Call to Order:
The meeting was called to order at 7:26 p.m. in the 3rd Floor Conference Room of the Town Offices. Present were members Vinnie Chiozzi, Joan Duff, Ann Knowles and Neil Magenheim, and Associate Member Rocky Leavitt. Also present were Paul Materazzo, Director of Planning & Economic Development, Lisa Schwarz, Senior Planner, Jacki Byerley, Planner, and Tom Urbelis, Town Counsel.

Heffron Way:
Attorney Urbelis stated that the Town has come to an agreement with the Greater Lawrence Technical School regarding access to land owned by the Conservation Commission which fronts on the Merrimack River and includes a boathouse. The land would be accessed from River Road by Heffron Way and through land owned by the GLTS. The Town would be allowing the GLTS to use the boathouse. The Board has been provided deeds and easements for a comprehensive agreement. This agreement would also allow the Fire Department to be able to access the river for river emergencies. The Conservation Commission has approved and signed these documents. The Board of Selectmen will review the documents at the meeting on April 22nd. The Board has to vote tonight on a recommendation to the Board of Selectmen.

Mr. Materazzo noted that the Town has long sought public access to the Merrimack River. This is the last hurdle in order to gain that access. He encouraged the Board to consider a favorable recommendation to the Board of Selectmen.

Mr. Magenheim asked if this is only for access or if something is planned to be built or stored there. Attorney Urbelis stated that there is a boathouse on the property and boats will eventually be stored there. The agreement allows for GLTS to have four slots for boats, and for the school to have their students participate in renovating the boathouse. He noted that the benefits of this agreement are the access to the river for the public for recreation purposes as well as access to the river for public safety purposes. Ms. Knowles asked if the Fire Department will have a boat onsite. Attorney Urbelis stated that the Fire Chief is considering a boat onsite.

Mr. Magenheim asked if there is any proposed work for the intersection of Heffron Way and River Road. Attorney Urbelis stated that DPW has determined that work will need to be done to that intersection and are onboard.

Mr. Leavitt asked if the land swap is a matter of convenience because it appeared to him that the Town already had access. Attorney Urbelis stated that the land swap will correct an existing issue with land not being used as it should be used. Mr. Leavitt asked why the Town had not considered a taking of the land for public use to access the river. Attorney Urbelis stated that over the years there had been talk of private investment in the area that would have been lost in a taking and this is a less adversarial method.

On a motion by Mr. Magenheim seconded by Ms. Knowles the Board recommended to the Selectmen that the Town enter into the proposed land swaps, easement and agreement with the Greater Lawrence Technical School for access to the Merrimack River from River Road. Vote: Unanimous (4-0).
**Town Meeting Warrant Articles:**

**Article 49 – Amend Zoning Bylaw Article VIII: Solar Energy**

Ms. Byerley stated that a floor amendment for this solar energy bylaw article was drafted from resident feedback at the Planning Board and Board of Selectmen meetings. The amendment would take out any reference to number of kilowatts and would change the height from 20 ft to 15 ft. The residential district ground mounted solar arrays would be limited to 1,000 s.f. with roof panels limited to the size of the roof.

Ms. Knowles felt that the Board should go forward with the amendment, but asked if anyone else on the Board felt that a floor amendment wouldn’t survive the tone and tenor of Town Meeting.

Ms. Byerley stated that a number of residents have reviewed and spoken in favor of this amendment, but there may still be some at Town Meeting with concerns.

Mason Brown of 207 Haggetts Pond Road explained the state solar ordinance that has small, medium and large categories. This article only has small and large categories. This new wording would limit the small and large system designations with a break point at 1,000 s.f. which is approximately 57 panels. He asked the Board to accept the amendment.

