

Town of Bedford Planning Board Minutes February 13, 2023

A meeting of the Bedford Planning Board was held on Monday, February 13, 2023, at the Bedford Meeting Room, 10 Meeting House Road, Bedford, NH. Present were Charlie Fairman (Chair), Hal Newberry (Vice Chair), Steve Clough, Matt Sullivan, Phil Greazzo (Town Council), Priscilla Malcolm, Matt Nichols, (Secretary), Logan Johnson (Alternate), Becky Hebert (Planning Director) and Jillian Harris (Assistant Planning Director). Absent: Chris Bandazian (Town Council Alternate), Chris Swiniarski (Alternate) and John Nelson (Alternate).

I. Call to Order and Roll Call:

Chairman Fairman called the meeting to order at 7:00 p.m. and welcomed Logan Johnson who was recently appointed by the Town Council to be an alternate on the Planning Board. Ms. Harris reviewed the agenda and stated the new applications to be heard tonight have been reviewed by staff and it's our determination that the applications are complete. The abutters have been notified and it is the opinion of staff that the applications do not pose a regional impact. Staff would recommend that the Board accept the applications as complete.

II. Old Business & Continued Hearings: None

III. New Business:

- 1. Dunton Family Trust and Osburn Family 2021 Revocable Trust (Applicants & Owners) –** Request for approval to adjust the lot line between two parcels located at 22 and 24 Butterfield Lane, Lots 9-18-14 and 9-18-13, Zoned RA.
- 2. Howard Frizzell (Applicant & Owner) –** Request for approval of a Conditional Use Permit for a Detached Accessory Apartment, located at 270 Back River Road, Lot 37-8, Zoned RA.
- 3. Megan and Jason Oliviero (Applicants & Owners) –** Request for approval of a Conditional Use Permit for a Detached Accessory Apartment, located at 9 Cobtail Way, Lot 2-12-3, Zoned RA.

MOTION by Vice Chair Newberry to accept the agenda as read. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

III. New Business:

- 1. Dunton Family Trust and Osburn Family 2021 Revocable Trust (Applicants & Owners) –** Request for approval to adjust the lot line between two parcels located at 22 and 24 Butterfield Lane, Lots 9-18-14 and 9-18-13, Zoned RA.

Mr. Sam Ingram of Meridian Land Services: Good evening. My name is Sam Ingram from Meridian Land Services on behalf of the applicants. What we have here in front of us is a lot line adjustment between

the two properties between Lots 9-18-13 and 9-18-14. This is from what I consider a very straightforward lot line adjustment that consists of an equal area land swap between the two properties. We were at first hired to stake the property line out and mark the division line between the two lots at which time we realized that there was a shed and some other site features that were constructed and had been utilized throughout the property's history on one lot that was encroaching on the other lot. We were then moved to the next phase of the project, which consists of this plan here, which is a lot line adjustment plan. Parcel A and B are like I said, equal areas. They're under 1/10 of an acre, .066 acres to be exact. We're taking the area around the existing shed and retaining wall and landscape wall and swapping it with another sliver of land along the line that runs north-south and creating an equal area.

There are several waivers that I have requested as part of this application considering the fact that there are no proposed improvements to the properties and it's an equal area, so both lots maintain the same existing conformity to the zoning requirements. Do you want me to go through those waivers? Chair Fairman replied why don't you just go through the waivers, thank you. Mr. Ingram continued OK, very good.

The first waiver that I'm requesting is from Section 231.1.1, showing that lot lines shown substantially perpendicular or radial to streets.

Also, Section 216.2.9, The location of several of existing overhead and utility lines, poles, towers, etcetera on site shown.

Section 218.1.11 Two-foot contour intervals, topography shown over all subject parcels.

And 218.1.12 and the HISS mapping shown over the subject parcels where no municipal sewer exists.

My explanation for the waiver requests or the proposed lot line adjustment is an even land swap that does not make either property non-conforming with regards to dimensional requirements, and there is no construction planned. The staff recommendation does not object to the waiver requests. I don't know if there's much more for me to discuss, unless there were questions from the Board. I'd be more than happy to address them.

Chair Fairman asked does the Board have any questions? There were none. Chair Fairman opened the public hearing and there were no questions or comments from the public.

