

TOWN OF BEDFORD
October 12, 2020
PLANNING BOARD
MINUTES

A remote Zoom platform meeting of the Bedford Planning Board was held on Monday, October 12, 2020. Members who were present remotely: Jon Levenstein (Chairman), Kelleigh Murphy (Vice Chairman), Bill Duschatko (Town Council), Rick Sawyer (Town Manager), Jeff Foote (Public Works Director), Mac McMahan, Priscilla Malcolm, Steve Clough, Charlie Fairman (Alternate), Matt Sullivan (Alternate), John Quintal (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

Due to the Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Planning Board is using the Zoom platform to conduct this meeting electronically. Please note that there is no physical location for this meeting and the BCTV building is closed to the public.

The Town of Bedford is providing public access to the Zoom meeting live on BCTV, streaming at www.Bedfordnh.org/393/BCTV, and by calling into the meeting. Please email planning@bedfordnh.org or call 603-472-5243 to receive the call-in information.

Planning staff will also be accepting questions and comments by email at planning@bedfordnh.org. Please notify staff by email if there are technological issues with the audio transmission during the meeting.

Applications on this agenda not heard at the October 12, 2020 meeting will be postponed to a Planning Board overflow meeting to be held on October 13, 2020 at 7 pm. The October 13 meeting will also be conducted electronically and there is no physical location for the meeting. The Town of Bedford is providing public access to the meeting live on BCTV, streaming at www.Bedfordnh.org/393/BCTV, and by calling into the meeting. Please email planning@bedfordnh.org or call 603-472-5243 to receive the call-in information.

I. Call to Order and Roll Call:

Chairman Levenstein called the remote meeting to order at 7:00 p.m. Secretary Hal Newberry and Town Council Alternate Phil Greazzo were absent. Mr. Fairman was appointed to vote in place of Mr. Newberry.

II. Old Business & Continued Hearings:

1. **I & Q Enterprises, LLC (Owner)** – Request for approval of a Conditional Use Permit to allow six electronic readerboard signs over gasoline pump stations at 381 Boynton

Street, Lot 44-23, Zoned HC. *This application was postponed from the September 14, 2020 meeting.*

2. **206 Route 101, LLC & Bow Lane Bedford, LLC (Owners)** – Request for approval of a site plan amendment for a previously approved 93-unit workforce housing development on Chestnut Drive, Lots 20-22-14, 20-99-1, 20-99-2, 20-99-3, and 20-99-4, Zoned CO. *This application was postponed from the September 14, 2020 meeting.*
3. **Circle Drive Associates, LLC (Owner)** – Request for approval of a site plan and associated waiver requests for a proposed multi-family residential development to include a 142-unit workforce housing development, consisting of two four-story buildings, and a 96-unit elderly housing development (age 55 and over), consisting of one four-story building, and associated site improvements at South River Road across from Iron Horse Drive, Lots 35-98-5 and 35-98-40, Zoned PZ. *This application was tabled from the August 31, 2020 meeting.*
4. **Bar Harbor Bank & Trust (Applicant), R.K. Bedford, LLC (Owner)** – Request for approval of a sign waiver to install a monument sign on a parcel with two existing monument signs at 7 Kilton Road, Lot 12-23, Zoned PZ. *This application was postponed from the September 14, 2020 meeting.*
5. **New Hope Christian Fellowship (Owner)** – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A. *This application was postponed from the September 14, 2020 meeting.*

III. **New Business:** None

IV. **Concept Proposals and Other Business:** None

Mr. Connors stated the Bar Harbor Bank & Trust has been postponed at the request of the applicant and the Circle Drive Associates, LLC application will be heard at a Planning Board meeting to be held tomorrow night, October 13, 2020. All of the applications have been reviewed by staff and all of them have been determined to be complete at previous Planning Board meetings, the abutters have been notified, the Planning Board has already determined that none of the applications pose a regional impact. Staff would recommend that the Planning Board accept the agenda.

MOTION by Vice Chairman Murphy to accept the agenda as read. Ms. Malcolm duly seconded the motion. On a unanimous roll call vote, the motion carried.

