

**TOWN OF BEDFORD**  
**March 12, 2018**  
**PLANNING BOARD**  
**MINUTES**

A meeting of the Bedford Planning Board was held on Monday, March 12, 2018 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Chairman), Hal Newberry (Vice Chairman), Karen McGinley (Secretary), Chris Bandazian (Town Council), Melissa Stevens (Town Council Alternate), Mac McMahan, Charlie Fairman (Alternate), Rene Pincince (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

I. Call to Order and Roll Call:

Chairman Levenstein called the meeting to order at 7:00 p.m. Town Manager Rick Sawyer, regular member Randy Hawkins, and alternate Monique Rice were absent. Alternates Charlie Fairman and Rene Pincince were appointed to vote in place of Town Manager Sawyer and Mr. Hawkins. Mr. Connors reviewed the agenda.

II. Old Business – Continued Hearings: None

III. New Business:

1. Andre & Cindy Garron (Owners) and Phong Huynh & Van Pham (Owners) – Request for final approval of a lot line adjustment between two properties at 48 and 52 Pinecrest Drive, Lots 20-10-23 and 20-10-25, Zoned R&A.
2. BD Real Estate Holdings, LLC (Owner) – Request for final approval of a subdivision of one parcel into two residential lots at 181 McAllister Road, Lot 2-2-1, Zoned R&A.

IV. Concept Proposals and Other Business:

3. Eddie Saktanaset (Applicant), 11 Heaven Realty, LLC (Owner) – Request for conceptual review of a site plan for a proposed 2,152 square-foot restaurant and associated site improvements at 11 South River Road, Lot 46-10, Zoned PZ. (***This application has been postponed at the request of the applicant.***)

Mr. Connors stated all of the applications to be heard tonight, including the lot line adjustment and the 2-lot subdivision, have been reviewed by staff, and it is our determination that the applications are complete, the abutters have been notified, and it is the opinion of staff that none of these applications pose a regional impact. Staff would recommend that the Board accept the new applications as complete.

**MOTION by Councilor Bandazian to approve the agenda as presented. Ms. McGinley duly seconded the motion. Vote taken – all in favor. Motion carried.**

**1. Andre & Cindy Garron (Owners) and Phong Huynh & Van Pham (Owners) – Request for final approval of a lot line adjustment between two properties at 48 and 52 Pinecrest Drive, Lots 20-10-23 and 20-10-25, Zoned R&A.**

A staff report from Mark Connors, Assistant Planning Director, dated March 12, 2018 as follows:

***I. Project Statistics:***

*Owners: Andre & Cynthia Garron, Phong Huynh & Van Pham*  
*Proposal: Lot line adjustment*  
*Location: 48 & 52 Pinecrest Drive, Lots 20-10-23 and 20-10-25*  
*Existing Zoning: “R&A” – Residential & Agricultural District*  
*Surrounding Uses: Residential*

***II. Background Information:***

*The two lots that are subject to this application were created as part of the Bell Hill Estates subdivision approved by the Planning Board in 1970. Pinecrest Drive is located off of NH Route 101 a short distance west of Meetinghouse Road.*

***III. Project Description:***

*This application involves two adjacent lots housing single-family residences. Lot 20-10-23 is 2.23 acres while Lot 20-10-25 is 1.48 acres. The applicants propose to shift the lot lines such that an equal area of land - 2,203 square feet - is exchanged between the two parcels. The boundary adjustment is being pursued to make an existing aboveground pool on Lot 20-10-23 conforming with the Town’s setback requirements (it currently encroaches into the 25-foot side setback). The adjustment will also better reflect how the lots are being utilized today, as the owners of Lot 20-10-23 utilize yard space that extends on to Lot 20-10-25.*

***Area of Parcels for Adjustment***

<b><i>Lot</i></b>	<b><i>‘Parcel A’</i></b>	<b><i>‘Parcel B’</i></b>	<b><i>Existing</i></b>	<b><i>Proposed</i></b>	<b><i>Change</i></b>
<i>20-10-25</i>	<i>2,203 sq. ft.</i>		<i>1.48 acres</i>	<i>1.48 acres</i>	<i>None</i>
<i>20-10-23</i>		<i>2,203 sq. ft.</i>	<i>2.23 acres</i>	<i>2.23 acres</i>	<i>None</i>

*The minimum lot size in the Residential Agricultural District is 1.5 acres. Lot 20-10-25 falls just short of the requirement at 1.48 acres, but the overall size of the lot will not be impacted by the adjustment. Both lots are served by private on-site wells and septic systems. The plan shows the 75-foot well protection radii for the well on Lot 20-10-25 slightly encroaching on to Lot 20-10-*