MOTION by Ms. Malcolm that the Board grant the waivers from the Bedford Land Development Controls Regulations, from Section 231.1.1, Section 216.2.9, Section 218.1.11 and Section 218.1.12, as previously described. Vice Chair Newberry duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

MOTION by Ms. Malcolm that the Board grant final approval of the lot line adjustment between 22 and 24 Butterfield Lane, Lots 9-18-14 and 9-18-13, as shown on plans by Meridian Land Services, Inc., last revised January 26, 2023, 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 plan signature:

1. The Planning Director and Public Works Director shall determine that the Applicant has addressed all technical review comments to the Town's satisfaction.
2. All recording fees shall be submitted to the Planning Department at the time of recording.
3. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor certifying that all boundary monumentation has been set as noted on the approved plan, or the boundary monumentation may be set and shown on the plan.
4. Prior to plan signatures the plans shall be certified and stamped by the Licensed Land Surveyor and Wetland Scientist, as applicable and also signed by the property owners per the Bedford Land Development Control Regulations.

Vice Chair Newberry duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.

Chair Fairman said next item on the agenda is:

2. **Howard Frizzell (Applicant & Owner)** – Request for approval of a Conditional Use Permit for a Detached Accessory Apartment, located at 270 Back River Road, Lot 37-8, Zoned RA.

Mr. Earl Sanford of Sanford Surveying & Engineering, Inc: Good evening, Mr. Chairman, members of the Board. My name is Earl Sanford of Sanford Surveying to present on behalf of Howard Frizzell. I think this is a first for me and maybe I've heard for the Board for it's a conditional use permit for a detached ADU. That's what's being proposed. I can probably read it better off of here, but it's at 270 Back River Road. There's an existing residence, an existing barn. And then they have a series of greenhouses where there's an owner business to do with growing things. We're proposing in the southerly portion of the lot to have a detached ADU. It is slightly under the 1000 square foot trigger. We are not proposing any new curb cuts. You have a list of criteria that I could go through, but I don't know whether the pleasure of the Board, it's pretty straightforward.

Chair Fairman stated before you do that, Sir, I'm going to interrupt you and ask Ms. Hebert to review, since this is the first review of a detached unit, to review the requirements for the Board. Ms. Hebert replied this is a conditional use permit application for a detached accessory dwelling unit or a detached apartment. So, an apartment that's housed in a building that's not connected to the main house. The zoning was approved in 2022 and this is the first application that the Board has seen for a detached apartment. We have allowed attached accessory dwelling units by right for many years and used to be a special exception. So, there was a review process for the attached apartments similar to this conditional use permit, but the special exception was reviewed and approved by the Zoning Board and then in 2016 the Town changed the zoning to allow the attached apartments by right. So if the landowner met all of the criteria, they would simply go to the Building Department and apply for a building permit. Tonight, for the conditional use permit for the detached apartment, there are nine criteria that an applicant has

to meet in order for the Board to approve the conditional use permit. And the Board also has the power to impose any conditions that you might see relevant or reasonable on the permit or on the landowner as part of the application.

The 9 criteria I'll go through them briefly and then if you have any questions, we can talk about them individually.

- Landowners can only have one apartment, whether it's an accessory attached or detached apartment.
- The detached apartment has to be incidental to the main house. So, it can't be greater than 50 percent of the gross floor area of the main house or 1000 square feet, whichever is less.
- The septic system needs to be designed to meet all of the State's requirements for accessory apartments and they have specific standards for septic design for accessory apartments, whether attached or detached.
- There needs to be at least one parking space for the apartment and no new driveway curb cut. So, no new driveway entrance from the street to serve the apartment. So, this is a little different.
- In Bedford, we have what we call soils-based lot sizing and it's based on the number of bedrooms for a home and it's up to four bedrooms or five plus bedrooms. And so, the applicant needs to demonstrate that the site meets the lot sizing requirements for the number of bedrooms. Some lots are approved for five plus bedrooms, and some are approved for four bedrooms. So that's something that staff reviews as part of the application.

Chair Fairman said excuse me, Ms. Hebert, would that be the sum of the two buildings, the number of bedrooms and the total for the two buildings? Ms. Hebert replied correct. The number of bedrooms would be the total of bedrooms on the property, including the apartment. If the apartment had two and the main house had three, you would have a 5-bedroom property. The detached apartment can't be separated in ownership from the main house, so it can't be converted into a condominium and then sold off. It needs to be maintained as part of the main home and the main property to the home and it can't be separated with a different legal form of ownership.

