

**TOWN OF BEDFORD**  
**August 21, 2018**  
**ZONING BOARD OF ADJUSTMENT**  
**MINUTES**

A regular meeting of the Bedford Zoning Board of Adjustment was held on Tuesday, August 21, 2018 at 7:00 p.m. in the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: John Morin (Chairman), Kevin Duhaime, Melissa Stevens, Len Green (Alternate), Dave Gilbert (Alternate), and Karin Elmer (Planner 1)

Chairman Morin called the meeting to order at 7:00 p.m. and introduced members of the Board. Vice Chairman Gigi Georges and regular member Sharon Stirling were absent. Mr. Green and Mr. Casale were appointed to vote.

**Approval of Minutes:**

**MOTION by Mr. Green to approve the minutes of the July 17, 2018 meeting of the Bedford Zoning Board of Adjustment as submitted. Mr. Gilbert duly seconded the motion. Vote taken; motion carried, with Mr. Casale and Chairman Morin abstaining**

Chairman Morin reviewed the rules of procedure and swore in members of the public.

**Applications:**

- 1. Jennifer Turner (Owner) – Request for a variance from Article III, Section 275-6 & 21 in order to expand the current home occupation for a dog grooming business to increase the size over the 650 square feet allowed for a home occupation, to increase in the number of employees, and to allow an outdoor dog run at 250 Wallace Road, Lot 33-250. Zoned R&A.**

Attorney Andy Sullivan and owner Jennifer Turner were present to address this variance request.

Attorney Sullivan stated behind this property are the power lines, so if we look at the unique location of this property, looking at this would be the left-hand side with Wallace Road on top, that is the former meat store, to the right used to be a house but it is a vacant lot now and I think it is vacant until the next road, there is really nobody across the street except one house way in the back, and behind it are the power lines, so it is an extraordinarily unique lot. There is a tiny little bit that is commercial in the back but most of it is residential. You can also see the dog run, which is a fenced-in dog run in the back. Just for a frame of reference, in the packet at Sheet G, you can see what the dog area in the back looks like. It is very well kept, it is a play area, dogs can hang out,

etc. Back in 2006 when this was originally allowed by the Planning Board, we didn't come before the Zoning Board, the dog area was 16 x 32 and it has since been expanded to the dimensions it is now. You can see where the original 16 x 32 is still, more or less in the front, and then it is expanded in the back. The lot is about 1.2 acres, it is about 52,000 square feet, the existing dog area as it stands today is about 4.8 percent of the overall area, so it is a big lot in relation to the dog area. The dog area is a very small percentage. You will also notice if you go back to the original picture that looking at an aerial overlay you can't see the dog area from Wallace Road. There is no angle that it is visible. From the front looking from Wallace Road to the house it presents itself what it is, which is a residence, only 650 of the original garage is where the actual grooming and boarding takes place. Everything else is house and Ms. Turner lives there as she did when she started this. As a matter of fact, she bought the house in anticipation of this in 2006. Her husband at the time was the one that presented the testimony to the Planning Board, she didn't attend, and she didn't know what was agreed to and thought everything was fine. Why the fenced-in area was enlarged at the time in 2006 she had dogs of her own that are big dogs and running in and out of that area with the rain and the snow created like a little muddy area, so she made it bigger so they would have more room to run around, etc. She didn't realize there was any problem with the fence; she thought you could put a fence up around a yard anyway, so she just never thought to ask.

Attorney Sullivan continued another aspect of the 2006 Planning Board, again, no variance, was they limited it to one non-resident employee. At the time in 2006 there was Ms. Tucker and her two sons and I think her husband was working at the time too. Life has gone on, one boy is in college, one has just moved out, it is just her now, but to compensate for the time that is needed to run the business she has hired part-time employees. Now the Zoning Ordinance allows two part-time people, non-resident employees, so that will be at 80 hours. She has from time to time two to four and right now she is down to two but one just left and she was only working two hours a week, so she has never had more than 80 hours of non-resident employees there and doesn't anticipate having more. Further, there are never more than two non-resident employees there at any one time because they rotate. No one works 40 hours, they all work part-time. Those are the two major distinctions between 2006 and today. In 2006 she was limited to one non-resident but at the time she had three or four resident employees. Now she doesn't have those resident employees except for herself and she has two to four non-resident employees and nonetheless they don't work more than cumulatively 80 hours a week. In 2006 it didn't even come up, it didn't go before the Zoning Board of Adjustment, she had a 16 x 32 square foot fenced-in dog run in the back and now it is substantially larger. It is probably about five times as big as it was in 2006. You still can't see it from the road, it is necessary for the business; the interpretation of the Zoning Ordinance today by the staff is that the 650 has to be in the building. Why that wasn't interpreted in 2006 I don't know, I don't care, and we are here today to address it. As an analogy I would observe that obviously cars come for clients and park there, it is necessary for the in-home business for clients to come, sometimes yes, sometimes no. In this case it is necessary for a dog grooming business to have a spot where dogs could go out and play and leave them while the work on other animals

is being done and before their owners come pick them up, I suggest it is necessary, but, again, inside the 650, outside there was a pen in 2006 and there is a dog pen now. Employees back then were basically the same number except it has shifted from resident to non-resident and that is where we stand. I am going to quickly go over some other aspects to this that is in the packet.

Attorney Sullivan stated the two plans show the original configuration of the 16 x 32, it was off from the septic design plan, and we overlaid it as best we could by measuring on that plan with the new one and that is as best we can ascertain the dimensions and location where it exists today. Again, at issue is the number of non-resident employees and the back yard. The variance relief is requesting the owner relief of Section 275-21(1) to allow up to four part-time non-resident employees providing the combined hours of the non-resident employees is no more than 80 hours a week. Under Section 275-21(1)(4), as may be applicable to maintain the use of the rear yard property, a 6-foot high chain-link fenced dog yard approximately 85 feet deep by 46 feet wide at its widest. It tapers as it approaches the back of the house but that is its widest and that was on the aerial and on Exhibit G you can see it more clearly. And then to the extent anything else is needed as a variance is a little unclear because this is a Level I home occupation, a lot of the parameters seem to overlap perhaps with what the Planning Board will cover, but we are here specifically to talk I believe, and Ms. Elmer can correct me if I am wrong, the number of employees because that is in the Zoning Ordinance and if interpretation is that the 650 has to be solely contained within the building, then the dog run is outside but it is used in the business.

Attorney Sullivan continued what I presented, and I think was passed around, are conditions. These are the conditions to operate today, these are the conditions we would like approved and I will read them. The use as a home occupation for dog grooming and dog daycare, including overnight, drop off and pick-up times, Monday through Friday 7:00 a.m. to 6:00 p.m., Saturday and Sunday 7:00 a.m. to 9:00 p.m. and occasionally emergency drop offs at any time. Sometimes people call and they have a medical reason or they have an emergency and they don't want to leave their dog in their own house overnight, they call her and because she lives there they know they will be taken care of. Then overnight boarding seven days a week. Employees will be one full-time resident; no more than four part-time non-residents, that cumulatively they can't work more than 80 hours, and that can be no more than two non-resident employees on site, except during change-overs. The boarding area no more than 650 square feet in the building and no more than 30 dogs onsite at any one time. That could either be grooming dogs or boarding dogs. There is only room for 27 crates, so with them all being used to board or all waiting to have the dogs stay while they are waiting in turn for grooming, can't have anymore, so there is a natural cap because of the area and the crates. Sometimes people come with two small dogs, I have a couple of small dogs and at times we always put them in the same crate together, so no more than 30 dogs onsite at any one time. The outside area allows the dog run area to be no more than presently configured on the submitted plans. Parking is allowed as shown on the aerial overlay plans and dogs will not be unattended when outside. Those are the parameters

that are currently being operated under and those are the parameters that we ask the variance to be granted under.

Attorney Sullivan stated I gave a rather detailed analysis of exactly how this is run. The drop-offs and pick-ups are all coordinated by appointment, unless it is an emergency no one is showing up unannounced, they drop the dog off, they leave, which is typically a 5-minute turnaround. They come by, they pick up the dog, they leave, there are not a lot of people hanging out, there is not a lot of cars, if any, queuing because they are all coming at appointed times and pick up at appointed times. There is a limit to how many dogs can be there by the nature of the number of crates. Not all of the part-time work is always going to be there. It is on an as-needed basis. On rainy days or snow days people don't bring the dogs to get groomed. Ms. Turner calls up her people and says you don't need you to come in and they don't come in. On holidays maybe not as well, so it is not like it is always going to be that usage, it will be limited as well.

Attorney Sullivan continued one reason also for the large area, again, is she knows it would have less impact on the overall yard by having a bigger area so dogs aren't just going in a smaller area and not running in mud. No more than five or six dogs are allowed outside and they are always attended and they are rotated so that the dogs aren't crated all day. The noise level is minimal and she has never had a complaint. She has been operating there for 12 years and has not had a complaint about how she conducts her business in terms noise or nuisance or anything. It is a quiet business. Unless you can see that little sign up front, and I have driven by a couple of times, I wouldn't know it was there.

Attorney Sullivan stated I went over the various parameters for the Level II home occupation, which is no more than 650 square feet in the building and it meets that. No display of goods or wares visible from the street and it meets that. If the building is not rented, not detrimental to the residents or the character of the neighborhood because of exterior appearance, traffic, etc., it meets that. It looks like a house, it is a house, and no one even knows there is a dog grooming and daycare business there other than the sign. It is carried on by the owner of the building, it is carried on by Ms. Tucker, she is the owner, she is the operator, and she has her part-time non-residents come in as needed. It meets that condition. No more than two non-residents shall be employed. It does not meet that condition and that is one of the variances we are asking for, but they are under the 80 hours that two non-residents would work, so I am saying we meet it in the spirit but not in actuality, so we are asking for a variance for that. Two off-street parking spaces shall be provided plus 1.5 spaces per employee and it meets that condition. There are 10 spaces onsite, three for the owner, and two to three for part-time employees depending on change-over and three to four for clients. Again, because the clients come in only by appointment, there is no queuing up, there is no difficulty with parking arrangements and driving in and out of that spot. The septic design was submitted back in 2006, so that is okay. So we meet the Level II conditions except for those two parameters. One is interpreted by the staff that the outside area should be contemplated in the 650 square feet because it is not inside the building. The other one is we have more than four non-resident employees.

