

TOWN OF BEDFORD
June 8, 2020
PLANNING BOARD
MINUTES

A remote Zoom platform meeting of the Bedford Planning Board was held on Monday, June 8, 2020. Members who were present remotely: Hal Newberry (Acting Chairman), Bill Duschatko (Town Council), Phil Greazzo (Town Council Alternate), Rick Sawyer (Town Manager), Jeff Foote (Public Works Director), Mac McMahon, Kelleigh Murphy, Steve Clough, Priscilla Malcolm, Charlie Fairman (Alternate), Matt Sullivan (Alternate), John Quintal (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director).

I. Call to Order and Roll Call:

Acting Chairman Newberry called the remote meeting to order at 7:00 p.m. Jon Levenstein (Chairman) was absent. The position of Secretary to the Planning Board is presently vacant. Mr. Fairman was appointed to vote.

Ms. Hebert stated due to the Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 and pursuant to Executive Order #2020-04, the Planning Board is authorized to meet electronically. This meeting is being conducted using the Zoom platform and all members of the Planning Board have the ability to communicate with each other during the meeting, and members of the public has access to listen and participate in the meeting using BCTV broadcast or by logging into the Zoom meeting. There are instructions on how to log into the Zoom on the screen of the BCTV broadcast and instructions have also been published in advanced of this meeting with directions on how to reach Planning staff to get information about how to join the meeting.

There is no physical location for this meeting, which is permissible pursuant to the Governor's emergency order, the Town of Bedford is providing public access to the Zoom telephone and the meeting is also being broadcast live on BCTV's Channel 22. Members of the public or folks watching from home may email staff directly at Planning@bedfordnh.org and we will be monitoring this email account throughout the meeting. You may also participate and ask questions using the Zoom platform and the phone number for participating via Zoom is listed on the BCTV screen and members of the public can also be given instructions by emailing us at Planning@bedfordnh.org

All votes tonight will be taken as a roll call vote. If there are technological issues during the meeting, the Chair will recess the meeting first and we will try resolve any technical issues. If it has become apparent that the meeting cannot continue or if for some reason the meeting is discontinued due to technological issues, the applications will be postponed and the meeting will be adjourned immediately.

II. Old Business & Continued Hearings: None

1. **Mega-X, LLC c/o Elie El Chalfoun (Applicant), Riley Investment Properties, LLC (Owner)** – Request for approval of a sign waiver to allow an off-premises monument sign, additional building and monument signage, and electronic readerboard signage for a proposed gasoline service station, convenience store, and fast food restaurant at 189 and 193 South River Road, Lots 22-87 and 22-23, Zoned PZ. *This application was continued from the May 18, 2020 Planning Board meeting.*

III. New Business:

2. **Eckman Construction Company Inc. (Applicant), Silver Stream Properties, LLC (Owner)** – Request for approval of a site plan to construct a 20,120 square-foot light industrial building with accessory office and warehouse uses and associated site improvements at Bellemore Drive, Lot 1-18-20, Zoned SI. *This application has been postponed to the June 22, 2020 Planning Board meeting, at the request of the applicant.*
3. **The Planning Board will hold a Public Hearing on proposed amendments to the Land Development Control Regulations, Section 235 - Storm Drains Design and Construction Standards for Subdivisions and Section 325 - Stormwater Management Requirements for Site Plans.** The full text of the proposed revisions is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org

IV. Concept Proposals and Other Business:

4. **Windham Realty, LLC (Owner)** – Request for conceptual review of a proposed subdivision to create a separate lot for 177 South River Road, Lot 22-94, Zoned PZ. *This conceptual review has been postponed by the applicant to a meeting date to be determined.*
5. The Board will elect its officers and liaisons to other Boards and Commissions.

Mr. Connors stated the applications have been reviewed by staff, and staff would recommend that the Planning Board find the applications to be complete. The abutters have been notified, and it is the opinion of staff that none of the applications pose a regional impact. Staff would recommend that the Planning Board accept the agenda, and in so doing, adopt the staff recommendations that the applications are complete and do not pose a regional impact.

MOTION by Ms. Murphy to accept the agenda as read. Town Manager Sawyer duly seconded the motion. On a unanimous roll call vote, the motion carried.

1. **Mega-X, LLC c/o Elie El Chalfoun (Applicant), Riley Investment Properties, LLC (Owner)** – Request for approval of a sign waiver to allow an off-premises monument

sign, additional building and monument signage, and electronic readerboard signage for a proposed gasoline service station, convenience store, and fast food restaurant at 189 and 193 South River Road, Lots 22-87 and 22-23, Zoned PZ. *This application was continued from the May 18, 2020 Planning Board meeting.*

Ms. Malcolm recused herself from this application due to the fact that she is an abutter. Mr. Sullivan was appointed to vote on this application.

Peter March, NH Signs, and Chris Riley, Riley Investment Properties, LLC, were present to address this sign waiver application. Mr. El Chalfoun, owner, and Dan Hutchins of New Hampshire Signs were also present. Mr. Riley stated Mr. March will go through the majority of the application, the waiver requests, and we look forward to your questions on the application.

Mr. March stated the waivers being applied for are to allow a larger monument sign than the 32 square feet that we are allowed, to allow the monument sign to be located off-premises, as it is located on a separate parcel, and to allow electronic price signs on the monument sign and on the gas dispensers.

Mr. March stated based on the comments at the meeting on May 18th, we have made the following changes. We have reduced the size of the monument sign from 62 square feet to 48 square feet, we have reverted to white LED prices, from the previous amber units, and we have simplified the color scheme to a blue opaque background with simple graphics, is what we have adopted. The blue conforms to the Mega-X image, and as we will show, as most adjacent signs allow for corporate colors. We have simplified the number of aspects of the sign by eliminating the side moldings. We have removed all signage on the canopy, we have retained the white canopy and down lighting, we have reduced the number of building signs from three to two, Dunkin Donuts is no longer a possible tenant, so the second sign is a generic one of a coffee shop of some sort, and those are conforming signs. I would like to point out that we have made every attempt to listen to the Board and to accommodate many of the comments that were made.

Mr. March stated there were comments made about the electronic prices, and I would like to address those. There was a comment made at the last meeting that electronic prices would result in a free-for-all that will result in South River Road looking like South Willow Street in Manchester. The code refers to changeable readerboard signs and prohibits them if they are either manual or electronic. I would like to bring up the following points. Manual and electronic readerboards are treated in the same way in the code, and what the code says is, 'Changeable readerboard signs, whether manual or electronic, are prohibited in all zoning districts.' Each of the five gas stations in town have changeable manual prices. Logically the Town considered these readerboards if they had been prohibited. Permits were given to Worthern's Mobil on Route 101 in 2018. If they had been prohibited, they would not have been able to do so. The Town's definition application of the term readerboards, these are not readerboards in the sense of message signs are. Gas price digits should not be confused with message signs; they are entirely different. Message signs have the ability to display changing images, often in color. The signs we are talking about only display digits and change once a day rather than minutes. The readerboards change every 15 minutes. The only application for

these units, manual or electronic, is to display numbers, and consequently are almost entirely used on gas stations, but sometimes used to time-temp units, which have protections under the non-commercial street protections, and very rarely to display hotel prices, but overwhelming for gas stations. To the contention that allowing these signs will create South Willow Street in Bedford, there are five gas stations in Bedford, therefore, the scope of these signs is limited. Manual digits and manual gas price signs have been in place for decades, and if the logic was that this type of sign would result in the proliferation of readerboards in town, then there would have been a plethora of manual readers in town, and that is clearly not the case. Most local authorities have distinguished these signs from electronic message centers (EMCS). All neighboring towns have allowed them, even though many do not allow message centers.

Mr. March continued some of the comments related to the case of Reed vs. Town of Gilbert, I am having to delve into that if necessary, but I would submit that Gilbert does not apply to this sort of sign. It applies to a sign in a specific environment, i.e. a gas station. While the Town seems to authorize gas station readerboards that are manual, not gas station readerboards that are electronic, it seems clear to the paradox is not supported in this case. The court read is that this should not be separate categories in the ordinance for different kinds of signs. In this case different types of gas reader signs. The contention that these signs will lead to a proliferation of signs in a different type, i.e. electronic message centers, is flawed, the use of manual prices by the current gas stations, which has been used for many years, has not led to a proliferation of either manual or electronic readers.

