

TOWN OF BEDFORD
April 9, 2018
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, April 9, 2018 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Hal Newberry (Vice Chairman), Karen McGinley (Secretary), Chris Bandazian (Town Council), Kelleigh Murphy (Town Council Alternate), Rick Sawyer (Town Manager), Mac McMahan, Randy Hawkins, Charlie Fairman (Alternate), Matthew Sullivan (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

I. Call to Order and Roll Call:

Acting Chairman Newberry called the meeting to order at 7:00 p.m. Chairman Jon Levenstein, regular member Rene Pincince and Alternate Monique Rice were absent. Mr. Fairman and Mr. Sullivan were appointed to vote. Mr. Connors reviewed the agenda.

II. Old Business – Continued Hearings: None

III. New Business:

1. West Street Keene, LLC c/o Riley Enterprises (Owner) – Request for site plan approval for a 3,024 square-foot restaurant and associated access, parking and site improvements at 28 South River Road, Lot 11-12, Zoned PZ.

IV. Concept Proposals and Other Business: None

Mr. Connors stated the new application has been reviewed by staff and it is our determination that it is complete. The abutters have been notified, it is the opinion of Planning Staff that the application does not pose a regional impact, and staff recommends that the Board accept the application for site plan approval as complete.

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

- 1. West Street Keene, LLC c/o Riley Enterprises (Owner) – Request for site plan approval for a 3,024 square-foot restaurant and associated access, parking and site improvements at 28 South River Road, Lot 11-12, Zoned PZ.**

A staff report from Becky Hebert, Planning Director, dated April 9, 2018 as follows:

I. Project Statistics:

Owners: West Street Keene, LLC
Applicant: West Street Keene, LLC
Proposal: Site Plan for proposed 30-seat restaurant
Location: 28 South River Road (Lot 11-12)
Existing Zoning: "PZ" – Performance Zone
Surrounding Uses: Residential & commercial

II. Background Information:

There is an existing single family home on the property which was constructed in 1930's. The house is uninhabited and in disrepair. In 2017, the Town Council received a petition signed by Bedford residents requesting that the structure be torn down. There are no known Planning Board or Zoning Board actions on record for the property.

III. Project Description:

This site plan includes the redevelopment of the property and construction of a 3,024 square foot, 30-seat restaurant and a small parking area with associated site, landscaping and access improvements. All of the existing structures on the property would be demolished. At this time, the tenant is not known and the site plan has been designed to accommodate a high turnover restaurant without a bar. The applicant has requested a waiver to have the architecture reviewed at a later date, once the tenant is known (waiver #5). However, the applicant has provided a concept sketch of the proposed building.

The property is on the west side of South River Road, situated between the Hull Road and Colby Court intersections. The parcel contains 0.532 acres and is generally flat with an existing driveway off of South River Road. There are three existing residential properties and a hair salon to the south and the Bellemore Septic Service is located immediately to the north. The site and surrounding properties are in the Performance Zone. There are no wetlands on the property but the 50-foot setback from a small wetland area behind the lot crosses onto the site.

The lot is narrow and rectangular in shape, at approximately 62 feet wide and 354 feet long. The narrow configuration makes it challenging to meet the required dimensional setbacks for the Performance Zone and the applicant has requested a waiver to allow the new building to be within four feet of the side setback where 20 feet is required and to allow a front setback of 18 feet where 60 feet is required (waivers #6 & 7). Staff does not object to the waiver requests, given the constraints of the property and because the proposed restaurant will have setbacks that are similar to nearby buildings. Although the maintenance of the north wall of the building will likely need permission from the adjacent landowner for construction staging or painting. Staff would also recommend conditioning the approval on the demolition of the existing structures by August 1, 2018 (condition #10).

Access, Parking & Traffic

Access to the site would be via a newly constructed driveway off of South River Road. The driveway is in the same location as the existing driveway, but would be widened to accommodate

the commercial use. The plan also includes constructing an internal driveway connection to the Vibe Salon parking lot to the south which will provide access to Hull Road. A future driveway connection to the Bellemore property is also shown on the plan but would not be constructed at this time. This would provide access to the signalized intersection at Colby Court/South River Road. Ideally, the main driveway on South River Road would be restricted to right-in and right-out turns only. However there is no median at South River Road and given the narrow lot, it would be difficult to design the driveway to restrict left turning movements. When and if a future driveway connection is constructed to Colby Court, staff would recommend restricting left turning movements at the South River Road driveway.

A new parking lot with 19 spaces will be constructed to the rear of the building, one of which will be a van accessible handicap space. The 30-seat restaurant is required to provide at least 12 spaces, but the additional parking will give the owner flexibility should the use change.

A trip generation memo was prepared as part of the fair share roadway calculation (see attached). The study indicated that the proposed use is expected to generate 12 vehicle trips on the average weekday PM peak hour (7 arrivals and 5 departures) and 20 trips during the Saturday peak (11 arrivals and 9 departures). Based on the information provided in the traffic memo, the project does not create enough additional vehicle trips to warrant a more detailed traffic study.

The project is within the South River Road corridor improvement project and will need to pay a fair share contribution towards the roadway improvements (condition #14). VHB has calculated the project cost to be \$9,064 (see attached memo).

Drainage & Utilities

The stormwater runoff from the proposed driveway will flow into the existing catch basin on South River Road. The parking lot will drain into a treatment swale along the southerly side lot line and then into a drainage basin at the rear of the property with an outlet structure directing overflow into the adjacent wetland. The stormwater management system has been designed to meet both the qualitative and quantitative treatment of runoff as required by the town.

A trash enclosure is proposed at the far western side of the parking lot. The dumpster will be screened from view with a fenced enclosure. The Applicant is requesting a waiver to permit the dumpster to be located 21 feet from the northerly side lot line where a minimum of 30 feet is required (waiver #3). Staff does not object to this waiver, but is recommending that the Board restrict the time of trash pick to non-business hours because a truck will need to utilize the parking spaces to turnaround (condition #6).

The Applicant is proposing to re-establish an existing overhead utility line, which crosses over South River Road, and has requested a waiver to allow the overhead utility (waiver #4). The Board typically requires new construction to bury all utility lines. Staff would recommend that the electric and telecommunication utilities be brought underground through the town's roadway widening and utility easement across the Vibe Salon frontage (condition #9). If the underground connection is not feasible, staff would not object to the overhead line crossing South River Road. Several properties along this section of South River Road also have overhead utilities and this additional overhead line would not be inconsistent with the surrounding properties.

The building will be served by municipal sewer and Manchester Waterworks. As a condition of approval, the Applicant will need to provide a letter from Manchester Waterworks stating they are able to serve the project (condition #4). A new private gravity sewer line would be constructed across the frontage of the Vibe Salon property within a private sewer easement to tie into the municipal sewer system in Hull Road.

Landscaping & Lighting

The Applicant is requesting a waiver to the Performance Zone landscaping standards to not provide the required landscaping strips and plantings (waiver #8). In order to accommodate the required number of parking spaces, the parking lot will be paved to within a few feet of the side property lines and the building is located only four feet from the side lot line. In lieu of meeting the Performance Zone landscape strips, the plan includes tree and shrub plantings where space allows along the side lot lines and foundation plantings along the base of the building facing South River Road. Overall 10 trees are proposed along with eight evergreen trees and a mix of deciduous and evergreen shrubs. The plan also adds new sections of 6-foot tall stockade fencing along the southerly side lot line to improve the screening to the residential abutters.

The application does not include a lighting plan and the Applicant is requesting a waiver to not provide this until the issuance of the certificate of occupancy so the tenant can work to develop a plan that suits their needs (waiver #2). Staff would support a waiver as long as the plan is provided prior to the issuance of a building permit (condition #12). The certificate of occupancy would be too late in the construction process to address staff concerns or make any necessary changes the placement of exterior lights.

The Applicant is requesting a waiver to allow a side setback for a proposed 2' x 4' freestanding sign (waiver #9). The sign is located less than a foot from the southerly side property where 30 feet is required. Staff does not support this waiver and would suggest deferring action on any sign waivers until the architectural plans are submitted, the tenant is known, and sign plans are submitted.