*23 as a result of the adjustment. The applicants will need to provide an easement to address the encroachment to be recorded with the lot line adjustment plan (Condition #2).*

*The applicants are requesting several waivers from the Land Development Control Regulations that are traditionally granted as part of equal area boundary adjustments of small areas of land (see waiver request section). Since the adjustment will have the effect of making both lots less regular in shape, a waiver from Section 231.1.1 (lot configuration) is also required.*

*The boundary adjustment will have the effect of making the properties more conforming with the Zoning Ordinance and better reflect how the lots are currently being utilized by the owners. For those reasons, staff has no objection with the waiver requests and the application.*

#### **IV. Waivers:**

*The applicants request waivers from the following sections of the Bedford Land Development Control Regulations (see waiver request from Bob Kilmer of Sandford Surveying and Engineering):*

*Section 218.1.11: Topographic Survey*

*Section 218.1.12: High Intensity Soil Survey*

*Section 218.1.13 Wetland Mapping*

*Section 231.1.1 Lot Configuration*

*Section 231.2.1: Lot size by soil type*

*Section 231.2.2: Minimum Buildable Areas*

*For the reason already outlined in this staff report, Planning Staff takes no objections with the waiver requests.*

#### **V. Staff Recommendations:**

***The Planning Board will need to vote on whether to grant waivers to Sections 218.1.11, 218.1.12, 218.1.13, 231.1.1, 231.2.1, and 231.2.2 of the Land Development Control Regulations.***

*Staff is recommending that the Board grant the waivers.*

***The Planning Staff recommends that the Planning Board grant final approval of the lot line adjustment plan for Andre & Cynthia Garron and Phong Huynh & Van Pham, Lots 20-10-23 and 20-10-25, Zoned R&A, as shown on the plan by Sandford Surveying and Engineering, last revised February 15, 2018, with the following precedent conditions to be fulfilled within one year and prior to plan signature:***

- 1. If the Board grants the waivers requested, the applicant should revise the plan to note the waivers granted and the date of Planning Board approval.*

2. *An easement shall be recorded accounting for the well protection radii encroachment from Lot 20-10-25 on to Lot 20-10-23. The easement language shall be to the satisfaction of the Planning Department.*
3. *All recording fees shall be submitted to the Planning Department at the time of recording.*
4. *A letter shall be submitted to the Planning Department by a Licensed Land Surveyor certifying that all boundary monumentation has been set as noted on the approved plan, or the boundary monumentation may be set and shown on the plan.*

Andre Garron, 48 Pinecrest Drive, stated I have been a resident of Bedford for going on 26 years. Tonight we do have a lot line adjustment between a property that my wife and I own at 48 Pinecrest Drive and our new abutter at 52 Pinecrest Drive. The purpose behind the lot line adjustment is to adjust the common lot line to be consistent with the way the property is being used. An aerial photo of the two properties was posted on the screen. Mr. Garron stated I think the aerial photo better illustrates it and we can show you the reason why this is being done.

Mr. Garron stated as you can see on this aerial photograph, the lot on the bottom is the lot that my wife and I own at 48 Pinecrest Drive and the one to the north of that is our neighbor's. Right above the 405.7 measurement is the area in question, and my wife and I have maintained that area for over 26 years. It wasn't until we actually had the line surveyed that we realized we were maintaining our neighbor's lawn for all of that time. This application actually started with the previous owner when we started the process but since then the land has changed hands and the new owners are here in the audience as well. Basically we are doing a swap of 2,203 square feet each to keep our lots sizes exactly the same as they are now, although I do have one correction on the staff write-up. It has that the abutters, my neighbor's lot, as 1.48 and it is actually 1.494 acres, and the size of my lot remains at 2.2 before and after the lot line adjustment. I guess as a PSA, if you ever buy a lot and you stake out where you want your house built, I would suggest that you be there when they do the land clearing just to make sure that the treeline is exactly where the lot line should be.

Chairman Levenstein asked for questions from the Board.

Mr. Pincince stated I thought in the write-up it was to satisfy a setback requirement for an above-ground swimming pool and not for land that was previously maintained. Mr. Garron replied that was kind of a secondary effect. We thought that when we took out a permit to put the pool in that we met all of the requirements because we were given a CO for the pool. It wasn't until the line was staked out that we realized that we were about 10 feet shy of where we should have been, so this corrects another issue as well.

Chairman Levenstein asked for comments or questions from the audience. There were none.