Attorney Sullivan proceeded to review the criteria for this variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** The requirement that a variance not be contrary to the public interest is said that the variance be consistent with the spirit of the ordinance. One way to look at that is does it alter the essential character of the locality. This is an extraordinarily unique lot. It borders commercial, in the rear can never be built because of the power line easement, there is nobody beside them, and virtually nobody across the street. It is just a unique lot. It is the character of that particular neighborhood, unless you are talking about the commercial on the other side, but there is a huge tree buffer. When I was having some ice cream at Scoops and I walked behind the meat store, I couldn't see her yard because of the tree buffer, so this is really a uniquely isolated lot. I therefore maintain that she does represent the character of that neighborhood. **(2) Whether granting the variance would threaten public health, safety and welfare:** There have never been any complaints about any of that aspect. It does not adversely affect any public health, safety or welfare parameter. It would not alter the essential character of the neighborhood. The rear yard is not visible from the street; you can't even see it. Plus, again, she could fence in that whole yard if it was just a residence without even an issue, so the fact that there is a big fence there, it sounds like something but the fencing isn't the issue, the issue is whether or not that is associated with the interior 650 square feet. But either way, the aspect of the fence and the aspect of the dog run does not affect public health, safety or welfare and it would be allowed in any residential format anyway with proper permitting. **2. The spirit of the ordinance is observed:** The two non-residents, again, that will give me 80 hours, there is no more than 80 hours so the ordinance as applied to this particular incidence has no reasonable application because we are meeting the reasonable purpose behind that, keeping it to the number of hours there. We still have no more than 80 hours. **3. Granting the variance would do substantial justice:** This is the only guiding rule in this factor that any loss to the individual is not outweighed by a gain to the general public is an injustice. This is her livelihood. This is it; this is how she makes her money. She raised two of her boys there and taking away this will take away her livelihood and she may not be able to maintain the house. The house is big for her. What would be the gain to the public? That would be not much. It was just pointed out that there is no adverse aspect to public health, safety or welfare, the fencing would be allowed in any event in a residential environment, the fence wasn't an issue in 2006, and the number of employees would be allowed under the Zoning Ordinance of two for 80 hours. She is maintaining that 80 hours and she is agreeing that there is no more than two non-resident employees at any one time. We are meeting the spirit of the ordinance here, and as applied to her and her particular spot, there is not an appreciable gain by the public but it would be very strong irreputable harm to her if this variance was denied. **4. The values of the surrounding properties will not be diminished for the following reasons:** As indicated, there is no diminution of property values. I had two brokers' opinions, both that you probably know in the area, and neither one of them believes there is any diminution of value. It is probably pretty obvious because there is an EverSource right-of-way in the back, commercial property on one side, and nobody

around. There is nobody nearby that would be diminished in value at this point in time.**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area: A. Denial of the variance would result in unnecessary hardship: i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: ii. The proposed use is a reasonable one:** We have a reasonable use here, it has already been an allowed use and we are just expanding the use. The use has already been determined, it is a home occupation, so the zoning already contemplates this type of a use, so it is reasonable and it would be a hardship. Since the use itself, per say, is allowed, you can't do it as presently configured, then it wouldn't be economically feasible to diminish what she is doing now. So it is a financial hardship and it is a reasonable use that if it was denied and it is a reasonable use for what we are asking for.

Ms. Turner stated I have been doing this for 13 years. We opened in 2006 and I haven't changed anything I have done in the 13 years other than increased by clientele. I try to stick to the same basis that I started with and everybody comes in by appointment only. I keep a clean, well-maintained yard, and I just would like to continue what I have been doing.

Mr. Duhaime stated as far as the number of employees, are we willing to limit it to a specific number or willing to accept the 80 hours as the max for the variance. Attorney Sullivan replied she has impaired vision in one eye so she needs at least one other person there, so there will always be at least one other as that is demand driven. One person just left this week so right now she is down to two part-time, so she really needs that complement but they typically work anywhere between combined, other than Ms. Turner, their hours run maybe anywhere from 26 to maybe 76 hours. It could be two full-time, which she has never had because the business doesn't warrant that, so it is more conducive to part-time, mother's hours, come in and then out and that type of thing. What she is asking is no more than four part-time. Ms. Turner said no more than four because there is not enough room. Attorney Sullivan stated cap it at four but we are saying no more than two non-resident employees there at any one time. Mr. Duhaime responded okay, thank you.

Chairman Morin asked the public for those wishing to speak in favor of this variance application.

Dillon Cruise, 90 West River Road, stated we are the commercial abutter. I echo Attorney Sullivan's points that we have never had a problem with Ms. Turner as our neighbor. We have heard dogs but it has never been obtrusive, it is very rare, so we support the variance. Thank you.

Brian Olsen, 24 Oriole Drive, stated I support the variance as well.

Bill Greiner, 12 Aspen Lane, stated I support the ordinance as well. She is a small business owner, has done a very good job to build a business, she has outgrown her original plan, but I think she is a valuable asset to the community in terms of service and providing taxes to the residents.

Chairman Morin asked the public for those wishing to speak in opposition to this variance application. There were none.

Chairman Morin asked for further questions or comments from the Zoning Board. There were none.

Attorney Sullivan summarized I think we met the criteria for both Level I and the variance required. There is really just no reasonable way to apply those two ordinances to this particular situation. It is a unique lot, you can't see the dog run, it was never an issue in 2006, you can have a fence in your yard as a resident, you can do the whole yard, and I think the obvious objective of the two non-resident employees is to maintain it at 80 hours and we have maintained it at 80 hours, whether it is part-time or full-time. I don't know if that really has a significant difference. It doesn't alter the essential character of the neighborhood, it doesn't diminish property values, there is an intrinsic hardship, and justice will be served and the spirit of the ordinance is not unduly impaired by granting this ordinance.

Chairman Morin stated there are numerous emails that have been put in the file with the application and then a petition type form that was just submitted that has 124 names of people who would like the project approved. It appears that they are all Bedford residents, as I saw when I went through it rather quickly. These documents will be made a part of the file for this application.

Theresa Caruso, Normand Circle, stated I have been a client of Ms. Turner's for the whole 13 years, seven dogs. She is more than a groomer to us, she is our friend, my dogs love her, and we hope she can be successful tonight. Thank you.

**MOTION by Mr. Casale to move into deliberations on this variance application. Mr. Green duly seconded the motion. Vote taken – all in favor. Motion carried.**

Chairman Morin stated understand that we are dealing with a home occupation so those are all of the items we are looking at. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Mr. Gilbert stated I don't think it alters the essential character of the locality. I drive by it all the time and it looks like a residence as stated. **(2) Whether granting the variance would threaten public health, safety and welfare:** Mr. Green stated it doesn't appear to. Chairman Morin stated exactly. **2. The spirit of the ordinance is observed:** Chairman Morin stated we are dealing with two pieces of the ordinance basically talking about a home occupation. The spirit as I see it was to limit size, to make it not obvious that a business is being run there, and

depending on the Level I or Level II giving a little more access for help, per say, but making sure that the space can handle it also. Mr. Green stated if the present owner decides to sell and the new owner doesn't want to live there, this would not bind anybody because that is only limited to an owner/resident. Is that correct? Chairman Morin replied for a home occupation. I think it meets the spirit criteria. When we get to a motion, I think we might have to put some specifics in the motion as to some of the things that have been talked about in those areas as in the employee issue and that type of thing. Mr. Duhaime asked are we specifically voting for the existing size or are we voting that it is okay to go above the 650 and then the Planning Board will dictate the size? Ms. Elmer replied over the 650 and over the two non-resident employees. The business itself has already been approved. Mr. Duhaime asked but the size of the outdoor space will be dictated by the Planning Board? Ms. Elmer replied no, that is what you are voting on. Mr. Duhaime asked so we are just saying the existing conditions? Chairman Morin replied because actually the fenced-in outside area is being used for the business, so it still counts as part of that space. Mr. Duhaime responded understood. Chairman Morin stated and then the employee issue. I think when we get to the pinpoint items, the Planning Board will hit those a little more, but I think when it comes to the actual ordinance pieces, that is what we are looking at. **3. Granting the variance would do substantial justice:** Chairman Morin stated again, this is that weighing of the scale. It doesn't appear that there is going to be a lot of change of what is happening. Her being able to have that business still going doesn't outweigh what the damage, per say, is to the public or whatever. We haven't heard of any negative input on this application, so I think it meets that. **4. The values of the surrounding properties will not be diminished for the following reasons:** Mr. Green stated there was no evidence of that. Chairman Morin stated there were those broker letters, but, again, there is no, per say, evidence that it will do that. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Chairman Morin stated when we are looking at distinguished from other properties, you look at the plan, and as the attorney brought up, you have commercial on one side, an EverSource easement in the back where there is going to be nothing, a vacant lot to the other side, and nothing across the street. At this point it definitely has that special condition, per say. **A. Denial of the variance would result in unnecessary hardship:** **i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Chairman Morin stated again, I think we have mentioned everything already when it gets into this prong of the criteria. **ii. The proposed use is a reasonable one:** Chairman Morin stated for what we have heard for the testimony on this specific case, it is reasonable. Mr. Green stated it seems to fill a need.

Chairman Morin stated before I ask for a motion do you want to talk about any specifics as in the employee piece that we want to put into the motion, how we want to break that down or other things. One of the pieces that I caught through the conversation and I wrote myself a note and it was brought up, was only two non-residents there at one time. I think that needs to be in there. How we break it down or if we want to put a total

number on those people, we probably should. I don't know. The hours that it is open during the day is going to be regulated by the Planning Board anyway. Mr. Green stated even though she has seemingly expanded the hours, that would be subject to the Planning Board. Chairman Morin stated they will decide if the hours will stay the same as they are or they will change them and that type of thing. That is totally up to them. And, again, my thoughts are we have to get into that total 80-hour thing or if we just want to put a number of non-resident employees, a total, and then say only two can be there at a time. I am just trying to throw some stuff out there and see what you think. Mr. Duhaime stated no more than four and two at a time. Mr. Green stated that would work. Chairman Morin stated that seems reasonable.

**MOTION by Mr. Duhaime that the Zoning Board approve the request for a variance from Jennifer Turner (Owner) requesting a variance from Article III, Section 275-6 and 21 in order to expand the current home occupation for a dog grooming business to increase the size over the 650 square feet allowed for a home occupation, to increase the number of employees, and to allow an outdoor dog run at 250 Wallace Road, Lot 33-250, Zoned R&A with the following conditions:**

1. There shall be no more than four part-time non-resident employees on staff at any time.
2. There shall be no more than two part-time non-resident employees working onsite at any time.
3. The size of the fenced-in area shall be as noted on the plan that was supplied by the applicant and that area shall not increase without coming back to the Zoning Board for approval.

**Mr. Gilbert duly seconded the motion. Vote taken - all in favor. Motion carried.**

**MOTION by Mr. Gilbert to move out of deliberations on this variance application. Mr. Green duly seconded the motion. Vote taken – all in favor. Motion carried.**

Attorney Sullivan stated I'd like to ask for a clarification. The business you mentioned was dog groomers and the business is dog groomer and dog daycare. Ms. Elmer responded the State doesn't regulate the differences between those things. They are all under our definition considered as a kennel, so I think you are covered.

Ms. Stevens returned to the meeting.

2. **90 West River Rd. LLC (Owners), Foxfire Properties (Applicant) – Request for a variance from Article III, Section 275-21 F(2)(A) in order to permit a paved parking area and a retaining wall with a guardrail within the required 50 foot buffer at 254 Wallace Rd., Lot 20-38. Zoned CO.**

Jeff Kevan of T. F. Moran was present to address this application for a variance on behalf of the applicant.

Mr. Kevan stated we are the engineering survey firm that has worked on the property. This is the commercial property right next door to the one you just discussed. Currently the uses on that site are the Walgreen's pharmacy, a bank, an ice cream shop, and then there is a retail space of 4,800 square feet. There are two uses in that right now. Previously it was the butcher, and I think there was a gift shop/florist type business, and now that second space has become a restaurant. The door has shifted slightly to give it its own identity, so what we're asking to do is add six parking spaces in that same corner that you were just discussing. It is right on the corner in the back of the property where that zone line changes. So you can see the Commercial Zone comes in across the daycare facility and then runs on our property line, and we have a 50 foot buffer because of that zone line being residential/commercial property. Right now required is 109 parking spaces, there are 120 out there, and 18 of them are in a grass paved area. If you are familiar with that on the other side of the bank, 18 spaces is this grassed paved area that takes a little unique type of maintenance, so it sees some use during the summer and fall months, but with winter it is a little constrained. With these additional six spaces what that would do is give us 126 total but it will put those six parking spaces around in direct proximity to that new door to that restaurant space. So that is what we are requesting.