IV. Waiver Requests:

The Applicant is requesting the following waivers of the Zoning Ordinance and Land Development Control Regulations for which the Board will need to take action (see the attached letter):

- 1. Section 317.1.11 of the Land Development Control Regulations to not provide High Intensity Soil Survey Mapping;*
- 2. Section 317.1.17 of the Land Development Control Regulations to not provide a Lighting Plan;*
- 3. Section 327.2.1 of the Land Development Control Regulations to permit a solid waste storage facility (dumpster) to be located within 30 feet of the property line;*
- 4. Section 326.3.1 of the Land Development Control Regulations to allow the utilities to be placed above ground to tie directly to a utility pole across the street;*

5. *Section 324 of the Land Development Control Regulations to allow the final design of the architectural elevations to be approved at a later date by the Planning Board;*
6. *Section 275-62 A(1) of the Zoning Ordinance, Table of Performance Dimensional Standards, to permit a reduction in the front setback from 60 feet to 18 feet;*
7. *Section 275-62 A(1) of the Zoning Ordinance, Table of Performance Dimensional Standards, to permit a reduction in the side setback from 20 feet to 4 feet; and*
8. *Section 275-63 of the Zoning Ordinance, Minimum landscape performance standards for the Performance Zone, to allow reductions in the required number of plantings and width of planting strips for the property.*
9. *Section 275-73 C & H of the Zoning Ordinance, to allow a side setback for the proposed freestanding sign of 1 foot where 30 feet is required.*

Aside from the waiver to reduce the side setback for the proposed freestanding sign and the conditions that the existing structures be demolished by August 1, 2018 and the lighting plan be provided prior to the issuance of the building permit, the Planning Department has no objection to any of the requested waivers. Many of them arise from existing constraints of the site and the proposed redevelopment is a reasonable use of the property and a significant improvement over the existing conditions.

V. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waivers from Sections 317.1.11, 317.1.17, 327.2.1, 326.3.1, and 324 of the Land Development Control Regulations and Sections 275-62 A(1), 275-73 C & H, and 275-63 of the Zoning Ordinance as described above.

Staff would recommend conditioning approval of the waivers on the timely removal of the existing structures and suggests a date of August 1, 2018.

The Planning Staff recommends that the Planning Board grant final site plan approval for the proposed site plan of West Street Keene, LLC at 28 South River Road (Lot 11-12), as shown on plans by Sandford Surveying and Engineering, last revised March 30, 2018, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

1. *Any waivers granted by the Planning Board shall be noted on the plans.*
2. *The Director of Public Works and the Planning Director shall determine that the Applicant has addressed all remaining technical review comments to the Town's satisfaction.*
3. *The Applicant shall submit any outstanding engineering review fees to the Planning Department.*
4. *A letter from Manchester Water Works stating that they will be able to serve this project shall be submitted to the Planning Department.*
5. *The sewer easement shall be conveyed from owner of lot 11-13 to owner of lot 11-12 for the proposed sewer extension.*

6. *A cross access easement shall be provided to allow for vehicular and pedestrian access between lot 11-13 and lot 11-12.*
7. *A note shall be provided on the site plan restricting the time of the dumpster pick-up to non-business hours.*
8. *Arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.*
9. *The Applicant shall pursue the placement of the proposed utilities underground, if it is determined by the Planning Director and DPW Director that this is not feasible or practical, the utilities may be placed above ground as shown on the site plan.*
10. *The existing structures on the lot shall be demolished by August 1, 2018.*
11. *Prior to the issuance of the building permit, the Applicant shall return to the Planning Board for final review and approval of the architecture for the proposed building.*
12. *Prior to the issuance of the building permit, the Applicant shall provide a lighting plan which shall be reviewed and approved by the Planning Director for compliance with town lighting standards.*
13. *Prior to the issuance of the building permit, the Applicant shall obtain a Sewer Permit.*
14. *Prior to the issuance of the building permit, a check made payable to the Town of Bedford Department of Public Works in the amount of \$9,064 for the Applicant's fair share contribution to the South River Road improvement project.*
15. *Prior to commencement of work, a pre-construction conference shall be held with the Planning, Building, Fire and Public Works Departments.*
16. *Prior to commencement of work, a performance guarantee in an amount approved by the Town for onsite maintenance of erosion and sedimentation controls shall be placed on file.*
17. *Prior to the issuance of a certificate of occupancy for the building, the Applicant shall pay the sewer accessibility fee.*
18. *Prior to the issuance of a certificate of occupancy for the building, all site improvements depicted on the plan shall be completed.*

Chris Riley and Earl Sandford of Sandford Surveying and Engineering were here to present on behalf of the applicant, West Street Keene, LLC. Mr. Riley stated the owners are out of town, and I get the task of presenting this application to you. If you have any questions pertaining to the technicalities and engineering of the application, Mr. Sandford can answer those for you.

Mr. Riley stated I do apologize if I don't have the answer to your questions tonight because I was kind of thrown into this at the last minute, but I am fairly familiar with the site, as probably most of the residents of Bedford are. The site is located at 28 South River Road. It was a single family residence that was inhabited for a number of years by the same individual. West Street Keene purchased the property a few years back, and the home is sitting in its current condition, which many of us are familiar with, for the past few years. Posted are pictures of the current condition of the property from different angles, to give you some familiarity of where it is and its

current condition.

Mr. Riley continued we have an application before you tonight to remove the existing structure, clear the site and construct a new facility of approximately 3,000 square feet. The survey team at Sandford Engineering has taken care of most of the details on that for what we are trying to propose here to put a structure on that lot. It is a fairly rectangular lot; I think most of you can see that in the site plan that was in the package, so we are constrained with side setbacks, front setbacks, rear setbacks, but it is our intent to remove what is there and find a tenant for the facility. We are going for a restaurant use in the application; however, we do not have a tenant at this point. Should something change and need to come back to the Board or be reviewed with staff, that would be done at a future date.

Mr. Riley stated before I turn it over, what Mr. Sandford, posted now is the concept we have done for the new facility on the site. It fits quite well even with the restricted dimensions of the site. It is a longer building; it is just over that 3,000 square foot mark, which is a marketable size in the commercial industry for a variety of different tenants. As I mentioned, we are initially coming in for a restaurant approval, however, that could change, and if it does, we know we have to go through the proper channels to make those changes.

Mr. Sandford stated posted now is the existing conditions plan showing the structure that is going to be torn down, and I think the main objective is that we get to the point where that can be taken down but secure, something that can be put back that benefits the lot owner, so that is kind of the goal. As Mr. Riley said, they don't have an occupant at this point. Things may change in the future but we wanted to make sure that we had the site set up so that it could handle the parking, the drainage, and just the aspects that required a fairly lengthy swale along the south side. We chose to move the parking and the pavement a little further away from the residential side and there will be a green area with a shallow swale as indicated on the screen. When it gets to about here, it turns into a treatment swale, which meets AoT standards for treatment of the stormwater, based on the amount of pavement that is going to be draining to it. Then we are putting up a berm and doing a little bit of excavation so that we are creating a reservoir or will be containing stormwater flows onsite releasing them slowly off from the left side of the site. Right now the curb cut has granite in it that are just going to redo to a greater width utilizing a catch basin that is right at the corner and then there is actually one in fairly close proximity downgrade from there too. We started out hoping we could tie into the drainage system but that isn't feasible, so we were able to handle it onsite and have the slow release at the back. The latest thing we added was just a back-in turn, as shown on the plan, so that if someone did come in and the parking lot were to be full, they would have the ability to turn around without backing out.

Mr. Sandford continued there are two conditions that I want to make clear from the owner that we need to clarify. The first is that there is a call for a common curb cut or to be able to pass through from The Vibe parcel onto the subject parcel. We also have one through to the Bellmore parcel but we are looking to make sure that is amended to say that would only kick in at the point where there is connectivity all the way to Colby Court. The owner told me to make it clear that that is the way it has to be from his perspective. Secondly, was the condition for tearing down the existing building. Instead of a date specific he wanted it to be 90 days after the approval of signing the plans by the Planning Board. So those are the only two items that I wanted to

address that were in the conditions of approval list. In the posting on the screen off to the right is a blowup where we will be using an easement to bring the sewer down through the backside or just behind the side walk across the Vibe property and into the existing pipe that feeds into the existing municipal sewer, so there are some offsite conditions on that. We have worked hard with staff, DPW, and feel like we've got something that's workable, and I would be glad to answer any questions.

Acting Chairman Newberry asked could you zoom in on that a little bit and if you would kind of walk through the site plan and the waiver requests. There are a fair number of waivers; understandable given the configuration of the property, but if you could walk the Board through particularly where you have the setback waivers. Mr. Sandford responded the proposed setback is 18 feet from the front and 4 feet on the side, which requires three waivers. Mr. Riley stated Mr. Chairman, again, this site may modify the layout of the building and in doing a little more research with the assistance of staff, they have notified us that should a property sit within 5 feet of the setback that it will require certain modifications being made as a requirement of the Building Department, we feel that the requirements that would have to occur if it was within this 4 feet would detract from any new structure for going in as far as windows would go and the way that wall would look. So there is a very good chance that the footprint may be altered a little bit to fall within a 5-foot setback, but for the time being until, again, we know who the tenant is, what the size of the structure needs to be, we want to give ourselves as much flexibility as possible. Mr. Sandford stated right, so we are asking for a waiver from High Intensity Soils mapping. I am a soil scientist; I did check it out for wetlands, but I am not a wetland scientist but a soil scientist but we are on city water, city sewer, and it would be a waiver for both.

