

**Town of Bedford**  
**Zoning Board of Adjustment Minutes**  
**February 21, 2023**

A regular meeting of the Bedford Zoning Board was held on Tuesday, February 21, 2023, at the Town Meeting Room at BCTV, at 10 Meetinghouse Road. Present were John Morin (Chair), Neal Casale (Vice Chair), Bob MacPherson (alternate member), Alex Kellermann (regular member), Dave Gilbert (regular member), Rebecca Hebert (Planning Director), Kathleen Ports (Associate Planner). Absent were Sue Thomas (alternate member), Len Green (regular member).

**I. Call to Order and Roll Call**

Chairman John Morin called the meeting to order at 7pm and introduced members of the Board, appointing Mr. MacPherson to vote. Chair Morin stated the following:

**Rules of Procedure:** What we'll do is we'll have an application by each applicant. After that presentation, we will open up to the public for those in favor or opposition of the application. Any questions, I'll ask they be directed to the Board and then we will bring the question to the applicant. I'd like to remind everyone there is no debate allowed between the parties. All testimony will come to the Board. If the applicant would like, they will have the opportunity for a summation also. All applications will be heard in order of notice. If we need to take a recess or executive session, we will do that by vote. After all input has been given, we will be going into a nonpublic input so we can deliberate and vote on the applications. You can wait for the vote tonight or you can call the Planning Office after 8:30 tomorrow. I'll ask that everyone please silence your cell phone so it doesn't interrupt the meeting.

For re-hearings, any party has 30 days to request a rehearing from a decision of the Zoning Board of Adjustment. The Board has 30 days in which to respond to such a request per RSA 677:3, tomorrow being day one. All requests must be in writing and must contain new evidence. Please point out any errors you believe the Board has made in its decision.

For the criteria for variances, I'm not going to go through those five criteria at this time. We will ask each applicant to go through their application and address the five criteria as part of their presentation. For a motion to pass this evening, there must receive 3 affirmative votes. At this point, I'll ask anybody who thinks they are going to speak during this meeting tonight to stand. Honorable counsel is exempt. I'm going to swear you in and let's do it all at once. If you don't think you're going to speak, why don't you stand and that way we won't have to stop and do it all over again. Raise your right hand, please. Do you swear the testimony you give during these hearings tonight is the truth, the whole truth and nothing but the truth? Thank you. Please have a seat.

**II. Approval of Minutes: December 20, 2022.**

**MOTION to approve minutes for the December 20, 2022 meeting was made by Vice Chair Casale. Mr. Gilbert seconded the motion. Vote was taken - all in favor. Motion carries, minutes are approved.**

**III. Old Business & Continued Hearings: None.**

**IV. New Business:**

1. **Mark and Ida Baddeley** – Request for a variance from Article IV, Section 275-28 to allow the replacement of an existing open-air deck within 42 feet of a wetland with an enclosed porch within 42 feet of a wetland where 50 feet is required, at 37 Elk Drive, Lot 31-18-25, R&A Zone.
2. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust** – Request for a variance from Article III, Section 275-21B(2)(b)[2] for a proposed 54-unit, elderly housing development (55+) on a tract of land without frontage on a Class II, IV, or V roadway where such frontage is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.
3. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust** – Request for a variance from Article III, Section 275-21B(3) and Article V, Section 275-31 to allow portions of an elderly housing development (55+) designed as a Cluster Residential Development to be located within the CO Zone on a split zoned parcel, where the Cluster Residential Development is not an allowed use in the CO Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.
4. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust** – Request for a variance from Article III, Section 275-21B(3)(c) and Article V, Section 275-33B to allow an elderly housing development (55+) with a density of 54 units, designed as a Cluster Residential Development, where 14 units would be allowed in the R&A Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.
5. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust** – Request for a variance from Article III, Section 275-21B(2)(d) to allow a 54-unit, elderly housing development (55+), to not be served by group transit where such service is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.
6. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust** – Request for a variance from Article V, Section 275-32H to allow a 54-unit, elderly housing development (55+), to be served by a private road that does not meet Town road standards where roads in Cluster Residential Developments are required to meet Town road standards, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.

Chair Morin invited the first applicant to present their application.

**IV. New Business:**

1. **Mark and Ida Baddeley – Request for a variance from Article IV, Section 275-28 to allow the replacement of an existing open-air deck within 42 feet of a wetland with an enclosed porch within 42 feet of a wetland where 50 feet is required, at 37 Elk Drive, Lot 31-18-25, R&A Zone.**

**Mr. Greg Rehm, Owner, Liberty Hill Construction presents the application:** Good evening. My name is Greg Rehm. I'm the owner of Liberty Hill Construction and I'm representing the Baddeleys tonight. Would you like me to just give a brief overview? Chair Morin affirms. Mr. Rehm stated the Baddeleys have lived in their house for over 36 years. They want to stay there and live the rest of their time and they want to enjoy their back porch and transition from an open screen porch and deck to a four-season room. We designed it on the same footprint as existing to remain within the existing setbacks, same footing structure and we did remove the stairs from within the wetland, setback and moved it to the opposite side. One for a more accessible set of stairs, but also to get it out of that setback encroachment. It's pretty straightforward project. You've seen all the drawings and we went through the Conservation Commission already, and now we're here.

Chair Morin said if you just want to go through your application, each of the areas and then we'll have our questions for you. Mr. Rehm asked do you want me to read the answers to the questions? Chair Morin replied if you could read the question, the first part of the question and yes, the answer, that way we have it all on record. Mr. Rehm continued, all right.

1. **Granting the variance would not be contrary to the public interest because:**
  - (1) **Whether granting the variance would alter the essential character of the locality:**

Granting the variance would not be contrary to the public interest because the new sunroom and deck would be in the same area as the existing structures and maintain the existing setbacks.

- (2) **Whether granting the variance would threaten public health, safety or welfare:**

Whether granting the variance with threatened public health, safety or welfare, the proposed addition would not threaten public health, safety or welfare. It would serve the same purpose as the existing structures but be safer and more usable.

2. **The spirit of the ordinance is observed because:**

The spirit of the ordinance is observed because this would not negatively impact the surrounding property values or impede on their enjoyment of their own property.

**3. Granting the variance would do substantial justice because:**

Granting the variance would do substantial justice because granting the variance would remove the questionable structures safety-wise and enable the homeowners to enjoy their backyard and outdoor living areas.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

The values of the surrounding properties would not be diminished, but instead elevated by the increase in the value of this property.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The granting of the variance would permit the construction of a new building that replaces existing structures that would be constructed utilizing better construction methods and would eliminate the potential for injury or loss of comfort if forced to keep the existing structures.

**(A) Denial of the variance would result in unnecessary hardship because:**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Denial of variance would result in unnecessary hardship because proposed addition would be located in the same place as the existing structures that already creep into the setback. Denial of this variance would result in the homeowners being forced to use unsafe and less functional structures.

**(ii) The proposed use is a reasonable one because:**

The proposed use is a reasonable one, because this is a common addition proposed within existing setbacks and will not negatively impact any surrounding properties. This is a picture of the existing conditions, which is half porch and half deck. The stairs in our view on the left would be shifted to the right. This is the site plan with wetland stamp provided by Meridian and shows the existing and proposed. This is the floor plan of the addition and deck. This is the floor plan of the existing sunroom and deck. And these are left elevation, front and right elevation. Any questions?

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

Chair Morin asked Board, do we have any questions on this first application? Vice Chair Casale asked, Mr. Rehm, there's indication, at least in the planner's notes, that the volume has changed. And it looks like—keep it right there on that one—you have existing deck and proposed deck. It almost looks like there's an 8 by 8 area which is not... So, we keep talking about that it's in the same footprint. While the sonotubes are, it looks like the decking has changed and therefore the decking is not really in the same footprint. It's been expanded. Can you tell me exactly what has changed? And then the second question

is, what is the hardship that requires that—I'm not as concerned about the existing porch because it's already there, but anything added on is an add-on, and is contrary to the variance. Could you explain why that add-on was made if I'm interpreting this correctly? Mr. Rehm replied sure. Two things. The existing deck and sunroom is 14 feet wide by 16 feet deep. Mr. Casale said excuse me. Can you go back to the— maybe you can show with the pointer too? Mr. Rehm said this is the existing sunroom. It is 8 by 14, and the existing deck is 8 by 14. We're replacing that with a 16 by 16 building, so it is slightly greater. It's two feet greater in width, same depth, which is the distance to the wetlands. The building is also shifted, which is why you see that overlap or void between the two overlays. So, it's pulled off the corner. Do you see the existing family room with a slider opening? We've now pushed the whole structure toward that existing stair to center it on that slider if you follow me. So, if you look at this, you see the corner of the building here? This whole sunroom has been shifted toward the other end of the house by about 2 feet. That's what's showing up in this overlap on the site plan. Mr. Casale replied OK. Then what is the answer to the hardship, and why you did that? Because that's one of the criteria. Mr. Rehm replied we did that mainly because that's what they wanted. And we transferred the stairs from one location which was impacting the setback and moved it to an area where it wasn't. Vice Chair Casale said and then to help you out a little bit, did you need a landing there? Mr. Rehm replied we did. We needed a landing. Vice Chair Casale said there we go. OK, thank you. Mr. Rehm said because they wanted a grill. Mr. Casale said OK. That's what I was looking for. Thank you. Mr. Rehm asked does that answer your question? Mr. Casale replied it does, with a little help. There were no further questions from the Board. Chair Morin opened the meeting up to the public. There were no questions or comments from the public.

**MOTION by Mr. Gilbert to move to nonpublic input for deliberation. Vice Chair Casale duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

The Board agrees there is no evidence of this.

**(2) Whether granting the variance would threaten public health, safety, or welfare:**

The Board agrees there is no evidence of this.

**2. The spirit of the ordinance is observed because:**

Chair Morin said the spirit is to keep a distance from a wetland. The existing structure now is 42 feet. The new structure pretty much the same point is going to be at 42 feet. So, there's really not more impeding to that area, and that's a very good distance also. Vice Chair Casale said well in addition I'll add, of course, to protect the wetlands. If I remember correctly, the roof design changed so that now the water is not flowing towards the wetlands directly, but off to the sides. And it's also protected by a gutter system as well. Chair Morin added which will mitigate the water, I assume? The Board affirms.

**3. Granting the variance would do substantial justice because:**

Chair Morin said granting the variance would do substantial justice and it would give them the opportunity to update there.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

Chair Morin said we've heard nothing against this.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

Vice Chair Casale said yes. Chair Morin said well, it does definitely have that cut through with the brook and the wetlands.

**(A) Denial of the variance would result in unnecessary hardship because**

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Chair Morin said again, it's not a negative towards the residents of the Town, but it will be a positive to the homeowner. It's not a negative to the Town.