Mr. Kevan continued as you can see, the large trees that run along the property is the buffer that had been discussed before. That will remain in place. There are a few trees that would be taken down to put in these six spaces but we replace that with the landscaping that we put in the back that would enhance it. We don't feel there is any loss of the actual vegetation in that buffer strip, it is an encroachment or a reduction in land area but as far as the vegetation in providing the buffer, we feel that the buffer is maintained with that existing vegetation and then the plantings that we are going to provide in addition to that. As far meeting the intent of that ordinance, the buffer is there. If you look at it, the parking spaces themselves are about 35 feet away from that property line and the turnaround area you can see where they have to back out a vehicle and maneuver, that and there is a small retaining wall that would be 24 feet from the property line. A buffer reduction from the 50 to that 24 35-foot dimension as far as the vegetation maintaining that buffer and that vegetation is still there.

Mr. Kevan continued the other piece to it; again, it is a commercial use abutting up against this home business, so it is a little different than just a regular residential neighborhood.

Mr. Kevan proceeded to review the criteria for this variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** The general purpose of the ordinance is to promote health and safety and general welfare of the public. Granting the variance will not alter the essential character of the locality as much as the dense vegetation along the property line will be maintained and that

screening will be enhanced with plantings that we are proposing. **(2) Whether granting the variance would threaten public health, safety and welfare:** The variance would not threaten the public health, safety or welfare. The additional parking spaces, again, will get those parking spaces closer to those doors; reduce a little bit of parking and walking through that parking lot. **2. The spirit of the ordinance is observed:** The spirit is to, again, provide a buffer between a business type of parking and/or structure and a residence. We are maintaining a planted or vegetated buffer through there and, again, it is a little bit unique in that this parking will abut a home business type of use. **3. Granting the variance would do substantial justice:** Denying the requested variance would result in no appreciated gain by the general public. Again, this really will have limited or no effect on the general public and it should have no effect on the abutting property in that vegetated area will be maintained. **4. The values of the surrounding properties will not be diminished for the following reasons:** We don't feel that the vegetated buffer is eliminated or really altered significantly, it is maintained with the additional plantings, and the property next to us is not just a straight residence, it is a home business with this dog grooming business, so we don't feel there is any diminishing of their property, and this doesn't abut anything else. Again, it is kind of unique. You can see how the Commercial Zone flares out so this is the only corner on the property that this buffer is required. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** It would prohibit the applicant from potentially providing sufficient parking near that business. The special conditions of the property distinguish it from other properties in the area; again, it is this unique proximity to this zone line, and as far as the buffer itself, it will continue to be maintained with the existing vegetation and the plantings that are being proposed. **A. Denial of the variance would result in unnecessary hardship:** **i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Adhering to the 50 foot buffer will serve no public purpose and this buffer that is being encroached on, again, is being enhanced and maintained with the vegetation that we will provide to the buffer that the ordinance is trying to provide or establish here. **ii. The proposed use is a reasonable one:** It is maintaining a buffer and it allows us to get the additional parking near the business that is there.

Mr. Casale stated there was mentioned somewhere of working with Ms. Turner next door in regard to trimming what appear to be some trees on the joint property. Why would you have to do that? Mr. Kevan replied I think there is an overhead line that comes in from the street to her property, across that corner, and some of those limbs would have to be trimmed just to make sure that that line isn't in danger of limbs falling on it. Mr. Casale responded okay, so that has nothing to do with what you are doing here. Mr. Kevan replied no. Mr. Casale stated okay; thank you.

Chairman Morin asked the public for those wishing to speak in favor of this variance application.

Jennifer Turner, 250 Wallace Road, stated I am in support of their variance request.

Chairman Morin asked the public for those wishing to speak in opposition to this variance application. There were none.

Chairman Morin asked for further questions from the Board. There were none.

**MOTION by Mr. Casale to move into deliberations on this variance application. Ms. Stevens duly seconded the motion. Vote taken – all in favor. Motion carried.**

Mr. Green stated this property is abutting a home business property. Chairman Morin stated and we are talking about 20 feet worth of parking space and it is going to be, I would say hidden, but well landscaped around it to try to mitigate anything that might be there. Mr. Green stated there is a lot of traffic up there especially in the summer going by the Scoop. Mr. Casale stated 36 feet, 12 feet per space I think. Chairman Morin stated it is something like that. **1. Granting the variance would not be contrary to the public interest:** (1) **Whether granting the variance would alter the essential character of the locality:** (2) **Whether granting the variance would threaten public health, safety and welfare:** Chairman Morin stated I don't see anything in this application that would do that for six parking spaces anyway. **2. The spirit of the ordinance is observed:** Mr. Casale stated the buffer will still be there in a different form. **3. Granting the variance would do substantial justice:** Chairman Morin stated again, it is that weighing the positive and negative and there really doesn't seem to be a lot of negative. Mr. Green stated if you are going to have a restaurant, you need some place for people to park. Chairman Morin stated especially right next to it, not to have them walk across multiple lanes of traffic coming in and out and that type of thing. Mr. Gilbert stated that is a safety issue. Chairman Morin responded exactly. **4. The values of the surrounding properties will not be diminished for the following reasons:** Chairman Morin stated we haven't heard anything either way. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Chairman Morin stated again, as was brought up in his testimony for this. If you look at that plan, it is a weird shape when it comes to the commercial and residential area and it is that one little corner where it is residential and it just works out that that residential lot has a home business on it. **A. Denial of the variance would result in unnecessary hardship:** **i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Chairman Morin stated it is reasonable. There is still going to be a buffer, there are still going to be trees, there is still going to be landscaping, so it is going to be a very minimal issue when it comes to the neighbor. Mr. Duhaime stated and the person that it impacts the most spoke in favor. **ii. The proposed use is a reasonable one:** Chairman Morin stated it is reasonable to have six more parking spaces in that location.

**MOTION by Mr. Casale that the Zoning Board of Adjustment grant the request for a variance from 90 West River Rd. LLC (Owners), Foxfire**

**Properties (Applicant) requesting a variance from Article III, Section 275-21 F(2)(A) in order to permit a paved parking area and a retaining wall with a guardrail within the required 50 foot buffer at 254 Wallace Road, Lot 20-38, Zoned CO, for the reason that it has met all of the criteria for a variance per our deliberations. Ms. Stevens duly seconded the motion. Vote taken - all in favor. Motion carried.**

**MOTION by Mr. Gilbert to move out of deliberations on this variance application. Mr. Casale duly seconded the motion. Vote taken – all in favor. Motion carried.**

**3. William & Linda Cagan (Owners) – Request for a variance from Article III, Section 275-6 & 21 in order to continue to run an existing dog daycare and boarding facility with an outdoor dog run in excess of the 650 square feet allowed for a home occupation at 25 County Rd. West, Lot 27-25. Zoned R&A.**

Attorney Daniel Muller of Cronin, Bisson & Zalinsky and owner Linda Cagan were present to address this request for a variance.

Attorney Muller stated the property itself is a little under two acres in size, as you mentioned the property is located in the R&A district, and this will go into some of the details later for the hardship, it is somewhat unique in the fact that it is essentially isolated from other residential properties. There is one improved lot next door, 11 County Road West, otherwise it is surrounded by unimproved land and has been since they have been there. The Cagan's purchased the property back in 1987, it is improved by their residence, which includes an attached 2-car garage, as well as a detached 2-car garage, where they eventually fenced in the back, or a portion of the back yard, in that area is a shed and swimming pool, both of which are used in connection with the residential use.

Attorney Muller continued approximately 10 to 11 years ago they began offering boarding and daycare for dogs at their property. Obviously the dogs were generally kept in crates or inside in the family room and kitchen, however, dogs do need to go outside during the day, and they started by having them go into the existing fenced-in area, which had been their back yard. About four years ago they added another fenced-in area immediately to the west of the original one and they eventually created their business Bedford Canine Resort, LLC to operate the boarding and daycare. To be clear here, other than the dogs being outside there is no sign that this is a business. There is no sign, there are no employees, the Cagan's themselves are the only people who run this business, and that has been the case since they started. There are no commercial vehicles of any type parked there, only personal vehicles, and the only thing that you would see would be people stopping by for approximately five minutes to drop off or to pick up their dogs. As we indicated in the application, they basically rely upon word-of-mouth referrals and their website for their clientele. The hours of operation are from between 6:30 a.m. and 6:00 p.m., and they typically have on average 18 to 25

clients per week. They may have on average of six to eight dogs being boarded at any time and up to 15 will be there for daycare purposes. Some people bring more than one dog, which is why; again, you only have 18 to 25 clients per week as opposed to more. They do take dogs of different sizes, although they have decided at this point in time to limit the larger dogs that they are bringing onto the property for the daycare and the boarding. They do not provide any other services there. There are no grooming services; they do not provide training services there.

Attorney Muller stated when they went to file the home application permit, and right now that is currently scheduled to be heard by the Planning Board in September, assuming that the variance is granted here, they were advised at that time because it was not limited to the interior of the building, i.e. they used the outdoor fenced-in areas to bring the dogs around, we were required to get a variance from essentially the definition of a home occupation.

Attorney Muller proceeded to review the criteria for this variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Public interest and spirit of the ordinance are essentially related, as the Board has noted, and has heard already, the two general considerations there are whether it alters the essential character of the area or if it threatens the public health, safety or welfare. In this case having the enclosed area do neither. As I indicated in the presentation, the main fenced-in area was actually established before they really got into the business. It houses a pool and it houses a shed that are used in connection with the residence itself; i.e. looking at the property, it looks simply like a residence. The area that they are in obviously any other residence could have a fenced-in area, which is what the improvement that we are really talking about here. Likewise agricultural uses clearly can have fenced-in areas for animals, including livestock. There was, at least at one point in time down the road, one of the abutters further east on County Road West that had cows in an enclosed area. So, again, having enclosed areas for animals is not out of character with the area in general. I would further note here that this, again, is located in an isolated area. There is only one improved property and it is next door, the fenced-in areas are located away from it, there is a treeline that essentially blocks the view of the fenced-in areas from that house, and in the time that the Cagan's have been there, they have received no complaints from that neighbor of any type relative to their operation. In summary, this doesn't change the essential character of the area. **(2) Whether granting the variance would threaten public health, safety and welfare:** Again, the Cagan's have not received any complaints from anybody, not only from their neighbor, but from anybody in the time that they have been there. No one has advised them of any complaints relative to noise, odors, parking, traffic, or otherwise. So in this particular case we don't see that there is any threat to the public health, safety or welfare. **2. The spirit of the ordinance is observed:** For essentially the same reasons this would not violate the spirit of the ordinance. **3. Granting the variance would do substantial justice:** The loss to the Cagan's if this is denied is essentially that it makes their business more or less impossible. Obviously you can't keep dogs inside all day. If you are going to have a daycare and boarding, they are going to have

to go out at some point in time. By contrast there doesn't appear to be a real public interest here. Again, if you look at the property, it appears to be residential, we are talking about common improvements that could be for residential or agricultural uses, then understanding here is that the definition for this was essentially intended to, again, keep this from looking like a business. There are no signs, no employees, no commercial vehicles, and just a plain vanilla enclosed area; this does not look like a business. **4. The values of the surrounding properties will not be diminished for the following reasons:** In terms of diminution of surrounding property values, we don't believe that the values would be adversely affected. Again, it is the type of improvement that could be made with any type of house or agricultural use. Also, if you look at the Town's own assessing records, the one and only abutting property that has been improved has actually gone up in value in the time that they have been there. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** We do believe that this is distinct from other properties in the general area and the facts that 1) it is isolated, 2) it is a lot that allows for them to have the enclosed area away from the only other improved lot in the area, 3) there are trees in between, and 4) the improved lot and the enclosed area is such that it is not visible. These features, plus the nature of the improvement here that we are talking about, essentially a fenced area, again, don't make it seem like this is anything but a residence and that is indeed what it looks like. **A. Denial of the variance would result in unnecessary hardship: i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: ii. The proposed use is a reasonable one:** In terms of reasonableness, we believe that when we go to the Planning Board they will show that this complies with the standards for a home occupation, and, again, we are here to essentially get approval for the outside run, which is necessary for this business, and to essentially allow it to continue in any form whatsoever based on improvements that, again, common to any residential development, namely a fence or an agricultural use, which are both allowed in the district.