Mr. Sandford stated with the lighting plan, it is not that we are trying to avoid it, we are asking to, basically kick it down the road because we will have to come back for an architectural review no matter what goes on on this property, and that is kind of an understanding that we have. It is not a waiver in terms of ultimately of having to have it, it's a waiver in terms of the timing.

Mr. Sandford continued with regard to the dumpster; your rules say it has to be 30 feet away from a property line, and when you have a 60-foot-wide lot, it is a pretty tough item to fulfill. The proposed dumpster pad is in the back, as indicated on the screen. It is pretty close to the middle of the lot but, again, as it is only 60 feet wide, there is no way we could meet the 30-foot setback required for a dumpster.

Mr. Sandford stated the utilities are to be placed aboveground. On the existing house the wires are cut and dangling. We have talked to EverSource about it and we are not sure where they were actually connected. We just assumed they went to the pole across the street, but as it says on the plan, subject to EverSource approval. There is no pole on the site, there is no underground utility that we would be able to adhere to that regulation without going off property and ditching it through.

Mr. Sandford stated as I said earlier, we are looking for the architectural part of this to be done at a later date. That would be approved by waiver.

Mr. Sandford stated with regard to the waiver to permit a reduction of the front setback from 60

feet to 18 feet. I think I mentioned that already, and I think at the closest it is at the corner by Bellmore's property. The side setback is going from 20 feet to 4 feet. Also shown on the plan, a proposed setback of 4 foot to building, and as has been expressed, that may well get pushed to 5 feet, but we didn't want to constrain at this point.

Mr. Sandford stated with regard to minimum landscape performance standards for the Performance Zone to allow a reduction in the number of plantings within the planting strips for the property. We do have a fair amount of green being proposed, and in the posted plan you can see the parking lot representing proposed plantings, it is not going to be a bare site by any means, but we weren't able to meet all of the requirements.

Mr. Sandford continued to allow a setback for the proposed free standing sign of 1 foot where 30 feet is required. It is shown on the screen right in the southeast corner of the lot. The sign is proposed to be 2-foot X 4-foot.

Acting Chairman Newberry stated I have one question on Waiver #2 of the staff report. You are asking not to provide a lighting plan or do you intend to provide a lighting plan once you have a little more definition of the architecture? Mr. Sandford replied I think we would come in with more indication of who the person is going in. Acting Chairman Newberry stated I was just thinking that it probably should be, something like Waiver #5 that says you would do the lighting plan in association with the architectural elevations, as opposed to we are not doing a lighting plan. Mr. Sandford replied that is correct. Ms. Hebert stated Condition #12 requires the applicant to provide a lighting plan prior to the issuance of a building permit, so staff can review and approve one.

Councilor Murphy stated I have questions. A 30-seat restaurant without a bar is pretty limiting, and if I wrack my brain, being a restaurant owner, of what this could possibly be, I am coming up only with quick-serve options, which brings me to a comment and a question. The comment is that then the traffic numbers in that VHB addendum seem to be really low to me, and the second is, do you anticipate putting in a drive-thru? Mr. Riley responded the second question is a lot easier to answer. I don't see any room here for a drive-thru, so that would be a no. And yes, the 30-seat restaurant without a bar is limited in how it can be used, but, again, I might have to revert back to my previous statement, which is that we don't have a tenant yet. Once that tenant is identified if it is a restaurant use. There was a reason we picked a restaurant use as a category for this. Councilor Murphy stated I guess that is what my question is. Mr. Riley stated I think it was just based on they were looking at counts for parking and potential use and I think we wanted to pick one of the higher intensity uses if it should be that, versus trying to come to the Board with a general concept for a low intensity use and then it became a higher intensity use. We kind of took the reverse effect and said let's go with a higher use initially knowing we can meet it and then back it off if we need to. Ms. Hebert stated the fast-food restaurant is a different use category as well from a traffic trip generation standpoint and from a zoning use standpoint. So if they were to switch to a fast-food restaurant, we would need to come back to the Planning Board to reevaluate traffic, reevaluate impacts, and the staff recommendations would likely change. Councilor Murphy responded okay. Mr. Riley stated it is highly unlikely that this would be a fast-food location.

Councilor Bandazian stated this is the first project that proposes to discharge untreated stormwater into a catch basin that outlets into a waterway that has been identified as impaired for chlorine and parking lot treatment or driveway in the winter. Is there any way that you can adjust the grade so that the driveway does not what will very soon violate a Town stormwater permit? Mr. Sandford responded I want to start with where the dividing line is. There is a catch basin here, because we are coming uphill and this is lower, these catch basins, I think, or at least the inlets, are well lower than even the pond out back, but everything once we get near the top of this first section of driveway we are catching everything, treating it, taking it to the back, and doing it by the standards that are out there. I guess you are just referring to the short piece. Councilor Bandazian stated unfortunately the permit that goes into effect July 1st says contributes to your own exceedance of the impairment and this quite clearly would, unless the driveway is going to be heated so that there isn't a need to use calcium chloride or sodium chloride to treat it, and unfortunately that is the reality that we live in. The owner is going to have some liability; the Town is going to have some liability. So I would like to see a different design frankly or a condition that does not allow treatment of that part of the driveway that discharges untreated water to the catch basin. Mr. Sandford responded there is a physical hardship we are dealing with. I hear you; I am open for anything; we did discuss it. Councilor Bandazian stated I would love to see the old building go away. Even if the EPA were to give you a waiver, the owner and the Town would be subject to private suit. Mr. Sandford responded you are obviously more up on it than I am, but most curb cuts do have a little bit that goes into the road. It's been very rare that I have been able to take that first 20, 30, 40 feet and be able to push that into treatment. I have always been of the understanding that there is an allowance for some of the practical part of when you can't where you have to go from a lower existing main road to a higher site. The logistics of digging down and doing aggressive things can often actually cause more problems. You are either making the whole site a lot deeper; I don't know. I just don't know how it would be done. Acting Chairman Newberry stated it sounds like an issue that is going to have to be resolved, however. Mr. Foote stated as Mr. Sandford mentioned early on in the design portion of this, with the onsite drainage we had a discussion and it had to be closed drainage on South River Road taking most of this site, and after some discussion we gave them a hard no on that, so they really moved the amount of water that they want to introduce to the Town's closed drainage system and reduced it significantly. I don't remember the numbers in totality but I am going to guess that the amount that is proposed to go into the closed drainage system is very similar to what was there before. I don't think that there is a great appreciable difference with what was existing and what is being proposed. Councilor Bandazian stated that is why we are in litigation against the EPA, but right now it says contribute to cause and exceedance. Ms. Hebert asked would a porous pavement help take some of the water? Mr. Foote replied no. Town Manager Sawyer stated in this case it is sodium that is the problem, I believe for McQuesten. Ms. Hebert asked but if the water was staying onsite? Mr. Sandford replied with porous pavement you have to get down low and once we get down, there is just no place. You need a deep water table and we are talking at best 2 feet, a 2-foot water table on the site. To Mr. Foote's point, if you take the existing conditions, all of the house is all going into the Town system. We can take the roof water and we can move that off into the back. In a sense the net viewpoint of things we are bringing more water to the back than is going into the drainage system today, but I could put trees in there. Councilor Bandazian asked I wish it was a rule of reason to our permit. Town Manager Sawyer asked are you talking McQuesten Brook? Councilor Bandazian replied yes. Town Manager Sawyer responded I think Mr. Foote can explain it. This water does not go to

McQuesten, it goes to the Merrimack. Mr. Foote stated this goes south under Bedford Place, from there it goes to the immigration building, and I believe it heads further south towards Home Goods and then it goes down to the Lexus area. Councilor Bandazian asked into Bowman Brook? Mr. Foote replied yes. Councilor Bandazian stated we'll have to keep our fingers crossed on Bowman Brook because that is so far so good. Town Manager Sawyer asked this doesn't get into the interceptor that goes to Washington Place? Mr. Foote replied I don't believe so. That is one of the discussions we had early on that we were concerned about the capacity of the pipe that ran along South River Road and based on some things that happened at Washington Place, we didn't feel that we wanted any more water going into that closed drainage system and that was part of the discussion we had for them to push the bulk of the stormwater to the rear of the property. Acting Chairman Newberry stated the question is really not the volume of water so much as what the water might contain. Mr. Foote stated if you reduce the amount of water, I am going to guess you are going to reduce proportionally the amount of contaminants. Acting Chairman Newberry stated except that they are probably not salting that roof there currently. But if in fact that doesn't go into the waterway in question, then it sounds like we don't believe it is an issue. Councilor Bandazian stated I would agree with that; that is correct. Town Manager Sawyer stated it is absolutely something we are going to face on pretty much every project coming forward in this part of South River Road and the south part of South River Road for a different water body down there. As far as I know, the only way the driveway or on the roadways, parking lots. Acting Chairman Newberry stated which also brings up the question that you would be trucking any snow off from the site. Mr. Sandford responded all along the perimeter of the parking lot and I think one of the plans shows potential snow storage. Acting Chairman Newberry asked you would be piling it on the south side? Isn't the south side where all of your landscape is? Mr. Sandford replied yes, so you would have to put protection on the landscape to have it dual purpose. Ms. Hebert stated there is a note on the plan that says snow will be removed from the site when it exceeds site capacity.

