

Town of Bedford

Planning Board Minutes

September 12, 2022

A meeting of the Bedford Planning Board was held on Monday, September 12, 2022, at the Bedford Meeting Room, 10 Meeting House Road, Bedford, NH. Present were Charlie Fairman (Chairman), Chris Bandazian (Town Council Alternate), Chris Swiniarski (Alternate), John Nelson, Matt Sullivan, Phil Greazzo (Town Council), Matt Nichols, Priscilla Malcolm, John Quintal (Alternate), Steve Clough, Jillian Harris (Assistant Planning Director), and Becky Hebert (Planning Director).

I. Call to Order and Roll Call:

Chairman Fairman called the meeting to order at 7:00 p.m. and appointed Alternate Chris Swiniarski to vote in Vice-Chairman Hal Newberry's absence.

II. Old Business & Continued Hearings: None

III. New Business:

1. **Millennium Running (Applicant) & 209 Route 101 Realty, LLC (Owner)** – Lot Line Adjustment Approval for 2 lots, located at 209 Route 101 and 137 Bedford Center Road, Lots 20-39 and 20-41, Zoned R&A and CO.
2. **Millennium Running (Applicant) & 209 Route 101 Realty, LLC (Owner)** – Request for Site Plan approval for the construction of a 4,000 SF vehicle storage garage, overflow parking and future pad site, located at 209 Route 101 and 137 Bedford Center Road, Lots 20-39 and 20-41.
3. **276 Route 101A, LLC (Applicant & Owner)** – Request for Site Plan Approval for a change of use to convert an existing warehouse building to 8,000 SF of light manufacturing and 9,780 SF of warehouse storage, located at 276 Route 101, Lot 27-29, Zoned CO.
4. **Mark Detscher (Applicant & Owner)** – Request for Site Plan Amendment to remove conditions from the August 3, 2020 Site Plan approval, to allow for outside sales and display of general retail items within the outdoor display area, located at 400 Boynton Street, Lot 45-204, Zoned GR.
5. The Planning Board will hold a Public Hearing on proposed amendments to the Land Development Control Regulations, Sections 102.5, 317.1.20, 323.1, 323.1.3 and 341.2.4. The full text of the proposed revisions is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org.

IV. Concept Proposals and Other Business:

1. The Planning Board will review and offer comments on the proposed Capital Improvements Plan for 2023.
2. Discussion of HB 1661 – Overview of changes to Planning and Zoning Laws.

Ms. Harris reviewed the agenda. Chair Fairman moved the review of the proposed Capital Improvements Plan for 2023 to be covered first on the Agenda.

MOTION by Mr. Greazzo to accept the agenda as amended. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

IV. Concept Proposals and Other Business:

1. **The Planning Board will review and offer comments on the proposed Capital Improvements Plan for 2023.**

Chairman Fairman stated just a comment to the Board, Mr. Sawyer, before you start. We haven't had much time to review the Capital Improvements Plan as you know. So, I'm going to suggest that we generally save our comments, get our comments in to Ms. Hebert over the next couple of weeks, or bring them to the workshop. We need to get them back to Mr. Sawyer before the Town Council meeting on the 28th. We don't have a lot of time, but I know the weekend was not enough time to review it. So, Mr. Sawyer, the floor is yours.

Mr. Rick Sawyer, Town Manager presented, stating yes, thank you Mr. Chairman, members of the Planning Board, good evening and thank you for that introduction. And it's a good part of what I was going to say. This is a very flexible document, and this remains in draft form all the way through Town Meeting in March. Any comments that you can provide over the next couple of weeks would be great or certainly over the next four to six weeks that would be perfect as the Council will take up the full budget. This becomes part of the budget. I submit that full budget to the Council at the end of October, and then the Council will start with a series of workshops and public forums on the budget and this document remains flexible as part of that budget process all the way too. Just a quick introduction. I'll hit the highlights and then I'll leave you to your lengthy agenda. To be included in the Capital Improvements Plan, a project or a piece of equipment has to be valued at \$25,000 or more and have an extended lifespan of at least three years. The plan is put forth in accordance with RSA 674 in the Town Charter, and that's why I'm here before you tonight. As I stated, the Capital Improvements Plan is required by Charter to be submitted one month prior to the budget, which is required to be at the end of October. The Capital Improvements Plan will go in draft form to the Council at their meeting at the end of September. The plan, as you know, is before you tonight for review and comment. And as we stated, those comments can come in at any time. I especially look to the Planning Board for any input on the rankings. You'll see a series of rankings A through D in the document, and any comments you have on those would be great. The rankings do not impact when a project is done or if it's funded, or at least it hasn't historically in Bedford. The Capital Improvements Plan for the 10 years as drawn out is \$80.9 million, with \$10.3 million being for just 2023. And of that \$10.3 million dollars, \$4.58 million is just for the debt service for our local roads bonding that has occurred over the last decade or so. There's also an additional \$1.5 million that will be proposed in the Town Manager's budget to the Council for local roads, bringing our total CIP investment in local roads for the year to right around \$6

million. The 3rd Road Bond that was sold in 2020, completes the bonding authorization for that Roads Program, which is now almost 20 years old and has had a number of bonds and has had significant impact on the budget over the last 20 years, but was clearly a much-needed investment in our community. The CIP currently recommends the next item to be bonded would be our first phase of our facilities improvements and that would be before the community in 2023 for the construction of a police station and fire substation. The cost in next year's budget that are included in the CIP is about \$300,000 for selling that bond and the cost for the first year of interest on that bond. There would also need to be an additional bonding in 2026 or 2027 or beyond to complete that project. Also reflected in the CIP is \$1.5 million to reflect the sale of 4 Sunset Lane that occurred this year. Those funds are proposed to be deposited into the facilities project as well.

Town Manager Sawyer continued a new project in the CIP this year, and there is only one new project, is from the Fire Department, which is a series of fire cisterns to better protect the community. This is a project that would be done over a number of years and has over an \$800,000 cost. The Fire Chief came forward with a very aggressive plan that I don't believe we can fully fund in the first year. So, I have reduced that in my draft plan to \$50,000 in the first year. It would take a few more years to implement the project, being able to basically install a cistern about every other year if we were to save \$50,000 a year. I've ranked that as being desirable. That would be a great thing to have input on from the Planning Board as to whether B is too high, should be an A project, or it could go further down to a C project. So, included in the Capital Improvements Plan is always a replacement of our emergency vehicles, our DPW vehicles and equipment, the Town valuation update, other plan updates and savings for furnace, roof, and other building maintenance matters for all of our building. And as I've stated, it remains flexible for the next many weeks all the way through Town Meeting. I welcome any comments either by e-mail directly to myself or you can certainly submit them through the Planning staff. I'd be glad to answer any questions you have tonight, but I understand you want to take some time to think about it as well.

Chair Fairman asked if anyone had any questions and asked Mr. Bandazian do you have any comments to the Board as you've been through this many times. I know our role and what we should be doing relative to this, as a member of the Board. Mr. Bandazian replied well, I think I would recommend looking at it from a planning point of view and having the infrastructure in place for reasonable development of the Town going forward and maintenance. And to look at it from that perspective rather than buildings and grounds maintenance and those replacement cycles. So, really the capacity to support development and maintain the quality of life in Town is the perspective that I would approach it from on the planning port side. Chair Fairman said thank you, Chris. Ms. Hebert added we also aim to have the Master Plan support the Capital Improvements Projects from a high level and a planning perspective. So, the projects you see in here should be supported by the Master Plan. Chair Fairman said thank you all. Thank you, Mr. Sawyer. Town Manager Sawyer said thank you. Have a good evening.

III. New Business:

- 1. Millennium Running (Applicant) & 209 Route 101 Realty, LLC (Owner) – Lot Line Adjustment Approval for 2 lots, located at 209 Route 101 and 137 Bedford Center Road, Lots 20-39 and 20-41, Zoned R&A and CO.**

Ms. Katie Weiss presented: Good evening. My name is Katie Weiss. I'm with Bedford Design Consultants. We are the engineers and surveyors for the project. I'm here tonight with John Mortimer.