Attorney Muller stated if the Board has any questions, I would be happy to answer them.

Chairman Morin asked what is the height of the fencing that is in the back yard? Ms. Cagan replied the original fence that was put in 31 years ago is 4 feet. The one that we added several years ago is 5 on three sides and it abuts and connects with the 4 foot one, which is our back yard.

Chairman Morin asked how many dogs are normally there during one day or at any one time? Ms. Cagan replied it varies. Chairman Morin asked what is that vary? Ms. Cagan replied it can be four or it could be seven, eight, just depending upon what the weather conditions are, time of day, time of year. Obviously sometimes we are busier than others, but there are usually seven or eight dogs. Chairman Morin asked what limit do you have? Ms. Cagan replied 15 with the two of us present at all times. The dogs are never left unsupervised except for maybe three hours a week when we go out to dinner, and we have a monitor that we watch on our phone, and 99 percent of the time it

is our parrot that is doing the barking and not the dogs inside the house. We were actually on a cruise ship once and we were awakened at 6:00 a.m. in the Caribbean and it was our parrot barking at 5:30 a.m.

Chairman Morin stated the one thing I didn't see in here because, again, this is any type of plan for how much space is used in the house, is square footage-wise. We have a rough diagram of what the fenced-in area is. Attorney Muller responded it is less than 600, is the estimate in terms of inside the house. It is a family room and the kitchen are the only areas within the house that are used for the crates and for the dogs when they are outside the crate. That will be an issue that will be addressed obviously by the Planning Board because that is one of the standards for their home occupation permit. Chairman Morin responded right, but it is also one of our standards when we are dealing with going over the 650. That is why I am surprised there was nothing in here, a drawing or something, to give us a square footage of what is being used inside the house. Ms. Cagan stated if I may speak; it is less and I am going to say about 450 square feet using the entire family room, along with our furnishings, and a very small portion of our kitchen. We do crate the dogs at nighttime, they are not cages, we don't have runs, our dogs are crated, we have three dogs of our own, God forbid if there should be an emergency, we want the dogs to be able to be found or we can get them to safety as fast as possible, so they are crated in the evenings unless we can trust them to not eat my parrot, the parrot is a valued family member you can tell, some dogs sleep loose in our family room and kitchen, some dogs will sleep occasionally in our bedroom if they are having anxiety issues. We are a very different business; we have been doing this for almost 11 years and the Board that was here 11 years ago I don't recognize anybody from back then. We were told at that time that we were a Level I and that we were so isolated and there was hardly any traffic. The way we started out was from a Bedford resident that had a stroke and ended up going into rehab for six months. Her friend told them about us and the fact that we love dogs and they asked us to keep the dog. After three months they offered to pay us. We didn't want to take pay; at this point my husband had just retired, I will and have always worked, I have been a professional dog trainer now for over ten years with a big box store and two years ago went out on my own, and I do private training now off from my property. My little niche to training is that I go to your own home for six weeks, three weeks in your property and three weeks out in the community. You might have seen me at Ace Hardware, at Benedictine Park, or Lowe's because that is where the real life situations happen with dogs and training, and at our home we have the dogs as part of our family. We want them to be as comfortable as our dogs are, they are never outside without us being within eyesight or being with them, we do walk them if we are asked to but they are usually so tired from just running around and playing and the activities that we schedule, which is basically like any other child's daycare, so when the dogs come in, they are tired, they go right to their kennels or they find their beds and hop right into it. I take great pride; I can be a little anal, my house does not smell like a kennel, it does not smell like any dog facility because we live in it, it is our home, and we want these dogs, older dogs, younger dogs, dogs that are ill that require injections of insulin for diabetes, to be able to have a place to go and not have to be put off and not be seen for hours at a time in case of an emergency. We have been very, very fortunate in this great town

that my husband has lived here for 40 years; I am 33 years, that word-of-mouth advertising is what we basically do. We have a passion, we love what we do and our families love us, and we are asking the Town to please let us continue this existing business. Our neighbors have no problem with us; I went to them recently when we knew that we were going to be coming back to you, and asked them in the ten years if there was an issue. Jerry Dumas, who owns the largest land around us that is our abutter, he asked me what we would be doing with the home when and if we decided to move, would we sell it as a business, and I assured him and would obviously put this into writing if we needed to, that it would be sold as a home. The business is ours, we have created it and we are trained to deal with these issues. I wouldn't want somebody else doing that. Chairman Morin stated it is also in the ordinance that once the owners of that business leave, the variance is done at that point. Ms. Cagan stated we didn't know that, but I just wanted to reassure him that what we were doing and what we have been doing was not going to affect that at all.

Chairman Morin asked Ms. Elmer, did they come to the Planning Board years ago for the business? Ms. Elmer replied not that I could find. Ms. Cagan stated we didn't come before the Board. We talked to people that had positions in Town, that based on as it evolved said there is no reason for you to. They didn't call it a Level I back then, they basically just said because we are up in the woods, we are not bothering anybody, it was one dog and then the next thing you know within two years we had probably four or five dogs, and then it evolved. With my training business I started getting requests from my clients if we would keep their dogs for the weekend. We registered with the State of New Hampshire in 2009. I called it Bedford Canine Resort because we are proud of our town and we live here and we weren't hiding anything. The Town of Bedford's website has comments or had comments, I haven't checked in the last year or two, about our facility and how great it is and how people feel comfortable bringing their family members to us to keep when they can't be at home. We are very small. It is our home and we want everybody to be comfortable and be safe.

Mr. Casale stated I have several questions. Based upon what you are saying, the majority of the dogs, you have maybe 15 at one time. You stated that they have to run around and play, so they would be outside in the fenced area for a good part of the day like most dog daycare centers. Ms. Cagan asked may I address that? Mr. Casale replied yes. Ms. Cagan stated we put them out based on size and temperament. We don't put little 2-pound or 4-pound dogs out with the 125-pound dogs. As Bill and I have aged, we have grandfathered our clients from ten years ago that have dogs that are eight and nine now and getting second dogs, perhaps the same breed or a breed of the same weight, we are no longer taking dogs over 45 pounds, we are limiting them to smaller dogs because of our ages and the conditions during the winter. They are put out based on size and temperament and in small play groups. The smallest ones on our patio around our pool area, which there is a fenced area around our pool and on our patio, the smaller ones are there so that the big dogs are running off in the yard, the bigger yard, can still have activities too, but most of the time there is only probably four or five at one time in one play area, except for first thing in the morning when they get dropped off where everybody gets the yard by themselves when they come in so they

can do their business, they come in and some get fed breakfast because it is early. Once everybody is there, which drop off can be anywhere from 6:30 a.m. to 10:00 – 11:00 a.m., then they start going out in their play groups and playing. When they get tired, they come to our sliders. We have triple sliders and we have double sliders and they will come to the door and ask to come in. We don't make them stay out there. If we have one that is more energetic or high energy that is a little more rambunctious than the other ones, we have a small, it is not small, it is probably, 10 x 10 fenced-in area that the one that was causing all the excitement would be put in for a timeout until everybody settles down and then it is put back into the core group with the other dogs that it was playing with. Mr. Casale asked so although they are segregated, most of them are still outside though? Ms. Cagan replied not at one time, no. We can have half outside and half inside. Mr. Casale responded okay. What time do you bring the dogs out typically? Ms. Cagan replied about 8:30 – 9:00 a.m. but it just depends on how many dogs are getting dropped off and who gets there. So it is really based on once everybody is there, or the majority of the ones are there, because we take reservations. We know who is coming; our clients are very good about telling us when they are not going to make it due to an illness or the dog not feeling good, and so we try to get them out in the morning. The middle of the day during the summer we bring them in from like 11:30 a.m. – 2:00 p.m. unless they ask to go back out. We do have a puppy pool that we put up or a sprinkler for them or a hose and play with them and then they go back out after 2:30 or 3:00 p.m. when it is cool. During the winter they don't want to stay out there that long. It is cold, so we do a lot of indoor activities or the ones that really like to stay outside like our Burmese Mountain dogs or our Newfies, are allowed to stay out as long as they want within reason because I don't want anybody getting frost bitten either. Mr. Casale asked so is it safe to say that the daycare clients are the majority of the business, particularly during the work week when it is not vacation time, they are dropping them off in the morning, they are coming back in the afternoon, so the majority of the time that the dogs are outside is during business hours? Ms. Cagan replied exactly. Mr. Casale responded okay. And then how about if you are boarding dogs, how late do you let them out? Ms. Cagan replied we have no neighbors. I have a swimming pool and we have a mosquito and tick control man so if I am outside on my iPad playing Words With Friends, the dogs are outside with me playing, but our neighbors who are 400 feet away from us have never ever, as recently as two weeks ago we lost a few trees in our front yard due to the bad storm that went through, so with discussing cutting these trees down because one was on his property line that fell on ours, we brought up this subject. I don't see him or the other abutter here tonight but they have no issues. He says he doesn't even hear the dogs. We don't entice them to bark. When they play with each other they are interacting and I do teach them to be quiet with a command and treats, so when I say quiet, they all look to me and come running for cookies and we do something else, which is we distract. I guess that is the advantage to having a dog trainer as the owner of the property because I know how to do it. Ms. Elmer asked how late are you outside when you say you are out on your iPad? Are you out at 9:00 p.m. or are you out at midnight? Ms. Cagan replied some nights I am out until 11:00 or 12:00, but the dogs are not barking. They will go out, go to the bathroom, hang around at my feet, lie down, and go to sleep.