Chairman Levenstein stated I assume that the reason you are seeking the following waivers from the Bedford Land Development Control Regulations is because none of these are necessary for this application. Mr. Garron responded that is correct.

**MOTION by Vice Chairman Newberry that the Planning Board grant the waivers from the Bedford Land Development Control Regulations from Sections 218.1.11: Topographic Survey; 218.1.12: High Intensity Soil Survey; 218.1.13: Wetland Mapping; 231.1.1: Lot Configuration; 231.2.1: Lot size by soil type; and 231.2.2: Minimum Buildable Areas. Mr. McMahan duly seconded the motion. Vote taken - all in favor. Motion carried.**

**MOTION by Vice Chairman Newberry that the Planning Board grant final approval of the lot line adjustment plan for Andre and Cynthia Garron and Phong Huynh and Van Pham, Lots 20-10-23 and 20-10-25, Zoned R&A, as shown on the plan by Sandford Surveying and Engineering, last revised February 15, 2018, with the following precedent conditions to be fulfilled within one year and prior to plan signature:**

- 1. If the Board grants the waivers requested, the applicant should revise the plan to note the waivers granted and the date of Planning Board approval.**
- 2. An easement shall be recorded accounting for the well protection radii encroachment from Lot 20-10-25 on to Lot 20-10-23. The easement language shall be to the satisfaction of the Planning Department.**
- 3. All recording fees shall be submitted to the Planning Department at the time of recording.**
- 4. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor certifying that all boundary monumentation has been set as noted on the approved plan, or the boundary monumentation may be set and shown on the plan.**

**Ms. McGinley duly seconded the motion. Vote taken - all in favor. Motion carried.**

- 2. BD Real Estate Holdings, LLC (Owner) – Request for final approval of a subdivision of one parcel into two residential lots at 181 McAllister Road, Lot 2-2-1, Zoned R&A.**

A staff report from Mark Connors, Assistant Planning Director, dated March 12, 2018 as follows:

***I. Project Statistics:***

*Owners: BD Real Estate Holdings, LLC*  
*Proposal: Subdivision of one lot into two residential lots*  
*Location: 181 McAllister Road, Lot 2-2-1*  
*Existing Zoning: "R&A" – Residential & Agricultural District*  
*Surrounding Uses: Residential*

***II. Background Information:***

*The subject parcel is located on the northeast corner of McAllister Road and Suzanne Drive and stretches to the Goffstown town line to the north. The parcel borders the Cote D'Or subdivision, a 39-lot residential development approved by the Planning Board in 2001, to the east. In 2001 under a previous owner, the Zoning Board denied a variance to allow an off-premises sign on*

*the lot advertising the neighboring subdivision. There are no other Planning or Zoning applications on file for the lot.*

**III. Project Description:**

*Lot 2-2-1 is 11.52 acres and includes an existing single family home and accessory garage structure. The parcel includes a large wetland complex (including a small pond) that surrounds the parcel on its north, south, and eastern sides. The lot is reasonably level sloping gently to the northeast.*

*The applicant proposes to subdivide the parcel, such that the new lot, Lot 2-2-41, is located to the north along McAllister Road and sharing a boundary with the Goffstown town line. The proposed sizes of the lots are outlined below.*

**Area of Parcels for Subdivision**

<b>Lot</b>	<b>Existing</b>	<b>Proposed</b>
2-2-1	11.52 acres	6.41 acres
2-2-41	N/A	5.10 acres

*The minimum lot size in the Residential Agricultural District is 1.5 acres with soils-based lot sizing. Both lots meet the Town’s minimum lot size and lot size by soil type requirements. The plan also shows the lots meeting the Town’s minimum buildable area requirement with a minimum of 20,000 square-feet of contiguous space on both lots.*

*Lot 2-2-1 will continue to be served by private on-site wells and septic systems. The plan shows the well and septic locations on Lot 2-2-1 and the proposed septic location on the new lot. The new lot will be served by public water, which is available on McAllister Road. The applicant will need to secure a street opening permit from DPW to tap into the existing water line. The plan includes a note that all new underground utilities will be underground.*

*The plan shows five drainage easements for drainage culverts along McAllister Road and Suzanne Drive. The applicant has submitted draft easement language permitting the Town to enter the property to maintain the existing drainage facilities. The easement language will need to be approved by the Department of Public Works and recorded with the subdivision plan (Condition #2).*