He's the applicant and owner of Millennium Running, which is across the street from one of the sites that we're working on. I'm going to start with an overview of where we are. This is Bedford Center Road, right here, Route 101, Wallace Road. Over here we have the Ace Hardware, Primary Bank. Millennium running is here. I believe a bank is here, and some other things along Route 101. We're looking at this lot here and this lot here. You can kind of see it in white. It's not easy to see. Let me zoom in some more. You can see here. It's the lot that Millennium Running is going to be using, and we're going to be looking at this section of the lot to the left. There are, as I said, two lots. The lot on the right is the one we're looking at doing our development. A lot on the left is going to be a pad site. The existing conditions: we have two garages on the site. Right here, one garage, another garage, and a driveway coming in. There's a retaining wall here.

Chair Fairman asked excuse me, we're now discussing the lot line adjustment project. Ms. Weiss replied we're going to save that for last if we could because it's a fairly simple little lot line adjustment. I'd rather do the main site plan first if we could. Chair Fairman said OK. Ms. Weiss continued the two garages are going to be removed as well as the shed. There is a tree line running along this edge. Although you can see in the first picture here, they have gone and into the tree line a little bit more, so this area has been disturbed. We have the zone line running through the property, both properties. This southern end is the commercial district and above that is the rural agricultural as well as the historic district. Wetlands are around the whole site. This whole outer area are wetlands. We have a 50-foot wetland buffer running around the site. We also have a floodplain, which I'll show you in another plan that's easier to see. So, this blue line here. The area inside is above the floodplain. The same with here and here. It's above the floodplain. And then this line here, all of this is above the floodplain. So, when we go to fill this area, we have a mitigation area in the back, which I'll get to. We also have a 51.5-foot residential buffer along this edge of the property. That's a non-disturbance buffer. It runs down and a little bit into the commercial area on each side here and here. The site plan portion, we have the 4,000-square-foot garage. We went to the ZBA and got a variance for the use for a garage. It's not a garage for working on cars, it's a garage to store vehicles. We'll be storing the Millennium Running trailers and larger trucks in here. They will also be used for overflow parking for the Millennium Running. Right now, sometimes it gets a little crowded, so employees and the occasional customer may be parking over here just so that they can have less congestion on the other side of the road. We show circulation around the building. Parking in the back and along the front and the side, and then you can see here there's a dumpster area. We have a sidewalk. Our accessible parking is here, entering through this area. We have drainage on the site, and this is in the back portion. As I was talking about before, we're doing floodplain mitigation on the sites.

Ms. Weiss continued I'm going to go to the grading plan now. In the back here we're digging out a hole, and this is going to make the difference up for filling other areas of the floodplain. When you fill a floodplain, you have to dig a hole somewhere that's in the same floodplain, so that you're equalizing the amount of water that can be stored in the floodplain. We went ahead and put the pond in the back as well as the stormwater. One of the other variances that we received was a variance for stormwater and floodplain mitigation in this back part of the parcel. The variance was to allow a separate use. They were considered separate uses in a different lot and a different zone. Obviously, this site here we'll be using the area back here for drainage, but it's a different lot. We got a variance for that. And then for this piece of property it's a different zone line. We have the pad site over here. We raised that up to elevation 235, which is about half a foot above the floodplain. When they go to do development, they can add to that as needed. And then the site plan over here. The pad site is about at elevation 237. This is about 3 feet above the elevation of the floodplain, and that allows us to get water into the pond up back. We show several easements on the site we're proposing. The first one is an access utility and

grading easement in the front. There's actually one on this site and one on this site. This will allow future development to access through our site and also allow, we've got some electricity coming in through here, to cross from their site onto ours. As well as there's some grading here for the park for the driveway. In the back we have a drainage easement, so this line right here. And purple all in the back, that is the drainage easement. We just did a blanket easement over the back of the site to allow water from the pad site to flow onto this site in the future. Let's go to the landscaping plan and probably just see in color. We are doing a bioretention pond out back. We have landscaping here. The water will come through catch basins and out to the back, so we've got plantings here. We also have trees along the front. There are 5 trees along the front and a few within the islands in between. We've got some evergreens. Screen from this property next door. We have some just regular plantings along the front, some perennials as well as some shrubs. I want to talk a little bit about things that we're going to be removing from this. As part of the comments that we received from Planning Department, we're going to be removing the walkway. There was an existing walkway here and a crosswalk. They've asked for that to be removed. I don't know if there's some other compromise we could come up with. I know that the Millennium Running sidewalk is about right here. If there's a way, we could somehow make it easier for people who are using the overflow parking to get to the site, I'd like to talk about that a little bit later.

Ms. Weiss continued let's look at the architecture, which I didn't see. Do you have the full site plan submittal? I guess I'll have to pass them out. We're looking at doing a stone veneer on the bottom of the building, which you'll see from the roadway. It goes all the way around, but you'll see it from there. One of the sides of the building has a fake barn door, so it looks a little bit like a barn, and it's going to be barn red. The front side has several overhead doors, which you'll see. Mr. Mortimer added actually, the backside has the overhead doors and the north side facing away from the street. The front of the street has windows and stone veneer to match the existing Millennium Running building. Ms. Weiss continued there's windows along here, and then the main entrance here, and then another entrance in the back for the people who are going to be using the facility. Sorry about that. Mr. Mortimer said we like barns. They look good in Bedford.

Ms. Weiss continued let's talk a bit about sight distance. One of the comments we got back from the review engineer was an issue with the site distance. I went through, and I made some really quick edits today when I got the information. I don't know how familiar you are with the sight distance, but there's something called a windrow which is showing what it would look like if there was two feet of snow on the ground. So, this right here is what the existing ground looks like. If you're sitting right here, your eyes about here, you're looking up this way on the dotted line, looking for a car. What they requested us to do is put 2 feet windrow there. So, if it was wintertime and there happened to be snowbank, this area here that's about 150 feet long could potentially be blocked from view because of the issues with the snow. Let me zoom in a bit. Up top on the plan, I show that length right here. If you look at the dotted line, that's where you're actually at. I just showed the red so that you would be able to see where it starts and where it ends. The road is about 9.8 feet wide for the travel lane and then on this side we have 2.4 feet onto the roadway, and on this end, we have 2.4 feet past the road and onto the gravel shoulder. If you look at where there would actually be snow in the wintertime, it obviously wouldn't be on the road. The area that would be of the most concern for sight distance is from here to here. Now I'm not sure how wide the plows are, but this is a 10-foot traveled way and most are usually 12 feet. So, I'm unsure of whether or not when a plow went by, it would be plowed all the way back to here, and whether this is actually a concern yet, but I wanted to bring it up because I know that it was an issue with the comments that I received. I'm not really sure what we could do to mitigate that. Obviously, we can't do anything to the road here and then we can't really raise our entrance up or we

wouldn't be able to get into the site. That's something we'll have to work out with staff or if you guys have any ideas or comments, but I want to let you know that that's the main issue. All the other comments were addressed from the review engineer. This was the only one left. Ms. Hebert stated Katie, I think technically that would require a waiver just because the Town does specify that it's the all-season site distance that needs to be satisfied for the commercial driveway. You explained it very well. I just want the Board to be aware of what we're going to be talking about with regards to the sight distance. Ms. Weiss said I have done a waiver before for sight distance and I removed that. Would it be the same waiver or is it a specific section just for the windrow? Ms. Hebert replied keep on with your presentation and we will look up that section and when we get to the waivers, we can talk about adding this in. Ms. Weiss said OK, sure. Mr. Mortimer asked Ms. Hebert, real quick, how does that play into the future improvement of water coming down Bedford Center Road and the resurfacing of the road? Does that change the construction? Obviously, it's in disrepair right now, Bedford Center Road. Will the construction of a... Ms. Weiss replied I don't think they're changing the elevations; they're just going to resurface. Mr. Mortimer asked even the camber of everything and everything like that because it's pretty dicey. Ms. Hebert replied not in terms of feet. Maybe in inches, but not in terms of feet. Mr. Mortimer asked so new road though, right? Ms. Weiss replied new pavement. Mr. Mortimer said OK, we like that.