Mr. March stated the contention that if this sign is allowed, i.e. electronic digits, and that they are the same as message centers, is incorrect. They are distinct types of signs, a different market, a different application and they are in different categories.

Mr. March stated the other issue that was raised in the meeting last month was the use of color and subtlety. We have done our best to reduce the size of the sign, we have done our best to reduce the number of colors, however, it should be mentioned that there are many adjacent legal signs that use corporate colors. And even though there may be offensive to individual members, some of these signs are in corporate colors, such as: Dunkin Donuts, opposite this site; Lowe's that incorporates Lowe's blue; Target incorporates Target red; Land Rover incorporates Land Rover green; Irving and Circle K are blue and red; Bedford Cross where all tenants use individual colors; the Bean Group is blue, black and gray. There is ample precedent for companies being allowed to use their own colors.

Mr. March stated as far as the size of the sign that we are requesting, we believe that it is within conformity of local signage. There was a lot of discussion about the River Road Tavern. With that post structure, that sign is 54 square feet, so if you incorporate the post structure and the size of the sign, it is slightly larger than the sign that we are requesting and it is infinitely closer to the road than ours.

Mr. March stated to the points required to prove the waiver, we need to prove that the goal is: 1. To attract environmentally acceptable commercial, industrial, recreational, institutional, and residential uses to the district. This gas station fills the need for a gas station and C Store along the South River Road corridor. The only other station in the area is the one at Second Street on

the Manchester/Bedford line 1.6 miles to the north, and the other is the Irving station on Technology Drive, which is 1.2 to 1.5 miles from this site. Creating a diversity of services available to the public is one of the goals stated in the rationale for the Performance Zone. Lighting on the site is all LED and the site incorporates EV charging stations. 2. To encourage in the community tax base through appropriate flexibility in land use and land use development. As stated, the station fills the need for a gas station and C Store on South River Road. The last gas station developed in the Bedford area was more than 15 years ago, i.e. before 2005. With only one other gas station along the entire South River Road corridor, there is likely significant unmet demand for this service. 3. To optimize financial return on public infrastructure investments and expenditures, including municipal sewer, municipal water supply, the Manchester Airport, Class I and II public highways, and the Merrimack River amenities. The project as a whole will have a significant beneficial effect on Bedford tax revenues, and will consequently optimize the capital investments made by the Town in the infrastructure that supports it. 4. To minimize adverse traffic impacts on Route 3, the I-293/Route 101 interchange and surrounding local streets and roadways. This well designed, clear signage will improve traffic safety by communicating information clearly and effectively without clutter. It can be assumed that the site will provide services to a part of the adjacent population that will limit the miles needed to travel to fill with gas and will thus reduce overall traffic. 5. To preserve valuable historical, cultural, and natural features within the district and to minimize adverse environmental impacts, such as water, air, light, noise pollution, flooding, and clear cutting of vegetation. The business and signage are being designed to be aesthetically attractive and in character with the surrounding development. The design of the signs, also the redesign of the signs, including the stone elements on the base, the understated nature of the canopy and the restrained nature of the signage on the building limit, in as much as is possible, impact on of the site on the area. In comparison, the Irving site off from the Airport bypass (20 Roundstone Drive, Manchester) has 30-foot main ID sign, a second 20-foot ID sign, and lettered canopy with light bar. This site is sympathetic to the area, incorporates local features such as stonework and subtle colors and fits into the area as well as or better than most of the adjacent properties.

Mr. March stated I would like to address the size of the sign. There were a number of comments made about the altered size of the sign. Posted on the screen is the sign as projected at 48 square feet at approximately the location of the would-be sign. It is visible, it is not going to be covered by snow piles, it is subtle, it is really no higher than that vehicle that is passing it, so it is a subtle, readable, logical sign. Now we can show what the sign would be if it were 32 square feet. In our opinion, for the speed of the road, small and relatively illegible both in terms of the gas prices and also the tenant sign on that sign, the coffee shop. It would essentially render the sign much less usable and much less legible and essentially that would become more of a traffic hazard as it is relatively unlegible. The next sign shown of River Road Tavern is about 54 square feet in size and it is closer to the road to this sign.

Mr. Riley stated I think you have given the Board ample information, so I am sure they have a bunch of questions they would like to ask you or I. We probably should go in that direction if that is what the Chairman would like to do. Acting Chairman Newberry responded that would be fine unless there is anything else that you want to start the Board off with. Mr. March stated I am happy to answer questions at this stage.

Acting Chairman Newberry stated we will go to each Board member and they can ask questions or comment.

Mr. McMahon stated thank you for the increased information from the last time; I appreciate it. Some time ago our current Town Manager was the Planning Director and he hosted business leaders to take part in a discussion allowing the business leaders to be able to give their impression of the sign standards, and there was a lot of give and take. It lasted for some time, and I believe the Riley family was represented. My impression when it was all done based on the discussions and the interaction afterwards, is that both sides seemed to be satisfied. It is the nature of A-type personalities to perhaps press the limits and see what results they have and it is not based on this particular application but the short time I have been on the Planning Board it seems one of our major things to address are the increased number of sign waivers. With that in mind, I am talking about the monument sign only and I am talking only about the height, would a confirming monument sign limit or hinder a business that will likely succeed. There is no immediate competition, it is in a great location, and given the success of the Riley family, they would not be here tonight if they did not fully believe that it was going to be successful. This may be my misperception, but driving by and taking a look relative to the area where I think the monument sign is going to go, again, it is just the height of the monument significant, it would appear that the land is about a foot taller or more than the road itself, and if that is the case, the viewing would appear that the sign would be higher than it would actually be. I am not explaining that well, but the whole sign itself would be elevated 1 foot above the level of the road.

Mr. McMahon stated secondly, thank you for the information on the electronic signs. My comment on those is, again, limited just to the monument sign. I believe the Town Manager has already discussed that there is prohibition for that, thus the waiver, I don't know if it really belongs in our Town, it is not a city. I listened to your point about proliferation, but it would be not just for gas stations, it could very easily be carried over to other businesses, and I would hope that the Board would consider these comments, and I would have to say that I am not inclined to favor that waiver.

Mr. March stated firstly, the sign is in conformity in its height, so the code allows us 10 feet in height and we are in conformity with the height. We are allowed what we asked for in height. As far as proliferation is concerned, there is a central point that maybe I didn't make clearly in what I said previously, but readerboards are not allowed in Bedford, they are expressly prohibited. However, the gas stations have been using readerboards for years and years and years, manual readerboards. That has not led to any proliferation of any manual readerboards for any other purpose. I would argue the fact that you allow a digital price sign on the sign, which is totally distinct from an electronic readerboard and does not open the fire hoses to other signs of this type. This is a distinct type of sign that has an application in a very distinct industry. Mr. McMahon responded I understand, but the first people to put the readerboards up that were manual were certainly proliferated after that.

Mr. McMahon stated did I misread your chart? I thought the height of the monument sign was 10 feet 11 inches? Mr. March responded no, it is 10 feet. Mr. Connors stated it is 10 feet, so

they are conforming with the height requirement.