Mr. Casale asked is there any rebuttal concerning the Town's concern about the increase in the wear to the dirt road because of the cars going up and down with the increase in traffic? Attorney Muller responded I understood that that was going to be an issue for the Planning Board. Secondly, if you are looking at this street, the only two residents on it, some of the estimates appear to have been a little high even with the typical number of clients they have per week of 18 to 25, and in their experience in the ten years that they have been there, the only regrading that has occurred has been after there was serious rain storms. There has not been an issue in terms of this has worn down the road and they have had to basically maintain the road because of their clientele. I think in the last two months it has all been after a major rain storm is what has caused the regrading. Mr. Casale responded okay, thank you. Ms. Cagan stated I would like to add to that. It is a hill and back years ago the dirt would wash down across Wallace Road into Jerry Dumas's field. It was addressed by the road department. Our road department is incredible. During the winter we need SUV's to get up and down our hill because of the snow. I have never but once or maybe twice in 30 years had to call them because I got stuck on the road, because obviously if there is no school, the majority of families that we have don't bring their dogs. Our road is maintained by the road department 100 percent and they come without me even calling them, and it is due to the incline of the water coming down the road on the sides of the road, which they have addressed with some drains at the lower part of it in the last year, spending a fair amount of money to keep the dirt from just going into there. In the ten years that we have done this, knock on wood, there has never been an accident due to our intersection with a client. If anything, our clients have come up the road and told us that people were having problems just down the road going around and we may call the road department and request service at that point if we are being told that something has happened or a tree is down and people are having a hard time. All of our clients are family, they are here tonight a lot of them, a lot of them have already sent in emails and letters, so once again, we are just asking that we are allowed to keep this business that we have had. It is our livelihood, we take great pride in what we do, we feel that we are an asset to the community and surrounding communities, and we love what we do. Mr. Casale stated thank you.

Chairman Morin stated I just want to verify the numbers because what you have said and what I am reading are a little different. In the application it says on average there are six to eight dogs being boarded at the property at any time and up to 15 dogs may be on the property for daycare. When I asked the specific question, you said there would be no more than 15 dogs period. So I just want to make sure what these numbers are because we have two different things. I want a total number of dogs on property that are outside animals. Ms. Cagan replied the figures that you were given, my husband gave them, 15 is an average of what we get, we are not doing 30 or 20, so it is hard because a lot of our families come three times a week or maybe they come five times a week, and John Heshin in town is our accountant, we are registered with the State of New Hampshire, we are not a kennel, I do breed Corgis every two to three years for a hobby and for showing, but the dogs that come to our home are basically, I mean we don't have more than 15 at a time including, depending upon whether it breaks down to five that are there for boarding for a day or two, some do just an

overnight, some will do three weeks if needed. Other than the ones that we definitely know are coming that either prepay and then we allocate the days that they come or take them off the balance, it could vary. Does that help? Chairman Morin replied yes.

Chairman Morin stated we have about four or five emails or letters agreeing with the application, several more also, around ten that would like to see the application approved. These documents will be made a part of the file.

Chairman Morin asked the public for those wishing to speak in favor of this variance application.

Sally Hunter, 10 Edward Circle, stated I have been bringing my dogs to Linda and Bill's house for seven years. I am a Bedford resident for the past nine years with my 14-year-old daughter. It is not a typical daycare/boarding. It is their home and they are up on a secluded dirt road. Their house is neater than my place. It doesn't smell like dogs, you don't know really that there are dogs even there. Their house is quiet. I have never come and picked up my dogs and there has been haphazard barking. It is so atypical. Everything she said I can attest to. I hope the Town of Bedford supports the continuation of their business. I can't say enough favorable things about these two people. They care about our dogs as much as we do. They are just great people, and they run a great business. I have never even really seen the abutting neighbor's house when I drive back and forth to get my dogs. I don't know what else I can add, but I really hope that you will approve the continuation of their business and the fenced-in area of their yard because it just allows my dogs to go to a place that is a totally non-stressful environment. They love going there; it is just like when they are home with me. Chairman Morin stated thank you.

Debbie Warren, 25 Essex Road, stated I totally agree with everything that has been said, and I speak for my dog, Riley. There is nowhere else I would take Riley. I would stay home from vacations if I didn't have these two. It is a gem for our community, they totally love what they do, they totally love my dog, and I don't know what I would do without them. Please, I hope that they stay with us. They are an asset to our community. Chairman Morin stated thank you.

Bill Linehan, 54 McAfee Farm Road, stated just to amplify what these ladies have said; they have done a great job with our dog, I think they love the dog more than I do, and that is the type of business you want in this community. Again, cleanliness, never any noise, barking and I have been there for five years, so I am in full support of the variance. Chairman Morin stated thank you.

Joel Schwelling, 3 Augusta National Drive, stated my wife Joan and I have lived in Bedford since 1989, we have owned dogs the entire time, and we have used just about every available boarding resource. Before we found Bill and Linda our dogs would come home stressed and upset, they were mostly caged for the time we were gone, and they took several days to recover once we got them home. We have boarded our current dog Phoebe for up to ten days with Bill and Linda and she has come home

nothing but happy, healthy and content. We believe Bedford Canine Resort provides a much needed unique service to pet owners in town; it would be a serious loss to us and the pet owning community if they were not allowed to continue. Chairman Morin stated thank you.

Byron Mousmoules, 45 Highland Farms Drive, stated my family has been here for about 16 years and includes a 28-pound eating machine called Sam. Again, I can only reinforce the comments regarding the quality of care. In regard to the questions regarding the road leading to their home, I have driven on it, I am the one that delivers and picks up Sam on every occasion, I have been there at varying times of the year, summer, spring and winter and on no occasion have I noticed any degradation or difficulties or problems with the road that would indicate any form of overuse, nor on any occasion have I seen anyone other than myself picking up a dog, so the frequency there I think is quite low. I mirror the comments of everyone else in regard to the request that the variance be granted.

Mary Ann Olone stated I am here to let you know about their special way of handling dogs. When I first found them I had a medically fragile dog and no other kennel in the area would take him on. He had to have medication three or four times a day and be in a crate. Bill and the Linda were the ones that volunteered to do it and they saved my dogs life. Since then my other dog I now take to their services just because it is such a fantastic place to go, and I really hope that you will approve their variance. Chairman Morin stated thank you.

Marie Russell, 19 Summit Road, stated this is Floyd. Floyd just whispered in my ear if they have any questions, they should be asking me. He wanted everyone to know that he loves going to Uncle Bill and Auntie Linda's. I wouldn't put him in a kennel, and I bring him to their home because it is a home and that is what I want for Floyd. It is past his bedtime so he is hoping that we can settle this right here and now and let us all go home.

Brian Olsen, 24 Oriole Drive, asked are you a dog owner, Sir? Mr. Casale responded I am. Mr. Olsen stated well, you would want your pet to go to Bill and Linda. Having paid for eight of years of daycare for my kids, I have never gotten one picture of my child during the day. Every day I get a picture of my dog from Bill. It is very important to me and very important to our family that we have Bill and Linda taking care of our dogs. I am a dad, I am a pet owner, I am a business owner, these are the folks that we want running businesses in Bedford, and there are other business owners here that rely on them to watch our dogs. You can put 100 dogs in the back yard and my dog is going to love it. It is a great environment; I support the variance. Thank you. Chairman Morin stated thank you.

Annaleis Soldau, 34 Ledgewood Road, stated I am one of the small dog owners that Bill and Linda watch. I finally found them and it took me about eight months looking at all the other places around to find anywhere that would not put my dog in a kennel, would not put him in a crate and would love him as much as I did. I think everybody here is

pretty clear on the fact that they are amazing with dogs, but to speak to the two parts of your ordinance that came up. One was about the road; I actually happen to be a civil engineer and my focus was hydrology. I have watched every time that I have driven up there in my SUV and none of the evidence of any kind of rutting has ever been visible. The only thing that is evidenced is on the sides of the road, which is channel flow and completely indicative of weather related problems, so that is what the Town would be taking care of. Secondly is with regard to the ordinance about causing undue issues to the community. I think the loss of this business would be the undue issue to the community and nothing else. Chairman Morin stated thank you.

Lynne Natale, 130 Brick Mill Road, stated I attest to everything everyone was saying about their dogs. Uncle Bill and Aunt Linda are like family, and I can't even say the word Bill in my house without my dog freaking out thinking that she is going to spend time there. I plead with all of you that you will pass the ordinance for Bill and Linda. Thank you. Chairman Morin stated thank you.

Bancroft McKitrick stated my wife and I are from Hampstead. We have been with Bill and Linda for ten years and I can say that I echo the positive comments that you have heard tonight. I can say that with our dog Dexter when we take him other places, he is not really a happy camper, but when we say he is going to Bill and Linda's, he packs his stuff.

Jeff Upton, 16 Winding Road, stated we feel very fortunate to have found you guys for our dog care. Our dog also does not like going anywhere but as soon as we turn onto their road, she starts going nuts, so that is great for us. She is not very quick to warm up to other people. I will say I have also gotten loads of texts from Bill, which are more popular in our family than texts from other family members, and I would like to say that the first time that we went, I think my wife gave me the directions, and we almost got into an argument because I said this is not the right location because when you pull in, it looks just like a house, you can't tell when you get up there that there is a business that is being run in the house. I think the most cars I have ever seen is one other car going in and out when I have been picking up or dropping off my dog. And the last thing that I will say is the peace of mind that we get as a family when we are traveling is huge, so thank you guys for that and thank you for hearing my comments. Chairman Morin stated thank you.

Kevin Flynn stated I am from Nashua. The fact that we travel all the way up to Bedford to bring our little guy Chester up to spend the day, and the fact that I am here tonight, is an indication of how much I support what they do. Going up to their business is kind of like the closest thing I would imagine to going to visit Dr. and Mrs. Doolittle. Years ago at our house in Nashua, and we don't live in as rural an area as they live, we had a neighbor move in the house behind us and they have five very young, very cute little Alaskan Malamute puppies that eight months later grew into the size of small polar bears, so I have experience living next to dogs that are not well maintained, are not cared for, and it is a very unpleasant experience as an abutter. I can tell you what Linda and Bill do at their house is the exact opposite end of the spectrum. You hear no dog

commotion when you pull up; the only commotion I hear is when my dog recognizes where he is and starts barking out of excitement. Their house is immaculate, the yard is immaculate, I think they set the standard for this type of business, and I think the Town of Bedford would be proud to allow them to continue to maintain their business the way they are maintaining it. Thank you. Chairman Morin stated thank you.

Barry Kane stated I am from Manchester. I echo what everybody has already said, probably more eloquently than I can. If I was prepared, I would have brought a video of my two doofus dogs jumping out of their fur when we mention Aunt Linda and Uncle Bill's names and they excitedly get into our SUV and we bring them on over, again, just echoing what has been said by everybody else. I completely agree and humbly ask you to approve the motion. Chairman Morin stated thank you.

Claire Anderson, 875 Elm Street, stated I have Maggie who absolutely adores Uncle Bill and Aunt Linda. I actually say to her in the morning let's go see Uncle Bill and she goes trotting off to the car and she climbs over me to get out of the car to go see Uncle Bill. She can't wait to get into the door. I selected them based on what the dwelling looks like. I wanted somewhere that presented as a home so then she would feel like she was at home every single day and that is what she is. The other thing is I have actually the anomaly in cars. I have a low riding, low profile tire car, and she goes up the hill absolutely fine, and I have only ever seen things when there has been a thunderstorm or something and it is the drainage down the side, so no issues from any of us. It is very quiet, very peaceful, the turkeys, the bears, and everything else that we see whenever we visit are out and very happy and it presents as a rural place. Chairman Morin stated thank you.

Laurie Tibbetts, 16 Highland Farms Drive, stated prior to moving to Bedford I had never once boarded or sent any of my dogs to daycare. Bill and Linda are unbelievable; they are just incredible. I love my dog to death; I think she loves them more than she does me sometimes. She just can't wait to get there. A good indication is dogs can't put on airs and when my 5-pound dog wants to jump out of my arms into their arms, that tells you a lot. They are unbelievable and you can tell we would all have hardships if we didn't have them. Chairman Morin stated thank you.