- (ii) The proposed use is a reasonable one because:**

Vice Chair Casale said yes. Chair Morin said it seems to be reasonable.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

**MOTION Mr. Gilbert moves that the Board grant the variance from Article IV, Section 275-28A, to permit the replacement of an existing open-air deck within 42 feet of a wetland with an enclosed porch within 42 feet of a wetland where 50 feet is required. The motion is supported by the following findings of facts:**

- 1. The variance request satisfies all five criteria for granting relief from the Zoning Ordinance.**
- 2. The Board includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision per our deliberation.**

**Vice Chair Casale duly seconded the motion. Vote taken – All in favor – Unanimous. Motion Carries. The application is APPROVED.**

**MOTION by Mr. Kellermann to go back into public input. Vice Chair Casale duly seconded the motion. Vote taken – All in favor. Motion Carries.**

Chair Morin said you're all set, sir. Mr. Rehm replied thank you so much.

Chair Morin said I will read the next five items on the agenda to get them on record and then we'll handle them independently as the applications are presented.

2. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(2)(b)[2] for a proposed 54-unit, elderly housing development (55+) on a tract of land without frontage on a Class II, IV, or V roadway where such frontage is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**
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4. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(3)(c) and Article V, Section 275-33B to allow an elderly housing development (55+) with a density of 54 units, designed as a Cluster Residential Development, where 14 units would be allowed in the R&A Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**
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**Atty. Andy Prolman of Prunier & Prolman of Nashua, NH presented the application for Items 2-6:** Mr. Chairman, members of the Board. Good evening. My name is Andy Prolman. I'm an attorney in Nashua with Prunier and Prolman. I'm here on behalf of the applicant, the Dumas Trust. With us tonight is Joanne Dumas sitting to my left, property owner. At the table with me is Brent Cole, project engineer. We also have Paul Scarpetti with us, project manager, and Jeff Merritt also with Granite Engineering. Mr. Chairman, Members, I have a brief introduction for a few minutes and then I'm going to turn it over to Brent to get to the details of the plans and we'll run through the variances.

Mr. Chairman, the Dumas family initially started purchasing land in this part of Town on Wallace Road in 1955. And over the years, they picked up various parcels that make up this project tonight. In addition, they also owned a total of 42 acres that brought them all the way over to Nashua Road. They own a large parcel of land and they owned that for some time. In 1991, the Dumas's sold a large parcel to the school district for the Bedford High School. In doing so, they lost the frontage along Nashua. And so now we are

here tonight, working with a landlocked parcel which drives a lot of the variances and issues that we have before the Board tonight.

What we're proposing is a 54-unit, 55-plus elderly housing project accessing off of Bow Lane. Bow Lane comes off of Chestnut. Chestnut comes off of Route 101. I'm sure the Board is familiar with this area of Town. We initially presented to the Planning Board the conceptual presentation last July with a project that was a 14-lot conventional subdivision with access extending off of Kennedy Drive. And we made that presentation to the Board. Fourteen lots was not a lot of units being proposed, but the neighbors made themselves heard, and we listened to them loud and clear. We worked with staff over many meetings over 2022, and as a result we are here before this Board following a design review with the Planning Board for the project that you see tonight. When we were before the Planning Board in December, I won't put words in their mouth, but we felt that our project was well received. We know our neighbors to the south in the Presidential Estates were very much appreciative of what we were trying to do. I'm sure you'll hear from them tonight and we intend to proceed hopefully with this project.

We have 5 variances to the Board tonight. That may seem like a big ask, but we think it works. We put a lot of time and effort and thought into this working with staff, working with our team. We think this project works for a number of reasons. We think it works certainly for the Dumas family. They've been good stewards of the land for many, many years and they're looking to develop the property today. We think this works for the neighbors because we have access that does not come through Presidential Estates. It does not come through Kennedy Drive. We are coming through Bow Lane by means of an access easement. There's an email in your packet from Mr. Anagnost, owner of the apartments, who has no objection to what we're proposing to do. We think this works for the Town because this provides much needed housing stock. We're already getting calls for—people want to buy and we're only before the Zoning Board at this point. But there is demand for this type of a product.

We expect that residents will see this as an opportunity to stay in Town and downsize. As people, like myself, that have empty nests and looking to go into condo mode and go into a smaller house, we think people in Bedford will see this opportunity to stay put. We think it's a good planning. We see a good transition that planners like to see going from commercial to single family. We have commercial on 101. We have apartments on Bow Lane. We have our proposed project of townhouses and then south of us and along Wallace, we have single-family residential. We think this project works on a number of levels. We do recognize that five variances are being presented. It may be a lot. But we think this would be a benefit for the Town and a benefit for possible home buyers. I'm going to stop briefly. Turn it over to Brent so he can get into some details of what's being presented, and then I'll pick it up with some more comments and then the variances. Chair Morin said thank you.

**Mr. Brenton Cole, Owner/Principal Engineer at Granite Engineering, LLC, Nashua presents:** Good Evening, Board. The Dumas family owns 5 parcels out here, for a combined area of 32 acres. We plan on merging 4 of those parcels to create the parent tract, which we're considering lot 26. Lot 24 is the Dumas family residence, which is located here. That lot will be lot line adjusted with the new parent track lot 26, to create a lot that is 26.5 acres. That lot does have a split zone. There is Commercial to the north here in this triangle-like parcel here, and then there's R&A district, which is the majority. The project is a 54-unit elderly project that extends off of Bow Lane and ultimately Chestnut. We have about 2,300 feet of roadway that creates this loop road here. The fourplexes that we're proposing are situated around that loop road with one exception, there is a duplex situated right in this area here. Each fourplex and duplex will have individual and shared driveways. They'll have garages. There's also guest parking spread out throughout the loop road. When you first enter the development, to your left is our first amenity. That is,



what we're proposing to be a pickleball court. It's very popular nowadays, especially with the adult crowd. In this area, there's a gazebo. There's guest parking, as well as the mail station. To the rear of the property is our second amenity and that is a proposed community garden. These two amenities, we found, are actually very popular with adult communities nowadays rather than the typical, somewhat archaic shuffleboard courts and pools and community centers which don't get used very often. These facilities help keep HOA fees down. They help keep condo fees down. They help make the project affordable. Furthermore, we are proposing a trail network that extends from Chestnut through Bow Lane, along with the sidewalks on our loop road, and then extend to a trail out to County Road. County Road then has a trail system that does lead up to the school. We do have multiple buffers, specifically a large one to the south that buffers our development to Presidential Estates, of over 500 feet. We have a natural buffer to the west, which is Riddle Brook, and then we have the requisite buffer of 100 feet that buffers the apartments as well as Bedford High School.

The 54 elderly units that we proposed on here was done very strategically. The mechanism for coming up with the 54 was derived from 14 units that was allowed for elderly within the RA zoning district. We prepared a yield plan. We were able to prove those 14 lots out throughout the RA district. In the commercial district, elderly is allowed as well, and that has a higher density. We were allowed 66 units in this triangle piece here. That gave us a total of 80 units of elderly. We chose to present them in this cluster development rather than the high-rise apartments like you see here, or the single-family units that we see to the south, because of that transition that we wanted to have out here that Andy spoke about. The 80 units is the maximum amount of density.

We are proposing a reduced rate of 54, and 14 of those units will be affordable. We came up with the 54 because it is actually a less impact than the 14 units that we presented to the Planning Board conceptually first. The impact of a 14-lot subdivision that is traditional is actually quite impactful to the Town—schools, water, sewer and specifically traffic. With these elderly developments, what we see is a lot of times the usage is not as much as a typical single-family. The reason is because they are retired, semi-retired, sometimes they snowbird. With someone that is retired, they aren't necessarily going out during the busy times of the day. They aren't going out during the peak hours when people are rushing into work. So, the traffic numbers for elderly is quite reduced compared to what a single-family residential development would be. That's why we strategically chose the 54 units.

I'm going to shift gears over to the architectural renderings that the Dumas family put together. They worked very hard with an architect to present something that paid homage to the Dumas family and them using this land for farming for so many years. The plan before you is a fourplex. And it presents like a threeplex to try to reduce some massing out there. As you can see, you will have black roofing, black metal roofing over the porch. We'll have white siding with two different styles. We've got the horizontal, we've got the vertical. The lights will match that typical farm style and really give the farm feel out here with the development. There are two different styles. This style presents like a threeplex. And then we have the typical fourplex, which has the four units on it. Those will be strategically put around the development to make sure that there's break up as you were to drive around the loop road. With that, Andy, I'll hand it back to you.

Atty. Prolman said OK, Mr. Chairman, Members of the Board, just a few more details about our project before we get into the variances. As Brent mentioned and you can see it in the overview plan, we have a split zone lot and the buildings and our proposal meet all the dimensional requirements of your zoning ordinance—all the lot size and the setbacks and the open space requirements and parking—it meets all those things. We have a number of use variances, but we meet all the dimensionals. As Brent mentioned,

we have large buffers all the way around, especially to the south of our site. The projects are going to have well and septic. They're going to have sprinkler fire suppression systems, all required by the ordinance, all part of the proposal. Bow Lane, while it's not before the Board of tonight, will have some wetland impact. But Bow Lane is really an old railroad bed and so we know going into this, that the wetlands in Bow Lane are low-quality wetlands and we are confident that we'll be able to work through that access.

If we look to the character of our neighborhood, which we'll get into with the variances, we really are an island. It's a very unusual parcel in that we have no frontage on any public street, and we're surrounded by mostly residential except for the high school. We have designed this project to have as minimal impact as possible on the neighbors and at the same time we're going to be meeting the character of the neighborhood because we are proposing a residential use. The Board may be concerned about traffic, but as Brent just mentioned, we expect to be working with our traffic engineer in the Town and scoping traffic concerns and working with any Town mitigation. We are aware of the Bow Lane apartment traffic reports that they had prepared and the mitigation for the Bow Lane Apartments was the widening of Chestnut as it intersects with 101 to allow two lanes, one lane turning left, one lane turning right—dedicated turn lanes. We expect to piggyback on that, but again, we don't anticipate traffic is going to be a huge issue for us because of the nature of the use. And I think Brent touched on most anything else, Mr. Chairman, unless the Board would have any questions for introduction, I could proceed with the variances. Chair Morin replied go ahead with them.

2. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(2)(b)[2] for a proposed 54-unit, elderly housing development (55+) on a tract of land without frontage on a Class II, IV, or V roadway where such frontage is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

Atty. Prolman said the first variance before the Board tonight is a frontage variance. And I'll just say this at the outset, any development of this site will require a frontage variance. Whether you do a single-family home on 26 acres or you do 1,000 units of high-rise apartments, any variance. It's going to need a frontage variance because we just don't have frontage to this site. County Road is a Class VI road. It doesn't qualify for frontage, if somehow, we were able to use County Road. We have no frontage coming off of Wallace, and if somehow we could find frontage coming off of Wallace, it has a great big Riddle Brook wetland that is really prohibitive. We know that would be a challenge with DES and in addition, you have the high school on that side and so our access is through a private easement. You folks have a copy of that easement that the Dumas family worked out with Anagnost Development and so that's really our only access to this site.

1. **Granting the variance would not be contrary to the public interest because:**
  - (1) **Whether granting the variance would alter the essential character of the locality:**

As to the variance criteria for the frontage variance we believe this is not contrary to the public interest. As I just explained, access to the site is provided by the access easement through the Bow Lane Apartments. Since 2019, access to the site has been contemplated through Bow Lane. The landmark Dumas parcel is currently well buffered from abutting properties and will be more so with the project development. The townhouses represent good planning practice, in that they transition from commercial uses on 101 and Chestnut Drive, the apartments on Bow Lane and then the single families and the Presidential Estates and Wallace Road. That we access the property through an access easement and not with 100 feet of frontage, will not alter the character of the neighborhood.

**(2) Whether granting the variance would threaten public health, safety or welfare:**

And the second portion of the public interest. That although a public private roadway, our access from Bow Lane will provide access for the police, fire and ambulatory services for this site. The lack of frontage does not threaten public health, safety or welfare for the Town.

**2. The spirit of the ordinance is observed because:**

We believe the spirit of the ordinance is observed. Similarly to the public interest criteria, the lack of frontage for this landlocked parcel will not alter the character of the neighborhood. Further, we do not believe the basic zoning objectives of variance, excuse me of frontages for the frontage requirement because of the secluded nature of the property. And again, if we think of the requirements with the purpose of frontage requirement is not to overcrowd so every lot has ample access to their property, and we meet that criteria.

**3. Granting the variance would do substantial justice because:**

Substantial justice—the Dumas family, longtime residents of the Town, seek to develop the property by providing a much-needed housing stock. We respectfully see no adverse impact to the Town because of the lack of frontage to the balancing test of the substantial justice criteria weighs in favor of the applicant in this case.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

Property values—we see no impact to property values to the east and north. The isolated project abuts Bedford High School and the Bow Lane Apartments to the south and west. We have significant land buffers on our property, plus County Road and Riddle Brook. Our only access is via Bow Lane. We respectfully see no harm to nearby property values due to the lack of frontage.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

And finally with respect to hardship, the special condition of this property is that it has no frontage. County Road is a Class VI road. Bedford High, Riddle Brook create an undeveloped island in the middle of Bedford. Our only access is through the access easement with the Bow Lane Apartments. We see no fair and substantial reason to prohibit access to the property due to the lack of frontage. We meet the general purposes of the 275 Section and do not conflict with the purposes of the frontage requirements.

**(ii) The proposed use is a reasonable one because:**

And finally, we respectfully suggest that we have a reasonable use because other than the high school, we're surrounded by residential uses. Residential uses are allowed in the R&A District. And we believe we meet the variance criteria for the frontage variance. I'll stop there, Mr. Chairman, and ask the Board any questions?

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

Chair Morin asked Board, do we have any questions on this first application? There are no questions of the Board. Chair Morin said OK, why don't you go to the next one. We'll get the public input after all are presented.

Atty. Prolman said I will caution the Board that some of this will get repetitious with five variances.

3. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(3) and Article V, Section 275-31 to allow portions of an elderly housing development (55+) designed as a Cluster Residential Development to be located within the CO Zone on a split zoned parcel, where the Cluster Residential Development is not an allowed use in the CO Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

The next variance, Mr. Chairman and Members, is that we are seeking approval to allow a portion of our cluster proposal in the Commercial District. As Ms. Hebert notes in her staff report, elderly housing is permitted in the Commercial District, but not as a Cluster Development. Here, in this project, we have our units in the Residential and Agricultural portion of this split-zone lot, and a number of our amenities for the project are located in the Commercial District.

We have certain improvements in the Commercial District, being some of the amenities for the elderly housing project. We have the private roadway, sidewalks, street lighting, the signs, the catch basin parking. But really, we have the pickleball courts and the gazebo really as amenities, and all of this is in the Commercial District. And the remainder of the project is in the R &A. With our variance criteria...

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

Public interest: our proposed improvements in the Commercial District serve the project and will be located on a private road with 100 feet of buffer from our nearest neighbor, being the Bow Lane Apartments. Allowing this portion of the 55-plus Cluster Development in the Commercial District will not alter the essential character of the neighborhood.

**(2) Whether granting the variance would threaten public health, safety or welfare:**

There is no threat to the Town's public health, safety or welfare by allowing the proposed improvements in the Commercial District to support this project.

**2. The spirit of the ordinance is observed because:**

The spirit of the ordinance is observed because allowing the improvements in the Commercial District to support the overall project will not alter the character of the neighborhood, nor harm any concerns of the public health, safety or welfare of the Town.

**3. Granting the variance would do substantial justice because:**

Substantial justice would be served here because allowing access to the project, the additional parking, the central mailboxes, the pickleball courts to support the 55-cluster community would have no adverse effects or negative impact to the Town. Again, has the substantial justice factor weighing in favor of the Dumas family.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

As to property values, the proposed improvements will not impact the surrounding property values. Access to the site has been contemplated through the Bow Lane Apartments pursuant to the Access Easement. Further the mailboxes and pickle ball courts, the gazebo are protected by at least a 100-foot buffer to our nearest neighbor. We see no impact in this instance really to the Bow Lane Apartments. And again, Mr. Anagnost has weighed in with his e-mail to Miss Hebert.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

As the unnecessary hardship, the unusual split zone lot distinguishes our site from most of the lots in the area. The proposed improvements will have little to no impact on our neighbors. This unusual lot has the proposed 55-cluster development in the R&A District, with a small portion of improvements in the Commercial District. There are no units proposed in the Commercial District and given that the improvements in the Commercial District are intended to support the overall project, we see no fair and substantial relationship between the general purposes of the Commercial District and prohibiting the proposed improvements.

**(ii) The proposed use is a reasonable one because:**

And finally, allowing the improvements is reasonable because they support a residential cluster in the RA district while having no adverse impact to our neighbors or the Town.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

Chair Morin asked are there any questions from the Board on this section?

Vice Chair Casale asked Attorney Prolman, regarding prong 3, granting the variance would do substantial justice. Aside from the fact that you need this variance in order to combine the two lots for your density ratio. Can you explain why the extra guest parking spaces and the—you have proposed recreation area, but it's pickleball courts—why they have to be in that Commercial Zone and why the whole project you may not even have to shift the whole project, in an easterly direction. Either shifting the project further east or moving—you can't move mailboxes, but the pickleball court—why can't it be on the other side? So, again, this has to do with substantial justice. You're saying, oh, we've got to have this stuff here, but that's not your only option. So, can you explain or perhaps you can explain why these items—the mailbox is a little bit different—but why that one pickleball court has to be there, pointing to substantial justice, and also what's the hardship? Why can't the Residential area accommodate what you need? Atty. Prolman replied well, I'll let Brent correct me, but typically pickleball is played on a flat surface. And as we move toward the high school, we're moving up a hill. And so the more we shift that to the east, the more we're cutting into a hill, and the more we are taking trees down, and the more we're reducing that buffer. This is a flat area as you enter the site, and we thought it made sense to have it located where it's located.

Mr. Cole said we also think that this area is better for the transition between the apartments to the townhouse and ultimately to the single family. We think it's important to try to preserve this area out back here, the area that is closest towards the single family, the area that was closest towards the larger opposition that we saw. The area through here, rather, it's not residential, it is Commercial but pickleball and parking lots and gazebos and mail stations and community centers—things of that nature—typical amenities are more consistent with a Commercial rather than the Residential. So, we do feel like the amenities that this project has do make more sense towards the beginning of the project. You first enter where there is mail stations and mail stations come with parking and gazebos. And that parking is then dovetailed for parking for the pickleball courts. And all that stuff is really at the beginning of the project rather than towards the end where the community garden is and things that have reduced sounds, people walking, and it doesn't make a ton of sense to put a parking lot and a pickleball court in an area where people are trying to get away from noise and closer towards the larger portion. It does make sense for us to have the amenities closer towards the beginning of the project where the Commercial land is. Vice Chair Casale said OK. Two further questions. One is, I get that part, but as you stated something about that area, the buffer you said it was, I think your word was substantial—a substantial amount of buffer to the east side of the property. Why can't this whole project be shifted slightly so that it can fit? Part one. Two is you brought up a point about, which I didn't even think of because I was thinking of guest parking. You have cars that may be entering in and out because, as you said, pickleball is very popular, which it is. So, you have cars backing out into the main road of your property, where all the cars are going to be coming. Mr. Cole replied correct. Mr. Casale asked do you feel that is OK? Mr. Cole replied we do. It is very consistent with this type of development where parking is strategically situated along the roadway. You don't have the typical larger parking lots. It's similar to the driveways. People back out. There aren't turnarounds for them. The driveways are short. Traffic calming mechanisms are put in place. We wouldn't be opposed to speed humps and things of that nature when we get to the planning Board level. But there are traffic calming mechanisms put in place for this type of development to keep speeds down, which

allow for people to park and safely be able to get out of that parking spot. Mr. Casale said now you say it's popular for parking spots to be like along a road like this, but on your only entrance and exit? Or are you talking about any road? Mr. Cole replied no, on this specific, yes, I think it's very common. I don't expect there to be a ton of traffic as I stated in the initial. The traffic counts that we did for the Planning Board prove to not be substantial. I do not think there's any safety concern with having a parking lot on this minimal of a roadway. Mr. Casale said OK. Thank you.

Atty. Prolman said if I could speak to that a little bit further, Mr. Chairman, Mr. Casale, I'm not sure if the existing conditions plans made their way to you, but I will represent to you and I'll provide a copy of this to Ms. Hebert. But Joseph Wichert was our surveyor. And I will represent to you that you will see that there's a very flat area right where the pickleball courts are. There's no elevation change whatsoever, but then as you move up from elevation 250 at the pickleball courts, it goes up to 260, 270, 280 feet as we move to the high school. So, it's less of a physical impact to the area having the pickleball courts where they're proposed as opposed to pushing them to the east. And I'll provide a copy of that. Mr. Casale said OK. Thank you. Chair Morin said actually we have that. Atty. Prolman asked you do? OK, thank you.