- The accessory apartment can't have any more than two bedrooms.
- And the apartment needs to be located in the rear yard or side yard of the lot so the detached ADU can't be in the front yard setback, or in the front yard. So, closer to the street than the main house is how we interpret that.
- And the exterior design of the apartment needs to be compatible with the existing single-family home through construction materials, architectural design and scale. Those are the 9 criteria that the Board needs to review when you consider the conditional use permit, and you can ask the applicant to go through each criteria briefly and explain how the application satisfies each one.
- And lastly, you can include any conditions. So, if you feel that there's a special condition that needs to be added because of an existing condition on the property or a special situation, the Board has that authority as well.

Chair Fairman asked and setbacks apply to this building as well as every other building standard setbacks? Ms. Hebert replied that's correct. The detached ADU is considered a structure and needs to meet the dimensional requirements setbacks for the zone. Chair Fairman asked and for wetlands and everything? Ms. Hebert replied 50 feet from the wetlands, 25 feet from the side and rear, and 35 feet

from the front. Chair Fairman said thank you very much, Ms. Hebert. Sir, would you please move the 9 conditions?

Mr. Sanford stated yes. That's a good foundation. Going through the criteria, only one accessory apartment. That's what we're proposing. Enlarged it a little bit. My cursor is on what we're proposing. A 1-bedroom ADU. Number 2, the accessory shall be clearly incidental. We're aware of that. It won't be a separate ownership of any sort. And the existing house is over 2,000 square feet, so therefore the controlling factor is the 1,000 square feet and we're slightly under that for the gross floor area. The septic system has been redesigned and so it's adequate and it is approved for this application. It's gone through Concord, so that one's taken care of. One parking space. There's one proposed little leg right here that we're showing proposed parking space to comply with that combination. Oh yeah, this is a little tricky, but not hard at all because this is very good soil out there, it's like well-drained sand. Based on soils, you could get three lots, 3–4-bedroom houses on this lot, but based on the acre and 1/2 you could only get 2. But clearly there's plenty of room for the addition of one bedroom, so it actually makes it 4 bedrooms total. Still, very modest in terms of Bedford. That's very typical of a lot that has four bedrooms. So, we meet that one. Then the next one, won't be converted to a condominium, but duly noted, and aware of that. No more than two bedrooms. We're only proposing one bedroom. Located in the rear or side. We did adjust it a little. Originally, we had lined it up with the front of the house, but that actually pinched it forward toward the road a little bit, so we shifted it back, so the house is at 62.2 feet off the road, or the right of way and we've just added another three feet to make it at 65.2 feet to make sure we were in compliance with that one. And the exterior design should be compatible, and I've been told that's exactly what the plan is to make it consistent with color and style and architecture of the existing house. I'd be happy to answer any questions. I brought a roadside picture of it if you wanted to get a little better, or do you have that in your in your file? But I don't know I don't want to over overkill this either. It's pretty simple.

Ms. Hebert said if you scroll through the documents, there is a building elevation of the proposed house and a floor plan. Mr. Sanford replied OK. All right, I'm scrolling through the four elevations from that standpoint. If you wanted a photo of it we have that, but I don't know if that's something I can plug in or whether it's necessary or not.

Chair Fairman asked could you scale back to the layout. I'd be interested in seeing what the planned interior layout is. Mr. Sanford said the floor plan. Is that what you're? Chair Fairman said yes. Thank you. Mr. Sanford said so yes, bedroom, living room, office and kitchen, and entryway off the end.

Chair Fairman asked are there any questions from the Board? Comments?

Vice Chair Newberry said yes, a couple quick questions. The leach field—that's going to be a new leach field or is that an existing? Mr. Sanford replied it's called a back pocket. We design it so it's ready, but they're able to use the existing until there's some issue with the existing. I guess the policy is don't tear it up unless you have to. But if it needs to get replaced, they have an approved design in place to install it immediately. Mr. Newberry asked the existing leach field is in a different location? Mr. Sanford said no, it's in the same location. This is a replacement. Mr. Newberry said it would just be rebuilt? Mr. Sanford answered rebuilt with a little expansion on it.