Ms. Weiss continued so then also originally in the existing site plan, there is a walkway here and a crosswalk, and it actually ends up dropping you out right in the back of their building where they have all of their overhead doors. So, they have requested that we remove this. I'd like to talk about once we're done here, different options we might have, what your thoughts are on how to make this a safe way for people to cross the street. Those are my two main concerns. As mentioned before, we will be doing a waiver for the site distance, and we also did a waiver for the traffic report. It was determined with the review engineer that because we're just basically taking traffic from across the street and moving it over here, there isn't really any traffic numbers to do or have you figure out. We asked for a waiver for that. We also asked for a waiver for the distance for the parking circulation to the property line just because this site is very narrow and because we can't use the back half of the site. It really left us with not as much room as we would have liked to be able to get the circulation around.

Chairman Fairman said we'll get into the waivers in a bit. You've explained very nicely item number 2 on the agenda. Would you like to come back to item 1 on the agenda, which is the one that you should be talking about now? Ms. Weiss said sure, I will go back. The lot line adjustment. This is the existing lot line did lot line adjustment plan. This is the left half of this site. We're just going to skip over that because that's not really affected and move over here. We have our site here. The current lot line is this lot line right here. It comes in at a funny angle, not perpendicular to the right of way or the road. We're proposing to just move that over so that it's here and it's perpendicular to the road. It gives us a much better frontage because it's kind of interesting. I don't know how we would get anything in with having a lot line right here. That's pretty much it for the lot line adjustment. It's just being moved over. This meets our requirements for the Town, and I don't think we have any comments from VHB that haven't been addressed. That is it, I think.

Chairman Fairman asked if the Board had any questions regarding the lot line adjustment? Seeing none, Chair Fairman asked if the public had any questions, comments on the lot line adjustment? Seeing none. What is the Board's pleasure just on the lot line adjustment? Becky, excuse me before we have a motion, we've now got a slight change to our format of our motions, and I know they're related to the law that we're going to discuss later, but would you explain those two bullets that are now part of the motion? Ms. Hebert explained House Bill 1661 includes several changes to planning and zoning policy

and procedures, which we'll review in detail later tonight once we get through our site plan and subdivision applications. But one of the items that has changed as a result of this bill becoming law, is that all of the land use Boards and Commissions, so the planning Board, the Zoning Board, the Historic District Commission need to be basing decisions on written findings of facts. And your staff reports now include a section in sample motions where the Board can provide for written findings of facts. As you go through your review and deliberate on applications, please feel free to elaborate on those findings of facts. The staff report is an example of what may be acceptable for a written finding of fact, and we'll go into this in more detail later tonight. But I wanted to explain why the staff report looks different. Chair Fairman said thank you.

MOTION: Ms. Malcolm moves that the Planning Board grant final approval of the lot line adjustment between 209 Route 101 and 137 Bedford Centre Road, Lots 20-39 and 20-41 as shown on plans by Bedford Design Consultants last revised July 25th, 2022, in accordance with the following findings of fact:

The plans are found to be in compliance with the purpose and intent of the Bedford Land Development Control Regulations. And the Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision. The approval is granted with the following conditions to be fulfilled with one year and prior to planned signature. These are conditions 1 through 5 on the staff report for September 12th, 2022. Mr. Sullivan duly seconded the motion.

Discussion: Mr. Swiniarski stated condition number four of the conditions we didn't read out, but we referenced; the condition is all records and easement documents, but we haven't heard anything about any easement documents? What are we talking about there? Does anyone know? Mr. Sullivan replied they did mention a few easements for utility access and then the driveway cutout. Was that the other one? Ms. Weiss clarified drainage. Mr. Sullivan stated got it. OK. I must have missed that. I'm sorry. Chair Fairman explained yes, there are some easements across this particular land.

Vote taken – all in favor. Unanimous. Motion carried.

- 2. Millennium Running (Applicant) & 209 Route 101 Realty, LLC (Owner) – Request for Site Plan approval for the construction of a 4,000 SF vehicle storage garage, overflow parking and future pad site, located at 209 Route 101 and 137 Bedford Center Road, Lots 20-39 and 20-41.**

Chairman Fairman stated now we'll go to the second item, which I think we've heard the applicant described pretty well. Are there any questions about the site plan?

Ms. Malcolm asked Becky, can you tell me what the situation is with Bedford Center Road? It's going to be resurfaced. It's going to be widened. What's happening with that road and when? Ms. Hebert replied the road is part of the Bedford Roads Program, and it is one of our roads that needs to be reconstructed. If you drive it at all, you'd know this. Some of what's holding up the reconstruction, the bridge also needs to be repaired at the Riddle Brook crossing just beyond the Millennium Running site, but I believe the roadwork would happen together with a water line extension that is proposed down Bedford Center Road to the Route 101 Plaza. Ms. Malcolm continued do we know when this work is going to be done? Ms. Hebert replied I'm going to look to my Town Councilors for a schedule on that particular road project. I'm not sure if it's part of this year's road program or if it was going to be done

together with the water line extension. Mr. Bandazian replied I think the ARPA funds have been received for the water main and so I would think the two go together. You wouldn't want to fix a road and then put in a water line. So, my guess is next year, but we haven't had that presentation. Ms. Heber stated I would say spring 2023 would be my guess. Ms. Malcolm said thank you. Mr. Bandazian continued also on that subject, part of Bedford Center Road is a private way now, and I don't recall how far west of this parcel it is, but it is somewhere between this parcel and the Riddle Brook crossing. In terms of walking across the street, I think traffic goes pretty slowly there for that reason and to my knowledge, the right-of-way part is not going to be upgraded. Chair Fairman asked is this crosswalk in the private right-of-way part? Mr. Bandazian replied no. Chair Fairman asked so, where the crosswalk is will be rebuilt? Mr. Bandazian replied I guess I'm not clear on if the crosswalk is there or not there. Ms. Hebert clarified the crosswalk is there today, and DPW has asked that it be removed. As a policy they don't continue to maintain the mid-block crosswalks, and this is an older mid-block crosswalk from when the Culligan Water building was where the Millennium Running site is located today and the owners lived across the street. Mr. Mortimer stated essentially going back to the same format owning both sides of the property crosswalk. There's currently a crosswalk and signage as present. We'd like to maintain that in some capacity for safety. Again, it's not a highly traveled road. Certainly, having employees parking across the street and walk across the crosswalk, etc. Ms. Hebert stated I do know DPW felt firmly about having that crosswalk eliminated, and they will be eliminating it, I believe, when the road work is done. It is included in your conditions. Mr. Mortimer said bummer. Ms. Hebert said I'm sorry. Mr. Greazzo asked is this something you'd be willing to maintain if you were allowed to keep it? Mr. Mortimer asked the crosswalk? Meaning painting it? Sure. Yeah. I love crosswalks everywhere and wider to run on and everything like that. Ms. Weiss added I know since sight distance is an issue, it may be better to move it over here where there's an existing sidewalk coming right to here, right by the telephone pole. Then it's farther away from over here is where the sight distance is bad. So that there's more room in between for cars to see people. That's an option, I think.