Mr. Gilbert asked could you go back to that map? OK, so a question about your community garden down on the bottom portion there. When you call it a community garden, that means you're saying that anyone from the community can go there. Is that correct? Mr. Cole replied this specific community. So, this development. Mr. Gilbert asked so, only the people in the development can use it? Mr. Cole affirmed only the people in here, yes, they'll have designated spaces. A lot of the times they conjure together and they do all the same vegetable or things like that, but it's actually very popular. It drives community, and it helps keep neighbors as friendly neighbors. Mr. Gilbert continued so, you're really not community, you're talking about that development. Mr. Cole said that's correct. This particular community. Mr. Gilbert said and another question, can you scroll up a bit just to see the whole area? On the right side there next to the high school, it looks like you've got a buffer and then it goes to nothing. Are you cutting trees? Are you going to have a complete tree line buffer between this development and the school? Mr. Cole replied we will have planted trees there. This represents the existing vegetation. We will have to regrade in that area and then we are replanting with the new vegetation—actually, better vegetation that's out there to help provide more adequate screening. Mr. Gilbert asked you know where I'm going with this, Ms. Hebert, right? OK. Atty. Prolman said we had before the Planning Board a draft landscape plan that showed new trees along the entire boundary kind of staggered, so it will bring in kind of a woody feel. Mr. Gilbert said another question is with the location of that pickleball area. It's not going to be only used by the community. You're going to get people in the apartments and anybody else going in there, right? Mr. Cole replied we would like to limit it to just this community. Mr. Gilbert asked how can you do that when it's a public road? Mr. Cole replied it's not a public road. It's a private road. Mr. Gilbert continued OK, but people in those apartments are going to come down and use it. Mr. Cole replied we would like to hope that we'd be able to have a fence with gates and things of that nature. Mr. Gilbert said so, now it's a gated community? Mr. Cole replied no, not a gated community. Just a gated pickleball. Most of the time, actually all pickleball courts have fences, and then usually they're limited access by gates and things of that nature, fences. Mr. MacPherson said yes, that's my question. How do you police it? I mean, people have their popular need to go to the pickle ball places. Why don't they just walk into Chestnut, or they get into the high school? How would you police that? Atty. Prolman replied we anticipate having signs: private property. We think the community will police it over time. Right, we don't anticipate use from outside this project. We don't see that as habit. You know, people sneak on from time to time. That may happen, but we believe it's going to be self-policing by the 54-unit owners. Mr. Cole said most of the time we see with homeowners' associations that you have 54 units, probably 108 people looking at these types of things. If they have pride over their property and they're actually using the

pickleball courts, then they have multiple sets of eyes making sure that things are being monitored, things are being done correctly. We find that it's fairly self-policing. Atty. Prolman added and if it's an issue, then it can be locked and it can be keyed with keys limited to the unit owners. I don't see it as a huge issue. Mr. MacPherson said well, it's come into throughout the general public, I guess, but. Atty. Prolman said you know, if you think about where this is, it's tucked back here. The only people who are going to know about these pickleball courts are going to be the apartment dwellers, right. If you didn't know about this project driving down up and down 101, you wouldn't be looking for a pickleball court just randomly, right? So, if that does happen, it's something to be monitored and policed and ultimately it has to be locked, it has to be locked. Mr. MacPherson replied thank you.

Chair Morin said we'll go on to the next one, please.

4. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(3)(c) and Article V, Section 275-33B to allow an elderly housing development (55+) with a density of 54 units, designed as a Cluster Residential Development, where 14 units would be allowed in the R&A Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

Atty. Prolman stated: Mr. Chairman, with this next variance to Article 275 in Section 33B and sections 275-21B(3)(c), we are seeking the density variance to allow the 54 units. And just to go over our application, the density for this project is based on two different metrics due to the lots split zoning. Within the Commercial District, a maximum of 28 elderly dwelling units per gross acre is allowed under the current ordinance. Elderly housing is permitted in Cluster Developments in the Residential and Agricultural District, but again, not the Commercial District that we spoke of before. If a lot is serviced by municipal water and sewer, Cluster Development regulations in Article V state that density shall be calculated by dividing the net developable area by the district's minimum lot size. Article V also states that for developments located in more than one zoning district, the allowed density shall be the sum of those allowed for the portion of land within each District. Let me just put a pin on that for a moment. By quantifying the two density mechanisms for each zone for the elderly, 80 units would be possible because of what would be allowed in the Commercial plus the 14 that would be allowed in the Residential and Agricultural for this 26-acre parcel. We have a density calculation on Note 7 on Granite Engineering's plans. The subject project of 54 units is less than what would overall be allowed from these calculations. And the project—and this is important—the project has been designed to allow, so the density deprived from the Commercial Zone is spread out over the entire property instead of confining it just to the area in that particular zone. We believe this provides a better project and is more consistent with the Cluster Development which is allowed in the R&A District.

In addition, we include an Articles 275-21B(3)(c) to allow the proposed density for the project, we submit that the two sections, 33B and 21B(3)(c) are substantially the same for purposes of the zoning ordinance. Now just before I get into the variance criteria, Ms. Hebert in her staff report, was correct in saying that we state on our application that the ordinance contemplates allowing shifting of density from one district to the other, but only where they're allowed. And in this instance, the cluster is not allowed in the Commercial. That's true, but that that is why we're here tonight, for the variance to allow this density. And at the end of the day, this density—I was just doing some quick math—the 54 units divided by 26 acres. We really have just under half acre per unit with this proposal. So, with municipal water and sewer, we think this is a reasonable proposal to present to this Board.



**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

As for the various criteria, the public interest, although a greater density than what would be allowed in the R&A District would be allowed on its own, due to the isolated nature of this property, we will not be altering the essential character of the neighborhood. Further, our project is designed to act as a transition between different commercial and residential users.

**(2) Whether granting the variance would threaten public health, safety or welfare:**

Further, with respect to public interest, all the buildings will have fire suppression systems. The roads will accommodate police, fire and ambulances. We will be providing a secondary emergency access. We see no impact on the public health, safety or welfare with respect to the public interest.

**2. The spirit of the ordinance is observed because:**

The spirit of the ordinance is observed because, as I mentioned, the ordinance contemplates shifting densities where Cluster Residential Development is located in more than one district. We recognize that the cluster is not allowed in in the Commercial, but again, that's why we're here tonight. Rather than cram all the possible units into the Commercial portion of the property, we are spreading out the project to take advantage of the Residential and Agricultural land. Again, we are not altering the character of the neighborhood or injuring any public rights with the proposed density.

**3. Granting the variance would do substantial justice because:**

With the substantial justice, as I mentioned at the outset, we had many meetings over months with staff. During our discussions with staff, it was suggested to us that the conventional 14-lot subdivision on the R&A portion of the land was under utilizing the property, and we agree with that. The 55-plus housing remains in high demand. The density proposal presents a reasonable use of the 26-acre site while providing much needed housing stock.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

The values of our neighbors will not be affected because, again, to the north and east, the isolated project abuts Bedford High School and the Bow Lane Apartments. To the south and west, we have significant land buffers to our property a result of County Road and Riddle Brook. We see no negative impact to our neighbors on Kennedy Drive, Wallace Road, or the Bull Lane Apartments.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

And as to hardship, the split zone lot presents special conditions such as shifting the Commercial density to the balance of the R&A, makes sense for this site.

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

No fair and substantial relationship exists because forcing 66 units onto the smaller CO portion of the lot does not make sense considering the amount of R&A land available. Our project spreads out 54 units on the entire site. There is no fair and substantial reason to prohibit the proposed development where we meet the general purposes of the zoning ordinance.

**(ii) The proposed use is a reasonable one because:**

And finally, other than the high school we are surrounded by residential uses. Residential uses are allowed in the R&A District, and we respectfully submit we are proposing a reasonable use of this property.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

Chair Morin said all right, I'll start with this one. So, in the first piece, Part B, talking public safety, health and welfare. After watching your presentation to the Planning Board back in December, there were a lot of questions about how the Fire Department and Police Department weren't quite up to speed with your ideas. Since that meeting, have you met with the Police Department and Fire Department to go over any of your plans and if so, what has been discussed? Because that's public safety right there. Atty. Prolman replied we have not had any meetings with fire or police since that time. We did have many meetings over the course of last summer, and while some comments are made at the public hearing with the Planning Board, we have not been flagged by the Police Department or the Fire Department directly on this. There's a subsequent variance request for the sake of the road standards from the Road Department. We're not aware of any issues there. With an emergency access that will be provided to the site, we're confident that we can meet concerns with the Fire Department and the Police Department.

Chair Morin asked where is that emergency access going to be? Mr. Cole replied we anticipate there being multiple means if the Fire Department wanted them. I believe that the access that they're going to be looking for is in through here, which we already have an easement. And it would lead out to the easement that was secured out onto Bow Lane in through this area, out through Chestnut, actually. As with every kind of project, this is the kind of first step is to getting you guys. We had the luxury of going to the design review with the Planning Board and getting comments from engineering and outside third-party engineering planning, the Fire Department and the Police Department. Leaving here today, we've got a lot of work ahead of us to work with them to make sure that they feel the project has met their standards, and we obviously have to do that in order to get through the next process. Having the comments prior to the Zoning Board is somewhat unusual, although very beneficial. So, we do plan on meeting with the Planning, Police, and Fire to kind of go through all of these concerns and make sure that they're relieved before we head forward with a Planning Board application. Chair Morin said the problem with that is that this is one of our areas of concern. We're responsible, as part of a variance, to worry about the public health, safety and welfare. And if we don't know what that is, it doesn't help us make a decision. So, for that emergency access, so basically a road would have to be built there. Mr. Cole clarified a fire lane, 20-foot wide. So, something you guys have been talking about through the first two

is the amount of buffer on that side of the property. But in actuality, that buffer is going to be decreased by however wide that road is, and probably more because it's going to go beyond the road? I'm just asking the question. Mr. Cole replied in theory, correct. There is more than 100 feet in a lot of areas of that buffer, and there is the ability to shift some things. But yes, in theory. Atty. Prolman replied I'm not sure you can see it on this plan, but there is an easement access there today. Maybe we have another plan that can show that better? That emergency access is on record. Chair Morin said well, it's on record, right. I understand what you're saying. Atty. Prolman said we have to build it, but right it's there. Ms. Hebert said there may be a zoning issue with constructing the roadway in a parallel fashion through the buffer rather than crossing the buffer. Just something that we need to consider. Atty. Prolman replied well, again the point is we recognize that we will need a second means of egress out of this site. And there's one there today. If that has to be shifted to another location, we can do that. But we fully expect to have to provide that to the Fire and Police. Ms. Hebert said and to clarify for the Board, when we received the design review application and the concept plan for the 14-lot Cluster Subdivision, the Town's Technical Review Committee reviews those applications and provides comments to the applicant's engineer. So, as part of those reviews, the Police and Fire were part of the technical review team that reviewed the applications and Mr. Cole did receive very specific comments from the Fire Department, one of which was that they would like to see a second means of access to the development. Chair Morin asked do you know if there were issues with the roadways inside the development, Ms. Hebert? Ms. Hebert replied the Department of Public Works did not have any issues. Chair Morin asked how about the Fire Department? Did the Fire Department feel comfortable that they could actually get in there? Ms. Hebert replied I believe they did, and they had reviewed—you submitted, turning templates as part of the Design Review application and the configuration or layout of the road was not an issue with the Fire Department. The site does benefit from having municipal water, which allows for the units to be fully sprinkled and for fire hydrants to be sited throughout the development. The Fire Chief was not concerned with fire protection, more concerned with emergency access should Bow Lane be blocked or be difficult to get into the development. Mr. Kellermann asked not only could they, they would be required to have sprinklers, right? Ms. Hebert replied they're required to have sprinklers per zoning, yes. Atty. Prolman said just hit that point, we are committed to providing a second means of access. Chair Morin said OK. Anybody else with questions on this?