Town Manager Sawyer asked why is the free standing sign shown where it is right up against the property line instead of in front of the building? You have it right tight against the driveway and the Vibe Salon property line, and it seems like there is space to put it in front of the building, if you even need a sign with a building that close to the street. Mr. Riley replied again, Town Manager Sawyer, I think it is more a matter of showing a proposed location for a sign. Given the setback of this building to South River Road, a monument sign may not even be used. It may, so we want to have the right to make that decision once a tenant is procured, however, I think the building's proximity to the road with signage on the building as allowed in the Performance Zone is going to really stand out. I think it was more a matter of just showing a location for a potential sign and we can move that, but giving the option to have a monument sign or alternatives to it. Ms. Hebert stated staff had recommended that any action on that sign waiver be deferred until the architecture is known and the tenant is known because we don't know what the design is, and we had asked the applicant to remove it and they wanted to keep it at that location and wanted to bring that request to the Board. Mr. McMahan stated I had the same comment, and I think staff's idea is appropriate and probably best for both sides. That would probably eliminate Waiver #9. Ms. Hebert responded yes.

Ms. McGinley stated Ms. Hebert, you mentioned just a moment ago that one of the issues that was being discussed that it was on the plan but not in the conditions, which was on the snow

storage. Do you want to put it in the conditions instead of on the plan? Ms. Hebert replied I am okay with it being listed on the plan because that is how it would end up being treated as a condition by having them put a note on the plan.

Town Manager Sawyer stated Mr. Riley, I don't know if you can speak to how you deal with dumpster pickups at your other sites but the staff recommended pickup being non-business hours. I am a little concerned with the residential abutters, and we will maybe hear from them in a minute, but I guess I am more concerned about having that picked up overnight during late hours. Mr. Riley responded I would say that I don't think the applicant would have any issue if the Board put restricted times for servicing the dumpster. Town Manager Sawyer asked but what would be the best time given your knowledge of commercial sites? Mr. Riley replied I think at this point, Town Manager Sawyer, not having the tenant, it is pretty hard to determine that. Non-business hours would obviously be early morning or at night, none are ideal with residential houses around, there is no good time, so I would defer to the Board and say on other properties that are tight like this on the strip that you have approved, we could meet any time requirements the Board would want us to put in. Mr. McMahan asked could you move the dumpster further to the south and then allow a truck to back in during your business hours? I know that might interfere with the flow of your customers but there are residents fairly close to you. Mr. Riley replied I think that would be a challenge given the type of lot that we are dealing with. Town Manager Sawyer stated they are probably going to either back in or back out or do you think they are going to be trying to turn around. Mr. Sandford stated that back-and-turn area does provide a regular pickup truck or a normal dump truck that picks it up, I think, can make that swing but maybe with a couple of point turns. Mr. Riley stated we wouldn't want to see any dumpster vehicles backing into South River Road, so we would make that a requirement of the tenant that the cars turn into the lot so the lot would need to be empty at the time. Ms. Hebert stated we could reverse the recommendation and just state on the plan when dumpster removal would not occur. Like not later than 10:00 p.m. or earlier than 7:00 a.m. so that you would have to be somewhere during that timeframe. Acting Chairman Newberry stated depending on the nature of the tenant, they may not even be open morning hours. Ms. Hebert responded that's right. Town Manager Sawyer stated we can see what the abutters say, if anything, and then take it from there. Acting Chairman Newberry stated you probably just want to consider that there will be some restriction on the hours for trash pickup. Mr. Riley responded that's fine.

Acting Chairman Newberry asked for comments or questions from the audience.

Scott Briggs, owner of 32 South River Road, the Vibe Salon, stated just a comment on the monument sign. I definitely understand they would potentially want a sign. My preference would obviously be on the other side of the entrance, not right on the property line so close. The other is more of a question. The dual access, I don't know what you call it, the drive lane between the two properties; my understanding is that that would be built as part of the consideration for the potential deeded right or access of the sewer line. Is that changing? It sounded like it was being proposed for a future date and time, not to be built as part of this site plan now. Mr. Riley responded it is my understanding, Mr. Briggs, that the interconnectivity will occur at the time of the site development. What I think Mr. Sandford was referring to in speaking with the owners of the parcel is that the intent in trying to develop this parcel here that abuts yours, as well as the Bellmore site, is to try to conform with some of the requests of the

Master Plan for interconnectivity among sites to lighted intersections, if at all possible. We don't have any control of Mr. Bellmore's site but we can provide for the potential accesspoints should that interconnectivity ever exist, and that is what we have tried to do with the plan. It is the intent though, when this is all constructed and built, that this interconnected opening be constructed at the same time. Mr. Briggs stated my only issue there is part of the consideration for that to be built along with a couple of parking spaces that were discussed as part of consideration for that sewer line going through our property and deeding it forever into the future in terms of repair. My only concern there would be to clearly outline what is being done specific to that deed that needs to happen or the easement that needs to happen for that sewer line and make sure that that is clearly agreed upon. Mr. Riley responded I believe the staff report addresses that in one of the conditions of approval, so the plan won't be signed until that agreement is agreed to and in place. Mr. Briggs responded fair enough. Thank you.

Chuck Bellmore stated we are neighbors with the Riley's on the north end and on the west side. I am here representing Bellmore Associates. My brother Bob is in the gallery and my brother Ray couldn't make it, however, we are in support of the project in front of us. Certainly that area of South River Road, with some other areas, is certainly in need of redevelopment when the opportunity arises. Again, we are here to support that. With that being said, I would hope that the Planning Board will afford similar flexibility in the future for opportunities for neighbors to be able to utilize their properties as best as they could. Mr. Bellmore submitted his written testimony to the Board as a letter of support. Mr. Riley stated the applicant would like to thank Mr. Bellmore and his brothers for their support on the project and also look forward at a future date working with their parcel to see how we can make the sites all work together so that we can reach one of the goals of the previous Master Plan, which was to try to get as many of the smaller lots interconnected to lighted intersections.

Joseph Biedrzycki, 4 Hull Road, stated my property abuts this property to the south probably 1/3 of the way back to 2/3 of the way back. I speak tonight also on my wife's behalf, Constance Biedrzycki. She is a co-owner of the property and she is traveling out-of-state tonight on family business. Actually there are quite a few things that I would like to bring up. I don't want to take up a lot of your time because a lot of it is just personal uncertainty. We are one of the residential survivors of that part of town and intend to probably stay there indefinitely. We have owned the property for 37 years, brought up four children there, and that part of town and this neighborhood has suited us extremely well all of that time, but the dynamic is obviously changing. One of the biggest impacts that all of the changes up Colby Court and beyond have had on me is the topographical drainage in the area. I pumped water out of a sump hole in my cellar for 35 years until they developed South River Road and redeveloped Hull Road and the folks at Vibe developed their property. The Town was nice enough to put in a storm drain that is right on the property line between myself and Vibe, and ever since then my sump hole has been dry for the first time in 35 years. About eight months a year we used to pump water out of the cellar. I just want to make sure that all of these things we have talked about tonight with the flow of water and drainage off this property once it is developed will not further impact my property and bring back the previous problem, and I am not sure how to predict that or how to interpret the things that I have been told here tonight to see if that is going to be the case. That is my first point. Acting Chairman Newberry asked Mr. Sandford, can you speak to that? Mr. Sandford stated your property is as shown on the posted plan. We are actually digging a trench adjacent to your

property and bringing the grade down to collect more water than is even being collected today, move it all to the rear of the property and a dug out sort of pond that then drains out, it is going to get it more quickly through and eventually it goes to the culvert in Hull Road. By normal engineering standards this should decrease, even though we are putting impervious area but we are also digging a trench, which would be carrying more water away than it is right now. Mr. Biedrzycki asked that would be graded from the front of the property to the back of the property, as well as down from the property line and from the parking lot? Mr. Sandford replied correct.

