemetery Transfer of Property:**

Mr. Urbelis informed the Board that this private article stems from the encroachment of private property on the Spring Grove Cemetery property. This was discovered by the homeowner two years ago during a title search when they attempted to sell their home. The landowner is interested in a land swap with the Town. The Cemetery Trustees have taken a vote that states that they are not interested in a land swap, they prefer to sell the homeowner the land in question for the appraised value. Mr. Urbelis stated that Mark Johnson is the proponent's attorney and he can speak more to it at the Board's next meeting.

**Minutes:**

On a motion by Ms. Knowles seconded by Ms. Duff the Board approved the meeting minutes of December 11, 2018 and January 8, 2019. **Vote:** Unanimous (3-0).

**Adjournment:** The meeting was adjourned at 9:21 P.M.

Documents:

**Town Meeting 2019 Articles:**

- 2019 Annual Town Meeting Warrant

**Minutes:**

- Andover Planning Board Draft Minutes of December 11, 2018 and January 8, 2019.