Vice Chair Newberry said on the elevations, the elevation marked front, is that what faces the street? Mr. Sanford replied yes. For the three windows and that I believe the entry was off to this left side. Vice Chair Newberry asked does the existing house have shutters? Mr. Sanford replied I don't remember. I

don't think so. I've got a picture. Should I plug it in? Vice Chair said just a thought. If the existing house has shutters, it might be nice to add shutters at least on the front elevation. It's not a requirement, but it would help to tie the... Mr. Sanford said it does. You got us. So, I don't see... so, this is the existing house and the new one will be going right kind of in the just behind these shrubs or small trees right here. Vice Chair Newberry said I don't think it's a requirement, but I think it would be nice if you added (shutters). Mr. Sanford said I was told they would match. I think we can hold their feet to the fire to make sure they put the shutters in or take them off this house. Vice Chair Newberry said you could do that too, I guess. And finally, I noticed in the in the staff memo a concern about that split entry driveway. Let's see, you're still showing it as split, but I think staff also had a requirement that the applicant work with Public Works on getting a driveway that satisfies everybody. Is that correct? Mr. Sanford replied my understanding was the owner was very resistant to that. I think we have a long-standing historic use of this lot, and I mean, it's almost a stretch to say this is too, I mean, it's a very thin driveway with an insy and outsy. To say, oh, you've got to close that off and make it one, I don't know where the bang for the buck would be in terms of redoing paved aprons and the existing drainage would be messed up. I guess on behalf of the owner, I would like to just let the history of what's there remain.

Chairman Fairman said just to follow up on that a little, this lot does have a fair amount of traffic for retail traffic—flowers and plants, and so on. Is the parking lot for this accessory dwelling going to be closed off at all or sign put up? People coming in the parking can be a problem on that lot and... Mr. Sanford replied,

I think the way the lot is laid out, it's pretty segmented. This is pretty much residential use here, and if I go back to my site plan...so, this this is the commercial in and out entryway down here. Then this is the residential section here. So, I don't see with the sales, the way I understand it, and again, I could be wrong, but anyone coming to pick up or whatever would be down here. Chair Fairman said I forgot there was a separate driveway cut for the commercial.

Ms. Johnson said I have a question. There's a U-shaped gravel driveway. So, there's now 3 curb cuts for the buildings? When I think DPW is recommending that we cut it down to 2. Is that accurate? Ms. Hebert said yes. Ms. Johnson said I guess that's not a question, it's more of a statement. I would be in agreement with DPW, since there's four total on the property and already a U-shape, so there's already access on 2 other sides. Chair Fairman said you know, I think since the commercial is totally separate, I really don't see reason for the divided driveway. I know it's a nuisance to get rid of it, perhaps it will cost a little money. So, it's a DPW request, and you're saying you don't think he wants to do that?

Vice Chair Newberry said Mr. Chairman, I think rather than trying to design it here, possibly we could consider making it a condition that the applicant work with DPW and the Planning Staff to resolve the question of curb cuts. Chair Fairman said thank you. that sounds like good a suggestion. Vice Chair Newberry continued because the plan doesn't show it as removing any of the curb cuts. Chair Fairman said I think it's a busy road like that. You're a lot better off coming out of a driveway perpendicular than you are at an angle where you're looking back at a 45-degree angle or so to see if the traffic is coming up, which is the way that's designed now for you to do.

Mr. Nichols asked so, it's currently grandfathered in like that? Is that what is that why it exists as it is? Ms. Hebert replied yes. Chair Fairman said that's correct. Mr. Nichols said it seems like making a substantial enough change that would lose that right to be grandfathered, right? Just seems reasonable. Chair Fairman said it's not a huge change. You're adding more traffic to that driveway. Mr. Sanford said there's a rational nexus to it. Chair Fairman said I understand DPW's request. It is a lot safer to have a straight perpendicular driveway than when coming out of the angle like that. Mr. Nichols asked if it was

all new, it wouldn't be allowed to have the three cuts like that, right? That's a question. Ms. Hebert replied no. They would be allowed one driveway to the house and the apartment and barn. The agricultural use is a little different. I think the Town probably would have permitted a parking area for the existing agricultural use greenhouses. Mr. Sanford said I'd like to request that you recognize it's 500 feet of frontage. I mean, that's a lot of frontage. That's almost equal to what, almost three lots. Even the State gives some consideration when you get to that amount of frontage, you vet for extra curb cuts and this isn't a state road, but all I ask is to look at this, I mean, when you're saying one is all you're allowed, when there's this amount of frontage, I think it's reasonable to get more.