Mr. Riley stated I listened to you for a lot of years and know that you are very reasonable and open minded to weighing the evidence of any application that is presented and we do appreciate that. Mr. March talked briefly about the allowance of readerboards in general, and we are requesting a waiver from Section 275-73(H) and it does clearly state that there are no readerboard signs allowed. Now we also list in that particular ordinance other varieties of what we would call changeable signs or animated signs, and doing a little research, there is no legal definition that really meets what a gas station sign is. It doesn't meet the legal definition that is nationally accepted for animated signs, it doesn't meet readerboards definition, so it really is a category that stands alone. There were two legal references made, and I had a chance to read both Reed vs. Gilbert. In the Supreme Court case eight of the nine justices were all in agreement as to what was interpreted in that case and on the surface you would think that stands for the reason why we can't have this sign and it is actually the opposite. The case involves an idea or exchange of ideas through signage of a religious nature that they ruled that towns couldn't create ordinances that would decide what message could be relayed to the public. So a town can't just create an ordinance saying you can say things about X but you can't say things about Y. If we are going to allow signs to say things, we have to be respectful of the first amendment and allow people to express themselves. What we are talking about here isn't a sign that meets any of the legal definition that the ordinance which we are asking for a waiver of is defined by and the reality of these changeable numbers is that the sign itself, whether the Board looks at the reduction in size that was made from the last application to this one so that they allow for that extra 16 square feet of signage, which does give a much more visual presence as you are driving by at 35 mph and deciding if you are going to turn or not, the sign is not going to look at different, so we are still talking about an LED lit sign conforming to the Town's ordinances as opacity and everything else, the colors aren't going to change, the only difference is, is there going to be a line through those numbers or are they going to be clean. After we had that first meeting and took all of your comments, knowing that Mr. El Chalfoun has to have a business here and that people know what is going on with the price, because people are driven by gas prices, we wanted to try to make the sign look as monochromatic as possible, as monolithic as possible, and as clean as possible. So there was quite a bit of deconstruction of what was presented to you last time. To try to just basically convey the main points of the sign, who is selling the gas, what is the price of the gas, and who is the ancillary tenant. Unfortunately, we don't have an agreement at this time with the tenant we thought was going to be there, but there will eventually be a tenant so that is why it is staying generic, the other signs that the Board had mentioned are gone. We took signage off the building, we took signage off the canopy, we reduced the size of the pylon sign, so we feel like we really tried to make a strong effort in those areas. As far as the digital read though, I don't believe either one of the State cases or the national Supreme Court case fully applies to this particular use in that we are conveying idea, the Town isn't restricting the conveyance of idea, it doesn't fall in the category of any of the defined categories that are in the ordinance, this isn't a sign that changes every minute or every three minutes, it is not displaying an ideaed message, it is displaying a price. The look of the sign won't change. If it is a manual sign that one of Mr. El Chalfoun's employees has to go change every other day, or every day, the numbers are going to look the same. The difference is one is on a board that will light up with the LED's, the other one is lit up through the LED sign itself. So as far as aesthetics in which the ordinance is trying to

protect, I feel like the digital display, the LED backed digital display, aesthetically is more pleasing in that the sign has more of a monolithic look at that point, there are not things bumping off the signs, there are not lines between the numbers, it is just cleaner. So I hope that clarifies a little, Mr. Chairman, and makes you think a little bit about the whole idea of digital versus manual. Mr. McMahon stated I do appreciate all of the adjustments you have made and can applaud that. I think I understand your logic and the court cases, that we are still faced with a local ordinance that does not allow that. You have your viewpoint, I have mine, but I can see where people start a new business or want a change in signs, are going to use this case, if it is approved, as a rationale to start switching signs out and using LED's.

Ms. Hebert stated Mr. Chairman, I am going to suggest that you run through all of the Planning Board comments and then let the applicant respond to the Planning Board comments. I think there may be overlap in comments and it might be more efficient to have everyone voice their opinion or their comment and then let the applicant follow up. Acting Chairman Newberry responded I think that is a good suggestion. I am sure some of the Board members are chomping at the bit to express their questions and concerns. We will go ahead and take that approach. We will go through all of the members and give everyone an opportunity to ask questions and state their concerns, and then the applicant can come back and respond to those. Then we can follow up as necessary.

Councilor Duschatko stated I have a couple of questions. We have seen the representation of the sign only looking from the south, assuming the driver is on the right-hand side going north. Is there any type of representation of what the sign is going to look like when you are looking south and the driver is on the other side of the road? I think this has a serious impact on perhaps the size of the sign and how it looks. I think the proposal exceeding the permitted square footage is probably excessive unless we take into consideration perhaps the visibility factor of those cars coming south, and we just have nothing to base it on. My other comment is based on a statement that Mr. Riley just made that the traffic coming through here is going to be making decisions at 35 mph in a controlled cross walked intersection and if that is the case, then we are making a big decision or a big mistake of having anything there because that speed in that area is just too high. It is not going to be stop and go through there like it is now, so I would just like some clarification on those particular things.

Councilor Duschatko stated as far as the digital versus the manual sign, I still come down and am actually in favor of the digital. I think it looks better, I think it is more efficient and may allow to get away with smaller signs with less impact.

Ms. Murphy stated specifically as to color scheme on the secondary tenant sign on the monument sign itself, my question is that now that Dunkin Donuts is sort of out of play, do you anticipate any issue if the Planning Board were to limit your color scheme to say two colors, whether it be black and white or navy and white for purposes of consistency? And I understand that everyone is speaking prior to you being able to answer these questions. I wanted to put that out there because that is my number one question. I echo some of the questions about the movable signage that are being raised by the other Board members but I am going to sit back on that at the moment because I think that others are articulating the same questions that I might have.

Mr. Clough stated the calculation of the square footage on the River Road Tavern sign appears to be a calculation on the frame, not on the sign itself. I would just like to have them clarify that.

Town Manager Sawyer stated to the response of Mr. March; I think he is absolutely right. Readerboard signs are not permitted in any zone, and it seems tonight that we have already assumed that manual signs are permitted, and I think the Board needs to make a decision that even the manual is allowed, not that it is already permissible. The three gas stations that were built in Bedford with the modern sign ordinance in place, with this restriction in place, were all initially approved and operated for many, many, many years without any gas pricing at the street. One of those gas stations has since been removed, that was the Stop & Shop site. The two Irving stations that were built both came back to either the Planning Board or Zoning Board to get approvals for those manual signs at times and one of them did try and eventually get a changeable copy electronic sign and that was turned down by this Planning Board. I think it is important or just to clarify or to state that Mr. March seemed to be using a lot of industry terms that aren't defined in our ordinance. Our ordinance specifically talks about changeable readerboard signs and the interpretation of that for gas pricing as being the changeable readerboard sign was done I believe in 1999 as part of the Melinda Realty application for what is now the Irving gas station on Technology Drive. I think was before the Planning Board on August 30, 1999. I don't think we should be trying to redefine what a changeable readerboard is in our definitions tonight by this Board. I think that interpretation was made decades ago and has not been appealed or changed since. To state that all neighboring towns have adopted electronic message signs or electronic changing signs is probably one of the reasons why Bedford stands out as well as it does and one of the reasons why I still stand in opposition to electronic changeable signs. I do believe that the manual signs for gas stations is a reasonable allowance for the type of business that is here and would help to provide safety of the traveling motorist to not have to make extra turns in and out of the gas station just to find out what the gas pricing is. For me having the gas pricing at the street, is a reasonable thing to do and a reasonable accommodation to make. I think the only other thing I will leave it with, I have not heard any justification for why a larger square footage sign needs to be permitted. I would certainly give the applicant an opportunity to address that further, but nothing in the written testimony really defined why 32 square feet wouldn't work in this case. This is the idea sign corridor, and even on this particular property, has some of the best signs for them to say that we need a larger sign for this particular gas station in this location just seems to be completely out of character for me and is out of character with all of our other gas stations. None of the modern gas stations have a sign over 32 square feet and they are as busy as busy can be, including one with a Dunkin Donuts in it. I just haven't seen the justification for the larger sign. That is all I have for now.

Mr. Fairman stated first of all I just wanted to thank you for improving the appearance of the sign. It certainly shows the work you did to make it a much better looking sign. Having said that, when I vote for a waiver, I like to know why I am voting for the waiver and you haven't given us any reason. What is the benefit to the public in Bedford for electronic changeable sign versus a manual changeable sign? Why should I vote for a waiver for that? I don't see any reason to; I haven't heard a reason from you people. The same goes for the size of the sign.

Does the bigger sign have a better sight line going in either direction so you will be able to see it 20 feet further? Give us a reason why it is better for the public to have this waiver? I haven't heard any of that. You have given us a lot of words but no reason why I should vote for either one of these waivers.

Mr. Sullivan stated to echo what Mr. Fairman said a little bit, is the idea that if we want to grant these waivers, there has to be just cause. I know that there are written arguments in the documents submitted to the Board and to staff but three of them are completely irrelevant. You are arguing for the purpose of the project, not necessarily the purpose of the waiver for the size. All in all, what you have done with the sign since the last presentation is great, I like it, it just needs to be conforming in size, and I don't understand why it needs to be so much larger than what is already dictated by the zoning.

Mr. Quintal stated I agree with Councilor Duschatko that the digital sign does look better, however, our ordinance doesn't allow for it, and I don't think we should change our ordinance unless there is a compelling reason for it. My concern though with the digital sign would be the brightness of the sign. If you go to some of these larger cities, the brightness of these signs, especially at night, can light up a whole intersection. Those are just some of my concerns, but I am certainly not for the digital piece right now.