Matt Halvorsen, 137 Brick Mill Road, stated I guess I am speaking here also as an abutter by way of my ownership of the 28-acre parcel that I think is across the street from the Cagan's. I have absolutely no objections to the variance, and I am also a customer and I am glad this fellow here made the point that the first time I tried to bring my dog I had a hard time finding it because it just looks like a house. Thank you. Chairman Morin stated thank you.

Jeff Halverstill stated my wife Lorraine is here as well and we are from Londonderry. We obviously don't do the everyday thing but we do when we go on vacation. I just wanted to echo what everyone says. It is very, very quiet, the way she trains the dogs is unbelievable, and so when they want them to be quiet, all the dogs are very quiet. She has also trained our dog, come to our house in Londonderry and trained it so we

have kind of had this experience of what she does there, and we just wanted to recommend that you approve it. Chairman Morin stated thank you.

Chairman Morin stated we still have two more items on the agenda and it is already 8:45 p.m. If you basically have the same comments, I will count the numbers and add it to my count of how many people spoke in favor, but I just want to keep this moving. If you have a comment, please make it very quick so we can get the rest of the agenda done this evening also.

Steve Sears stated I am from New Boston. As far as environmental impact or wildlife is concerned, it is not unusual and Bill and Linda take care of our dog Murphy. It is not unusual to drive up that long dirt road and see a flock of turkeys in their front yard that are no more than 30 feet from the penned-in area. They are not bothered by the dogs, the dogs aren't spooked or hyper by this wildlife, and I agree with the comment by the engineer. The only time I have ever seen the road in bad condition is along the sides of the road and it is obviously washout from a recent storm. Otherwise there are very little ruts in the road, the grader comes up and crowns the road whenever it is needed and it is a tribute to your Highway Department. I have to say the same thing that I get pictures of my dog from Bill that we have kept; we get them every day that he is there. We come that far to utilize their daycare. Murphy is usually there three days a week, and we come that far because we heard of their service, we hired Linda as our outside trainer, she came to our house, she and my wife Alice took our dog to public places to get some socialization training, she is a true dog whisperer, which what could you ask more of in a daycare center. Thank you very much for accepting my comments. Chairman Morin stated thank you.

Susan Roberge, 28 Highland Farms Drive, stated I can concur with everything that has been said, I so value their presence in our community, they are just wonderful people. I'd like to mention one thing that hasn't been talked about and that is that they do definitely have a quota for the number of dogs that they take for a particular day. I have on a couple of occasions forgotten to call and make my reservation and a couple of times they couldn't take my dog because they were full. So they don't just pack them in there and load them up. They are very responsible about the number of dogs they take. Thank you. Chairman Morin stated thank you.

Charles Teale, 50 Grafton Drive, stated we have been residents here for about 34 years. We have been taking our three Corgis to Bill and Linda's for about six years now. As you heard Linda say, they have three Corgis, so when our three are there with their three, there is a veritable dog party with the same breed. In fact, when we go to pick them up, we have to actually pull them out of the house because they don't want to come home. One other comment I would have besides saying that I am certainly in favor of granting of the variance and that is that I am also a civil engineer practicing in town and the dirt road that goes up the hill there, and the only issues there are with washouts in the gullies because of the channelized flow. I have never seen going up there any kind of washboard type of effect that you get from repeated, so the traffic is pretty nil. Thank you. Chairman Morin stated Thank you.

Paul Connolly, 126 Power Hill Road, stated I am a business owner here in Bedford. Again, as a business owner I can appreciate the service that Bill and Linda provide. Our dogs is there most days of the week because we are too busy in our schedule to run home and take care of them, and it is just a huge, huge help for us to have somebody there to take care of our dogs so wonderfully. Thank you. Chairman Morin stated thank you.

Mary Gleason, 27 Barnside Drive, stated I would just like to say that nobody has really mentioned that Bill and Linda actually interview the owners and the animals before they accept you. Your dog has to go and stay there a minimum of half a day for daycare. They judge the temperament of the dog, the hyperactivity of them, how well they get along, and if they are trained, so they do actually research this and then they decide whether you are acceptable or not. So they are not just taking anybody in; it is like going to a premier private school. In reference to the question of how many dogs and how they are outside, I actually have pictures that Bill has sent and if anyone wants to scroll through them so they can get an idea of how many dogs are out and the grouping if them, I would happy to let you look at my phone. Chairman Morin responded I think we are fine because she did describe it pretty well. Ms. Gleason stated in any of these groups the most that are out is like four at a time. I hope that helps and I hope that you approve the variance. Chairman Morin stated thank you.

Amy Harl, 52 Pasture Lane, stated I don't have anything to add except that I support this and I am very appreciative that they have helped take our first puppy, passing along our first child to them, and I find it and Trixie finds it a warm, clean, immaculate, friendly, engaging environment. We are super appreciative. I think also to speak to the numbers; we are terrible last minute planners and never knowing when we are going away for a weekend, so I appreciate the flexibility they afford as well. Chairman Morin stated thank you.

Bill VanHowell stated I am a former resident of Bedford and lived here for 35 years until two years ago when I relocated to Nashua. I still come up here to drop my dog off because it is the best place I could possibly leave my dog when I travel. I travel quite often with Connie and it is good to know when we are away out of the country that our dog is in great hands. Please approve what they ask. Thank you. Chairman Morin stated thank you.

Diane Siegert, 555 Canal Street, Manchester, stated I was a Bedford resident for 18 years and we just moved out last November. One thing that wasn't mentioned that I do want to mention when you talk about the variance and talk about hardship. The hardship would be on the people of this Town and surrounding communities if we lose Linda and Bill. My dog in particular is a high-energy, high-requirement dog that really cannot be in any other environment other than a home environment. I specifically looked for a home environment; they don't exist very much in communities, so I really believe that they are serving this community and the surrounding communities with their business. Thank you. Chairman Morin stated thank you.

Joy Fellman, 3 Metea Lane, stated I just want to say that it was a life saver to find them. I was word-of-mouth, and every time my dog was boarded he would come home with a hot spot. He is a 90-pound English Golden Retriever who is a mush. He is not a barker and he would be so stressed out with the big facilities, and it really will be a detriment to the community and a loss to the community if this variance isn't approved. Chairman Morin stated thank you.

Chairman Morin asked the public for those wishing to speak in opposition to this variance application. There were none.

Mr. Casale asked is there a quota? Somebody had said a quota, so when you say 15 dogs, is there a maximum that you will take per day? Ms. Cagan replied we have large dogs and we have small dogs and we have only about five large dogs at this time. We can obviously take more smaller dogs. I am not going to lie. I was a nanny for doctors and lawyers for 15 years prior to becoming a dog trainer and then an owner of a doggie daycare boarding business. We can obviously fit more smaller dogs so it is really based on what dogs are coming on what days. We will never ever have more than, we like to cap it at 15, but if somebody calls and their mother is dying and they have to take her to the hospital, we are taking that 2- or 3-pounder, maybe that 40-pound dog because we can. At some point we know what we like and what we are comfortable with and for the safety for all of the animals what we can do and what we are capable of doing.

Ms. Cagan stated I do want to add one thing about the traffic coming up the road. Years ago there was not a 25 County Road. We have always been 25 County Road West until the Seavers built a lovely home, who by the way I was their nanny for many years and have watched their dogs on occasion, moved in and the Town instead of checking the numbers made it 25 County Road. So when you put into your GPS to come to our house, the first thing that comes up is 25 County Road and the second one is 25 County Road W. Most people don't know what the W stands for because the post office doesn't, UPS doesn't, and the Fire Department in Bedford went to the wrong house after the houses were renumbered years ago. We get more traffic on our dirt road with people trying to get to County Road to the pool, to the high school, to the baseball park and they come up our road, they park in the cul-de-sac that the road department so kindly made 31 years ago when we paved the driveway of the house that we are currently living in, and they put into their GPS and try to find it and we go out and offer them directions because we know they are lost. At least a minimum of five cars a day from people getting the wrong directions to try to find County Road.

Attorney Muller summarized I think you have heard the testimony essentially confirming that this looks like a house, that is what it indeed looks like when you go there, and based on that and the lack of complaints, we would ask that you grant the variance. Ms. Cagan stated you are all invited to our house totally unannounced.

**MOTION by Ms. Stevens to move into deliberations on this variance application. Mr. Gilbert duly seconded the motion. Vote taken – all in favor. Motion carried.**

**1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Mr. Green stated it doesn't seem likely. Mr. Casale asked Ms. Elmer, can you touch on it at all the potential for this undeveloped land around there? Ms. Elmer replied no. You never know when something is going to come in. Mr. Casale asked there hasn't been any interest? Ms. Elmer replied there is nothing currently on the books. Chairman Morin stated plus we had the abutter across the street with undeveloped land actually testify that he was in favor. Mr. Casale stated right, but I don't know how much he owns though. Chairman Morin stated I would say the bottom piece. **(2) Whether granting the variance would threaten public health, safety and welfare:** Mr. Green stated I don't think so. **2. The spirit of the ordinance is observed:** Chairman Morin stated so the spirit of the ordinance is to restrict to a point a commercial business in a residential area. There are certain criteria for that; it seems that they pretty much meet most of the criteria. There are a few areas that, again, that big fenced-in area that goes over the limits, there is no additional non-resident employees so that is one piece, there is some vehicular traffic but it is hard to tell what the total vehicular traffic if there is an issue with addresses and that type of thing. Looking at the spirit I think at this point it meets the spirit. Again, we will have to discuss after we hit the criteria if we put a limit on the number of animals based on what is documented in the application and what we have heard. At the end we can decide that if we go forward. Mr. Green stated and if and when the Cagan's retire, unless the people they sell to want to be in the doggie daycare business. Chairman Morin responded they can't. The variance is to this owner and that is it. It goes away after-the-fact. That would be a new application. **3. Granting the variance would do substantial justice:** Chairman Morin stated again, we are weighing the two sides of it when it comes to the actual business piece. Unfortunately we can't deal with the feelings piece. We understand how people feel about them, but we have to look at the business going into a residential area. Again, we haven't heard anything against this area. If everything pretty much stays to what we are hearing and what is documented, I don't think there will be a problem with that. Mr. Green stated one thing I have noticed after being on this Board for three or four years, I have seen people come out in droves opposing things like beautiful cell towers, but I don't remember seeing this many people ever come out in favor of something. **4. The values of the surrounding properties will not be diminished for the following reasons:** Chairman Morin stated they did submit one item of an actual sale of a property that actually went up since they have been having dogs in the area, but we don't have any physical evidence other than that. Mr. Green stated and the only person that would object is the abutter and the abutter doesn't object. Chairman Morin stated we haven't heard any negative things from any of the abutters. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Chairman Morin stated it is a very limited residential area at this point. It seems like everything is hidden behind and is isolated. Is there anything else that you can think of

that I might have missed? **A. Denial of the variance would result in unnecessary hardship:** **i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Chairman Morin stated again it is weighing the commercial business, per say, in that residential area. We are not hearing a lot of negative public input, so I am not seeing much of a negative public purpose involved in this application. **ii. The proposed use is a reasonable one:** Chairman Morin stated it seems to be.