Mr. Biedrzycki asked can you talk a little bit about the green space between where you just indicated that culvert would be and the property line? There are currently any number of trees, some of which have fallen over in recent wind storms that are nesting in other trees. To be quite honest with you we think it is a peril of the safety of our own backyard, but one of the things that has happened in that area is an infestation of a vine, which has climbed from trees on the subject property here to our own property and to my other neighbor's property and has taken over and had an effect on trees that we now have. I would be interested in knowing if what you are going to plant would have any similar impact on what is already there on our properties. Mr. Sandford responded the bitter sweet, I believe, is what you are referring to, which is the vine that twists around and it has been choking out trees. When we did a test pit, one of the vines caught on the excavator and pulled the tree right down within a few feet of the excavator and took out your fence. Fortunately the car wasn't parked there because it went right across the property line. We will be getting rid of all of that and that is an invasive species. The planting list for the Town, as is typical of any town, is you make sure that there are no invasive species that are going in. It should be a cleaner site than it is today, and that dangerous deadwood that is out there will be gone. Mr. Biedrzycki asked so do I understand correctly that in the excavation and development of the property all green matter would be cleared and then you would start over again and put stuff back in? Mr. Sandford replied yes. Acting Chairman Newberry asked could you walk through a little bit of the landscape plan so that it is clear to everybody. Mr. Sandford stated on the landscape plan the little cloud things indicate snow storage along the edge. That is why I was saying even with the landscaping there is a fair amount of area for snow storage. Actually even though we are asking for a lighting variance, we are showing light poles, there is a detail for them, make sure they are downcast and are shielded from the neighbors. As far as the landscaping, we have to dig this swale in through here where indicated, so we will be removing all of the vegetation, we will be grading the swale and replanting along the property line. Ms. Hebert stated there is also a 6-foot-tall stockade fence to run along the southerly side lot line. Some of the neighbors have any existing fence, so the idea is that they would fill in where there may be gaps in the stockade fencing. I think your property might have a lower chainlink fence, so you would have a taller stockade fence along there. Mr. Biedrzycki replied that is the fence I have. Do I understand that 6 feet is as high as the Town will permit? We kind of went through this when Mr. Briggs put his up. Ms. Hebert replied yes. Mr. Biedrzycki stated we took down a 15-foot green barrier that blocked us from South River Road and replaced it with a 6-foot vinyl barrier that leaves us very exposed. So to do the same thing in the back, if you take away all of the existing greenery, it is going to have the same affect. We are going to be the little house on the prairie.

Mr. Biedrzycki stated I have a couple of other quick things. One of those is, it just appears to me, and I don't understand either the Town politics nor the Town procedural stuff about the

Planning Board or the Zoning Ordinances, but I believe you went through at the beginning of the meeting 11 different variances or exceptions that need to be made. I am just curious if the Planning Board has ever had to approve that many to get a project going and does it not seem like you are trying to force-fit this square peg into that little round hole. Acting Chairman Newberry responded I don't know what the total number of waivers that may have been granted. I think that in response to your question, this is a challenging property to develop, and what the Board tries to do is to look at any waivers that are requested and if they seem reasonable, is probably the best way to summarize it. I don't know if Ms. Hebert or Mr. Connors want to add to that. Mr. Biedrzycki stated I am not questioning the Board's judgment; I am just questioning whether or not there is a precedent or whether there is a limit as to how many of those are granted. Ms. Hebert responded there is no limit, per say. The properties in the Performance Zone, which is an innovative zoning district and the Planning Board is afforded the ability to waive elements of the Zoning Ordinance and the Bedford Land Development Control Regulations, and on sites that are smaller, the Vibe Salon site, which is your neighbor to the east, had similar waivers for their project and they were maintaining the existing home and converting it to a hair salon, but also had waivers for a future addition, and they had a very similar list of waivers. We work with the applicants on these smaller sites to do the best that you can, but the Performance Zoning, especially the landscape standards, were designed for much larger, more suburban sites. Mr. Connors stated for larger sites, our last application that we had was a larger site and we had eight or nine waivers for that site as well. So it is not uncommon, I would say. Mr. Biedrzycki asked is it fair to say in the Performance Zone because of all of these exceptions that the concerns of the grandfathered homeowners and residents are secondary to those of those who are developing a business property? Ms. Hebert replied no. I think the idea is that, especially with the landscaping, there is a formula for providing certain landscape strips and there are many layers of them. They are not well suited for urban sites, so I think the idea is that the Board in the past has tried to maintain the intent of the landscape strips, but it is very hard to meet the dimensional requirements and the quantity on some of these sites that are in areas that are being redeveloped. I think that in the past the Board has tried to achieve opaque screening, per say, but in a smaller area that you would have maybe down by Target/Lowe's or where Mini Cooper are located. Mr. Biedrzycki asked so despite the fact that all of these things sound like rebuttal arguments, I want to say I am definitely in favor of developing that piece of property, which would beg the question, does the owner have to wait until they get an approval to build something else to take down that eyesore that is currently on the property? I go back as far as the late Russ Marcoux with correspondence with the Town about what was ever going to happen with it, and I have never gotten a substantial answer other than there it sits. Acting Chairman Newberry replied I think staff had set a date but I thought I heard the applicant proposing something different. Mr. Sandford responded if something delayed the signing of the plan, we wanted to tie it to 90 days after the signing of the plan so that we made sure that we got the ducks in a row as we did this process instead of a hard date. Ms. Hebert stated just to be clear, the applicant has a year to finalize the plan and get them signed, so it could be up to a year and 3 months.

Mr. Biedrzycki stated and just for the record, I am as concerned about the cosmetic look of the neighborhood, so to speak, as I am about the fire hazard of that building because if it ever goes, everything near it is going to go. We are all pretty close in that neck of the woods. I would also point out that among the trees that blew down as far back as last October; there is one from a

huge maple tree that is resting at 90 degrees on the roof of the house. I am not even sure it is still attached to its trunk and one more good blow and that is going to end up in the middle of South River Road and nobody seemed to be concerned about that when it happened either. Acting Chairman Newberry stated I think this proposal is moving in the direction of getting that site cleaned up, but I don't know exactly what that timing would be. Mr. Biedrzycki responded it is; but the wheels of progress move very slowly sometimes.

Mr. Biedrzycki stated my last point would just be a piece of quality control, so to speak, in terms of the procedures of the Board. I was a little confused about the movement of this meeting to tonight from when it was originally scheduled. I would not have even known about it if I had not talked to one of the other abutters and would not have been confirmed of it if I had not talked to someone who is a member of your Board earlier today. I was just confused why I never got follow-up notice from the Town itself about the change of the date. Ms. Hebert responded it is the Town's policy when an application is postponed to a date certain, an announcement is made at the Planning Board meeting for which you received advertisement. At the last meeting the Board postponed this application to tonight and made an announcement that the application would move to tonight's meeting. Mr. Biedrzycki asked so because I wasn't at that meeting, I am liable for not having gotten that information? Ms. Hebert responded the policy has been not to re-notify abutters when it is postponed to a date certain. Mr. Biedrzycki stated it might be something you want to look at in the future. It is only a couple of postage stamps. Acting Chairman Newberry stated as a rule if there is an application that you are interested in, you can also check the minutes that are posted on the Town website, and you would see there that the application had been postponed at the request of the applicant. Mr. Biedrzycki responded understood; thank you.

Mr. Riley stated if I could just speak, Mr. Chairman, to the third comment that was made, just to give people an understanding of where the project is at. We want to put a safeguard date in place with the approval in case something unforeseen happens with the conditions that need to be met to sign the plans. But the applicant has already sought out a vendor to demolish and remove the house and go through the application process for that to occur, so it isn't the intent of the ownership to leave that property standing any longer than it has to. Councilor Murphy asked something unforeseen; would that include not finding a suitable tenant? Mr. Riley replied no. There is nothing in the conditions that have anything to do with tenancy; it is more just going through the checklist of the conditions of the approval.

Acting Chairman Newberry stated I think everybody is in agreement that they would love to see that cleaned up as soon as possible. Mr. Riley stated my favorite line of the staff report was the house is uninhabited and in disrepair. That may be the best understatement that staff has ever made in their career. We all know the condition of the home and it has been a long process. I know Russ Marcoux's tenure here was referenced and working with Town Manager Sawyer and Ms. Hebert, we have really had a long process with this property for a number of reasons. We don't need to get into all of those reasons, but I am finally at the point where ownership is ready to take the house down. I don't own the property but I can speak for them tonight that they are ready to do that, and I think we have a good site plan here. Given the constraints of this site in the Performance Zone and I think we can put something on that site that when people come into Bedford through Manchester have something a lot better to look at than what is there now. Ms.

McGinley stated I think you will have proposed tenants happier when the house is down. Mr. Riley stated I think T-Bones will be very happy across the street as well.