1. **I & Q Enterprises, LLC (Owner)** – Request for approval of a Conditional Use Permit to allow six electronic readerboard signs over gasoline pump stations at 381 Boynton

Street, Lot 44-23, Zoned HC. *This application was postponed from the September 14, 2020 meeting.*

Attorney Andy Sullivan and the owner were present to address this application for a Conditional Use Permit.

Attorney Sullivan stated I thought the staff report covered all of the points. My solution for all of the points are part of the record. I am going to have the owner, Hammad Zaka, explain why they need the new pumps and why they have the LED.

Hammad Zaka stated the federal regulation came in to require all the gas stations to update their equipment to the chip card readers and all new devices like Apple Pay and all of that. The regulations came in so we have to meet the requirements by April of next year. We updated all of the cash registers inside and we updated all of our outside pump dispensers.

Attorney Sullivan said, just to recap, the gas station had to get new pumps anyway and the State of New Hampshire requires gasoline prices be displayed in two places. Just like the Mega-X gas station that you recently approved, I understand it's a slightly different zone, but they will also have LED signs over their gas pumps. Everything is moving toward LED. It's ubiquitous. Mr. Zaka was unaware that he needed a Conditional Use Permit to convert the pump signs to LED. The way the new signs work, they are all run from inside the store via a computer. It's no longer necessary to manually change the signs, which presented all kinds of issues. It was a safety issue because employees were required to go out during icy weather, during inclement weather, so this eliminates all of those issues.

They fit in nicely on the site. If you drive by, it's just another light on the pump. They are not bothering anybody. Mr. Sullivan briefly went through all of the Conditional Use Permit criteria.

The signs are an effective use of communications and represent the current way gas pumps operate today. The signs do not pose any hazards to pedestrian or motorist safety. It's an improvement because the employees no longer have to change the signs during inclement weather. The pump stations are distant from motorists passing by the site. The lighting of the signs blends in with the lighting of the site. The signs are minimal and will not be distracting. The signs enhance the character of the area, because it is a nicer looking sign. Mr. Sullivan noted that there are not many residential properties in the immediate vicinity that the signs would bother. Mr. Hammad happens to live in the house next door. Mr. Sullivan again noted that the signs are the way of the future. Five years from now, the Town will probably have regulations for them. It is a gas station; all Mr. Zaka is asking is to have a pump that is consistent with other gas stations. The new signs do not alter the essential character of the community. The previous signs were more visible, Mr. Zaka said. Finally, the aesthetic character of the surroundings will not be effected. Mr. Sullivan said they would be happy to take questions.

Chairman Levenstein asked the Board members if they had any questions with regard to this application.

Mr. McMahon stated the thing that shows the manual price of the gas that is connected to the post right below the name of the gas station, is that going to remain? Mr. Zaka replied for now yes. We have gas stations in Manchester and we changed it because in the winter it is going to be hard to change the price because of snow piling up 5 feet. Myself or my wife have to go and change the price. The one in Manchester we have just change it to inside and with the weather in the next six months the vinyl is hard to change. Sometimes we have to take a hot water cup to put it on them and put them up there and then we can change them. Mr. Connors stated the application is just for the pump toppers. They need to submit a separate application if they want to change the main sign. Mr. McMahon stated exactly; I just wanted to get that clarified.

Mr. McMahon stated personally I think that the applicant bought and installed the gas pumps with their signs in good faith. Second of all, as far as approval, in my opinion the stake is already in the ground and I will be happy to support a Conditional Use Permit. Lastly, I believe the staff was going to get an idea for us to possibly refine the applicable Zoning Ordinance. Thank you.

Town Manager Sawyer stated I am struggling that the applicant has met the 14 criteria. I think they have met a few of them, a couple of them in particular, but the other ones I struggle with. These are not the same criteria that we reviewed for the Mega X station. These are conditional use criteria and they are much more straight forward and need to be discussed, I think, better by the Board. Also, if you wanted to look back at the Mega X approval, there was a condition on there that it only had numerical information and this particular sign also has alpha information with the cash/credit/debit and there is no way for the Town or the Planning Board to control that. You can't control content, so there is nothing that stops that from changing to be milk, Coke, lottery tickets. I am struggling with the request as it compared to the Mega X condition that was placed. That is all I have for now.