Chairman Morin stated before a motion is developed, do you want to talk about numbers of how many dogs. That would be like a maximum limit. Ms. Stevens asked do you need to really get into the square footage of the house? Chairman Morin replied she gave us an approximate; I think the Planning Board will probably get more into that, but she gave us an approximate of those two areas, it is documented in the application of those two areas with approximately 450 square feet is what I think she stated. It is in the application, so that is where it has to be limited to internally anyway and then whatever the actual dimensions are that we received on the application for the exterior part. Ms. Stevens stated that is what I was thinking of too as far as the fencing.

Chairman Morin asked what do you think about the number issue? What are the Board's thoughts on that? Mr. Duhaime asked would the maximum not be a condition of their business permit? Ms. Elmer replied you don't have business permits per say. The Planning Board will be looking at hours of operation, number of clients per day, you can also limit that there is some crossover; you can limit the number of visits a day, and dogs a day. They also have the capability of doing that but if you say limit it to 12 dogs a day, they couldn't override it and say 25 dogs a day, so it is up to you. If you don't address it, they will. Mr. Gilbert stated if you go strictly by the application, it says 15 on the property for daycare. Mr. Casale stated that is not what they are asking for. Chairman Morin stated but they have two separate pieces by the application. It is daycare for 15 and then six to eight boarding, so that is 23. Mr. Casale asked is that what they were asking or is that just what the current is? Mr. Gilbert stated on average six to eight dogs for boarding and up to 15 may be on the property for daycare. Ms. Stevens stated but in conversation it almost sounded as though she didn't have more than 15 total typically. That is where I am sort of confused because I thought she clarified that by saying 15 but the application clearly delineates between the two. Mr. Casale stated I don't see any need for it. No one is concerned about traffic, no one is concerned about noise, I am more concerned about noise and future development and nobody sees that as an issue, so I don't see where it is an issue at least for us to determine how many customers should be there. Chairman Morin responded okay. Mr. Gilbert stated that would be fine.

**MOTION by Mr. Casale that the Zoning Board of Adjustment grant the request for a variance from William and Linda Cagan (Owners) requesting a variance from Article III, Section 275-6 and 21 in order to continue to run an existing dog daycare and boarding facility with an outdoor dog run in excess of the 650 square feet allowed for a home occupation at 25 County**

**Road West, Lot 27-25, Zoned R&A, as it meets all of the criteria for a variance per our deliberations.**

Chairman Morin stated I have a friendly amendment to just make sure that the outside area is limited to the drawing we have on file so at least it is contained to that.

**Mr. Casale agreed to amend the motion to include that the outside dog run shall be limited to what has been submitted to the Zoning Board in the applicant's documentation. Mr. Duhaime duly seconded the amended motion. Vote taken - all in favor. The amended motion carried.**

**MOTION by Mr. Gilbert to move out of deliberations on this variance application. Mr. Duhaime duly seconded the motion. Vote taken – all in favor. Motion carried.**

The Zoning Board of Adjustment took a 5-minute recess.

Chairman Morin called the Zoning Board of Adjustment meeting back to order.

**4. John Mead (Owner) – Request for a variance from Article III, Section 275-22.A and Table 1 in order to reconstruct and expand an existing non-conforming single family home 11 feet from the side property line where 25 feet is required and 17.6 feet from the front line where 35 feet is required at 37 Darling St., Lot 43-86. Zoned GR.**

John Mead was present to address his application for a variance. Mr. Mead stated I bought this property in April. It is a 3-bedroom ranch depicted in the picture that is posted on the screen. We originally had intended on just renovating the property as it existed, however, after we looked closely at the structure and systems that existed within the building, we found that most of them were in disrepair and we came up with another plan in order to replace the structure with a 3-bedroom cape using essentially the same footprint with extending the wall where the jog is as indicated on the screen, and that is 8 x 16, which is 128 square feet. I provided some answers to the questions that are in the application and will run through some of them without reading the entire thing. Ms. McGinley stated we do need you to read each one of those statements. Mr. Mead responded sure.

Chairman Morin stated I am looking at my copy, and I don't know if everyone has the same issue, but we don't have numbers 1 – 4 and I am not seeing it in the file. We have Page 2 but not Page 1. I have it on the original. Ms. Elmer stated I don't know what happened with that.

Mr. Mead proceeded to review the criteria for his variance application. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** The proposed repairs

and improvements to the structure do not change the structure's use as a 3-bedroom home. The proposed changes would increase the roofline necessary to transition into a cape style home consistent with other homes in the neighborhood. **(2) Whether granting the variance would threaten public health, safety and welfare:** The proposed changes would bring the building up to the current building codes resulting in a safer residence. The building plans have been submitted to the Bedford Building Department for a permit approval on 7/19 and a copy has been attached and provided to this Board. **2. The spirit of the ordinance is observed:** The proposed repairs and improvements to the existing structure will not change the structure's current use or general appearance, will not materially change the non-conformance of the lot lines, meaning essentially the majority of the house as it exists right now is non-conforming. It is now within the setbacks and I assume that that was the custom back in the time that it was built.

Chairman Morin asked at this exact point there is no house that exists is there? It is just a foundation? Mr. Mead replied the foundation exists. Chairman Morin stated the house has been taken down. Mr. Mead responded a portion of the house has been taken down but the foundation still exists and the floor still exists and the garage still exists. That was done in conjunction with the issuance of a demolition permit from the Building Department who advised me that I could go ahead and do it. Chairman Morin responded I am not contending, but you said it was still there, but by right it is actually not. Mr. Mead stated but there is still a structure there. Chairman Morin stated that is the garage. Ms. Elmer stated the foundation doesn't count as a structure. Mr. Mead stated I would disagree with that. There is a structure there. Ms. Elmer stated per our definition it does not meet the definition of a structure having a foundation. Mr. Mead stated Meridian Engineering told me that it is considered a structure, that it hasn't been demolished in its entirety, so there may be a difference of opinion, but that is what Meridian Engineering has told me.

Mr. Mead stated I am requesting a variance of the side setbacks and the street setbacks for the structure. The house was built in 1958 or there about according to the records that I could find, and I am looking to replace the existing house with a new house, a 3-bedroom cape on the same footprint with the exception of adding an 8 x 16 section in order to square the building off, and the reason to do that is essentially to make the flow within the building work on the first floor and on the second floor. So the bedrooms would be upstairs and the living space would be downstairs.

Mr. Mead continued with the variance application. **3. Granting the variance would do substantial justice:** The variance will allow the owners the full enjoyment and use of the property that is fully maintained, aesthetically pleasing and a well-designed and comfortable 3-bedroom home. The repairs and improvements will bring the structure up to the current building code. The existing rafters that were there were substandard vintage 1958, including in the garage that still exists. The house had not been maintained nearly in every aspect and it was in desperate need of total renovation. Also, in this neighborhood most of the surrounding properties and each of the two direct abutters have existing structures that are located within single feet of the lot line, so

therefore this variance would not be inconsistent with that of what exists in that neighborhood. **4. The values of the surrounding properties will not be diminished for the following reasons:** The renovations at 37 Darling Street will result in significantly improved overall property values and therefore contribute to the increasing values of the surrounding neighbors' properties. The improvements will also be generally appealing and contribute to the pride of the neighborhood. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area: A. Denial of the variance would result in unnecessary hardship: i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: ii. The proposed use is a reasonable one:** A hardship would result if the variance is denied and the proposed improvements would not be completed as planned resulting in a much lower quality building, less comfortable home, and a much lower value and the overall usefulness. 37 Darling Street has been in existence since 1958, approximately 60 years, and in this neighborhood most of the surrounding properties have structures that are within the setback. This repair and improvement as proposed is in the interest of the Town and the neighborhood and would result in a well-maintained homestead. The proposed renovations of the home represented do not change the character of the 3-bedroom home and is an improvement to the overall neighborhood. Changing the home style from a ranch to a cape is relatively unsubstantial. The building will not be disproportionate in size to the neighborhood; the inability to renovate the house will result in an aesthetically unappealing eye sore to the neighborhood instead of an architecturally well designed and completely renovated home.

Mr. Casale asked can you clarify again if it is that upper left box to the right as shown on the screen? It is just that section that you are adding? Mr. Mead replied yes. That is the only thing that is being added to the footprint of the existing building. Ms. Elmer stated you are proposing to expand the garage closer to the property line. Mr. Mead responded that is not correct. I meant to call the engineer on that; it is not extending the garage as it is shown on that. That is not right. Ms. Elmer asked so you are not going to be going closer, you are just leaving the existing garage the way it is? Mr. Mead replied exactly. His mouse must have dragged that just a little further. It is the existing garage. The only addition to the footprint is that corner, which is 128 square feet. Mr. Casale responded okay, thank you. Ms. Stevens stated I am just curious now. If you go kind of towards the middle of the building, is that square also to be added? Ms. Elmer replied it is, but that is within the setback so he doesn't need a variance for that because it is within the allowable building envelope. Chairman Morin stated so it is only that one corner that is shown.

Chairman Morin asked for public comments either for or against this application.

Denise Roy, 9 Savoie Street, stated I am in favor of you supporting this variance. Chairman Morin stated thank you.

Bob Watson, 12 Savoie Street, stated I will give you a short background. I married a Savoie girl so I know a lot about Savoie Street. I have owned three houses on Savoie Street and those are 12, 14 and I own the one on the corner of Donald and Savoie Street. I have seen a lot going on in houses up and down Savoie Street. The house that Mr. Mead had to knock down was an eyesore, and it was built very cheaply and so forth, so I really hope that Mr. Mead can proceed with his pleasure. Chairman Morin stated thank you.

Don Laliberte, 429 Donald Street, stated I have seen that he is going to keep that house within its footprint and make it a decent home. I agree with what he is planning to do. Chairman Morin stated thank you.

Bruce Fout, 9 Savoie Street, stated I support the variance. Chairman Morin stated thank you.

Chairman Morin asked for any further comments or questions from the Board. There were none.

**MOTION by Mr. Casale to move into deliberations on this variance application. Ms. Stevens duly seconded the motion. Vote taken – all in favor. Motion carried.**

**1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Mr. Green stated I think we have to remember that this area of Donald Street is basically west Manchester as far as the structures, and it would be impossible for any of the lots over there to comply with present Bedford zoning. Chairman Morin stated it wouldn't be impossible but it would be awfully odd looking at the footprint of where you can build. **(2) Whether granting the variance would threaten public health, safety and welfare:** Chairman Morin stated we heard nothing in that area. Ms. Stevens stated we didn't hear anything to that effect. **2. The spirit of the ordinance is observed:** Chairman Morin stated the spirit is to make sure that there is space between housing, but, again, bringing up the location and the small lots. Mr. Casale stated and he is bordering two streets. Chairman Morin stated and it is a small addition to the footprint, so it won't really make that big of a problem. **3. Granting the variance would do substantial justice:** Mr. Green stated on those lots you have to make exceptions. **4. The values of the surrounding properties will not be diminished for the following reasons:** Chairman Morin stated we haven't heard anything to that effect. Mr. Green stated improving it instead of just a flat building has got to improve the value. Chairman Morin stated you would hope. That's correct. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Chairman Morin stated again, a corner lot, two streets, small lots in the area, and it puts a strain on the building envelope for sure. Mr. Green stated especially those older homes that were built. **A. Denial of the variance would result in unnecessary hardship: i. No fair and substantial relationship exists between the general public**

**purposes of the ordinance provision and the specific application of that provision to the property:** Chairman Morin stated again, I think we have answered that one. **ii. The proposed use is a reasonable one:** Chairman Morin stated it is reasonable.