Chair Fairman asked what is the distance between the commercial and the residential driveways? Mr. Sanford replied about 120 feet if I'm scaling it right, yes. Which is... there's a lot of driveways closer than 120 feet in this Town. So that's why I'm making the point that something that's been there that long, there is something to be said for not changing something unless it's necessary to change it. But I'm just advocating for my client who is very vehement. Chair Fairman asked are there any other questions or comments from the Board?

Mr. Clough stated I don't see a rational basis for changing it. I think we should let sleeping dogs lie. Mr. Greazzo said I agree with Steve.

Vice Chair Newberry said just a quick question for staff. There haven't been any issues out there in terms of traffic that we're aware of? Ms. Hebert replied not at this particular driveway, no. Back River Road is a busy road. It's one of our busier roads with high speeds. Chair Fairman said it seemed like that would have been the opportunity to get the driveway changed when they rebuilt Back River Road. Mr. Greazzo said I believe the matters are separate, Mr. Chairman. I don't think his driveway has anything to do with his accessory use dwelling in my opinion.

Chairman Fairman said with no other comments or questions from the Board, I'll open up the public. Does anybody in the public want to speak to this application?

Public Comment:

Greg Rehm of Liberty Hill Rd, Bedford: Just simple question. Greg Rehm, Liberty Hill Road. The 1000 square feet, my understanding is the building could be bigger than 1000 square feet. The code requirement is 1000 square feet of conditioned or heated space is the maximum. Is that correct? Ms. Hebert replied that's correct. Heated living space. So, this particular unit, I believe has a basement and it would not be allowed to be converted to living space. It would need to be for utilities only. Mr. Rehm continued right. And it could also have a garage that's unheated? Ms. Hebert said that's correct, yes. Mr. Rehm said and then the last question is relative to the exterior of the new ADU, is the intent of the Board to have it match or mimic the house? Could it look like a barn, a detached barn, or are you trying to make these replicas of each other, the house and the AU? Ms. Hebert replied the zoning doesn't require them to match, but they need to be compatible. Mr. Rehm said define compatible. Ms. Hebert replied compatible with the existing single dwelling through use of similar construction materials, architectural design and scale. So, if you have colonial style house, the Board could question a very modern detached style. Mr. Rehm said thank you.

There were no further questions or comments from the public. Chair Fairman closed the public hearing.

MOTION by Ms. Malcolm that the Planning Board grant the Conditional Use Permit for a detached accessory apartment, located at 270 Back River Road, in accordance with the application materials submitted by the applicant, last revised December 12, 2022, as the Planning Board finds that the applicant has shown substantial compliance with the criteria for granting the conditional use permit, in accordance with the following findings of fact:

- **The plans are found to be in compliance with the purpose and intent of Section 275-21(J) of the Zoning Ordinance;**
- **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 subject to the following conditions:

1. The applicant shall submit a building permit for review and approval by the Building Dept.
2. There shall be no additional curb cuts for the property, and the applicant shall coordinate with the Department of Public Works and the Planning Staff to settle the issue of reducing curb cuts.
3. School and Recreation Impact fees, per Article 120 of the Land Development Control Regulations, must be paid prior to a Certificate of Occupancy for the detached accessory apartment.

Mr. Clough duly seconds the motion.