Acting Chairman Newberry stated I think the applicant has done a good job in listening to the Board's concerns, and I appreciate that. I am a little less concerned about the request for the 48 square feet because I think that that is probably a reasonable sign size for that location, however, I do not support the idea of the electronic readerboard. One of my concerns is that in this instance we are looking at only numerals but once you have an electronic capability, there is nothing that says you can't also use alpha characters and alpha characters lead to any and all kinds of messages. I think that for consistency a readerboard that is manually changeable is reasonable given the other similar uses within town, but I do not support the idea of an electronically changeable readerboard because I think it opens the possibility for uses that may not be attractive.

Councilor Greazzo stated my only concern would be the terminology actually. Changeable electronic readerboard rather than illuminated numeric sign, I think, limits it, but it doesn't seem that the Board has the will to go in that direction. I think Mr. Riley said that regardless of whether it is lit by the sign itself LED or its own LED, if it is lit by its own LED as Councilor Duschatko said, I looks a lot cleaner, but, again, that goes to terminology and goes to the ordinance. So my only concern would be if you were moving in that direction to not call it a changeable electronic readerboard but an illuminated numeric sign.

Mr. Riley stated thank Mr. Chairman and thank you Planning Board members. A number of the comments pertained to the same items, a few technical items, which Mr. March can address pertaining to size requirement, a number of comments regarding what is the justification. If you are going to grant a waiver and having been on that side of the table, I understand fully that comment. If we are going to grant a waiver, which the Board is given the authority to do, what is the reason for it and it better be a good one. We will let Mr. March speak to size and just logistics of cars passing by. The only thing I would say in caution would be that if the Town is

going to strictly adhere to the limiting of or not allowing of any type of readerboard, then anything that is approved moving approved, or has been approved, creates the precedent which then puts the Town in violation of Reed vs. Gilbert. You have to be careful there. If you let a person do it for one use, then it can be argued that that one use is being allowed and now another use is being violated of their right to do so because of content and that is exactly what Reed vs. Gilbert was referring to. I would be really cautionary there in using that to say we are never going to allow it because any project, regardless of size, location, distance from the street, none of those factors come into play with any of the legal precedent that exists. I would just say we probably want to be cautious of using that as the reason in making it separate. It really comes down to a look, and I know I can't share my screen tonight, we were having some issues with that earlier and I got the pictures after the fact, but Mr. El Chalfoun did send me two separate signs that he has where one is the LED, and it is in colors of red and green, which is most common, but we have eliminated that to try to keep that clean look and stay in the white, and the other is the manual board. I will tell you, there is not much difference, like I said before. The color is the same, the size is the same, the illumination is the same, it is really just a difference of is that panel going to be flat or is it going to have protrusions for the manual signs, are we going to require an employee to go out there and change those numbers. Obviously the owner would like to not do that because it is a safety issue for his people going out at night to do that, so those are just things that I would hope can be considered if we are going to look at any type of signage. It is the only industry that is required, by the way, to display pricing. Mr. El Chalfoun is required, as any gas station is required, to display the pricing of a gallon of gas, so signage is critical for the nature of the business. One way or the other we have to do that. We appreciate your comments from a number of you that you do see the significant change that did take place in the sign itself. To get to Councilor Duschatko comments, I think Mr. March can address that. I believe the speed limit on the road is 30 or 35 mph, so when it is a green light, that is the speed that people go by. You do raise a good point though the distance coming from north to south would be a further distance away from the signage so scale and size become more relevant at that point. I don't feel like the ordinance addresses this type of sign. I've read the ordinance over and over again from different directions to try to see what the intent, because whenever we look at an ordinance and a Board sits on an ordinance and votes on a waiver, they are trying to look at intent and if everything was to go specifically to the ordinance and specifically to the zoning amendment, then we wouldn't need a Board. The reason you are all here is because your job is to interpret it and decide is this the best use, is this is what is allowed in the Performance Zone. When it was created, that is exactly why they called it the Performance Zone to allow the Board more flexibility to enhance, promote and attract strong tax base commercial activity in the Town of Bedford. That was the point of the Performance Zone when it was created, and that is, I think, what this project is trying to do.

Mr. Riley continued the sign is critical to the user, Mr. El Chalfoun has stated that to us over and over and over again that the sign is critical to the user. He was willing to forego the building signage to keep it cleaner, canopy signage, which is very rare not to have canopy signage, in order to try to get some concession on this front sign. I would hope that you could look at that and waive that as a critical component of the project. Mr. March please speak a little bit to the technical aspects that a few Board members had raised about speed, size and scale.

Mr. March stated I am going to start by talking about the actual technology. Basically these are little LED bulbs that poke through a black metal plate. If you imagine the old digital watch you had maybe 20 years ago that only could do numbers, this is exactly the same application technology. So there is no difference between what that did and what this did. It is not capable of ever doing anything other than numbers; they are not built to do that. They are totally different from the signs you see on South Willow Street, which use the graphics and moving images and that. These are just not able to move. That is one comment I would like to raise.

Mr. March stated the second comment was I mentioned the fact that most surrounding towns have allowed digital prices and they separate those out from LED message centers. There are many towns that do not allow electronic message centers but see the difference between these signs and electronic message centers, and really all the local towns, as far as I am aware, allow electronic prices because they are a completely different animal. They are not the same animal.

Mr. March stated one of the issues that was raised is what is the benefit to the public of this sign. There are a couple of benefits. First it is easier to read and it is neater. They last many years and they look neat for pretty much all the life of the sign. The plastic numbers are subject to rain and snow freezing in the plastic tracks of the sign and they look scrappy after a number of years. They also fall out. There are benefits, yes, to the owner. This allows him to change prices remotely, as we discussed last time, but it also means that one of his employees is not clambering over a snowbank, and I am pretty sure there will be snowbanks at that location, he is not clambering over snowbanks to change a price. As Mr. Riley said, the end look is not dissimilar to the manual price and the electronic price, particularly with the white letters. It is a clean, crisp look but it has benefits to both the owner, the owner's employees, and to the general public in terms of readability.

Mr. March stated in terms of sight lines and signs, I am going to try and defer to my colleague Dan Hutchins. As Mr. Riley said, this is a site where traffic moves at a relatively fast rate behind the sign, 30 – 35 mph, something like that. You are approaching it around a corner, and to lift the sign up and have it visible in this particular circumstance has significant benefits. If you look at the smaller 32 square foot sign, if we were to either use manual numbers or electronic numbers, those would be about 10 inches high, a little bit shorter than the piece of paper you are probably looking at right now. That is not terribly visible from 30 mph. The numbers that we have proposed are up to 14 inches and those would be significantly more visible. Mr. Hutchins stated I did not get a photo from the opposite side of the road, however, looking at the distance and readability, you are gaining quite a lot of yardage. This justifies the 48 square foot even more so from where I took the photos on the northbound lane.

Mr. March stated in conclusion to that specific point, a lot of sign visibility, a lot of determining sign sizes and art rather than the signs, and what we are doing we are using many years of experience to recommend a particular size for a particular location. Clearly the code adopts a one-size-fits-all approach; in this particular case, I don't think it is necessarily justified for this location of the sign, the information that is being conveyed, and the basically the distance of the sign off from the road.

Mr. March stated Ms. Murphy asked whether the colors for the tenant could be limited and I don't have an answer to that. Maybe Mr. El Chalfoun could speak on that. Mr. El Chalfoun stated I can do that. I am looking for a black and white sign or gold sign. If Dunkin Donuts is going to come back, I am going to require them to have the gold color. I am working with someone where the logo is black and white, so if they come in, it is going to be the black and white.

Mr. March stated Mr. Clough made a comment that the frame of the sign, not the sign itself, is 54 square feet. That is correct, and I apologize for not pointing that out. The visible size of that sign is larger than the size of the sign that we are looking for. Strictly speaking by definition, it is not that size, but the visibility of that sign it is a larger sign.

Acting Chairman Newberry asked the Planning Board members if they have further comment or question before opening to the public. Ms. Hebert stated I don't see any Board members raising their hands.

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

Mr. Connors stated we have about 10 emails from members of the public, some of which I will read at the request of the individuals, and the others I will summarize. These emails will be incorporated into the meeting minutes and included in the file for this application in the Planning Department.