**MOTION by Mr. Duhaime that the Zoning Board of Adjustment approve the request for a variance from John Mead (Owner) requesting a variance from Article III, Section 275-22.A and Table 1 in order to reconstruct and expand an existing non-conforming single family home 11 feet from the side property line where 25 feet is required and 17.6 feet from the front line where 35 feet is required at 37 Darling Street, Lot 43-86, Zoned GR, noting that the footprint of the garage will not change from the existing and for the reason that it has met the criteria for a variance per our deliberations. Mr. Casale duly seconded the motion. Vote taken - all in favor. Motion carried.**

**MOTION by Mr. Casale to move out of deliberations on this variance application. Ms. Stevens duly seconded the motion. Vote taken – all in favor. Motion carried.**

- 5. Cheyenne Mt. Trust, Benjamin Shaffer, Trustee (Owner) - Request for a variance from Article III, Section 275-22.A and Table 1 in order to expand an existing non-conforming single family home 9 feet from the side property line where 25 is required at 49 John Goffe Dr., Lot 21-8-25. Zoned R&A.**

Shaun Maddy was present to address this variance request on behalf of the applicant.

Mr. Maddy read into the record a preface from Mr. Shaffer as follows: Dear Bedford Zoning Board, We are very disappointed that we cannot be with you this evening to discuss the zoning matter at hand. We are currently visiting elderly grandparents who will be meeting their great-grandson for the first time. We love living in Bedford for the schools and community that we have found. We enjoy the convenience of its location to jobs, amenities and our close family and cousins. We have lived in our home for nine years and although it was just supposed to be our starter home, we have now found it difficult to find a house and location better than our quiet street and impeccable neighbors. We greatly appreciate your time and consideration of our variance application. Sincerely, Benjamin and Mallory Shaffer.

Mr. Casale asked what is your relationship to the Shaffer's? Mr. Maddy replied I am the contractor.

Mr. Maddy proceeded to review the criteria for this variance request submitted by the applicant. **1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Granting this variance will not alter the essential character of the locality as we are simply expanding the living space back to three bedrooms, which was the original design of the house. The slightly larger garage will permit two cars to be stored inside,

which is more in line with other houses on our street. **(2) Whether granting the variance would threaten public health, safety and welfare:** Having the new structure slightly closer to the property line will in no way threaten public health, safety or welfare. Reducing the length of the driveway by one car length is compensated by allowing cars normally parked in front of the garage to be parked inside. Enabling the addition of a second story will not reduce the light on the adjacent neighbor because there is already a row of 30+ year old trees that are taller than the proposed addition. **2. The spirit of the ordinance is observed:** This neighborhood was established in the early 1970's and plot lines were not strictly enforced. As such, the house was set on an angle on the lot. The home currently resides inside the setbacks and therefore to extend toward the road, requires that the corner of the house gets closer to the property line. We are not moving the north wall any closer to the neighbor but extending the north wall toward the street causes the corner to move slightly toward the property line. Ms. Elmer stated it is actually the opposite. Mr. Maddy stated that's right. **3. Granting the variance would do substantial justice:** This home has a lot of frontage; however, the buildable portion of the lot became quite small as the land was built up. In order to add square footage to the house and improve the value of the home, building primarily over the garage is best and the most cost effective. **4. The values of the surrounding properties will not be diminished for the following reasons:** The proposed addition will increase the number of bedrooms from two to three adding substantial value to the neighborhood. Our home is one of the least expensive in the neighborhood and one of the smallest. The addition allowed by this variance would increase the square footage by 360 feet and the value of the neighborhood. The minor encroachment to the easement would not likely be noticed. In addition, we have been systematically replanting a hedgerow to create additional visual separation between us and our neighbor to the north. The new proposed structure will not modify this visual boundary nor limit any more light than the trees currently do. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** As built the home already encroaches on the standard 25-foot setback, therefore, any expansion would require a variance. To expand toward the rear of the home would require a deeper encroachment than expanding towards the road. Expanding the garage by taking existing living space would decrease the value of the property. **A. Denial of the variance would result in unnecessary hardship:** **i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** The public purpose of this ordinance is to keep a reasonable separation between homes. This maintains privacy and separation between neighbors. There exists a 30 foot high dense hedgerow that will be maintained and provides the visual buffer. We aren't intentionally expanding in that direction of the neighbor. Adding to the front of the house simply has the effect of moving the corner closer to the angled property line but given the angle that additional encroachment is not visibly significant. The additional encroachment on the setback will not likely be visually noticed. The character of the neighborhood will not be negatively altered and the value of the property will be substantially increased. **ii. The proposed use is a reasonable one:** **B. If the criteria in subparagraph A are not established, explain why the property cannot be used**

**in strict conformance with the ordinance and why the variance is therefore necessary to enable a reasonable use of it:** We feel the criteria in A has been established above. If the Board disagrees, we would additionally submit that the house was built on a plateau and that expanding toward the street is not only a reasonable option to add to the required space and the additional bedrooms that our larger family requires. Had the house been set on the lot with today's setbacks, then this forward expansion of the garage would not have required a variance.

Mr. Green stated I have a couple of questions and it may not be your focus because you didn't write this. In the first one it says granting this variance will not alter the essential character of the locality as we are simply expanding, which seems to me means you are making bigger the living space back to three bedrooms. I don't see how you can expand and go back. That seems contradictory. Ms. Elmer stated they are expanding to three bedrooms. Mr. Green stated that is what I thought, but I am just looking at the reading. Mr. Maddy stated when I was reading it, I caught a couple of things and I was trying to fix them as I was going along.

Mr. Green stated and also in the spirit of the ordinance it said this neighborhood was established in the early 1970's and the plot lines were not as strictly enforced. That is an assertion. Ms. Elmer responded they don't understand the terminology. The location of the house was not strictly enforced. We required a certified plot plans when the house was originally built, so it is a terminology thing. If people aren't used to the terminology, they don't quite understand how to use it.

Chairman Morin asked for further comments or questions from the Board.

Ms. Stevens stated I am really confused as to what the addition is. You are building on top of the garage? Ms. Elmer stated shown is the existing garage right now, this dotted line is what they will be building a new garage in the front and then converting the existing garage to living space. Mr. Casale stated so the bottom line is it is coming into the driveway more. Mr. Maddy stated what it is essentially doing is the extra garage space is just going to be a deeper garage, so it is going to be the same existing garage, it is just going to make it deeper and then the second floor is going to be the living space that is increased. Ms. Elmer stated so it will have a second floor like the rest of the house, but you really won't notice it once it is done because it will still have the garage doors. Mr. Casale stated it is just coming closer to the street. Ms. Elmer responded that is right. Mr. Casale stated it is essentially a car length. Mr. Maddy stated it is essentially putting the cars in the garage instead of having them outside out in the front.

Chairman Morin stated with the project itself I have no questions. I do have a lot of questions looking at the plot plan, but that is a whole different topic. When you are talking back in the 1970's, if you look where the well is and it's on the other person's property. Ms. Elmer stated there was not a lot of quality control on this particular property. Chairman Morin stated even the part that I question a little bit is the

generator. By this it looks like it is on the neighbor's property too. Mr. Maddy stated that neighbor is here.

Chairman Morin asked for public comments either for or against this variance application.

Diane Finkle, 45 John Goffe Drive, stated I am the property that he is encroaching. I approve the project.

Chairman Morin asked Mr. Maddy for any further comments. Mr. Maddy stated they had a couple of more hardships that they came up with. Chairman Morin stated if you want to throw them out there, that is fine.

Mr. Maddy read the submission from the applicant: We currently have a 4-year-old girl and a 1.5-year-old boy; if we are denied the variance, that would assume that both kids will be forced to live in the same bedroom. As they grow older, that becomes a much larger problem forcing us to move elsewhere away from the established neighborhood and friends we have had for nine years. We are not able to build elsewhere on our lot, as on the opposite side of the house the yard slopes drastically and then levels out 15 feet lower than the top yard. An expansion in this direction would cost significantly more and would not be cost effective, not to mention they would encroach on the setback for the leach field. Our house is currently evaluated lower than most houses on our street due to its square footage and lack of bedrooms, adding the additional space would increase both and be evaluated in line with other homes in the neighborhood and creating better comps for the area houses in a positive way. Thank you.

**MOTION by Mr. Casale to move into deliberations on this variance application. Ms. Stevens duly seconded the motion. Vote taken – all in favor. Motion carried.**

**1. Granting the variance would not be contrary to the public interest: (1) Whether granting the variance would alter the essential character of the locality:** Mr. Casale stated if anything, it is going to increase. **(2) Whether granting the variance would threaten public health, safety and welfare:** Chairman Morin stated again, we have heard nothing to do that. **2. The spirit of the ordinance is observed:** Mr. Gilbert stated it is. **3. Granting the variance would do substantial justice:** Mr. Gilbert stated yes. Chairman Morin stated again, it gives them the opportunity to add some bedrooms. Mr. Green stated the kids won't have to share a bedroom. **4. The values of the surrounding properties will not be diminished for the following reasons:** Chairman Morin stated we have heard no evidence to this. Mr. Green stated and nobody has objected. **5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Special conditions of the property distinguish it from other properties in the area:** Chairman Morin stated all you have to do is look at the plan and see where it is located on the property, which limits exactly what they can do. Ms. Stevens stated right, and with the slope that was mentioned, it is not as though they can expand elsewhere and with the leach field. Chairman Morin

stated that's right. **A. Denial of the variance would result in unnecessary hardship:**  
**i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:** Chairman Morin stated I think we have already spoken on this. **ii. The proposed use is a reasonable one:** Chairman Morin stated this is a reasonable use.

**MOTION by Mr. Casale that the Zoning Board of Adjustment approve the request for a variance from Cheyenne Mt. Trust, Benjamin Shaffer, Trustee (Owner) requesting a variance from Article III, Section 275-22.A and Table 1 in order to expand an existing non-conforming single family home 9 feet from the side property line where 25 feet is required at 49 John Goffe Drive, Lot 21-8-25, Zoned R&A, for the reason that it meets all of the criteria for a variance per our deliberations. Mr. Green duly seconded the motion. Vote taken - all in favor. Motion carried.**

**MOTION by Mr. Casale to move out of deliberations on this variance application. Ms. Stevens duly seconded the motion. Vote taken – all in favor. Motion carried.**

**Other Business:**

Chairman Morin stated I have a question about the legislative information you gave to us. Ms. Elmer stated when I was going through the Rules of Procedure, I noticed a few other things that are out of alignment. I think we will come up with draft changes for the September meeting, work those out, and then have the public meeting portion in October. Chairman Morin stated Mr. Green came up with one that will be pretty substantial and that is SB339, where it says to require the concurring vote of any three members of the Board to take action. Ms. Elmer responded our Rules of Procedure right now are silent, they don't specify, so it will just be adding a section for that. Mr. Green asked but if only three people are here, does that mean it has to be a 3-0 vote? Ms. Elmer replied yes. Mr. Green stated so a 2-1 vote no longer holds force. Ms. Elmer replied that is correct. It is not a simple majority anymore. Chairman Morin stated we will be waiting to see those changes.

**New Business:** None

**Adjournment:**

**Motion Mr. Green by to adjourn the meeting at 9:41 p.m. Mr. Casale duly seconded the motion. Vote taken – all in favor. Motion carried.**