Attorney Sullivan stated we are saying that the numbers will change, there is going to be numbers for the pricing. Chairman Levenstein responded I think he is more concerned about the words 'cash/credit/debit.' Attorney Sullivan stated whatever it says cash, credit and the price that is all it is going to say. It is not going to give you all of these things that can change. They are engraved as it is. They are not changeable.

Mr. Fairman stated I would like to follow-up on what Town Manager Sawyer said. On the Mega X one we specifically said the only things that can change are the numbers, and I would like that condition added. I don't think we should allow any other changeable sign, so I would like a condition added that only the numerical portion of the sign is changeable. Attorney Sullivan responded that is fine. That is all that can change are the numbers.

Chairman Levenstein asked for any follow-up questions from the Board members. There were none at this time.

Chairman Levenstein asked Planning staff if there are any questions from the public either by Zoom or by phone. There were none, and Mr. Connors stated there are no emails specific to this application.

Chairman Levenstein asked for any further comments from the applicant. If Town Manager Sawyer wants to be more specific of his concerns, I would be happy to address them if I can. Town Manager Sawyer responded we could go through all the criteria but there are a few. How do we say an electronic changeable sign maintains and enhances the aesthetic character of the neighborhood? In this case being a Highway/Commercial District where it is the only thing in the district is the gas station, everything else around it is residential, there is a home occupation across the street, as you indicated, but I don't see how you meet the criteria of enhancing the character of the neighborhood. Attorney Sullivan stated I think what I said, and I still agree with it, but it is consistently what we see out there. It is not an anomaly anymore, now it is consistent with the ambiguous gas stations you see everywhere. I would rather look at that than what was there before. Town Manager Sawyer stated as a colorblind person the signs that were there before are much more readable for me especially when the sun is hitting those signs on the south side. In Bedford this is an anomaly. These are the only signs in Bedford that are changeable copy at the moment. All of the other gas stations still maintain manual changeable signs. Yes, one has been approved to allow electronic, but this is an anomaly. Again, we could go through all of the criteria, I don't think it meets all of it, but I understand that I will probably just be in the minority on this conversation, but I thought the staff recommendation of not moving forward with something like this until we have regulations on changeable copy signs was a good one.

Chairman Levenstein asked would you be able to put the other old signs back on or are these a permanent part of the pump? Attorney Sullivan replied they have all been removed. This is a part of the new pump. The old pumps have been taken off the site, so the answer is no. It is all handled by inside the computer part of the system and the pump is part of an integral system. Chairman Levenstein asked federal regulations require that you have the price on the pump? Attorney Sullivan responded the State of New Hampshire requires the price be in two spots on the pump. You have the top of the pump and in the middle of the screen. It is New Hampshire law, not federal.

Ms. Hebert asked could you explain what the 'Cash/Credit/Debit' is for? Mr. Zaka replied the cash and credit is the price. Some gas station put two prices, the cash price is like \$0.05 cheaper, and then when you do a credit, you pay more money for that. We don't do that. We have only one price and that is why you see the cash/credit. With the cash/credit gas stations, they issue a cash price when customers pay cash and then it will show a credit price when they are pumping with a credit card. That is automatically done in the computer system. With our scenario, we have only one price for cash and credit and it is showing that.

Mr. Fairman stated I have two concerns. First, I want to make sure that these numbers only can change when somebody tells them to change. If the gas station decided that they are going to have a different price for credit versus cash, I wouldn't want the signs to automatically be flashing cash and a price and credit and a price and debit and a price. We need to word this so that these numbers can only be changed by the person inside and they are not sequentially changing.

Mr. Fairman stated the second concern that I have is that we have already approved across the street an equipment company, not a tractor company neighbor but an equipment rental place, I believe. Chairman Levenstein stated it was approved but it wasn't ever followed up. Mr.