Chair Fairman asked is there any discussion? Mr. Greazzo said I'm opposed to the second condition. Chair Fairman asked you're opposed to the change in the second condition? Please share your reasons. Mr. Greazzo replied it's already there. This is a conditional use for his apartment. It doesn't have anything to do with his existing driveway. His existing driveway is... Chair Fairman asked increased traffic? Mr. Greazzo replied it's still the same existing driveway. If the accessory use dwelling wasn't there, he wouldn't have to change. He shouldn't have to change just for the accessory use. Mr. Nichols replied but he is adding it. He's adding a building. Mr. Greazzo said it's still the same driveway. He's asking for an additional dwelling space, not a change to his driveway. I understand you're allowed to make conditions. I don't believe that's a fair condition. I don't believe the two are connected. Vice Chair Newberry replied well, as it's currently written, it says no additional curb cuts, and there aren't any additional curb cuts proposed. Mr. Greazzo said but they're looking to reduce his driveway. That was the addition to the second condition that I'm opposed to. Obviously, we're not... Vice Chair Newberry said that's DPW's desire. Mr. Greazzo said I understand. It's not my desire. I don't think it's the applicant's desire. Ms. Malcolm said actually, the way I worded it, we are not requiring that. We are simply saying that the DPW and Planning Staff will settle the issue of reducing curb cuts. They may settle it that they don't reduce the existing curb cuts. We're just putting this in DPW and the Planning Staff's hands. Mr. Greazzo said I'm just voicing my opposition and disagreement with that. I don't think that that should be part of this application, but that's just my opinion.

Chair Fairman said thank you, Mr. Greazzo. I do think that when you have a new building going on a piece of property, that increases traffic in a less than ultimate safety, that it behooves the Board to look at requiring the change. That's the rationale. I'm in agreement with Ms. Malcolm. Mr. Sullivan stated but, in the past, these types of units, even though they weren't technically permitted, they were regularly built and called a pool house or an exterior office or something like that. And all these cases

where it was still being used as an accessory dwelling unit, there'd be an impact of traffic, but it never rose to the level of having to accommodate curb cuts in that case as well. So, the only difference here is that we are finally calling these what they are. And in this case, with the existing curb cuts, I think the applicant is adhering to all the requirements and the conditions. So, to suddenly make them reduce the curb cuts as part of it, seems overkill. Mr. Nichols said if the accessory dwelling unit was at a completely different part of the property, I mean it's literally touching the part that DPW is saying, you know, that they recommend against? I mean that's the part that's hard to ignore. If you just look at the information that's in front of us. Mr. Greazzo said that's the condition of the ordinance, though. He's just meeting that condition. And as the Planning Director stated, there's been no traffic incidents in that area.

Mr. Sanford said Mr. Chairman, I didn't get to bring up a minor point, but is it alright if I just interject a little? If we had attached this, this wouldn't be an issue. It could be a 2-bedroom attached ADU and that wouldn't have any different impact on the driveways. So, we're being penalized for being detached, which I don't think is fair. Mr. Nichols said but there's benefits to being detached, right? And that's why it's written that we require another parking spot, right? That's actually a good question. It doesn't require a new parking spot. It just requires a dedicated parking spot. And so, they're saying that they need to make a new spot for it. We could have shown an existing it just made sense to... Mr. Nichols said I don't see the... to work it out with DPW. I don't see that as being a huge hindrance either. Mr. Greazzo said I think DPW is going to want what they want, and the Planning Department is going to agree, and that leaves the applicant on the short end of the stick who's going to eventually agree because they want their permit. I don't think that's something that we should use to hold them hostage for their project.

Chair Fairman said before I call the question, do any of those that oppose number 2 want to make a motion for an amendment to the motion?

MOTION (Amendment) by Mr. Greazzo to strike the condition of the requirement for DPW and Planning to decide whether they reduce their curb cut, and to revert back to the requirements in the Staff Report. Mr. Clough duly seconded the motion.

Vice Chair Newberry asked do you have any idea how long that that condition has been there? Mr. Sanford replied no. Vice Chair Newberry said it looks like it's been there at least since Back River Road was repaved. Chairman Fairman said it's been there a long time. I'm sure of that.

Mr. Sanford said, and we certainly would entertain a condition, that we discuss it, see if there can be something that would be mutually agreeable, but as it's been expressed, to say that we put it in the control of DPW, takes away the control the client has. Mr. Sullivan asked, Ms. Hebert, if this was a single curb cut today, with the new proposed parking spot, would they be required to have a new driveway permit, or would this just be an expansion of what they have? Ms. Hebert replied they're actually, if it were new, they would be prohibited from having a second driveway. They would be only allowed one curb cut. Mr. Sullivan said oh, no. What I was saying is if it was one curb cut today, this extension that they're proposing, would that require a driveway permit? Ms. Hebert replied no, they only need a driveway permit when they're impacting the portion of the driveway in the right of way. Mr. Sullivan said OK.