Mr. MacPherson asked also on the safety issue and it's a very, very important issue. And we're saying that we have a community of 55 and older people by name, but by the people who will be driving to and from the Bow Lane complex, they could be 55 or 60, 65, 70. You were talking about maybe people going to Florida or wherever, but a lot of people are retiring later and they're remaining active, and they have to drive in and out of such a complex. The only way those people, and you've got 54 people—or probably double that or more—they're going to have to go down Bow Lane, down to Chestnut to 101. So, you're getting more and more density and you'll get creating more traffic into that area. I see that as a safety issue. Atty. Prolman replied what we find with these 55 and older developments is that the individuals are older and a lot of them are retiring, but they still have cars and they're very active. However, when we're looking at traffic and we're analyzing intersections, we're analyzing peak hour events. The time of the day where most people are out and about to cause a potential issue. What we find with these developments is they don't leave during those times. They're not up at 7:00 o'clock going out in the errands during the busy times of the commute. And that's what the traffic numbers would prove is that a lot of these elderly developments have reduced traffic amounts because the people just don't leave at these times of the day where traffic is highest. They go out later when it's just not as busy. And the traffic study does prove that which we will have to do as part of the Planning Board. Mr. MacPherson said that's an assumption. You don't have any fact. Mr. Cole replied in order to do a traffic analysis we have to use published data from ITE, which is a trip generation that is taking data from all over America based on all

these different types of developments. As with every traffic study, we have to compile the data that is proven. That's what goes into a traffic site to make sure that it is a safe intersection. Mr. MacPherson said again, people are retiring later. You say 55 or whatever, well, a lot of people now have to continue their employment till 60 to 70 or whatever. I'm not too comfortable about that, but that's the case. And that area of Chestnut to 101 can be a very difficult place to go, especially if you come out of Chestnut onto 101 to take a left. That's serious, in my opinion. I think it's something that we really have to be concerned about. Mr. Kellermann said going off the traffic because you mentioned the ITE studies, so you, in your report, say that in the evening hours that a family detached housing unit generates .99 trips per unit, whereas the senior adult housing only generates .26 trips per unit in the evenings. So, you only mentioned the evening. How about other times during the day? And maybe put different way. Are there any times during the day when the elderly housing would generate more trips? Mr. Cole replied I don't know off the top of my head. The peak hour out there without a full traffic study, we may not necessarily have the exact peak hour of that intersection compared to when the peak hour of elderly... Mr. Kellermann said you put it in the report, right, so you must have looked at the evening hours. Did you look at the other hours? The morning hours? Mr. Cole replied off the top of my head, I don't know the exact a.m. peak hours and how they compared.

Vice Chair Casale said so, to piggyback on that, you have not done a full traffic study even though you're coming before us and one of our criteria is to judge whether this project is going to be safe, not affect the welfare of the people, and get stuck in traffic. So, you have not done that study yet? We're just going off of ITE, one source, but nobody's done anything official? Mr. Cole replied correct. A full traffic study for this specific development at that intersection has not been completed. Vice Chair Casale replied OK. And you understand that this is becoming an issue with Board members? This is probably important, OK. Planning staff, in regards to the yields for the commercial property and their use of the 66 units, in practice, do they stick with the maximum number of units even though the yields, like in this case could be half that if not more? So, they're using this—now they're under the combined ratio anyway, but they are throwing out that this small 2 acres can hold 66 units, which would be impossible. What historically, if you know, have they gone by? Are they able to go by that maximum figure, or what's actually reasonable? Ms. Hebert replied the 28 units per acre is very high. We don't have any developments in Town that reach that density. It's very liberal in terms of density for a housing development. And this particular project, we don't have a yield plan. So, I can't say whether or not that density would fit on site. A structure, if it were a multi-level apartment building, couldn't be taller than 48 feet. It would be 4 stories and would need to meet the setbacks for that, that zone and that district. Vice Chair Casale said right, it would be tough. So, what I'm wondering though is do we have to go by the 66 or can we go by probably it's a guess, but do we have to go by the 66? Because they keep throwing that number out. Ms. Hebert replied sure, the 66 is the maximum that would be allowed, right? Or it was 80, actually. Well, combined with the cluster. Vice Chair Casale said but as they stated, although there is no yield plan that supports this density, acknowledging that yes, you can't put 66 units in there, do we have to go by the 66? Ms. Hebert said does the Zoning Board? No. It is what the calculation in the zoning would permit if you could meet all of the other dimensional and layout specifications. Mr. Casale said but that's what I mean. We have to use 66 even though everybody knows you can't stick 66 units in here. In other words, is their calculation.... do we have to go by their calculation? Ms. Hebert replied if they could fit a building and parking to support 66 units in the triangular area of land that's zoned Commercial, you'd need to go by that. The Town would need to acknowledge that density. Vice Chair Casale said right, but we don't have to acknowledge it because we don't know that it'll fit 66. Ms. Hebert answered you don't have a yield plan, yes. Mr. Casale said yes, OK.

Mr. Casale asked to either the attorney or Mr. Cole, on the 5th prong, regarding the unnecessary hardship: you're testimony is that the hardship is that forcing 66 units onto the smaller Commercial portion does not "make sense." So, make sense does not an unnecessary hardship make, so is there something else that you can provide that would better support, at least in my opinion, the hardship. Because making sense is not a hardship. Atty. Prolman replied well, don't forget that we begin this whole analysis with a split-zoned lot. Which this Commercial District appears when it was zoned, it wasn't given consideration to the lots themselves, but it looks to be about 200 feet or 300 feet coming off of Route 101. So, it splits not just our lot, but neighboring lots. It's unusual in that regard. And so our point is, however many units we get on to the Commercial District, it makes more sense to us. It's a better project spreading that out over the entire land that we have available than to push it onto just the Commercial District. Vice Chair Casale asked but what's the hardship? Atty. Prolman replied again, the hardship is we have a split-zoned lot. We have a very unusual lot, and with a split-zoned lot, however many there are in Town, that creates a unique circumstance for us to work with. The language and the hardship criteria is that we have a unique circumstance, and with respect to that because we have different zoning codes allowed in the Commercial. We have different zoning codes allowed in the R&A. And so we believe that there's no fair and substantial relationship to prohibit our use. Given this lot, it's an unusual island of a lot that's split-zoned, there's no fair and substantial relation to prohibit our proposed development as opposed to just pushing it all into the R&A District or all into the Commercial District. Mr. Casale continued so, but this variance is for the density. Atty. Prolman replied correct. Mr. Casale asked so, again, how does the fact that, well, you know guys it makes more sense to stick it here than it does 66 units there. How does that support a hardship on the Residential lot for stuffing in there 54 units? Atty. Prolman replied well, I know I'm just going to keep repeating myself, right? Mr. Casale said yes, well, I guess I have to keep repeating myself. You're just saying, hey, guys, it just makes perfect sense, which I don't necessarily blame you. But it doesn't support your hardship. Atty. Prolman replied look at the language of the hardship criteria. What I read is 3 components. You have to have something unique about the land. And then you have the relationship test being the fairness of it, substantial relationship test, then are you proposing something reasonable. And we believe we meet those criteria. We have a unique piece of land. We don't believe there's a fair and substantial reason to prohibit moving the density from the Commercial to the Residential land. And we believe we have a reasonable use. Vice Chair Casale replied OK, thank you.

Mr. Gilbert said I just want to understand when and if you build this, you only have one way in and out, so all your heavy equipment is going to come down Bow Lane, to and from, right? Atty. Prolman replied yes. Mr. Gilbert asked how is that not a hardship on the people who live in the apartments while you're doing that? Because I know what it took to do that development. Atty. Prolman replied Sir, on that, I would suggest that was contemplated by the parties at the time who hammered out that access easement. That access easement anticipated that the Dumas property would be developed. It would be developed using Bow Lane. Mr. Anagnost and the Dumas family signed off on that and so that's no surprise to that property owner. Mr. Gilbert said it would be a surprise to the people living in those apartments. Chair Morin said but unfortunately, they don't own the property. Mr. Gilbert said they don't own the property. I agree. I'm just throwing it out there.

Chair Morin said let's move on to the next one.

Atty. Prolman said Chairman, if the Board would indulge me, if I could take up what's in item 6, which is the road standard, as opposed to the group transit services? Chair Morin said yes.

6. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article V, Section 275-32H to allow a 54-unit, elderly housing**

**development (55+), to be served by a private road that does not meet Town road standards where roads in Cluster Residential Developments are required to meet Town road standards, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

Atty. Prolman continued with the road standard criteria, we are requesting a variance from Section 275-32H, which requires that private roads, and the project like ours tonight, meet the Town road standards. We are proposing a project that does not meet the Town road standards in three respects. We have a narrower roadway than what is required. We have a reduced speed than what is required. And our corners are tighter on Bow Lane than what is required. And this, I'm going to ask my friend, Brent Cole, to weigh in on that. But getting to the criteria of variance. But before I get to that, the reason for this is a 55, an elderly community. We're trying to slow traffic down. The proposed changes to the road standards act as traffic calming. We believe this would be seen as an overall amenity to the owners of the condos in this project.

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

As to the variance criteria, the private roadway, which is actually essentially a private driveway coming off of the Bow Lane, is all internal to the project and will not alter the character of the neighborhood.

**(2) Whether granting the variance would threaten public health, safety or welfare:**

The road is designed to accommodate Police, Fire, and Ambulatory vehicles. There would be no threat to public health, safety or welfare that we can see.

**2. The spirit of the ordinance is observed because:**

The spirit of the ordinance is observed because road standards are designed and intended to ensure safe travels for vehicles and pedestrians. Reducing traffic speed and paving widths, access traffic calming devices for the elderly residential community, the roads within the project are designed at 20 miles an hour standard. That meets AASHTO (American Association of State Highway Transportation Officials) guidelines. Our roads will be as safe, if not safer than any in Town, thereby maintaining the spirit of the ordinance. Further, section 32H contemplates the ordinance itself, contemplates some modification allowances by the Planning Board, not in this instance, but it's very much akin to a waiver regulations, which is more typical for roadway widths and speed and corners and things like that.