Chair Fairman asked if there were any other questions. Mr. Clough said there was some discussion in the Historical Commission about contaminated soils. Ms. Weiss replied yes, that was discussed. I do know that this has been many things in the past. Any sort of exploring that we've done with test kits, we haven't seen anything. We did do two test pits out back here where I believe is where they said there might be an issue. We dug down there, didn't see anything. There wasn't even debris from the junkyard or anything like that. It looked fine. In terms of contamination, I don't know if it's contaminated or not. Chair Fairman stated I'd like to follow up on that a little. I remember Paul's Oil being there and having two or three large tanks for a long time. They were in an era where we weren't as concerned about spillage. I'm sure there was spillage. Have you specifically, in the front part of that lot, done any core sampling to see if there's any oil pollution in that soil? Ms. Weiss replied we have not, no. We've done test pits all throughout the site but haven't seen anything or smelled anything. Chair Fairman continued you haven't done anything in the front part at all where the contamination most likely would be. Is that correct? Ms. Weiss asked where would the contamination most likely be? Chair Fairman replied close to the road. Ms. Weiss replied yes, we've done test pits all throughout. We've done six test pits. Let me see if they're on the existing condition plan. Mr. Clough asked they were just visually inspected? Ms. Weiss replied we've got one here, here, here, here. That's all I can see for now. Chair Fairman asked and specifically look for oil pollution? Ms. Weiss replied we specifically were looking for a water table at the time. That's what we search for when we do test pits. We did not do any testing for any sort of other contaminations or anything. Chair Fairman replied so, we don't know if there's any contamination in the soil. Ms. Weiss said we have not done any testing. Chair Fairman replied being so close to such an important watershed, I think it would behoove the applicant to do some testing for oil, because it's likely that there's contamination there, before you disturb the soil

and have it polluting Riddle Brook. I would think that we should do some soil samples. Ms. Weiss asked Mr. Mortimer would you be OK doing soil samples. Mr. Mortimer replied I'm not familiar—it's a little bit over my head in what that means. Obviously, I conceptually know what it means. Functionally, economically, I don't know what that means. Ms. Weiss explained we would hire a company and we would go out and do some borings and do some tests basically and report. Mr. Mortimer added I think there's no right way to do the wrong thing, right? Is that what we're asking, right? Chair Fairman replied yes. Mr. Mortimer corrected the other way around... there's no right way to do the wrong thing. Mr. Clough said typically, you wouldn't sample unless you visually saw staining. If you had a consultant come in, you have what's called a phase one. They would use a hand tool or hand auger and they would look for staining and they wouldn't sample unless they saw staining. Mr. Mortimer said you are the expert in this. I'm going to defer to you on what you should do here, right? Mr. Clough replied correct. You could have an estimate on a phase one, which is your very first baby step. Somebody would walk the site. You mentioned a disturbed area out back. From the aerial view to me it looked pretty disturbed. Ms. Weiss replied yes, that's where the landscaping company is storing some of their materials and such. It's a fairly new aerial photo. Mr. Clough continued, but to Chairman Fairman's point, I think the phase one, and they're not that expensive. They're \$1,500 to \$2,000. The phase one, they would just walk the site and then let you know where you have a problem or could continue to have a problem. Have the oil tanks been removed? Ms. Weiss asked the orange ones? Chair Fairman replied yes, they've been gone for a long time. Mr. Clough said OK. Chair Fairman continued the whole structure and the oil things, they were above ground. They weren't in the ground. They were above ground and in a big stanchion and they've been going probably 30 years. Mr. Mortimer stated your history far outdates ours. We've been there for six years. There used to be a house in the back. It got demolished. Chair Fairman said yes, it was part of the business. Mr. Mortimer continued I'm not familiar with what happened 30 years ago on that. Chair Fairman asked Mr. Clough, would you recommend a condition on this applicant relative to having an oil consultant? Mr. Clough replied yes, I could put forth a recommendation. Ms. Hebert stated I will say it's a little unusual. We don't have a requirement to do a phase one environmental as part of our Land Development Control Regulations. It's something that a banking institution would typically require before lending for a commercial property. It's done immediately by the contractor if during the construction process, you see or smell something suspicious. Mr. Clough stated so maybe we could just recommend that as construction moves forward, if they see stained soils, to note it? Ms. Hebert added and pursue corrective actions? That sounds good. Mr. Mortimer stated that's like standard operating procedure for industry, right? Ms. Weiss added we've got a note on the plan. Mr. Clough stated but typically, when someone does a test pit, even for water, they should be making notes on the soil horizons and what they see. Perhaps that data is available. Mr. Mortimer stated we'd be more than happy to have that recommendation go in formally. It makes sense. Mr. Clough added yes, just as they move forward with construction, my recommendation would be that as they disturb soils, if they see any staining—whether on the surface or at any horizon—to note it and sample it. Mr. Mortimer replied that seems reasonable and something we'd very much do. I appreciate your expertise. Mr. Clough replied I just know the Historical Commission had their panties in a bunch on this. Mr. Mortimer reiterated I appreciate your expertise on it.

Ms. Hebert asked Katie, this is a fill site. Is that correct? You'll be bringing material in? Ms. Weiss replied mostly what we're doing is taking out and filling this X section here. Everything will be staying on site, and we might be bringing some in. Ms. Hebert replied OK, that's good. Chair Fairman asked if there were any other comments or questions from the Board or from the audience? There were none.

Waiver Requests: Ms. Ports stated Katie, the section reference for the all-season sight distance is Section 321.1.3. Chair Fairman asked would you go through the waivers again for us, please?

Traffic Impact Analysis: Ms. Weiss stated the first waiver is for the traffic impact analysis. This is a bit outdated, so I'm going to skip over some of them. Members of the Board, Bedford Design is submitting waiver requests for the Traffic Impact Statement, Traffic Report Section 317.1.29, the Site Distance requirement Section 321.1.3, and the Parking and Circulation Driveway Setback requirement Section 322.1.9 of the Town of Bedford Land Development Control Regulations. We have located the proposed driveway access for the 137 Bedford Center Road directly across from the existing access drive to 138 Bedford Center Road. Traffic Impact Statement Traffic Report. The proposed site will serve as an overflow parking for 138 Bedford Center Road, primarily for employees. Existing trucks and trailers will be moved to the new garage at 137 Bedford Center Road, which will not increase traffic. Site distance: Bedford Center Road is straight and slopes gently from the northeast to the southwest with no noticeable curves, as shown in the attached photo 1, 2 and 3. Vegetation on Lot 39 is being removed as part of the pad site development. Since the driveway is located directly across from the existing driveway at 138 Bedford Center Road and the road is straight, a site distance plan should not be required, but we did do one. It is undated, like I said. Parking and Circulation Driveway Setback. The commercial zone is a small area of the total lot, and to allow the building and required parking to fit on the lot, we need to use the area within the 30-foot setback requirement. If you have any questions, please feel free to contact me at Bedford at 603-622-5533.

Chair Fairman asked Ms. Hebert the staff report only has two, is that correct? Ms. Weiss replied that's correct. Ms. Hebert replied yes. Chair Fairman asked we need to add the third? Ms. Hebert replied yes, and that's not uncommon. Sometimes we work with the applicant to eliminate waivers during the review process. You would add third waiver; Section 321.1.3 Sight Distance. The reasons for granting the sight distance waiver would be as they were explained by Katie, for the location of that snowbank and that area where you would have the impaired sight distance during the winter. It looked like it was on the very edge of the roadway and not through the travel way. I would not take issue to the sight distance waiver now that it's been explained. The initial waiver request was to not do that analysis, and it's something that we require as standard application criteria for new commercial driveway. Chair Fairman asked these waivers would only apply to this ownership, is that correct? If they were to divide that and sell that back property, the waiver would not go with it? Do you understand my question? Ms. Hebert replied that's correct. If the use changes to the driveway, the Board would have a chance to revisit the sight distance and safety of the driveway. On the adjacent pad site, when that site is developed in the future, a site plan would be filed with the Planning Board, and we could revisit the safety issues surrounding the driveway. Chair Fairman said thank you. Any comments or discussion from the audience? There are none.

MOTION: Ms. Malcolm moves that the Planning Board grant the requested waivers from the following sections of the Land Development Control Regulations and please see the attached letter from Bedford Design.

1. Section 317.1.29 Traffic Impact Statement.
2. Section 321.1.3, the Site Distance Requirement; and
3. Section 322.1.9 Parking and Circulation Driveway Setback.

Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

MOTION: Ms. Malcolm moves the Planning Board grants final approval of the site plan application to construct a 4000 square foot commercial utility garage, associated parking, and site improvements at 209 Route 101 and 137 Bedford Center Road, Lots 20-39 and 20-41 as shown on plans by Bedford Design Consultants last revised August 8th, 2022, in accordance with the following findings of fact:

- 1. The plans are found to be in compliance with the purpose and intent of the Bedford Land Development Control Regulations; and**
- 2. The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision.**

This approval is granted with the following conditions to be fulfilled within one year and prior to planned signature and the remaining conditions of approval to be fulfilled as noted. These are conditions 1 through 17 on the Staff Report of September 12th, 2022.

Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

- 3. 276 Route 101A, LLC (Applicant & Owner) – Request for Site Plan Approval for a change of use to convert an existing warehouse building to 8,000 SF of light manufacturing and 9,780 SF of warehouse storage, located at 276 Route 101, Lot 27-29, Zoned CO.**

Mr. George Chadwick presents: Good evening. My name is George Chadwick, again with Bedford Design representing the owner, Gino Bernard of 276 Route 101A, LLC. I believe the last time I was in front of the Board, I was here for a Turkish bakery on this particular lot. I don't recall how many of the members were here, but since that time the parcel has been sold to 276 Route 101A, LLC. The property, as we have it shown on the first plan in front of you, is long and rectangular in shape. It's about a little over 1,200 feet of frontage on Route 101 with a depth of about 200 - 210 feet or so deep. Our proposal is to use the existing building that's there today. If you recall with the Turkish bakery, we're going to remove the two wings or the two A-frame parts on the end of the building. With this one, we're going to use the entire building, the parking lot as it exists today and the loading docks as they exist today. We did get a variance from Article III, Section 275.21, Table 2 to allow 8,000 square feet of this existing building to be used for light manufacturing. The owner is intending on, or he has a tenant, Global Securities, that would be going in there. I don't know if anyone knows them. What they are is a company that takes in cars and retrofits them for police, sheriff's departments, and things of that sort. They bring in the automobile and they put on the lights, the gun rack, bumpers on them, the emblems, and things of that sort. They'll be located in the left-hand side of the building, that being 8,000 square feet, the remainder of the building being storage, and it'll be storage for Mr. Bernard. As I said, we'd like to use the existing parking. We did submit plans to subsurface for the septic system that would need to be upgraded, and to NH DOT for the curb cut on Route 101.

Mr. Chadwick continued we do have both permits in hand. One of the conditions of the permit onto 101 was that the largest truck that could be used would be a WB-50. There are larger tractor trailers out there. The reason that we've got a restriction on the access is that a WB-62, which is the next size up larger vehicle, the nose of that vehicle would project out into the travel lane when backing up to the existing docks. Now keep in mind the docks exist. A WB-50 is represented on the plan that you have in front of you now. Where the nose of the vehicle for a very short period of time, prior to backing up into the dock, would project into the very large shoulder that's out there. As you're I'm sure well aware,

there's a very large shoulder. The front part of the cab would slightly project into the shoulder in order to back up into the existing docks as they exist today. Along with this, we're going to be removing some pavement in the front to help narrow down the access way or the driveway in front, as well as adding landscaping in that area. At the at the Board's staff's request, we've added some additional trees and shrubbery in that area. I do have a landscape plan in my set to show you. As far as the lighting goes, there will be a few wall packs that would be added to the outside of the building and would be replacing the two light poles or the lights on top of those poles in the existing parking lot. They'll be shielded down type of lights, LED type of lights. Can go to the landscape plan, Jillian? As you can see on this plan, being the landscape plan, we've added some additional trees and shrubs in front of the building to help buffer the building, as well as adding some trees and shrubbery in the existing islands. At this point I don't have a sign detail to show you, although I can say, and it's stipulated in the plan set that we'd be replacing the sign in the location that's there today. It's total left side of the main entrance into the site. We will have to provide a sign for review prior to installation. I think that's pretty much it in a quick overview here. We're using the existing building we do have. Actually, flip, if you can, to the colored rendering of the building to show you what the building's going to look like. Well, now it comes out a little more purple than it should. It's meant to be blue. Mr. Bernard has an existing building. Up there it looks a little more purple than it does on the screen. It's going to match the existing building that he has in Hudson in color, so it would be blueish in color. We'd be adding three garage doors on the side of the building. You may count 4 there. The second one to the left, that one right there, will be eliminated. The reason for it being eliminated is it happens to fall right with the main supporting beams for the building, and we just recently noticed that this past week when we went in the building, or when I went in the building. With that I'm here to answer any questions the Board may have. My client is also here to answer any questions.

Chairman Fairman stated, I'll start off with a question. You stated light manufacturing, but you're not really manufacturing anything. You're an assembly shop. Is that correct? Mr. Chadwick replied it's more of an assembly type of thing. We submitted the plans and after talking with staff, basically that's how it fit into your zoning ordinance, being light manufacturing. It really is more assembly than it is manufacturing. Chair Fairman said when I when I think of manufacturing, I think about chemicals, but I understand you won't have any chemicals of any kind that you're going to be using during this process. Is that correct? Mr. Chadwick replied no, we will not. Chair Fairman continued these are basically new vehicles that you'll be working on. You're not going to be tearing apart old vehicles and refurbishing? Mr. Chadwick replied no. The vehicle will come in, get brought inside, add whatever is necessary to the vehicle and then it would be shipped out. Chair Fairman asked but that will be including some painting, perhaps, of names and signs on the vehicles? Mr. Chadwick replied no, we put stickers and stuff like that on vehicles, but no painting. Chair Fairman said OK. Thank you very much.

Chair Fairman asked if the Board members had any questions. Ms. Malcolm asked Mr. Chadwick, please pardon my ignorance. What is a WB-50 truck? Mr. Chadwick replied a WB-50 truck is a designation that's given to the size of the truck. It's a 50-foot box on the truck. There's a 62, which is a larger box you may see on the street these days. WB-50 is a 50-foot-long box in the back of the cab, the trailer part of the tractor. I would also mention if I can while we're on that subject, the use of those type of vehicles are very infrequently, maybe one a week, two a week. The main vehicle that he uses to ship out his product from the warehouse portion, and that's the portion that would be using the loading docks, is a regular box truck. And that can get in and back up to the dock without even getting into the right-of-way. It is that very infrequent time, one to two times a week, a few times a month when needed, but very infrequently. Ms. Malcolm asked, and you are planning a circular direction, so trucks coming up the hill from the stoplight are going to turn left at one place and come out somewhere else.

Mr. Chadwick replied correct. As the turning movement of the truck on the plan shows, it would be entering the northern entrance, running along the front of the building, pulling out just a little bit as far as it has to in order to back up into the loading dock, and then it would exit the southerly exit or the westerly exit, I guess you'd say. There are Do Not Enter signs on the westerly exit, or the exit on the right side, so that we don't have vehicles entering the wrong direction. The main access for the site is the main access there. There are also Truck Only signs located at the front corner of the building also, hopefully to prevent other vehicles from using that. This site is a little bit unique in that we're not going to have any retail-type use or any anyone coming other than persons delivering the vehicle to get worked on and then driving that vehicle out. Ms. Malcolm asked and these WB-50s are not so wide that when the truck is coming up the hill and it's going to turn left, other vehicles can go around on the right side. I'm getting to the point that there's no left turn lane on Route 101. And these trucks are not going to impede traffic? Mr. Chadwick replied traffic will be able to go out around the right side. Ms. Malcolm said that's what I wondered. Mr. Chadwick continued and on the on the other side, there's a real large shoulder there also. I know when we spoke at length about this issue with the Turkish bakery, this particular use is 1/10th, 1/16th the use of what the Turkish bakery was. Ms. Malcolm replied OK, thank you. Ms. Hebert added in terms of traffic turning into the site. And we did review the driveway carefully with DOT, and I believe the driveway permit has been issued. Mr. Chadwick confirmed, it has. Ms. Malcolm said thank you. Chair Fairman asked will northbound trucks be able to turn into that driveway? Mr. Chadwick replied yes, they will as well. I probably should have put it on there, but they will be able to turn in that driveway. Chair Fairman continued as I look at that picture, I say northbound trucks are going to have a problem making that turn, but you've looked at that and are satisfied? The consultant is too? Mr. Chadwick affirmed; we have. Chair Fairman replied thank you. Any other questions?