Anil Navkal of 14 Rock O’Dundee Road stated that the state has a good model bylaw that the Town should follow. The state’s bylaw has small, medium and large categories and allows for a minimum of 1,750 s.f. of solar. He felt that the Town’s bylaw should not put further restrictions than the state, and in his opinion people should be able to go as large as they can without affecting any state laws. He added that the amendment would render some existing systems in Town as non-conforming.

Ms. Byerley stated that if the Board is uncomfortable with the amendment based on new information received tonight, the Board should consider withdrawing the article. She reminded the Board that if they would like to move forward with the amendment, changes can always be made to the bylaw at a future Town Meeting.

Don Schroeder of 204 Haggetts Pond Road stated that he was pleased with the amendment because it lower the allowed heights. In his opinion, as written, the proposed bylaw would have allowed structures that were taller than ranch style homes. This floor amendment rectifies that. He added that this bylaw is a start to have something in place.

Laura Gregory of 5 Embassy Lane, member of the Board of Selectmen, thanked the staff for addressing the concerns that were raised at the Board of Selectmen meeting. She added that in her opinion the proposed amendment makes the bylaw clearer.

Mason Brown asked for the Board to approve the amendment. He noted that right now there is nothing on the books and his neighbor has surveyors out and is gearing up to put in a solar system and when he goes to apply, the ordinance as written in his opinion makes no sense and his neighbor can sue the Town.
**Town Meeting Warrant Articles (cont’d):**
Tom Urbelis, Town Counsel, stated that right now solar is not regulated in Town. The Inspector of Buildings requested that something be put on the books for better enforcement.

On a motion by Mr. Magenheim seconded by Ms. Knowles the Board voted to support the amendment and to close the discussion. **Vote:** Unanimous (4-0).

**Article 41- Parking and Hardscape Improvements:**
Mr. Materazzo stated that this article is the first step of a multi-phased approach to upgrade the two parking lots behind Old Town Hall. He stated that a public engagement process that included multiple meetings and a survey with over 1,100 responses determined the preferred design. Mr. Magenheim asked if that is a high number of survey respondents. Ms. Schwarz stated that that most responses that staff have ever had to a survey is 600.

Ms. Schwarz showed the preferred design, which garnered 75% of the vote the public forum. She noted that this design preserved the vehicular access on both Park Street and Barnard Street. The design also changes the flow of both parking lots and leads to a gain of 2 parking spaces. Ms. Knowles noted that she attended the most recent public forum and some people were interested in removing some parking spaces if it would lead to a better design. Ms. Schwarz stated that Board is being shown a design concept, and an engineered plan has not yet been prepared.

Mr. Materazzo showed a breakdown of the costs for the project. He stated that these two parking lots have not been reclaimed since 1986. He noted that there would be opportunities for additional public spaces in this area around Old Town Hall, but there would need to be a subsequent appropriation at a future Town Meeting or grants obtained. Mr. Magenheim asked if their will have to be a second ask for funding for the landscaping. Ms. Schwarz stated that the second ask would be for desired public amenities in this area. She noted that this design will also allow for areas to be closed off for public events.

Mr. Leavitt stated that he felt this plan made perfect sense. He noted that the lots right now are in rough shape, so it is a great plan to reconfigure the lots and get a net gain of parking spaces. Ms. Schwarz pointed out the the design will also allow for an increase of the size of the sidewalk on Barnard Street so that you can have outdoor seating in that area. She added that the design should help to slow vehicles down on Barnard Street and Park Street.

Chris Huntress of 17 Tewksbury Street, member of the Board of Selectmen stated that he attended the last public forum. He noted that the BOS are supportive of the forward thinking effort, but they chose to hold off on voting on this article because they were waiting to get through the final visioning session and for the Planning Board’s recommendation. He stated that he was personally supportive of this design concept.

On a motion by Mr. Magenheim seconded by Ms. Knowles the Board recommended approval of Article 41 Parking and Hardscape Improvements. **Vote:** Unanimous (4-0).
400 Federal Street:
Ms. Byerley stated that the applicant has requested a continuance to the Board’s April 23rd meeting to allow for the stormwater review and comments to be completed.