Mr. Briggs stated if I wasn't clear or it wasn't stated, I definitely am in support of this project. It is obviously a small site, difficult to deal with, I can appreciate all of those things, but it is an improvement for sure. One comment on the trees. They definitely are an issue. There are dead trees. Actually unfortunately there was a limb that fell on three cars that I had to pay to have repaired that we addressed. It would be nice to maybe do something with the trees that are looking like they are ready to fall because that could happen again with some that are there. I wouldn't want to have to pay for clients' cars again. Thank you. Acting Chairman Newberry asked Mr. Riley, is there anything that you can do with any of those threatening trees? Mr. Riley replied like Mr. Sandford mentioned, there is nothing that is staying on the site. The site is going to be stripped completely. Acting Chairman Newberry stated I was just asking if there is anything you can do about any of the trees that appear to be threatening, whether you can do anything with those. Mr. Riley replied yes, I can make a note to have ownership send someone out to look at what could potentially happen in a wind storm or rain storm. Like I said, the intent here is to try to get through these conditions done as quickly as possible and have that thing gone during the nice weather that is coming.

Mr. Riley stated one last item, Mr. Chairman. I know there were two references to Waiver #9 on the exterior proposed free standing sign. It would be the applicant's intent to leave the location to the Board's discretion but we wouldn't want to remove the option to have a free standing sign at one point. So we don't mind if you don't like the location of it and you want us to move it somewhere. I would assume we would need to supply a comprehensive sign plan to staff or even to this Board when we do the architectural review showing where all proposed signage is going to be, and at that time we could have a further discussion about what works and what doesn't as far as signage goes and the architectural layout. Acting Chairman Newberry responded I think what I heard was that the location was the concern, not the sign per say. Mr. Riley stated thank you. Mr. McMahan stated in any case it would have to conform to the signage regs.

Mr. McMahan stated before we discuss the waivers, would the Board entertain on Waiver #2 for a lighting plan to add to the end of it 'as long as the plan is provided prior to the issuance of a building permit.' I think the staff wanted to be able to get a hold of the lighting plan before the progress went too far. Acting Chairman Newberry responded I think the staff said that that was addressed in Condition #12, which is 'prior to the issuance of a building permit the applicant shall provide a lighting plan, which shall be reviewed and approved by the Planning Director.' Mr. McMahan asked so it is not in conflict, it will be an adjunct? Acting Chairman Newberry replied I think so. Ms. Hebert stated yes. Town Manager Sawyer stated I was going to suggest that we add the words 'at this time' to the end of that one, so it is not waiving the requirement for a lighting plan, it is just waiving the requirement for a lighting plan at this time. Mr. McMahan stated that makes sense. Ms. Hebert stated yes. Acting Chairman Newberry stated I think that puts a little more clarity to it.

Town Manager Sawyer stated Mr. Riley, the part I am struggling with is the delay in demolition and site clean-up and asking the Board to essentially put that off forever. It feels like these abutters have put up with a lot, the Town certainly looked at it a lot. I know we can't compel

you to take that down at this point, but putting that condition in the way that you phrased it really puts all the power back to you and takes it all away from the Planning Board's approval tonight. I think the Planning Board is starting to lean towards granting a number of waivers, which we all want the site redeveloped and trying to be as flexible as possible, and I don't think having that building removed by August 1st should be onerous in any way. If it is approved, you get setbacks that are pretty much unseen anywhere else in the corridor that I am aware of that have been granted. It seems to me like the development is not at any risk if you go ahead and remove those structures and those trees once this Planning Board has approved it tonight. It puts the onerous on you to make sure those conditions are met. Mr. Riley responded I understand completely where you are coming from and I understand where the Board is coming from having been on that side. I don't have the authority to change that request in the condition. I can only tell you that once this project is approved, and I know many of the members of the Board haven't dealt with me directly, but the project will come into my oversight at that point. We have already gotten pricing to remove it. There are a number of conditions though, some of which have to be negotiated between abutters, and we need to see where those go and that those get finalized before the owners are willing to commit to anything financial on the site. It is not just a matter of throwing a house in a dumpster. I know that is what it seems like, but there is more to that initial phase of stripping the site, removing the site. They were looking for a reasonable timeframe and I am open to hearing suggestions that possibly might work in between what you are saying and what the owners are requesting to work. It is the set date I think that created an issue versus a timeframe from the signing of the plan. Again, I can't authorize that condition to change tonight. Ms. McGinley asked couldn't that be a year from now? Town Manager Sawyer stated it could be 90 days from a year from now. Ms. Hebert stated staff is suggesting August 1st and they are suggesting 15 months from now. Mr. Riley stated I think the worst case scenario would be 15 months from now. Mr. Hawkins state right but the catalyst for any of this getting done is the removal of that house because then you will have a reasonable expectation to get a tenant, then you will get a reasonable expectation of getting all of these waivers finalized so that the plan can be approved. The real limiting step is removing the house and August 1st is a long time from now. Mr. Riley responded I don't disagree with that position at all. As I said, I don't want to get into the full history of the project, but for ownership of this property is a minor concern, they are at the point now where they are ready for me to have it taken down, but they don't want to be told that it has to be taken down until the plan is signed, until they know they have a signed approved site plan through the Town. That is when all work will commence. Mr. McMahan stated I think we understand what you are saying, but on the other hand it could be quite a measure of good will for the Town if in fact that could occur in further discussions that may take place by you. Councilor Murphy stated absolutely. Mr. Riley stated unfortunately, Mr. McMahan, I can't authorize that right now; I can't. Mr. McMahan stated I understand that completely but I am just throwing it out. Mr. Riley stated if I had one percent ownership in it, I would say I am going to authorize my ownership percentage and make a call on it but I can't, because I don't. If the Board wanted to recess for five minutes, I could ask that question and see if I could get a better response. I can't guarantee anything would change. Ms. McGinley stated that would be good because the Board doesn't have to approve what you have requested either given the waivers. Mr. Fairman stated for approval that is one of the conditions, so you better make your call. Mr. Riley stated just as long as the Board understands that the recess could result in me coming back saying the applicant wishes to withdraw. Mr. Fairman stated then you won't get approval. Mr. Riley stated they may withdraw, Mr. Fairman, and we just don't want to

see this five years from now being in the same condition it is now. I think we are all trying to get to the same end here and let me have that conversation with them.

The Planning Board took a 5-minute recess at 8:02 p.m.

Acting Chairman Newberry stated we have reconvened the meeting and Mr. Riley will take the floor.

Mr. Riley stated thank you for taking the recess and allowing me time to consult with the ownership on the request that was made by the Board. I did speak in detail with him and he is very weary of modifying that. He said he would go 30 days after the signature of the plan. It is based on over 30 years' experience in dealing with development. He did want me to make a point to say that the existing staff Town management and council has been very, very easy to work with and a pleasure to work with, however, based on past experiences that things were said and weren't done on the Town side, he is very hesitant to commit to any type of work commencing on any site in Town until he has a signed plan, so that is kind of his position on this. He did move it back from the 90 days to the 30 days; I do understand that that potentially has ramifications of over a year if we waited a full year to get all of the conditions fulfilled. Now that being said, I have stated numerous times on the record that once this approval is in place should it be granted by the Board, that this project is slated for the fast track to be completed. It is my intent to have that building down as quickly as possible, we have already received pricing to do so, but we just don't want to be in a position where the plan is not signed, the house is down, and we are coming back to square one with this again. Councilor Murphy stated Ms. Hebert, I have a question. I am new to the Planning Board so I am not entirely sure what the answer to this is. Could the Planning Board approve the condition anyway telling them that they had to take the building down by August 1st this evening? Ms. Hebert replied yes.

Acting Chairman Newberry stated I have a question for staff of the 18 conditions. In staff's experience are there any in there that are particularly at risk for being lengthy resolutions? I just looked quickly though and there weren't any that jumped out at me. Mr. Riley stated I think one of the variable conditions, and the abutter is present tonight and has said very positive things and I think looks forward to this development taking place, it helps his site as well, but there is still negotiation to get that easement in place and signed. We don't have any control over how that would occur or if for some reason that is unforeseeable and it doesn't occur, we have to look at alternatives on how we are going to service this site for sewerage. Ms. Hebert stated Conditions #1 – 9 need to be satisfied prior to plan signature. Aside from the easement negotiations, the conditions are all administrative in nature or needing to make minor modifications or changes to the plan. The Board, as Councilor Murphy suggested, can attach any conditions they feel are warranted to an approval but we run the risk if the applicant doesn't have to fulfill the site plan, they can let it lapse and do nothing with it. They have put in a lot of time and engineering to date, so I don't think that is their intent. Mr. Riley stated the intent is to move forward, and a lot of the push behind this site plan, and I know you can speak to this directly to the Board and speak freely, and I know Town Manager Sawyer can speak directly to the Board, is we have been pushing to get them to do this for a long time and it took a long process to get here. I know it is a little site and this ownership team owns a number of large scale properties so to have them focus on a little site and spend money on something that is not going to get them a big return is a

challenge. So we have worked very hard to bring this to the Board and I wish there was a better way that I could ensure this Board that that house is coming down quicker, other than telling you it is our intent to get that house down as quick as possible and fulfill these conditions as quickly as possible, in the hopes that staff, which has been very helpful, continues to work with us to get these conditions satisfied and that the abutters work in good faith with us also to get an agreement in place that works for everybody.