Robert and Muriel McMillan, 65 Hawthorne Drive, To the Planning Board; we wish to voice our concern and overall disapproval of the approved Mega-X complex on South River Road. Allowing outlandishly large and signage for a business. They are close to the intersection, River Road Taverns, White Willow Spa, and the Dunkin Donuts shop, and the Mini Cooper facility have developed attractive commercial properties without oversized signs. We observe the unruly attractiveness of the monumental and ground signs of the Mega-X station and the Manchester Airport. Our community may possibly benefit from other gas station and convenience store in this increasingly congested area and we do not want to add a truck stop like image of a facility on South River Road. We ask that the facility reflect the character and visual presentation of the Town and vote to keep the signage within the existing code limits. Thank you for your consideration of our opinions.

Carol Conti, 21 Gleneagle Drive, (2 emails), To Members of the Planning Board; Email 1) I am opposed to the waivers requested by Tom Riley and others for laying signage at the gas station complex proposed, for the proposal being reviewed at the Planning Board meeting tonight. A 48 square foot monument sign is too large, a 32 square foot sign is the size allowed by code in Bedford, allowing the waiver would set a precedent for future developers and developments. A monument sign is to be relocated in the right-of-way not on the gas station property sign itself. The readerboard signs are not allowed in any zone in the Town of Bedford. Do not allow waivers as it would set a precedent for future developers. The Irving station on South River Road was not allowed this option when it was built, customers can easily identify the gas station by the sign that was approved by the Planning Board. The applicant's readerboard signs on the gas pumps is not allowed by code in the Town of Bedford. All the readerboard

electronic signs are desired by the applicant to make it easier to change prices of gas remotely. These signs are not required to conduct business in the Town of Bedford. I hope the Board will follow the Town of Bedford code and deny the additional waivers. Email 2) I am writing regarding the proposed Mega-X gas station, fast food restaurant, and convenience store for South River Road. These objections include both size and electronic readerboard signs requested for the convenience of the owner. Several of the Mega-X gas stations are able to change the prices at all of its stations remotely. This convenience is not required in Bedford. As far as the monument sign, the right-of-way is a better plan, and I would request that this sign be turned off at 11:15pm.

Richard and Anita Galway, of 9 Muirfield Road, To the Planning Board; we hope that the lighting is to be directed downward and be dimmed at certain hours and will be off overnight, except for limited security lighting. We hope the accommodations for the signage will be implemented for the betterment of the community.

Richard and Joanne Gustafson, 17 Kittanset Road, To the Planning Board; We write to urge you to deny the request by Riley Investment Properties and Mega-X for approval of a sign waiver to allow an off-premises monument sign, additional building and monument signage, electronic readerboard signage for the project. We urge the Board to approve what meets the Town's policies and ordinances. The proposed signage is completely out of character of the type of look and feel that we all expect for business signage in Bedford.

Marilyn and Tony Frederick, 25 Gleneagle Drive, To the Planning Board: Please consider our neighborhood and the citizens that live in this area of the Town of Bedford. The sign waivers are a direct contradiction to the Master Plan that is supposed to reflect the Bedford population with ambience that makes their town the place that we want to live in. Please do not give a waiver for a 48 square foot monument sign, 10 feet high, to be located on an off-premises parcel close to South River Road, where 32 square feet is allowed by code. Please do not give a waiver for electronic price signs on the monument sign. Please do not give a waiver to electronic price signs on the gas pumps. These are readerboard signs that by code are not allowed in any zone in Bedford. We would like the Planning Board to keep the signage and the lighting to a minimum. Mega-X does not bring any positive images to our town.

Norman and Gail Laprade, 31 Pebble Beach Drive, To the Planning Board; Bedford taxpayers paid the special planners group to come in and consult for Bedford to see what they would like the Town to become in 2020 and beyond. It seems as if this money was for nothing if proposals like this are allowed to go through anyway. We have many concerns about the proposal for the gas station and fast food complex, with concerns listed in the email.

Stewart and Carolyn Richmond, 37 Pebble Beach Drive, To the Planning Board; As residents for 21 years at the Village Green, we write to oppose any variances for lighting from Mega-X. The lighting should not be bigger than allowed by code, should not include neon or other lights. The entrance should not be a disgrace in Bedford for this busy corner.

Paul and Sandra Kfoury, of 10 Pebble Beach Drive, To the Planning Board; my wife and I would wish to express our concerns for the gas station proposal. The signage should be

restricted to a maximum of 32 square feet, it should be in harmony with the other signs on the east side of South River Road, it should not permit illumination beyond the requirements, and reduce the height to less than what has been proposed.

Mr. Connors stated the following emails have been received during the meeting.

Judy Boisvert, 16 Gleneagle Drive, To the Planning Board; I don't know how you approved this when you are in a pandemic and you are not supposed to have meetings with more than 10 people. Aren't the residents of Bedford supposed to be a part of decision making. No electronic signs. Email 2) We need to stick with the signage requirements that are in place. Please no LED lighting with message boards.

Kitten and Bill Stearns, To the Planning Board; As a resident of Village Green, a neighborhood that abuts the development, granting these additional variances is not keeping in the character of the Master Plan that was put forth for Bedford, and for that reason we would like to voice our opposition to the variances. Readerboard signs clearly are not allowed.

Sally Hovis, 24 Gleneagle Drive, stated I live in the property adjacent to the proposed property. My main concerns are the size of the offsite sign and the lighting. I also have a question that I don't think was addressed tonight about originally the signage said Dunkin Donuts and my original email said you have a Dunkin Donuts going in when we have a Dunkin Donuts on the corner already. What is the proposed solution for a provider if Dunkin Donuts isn't going in there, what is? Mr. Connors responded the Town approves the use, it does not approve the tenant. We know it will be a fast food restaurant, we don't know who the tenant will be. Ms. Hovis asked if you don't know who the tenant will be, then what restrictions will continue to be applied to signage in regard to that tenant going forward? Mr. Connors replied they would be bound by the signage. If the Board approves the waivers tonight, they would be bound by the restrictions the Board places on the waivers or they would have to conform with the Town's requirements for signage. Ms. Hovis asked what about the lighting that could overflow into the residents of Village Green who live very close to the highway on which the proposed signage and facility will be constructed? Mr. Connors replied there was a condition placed on the site plan approval that requires the owner to turn the exterior lighting off after business closes, except for those lights that are necessary for security purposes. I believe that would apply to the lighting for the sign as well. Acting Chairman Newberry stated I think the lighting plan also is required to show that there is no spillage from the site onto adjacent property. Mr. Connors responded that is right. They are required to submit a lighting plan as part of their application showing that the light would not spill onto abutting properties.

Carol Conti, 21 Gleneagle Drive, stated I am also a resident of the Village Green and an abutter, and I am opposed to this project. I have a question for Mr. Riley. Was he threatening the Town of Bedford and the Planning Board with litigation when he mentioned those court cases? Acting Chairman Newberry responded we will give the applicant an opportunity to respond to all of the public questions and comments. Do you have any other comments or questions? Ms. Conti stated I am opposed to the waivers that the Planning Board is considering tonight, which are the size of the sign, the fact that it is on a right-of-way, which is not owned by the gas station complex property, and also the fact that the fast food is unknown. I am opposed to the

electronic readerboard signs, which are in direct violation of the Bedford code, and I hope that Mr. Connors read my comments pertaining to that. Mr. Connors responded your comments were read into the record. Ms. Conti stated and that precedence will be set by the consideration and approval of this application. I would like to remind the Planning Board of that fact. Thank you.

Acting Chairman Newberry stated thank you, and the applicant will respond to questions and comments from the public shortly.

Acting Chairman Newberry asked are there any other live comments or questions from the public that you can see? Ms. Hebert responded I do not see any new emails that have come in and there does not appear to be anyone new on the call-in. Acting Chairman Newberry stated we will turn the floor over to the applicant's team. I think we had a couple of comments and a couple of questions, if you could address those.

Mr. March stated I would like to address one of the comments that seem to have a recurring theme, which is that no readerboards at all would be allowed on the site, and that included readerboards on the pumps themselves. Those are required by State law, so you have to post the price for a gallon of gasoline with whatever conditions you apply to it in two or three places. On the pump itself, on the pump topper, or on the sign. We are obliged to put what would be described as a readerboard on the pump itself. I just wanted to clarify that point to the people who have asked that question. That is a State law.

Mr. March stated as far as brightness is concerned, the digital prices follow the ambient light. They could set to a level anywhere from 1 to 9, 9 being brightest, 1 being the least bright, and they basically follow the ambient light. At night they dim themselves down and during a bright sunny day, they brighten up so that they remain visible. So the brightness is not an issue with these signs. It is certainly not more of an issue than having plastic numbers on the sign face, that shine light through the plastic numbers to make them visible and this is essentially a similar way of doing that. I think that covers most of those questions.