*The plan shows the driveway apron location for the proposed new lot. The driveway will meet the Town’s 200-foot minimum all-season sight distance requirement provided that trees, brush, and other obstructions are cleared as noted on Sheet 3 of the plan. The driveway will require part of the removal of an existing stonewall. Staff would recommend that the stonewall be relocated, consistent with the spirit of Section 231.1.9 of the Land Development Control Regulations requiring features which add value to subdivisions to be preserved, on to Lot 2-2-41 where it not the maintenance responsibility of the Town (Condition #3).*

*The applicant submitted a stamped Stormwater Memorandum and Traffic Impact Statement that were reviewed by the Town's consulting engineer (see review memo by VHB). Due to the reasonably minor nature of the application, no impacts are estimated to traffic or to peak storm runoff rates. Only one minor comment related to soil calculations remains outstanding that the applicant will have to address prior to plan signature.*

#### **IV. Waivers:**

*There are no waiver requests associated with this application.*

#### **V. Staff Recommendations:**

***The Planning Staff recommends that the Planning Board grant final approval of the subdivision plan for BD Real Estate Holdings LLC, Lot 2-2-1, Zoned R&A, as shown on the plan by Keach-Nordstrom Associates, last revised February 20, 2018, with the following precedent conditions to be fulfilled within one year and prior to plan signature:***

- 1. The applicant shall address all outstanding technical review comments to the satisfaction of the Planning Director and Director of the Department of Public Works.*
- 2. The applicant shall submit drainage easements to be recorded with the subdivision plan. The easement language shall be to the satisfaction of the Planning Department and Department of Public Works.*
- 3. The applicant shall revise the plan to show the stonewall removed for the driveway apron relocated within Lot 2-2-41.*
- 4. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor certifying that all boundary monumentation has been set as noted on the approved plan, or the boundary monumentation may be set and shown on the plan.*
- 5. All recording fees shall be submitted to the Planning Department at the time of recording.*
- 6. Prior to the issuance of a certificate of occupancy for Lot 2-2-41, school and recreation impact fees shall be paid.*

Jason Lopez, Keach-Nordstrom Associates, was present to address this application for a request for final approval of a subdivision of one parcel into two residential lots on behalf of the applicant. Mr. Lopez stated the property is located on the northeast corner of the intersection of McAllister Road and Suzanne Drive, right where McAllister Road abuts the Town of Goffstown, as you enter Goffstown, so the northerly property line is the Goffstown/Bedford town line.

Mr. Lopez stated the parent parcel is 11.5 acres and has 1,339 feet of frontage along both McAllister and Suzanne Drive. The lot currently contains one single-family home with an attached garage and also a detached garage. The home is currently served by a septic system and a well. The lot slopes to the northeast. There is a pond out in the northeast corner of the property. A number of roadside culverts that drain onto the property, across the property,

through a bunch of wetland channels that all drain out toward the pond. These culverts were installed years ago when McAllister Road had some roadwork upgrades out there. The applicant is providing easements over the ends of all of those culverts; they extend onto the property now, so it will provide the Town with the ability to maintain the function of those pipes on the property. Currently we have the deeds into staff and the easement deeds are being reviewed.

Mr. Lopez stated based on the soils out here, the soils in the lot area, there is enough soils and area for three lots but the issue we got into after the flagging of wetlands was in order to gain access to a third buildable area it would require a major wetland impact and there is not enough hardship through the State to prove that, so therefore we have continued the proposal to be two lots. We will have the existing single-family home and one new proposed lot. The existing home will be on 6.41 acres of land and the proposed lot will be on 5.1 acres of land. Both lots exceed the 5-acre requirement, so therefore do not require State subdivision approval. The proposed home will be served by an onsite septic system and Pennichuck Water Works has a waterline in the right-of-way of McAllister Road, so the plan is to tie into that. At the time of building permit and the septic design the option could go either way, a well or tie into the waterline. I guess a lot of that will be driven by the cost of connecting to the waterline. We have noted that all of the utilities will be underground, the site has a driveway accesspoint, we maintain the 200 feet all season safe sight distance, and the application has no waivers. There is one outstanding minor comment from VHB in relation to the drainage design and we can make that correction. We have received the staff report with recommended conditions of approval and we take no exception to any of those items on the list. This is a fairly simple project but I will take any comments that the Board may have.

Councilor Bandazian asked are there any thoughts where the stone wall would be relocated? Mr. Lopez replied my guess would be near the entrance. I would have to talk to the owner about where they want to post that, but the entrance of the driveway.