Fairman responded so far, but I would be concerned if that was coming to fruition, that that business, whatever business that went in there, would like to have a numerical changeable sign, and I wouldn't want that. I wouldn't want this to grow into other businesses. It is a concern that I have, I don't know what to do about it, but I think it is a concern that we ought to be aware of.

Mr. Quintal asked can we make a condition then that the top portion of the sign where it says 'credit/debit/cash' will not be illuminated and the only thing that can be illuminated would be the numeric numbers? Mr. Zaka replied I would have to check. The way they came in it is programmed to be lit up and showing all the top and then the bottom, and then in one week we change the price going up or down and only the number part will change, the topper will stay the same. Mr. Quintal asked what currently is lit up on the top? Is it cash? Mr. Zaka replied it is all three that are lit up. Ms. Hebert asked is it possible to turn that portion of the sign off? Mr. Zaka replied I will have to check. Right now they are non-lighted, I turned it off because they were a light color and the problem was they were blinking. We installed them in January but they haven't come to my site because of Covid to fix the problem. I turned them off, they sent me by FedEx some computer device to turn them off and I did turn them off right now. But I would like to have them lighted so it will explain to customers that they will only see one price but the 'cash/credit/debit' of the top is not lit up right now. Some customers get confused that I have different prices so they come inside to ask. I would like to show them that all the prices are the same.

Mr. Foote asked Mr. Chairman, is it possible to go back to the photographs? Mr. Connors posted the photographs of the pumps. Mr. Foote asked is it possible to just have lettering simpler than what you have. Why does the credit/debit/cash signage have to be illuminated? Why can't it be like the other copy on the sign. Mr. Zaka replied the model they have with the pricing is that, from the manufacturer is the way they are built. Mr. Foote stated I think doing that would allay some of the concerns. Mr. Connors stated for reference what is posted now on the screen is the sign on top of the pumps that was before he installed these signs.

Councilor Duschatko stated I would like to follow-up on Mr. Foote's point. It would seem to me that you could take a strip of plastic and then put the lettering right across it. It is really no different than what they have now. I would block off those letters and that would solve that particular problem very simply. It is just a suggestion, not a recommendation. Mr. Zaka responded that the covering would wear off over time and might fall off and it would not look nice. He said it is up to the Board members but the way the sign is built would look better. Councilor Duschatko stated you are making a very big deal about the cash/credit/debit situation, and with your current pumps I didn't see any lettering or any notice that it was cash/credit/debit. So what difference does it make? You either want some new pumps with some electronic signs for your pricing or you don't. Mr. Connors stated the new LED signs have been installed, so this application is sort of an after-the-fact approval to allow those signs to remain. Councilor Duschatko responded but my point is we are really making a discussion about whether the cash/credit/debit portion will be lit. He has already testified that he has turned them off, so just keep them turned off. If he needs to have the cash/credit/debit portion, then he has to figure out a way that makes signage that is not changeable. Mr. Zaka responded it is up to the Board members, it doesn't matter if I like it or not, that is okay. I think this display looks much better but if you think it is a concern. Right now they are off because I did turn it off and that is about

it. Councilor Duschatko stated I really don't want to argue about it, I am just trying to find a solution that will be acceptable with the other Board members. Attorney Sullivan stated if it is the pleasure of the Board, he can keep that section off.

MOTION by Mr. Fairman the Planning Board grant the Conditional Use Permit from Section 275-73(M) of the Zoning Ordinance and find that the criteria have been met per our deliberations to permit four 2.42 square-foot electronic readerboard signs affixed above pump stations at Heavens Gas Station, 381 Boynton Street, Lot 44-23, Zoned HC, in accordance with the application materials submitted by Andrew Sullivan for I & Q Enterprises, LLC (Owner), subject to the following conditions:

- 1. The electronic readerboard signage shall only be turned on during the approved hours of operation for the site and must be extinguished after 10 pm.**
- 2. Individual electronic readerboard screens shall not exceed a size of 0.5 square-feet each.**
- 3. The old gasoline pumps shall be removed from the site within 30 days.**
- 4. Only the numeric gas price can be changed and can only be changed by the station attendant.**
- 5. The credit/cash/debit signs shall not be lit.**

Attorney Sullivan stated I have a clarification. There are four pumps but there are signs on either side, so there are eight signs on four pumps. There are actually eight signs and each pump has one on either side. One condition indicated that the light must be extinguished by 10:00pm. We can't do that. We can't shut that numeric part of the sign off. It's not part of the technology.