On a motion by Ms. Knowles seconded by Mr. Magenheim the Board approved the applicant’s request to continue the public hearing without discussion on 400 Federal Street Special Permit for Major Non-Residential Project and Special Permit for Change in Parking Space Requirements to April 23rd at 7:45 PM. **Vote:** Unanimous (4-0).

1 Minuteman Road and 161 River Road:
Ms. Duff opened the continued public hearings for 1 Minuteman Road and 161 River Road, applications submitted by One Minuteman LLC c/o Brickstone Properties for a Special Permit for Major Non-Residential Project and a Special Permit for ID2 Zoning District Uses.

Austin Turner, an engineer representing the applicant, stated that the applicant has met with the Design Review Board three times, and the design will be refined further. Mr. Turner showed the landscaping plan and stated that they will be incorporating as much landscaping as they can without jeopardizing life safety. Ms. Knowles requested that the landscaping include a variety of native species.

Mr. Magenheim asked about the DRB’s suggestion that the design of the daycare conform to the overall feel of the development. Mr. Turner stated that the daycare would have the same style and color palette with the tenant branding incorporated.

Janet Bernardo, P.E. of Horsley Witten Group, the stormwater peer reviewer contracted by the Town, reviewed her findings. She noted that she has issued three peer review letters on this project. She stated that the impervious areas and roof runoff are going to be directed to subsurface chambers underneath the parking lot. She noted that the Conservation Commission is reviewing the application because of proximity of two of the stormwater systems to buffer zones. In her initial review she was comfortable with the design and had a few technical comments that the engineer has worked to address. She noted that part of her review was to make sure that the existing stormwater basin is functioning properly, and determining that it will be properly maintained as it is off-site and owned by a separate entity. She stated that she is comfortable with the design and functionality of the stormwater systems and that the detention basin will be maintained by the maintenance entity of Minuteman Park. The applicant has moved some parking spaces out the 50 ft no-build area and has redistributed some of those spaces throughout the development per the Conservation Commission. Moving those parking spaces will not impact the stormwater design.

Ms. Duff asked if any of the parking spaces were lost in the redistribution. Mr. Turner stated that two parking spaces were lost but they are still meeting the parking requirements of the Zoning Bylaw. Ms. Bernardo noted that the parking lot is still a couple of feet into the buffer, but the parking spaces are not. They will still require a variance from the Conservation Commission for this.
1 Minuteman Road and 161 River Road (cont’d):
Ms. Schwarz informed the Board that the DPW has minor outstanding comments that the applicant is working on.

On a motion by Mr. Magenheim seconded by Ms. Knowles the Board closed the two public hearings, the Special Permit for Major Non-Residential Project and the Special Permit in the ID2 District as petitioned by the applicant One Minuteman, LLC with deliberations being held at the April 23rd meeting. **Vote:** Unanimous (4-0).

146 Dascomb Road:
Ms. Duff opened the public hearings on 146 Dascomb Road, a Special Permit for Major Non-Residential Project and a Special Permit for ID2 Zoning District Uses.

Rick Friberg, an engineer representing the applicant stated that the fiscal impact of the property will be discussed. Mr. Friberg noted that the project needs to meet the special permit criteria of being financially beneficial to the Town and not being unreasonably detrimental to the downtown.

Mr. Friberg noted that this project will bring in revenue to the Town in the form of real estate taxes, meals taxes and room occupancy taxes. He noted that the fiscal impact analysis that he submitted relied on projections of assessed real estate values. He noted that the peer reviewer, RKG Associates felt that the projections in the analysis were low. The analysis shows a net positive of more than $2 million a year for the Town. He noted that this is achieved through the Town’s split tax rate with commercial being taxed more than residential.