Mr. McMahan asked on the schematic, I assume, that that rectangle is going to be the area of the house to be built? Mr. Lopez replied posted on the screen you can see that rectangle and part of the requirement is we have two boxes shown on that. One kind of has a diagonal hatch on it and that is the septic reserve area of 4,000 square feet and the other box part of the requirement is a 75 x 100 rectangular box that is buildable. The other option was a 100-foot diameter circle, and we went with the box option here. Then the gray shaded area is the 20,000 square foot required buildable area. That is the area that is set within the building setbacks available for the placement of the house. Mr. McMahan asked have you considered the watershed with the probable location of the house? There is a drop of about 10 to 12 feet right straight into the pond. Is there going to be any issue of watershed coming off the roof or other things? Mr. Lopez replied no. We don't know exactly where the placement of the house is going to be. Anywhere within that area would be acceptable in accordance with code and then just part of the construction erosion control and getting the grass growing and there will be a wooded buffer between the wetlands and the yard. Mr. McMahan stated thank you.

Councilor Bandazian asked is there a plan where the well radius is shown? Mr. Lopez replied we can fit a well radius on there but where we have the Pennichuck waterline in the right-of-way, my assumption at this point would be they would tie into that waterline. Again, the only reason

they wouldn't is if the cost comes in too great and it is cheaper to go with a well. Councilor Bandazian asked is that a detail that will be worked out with staff? Ms. Hebert responded right now there is a note on the plan saying the lot would be served by Pennichuck Water Works, so that was our assumption. Mr. Lopez stated the septic design, if they wanted to go with that option, would have to show the 75-foot well radius to meet the State requirement anyway, so at the time of the building permit if they made an alteration, that would be shown on the Town and State approved septic plan.

Mr. Pincince stated you made a comment that there was an easement to allow the Town to maintain those culverts. I am looking at the staff report on Page 2 in the third paragraph down and it says 'requiring features which add value to subdivisions to be preserved, on to Lot 2-2-41 where it not the maintenance responsibility of the Town (Condition #3).' But when I look at Condition #3, it talks about the stone wall removed and a driveway apron, so could I get clarity on that. Mr. Foote, is the Town responsible for the maintenance of these culverts? Mr. Foote replied traditionally yes. When we reconstructed that road in 2007, we simply replaced some culverts, so this is a nice way to memorialize that effort. So we did that basically then under a prescriptive right type application and this would be, like I said, a nice way to memorialize what the existing condition is. Mr. Pincince responded okay, thank you.

Mr. Fairman stated we have an email from an abutter. Mr. Connors, can you tell us which abutter that is on the map? I would assume it is the one north. Mr. Connors replied it is off from Merlot Court. Mr. Fairman asked you are not going to be doing any construction on that lot, so his comment about a tree buffer there is no reason for that tree buffer to be disturbed at all. Is that correct? Mr. Lopez replied no. Between that existing house and that lot we have what I will call a wetland channel; they can't do anything over on that other side. They would need to have a legal crossing. Mr. Fairman asked there is no reason to be doing tree buffer work on the back of either lot? Mr. Lopez replied no; that lot is already established, all the clearing and stuff would be to the lot on the left of the north. Mr. Fairman stated thank you.

Mr. Foote stated my question Mr. Lopez, I am not seeing what needs or what not needs to be done relative to the driveway, if there is a culvert that needs to be introduced there based on the topography. Can you expand upon that? Mr. Lopez responded there is no real defined ditchline out there right now. Actually their stone wall is perched up high on a steep slope that comes right down towards the edge of pavement and a little bit of a curbing there. Water just flows across. We have got the standard detail here on the third sheet and the driveway will have to be pitched away. Whether or not they want to introduce a driveway culvert there or not, the standard is there to install a culvert if they deem appropriate while they are building. Mr. Foote stated it would seem to me that when you construct the driveway, if I remember correctly from 10 years ago, the stone wall is up tight against the road and it is elevated above the road and there is not a lot of opportunity there for snow storage. Am I remembering that correctly? Mr. Lopez replied yes. Mr. Foote stated I think I am going back to the point made about stone wall relocations. It would be nice if there was some grading in that area where the wall could be removed, regraded and the wall reset. That would be beneficial to the Public Works Department if that is possible. Mr. Lopez responded I would have to speak to the owner about that. I don't know right now.

Mr. Fairman asked do you get the sight line without doing that? Mr. Lopez replied yes. In the first submittal VHB reviewed it and had some questions. I looked at it more and what I did is I slid the driveway location to the north. I was trying to keep it away from the wetlands a little more, but I slid it to the north, more toward the wetlands, and was able to achieve the sight distance without having to do the grading in the right-of-way. There would have to be some brush removal and stuff like that to obtain the sight distance looking to the left.