Chairman Levenstein asked Mr. Fairman, would you like to amend the motion? Mr. Fairman responded from what I understand him to say, he cannot turn it off so Condition #1 needs to go away. Is that correct? Attorney Sullivan responded it is on 24/7 but he says the canopy goes off when the business is closed. It is just that the actual pump light stays on. Chairman Levenstein asked so the price light would stay on because there is no way of turning it off nightly? Attorney Sullivan responded correct.

Mr. Fairman amended his motion to remove Condition #1. Councilor Duschatko duly seconded the motion as amended. Those voting yea: Mr. McMahan, Councilor Duschatko, Mr. Foote, Ms. Malcolm, Mr. Clough, and Mr. Fairman. Those voting nay: Vice Chairman Murphy and Town Manager Sawyer. The motion carried.

Chairman Levenstein stated we will take Item #5 next and then Item #2 will follow.

- 3. Circle Drive Associates, LLC (Owner) – Request for approval of a site plan and associated waiver requests for a proposed multi-family residential development to include a 142-unit workforce housing development, consisting of two four-story**

buildings, and a 96-unit elderly housing development (age 55 and over), consisting of one four-story building, and associated site improvements at South River Road across from Iron Horse Drive, Lots 35-98-5 and 35-98-40, Zoned PZ. This application was tabled from the August 31, 2020 meeting.

Chairman Levenstein stated this application will be heard by the Planning Board tomorrow night, October 13, 2020.

4. Bar Harbor Bank & Trust (Applicant), R.K. Bedford, LLC (Owner) – Request for approval of a sign waiver to install a monument sign on a parcel with two existing monument signs at 7 Kilton Road, Lot 12-23, Zoned PZ. This application was postponed from the September 14, 2020 meeting.

Chairman Levenstein stated this application has been postponed at the request of the applicant.

5. New Hope Christian Fellowship (Owner) – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A. This application was postponed from the September 14, 2020 meeting.

Sam Foisie and Tom Carr of Meridian Land Services, Pastor Bob and Alan Goedecke of New Hope Christian Fellowship were present to address this request for a site plan approval.

Mr. Foisie stated thank you for your time tonight. I know you have a marathon today and tomorrow. Just to reiterate what the Chairman said, the New Hope Christian Fellowship is looking to change the use of an existing 2,500 square foot single family dwelling unit to a place of worship. In doing so, they plan to add onto the building by 480 square feet at the front where the garage is located. They are going to add associated parking with it and then they have some stormwater management system that is in compliance with the Bedford regulations. Currently the single family home is served off from a well and then also a septic field. Mr. Carr has shown that that is adequately sized for a place of worship, and if you need him to speak more, he is here to do so. We are in agreement with most of the conditions. Since we have had that lapse of the month, I have gone and made some of the improvements to the plans that being any of the notes regarding the treeline, the notes regarding no more than 50 people, the trash and recycling has been added to the site plan, not on this one because I did not get the plan to Mr. Connors in time, but they are located in the area in the rear to where they are shielded from view from the public. Also, the exterior lighting will be shut off at 10:00pm.

Mr. Foisie stated there are two conditions that I would like to discuss. One is in regard to the stormwater management basin, which is Condition #9 on the staff report. We have looked into moving that and moving back the outlet. Due to the grading of the site and the topography it makes sense for the stormwater basin to be in that area where it collects as much of the stormwater as possible. It is sized to the Bedford regulations and then the outlet is forced to be

there based off from the grading of the berm. The outlet height is roughly 10 feet with someriprap to control the discharge. The other is in reference to one of our waivers, which is Waiver #3, which is in reference to the landscape plan. The site meets the Bedford regulations for landscaping where it is screened from public view and public properties. We have requested a waiver from providing a landscape plan strictly so there are no landscaping improvements proposed with this site plan. If you look at the architectural pictures, there is already landscaping around the existing building. At this time, I would like to field any questions or concerns that you have.