**3. Granting the variance would do substantial justice because:**

Substantial justice would be granted because the roadway is designed and intended for an isolated, self-contained community. There will be no cut-through traffic, which could require compliance with Town design. We are minimizing impervious areas with reduced road width. All this is contemplated with no harm or impact to the general public.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

Property values - a reduced road width and a 20-mile-an-hour speed limit will not impact our neighbors' property values.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

The hardship criteria is that given the unique nature of this property, with an isolated community cut off from any other Town roads justifies reduced speeds and road widths.

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

As the first part of the unnecessary hardship, even with the reduced speed and road width, all public and private service vehicles will be able to access the entire roadway. If the project is connected to other Town roads, we would not be making this request, but because of the isolated nature of this community, we see no fair and substantial relationship between the general purposes of the ordinance with respect to the Town road standards and prohibiting the proposed roadway.

**(ii) The proposed use is a reasonable one because:**

And again, we have a reasonable use. Other than the High School, we are surrounded by residential uses. We have no cut-through traffic. Residential uses are allowed in the R&A District. Maybe Mr. Cole could chime in as to his design of these roadways. Mr. Cole said so, when we design a development like this, we try to pick a speed that is consistent with the development. For a project with a 55 and older, would tend to be a 15 to 20 mile an hour range, which is going to decrease the curbs out there. A very underrated traffic calming mechanism is actually the design of the roadway, not your typical speed bumps or signs or things like that, but it's actually the design where a driver is going to feel uncomfortable if they go any faster. Having narrow roadways and not large highways and having tighter turns so that the person actually has to slow down, actually creates a safer development. Whereas your Town road standards are designed to 35-40 miles an hour because they may be cut-through roads or traffic goes faster than that. But traffic can't go faster than that out here. It's a closed road. It has tight curves. They all do meet the AASHTO standards, so nothing deviates from any of the published data that says a 20-mile-an-hour speed limit should be designed this way. Everything meets the current code, and that's why your DPW director had no issue with the design. Atty. Prolman commented and you don't see it on the plans, but when we get to Planning Board, we get to plan details, the pages and pages of plan details, there will be posted signs on our traffic loop saying 20 miles an hour.

Chair Morin asked are there any questions from the Board on this?

Vice Chair Casale asked for Planning Staff, because it is a private roadway, I think some of this is less important. But the 24-foot pavement width: do you know what the reasoning is behind that? So, they've mentioned a few things like Police, Fire access, et cetera, but is the reason that they have the 30 feet because of a concern of there's more accidents on a narrower roadway even though it's a lower speed? We have older people. Is it safer for bikers? Is it safer for pedestrians? Ms. Hebert asked for 24 feet? Mr. Casale said no. For why the Town wants 30 versus 24. Ms. Hebert said 24, I think, or are you saying 30 for a commercial driveway? Mr. Cole said your regulations do state 30. I do believe that your DPW director is allowing Town roadways to be 24 feet wide now. Ms. Hebert replied yes, we do allow Town roadways in rural areas to be 24. Mr. Cole said 30 is a very, very wide roadway. Ms. Hebert said 30 is very wide. It's too wide for a development with this type of compact development, walkable community.

It encourages higher speeds to have the wider pavement. Mr. Casale said OK. Atty. Prolman said and don't forget we have sidewalks all around on this this side. Mr. Casale said yes, not everybody uses them, but that's for another day. I'm good. Thanks. Chair Morin asked, anybody else on this one? There were no further questions.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

**5. Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(2)(d) to allow a 54-unit, elderly housing development (55+), to not be served by group transit where such service is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

Atty. Prolman said Mr. Chairman, our last request to the Board is from Zoning Ordinance 275-21B(2)(d), which requires, among other things, group transit services to be to be provided for elderly housing. With this application to the Board, we are requesting that we not be required to provide group transit services.

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

Hitting our variance criteria with respect to the public interest, the first portion, whether or not our 55 plus housing project provides group transit services will not alter the character of our locality.

**(2) Whether granting the variance would threaten public health, safety or welfare:**

Likewise, not providing group transit services for members of this 55 plus housing community will not threaten the public health safety welfare of the Town.

**2. The spirit of the ordinance is observed because:**

Spirit of the ordinance: New Hampshire case law advises that the spirit of the criteria is similar to the public interest criteria in that we look to whether the public rights could be harmed, or we alter the character of the neighborhood by granting the variance. That is not the case here. We note that the elderly housing ordinance was adopted by the Town in March of 1993, which is 30 years ago. This is pre-Uber, pre-Lyft, pre-Delivery Economy. Group transit services may have been necessary in the early 1990s when there was no transportation or lack of cabs to hail. We submit that is not the case today. Perhaps in the early 90s, a project like this would need a bus or a van to go to Jordan Marsh, have lunch at the Wayfarer, but that that is not the case today. We can Uber to the Copper Door.

**3. Granting the variance would do substantial justice because:**

As to substantial justice, requiring the condominium community to provide and maintain group transit services will only jack up the monthly condo fees for an unnecessary service. Granting the variance would be a benefit to the members of this community with no adverse impact to the Town.



**4. The values of the surrounding properties will not be diminished for the following reasons:**

We see no possibility of the surrounding property values being impacted with a lack of group transit services.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

And finally with the variance hardship criteria, applying a 1993 ordinance to today's ubiquitous ride sharing apps and delivery fleets creates an unusual circumstances where group transit services are simply not needed or desired today. Given that the residents of our community can easily get anywhere where they need to go, we respectfully submit that we satisfy the general purpose of the zoning ordinance, and there's no reason to require group transit services for this project.

**(ii) The proposed use is a reasonable one because:**

And finally, we would not be making this request in 1993, but today group transit services are an anachronistic requirement. Members of our community have ample, reasonable alternatives to access Bedford and our surrounding communities. I'm done. Thank you. I'm happy to answer your questions, Mr. Chair.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

Chair Morin said I just have a quick comment on what you said before you get going. I was thinking more of the Jordan Marsh blueberry muffin, but there's not enough people that might remember those. I've been in Town a long time. Vice Chair Casale said I was the store detective there. I used to walk around that thing many times. Chair Morin said all right. Any questions by the Board on that application? Seeing none, let me get some paper out. All right, so at this point, I'm going to open it up to the public. What I'll ask is that you step up to the microphone, give me your name and the address and then go on with your items that you have for us, OK? And please, everything is towards the Board. Thank you. Go ahead, Sir.

**PUBLIC COMMENT:**

**Mr. John Van Uden of 49 Seton Drive, Bedford, commented.** The name is John Van Uden. I live at 49 Seton Drive, and I go back to 1940. And to me, elderly is a joke. I'm 88. I was working pretty damn hard at 55, all over the country. But that's neither here nor there. I think these guys have got something going, but in the wrong direction. When I first heard about Dumas's property, I thought back years and years ago when he first came out here. He came out here, and he had some cattle. He was very proud of his cattle. He built a big barn, and I said, my God, you know, we're not going to see the barn anymore. I didn't know where this thing was going to be built or what it was all about. But I was disappointed. But

being disappointed also has an avenue to go forward. I've been living here for over 50 years. But I go back to 1940, clearly. Because I stayed here at the Pollock property and the Wiggin property. I've been all over Bedford by foot, hunting. And the idea of preserving the land is an important project for you guys. And to be careful. And is also careful to the protection of the people who live here, who pay taxes. I see this to be a problem for taxes for the people who live here in Bedford. But I was looking at this because I'm looking to downsize a bit. And I got kind of interested in in what was being presented. And I was going by Wallace Road daily, so to speak. Not at night, but daily. And I looked at the property as I drove by and wondered on what side of the road are they going to build and what are they going to build and what is it going to look like? Elderly people want to be on one level, guys. They don't want to be in a two-story house. And I wonder why we have 54 elderly housing developments. And then there's 14. But then I hear 81. I hear Commercial. Maybe I'm a little stupid, but I don't see Commercial here. But, let's go back to 101. Route 101 is a hazard. It has traffic galore. I estimated probably over 30,000 cars a day, let alone the trucks that go by there at 60 miles an hour. And just recently at the TD Bank, that roadway going in has been narrowed. There's an island between it, in and out. And when you go across 101 to get out of there, if you're going southbound to Wallace Road, it's a traffic hazard. And you're right, there are accidents coming, and more coming with fatalities. And when the property was being built by Anagnost, there were surveys done and studies done about getting in and out of there. Well, if you don't drive over there, you have no idea what it's like. You take your life in your hand when you go out. And to say that an elderly person is safe in that situation is wrong. I almost got hit by a snowplow this morning. You know why? Because the lights are too high. And if you're looking, you're not looking up in the sky. That's an example of what I'm trying to tell you about elderly people. To have a one-way entrance into a property is out of the question. People want to go in different directions so they can avoid traffic. Do some studies on people, and you'll find that people are happy go lucky. They don't want to worry about things. Is this a good project? No. It's not a good project. First and foremost, you're going to have to bring water and sewage and gas in. Who's going to pay for that stuff? The people of Bedford. And you have Route 101. That should limit building any more in that area. Find another road into that property, or don't do anything. I've been here for well over an hour. I don't come here very often. But you know, when I come, I speak from the heart. I'm for Bedford, but Bedford has changed and it's not changed for the good. To have people go in and try to get out is like asking them to die. Thank you.

Chair Morin said thank you, Sir. Anyone else?

**Mr. Knute Klefos of 25 Kennedy Drive, Bedford commented.** Hi, I'm Knute Klefos. I live at 25 Kennedy Drive. I'm one of the abutters to the property. Listening to concerns about 101 and the traffic, it is a concern. But I have some family that lives over at the Vineyards in Stratham, and I'm not sure if you're familiar with that development, but its three apartment buildings, and its 77 single family homes with one main entrance and exit. I believe there's an emergency road as well, but the traffic there is surprisingly light. You know, they've been there, what, 16 years. And because traffic is spread out through the day, we don't see much traffic coming in and out of that property. It's by a school as well. It's a similar setup as this, and that would be a good development to take a look at to see what the impacts are. Very similar, but traffic has never been a problem there. We just spoke with my brother-in-law about that, and he was saying, in their 16 years they really haven't seen any traffic problems. These people aren't going to work first thing in the morning. It's spread out. They don't take the amount of trips to the store or to take kids to practices or those kinds of things that families do. So, I think you'd be surprised when they do the traffic studies that the impact will be a lot less than the previous gentleman was talking about. We are, of course, in favor, being on Kennedy, Drive. We're very much in favor of this development, and think it makes sense. It makes sense for everyone in our neighborhood. The buffering and we've tried to work with the people developing to see that it was fair to the neighborhood, and we think it's a good thing. We

think the 55 and up community is a great idea, very much in demand in Bedford and so we're for it. Thank you. Chair Morin said thank you.