Ms. McGinley asked is some of the stone wall on Town land? Mr. Foote replied some of it to the north but that is not the area I have questions about. I have questions from the proposed lot line south towards Suzanne. That is the area there, if I recall correctly, and Mr. Lopez seems to agree, that the stone wall is up relatively tight to the edge of the road and it is elevated and it slopes down rather steeply from the stone wall to the edge of the road. Mr. Lopez stated it is probably about 4 foot high. The plan I have posted on the screen now you can see that the stone wall is on the property, is not in the right-of-way, but it is perched up at its highest point about 4 feet above the road. Ms. McGinley asked so it would work better for the Town to have it moved back to the east? Mr. Foote replied ideally yes, but we reconstructed the road 10 years ago and it has been like that since. We didn't have the ability at that time to remove the wall and enter private property to do what we wanted. Ideally it would be, but it has been 10 years since we did it and I was hoping that there could be some consideration for that. Mr. Lopez stated the area that we do need to remove right near the driveway entrance we need to remove some of that stone wall section and probably just relocate it maybe to the north side but I have to talk to the owner. That is one of the comments but we will come up with a place to move those stones. Ms. McGinley asked how far back are you going to move it from the street? Mr. Lopez replied that would have to be on our property, and I would just have to take a look and make sure it doesn't interfere with the sight distance to the north. Ms. McGinley responded I realize that, but if you line it up with the stone wall to the south, then it is a place that Mr. Foote has a problem with. Mr. Lopez responded back where we have the driveway, the grade actually starts to drop off. It is just right up in front of the existing house that that existing ground, about 4-foot high, but as we approach the property line, it is about level with the road and then as we get to our proposed driveway, the grade starts to slope away from the road. It is probably 100 feet or so along the frontage of the existing house that that stone wall is perched up high. Mr. Foote asked so does that driveway have sight distance that is sufficient to the Town regulations? Mr. Lopez replied I haven't looked at it. It is an existing driveway and I didn't look at it in terms of sight distance. It has been existing since I think it was the 1970's. Mr. Foote stated it was a dirt road in the 1970's. Ms. McGinley asked do you have a concern that the current location of the stone wall and the property to the south will interfere with the sight distance of the new lot coming out? Mr. Foote replied no. On Page 3 I think he has demonstrated that it won't. Mr. Pincince asked it is the existing driveway that you are concerned about? Ms. Hebert stated I think Mr. Foote is concerned about the existing wall just being unusually high above the road and it is common for us to ask for people to rebuild a wall where they are going to be disturbing it, and in this situation you are concerned about the lack of snow storage between the road and the existing topography and wall. Mr. Foote responded it was never ideal when we reconstructed the road and if there was a methodology to improve it now, that would be great. If it isn't, then we will let it perpetuate. Ms. McGinley asked would it be within our proper power to ask that that be moved back, Ms. Hebert? Is that unusual? Ms. Hebert replied it is a little unusual. We would typically ask the area of the wall that is being disturbed to be relocated, but not knowing that this was an

issue, it is something that we could investigate. It looks like significant work to regrade and rebuild the wall. Chairman Levenstein asked how far back would you want it moved? Mr. Foote replied I am not sure the wall has to be moved back any. Ideally the wall would be lowered closer to the elevation of the road. So instead of having 1:1 or a less slope up from the edge of the road to the wall, we would simply lower the wall and then the wall would be lower providing the opportunity for snow storage and improved sight distance. Ms. Hebert asked so how would that be done? Would they have to have a mason come in and rebuild the wall? Mr. Foote replied it is a rock wall, it wouldn't be a mason, and it would simply be a dry wall. Isn't that what is there today? Mr. Lopez replied yes; a dry, stacked wall. Mr. Fairman asked you would remove the wall, excavate and put it back? Mr. Lopez stated I guess to properly represent my client, I will make the comment if there is a cost to getting out into the right-of-way, grading that area down, resetting the stones, removing some trees. I guess my recommendation to my client would be there is no requirement for that but if that is something the Town has interest to maybe potentially look at in the future, could they provide an easement. We are providing other drainage easements and along with that could provide an easement in the future so if the Town happens to be doing work in the future and they want to go out there and have the ability to regrade that, they will have the easement in place to do that. Providing an easement for that in the future but the cost to actually go and do that work now.