Chair Fairman said all right. So, if there's no other discussion, I'll call for a vote on the amendment which is basically to return condition 2 to what it states in the staff report.

Vote was taken. 5 to 1 in favor. Vice Chair Newberry, Ms. Malcolm, Mr. Clough, Mr. Greazzo and Mr. Nichols voted in favor. Chair Fairman was opposed. The amendment carries.

MOTION as amended by Ms. Malcolm that the Planning Board grant the Conditional Use Permit for a detached accessory apartment, located at 270 Back River Road, in accordance with the application materials submitted by the applicant, last revised December 12, 2022, as the Planning Board finds that the applicant has shown substantial compliance with the criteria for granting the conditional use permit, in accordance with the following findings of fact:

- **The plans are found to be in compliance with the purpose and intent of Section 275-21(J) of the Zoning Ordinance;**
- **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 subject to the following conditions:

1. The applicant shall submit a building permit for review and approval by the Building Dept.
2. There shall be no additional curb cuts for the property and the applicant shall coordinate with the Dept. of Public Works for necessary driveway permits, as applicable.
3. School and Recreation Impact fees, per Article 120 of the Land Development Control Regulations, must be paid prior to a Certificate of Occupancy for the detached accessory apartment.

Duly seconded by Mr. Clough. Vote taken – all in favor. Unanimous. Motion carries.

Mr. Sanford said thank you very much, Mr. Chairman. I appreciate your time.

Chairman Fairman introduced the next item on the agenda:

3. **Megan and Jason Oliviero (Applicants & Owners)** – Request for approval of a Conditional Use Permit for a Detached Accessory Apartment, located at 9 Cobtail Way, Lot 2-12-3, Zoned RA.

Ms. Megan Oliviero of 9 Cobtail Way, Bedford: Good Evening, Mr. Chairman, members of the Board. I'm Megan Oliviero. This is my husband, Jason. We are here, I guess we're the second application for an accessory dwelling unit, so that sounds exciting. I hope it's a little simpler. We just have a single-family home with a... see the lot here. You can see the current home here. I'm kind of hovering around with the mouse, and then the proposed ADU is over here. Our driveway is right here, kind of coming in. You can see it kind of come straight down into what the ADU will be. We have parking right here. We have kind of some cobble stones right here. We have a 3-car garage. That 3-car garage is currently stuffed full of 1 car and a lot of other things. So, we are hoping to use the proposed ADU for underground at the basement level will be a basement for storage for our tractor and lots of bicycles. We have three kids and some other things. We also are proposing there's about 895 square feet of living space. That's the septic. So that's kind of what you'll see from the road kind of coming down the driveway. That will be the living space. You're kind of walking into the front door into living space, about 895 square feet. This will be the back where hopefully we'll just kind of drive the tractor out and start mowing the lawn. That's sort of the side view. This is the left elevation. So, is that the view from McAllister Road? Cobtail

Way is pretty quiet... it's away from McAllister. So, this will sort of be facing our existing home and then this is the view that will be facing McAllister Road. But again, it's kind of far away from McAllister Road.

That's kind of the plan for the living space. It's kind of a small galley kitchen, small bedroom, bathroom, closet. It meets all the requirements, the 9 requirements that are laid out. It's one bedroom. It is less than 1000 square feet. The septic has already been approved from and gone through the process up in Concord. We do have plenty of parking. We have no plans whatsoever to do anything other than use it as our family. We have teenage children and one of them will likely live with us, probably for a very long time. So, I think she would like to move out one day, but maybe not, you know, far away. Maybe just sort of next door, on the other side of the driveway. That's kind of the plan. And I think that's about it. We welcome any questions. This is the basement. I'm happy to kind of show you a different picture if you have questions about this particular piece. You can see it also kind of falls in line... I don't have a picture I should have brought a picture of our current home. It matches what we currently have. Kind of like a... that's our current wood pile. It's about where the building would sit. You can see our current garage kind of looks a little bit like a barn, so the plan is for this EDU to also kind of mimic that look. I welcome any questions that the Board may have.