**Mr. Phillip Smart of 11 Hamilton Way, Bedford comments:** I'm Phil Smart and this time I got my address right, 11 Hamilton way in Bedford. Obviously, we came in protest for the previous proposal going through our neighborhood. We've worked with the Dumas's and Paul and talked to them extensively about this project. We feel obviously for us it's a benefit because they won't be coming through our neighborhood with trucks and trains and whatever they're going to bring in there. And as far as the Town, I believe we're going to get a significant tax benefit from the Town without the school problem. Because these people are going to be 55 and older. They're not going to be 88 years old because they're two-story townhouses. People 88 years old are not going to buy two-story townhouses because they're not going to be able to go to the second floor. Like I said, we're very much in favor of this. I think it's an add to the residential stock for the Town of Bedford. It'll be by Bedford terms, affordable as about affordable as it gets, and I think it does everything that the Dumas's need in terms of it's their land. They have the right to develop it. I think this makes a whole lot of sense for them. I'm kind of the de facto representative of the neighborhood, I guess. And so we're very much in favor of this project, and I see no reason to deny the variances for any reason at all. Chair Morin said thank you.

**Ms. Susan Fullenwider of 257 Wallace Road, Bedford comments:** Hi my name is Susan Fullenwider. I live in Rye, NY, but my brother and I own 257 Wallace Road. My mom passed away this past year, and as of this year, we are now the property owners. We did not get a letter about this Zoning Board meeting. I just have gotten to the point I check every Planning Board. I check the Zoning Board. I check religiously to see what's on the agenda. So, as of today, I drove up from New York. I went to the Town Offices and got all the information from Ms. Hebert's office. Otherwise I would not have had it. Whatever they were using for distributing the registered letter, it's sitting in Goffstown where no one's going to get it. My brother lives in Texas, and he could not be here tonight. We're very much in favor of elderly housing. My mom was able to stay at her property till she was 88 years old and much of what enabled her to stay there was her ability to go across the street to 256 and get everything that she needed. That with French Marketplace served her into her elder years very, very well. Older people need to walk. They might still want to drive, but I can tell you the best thing for the elderly is to walk, and if they can walk to whatever they need to get to, it's a really good thing just to keep them moving and to get them socialization. I guess my point is, I feel like in the last five years I've become a resident expert on elderly care and assisted living and everything else that exists in Bedford just looking out for my mom and where she was going to go. There is great need. We're sitting on 16 acres. It's zoned commercially. My family and all my kids are in New York City and California. My brother's family is all in Texas, and it kills me but after 4 generations of Frenches, I don't think we're going to be holding on to this property forever. There's a very good likelihood if I had my druthers, there might be more elderly housing, assisted living, whatever it is someday at 257. My mom just passed just about a year ago. We are not anywhere close to where the Dumas's are. We're just starting to sort through what our plans would be. We've had some very beginning discussions with the developer about elderly housing. But I'm not a developer, and I'm not going to be a developer. My one question is I understand this little sliver up there of the Commercial Zone. What exactly, since our piece, it's like the middle section that's really next... it was hard to see from the back. It's the middle section that's catching on to the left corner of what they're putting in that Commercial Zone, which sounds like mailboxes and visitor parking. Am I correct? Chair Morin said correct. Ms. Fullenwider asked is that going to be completely impervious like so that water just bounces? Riddle Brook is right there. And I guess I'm kind of wondering what's—it's hard to tell from our property. We've got so many trees. We have not taken down any trees. I don't really know what it's going to look like if there's still trees on their side of the property. Have they already taken them down? Or what's our view from

our property going to be looking at wherever the mailbox is, and the visitor parking is going to go? Chair Morin asked Ms. Hebert, can you help out with that at all? Ms. Hebert said sure, so, I can tell you the visitor parking and the pickleball courts are on the opposite side of the road from your property. Ms. Fullenwider asked they're on the right side? Ms. Hebert continued so, that would be advantageous from your perspective to have them be on the left as you drive in rather than on the right. A tree buffer? Is that what the question was about the tree buffer? Ms. Fullenwider said yes, I guess. It's very hard to tell from our property because we haven't touched—we are all trees. So, I'm just wondering what's on the other side of the brook, below Bow Lane. Are there still trees there, or? Ms. Hebert replied there's 100-foot required vegetative buffer around the entire perimeter of the proposed development, and so that would protect Riddle Brook and the vegetation immediately along the shore of Riddle Brook. Looking at the aerial photo here, your property shares Riddle Brook as a boundary, so you also have wetlands that extend to the west from Riddle Brook towards your property. So, that would create a natural buffer for whatever future development might happen at the corner of 101 and Wallace. Ms. Fullenwider asked but the natural buffer will be on both sides of the river? Ms. Hebert replied correct. Ms. Fullenwider said all right. That's really all I have to say. I mean, I do think that elderly housing in any capacity is really important for Bedford.

Ms. Hebert said I do want to just clarify that abutters' notice was sent, but it was sent to the estate address where the tax bill is sent, which is legally where we need to send the abutters' notice. And the applicant certifies the abutters' list days before the mailings are sent. Ms. Fullenwider said I know it was. Which I was confused about because December 7th was when everything was deeded out. Ms. Hebert said so, they verify the address in our assessing records and that's the address that we use to send the abutters' notification. But we do know you're following this development, and we can reach out to you by e-mail and you can have your mail that is being sent to the address where your tax bill is being received, forwarded to you. But we'll work with you on that. Ms. Fullenwider said I left them a letter today, so they know exactly where to find me. Ms. Hebert said OK. All right. Thank you. OK all right. Thank you. Sorry about that.

Chair Morin asked is there anybody else? I'm just going to make it known, we did receive 4 emails from residents on Kennedy Drive. That would be John Webber. And these are all in support of the project. Margaret Puglisi, McConnell or O'Connell, let's see, and Kyle McLaughlin and Armand and Mark Boisvert. We did receive those also, and those are in the file. Do you guys have any comments or anything from what was put out?

Atty. Prolman said I have a comment with respect to traffic and the turning movements on to route 101. Mr. Cole may speak to Ms. Fullenwider with respect to the buffer in there. With respect to the traffic, we know that we have to address any mitigation concerns that the Town will have. We know we can't create a safety hazard by proposing this. For example, the Bow Lane Apartments was recently approved, built out. They had a traffic study done by VHB and Steve Pernaw and there were certain mitigation measures recommended by VHB and Perimount, which were done as part of that. We'll be doing the same thing. We'll be doing a full traffic study, mitigation measures working with the Town to address that. Again, we do not see the traffic generated by the units being proposed are going to be a great impact to AM or PM peak hours, but we will be addressing those in the normal course be it extending the travel pockets for turning lanes, adding width to Chestnut—whatever the case may be. We're not overly concerned about that because we know our traffic counts are not going to be very high. We will be addressing the traffic concerns and I don't want it to be a safety concern for this Board. Other than that, Mr. Chairman, we thank you for your time. We appreciate your indulgence in a long presentation. Chair Morin said thank you.

Any last questions before we get going? There were none. Chair Morin said all right. So, we'll do these in order and one at a time.

**MOTION by Vice Chair Casale to move to nonpublic input for deliberation. Mr. Gilbert duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

Chair Morin said the first item is for the frontage:

**2. Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(2)(b)[2] for a proposed 54-unit, elderly housing development (55+) on a tract of land without frontage on a Class II, IV, or V roadway where such frontage is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

Chair Morin said we're dealing with frontage only on a public road. Vice Chair Casale said no. Chair Morin said I don't see it either. I don't see this making any difference.

**(2) Whether granting the variance would threaten public health, safety, or welfare:**

Chair Morin said regarding the frontage, I don't, again. Consensus of the Board is no.

**2. The spirit of the ordinance is observed because:**

Chair Morin said I think it is due to the fact of where the project is. It's landlocked, and it gives them the opportunity to be able to utilize the property and dealing with frontage-wise there's none.

**3. Granting the variance would do substantial justice because:**

Vice Chair Casale said yes, for the reason you just stated. Chair Morin said yes.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

Vice Chair Casale said no. Chair Morin said I don't see that happening.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

Chair Morin said as they state, this property has no frontage. That makes it awfully hard to utilize, and they do have an access easement through Bow Lane. Mr. Kellermann said they're going to need a variance no matter what in any way. Chair Morin said yes, exactly.

**(A) Denial of the variance would result in unnecessary hardship because**

- (i) **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Chair Morin said again, there's a lack of frontage because unfortunately the property, for a frontage situation, it's not going against the town of Bedford's residents if we grant this. So, that balance balancing act, I think, works towards the applicant definitely in this issue.

- (ii) **The proposed use is a reasonable one because:**

Chair Morin said very reasonable to where it's at. Board agrees it is.

- (B) **If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

**MOTION: Mr. Gilbert moves that the Zoning Board grant the variance from Article III, Section 275-21B(2)(b)[2] to allow the development of an Elderly Housing development (55+) on a tract of land without frontage on a Class II, IV, or V roadway where such frontage is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones. The motion is supported by the following findings of facts:**

1. **The variance request satisfies all five criteria for granting relief from the Zoning Ordinance.**
2. **The Board includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision, per our deliberations.**

**Mr. Kellermann duly seconded the motion. Vote taken – All in favor – Unanimous. Motion Carries.**

Chair Morin said the next item is for the split-zone.

3. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(3) and Article V, Section 275-31 to allow portions of an elderly housing development (55+) designed as a Cluster Residential Development to be located within the CO Zone on a split zoned parcel, where the Cluster Residential Development is not an allowed use in the CO Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

1. **Granting the variance would not be contrary to the public interest because:**

- (1) **Whether granting the variance would alter the essential character of the locality:**

Chair Morin said no. Vice Chair Casale said nothing's going to change.

- (2) **Whether granting the variance would threaten public health, safety, or welfare:**

Chair Morin said for the split zone. Vice Chair Casale said no. Chair Morin said I don't see that either.

**2. The spirit of the ordinance is observed because:**

Chair Morin said it is, due to the fact that all these properties on both sides of Route 101 got this Commercial Zone thing thrown into them, and they didn't have much of a choice in the matter. I think from the spirit wise, it meets the spirit of the ordinance. The Board is in agreement.

**3. Granting the variance would do substantial justice because:**

Chair Morin said again, it's one of those things that they were handed years ago and had to deal with. It's not like they're going onto a property, and it's being made that way or they're trying to make it that way. I think that meets that criteria.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

Vice Chair Casale said no. Chair Morin agreed.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

Chair Morin said yes. It definitely has that piece of the hardship for the multiple-zoned areas.