Ms. Hebert stated there are two different issues. I think this an issue we are introducing, a new traffic generator on the roadway, so if this snow storage and wall issue is a safety concern, that is something we could ask the applicant to do as a condition of the subdivision approval. The removal and relocation of the wall at the driveway location is more of an aesthetic issue. Chairman Levenstein asked doesn't he need to remove it to get into the driveway? Ms. Hebert replied and we typically ask them to rebuild that section of wall that they disturb so that you maintain the continuity of the appearance of the old stone wall along the road. If this is a safety issue, it is certainly something that we can address as part of the subdivision. Ms. McGinley stated that is my question of you, Mr. Foote. Is the location at that wall with the height that it has, a problem with the sight for the new driveway? Mr. Foote asked will it impede the sight on the new driveway? Ms. McGinley replied yes. Mr. Foote replied no, I don't think it will. Only on the existing driveway. Am I wrong? Mr. Lopez replied yes; it won't affect the new driveway. I haven't looked at the existing driveway. I never looked at that for sight distance as it was an existing condition and we left it alone. I don't know the proper answer whether or not we gain the sight distance that way or not.

Mr. Pincince asked is your client present tonight? Mr. Lopez replied one of them, yes. Mr. Pincince asked could you take a few minutes to discuss that with them? Mr. Lopez replied if we could break for a moment, I will have a quick conversation and see what he would like to do. Mr. Pincince stated I would recommend that we give them an opportunity to discuss it. Chairman Levenstein stated why don't we hear what other people have to say in the audience so that if there are other things that they want to discuss we don't have to break more than once.

Chairman Levenstein asked is there anyone else on the Board that has questions?

Councilor Stevens stated I had a question either for Mr. Foote or Ms. Hebert. I thought with the previous subdivision, I am thinking of one on New Boston Road, that because the waterline was

there there was a requirement to connect in some manner to that waterline even though the applicant really wanted to use a well, that there was some sort of work that had to be done though. Ms. Hebert replied there is actually a State law that is the opposite. You can have a well or connect to town water. You can't require someone to connect to town water. Chairman Levenstein stated now they can choose a well. Ms. Hebert stated but our regulations for a while did include that requirement to connect. Councilor Stevens stated this was some years back. Ms. Hebert stated that has changed.

Chairman Levenstein asked for comments or questions from the audience.

Don Demark, 186 McAllister Road, stated I am the abutter to the north side across McAllister. The two culverts that you were talking about, the one that was put in in 2007 and the one that was there before, originate on my property. The question really is from looking at the last visual that was posted on the screen, it would appear to me that the new culvert that Mr. Foote was talking about when it went in in 2007 really comes out almost underneath that, or maybe I don't understand it. So it is more of a question for Mr. Foote and the Planning staff is that culvert that goes right there. Is that it? Mr. Lopez replied yes. Mr. Demark asked is there any issue that we have? I just don't want to have water issues, I guess, I don't know how else to say it. That is my concern. Mr. Foote responded I think the flow goes west to east doesn't it. Mr. Demark replied no. The flow goes down to that wetland on the new property. Chairman Levenstein asked from your property down? Mr. Demark replied correct. Chairman Levenstein stated I don't think that would have any affect at all. Mr. Foote stated I don't believe so, no.

Barbara Demark, 186 McAllister Road, stated my comment is on the rock wall you have been talking about. We come by that quite often and it has just been kind of jammed against the road, to be honest with you. I can't tell you how many times we have come down that road and rocks have tumbled down into the road. It is just a constant problem. I don't know who has been moving them. Probably the city, maybe a policeman, but they keep tumbling down into the road, so you talked about a safety issue. It would be nice if we didn't have to worry about rocks coming down and then the snow and you do have to look for them because of the way it was built. Chairman Levenstein asked did the Town do the wall? Mr. Foote replied yes, I believe we reset it. That is why it is nice and straight out of the right-of-way.

Chairman Levenstein stated Mr. Lopez will now speak with his client, and while he is doing that we will do other business for the night.

#### V. Approval of Minutes of Previous Meetings: February 12, 2018

Amendments: Page 21, 5<sup>th</sup> line up from bottom of paragraph that makes up the page; the statement is attributed to Vice Chairman Newberry but it was not Vice Chairman Newberry. Chairman Levenstein stated it may have been me. The minutes will be amended to reflect that change.