Mr. Riley stated I will address some of the abutter comments that were received. I guess having the benefit of having history and watching South River Road develop, as many of you have, there has been a number of projects, especially on the southern tier of the corridor prior to the crossing of the FE Everett Turnpike that have taken place over the last 10 – 15 years. We are familiar with all of them, which are Target, Lowe's, Bugaboo Creek, I Hop, Mini Cooper, Dunkin Donuts, the River Road Tavern, White Willow Spa, and Market & Main is the big one that is in there right now. I have been involved in either listening as just a citizen or sitting or presenting on some of these and we have seen consistency of comments in support or not supporting, and the majority of the comments that I have had a chance read through here tonight all come from a centralized area, a few don't, and we are sensitive to the Village Green being located in the Performance Zone of the most highly populated commercial district in our town, which is the Performance Zone of South River Road. While we are sensitive and sympathetic to the Village Green, the reality is that the Village Green is centrally located really in the commercial center of our town. The irony of it is if the project was coming in today, it would need special exceptions and waivers, so I don't know there would be opposition to

putting residential there if it was coming again, but we do recognize that these are peoples' homes, and we are not trying to create irresponsible development. The site sits very well; we have left a lot of green space. If you look at the overall aerial of the proposed sign in a larger form that is being presented today, the sign does not occupy a lot of space.

Mr. Riley continued to address the waiver that is being requested, specifically to offsite signage; I believe we covered it at the approval meeting when we received the site plan approval and the special exception. But the reason that the sign isn't technically on the parcel is for taxing purposes and financing purposes. We have done the subdivision of the parcel similar to other developments in the Town of Bedford so that each parcel can stand on its own for tax carding, tax purposes, as well as financing purposes, and that is the only reason that that waiver is being requested, which isn't an uncommon request when the structure of the development is done in this fashion, which has been done throughout town.

Mr. Riley stated so where we are respectful and listen to the objections that were raised by a concentrated group of Bedford residents located directly across the street in a residential development located within a commercial area, there has also been a lot of positive response and I hope some of you have heard that as well. We do feel like we are meeting a need. My father Tom and I really had the flexibility to hold this site as long as we wanted to, we didn't have to develop it, there is an abutting site behind it that will at some point be developed, it could be next year, it could be 10, 20 years from now, who knows. There are undeveloped parcels in town that are on this corridor that will have something eventually coming into play, and meeting the service needs of the residents, as a resident of town myself who is in the area quite often, is what we were trying to accomplish with the use, but we also understand that the use has certain requirements. Everyone has used a gas station, everyone is familiar with a gas station, we tried to really hit on the architecture, which we did at the last meeting, and we feel the signage ties the project together, meets the State requirement, has met what the Board has been looking for as far as recommendation from the first meeting. I know there is some agreement and disagreement as far as what you want on that sign, we will say we disagree perhaps on the interpretation of the case law that was presented and just to directly speak to Ms. Conti's remark, there is never a threatening tone in anything I was saying. I was simply referring to the case law that presented in the staff report to the Board members and my interpretation of that staff report, and that if we are going to set precedent on one, just as you mentioned Ms. Conti, that it does carry through the town. We look at it as a gas station numbers as being very different than readerboards as defined legally, but, again, that's something maybe the Town needs to look at and consider as a Board when they have their workshops or they look at zoning amendments or modifications to how we define signage in town. There aren't a lot of gas station uses so it doesn't come up very often, as Town Manager Sawyer said, there hasn't been a lot of gas station development in a lot of years in town, and I think that is why we have seen such a need and we put this project forward. So I hope that addresses the concerns of the abutters. We are respectfully trying to develop the site. As far as illumination goes, the lights on the intersection are on all night, and Mr. Foote could speak to that, the lights for safety purposes at the lighted intersection at Back River Road and South River Road do remain on the 12 hours or so darkness, so that intersection is lit all night long. I don't think the applicant has any objection to a limitation on the hours of the signage. We want a sign that the Town can accept and that we are proud to have on the site. That is all I have,

unless there are further questions from the abutters or any Board members.

Mr. Connors stated we have one new email received from Tony and Marilyn Frederick, 25 Gleneagle Drive, asking what time the business would close. Mr. Connors stated that would be 11:00pm and the condition is that the lights would be turned off at 11:15pm.

Mr. Fairman stated I would like to make one clarification of something Mr. Riley said. Some of the comments alluded to the fact that the sign would not be on property owned by the owner, not on the complex, it said, referring that it might on Town property. That is not correct. It is actually on the complex; it is on the property owned by people that own the complex. Is that correct? Mr. Riley replied that is correct. The sign is on the private property.

Acting Chairman Newberry stated we have closed the public questions and comments, are there other questions or comments from the Board. There were none at this time.

Acting Chairman Newberry stated I think we have potentially two motions here. One is for the monument sign and one for the changeable electronic readerboard signage. What is the pleasure of the Board?

MOTION by Ms. Murphy that the Planning Board approve waivers from Section 275-73, Subsections C and H, and the Table of Performance Zone Sign Standards of the Zoning Ordinance, to allow a monument sign to be located off-premises, less than 10-feet from the right-of-way boundary, and to allow two monument signs on the same parcel, Lots 22-23 and 22-87, Zoned PZ, in accordance with the application materials submitted by the applicant Mega-X, LLC and owner Riley Investment Properties, last revised May 28, 2020, as the Planning Board finds that the applicant has shown substantial compliance with the purpose statements of the Performance Zone, subject to the following conditions:

- 1.) The applicant shall submit an easement or declaration to allow the monument signage to be located on Lot 22-23 and outlining maintenance and liability responsibilities for the signage. The language of the document shall be to the satisfaction of the Planning Director. The applicant shall provide recording fees for the Planning Department to record the document at the Registry of Deeds.**
- 2.) The proposed monument sign shall be reduced in size such that it is no larger than 32 square-feet in size.**

Councilor Duschatko duly seconded the motion.

Town Manager Sawyer stated there was a third suggested stipulation by staff, and I was just curious if Ms. Murphy wanted to include that or not. Ms. Murphy responded I did not. Councilor Duschatko stated I would agree with Ms. Murphy. That was not part of my second. Ms. Murphy stated just to be clear on the motion, there was a suggestion in the staff report of a third condition as follows: **3.) The monument sign shall conform with the Town's opacity**

regulations for internally illuminated signage as noted in Section 275-73.L of the Zoning Ordinance. As I stated previously, for me when making the motion it was an either/or, and I am comfortable if the sign is reduced to the 32 square foot size with the internally illuminated numbers only. I don't recall who made that specific point as to numbers versus letters in signage, but that is why I omitted it from my underlying motion.

Ms. Hebert stated just to explain, the opacity requirements do allow the text in numbers to be internally illuminated, but the white space surrounding text and numbers needs to be opaque. So if the sign has a white background, the white background will not glow if it was compliant with the Town's opacity requirements. Ms. Murphy responded I understand. I don't have an objection to it, but I am not opposed to the amendment. Town Manager Sawyer stated if I could just clarify with staff, even if this isn't a condition, the sign would still have to comply with this. There has been no waiver requested for this criteria. Maybe the condition doesn't need to be there but the sign would still need to comply with that requirement. Mr. Connors stated yes, I think that is true. It was just to kind of bring attention to that issue but they would have to request a waiver. According to the Town requirements, the coffee shop sign when it is illuminated, the colors would basically be switched, so the background would have to be blacked out and just the logo illuminated and the same for the logo up here. The bird could be illuminated but not the background. Ms. Hebert stated there is a term for that, which I think it is called ghosting. During the day you see the white and then at night those colors switch. It was not clear on the graphics that were provided that the sign was meeting the opacity requirements. Acting Chairman Newberry stated the graphic we have looked at would represent a daylight view of the sign. Is that correct? Mr. Connors responded I believe there is also a nighttime view. I will pull that up. If you look on the right-hand side, that is the nighttime illumination.

Acting Chairman Newberry asked for further comments or questions from the Board?

Councilor Duschatko asked Mr. Connors, is that reflective of the opacity issue? Mr. Connors replied yes.