Mr. Quintal asked is the building to be fully upgraded to new fire codes and everything is going to be sprinklered? Mr. Chadwick replied there will be a fire alarm added to the building. There will be a fire-rated demising wall between the two uses. We have worked out with the fire department, and there was a note added to the plan and it's the last note on the site plan that basically states that if water comes within 1,000 feet of the property, that my client will be required to hook up a fire suppression system. Mr. Quintal asked what is the storage part of the building going to be used for? Is it for personal use? Mr. Chadwick replied it's for my client company. He stores tile and things like that in there. Mr. Quintal replied OK, so dry type storage, OK, so nothing explosive. Mr. Chadwick replied no.

Ms. Hebert asked Mr. Chadwick do you know roughly where 1,000 feet is east and west on the site? Mr. Chadwick replied well, I know that the motel down the street is 1,200 feet from the corner of their building to the corner of our building, so it's probably, it's approximately around where the hotel use is. I can't give you specifics. Ms. Hebert replied OK. Thank you.

Mr. Sullivan stated I've noticed that the property, over the past few years since it's been in its current state, seems to have acquired stacks of pallets or other types of things. Will those be disposed of during this upgrade? Mr. Chadwick replied they will. We will clean up the site. The parking lot is in disrepair at this point. I think he plans on filling the cracks and stuff in the in the parking lot and striping during the initial phase. But he would like to re pave the parking lot to the extent that's there today when he has the money to do it, which will be fairly soon, I would suspect. Ms. Hebert added and there's no outside storage as part of this site plan, so there would be no pallet storage or piles of material that could be stockpiled on site. Chair Fairman asked Ms. Hebert if they decide the business goes so well that they want to enlarge the manufacturing area and use more of the storage, is that something that would come back here or would that need to change or not? Can they just do that without any reviews? Ms.

Hebert replied they would have to file an amended site plan. Mr. Chadwick said I believe we'd also have to get another variance because we're approved for 8,000 square feet. Any expansion of that use will require a new variance. Chair Fairman said oh, I see. Thank you. A question about the rest of the land. Is that land wet or is it usable for... Mr. Chadwick replied it is usable. Chair Fairman added there's a lot of frontage. Mr. Chadwick replied it is. I would expect that it would be used at some point. I don't know what that use would be, but there is a lot of frontage there, access. You've seen, I believe there may have been concepts submitted to you prior to my involvement with this piece that showed a couple buildings back when the Turkish bakery was being proposed initially. Not sure if it was run through conceptually here or not, but there is room for another building. Chairman Fairman replied thank you very much. Are there any other questions from the Board? There were none. Chair Fairman asked are there any questions or comments from the public?

Mr. Dicky Desai: Good evening. My name is Dicky Desai. I come from 250 Route 101 and the next-door abutter, a motel. We've been there, at least I've been operating that property for 27 years, and the property has been there for over 45-50 years. The nature of the business is a little different from what you see on 101, a lot of the details and buildings. We are a hotel or a motel where we have guests that stay at night. The biggest concern I had in the past was the noise. We had some conversations with the current owner who is proposing. I feel like it is too far out onto the north, so it shouldn't be a problem as long as the vegetation is maintained what's there on the property. If that vegetation is removed, then of course the noise could become an issue, but right now I don't see that to be a big concern. So, assuming that this business is only going to operate 8 to 7 or 8 to 5, not 24/7 operation, that's something I want to make sure that's clear to us. The sirens and something that they may test for the vehicles because they install it. Of course, they have to test them. That is a concern, but I'm assuming they're not going to be doing a lot of that outside the building. Most of it, it will be doing inside, and I think the owner has showed me that he will take care of it. It's not going to be a nuisance. And again, if they do one or two sirens, I don't think that it will be an issue, as long as that vegetation is maintained. To me that's a very important thing. One small thing I wanted to request is the delivery trucks or dump trucks that pick up the garbage that is not doing at two, three, four o'clock in the morning, because my current abutter 3:00 o'clock in the morning. We have complaints of guests falling from the bed because of the earthquake, and there is a dump truck collecting, believe me or not, at 3:30 or 4:00 o'clock, five o'clock, six o'clock in the morning. But I don't see if their operation is not open 24/7, then I don't see the delivery trucks coming and going odd hours, only the pickup of the dump. If that's done during the daytime, I think that will be a good for us being the neighbor. Other than that, I welcome this business. Seems like a very small operation. I'm going to be seeing a lot of police cars next door. To me that's always a surety, a safety. And the site is going to get cleaned up, which is probably not in good shape right now. I think it's a good, welcome addition to the to the area. Thank you. Chair Fairman said thank you, Sir, for your comments.

Chair Fairman asked hours of operation? Mr. Chadwick said yes, my apologies. I should have mentioned it is 8:00 to 5:00, and we will make sure that the dumpster, which is located in the rear of the building, gets picked up during normal business hours. Chair Fairman said thank you very much. Any other comments from the public? There are none.

Waiver Requests: None.

MOTION: Mr. Sullivan moves that the Planning Board grants final approval of the site plan application to convert the existing 17,780 square foot building from warehouse storage to 8,000 square foot light manufacturing and 9,780 square foot warehouse storage, with

associated site improvements at 276 Route 101, Lot 27-29 as shown on plans by Bedford Design Consultants last revised July 19, 2022, in accordance with the following findings of fact:

The plans are found to be in compliance with the purpose and intent of the Bedford Land Development Control Regulations. The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision. This approval is granted with the following conditions to be fulfilled within one year and prior to planned signature, and the remaining conditions of approval to be fulfilled as noted; conditions 1 through 9 on the Staff Report dated today, September 12, 2022.

Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.

Mr. Chadwick said thank you very much. Chair Fairman said thank you. Good luck. Sounds like a nice business.

4. Mark Detscher (Applicant & Owner) – Request for Site Plan Amendment to remove conditions from the August 3, 2020 Site Plan approval, to allow for outside sales and display of general retail items within the outdoor display area, located at 400 Boynton Street, Lot 45-204, Zoned GR.

Mr. Tom Burns presents: Good evening. For the record, my name is Tom Burns. I am a Senior Project Manager with TF Moran. I'm here this evening on behalf of the applicant, Mark Detscher, for the proposed site plan amendment for 400 Boynton Street. Briefly, this site has been within the general residential zone. This has been a commercial site for about 70 years or so going back. Historically, there's been a number of shops in here: a floral shop, there's been a landscape garden center, Bedford Pool and Patio was here at one point, and most recently it's been the Bedford Home Consignment, which has been in the site since 2015. In 2015, the applicant had come before the Zoning Board and got a variance to formally designate the site or allow the site for general retail use. Based, again, on its kind of its historic use over the years. At that time, Bedford Home Consignment went in. As part of this site, in addition to the building that's on there that's used for the retail use, there was a historic outside display area. For those who may remember when Bedford Pool and Patio was there, that was when they had all their pool samples, their patio samples, the tiling pavers, things like that were out there and it hadn't been used for a number of years. In 2020, we came before the Board on behalf of the applicant to request resumption of use of that outdoor display area for general retail display. The Board at that time granted approval for the reuse of that area for retail display, but there was a condition on it which was condition #4 in that decision that was limiting the use of the retail display area for items related to the consignment store use. The applicant, for a period of time, has been displaying sheds out there that are for sale on the site. And so, working with the Town, what we'd like to do is amend the site plan from 2020, removing that condition and making the outside display area for general retail display, which is consistent with the zoning decision from 2015, and the overall history of the site. That's the only change that's being proposed from the 2020 plan is just to change it from being retail display restricted to consignment use or consignment-related items, to just general retail display.