Larry Cranor of RKG Associates, the fiscal impact peer reviewer contracted by the Town, reviewed his process and findings. Mr. Cranor stated that in January 2018, his firm walked the downtown streets and interviewed merchants. There were 18 respondents to their survey. The survey responses had a consensus that the project was far removed from the downtown and would most likely have chain stores that would not affect the downtown merchants. The merchants were concerned but did not necessarily see this development as a threat. Once the application was filed, the development no longer showed residential uses and the sizes and square footages of tenants were more specified. In March 2019 an email blast went out to 230 business owners with a new survey. RKG received five responses back. The surveys were sent out again with a promise of anonymity and no responses were received. On Saturday, April 7th, RKG walked the downtown street as they had done in January 2018. In walking the streets there were seven businesses that were willing to talk to them and they gave similar responses to ones given in January 2018.

Mr. Cranor stated that his experience tells him that there will always be a transfer of service of some sort which is usually 5% or less. He noted that downtown is multi-use / multi-destination, while this development is retail by the highway. He added that the 1,800 employees of the development may be potential downtown patrons. He recommended that the development have informational kiosks directing people downtown and that the hotel especially have this information.
146 Dascomb Road (cont’d):
Mr. Magenheim noted that the fiscal impact relies heavily on the hotel. He asked Mr. Friberg where they are in the process of getting the approvals for the hotel. Mr. Friberg stated that they would like a decision from the Planning Board on the proposed Master Plan before applying for the use special permit with the ZBA. If the hotel is not built, that building will become an office building. The tax revenue from a hotel versus an office building would be comparable. Mr. Magenheim stated that he felt the hotel could be a great benefit to the downtown. Mr. Friberg stated that if you excluded the hotel, the development would still have a net positive of $2 million to the Town.

Mr. Leavitt asked about the room rate. He would like the hotel to be a boutique hotel with a higher room rate to keep it a premium hotel. Mr. Cranor stated that the room rate was based on an average of other hotels in the area. Mr. Friberg assured Mr. Leavitt that the owner will charge the highest rate that he can charge. Mr. Leavitt asked if area assessed values going down from this project being built is taken into account as part of the net positive. Mr. Cranor stated that in his experience he has only seen a rise in assessed values of homes in proximity to this kind of development.

Mr. Magenheim asked if they could get an opinion from the ZBA regarding the hotel now. Ms. Byerley pointed out that a hotel is a more impactful use than an office building. She added that the ZBA cannot approve a project without any mitigation being approved first. The mitigation has to be approved by the Planning Board. Mr. Leavitt stated that the Board has to consider the most intensive use and have it as a baseline. Ms. Knowles added that the Board has approved plenty of Master Plans in the past.

Jane Clark of 5 Carriage Hill Road asked if the applicant will be submitting a market study for unmet demand. Ms. Byerley stated that in December the Board determined that they did not require a market study, they just preferred the further downtown study. Mr. Friberg noted that a meeting was held with him and RKG regarding the types of tenants. Mr. Cranor stated that based off of that meeting he was able to go back to the downtown merchants with fresh information. Mr. Magenheim asked if the Board will be provided with tenant info. Mr. Friberg stated that no leases have been signed. RKG was given square footages and types of tenants. Mr. Magenheim stated that tenant info would help him to be able to make a determination as to if this would be unreasonably detrimental to the downtown.

Maria DiCiaccio of 680 East Street Tewksbury stated that she is concerned about East Street being able to handle more traffic. She noted that there are already a lot of trucks from Market Basket and California paints, and it takes 20 minutes to get out of her driveway in the morning. She questioned if a survey had been done on the traffic coming into Tewksbury. She stated that this development will affect people on Shawsheen, East and Ballardvale Streets in Tewksbury. She stated that there is always a traffic jam to get on or off Interstate 93. Mr. Leavitt thanked Ms. DiCiaccio for her feedback. He noted that the discussion on traffic has started and will continue.