Mr. Sullivan asked Ms. Murphy, was your omission of the third condition done with intent because you thought it was related to the LED display of pricing or was it with regard to the backlighting that Mr. Connors was explaining? Ms. Murphy replied that is a good question. It is with regard specifically to not having an objection on the backlighting, whether the white portion of the sign is backlit or not, I don't have an issue with, but if I am being told that that is the way that it is, then I guess I am taking the advice of the Planning Board staff.

Mr. McMahon stated after all of this discussion, just to make it clearer, what we are voting on is to have that sign be within Town standards. Is that true? Acting Chairman Newberry replied I believe that is correct. If my understanding is wrong, if staff could speak up. Mr. Connors stated you are voting on Ms. Murphy's motion, which would be to allow the sign location, which would need waivers to allow for two monument signs on the same lot and to allow the sign closer to the right-of-way than we typically allow. And I believe Ms. Murphy's motion does allow for the electronic readerboard signage. Is that right? Ms. Murphy responded that is correct. Although, consistent with my prior comments on this, I really don't like electronic readerboard as much as I like electronically changeable numerics. I think specificity is key here.

Ms. Hebert stated that Motion #1 does not address the electronic changeable copy, unless that was added into the motion by Ms. Murphy. Ms. Murphy stated I intended for my motion to address the electronic changeable copy. Councilor Duschatko, I don't know if that presents a problem with your second or not. Mr. Fairman stated I did not hear that in the motion. I didn't think the motion included that. Acting Chairman Newberry stated I did not hear that either. In part I think that a second motion would be to address the issue of a changeable electronic readerboard. If Ms. Murphy's motion included that, I did not hear it. Ms. Murphy responded I am happy taking it up in a second motion. I think what I did was I read the paragraph above when I meant to include the paragraph below. I can hold off and address it in a second motion. Councilor Duschatko stated it was my understanding with my second that that is what we would be doing as an assumption. On this current motion, I was more concerned with the size reducing it to 32 square feet and not with the electronic readerboard.

Acting Chairman Newberry stated just to make sure everybody is clear here, I believe suggested motion from staff, Motion #1, is the one that Ms. Murphy referenced and the only exception there was that she did not include Condition #3. Is that correct? Ms. Murphy responded that is correct. If the Board just wants to just quickly reference and review Motion #1 suggestion from the staff, Page 4 of 7, bottom of the page, just to make sure everyone is clear on exactly what the motion is. Mr. Sullivan stated that was my understanding, Mr. Chairman. It was the Motion #1 as presented in the staff report. I just want to confirm that the motion presented includes the three conditions or the two conditions and has all three been seconded? Ms. Murphy responded the motion was only inclusive of the first two conditions listed in the staff report, and I believe it was seconded as is with the first two conditions and not the third. Acting Chairman Newberry stated that is what I heard also. Councilor Duschatko stated my second was the first two conditions, not the third one. Mr. Fairman stated this motion does not include the illuminated changeable signs, as I don't see it here. Unless it is because it is in the plans. Ms. Murphy responded that is correct.

Acting Chairman Newberry asked are there any further comments or questions from the Board. Do we have clarity? There were no further questions or comments at this time from the Board.

Mr. Riley stated the applicant doesn't have an objection to Condition #3, as Town Manager Sawyer referenced if we don't abide by the written requirement, we would have to come back for another waiver. I think it is just a coloring issue with the sign display, so just for the record that the applicant has no issue with Condition #3 should the Board decide to add the amendment to Ms. Murphy's motion.

Mr. Foote asked Ms. Hebert, did I understand you correctly that you can administer this by your office and this is not an absolute necessity as part of this motion as far as Planning is concerned? Ms. Hebert replied that is correct. If it is not included in the motion, it would be to apply for a waiver to allow the background of the sign to be illuminated at night. So they do need to comply with this either way. We added the condition just to highlight that it was a design change.

Acting Chairman Newberry called the roll, and with all members voting in the affirmative, the motion carried.

MOTION by Ms. Murphy that the Planning Board approve a waiver from Section 275-73, Subsection L, to allow electronic numeric changeable readerboard signage on the monument sign and gas pumps at 189 and 193 South River Road, Lots 22-23 and 22-87, Zoned PZ, in accordance with the application materials submitted by the applicant Mega-X, LLC and owner Riley Investment Properties, revised May 28, 2020, as the Planning Board finds that the applicant has shown substantial compliance with the purpose statements of the Performance Zone. Mr. Sullivan duly seconded the motion.

Mr. Fairman stated I just want to be clear, this motion allows the use of the electronic changeable numbers? Ms. Murphy responded correct. Acting Chairman Newberry stated and there were no conditions either with the motion or with the second. Ms. Murphy responded correct. Acting Chairman Newberry asked for further discussion from the Board. There was none at this time.

Acting Chairman Newberry called the roll. With Mr. McMahon, Town Manager Sawyer, Mr. Fairman, and Mr. Foote voting nay, and Councilor Duschatko, Ms. Murphy, Mr. Clough, and Mr. Sullivan voting yea, the vote was tied. To break the tie vote, Acting Chairman Newberry voted yea. The motion carried.

Mr. Riley asked Mr. Chairman, could there just be clarification for the application please on the motion that just passed with Condition #1. I understand Ms. Murphy modified the language to say numeric numbers. Ms. Murphy stated that is correct. I modified the motion to specify numeric. Mr. Riley stated thank you. Acting Chairman Newberry stated I think you can go forth with the Board's decision. Councilor Greazzo stated I want to give a thumbs up for the numeric. Ms. Murphy stated now that Councilor Greazzo spoke up, I remember that he is the one that made the suggestion in the first place, so I just want to thank him for that. Mr. March stated thank you for your time and consideration. Mr. Riley stated thank you.

Ms. Malcolm returned to the meeting.

- 2. Eckman Construction Company Inc. (Applicant), Silver Stream Properties, LLC (Owner) – Request for approval of a site plan to construct a 20,120 square-foot light industrial building with accessory office and warehouse uses and associated site improvements at Bellemore Drive, Lot 1-18-20, Zoned SI. *This application has been postponed to the June 22, 2020 Planning Board meeting.***

Acting Chairman Newberry stated this application has been postponed to the June 22, 2020 Planning Board meeting.

- 3. The Planning Board will hold a Public Hearing on proposed amendments to the Land Development Control Regulations, Section 235 - Storm Drains Design and Construction Standards for Subdivisions and Section 325 - Stormwater Management Requirements**

for Site Plans. The full text of the proposed revisions is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org

Mr. Connors stated the Planning Board has already reviewed these amendments at their February 24, 2020 meeting. The comments we received from the Board were favorable, to not change the language that you saw back in February, and it is the same language that you reviewed then. The Board voted to schedule the public hearing for the second meeting in April, and unfortunately that meeting was canceled due to the pandemic and this was the first agenda where we felt we had enough time to address this.

Mr. Connors stated these amendments are really housekeeping measures. The Town Council has already adopted the ordinance, and these requirements have been in effect since December 2019. The Planning Department has been working with Department of Public Works to enforce the requirements. The ordinance was adopted in response to the Municipal Separate Storm Sewer System (MS4) Permit that the EPA placed the Town under back in 2017. The EPA placed all major towns in southern New Hampshire under the permit, so the Town of Bedford is not alone. All the major towns in southern New Hampshire and the cities are working to adapt updated stormwater requirements in response to the permit. The amendments are posted for transparency, so that applicants and their engineers understand that the stormwater management requirements are applicable to Planning Board applications that meet the minimum thresholds. By incorporating the permit into our existing plan review process, we have already been doing this and we are going to be continuing to do this so that the permit is reviewed by staff and our consulting engineer when Planning Board applications are submitted, and this is the most streamlined way to conduct the review and the least costly to applicants.

Subdivision Regulations

235.4 All subdivision applications shall comply with Chapter 236 of the Code of Ordinances, including the Town of Bedford Stormwater and Land Disturbance Regulations, as applicable. A Stormwater and Land Disturbance Management Permit shall be approved prior to final Planning Board subdivision approval and recording of the plan.

Site Plan Regulations

325.11 All site plan applications shall comply with Chapter 236 of the Code of Ordinances, including the Town of Bedford Stormwater and Land Disturbance Regulations, as applicable. A Stormwater and Land Disturbance Management Permit shall be approved prior to final Planning Board site plan approval.

Acting Chairman Newberry stated my understanding is that these were discussed at the February 24, 2020 meeting, but if anyone on the Board has question or comment for staff on this proposed amendment, please speak now. Mr. Foote, do you have anything you want to add on this? Mr. Foote responded none.