Councilor Murphy stated honestly the only hesitation that I have and I am wracking my brain but I cannot think of a restaurant tenant that fits this criteria at all. I understand you can't respond to that; I am just putting it out there. Mr. Riley responded my honest answer is we really don't have a tenant. A lot of times if you have one, people don't say who it is because they don't want anybody to know who is coming, but we really don't have one. Councilor Murphy stated I understand that but there is literally logistically no tenant that I could possibly think of that would meet the criteria, and I understand that you picked it because it was a higher use and that makes sense to me. Mr. Riley stated it could be a bike store, it could be a restaurant, or it could be a showroom of some sort. We don't know yet. Mr. Fairman stated a pizza shop could go in there very nicely.

Acting Chairman Newberry stated so it is 30 days after the plan is signed. Mr. Fairman asked what about changing the one year to something shorter as a compromise to the date? You have one year for the conditions to be fulfilled, what about making that six months or something shorter as a compromise to the date. Ms. Hebert stated you would be waiving your own regulations. Mr. Fairman responded okay. I was just looking for a compromise. Ms. Hebert stated I would not recommend it.

Mr. McMahon stated Councilor Bandazian, you recently brought up your concern about the drainage. Are you satisfied with that answer? Councilor Bandazian replied I am satisfied that it is not a present violation based on 2016 information from the State DES. Acting Chairman Newberry stated if it changes, it will be an existing condition. Councilor Bandazian replied it doesn't matter unfortunately for the owner of the property and for the Town.

Acting Chairman Newberry asked what is the Board's feeling on 30 days after signing the plan? Is the Board comfortable with that or do we want to do something different? Town Manager Sawyer replied my preference is to stay where it is. I might be convinced to go to September 1st, which gives them an extra 30 days to get the work done, and we could anticipate seeing them at our August meeting if some reason they can't meet the condition, then the Board could readdress it in August or we could say the same and leave it as it is and see them in July if they can't have the building down by then. I think the Board is willing to work with them but 15 months, or even 13 months, sounds too long to me given what the Board is trying to accomplish here tonight with the applicant. Mr. Riley asked Town Manager Sawyer, would you be willing to work directly with Mr. Connors and Ms. Hebert on this project to help the applicant fulfill all of those conditions should we have any issues with any Town departments? Town Manager Sawyer replied the thing with this is that I don't see that there is any onerous on the Town to get Conditions #1 – 9 done. Mr. Riley responded I have worked with Ms. Hebert for years and I know when you guys work together with an applicant things get done, but I also understand the hesitation on the owners part knowing the full history through other projects and through other

planning directors and other town managers that preceded both of you, that were very difficult to work with and other department heads. I think if I could give the owner reassurance that this will be handled directly between the applicant, the Board of course, yourself and Ms. Hebert and Mr. Connors, I can get that September 1st date. Councilor Bandazian stated I guess I would be inclined to agree with you, Town Manager Sawyer, that September 1st is a good date. It gives you plenty of time if you want to come in and if you are making a good faith effort to accomplish the things that you need to accomplish, I am inclined to make a reasonable extension. Town Manager Sawyer responded I will certainly swear that my office and all of our offices will do everything we can, but it seems like the biggest concern is that an abutter might control your outcome here and we can't compel them to do anything. But I will host any meetings that need to be hosted or have any conversations that need to be held, but we can't compel them to comply with your need. Mr. Riley responded as long as you will work with the ownership to fulfill the conditions. Town Manager Sawyer stated I appreciate you taking my calls on nights and weekends on this site in the past. I appreciate that and we are clearly willing to try to do whatever we can to see this building removed and those dangerous trees removed as soon as possible.

Ms. McGinley stated Town Manager Sawyer, you mentioned Conditions #1 – 9; you don't think that #10 has any effect on #11 – 18? Town Manager Sawyer replied Conditions #1 – 9 are prior to the plan being signed; the rest are prior to building permits. Ms. McGinley stated okay; I just wanted to make sure that that wasn't a concern. Ms. Hebert stated no, we issue a demolition permit so that would be distinct from the building permit.

Acting Chairman Newberry stated so the suggestion would be to reword Condition #10 to change the date to September 1st and subject to extension with cause or something to that effect. Town Manager Sawyer responded like any application the Board approves. The applicant can always come back if they are not able to meet their conditions and ask for extensions or modifications, so I don't think the Board needs to put anything in writing over it. It is up to the applicant at that point to come back. Acting Chairman Newberry asked so we would just change Condition #10 to September 30th? Town Manager Sawyer replied I am saying September 1st just to try and get it done during summertime and it doesn't lapse into the fall somehow. We can see them at the August Planning Board meeting or July Planning Board meeting if we need to and that still gives time to get work done before winter might set in or something. Ms. Hebert stated I can say we have been working closely with Mr. Sandford on the plan and most of the technical comments have been resolved at this point, so although there is a condition that says the applicant needs to address all remaining technical comments to the Town's satisfaction, we are very close to being at that point with the civil plans themselves. And most of the other conditions are very administrative in nature; they are not things that are difficult to check off.

Councilor Murphy stated there was a discussion earlier about Condition #7 flipping that to list hours that a dumpster should not be picked up and emptied. I don't know if that is a change that the Board wanted to discuss, but I just wanted to flag it because it came up. Mr. Riley responded I am fine with what staff is recommending, which it can be done after the vote. Acting Chairman Newberry responded my suspicion is that when they come back with architectural elevations and the rest of the development plan, that the Board would then look at who the proposed tenant was and then would set some hours that would fit within that general condition, is what I would

expect would happen. So if it is not a restaurant, you might have different hours, if it is a restaurant that just does dinners or lunch and dinner, you might have reasonable morning hours when they could do the pickup, for example. Mr. Riley stated it is my challenge now, Mr. Chairman, to find a restaurant that will work on the site. Mr. McMahan stated I thought the Town Manager had a good idea instead of saying when it can be picked up, when it cannot. Councilor Bandazian stated it should be between 7:00 a.m. and 10:00 p.m. or 9:00 p.m. or something that is not going to disturb the abutters. Mr. McMahan stated irregardless of what kind of operation it is that they put in; you could for the abutters' sake make sure that there is not somebody coming at 11:00 p.m. or 6:00 a.m. to pick it up. Acting Chairman Newberry asked does the Board feel we need to specify that at this point or when they come back with their architectural elevations and the rest of the development? Councilor Bandazian asked once the waiver is granted, isn't it granted? Ms. McGinley stated I think it would better to put it in now. Mr. Fairman stated that is a waiver, not a condition, right. Town Manager Sawyer replied it is both. It is Condition #7 and the wavier is really dealing with the location of the dumpster not the hours of operation. Ms. McGinley stated we added some additional conditions after Condition #18. I wrote one of them down but not the others. Town Manager Sawyer stated we have been debating Condition #10. Ms. Hebert stated Condition #10 has to do with the demolition and Condition #12 has to do with the submittal of the lighting plan. Mr. McMahan stated I think the suggestion was just to add as long as the plan is provided prior to the issuance of the building permit. Mr. Sullivan stated I believe it was on Waiver #2 to add the language 'at this time.' Ms. Hebert responded yes. Town Manager Sawyer stated also we had been talking about the 90-day request. We can entertain it if the Board or whoever makes a motion chooses to do so.

Acting Chairman Newberry stated we have an addition to Condition #2 by adding at the end 'at this time' and an edit on Condition #10 to change it from August 1st to September 1, 2018. Ms. McGinley stated and there were some that were still asking for time limits in Condition #7 on the dumpster pickup adding 'from 7:00 a.m. to 10:00 p.m.' Acting Chairman Newberry asked what are the hours that the Board thinks we should edit Condition #7? Mr. Hawkins replied no dumpster pickup between the hours of 10:00 p.m. and 7:00 a.m. Ms. McGinley stated my language was no earlier than 7:00 a.m. or later than 10:00 a.m. Councilor Murphy stated I don't know if this is appropriate or not but since we have an abutting homeowner sitting in the audience, I would just be curious to know if those hours work. Mr. Biedrzycki stated I think 10:00 p.m. is a little late but I guess it is going to depend on what business goes in there and what their hours of operation are. That is not a big issue with me. Councilor Murphy stated I think 9:00 p.m. is more appropriate than 10:00 p.m., and quite frankly I think you would be hard pressed to find a dumpster company to pick up your dumpster at 9:00 p.m. anyway. Mr. Riley stated it is going to be a morning if they do. It is always a morning. Acting Chairman Newberry stated it is a condition that could always be modified when the applicant comes back. Are those all of the changes on the conditions? Councilor Bandazian stated I have a suggestion and it is the one that we brought up with Land Rover to begin with, and this protects the owner and the Town, that the owner submit to the Planning Department a stormwater treatment maintenance plan and a schedule to report to the Town its activities. That would be Condition #19. Ms. Hebert responded absolutely. Town Manager Sawyer stated I am going to suggest that it is prior to a building permit.