Janet Clark of 5 Carriage Hill Road asked about the need for additional office space in town. Ms. Knowles noted that the applicant previously discussed that topic in the phasing discussion.
146 Dascomb Road (cont’d):
Mr. Friberg stated that in development today, one cannot get construction financing without signed leases. Ms. Knowles asked if RKG was given the phasing information. Mr. Cranor stated that the methodology holds up.

Ms. Byerley stated that the stormwater peer review has begun. She noted that the peer reviewer is available to come to the Board’s April 23rd meeting. The Board agreed that the topic of discussion on April 23rd would be stormwater.

On a motion by Ms. Knowles seconded by Mr. Leavitt the Board continued the discussion on 146 Dascomb Road Special Permit for Major Non-Residential Project and ID2 Use Special Permit public hearings to April 23rd at 8:00 PM. For a discussion concerning stormwater. **Vote:** Unanimous (5-0).

**Minutes:**
On a motion by Ms. Knowles seconded by Mr. Leavitt the Board approved the Andover Planning Board minutes of February 26, 2019. **Vote:** Unanimous (4-0-1) with Ms. Duff, Ms. Knowles, Mr. Leavitt and Mr. Magenheim voting yes, and Mr. Chiozzi abstaining.

**Adjournment:** The meeting was adjourned at 9:25 P.M.

Documents:

**Heffron Way:**
- Memo from Tom Urbelis, Town Counsel to Andover Planning Board dated April 3, 2019 Re Heffron Way
- Draft Agreement
- Draft Deed
- Draft Grant of Easement
- Easement Plan of Land Heffron Way Andover, Massachusetts dated September 12, 2017
- Proposed Conveyance Plan of Land in Andover, Massachusetts dated April 17, 1995

**Town Meeting 2019 Articles:**
- 2019 Annual Town Meeting Warrant
- Draft Amendment to Article 49
- Powerpoint Presentation Article 41

**1 Minuteman Road and 161 River Road:**
- Rendering Proposed Commercial Plaza 159 & 161 River Road Andover, Massachusetts dated March 26, 2019
- Memo from Lisa Schwarz to the Planning board dated April 9, 2019 Re One Minuteman – Design Review Board Meeting
- 3rd Peer Review of Drainage Report Letter from Janet Carter Bernardo, P.E., Senior Project Manager, Horsley Witten Group, Inc. to Lisa Schwarz, Senior Planner dated April 9, 2019
146 Dascomb Road:

- Dascomb Road Project Fiscal Impact Analysis, 146 Dascomb Road – Andover, Massachusetts, All Commercial Plan June 2018
- Technical Memorandum from RKG Associates, Inc. to Paul Materazzo, Director of Planning Re Summary of Stakeholder Interviews dated April 9, 2019

Minutes:

Call to Order:
The meeting was called to order at 6:20 p.m. in the 3rd Floor Conference Room of the Town Offices by Board of Selectmen Chairman Alex Vispoli. Present for the Planning Board were members Joan Duff, Ann Knowles and Neil Magenheim and associate member Rocky Leavitt, as well as Paul Materazzo, Director of Planning & Economic Development.

Andrew Flanagan, Town Manager gave an overview of Vicor Corporation. He explained that a Tax Increment Financing (TIF) Agreement is a negotiated agreement between a business and a municipality to grant property tax exemptions as a percentage exemption to the incremental increase of assessed value on a parcel. Any TIF can be for up to 100% of the tax increment and may be for a term of a maximum of 20 years. Mr. Flanagan showed the proposed terms of the TIF and both 6, 10 and 20 year projections. Mr. Flanagan added that the total tax exemption cannot exceed $1,610,961.

After a question and answer period with the three boards and the public the Planning Board determined that they were ready to make a recommendation.

On a motion by Mr. Magenheim seconded by Ms. Duff the Board recommended Town Meeting approval of the TIF. Vote: Unanimous (3-0).

Adjournment: The meeting was adjourned at 7:20 P.M.