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Chair Morin said again, that's that weighing thing, but I think the scales go towards the applicant on this one due to the fact the way the property is. The Board is in agreement.

**(ii) The proposed use is a reasonable one because:**

Board agrees it is, due to the split property.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

**MOTION: Mr. Kellermann moves that the Zoning Board grant the variance from Article III, Section 275-21B(3) and Article V, Section 275-31 to allow portions of an Elderly Housing development (55+) designed as a Cluster Residential Development to be located within the CO Zone on a split-zoned parcel, where the Cluster Residential Development is not an allowed use in the CO Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones. The motion is supported by the following findings of facts:**

- 1. The variance request satisfies all five criteria for granting relief from the Zoning Ordinance.**
- 2. The Board includes all facts found in the meeting minutes for this application and**

**incorporates all meeting minutes into this decision, per our deliberations.**

**Vice Chair Casale duly seconded the motion. Vote taken – All in favor – Unanimous. Motion Carries.**

Chair Morin said the next item is for size of the cluster, or density I should say.

4. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(3)(c) and Article V, Section 275-33B to allow an elderly housing development (55+) with a density of 54 units, designed as a Cluster Residential Development, where 14 units would be allowed in the R&A Zone, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

Before we get into these items, I want to discuss this a little bit. I think this is where we had most of our questions, and I think there are some open items out there I didn't get enough information on. I'm looking for you guys. Are you in the same thinking or? Mr. Gilbert said yes, I am. Vice Chair Casale said I agree. Chair Morin said OK. My suggestion would be go back into public input, speak with the applicant and see if they're willing to get us more information and Table this item until next month to make us feel more comfortable with this. Mr. Kellerman said I think that's the right approach. Mr. Gilbert said I think that's a fair approach. The consensus of the Board is yes. Chair Morin said all right. I'll take a motion to go back into public input.

**MOTION by Mr. Gilbert to go back into public input. Mr. Casale duly seconded the motion. Vote taken – All in favor. Motion Carries.**

Chair Morin said I don't know if you heard us there. Atty. Prolman said yes, we heard you loud and clear. We appreciate your indulgence. We will be back next month with additional information. Chair Morin said we just want to give you the opportunity to give us that information we're looking for. Atty. Prolman said I appreciate that. Chair Morin said hopefully you've got it all. If not, you can always talk with Ms. Hebert, and hopefully she saw where we were and we can get that additional information. Atty. Prolman said it's very gracious of the Board, so thank you. Mr. Kellerman asked are we tabling all of them? Chair Morin said no, just that one. I'll ask for a motion to go back into nonpublic input for deliberation.

**MOTION by Vice Chair Casale to move to nonpublic input for deliberation. Mr. Gilbert duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

Chair Morin said so, we're on number 5, the group transport.

5. **Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article III, Section 275-21B(2)(d) to allow a 54-unit, elderly housing development (55+), to not be served by group transit where such service is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

Chair Morin said I don't think not having a van would alter the character of the area.



**(2) Whether granting the variance would threaten public health, safety, or welfare:**

Chair Morin said again, I don't see it. I can understand back in the day why they did something like that. This specific one I don't see it. The Board agrees.

**2. The spirit of the ordinance is observed because:**

Chair Morin said I think it was well explained in their explanation for this piece. Talking about the different types of delivery or ride shares or whatever it might be. That does make sense in this project anyway. Vice Chair Casale said and this kind of touches on the safety issue with the traffic. I'm in agreement with those like Bob has said and the gentleman out here said, and this is a wink, wink. The traffic studies—I don't know where they were done, maybe Florida where people actually retire. But the occupants of these 55 in my experience and being over 55 myself, no one's retiring before 70, almost. The cars are in and out. Again, I don't buy the traffic studies. Just anecdotally people are out and about, and I disagree. Mr. Smart mentioned something that I didn't even consider that these are two-level homes. And as he said no one, particularly people well, you know, unless you're in Manchester, people here will be taking cars or Uber or something. But people here will be commuting who will be residing in homes like that. We're not talking about assisted living here, and particularly not with two floors. Mr. Gilbert said well, unless they work at home like a lot of people do nowadays also. Vice Chair Casale said right, that could happen. Chair Morin said I think the part that a lot of people don't realize, too, if you look at the ordinance for elderly housing, that's only one person in that residence has to be over 55. Vice Chair Casale said oh, right, on top of it, OK. Chair Morin said just be aware, it's pretty clear. Mr. Gilbert said can I ask a question of Ms. Hebert? I hate to do it this way, but do we need to maybe look at that housing ordinance? I mean, it was adopted in 1993, it's as was brought up. Ms. Hebert said yes, that's a good point. We should take a look at it. I believe it was part of the federal standards for age restricted housing. And so if you read elderly housing zoning across the board, wherever you are in the country, there's going to be a requirement for group transit. Mr. Kellermann said and my concern with that is you have elderly individuals who are in many cases on a fixed income and basically by having this group transport, you're forcing basically an increase in the condo fees, right, which they may or may not it. If they want it, they could vote for it in their condo association, but it's just increasing the cost for when you have alternative solutions. Ms. Hebert said we can certainly flag that for review for zoning amendment. Chair Morin said so, continuing on here. Vice Chair Casale said anyway, I'm in agreement, not necessarily. Chair Morin said again, we're on group transport.

**3. Granting the variance would do substantial justice because:**

Chair Morin said yes, I think it does. Looking at this specific application.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

Chair Morin said no. I don't think there would be an issue either way.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

Chair Morin said that really doesn't make much sense when we're talking about a transport. Mr. Kellermann said although you could say it's centrally located in Town, so you probably have an easier time if you do need to get a ride-sharing app than if you're up in the corner.

**(A) Denial of the variance would result in unnecessary hardship because**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Chair Morin said again, on this one it goes towards the applicant concerning some type of vehicle.

**(ii) The proposed use is a reasonable one because:**

Board agrees it is.

**(B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

**MOTION: Mr. Gilbert moves that the Zoning Board grant the variance from Article III, Section 275-21B(2)(d) to allow a 54-unit, Elderly Housing development (55+), to not be served by group transit where such service is required, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones. The motion is supported by the following findings of facts:**

- 1. The variance request satisfies all five criteria for granting relief from the Zoning Ordinance.**
- 2. The Board includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision, per our deliberations.**

**Vice Chair Casale duly seconded the motion. Vote taken – All in favor – Unanimous. Motion Carries.**

Chair Morin said the last item is for road standards. There were three standards: a little less width, a lower speed, and the radiuses are smaller due to the lower speed.

- 6. Gerard J. Dumas Family Trust and Pauline L. Dumas Revocable Trust – Request for a variance from Article V, Section 275-32H to allow a 54-unit, elderly housing development (55+), to be served by a private road that does not meet Town road standards where roads in Cluster Residential Developments are required to meet Town road standards, at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones.**

**1. Granting the variance would not be contrary to the public interest because:**

**(1) Whether granting the variance would alter the essential character of the locality:**

Vice Chair Casale said no. Chair Morin said the road is not going to do anything to that.

**(2) Whether granting the variance would threaten public health, safety, or welfare:**

Chair Morin said actually, we heard the opposite when Ms. Hebert explained some of that stuff to us.

**2. The spirit of the ordinance is observed because:**

Mr. Gilbert said yes. Vice Chair Casale said yes, for most situations in Town it may be good, but not for this.

**3. Granting the variance would do substantial justice because:**

Chair Morin said I think I put a check next to this. I think their explanation for this was very well talking about an isolated, self-contained community. Especially at the end of basically two private roads, one for the apartments and then their own. It does make sense.

**4. The values of the surrounding properties will not be diminished for the following reasons:**

The Board agrees no.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area because:**

Chair Morin said I think due to the fact that this is going to be isolated and cut off as they talked about makes a huge difference in this application. The Board agrees.

**(A) Denial of the variance would result in unnecessary hardship because**

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

Chair Morin said again, the balance scale of justice where it's teetering in the applicant's court due to the fact of where it is and how it's set up.

- (ii) The proposed use is a reasonable one because:**

Board agrees it is.

- (B) If the criteria in subparagraph (A) above are not established, explain why the property cannot be used in strict conformance with the ordinance and why a variance is therefore necessary to enable a reasonable use of it:**

Criteria not applicable, addressed in subparagraph (A).

**MOTION: Vice Chair Casale moves that the Zoning Board grant the variance from Article V, Section 275-32H, to allow an Elderly Housing development (55+), to be served by a private road that does not meet Town road standards where roads in Cluster Residential Developments are required to meet Town road standards at 227 Wallace Road, County Road, and Bow Lane, Lots 20-26, 20-27, 20-28, 27-24, and 27-110, R&A and CO Zones. This motion is supported by the following findings of facts:**

- 1. The variance request satisfies all five criteria for granting relief from the Zoning Ordinance.**

**2. The Board includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision.**

**3. The approval is conditioned on the road design meeting AASHTO (American Associated of State Highway Transportation Officials) design standards for a 20 mph roadway as presented by the Applicant.**

**Mr. Gilbert duly seconded the motion. Vote taken – All in favor – Unanimous. Motion Carries.**

Chair Morin said before we go back into public, what's the date of our next meeting? Ms. Hebert said I want to say it's March 21. Ms. Ports confirmed, it is.

**MOTION by Mr. Kellermann to go back into public input. Mr. Casale duly seconded the motion. Vote taken – All in favor. Motion Carries.**

Atty. Prolman said Mr. Chairman, again, we appreciate the Board's working with us. Seeing that many of us are still tied to the school vacation schedule, and we are all busy working in the real estate world, we would respectfully request that we continue this matter to your April hearing. Chair Morin said alright, so we will Table it to April which is April 18. Vice Chair Casale said you can have 90 days if you request it. Do you need that for the study? Atty. Prolman said well, let's stick with April 18, and if we can't hit it, we'll let Ms. Hebert know. Chair Morin said so, there won't be new letters going out. Ms. Hebert said this announcement serves as Notice to the Public, and there'll be no new abutters' letters going out unless you miss the April deadline. Atty. Prolman said sure. Again, thank you all very much, appreciate it. Chair Morin said thank you.

Chair Morin asked Ms. Hebert or Ms. Ports, do we have anything else for this evening? Ms. Ports said we do not.

**V. Adjournment:**

**MOTION: Ms. Gilbert moves to adjourn the meeting. Vice Chair Casale seconded the motion. Roll call vote was taken – ALL IN FAVOR. Motion carried.**

**Meeting adjourned at 9:18 pm.**

**The next meeting will take place on March 21, 2023.**

Respectfully submitted,  
Sue Forcier