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

stated we have not received any emails from the public previously or tonight.

MOTION by Town Manager Sawyer that the Planning Board adopt the proposed amendments to Section 235 Storm Drains – Design and Construction Standards for Subdivisions and Section 325 – Stormwater Management Requirements for Site Plans of the Land Development Control Regulations as presented. Ms. Murphy duly seconded the motion. Acting Chairman Newberry called the roll. With all members voting in the affirmative, the motion carried.

4. Windham Realty, LLC (Owner) – Request for conceptual review of a proposed subdivision to create a separate lot for 177 South River Road, Lot 22-94, Zoned PZ.

Acting Chairman Newberry stated his conceptual review has been postponed by the applicant to a meeting date to be determined.

5. The Board will elect its officers and liaisons to other Boards and Commissions.

Ms. Hebert stated this is the time of year when the Planning Board reorganizes and reappoints committee assignments and elects new officers. The Chair must be filled by one of the 6 non-ex officio members, and the positions of Vice Chair and Secretary may be filled by any of the 9 full members, but historically they have been chosen also from the non-ex officio members. The liaison positions are the committee assignments and may be filled by full or alternate members.

Ms. Hebert stated currently for the Planning Board we have Jon Levenstein as Chair, Hal Newberry as Vice Chair, and our Secretary is currently vacant. Mac McMahan is the Conservation Commission liaison, Charlie Fairman is the Historic District Commission liaison, and Jon Levenstein is the liaison to the TIFF Advisory Committee. Those are your board assignments as the Planning Board. At this meeting we typically also make a recommendation to the Town Council for Southern New Hampshire Planning Commission assignments. The Planning Board per RSA needs to forward recommendations to the Town Council but the Town Council makes appointments to the Southern NH Planning Commission and members of the Southern NH Planning Commission to serve four year terms. We currently have one vacant position for a full-time member. This position was previously filled by Karen McGinley. I sent a staff report out today on the election of officers and committee assignments.

Councilor Duschatko asked what is the definition of the role and responsibility of the Secretary? Ms. Hebert replied the role and responsibility of Secretary is defined in your bylaws. Traditionally this is the person who would take notes at a meeting and create your official minutes. That role is delegated to our transcriptionist position. Our role of Secretary is really to fill in for the Chairman when the Vice Chairman is no available. The Secretary will often take that Chair position when the Vice Chairman and Chairman are unable to attend a meeting.

Acting Chairman Newberry stated the Chair would suggest, unless the Planning Board is strongly in opposition, that we postpone this until the next meeting on June 22, 2020. I think that will give the Planning Board an opportunity to review and think about the material that Ms. Hebert just distributed, and hopefully we would have a full attendance at that meeting. Are there any comments?

Town Manager Sawyer stated my only question is around the Southern NH Planning Commission applicant. I personally don't believe I know Mr. Lloyd; I didn't know if the Board wanted to schedule an interview with him or gather any more information or are comfortable just based on Mr. Lloyd's application. Acting Chairman Newberry stated I haven't seen that. Ms. Murphy stated it was an attachment to an email that came this afternoon, but I would love the opportunity to meet this individual prior to offering his name for appointment. Ms. Hebert stated I am happy to reach out and try to schedule an interview at the beginning of your next meeting. Councilor Duschatko stated I think it is very important to hold an interview. There are no Town Council members that know Mr. Lloyd. Ms. Hebert stated his name was forwarded to you from the Town Manager's office and the Town Manager's office solicits people who want to volunteer for the community. We received just one person who is interested in being a new appointee to Southern NH Planning Commission. Councilor Duschatko stated members of the Planning Board can apply also. Town Manager Sawyer stated we received no other applications after Mr. Lloyd.

Town Manager Sawyer stated there is one piece of the appointment that I feel we could address tonight, but I certainly support Acting Chairman Newberry's motion to postpone action on the Planning Board positions. I think Charlie Fairman certainly has earned the role of having a full membership to the Southern NH Planning Commission if he wants it, and actually all three alternates have indicated that they would accept the full position. Mr. Chairman, I guess going against your original motion, I would like to make a motion.

MOTION by Town Manager Sawyer that the Planning Board recommend to the Town Council the appointment of Charlie Fairman to a full position on the Southern NH Planning Commission, with a term to expire in 2024. Ms. Murphy duly seconded the motion.

Town Manager Sawyer stated by doing that, I would open up a potential alternate position for Mr. Lloyd, which I would feel more comfortable putting a member into an alternate position first and letting the alternates move up when they are available like that. Ms. Hebert stated and that alternate position would be for the remainder of Mr. Fairman's term. That would just be for one year. Acting Chairman Newberry stated I would agree with that. It does take a few meetings to really get the scope of what they address there.

Acting Chairman Newberry called the roll. With all Planning Board members voting in the affirmative, and Mr. Fairman abstained, the motion carried.

Acting Chairman Newberry stated please review the information Ms. Hebert sent to Board members, and I would encourage people to step forward and take on some new challenges as a part of the Planning Board. Ms. Hebert stated please feel free to reach out to staff if you have

any questions about the committee assignments or if you are interested in any of the officer roles.

Mr. Fairman stated I would like to thank the Planning Board members for their recommendation to the Town Council to appoint me to that position. I enjoy the Southern NH Planning Commission and I am pleased to get the recommendation.

V. Approval of Minutes of Previous Meetings:

Planning Board meeting minutes will be approved at the next meeting.

VI. Communications to the Board:

Ms. Hebert stated we have one communication regarding the Master Plan. The Think Tank Committee is planning to meet on Wednesday at 5:30pm via Zoom to regroup and will be discussing schedule for the project moving forward and an online engagement platform involving a BCTV broadcast. After the Think Tank has a chance to review and discuss this, we will be reporting back to the Planning Board.

Ms. Hebert stated we also received several comments from Planning Board members, Think Tank members, members of the community and the initial round of graphical comments, minor edits to improve the document has been sent to the consultant and they should be working on those edits in the next week or so.

Mr. Sullivan asked with the anticipated further relaxing of the stay-at-home order on the 15th, do we anticipate that we will be back in BCTV on the 22nd? Ms. Hebert replied I think we are still going to meeting with a Zoom platform. If the stay-at-home orders are lifted, there is likely still going to be a requirement for social distancing. And because the Planning Board is a large group of people, we are physically going to have a hard time accommodating large groups at the BCTV building for your regular meetings. It is something we need to review and discuss once we find out what the new guidance may be after June 15th, but right now I do anticipate that we will be Zooming for a little while and we need to accommodate everybody's varying levels of concern with regard to the pandemic and the need to provide social distance. Mr. Fairman stated if social distancing is the only issue, you could move it to one of the gyms, if they open up the schools. Ms. Hebert responded but it is not practical to have you meet twice a month, it is not practical to have all of your meetings in a school gymnasium. We need to hire an audio and sound equipment company to run those meetings and it is quite expensive and it is not something that is budgeted for today. And we don't know what the availability is going to be moving forward with those spaces. The community and the schools use their gyms and their auditoriums during the school year quite heavily. We could probably do a couple of meetings and work that out, but it would not be a venue for your regular meetings. Ms. Murphy stated the advantage of being on a platform like Zoom is that we can easily share documents on screen view that everybody can look at, and more importantly than that, the acoustics are such that we can understand each other when we are speaking. I am not sure that we would have that same kind of ability to hear each

other clearly and to clearly be able to listen to the concerns of Board members and constituents if we were required to social distance perhaps in a gymnasium that doesn't have the same kind of acoustics that we can avail ourselves of during a Zoom meeting. Mr. Fairman stated I agree, and I am very comfortable on the Zoom. I was only thinking of an applicant that might prefer the meeting in person, and if that was the case, we might be able to satisfy that the other way. Ms. Murphy stated if I can add one thing to that, I am sensitive to the constituents in the Town of Bedford and I would not want anyone who felt strongly about a project to feel as though they couldn't participate in a hearing because they were concerned the need to social distance and not being able to attend in person. Acting Chairman Newberry stated I think those are all good points that indicate that while Zoom may offer some challenges, it is probably the best platform venue for us for the immediate future, at least.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Town Manager Sawyer to adjourn at 9:20pm. Councilor Duschatko duly seconded the motion. With no objections, the motion carried.

Respectfully submitted by
Valerie J. Emmons