Ms. Hebert commented there's an aerial photo in your Staff Report that has a good picture of the extent of the shed display use. Chairman Fairman stated I'll have to say that I've gone by the site many times and seen the sheds and didn't find that they were objectionably displayed. I thought it's a fairly tasteful display. Any questions from the Board? Ms. Malcolm asked what are the hours of operation for this? Mr. Burns replied the hours of operation are Monday through Friday 7:30 to 5:30 and Saturday 8:00 to

2:00, and they're closed on Sunday. Chair Fairman asked are the sheds actually sold from there, or they display units for sale that come from some other place? Mr. Burns replied it's being sold out of out of the site, but I think part of the intent back in 2020 was for having general retail display or wanting that designation for that space was if some reason the consignment store changes ownership or becomes a different retail use, how does that work if it's restricting outdoor to just consignment-related items? This is addressing that condition. Chair Fairman commented I'm concerned about trucks picking up the sheds and taking them out for delivery. You haven't shown any place where the trucks come in and load up, and so on. I'm wondering how that works on this site. Mr. Burns replied based on the layout of the site, there's a large, open driveway, open curb cut that's in front of the building that allows access in—similar to what the pool and patio when they had deliveries there as well as for the consignment building—and in the warehouse space in the back of the consignment. Chair Fairman asked that area is the general parking area, right? Mr. Burns replied yes, but they come in, that's where the gate is on that side to get into that display area, there's a double gate. If you're looking at the plan, on the east side of the, there's fencing that separates the parking area from that display area and that's where the gate is. There's a hatched area that's for no parking; there's a double gate there. That would be how the trucks would be getting in and out now. It's landscaped on the east side of the property, along the street side and then in the back there's a gravel storage area there. There's a gated access as well there so they can get in through there as well. That's how trucks would be coming in now to bring the sheds in. Chair Fairman added and delivery sheds as well. And these are both basically small—not small—but they're not tractor trailers. They're either a box truck or a flatbed truck that come in with sheds, picking up sheds. Mr. Burns replied I believe so, yes. Mr. Nichols asked a question for the Board or just generally—do we have any other spots in Town where we allow general retail to be displayed outdoors? And a second question is what does general retail mean? It seems pretty wide open that if it's granted, you could put a lot of things out for general retail. And so, I'm just curious what that would mean. Chair Fairman replied the answer to the first question we have had in the past. I can't think of anything today that has displays outside. This site was approved for a tractor company, back in '17, I guess. They would have had a big display outside. The Grove Rental at one point had a display outside. That's back a ways. I can't think of anything today. Ms. Hebert added Lowe's has an outdoor display area. The Hannaford's grocery store and Whole Foods have outdoor display. It's a little unusual for a blanket general retail, which is why the Board originally put the condition that it be tied to the Consignment Shop. Mr. Nichols replied that's actually where I was going with it as well. It feels like if we grant general retail, it's just going to be everything. In its history, it's been pretty specific requests. Ms. Hebert replied I believe the owner has a Christmas tree—they do Christmas tree sales from the lot during the winter. The Christmas trees would fall into general retail. But if the Board were to consider limiting the goods that could be displayed here, we may want to talk about the Christmas tree sales as well. Chair Fairman commented it is still limited to some extent. They can't have motorized social areas. Mr. Nichols added that's what I was going to say. That was one of the conditions that was put on in 2020. Chair Fairman added this whole area of town, of course, is a little unique. Boynton Street has got I think 3 commercial spots on it. Other than that, it's all residential area. All of them go back a long time. I think my view of our role as a Planning Board here is to make sure any new development and a new use of those buildings is done with taste and is appropriate for the area. But beyond that, there's not a lot that we can dictate. It is a commercial lot within a residential area, and we want to keep it sound with those thoughts. Any other comments or questions? Anything from the public?

Mr. Daniel O'Rourke: Hi, I am Dan O'Rourke. I live at 390 Boynton St, Bedford. I'm the neighbor directly abutting Mark Detscher, right on the northbound side. I've been there over 35 years in Manchester, and I grew up with my Aunt Alice and Uncle Joe owned the house there and they sold the lot actually to Table Talk Pies. That was the business that preceded all the businesses that the gentleman mentioned.

I want to thank the Planning Board for their vigilance really for looking out for the neighborhood, for being very conscientious, for looking out for all the residential—the houses that are in the neighborhood. But I just want to reassure you that Mark is a good neighbor, and I talk with him about issues and about certain things, and I did support the tractor supply place coming in. The shed guys are good people, and we remember we talked about this, about the letting the grass grow. They've gone and they've mowed the lawn. I know it sounds simple, but people walk up and down that sidewalk on Boynton Street and they've kept it looking good. Even though that's a small thing, there's probably 150 feet of frontage there and you don't need the grass a foot and half tall when someone is taking a walk on Boynton Street. That's what good neighbors do, small things like that. We look out for each other and we're courteous and kind to each other. I just want to show you that Mark is that type of neighbor and just want to give my two cents with that. I'm here to support him. So, thank you. Chair Fairman replied thank you for your comments, Sir. I see no other comments from the public. Anything else from the Board?

MOTION: Ms. Malcolm moves the Planning Board modify condition 4 of the August 3rd, 2020, Site Plan Approval to permit the outdoor sales and display of general retail items. All other conditions of the August 20th, 2020, approval shall remain in effect. This motion is made in accordance with the following findings of fact:

The request is consistent with the purpose and intent of the Bedford Land Development Control Regulations, and the Board includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision. The approval is granted with the following conditions:

All other conditions of the August 3rd, 2020, approval shall remain in effect. All signage shall comply with the Town of Bedford ordinances for temporary and permanent commercial signs. Mr. Sullivan duly seconds the motion. Vote taken – all in favor. Unanimous. Motion carries.

Chair Fairman said thank you very much. Mr. Burns said thank you.

- 5. The Planning Board will hold a Public Hearing on proposed amendments to the Land Development Control Regulations, Sections 102.5, 317.1.20, 323.1, 323.1.3 and 341.2.4. The full text of the proposed revisions is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org.**

Chairman Fairman stated this is the second time we've seen the total list of changes and I'll ask the Board if they have any comments or questions at this point. If not, I'll officially open the public hearing. I only see one person out here, and he's commented I think last time, last meeting. Leo, do you have anything more to say? Thank you. Thanks for your input. Does the Board have any other comments? I will then close the public hearing and entertain a motion.

MOTION: Mr. Sullivan moves that the Planning Board adopt the proposed amendments to the Bedford Land Development Control Regulations, Article 100, Land Development Control Regulations, Article 320, Design and Construction Standards and Article 340 Administration and Enforcement as presented. Ms. Malcolm duly seconds the motion. Vote taken – all in favor. Unanimous. Motion carries.

IV. Concept Proposals and Other Business:

2. Discussion of HB 1661 – Overview of changes to Planning and Zoning Laws.

Chair Fairman invited Ms. Hebert to introduce HB1661. Ms. Hebert stated HB 1661 was widely known as the housing bill, but it also incorporated several changes to how New Hampshire's Land Use Boards will review and process applications. There are minor changes, and the Town is mostly compliant with these policies and procedures already. Staff felt it was important to update the Board on the change and you will be required to make a few changes to the Land Development Control Regulations and to the Planning Board Rules of Procedure. I'll just go through the different highlights of the bill and how they impact the Planning Board. First, the bill includes optional training for the Planning Board and Zoning Board Members of New Hampshire and requires that New Hampshire OSI, the Office of Strategic Initiatives, Planning Division develop and provide training opportunities and resources. Ms. Harris and I have recently received an e-mail from OSI advertising their training, which is an on-demand training video. They've also developed an optional test. There's an opportunity to get a certificate if you take the test. It's optional. The bill was originally drafted with mandatory testing, but that didn't make it all the way through the legislative process. And this test and training is optional. I would encourage you to review it. The test, really at your discretion. If you're interested in taking the test, take the test. You would do it all online without needing to interact with the Town or Town staff. The testing procedures are optional, and we'll be sending an e-mail out to provide you with links to those training materials. This change went into effect on August 23rd. Chair Fairman asked do you have any idea on length of time? Ms. Hebert replied I don't. For the training or the test? I don't. That's a great question. I'll look into it, and when we distribute the e-mail. Chair Fairman replied that's alright. The first person that does it will let us know. Ms. Hebert replied yes, the first Guinea pig. You do get a certificate if you take the test and pass the test. You can also take the test anonymously so you can see how you how you stand up. So that is the Board member training component of the bill.