**MOTION by Vice Chairman Newberry to approve the minutes of the February 12, 2018 Planning Board meeting as amended. Mr. Pincince duly seconded the motion.**

**Vote taken on the minutes as amended; motion carried, with Mr. Foote and Mr. McMahan abstained.**

VI. Communications to the Board:

Ms. Hebert stated the RFP for the Master Plan update has been issued and it is posted on the Town's website. We expect to receive proposals not later than March 30<sup>th</sup>. At the next meeting on March 26<sup>th</sup> we plan to bring a list of volunteers for the proposed Master Plan subcommittee. If you know anyone who is interested in volunteering, be sure to have them send their names to either myself or Mr. Connors and we will make sure we reach out to them. Mr. Pincince asked this subcommittee is to evaluate the RFP quotes? Ms. Hebert replied no. We are trying to put together a subcommittee of volunteers to work with the consultant on the Master Plan for the full 18-month process. From that subcommittee we expect to pull a smaller group as a selection committee, and I expect the selection process to take about a month. I think if everything goes as planned the Board might be making a recommendation at their first May meeting on the consultant. This is assuming we get a healthy batch of proposals and we have some good response to the RFP. Ms. McGinley stated I was on the last Master Plan committee and on the selection committee, and I think it would be helpful to have someone with that experience on the selection committee and I would be happy to do that. I think I have referred one person to you. Ms. Hebert responded yes. Ms. McGinley stated Andre Garron, who was just here, was on the Master Plan committee also. I am interested in the process of the consultant selection committee.

Ms. Hebert stated the Office of Strategic Initiative, formerly the Office of Energy and Planning, is holding their Spring Planning and Zoning Conference on April 28<sup>th</sup>. We will send an email out to the Board on that, and if you are interested in attending, the Town does cover your registration fee, so let either myself or Mr. Connors know if you are planning to attend and we will make sure you get signed up and registered.

Ms. Hebert stated a reminder that tomorrow is Election Day and regardless of the snowstorm that is predicted, the elections are being held, so please get out and vote if you can. The budgetary Town Meeting is scheduled for Wednesday at 7:00 p.m. and both are happening at the high school.

VII. Reports of Committees: None

**Continuation of Application #2: BD Real Estate Holdings, LLC (Owner) – Request for final approval of a subdivision of one parcel into two residential lots at 181 McAllister Road, Lot 2-2-1, Zoned R&A.**

Mr. Lopez returned to the meeting. Mr. Lopez stated actually their primary concern in that area would be the existing trees, and they really don't want to remove any of the existing trees and open up any more to the roadway, so they are not too keen on the idea of having to lower that grade and remove the trees. They don't care about the stone wall or whether the stones are there

or not; they are more interested in the trees. They could provide an easement and if the Town wants the stones to be removed, they can be removed or maintained, but they really don't want the trees in that area to go.

Ms. McGinley asked Mr. Foote, is it something that you would be interested in to have the applicant give you the right to remove the stones? Mr. Foote replied we can remove the stones but that is not going to improve snow storage capacity. Mr. Fairman asked you don't want the easement? Mr. Foote replied I was just bringing up a concern. You don't have to go off too deep on this, but if there is an opportunity to improve it, we always want to take advantage of it. Mr. Fairman stated they have offered an easement in case you wanted to do something in the future you wouldn't have to go after it. Would you like that? Mr. Foote responded theoretically we would need to cut trees.

Chairman Levenstein asked for further questions or comments from the audience. There were none.

**MOTION by Vice Chairman Newberry that the Planning Board grant final approval of the subdivision plan for BD Real Estate Holdings LLC, Lot 2-2-1, Zoned R&A, as shown on the plan by Keach-Nordstrom Associates, last revised February 20, 2018, with the following precedent conditions to be fulfilled within one year and prior to plan signature:**

- 1. The applicant shall address all outstanding technical review comments to the satisfaction of the Planning Director and Director of the Department of Public Works.**
- 2. The applicant shall submit drainage easements to be recorded with the subdivision plan. The easement language shall be to the satisfaction of the Planning Department and Department of Public Works.**
- 3. The applicant shall revise the plan to show the stone wall removed for the driveway apron relocated within Lot 2-2-41.**
- 4. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor certifying that all boundary monumentation has been set as noted on the approved plan, or the boundary monumentation may be set and shown on the plan.**
- 5. All recording fees shall be submitted to the Planning Department at the time of recording.**
- 6. Prior to the issuance of a certificate of occupancy for Lot 2-2-41, school and recreation impact fees shall be paid.**

**Vice Chairman Newberry duly seconded the motion. Vote taken; motion carried, with Mr. Pincince voting in opposition.**

- 3. Eddie Saktanaset (Applicant), 11 Heaven Realty, LLC (Owner) – Request for conceptual review of a site plan for a proposed 2,152 square-foot restaurant and associated site improvements at 11 South River Road, Lot 46-10, Zoned PZ. *(This application has been postponed at the request of the applicant.)***

VIII. Adjournment:

**MOTION by Ms. McGinley to adjourn at 7:45 p.m. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.**

Respectfully submitted by  
Valerie J. Emmons