Chair Fairman said thank you. Are there any questions from the Board? Mr. Sullivan said just to get very specific, our staff report says 865 square feet. You were saying 895. I just wanted to make sure. Ms. Oliviero said you're correct. Mr. Sullivan said I just want to make sure—just protecting everybody. Ms. Oliviero said I didn't have my glasses on. Chair Fairman asked are there any other questions or comments?

Vice Chair Newberry said the basement has a grade level entrance/exit to it? Ms. Oliviero replied correct. Vice Chair Newberry continued but that's not intended to be living space. Ms. Oliviero replied no, no, not at all. It's an unheated basement. Really, that's just truly going to be so we can mow the lawn with greater ease. So, we'll store the tractor down there and you can kind of see in this picture kind of sort of that, that's just our backyard. We'll kind of just go right out into the backyard and kind of start that. There's actually, if you look closely to at the plans, there's no staircase down into the basement from the interior. The only access to that basement is that kind of exterior door. Vice Chair Newberry said thank you. Chair Fairman asked are there any other questions, comments? Seeing none from the Board, are there any questions or comments from the public? There were none. Chair Fairman said I see no requests for any waivers. I'll entertain a motion.

MOTION by Ms. Malcolm that the Planning Board grant the Conditional Use Permit for a detached accessory apartment, located at 9 Cobtail Way, in accordance with the application materials submitted by the applicant, last revised December 13, 2022, as the Planning Board finds that the applicant has shown substantial compliance with the criteria for granting the conditional use permit, in accordance with the following findings of fact:

- **The plans are found to be in compliance with the purpose and intent of Section 275-21(J) of the Zoning Ordinance;**
- **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 subject to the following conditions:

1. The applicant shall submit a building permit for review and approval by the Building Dept.

2. The basement area cannot be converted to living space for the detached apartment.
3. School and Recreation Impact fees, per Article 120 of the Land Development Control Regulations, must be paid prior to a Certificate of Occupancy for the detached accessory apartment.

Duly seconded by Mr. Greazzo. Vote taken – all in favor. Unanimous. Motion carries.

Chair Fairman said thank you very much. Good luck. Ms. Oliviero said thank you. Have a good evening.

IV. Concept Proposals and Other Business: None

V. Approval of Minutes of Previous Meeting (January 23, 2023)

Chair Fairman asked are there any questions, comments, or corrections? There were none.

MOTION: Mr. Greazzo moves that the Planning Board approves the meeting minutes as written from January 9, 2023. Vice Chair Newberry seconded the motion. Vote taken – all in favor. Mr. Sullivan, Mr. Clough, and Mr. Nichols abstained. Motion carried.

VI. Communications to the Board: Ms. Hebert stated just a couple announcements. The Planning Board has received notice that we have received the Housing Opportunity Grant that we talked about during a couple of meetings. That's about a \$120,000 planning project. This effort is about a 17-month long effort that would begin as soon as we receive approval from Town Council for acceptance of the grant money. So, the next step is to bring this to Town Council at their February 22nd meeting. It's a 2-step process to accept grants. The grant would be accepted at their first meeting in March. So, good news for the Housing Opportunity Program grant. And we did not receive any new applications for your second meeting in February. So, if the Board would like to cancel that meeting, we can cancel that meeting and your next meeting would be March 27th.

Chair Fairman said very good. Thank you. In the interest of communicating to as many people as we can about the upcoming zoning changes that will be on the ballot, Ms. Hebert is going to come and talk to members of the Rotary Club this Wednesday and go over all those zoning requirements. I do think that there's significant changes that would be easily misunderstood. So, I think we all need to be ready to explain them as best we can, and obviously always lean on Ms. Hebert and Ms. Harris and all the staff members to do that. Ms. Hebert stated Jillian did coordinate with the library to put together a voter's guide. The library has such great interaction with the public. They issue a voting guide, and there'll be a zoning amendment section in the voters' guide. Chair Fairman asked does anyone else have anything for tonight? There were no further items to discuss.

VII. Reports of Committees: none

VIII. Adjournment:

MOTION by Ms. Malcolm to adjourn at 7:58 pm. Vice Chair Newberry duly seconded the motion. Vote taken – all in favor. Motion carried.

The next meeting of the Planning Board is scheduled for March 27, 2023.

Respectfully submitted by
Sue Forcier