Ms. Hebert continued the bill also strengthened language regarding the publication of land use fees. Any fee associated with the Planning Board process and applications, Zoning Boards, Historic District Commissions, the Building Inspector, and any building permit fees all need to be posted in an accessible location in the Town Office Building and on our website. We have done that. If you go into the Planning Department office, we have a posting of all the Town's related fees, and this is also posted online. All of those fees were already posted online, but within their respective department. Now they're consolidated under one document that is the official Notice of Land Use Board Fees. If a community fails to post their fee and the issue is litigated, those fees are considered to be waived. It's important to get the fees posted. This change went into effect on August 23rd.

Ms. Hebert continued; The next component is the Written Findings of Fact Rule, which I talked about at the beginning of the meeting. HB 1661 now specifies that all land use Boards need to provide specific written findings of fact to support their decision. Typically, our Boards have relied on the deliberations and discussion during the meeting, and we've always had excellent minutes and those minutes have supported the Boards' decisions. You noticed that we had some standard language in your new motion that ties your decisions back to your meeting minutes and incorporates them officially into your findings of facts. This new requirement is especially important when an application may be denied. When an application is denied, if it fails to have adequate findings of facts, the Court can reverse and remand the decision back to the Planning Board. And it does say reverse and remand. So, it's important to make sure that if we have a controversial application that the Board pauses and takes time to develop those findings of facts before making a decision. The purpose of the new procedure, from what I understand, is so that the applicant, the audience, and a Court can clearly understand why the Board acted the way

they did and what reasons were there to support the decision. We used to have to go through the meeting minutes and find those reasons sometimes and now Boards need to clearly include them in their motion. You were sort of doing this already, but it's just tightening up that practice. This change went into effect also on August 23rd.

Ms. Hebert continued to explain the next aspect of the bill impacting the Planning Board is something called the 90-day extension. The Bedford Planning Board never really utilized this tool, but Planning Boards, per state statute, have 30 days to accept an application as complete, and you do that when you accept the agenda. When Ms. Harris reads the agenda and you make your motion to accept the applications as complete, once you accept the application, you have 65 days to make a final decision on the application. And you have 95 days for a development of regional impact unless the applicant willingly waives that with a postponement or a continuance on their own accord. You often have applications that come, and they might feel like they go on a few months, but that's because there's an agreement to waive that 65-day clock. In the past, if the Board came up to that 65-day deadline and the applicant hadn't willingly extended the clock for review, the Planning Board could petition to the Town Council for a 90-day extension. I don't know of our Bedford Planning Board ever being in that situation. Maybe some of our longer serving members have had an application do that. This 90-day extension has been eliminated. That's a change to your Rules of Procedure and that 90-day extension is also cited in the Land Development Control Regulations. That's something that would need to be amended. We have the proposed amendment here on the screen. For the Land Development Control Regulations, it's both in your site plan and subdivision regulations in sort of twin sections in both of those regulations that talks about Board procedures. So, there's an elimination of the 90-day extension. There is one more aspect of the 90-day extension that's been modified. If the Board determines that it lacks sufficient information and the applicant is not willing to waive the clock and provide you all with the information that you feel you need in order to make a decision, the Board can now make a motion to deny the application without prejudice, and the applicant may resubmit or reapply for a substantially similar application, which the applicant could not do in the past. Once the Board denied an application, their appeal was to Superior Court. This gives the Board a chance to say, we don't have enough information, here's what we need. Then the applicant can reapply. In the past, the applicant had only one bite at the apple is what they say. It's a change to procedures and you have that proposed amendment in item B of your Land Development Control Regulations and also in your Planning Board Rules of Procedure where the 65-day clock is discussed. That is in section 7.7. Mr. Clough asked the 65-day clock would start again if you did that? Ms. Hebert replied it would be a new application. So, if you deny without prejudice, the applicant has to go back and resubmit. But in the past applicants can't reapply and reapply for the same application, same matter, if you're the Zoning Board, same variance relief. Otherwise, you'd be potentially seeing the same material coming back to you after you've already said no. To save everybody time and energy, this is a change to our rules where it's probably going to happen on the rare occasion, because I feel like most of the time when we're working through an application, the applicant willingly waives the 65-day clock if there's additional information that's needed. The Board now has this additional tool if you come to a standstill with an applicant and you want to deny it. Mr. Sullivan asked if we feel we have all the information and then deny it, do they still get to reapply, or is that a denial with prejudice? Ms. Hebert replied that is a denial with prejudice, yes. So, this is really only a procedural denial associated with the timeline. So, if you're coming up on the 65-day clock expiring and they're not willing to extend, in the past you could have petitioned for a 90-day extension, but you can't do that anymore. But you can deny without prejudice. Chairman Fairman asked and there's no time limit on that to come back and reapply. Ms. Hebert replied no, and they don't have to reapply, but it gives them that option.

Ms. Hebert concluded the last aspect of the bill that impacts the Planning Board is called Fee Shifting and Bonding. This allows Superior Court to require a financial bond from the appealing party when an appeal is filed in regard to land use Board decisions. The Court may also award attorney's fees and legal costs to the prevailing party, but fees cannot be awarded unless the Court determines that the appealing party or land use Board is acting with gross negligence, in bad faith or with malice. This change also went into effect on August 23rd. That covers the Planning Board procedural aspects of House Bill 1661. There are other aspects of that bill that we're going to talk about at the Board workshop. There were incentives for housing. It was a large bill. It had a lot of different components to it. I thought we'd save the housing discussion for the workshop. But I wanted to make you aware of these procedural changes and we do need to amend the Land Development Control Regulations and the Planning Board Rules of Procedure. I realize we just did that tonight, but the process would be to set a public hearing for those amendments, and we will provide the required noticing for the amendments and the Board would hold a public hearing at your next regular meeting, which looks like it's going to be October 24th because your September 26th meeting is a workshop. Chair Fairman added and there isn't one between.

Ms. Hebert replied we did not get any new applications for the October 10th meeting. And so, the Board has the option of canceling that meeting. It's Columbus Day. I'm not sure if that impacts your decision at all, but we don't have any new site plan or subdivision applications.

Public Hearing Notice:

MOTION: Mr. Nichols moves to set a Public Hearing for October 24th, 2022, for the proposed Amendments to the Rules of Procedure and Land Development Control Regulations. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.

V. Approval of Minutes of Previous Meetings (August 15, 2022)

MOTION: Ms. Malcolm moves that we accept the Planning Board minutes for the August 15th, 2022, meeting. Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Mr. Clough abstained. Motion carried.

VI. Communications to the Board: Ms. Hebert stated we have a new resident applicant for the alternate position on Southern New Hampshire Planning Commission. Bedford has six positions on the Southern New Hampshire Planning Commission. We have two vacancies right now. A man named Dan Heath is a fairly new resident to the town of Bedford, has put in an application with the Town Council and I believe he's going to be interviewed at the next Town Council meeting, but I'd like for the Board's support for his appointment to the Southern New Hampshire Planning Commission. Mr. Quintal asked you're going to send us his resume? Ms. Hebert replied, I actually got his application from Don, and it doesn't have a lot of detail. He lives on Donald Street. He has past experience as a Board Commissioner in other states and he has experience with right-of-way and appraisal work. I've been working with him on another matter, and he seems like a nice gentleman and a good fit for the Board. Chair Fairman replied good to get more representation on the New Hampshire Planning Commission. OK. Thank you.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Ms. Malcolm to adjourn at 8:53pm. Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Motion carried.

The next meeting of the Planning Board is a Workshop scheduled for September 26, 2022.

Respectfully submitted by
Sue Forcier