MOTION by Town Manager Sawyer that the Planning Board grant the following

waivers for the reasons that they meet the waiver criteria of the Performance Zone, for a uniquely shaped lot:

From the Bedford Land Development Control Regulations:

- 1. Section 317.1.11, to not provide High Intensity Soil Survey Mapping.**
- 2. Section 317.1.17, to not provide a Lighting Plan at this time.**
- 3. Section 327.2.1, to permit a solid waste storage facility (dumpster) to be located within 30 feet of the property line.**
- 4. Section 326.3.1, to allow the utilities to be placed above ground to tie directly to a utility pole across the street.**
- 5. Section 324, to allow the final design of the architectural elevations to be approved at a later date by the Planning Board.**

From the Bedford Zoning Ordinance:

- 6. Section 275-62 A(1) Table of Performance Dimensional Standards, to permit a reduction in the front setback from 60 feet to 18 feet.**
- 7. Section 275-62 A(1) Table of Performance Dimensional Standards, to permit a reduction in the side setback from 20 feet to 4 feet.**
- 8. Section 275-63 Minimum landscape performance standards for the Performance Zone, to allow reductions in the required number of plantings and width of planting strips for the property.**

Councilor Bandazian duly seconded the motion.

Mr. Fairman stated there are nine waivers listed on the staff report. Councilor Bandazian stated we made a decision not to include Waiver #9. Town Manager Sawyer stated if someone wants to make a different motion they can. With Waiver #9 the applicant could come back to us when they have an applicant regarding the free standing sign on the site. I don't love the location, that is why I am not including it in my motion. I am not sure that this site needs a free standing sign, but I would certainly be willing to work with the applicant once they have the details of a sign, an applicant and the architectural details on the site. I am not saying we won't ever grant a waiver for it or have it in that location, I just don't feel like we are ready to do that tonight. Ms. McGinley stated I think your request to not include it will allow us to have better information on granting that waiver and the sign that's being requested because you could come back if what is approved tonight doesn't work. Acting Chairman Newberry stated I would agree with that, that it would make more sense to look at that question and whether you even need the waiver once you have the additional detail.

Acting Chairman Newberry called for a vote on the motion. Vote taken - all in favor. Motion carried.

MOTION by Town Manager Sawyer that the Planning Board approve the site plan for West Street Keene, LLC at 28 South River Road (Lot 11-12), as shown on the plans by Sandford Surveying and Engineering, last revised March 30, 2018, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. Any waivers granted by the Planning Board shall be noted on the plans.**
- 2. The Director of Public Works and the Planning Director shall determine that the Applicant has addressed all remaining technical review comments to the**

Town's satisfaction.

- 3. The Applicant shall submit any outstanding engineering review fees to the Planning Department.**
- 4. A letter from Manchester Water Works stating that they will be able to serve this project shall be submitted to the Planning Department.**
- 5. The sewer easement shall be conveyed from owner of lot 11-13 to owner of lot 11-12 for the proposed sewer extension.**
- 6. A cross access easement shall be provided to allow for vehicular and pedestrian access between lot 11-13 and lot 11-12.**
- 7. A note shall be provided on the site plan restricting the time of the dumpster pick-up to be between 7:00 a.m. and 9:00 p.m.**
- 8. Arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.**
- 9. The Applicant shall pursue the placement of the proposed utilities underground, if it is determined by the Planning Director and DPW Director that this is not feasible or practical, the utilities may be placed above ground as shown on the site plan.**
- 10. The existing structures on the lot shall be demolished by September 1, 2018.**
- 11. Prior to the issuance of the building permit, the Applicant shall return to the Planning Board for final review and approval of the architecture for the proposed building.**
- 12. Prior to the issuance of the building permit, the Applicant shall provide a lighting plan which shall be reviewed and approved by the Planning Director for compliance with town lighting standards.**
- 13. Prior to the issuance of the building permit, the Applicant shall obtain a Sewer Permit.**
- 14. Prior to the issuance of the building permit, a check made payable to the Town of Bedford Department of Public Works in the amount of \$9,064 for the Applicant's fair share contribution to the South River Road improvement project.**
- 15. Prior to commencement of work, a pre-construction conference shall be held with the Planning, Building, Fire and Public Works Departments.**
- 16. Prior to commencement of work, a performance guarantee in an amount approved by the Town for onsite maintenance of erosion and sedimentation controls shall be placed on file.**
- 17. Prior to the issuance of a certificate of occupancy for the building, the Applicant shall pay the sewer accessibility fee.**
- 18. Prior to the issuance of a certificate of occupancy for the building, all site improvements depicted on the plan shall be completed.**
- 19. Prior to a building permit being issued the owner shall submit a stormwater maintenance plan and annual report to the Planning Director.**

Ms. McGinley duly seconded the motion.

Mr. McMahan stated just to make it clear, the applicant can come back and be able to extend that September date based on their plans and their progress. Is that true? Town Manager Sawyer replied yes. I was going to comment on my motion as well, to say I certainly encourage the

applicant to do everything they can to have the building removed by September 1, 2018, but I think this applicant in particular knows that the Board is very willing to work with them, but it is our strong encouragement to get that work done. I generally like the architecture that we are seeing conceptually and I like the project. I am very much looking forward to the site being redeveloped, and I really do thank the property owners for bringing this forward and trying to get this done. I can't wait to see what you actually build there. Vice Chairman Newberry stated I think everyone is anxious to see something positive done there.

Acting Chairman Newberry called for a vote on the motion. Vote taken – all in favor. Motion carried.

The Planning Board thanked Boy Scouts Adithya Puninchittaya and Joseph Mendenhall for coming to tonight's Planning Board meeting. Both Scouts attended the meeting to earn their merit badges for communications.

V. Approval of Minutes of Previous Meetings:

MOTION by Town Manager Sawyer to approve the minutes of the March 26, 2018 Planning Board meeting as submitted. Mr. McMahan duly seconded the motion. Vote taken; motion carried, with Mr. Hawkins, Ms. McGinley and Mr. Foote abstained.

III. Communications to the Board:

Ms. Hebert stated I can give the Board an update on the Master Plan process. We received six proposals for the Master Plan, and the selection committee met today just before your meeting tonight to review the proposals and has selected three firms to interview. We expect to hopefully have a selection made by your next meeting.

Ms. McGinley asked how are you doing on people who are interested in being on the Master Plan committee? Ms. Hebert replied I have received several inquiries and I am still putting together that list. I hope to have a recommendation for the Board by the May meeting for a Master Plan subcommittee. If you know of anyone who is interested in the plan or the process, please send them to the Planning Department, to either myself or Mr. Connors. We will be recommending a group of volunteers to serve on a steering committee but the make-up of the steering committee is also going to be driven by which firm we select. The RFP asked for a public engagement plan from the consultants and some of the proposals include a steering committee, some include public engagement that might have different forms of groups getting together, so before we set up a steering coming, I want to make sure it meshes with the engagement plan from the successful proposer. Councilor Murphy asked can we put it out on social media groups in Bedford and encourage people that are interested to contact you or Mr. Connors? Ms. Hebert replied yes. Ms. McGinley stated I don't think you want those yet. Ms. Hebert responded I think we could put out a general request. What I have been getting are

general emails of interest from people who want to be involved in the process. It is a lengthy process and there is a lot of opportunity to be involved, whether it is on the steering committee or in some other focus group or meeting participation. I think it is important to get anyone who is interested in the topic and interested in the plan to get their contact information and then we can figure out how they want to be involved, how best they want to participate. Ms. McGinley asked is there any interest by millennials yet? Ms. Hebert replied I have not gotten any. That would be a demographic that would be great to get some feedback from or some interest from. Councilor Murphy stated I run sports leagues for millennials and I will throw it out in one of my newsletters because I can pull my addresses for the people that live in Bedford. Ms. McGinley responded that would be great. If you are interested in what is involved, it may be a bit of a change, but I was on the Master Plan committee the last one, so if somebody wants to call and talk to me about it, I would be happy to.

Mr. McMahan stated I have an announcement. The Conservation Commission is still short two members. If you may be interested, there is a serious problem that is developing that the Commission is looking at for infestation of some of the evergreens, which includes pine trees. If you have those on your property, that might be something that would interest you if you want to help do something about it. The Commission meets on the 4th Tuesday of every month. If you could recruit somebody, that would be great. Councilor Murphy stated I would also like to add that we are missing two members on the Historic District Commission, which meets on the 1st Tuesday of every month. Mr. Connors stated if you are interested in joining either of the commissions, you can talk to Dawn Boufford in the Town Manager's office.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Ms. McGinley to adjourn at 8:40 p.m. Mr. McMahan duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted by
Valerie J. Emmons