Chairman Levenstein asked the Planning Board members if they had any comments or questions on this application.

Mr. McMahan stated one of the VHB comments on your project mentioned that they wanted you to confirm the septic was reviewed and be acceptable to the suggestions of VHB. Are you familiar with that? Mr. Foisie replied I will defer to Mr. Carr to answer any septic questions. Mr. Carr stated I did a septic inspection with Mr. Goedecke several months ago. The first thing I did was review all of the records for the septic system. It does have a 600 gallon per day State approved septic system in the ground, that is 600 gallons per day for a 4-bedroom residential property. It has an operational approval from the State, so it was legally designed and legally installed and exists as a legal system in the ground.

Mr. Carr continued with respect to the use of the property, I think the church has used about 3 gallons per day per patron on any given day, and I think they have about a maximum of 40 participants in the church right now, so we are well below the 600 gallon per day approved loading for that septic system. We did do another test pit down below that existing leach field just in case the Town wanted to have a secondary design in place, but the system is in perfect working order and the baffles in the septic tank are in good condition, everything is in good condition to handle the proposed load that they want to use there. Mr. McMahan stated thank you.

Ms. Malcolm stated I have one comment. Your entrance to Route 101 is in the middle of one of the very few passing zones on that road. I would ask you to caution your congregation to look carefully before they pull out into traffic. Thank you. Chairman Levenstein asked do you have to get a new driveway permit from the State? Mr. Foisie replied they do have State approval on the driveway permit. Mr. Goedecke and Pastor Bob are also on here, so I am sure they have heard about that caution to their patrons.

Mr. Clough asked is there a maximum number of people that will be attending this church? I am assuming that it only has seating for so many people. Is that right? Mr. Foisie replied yes, that is correct. One of the conditions is a maximum capacity of 50 people. That note has been added to the plan. I have talked about that with Mr. Goedecke and Pastor Bob. The church's goal is to grow their community and then eventually move to the north portion of this site, which is across that wetland to the house, and then build a larger church with all of the appropriate facilities for a larger congregation.

Mr. Clough asked does it have any daycare facilities? Mr. Foisie replied it does not have any daycare facilities. The goal of the church right now is to have 50 people on Sundays and then have small classes, I believe it was eight to ten people in classes in the evenings I believe on Wednesday nights. Pastor Bob stated because of the Covid virus regulations and restrictions faced by the government, we have close to 20 people that can attend, keeping the required distance and masking, unless we are anticipating, as most of you have probably heard, that the restrictions are going to be going on for a while. This will facilitate in part the few that we have coming, the remainder are meeting with us on Zoom on Sunday mornings, so the parking is not an issue, the space for meeting is not an issue at the moment, by the time should the Town board approve this, by the time we have the extension built onto the front of the building, we are going to use the space we can with our congregation, we hope and pray with Covid regulations on it as well.

Town Manager Sawyer stated I have a few things, and I guess maybe some of them are for staff. Mr. Connors, do you want to speak to the stormwater basin outlet being moved? I don't know if the technical review committee identified a way to move that further away. Obviously the applicant has said that they can't and it seems like the request on the landscape plan is pretty minimal and should be onerous on the applicant. Then I have a question afterward on those two things. Mr. Connors stated typically with applications like this we see some kind of a landscape plan to show screening the parking areas, the walkways into the buildings, there is kind of a traffic island in the middle, just some landscaping to improve the aesthetics of the site. With regard to the second one. Town Manager Sawyer asked would that fall further away from the property line? Mr. Connors replied yes; it is just that it is currently sited so close to the property line that it is something that typically finds our attention, concerned that this is a large lot, we added that condition that they look at ways to move the basin, but I don't have another suggested area.

Town Manager Sawyer stated the last thing, you might need to bring up the overall plan again for this one. That is in cooperation with the State we have always tried to attain a full 100-foot right-of-way on any parts of either Route 101 or Route 3, South River Road, when the right-of-way drops down I think it is probably about 60 or 75 percent of the site is within the 100-foot right-of-way but then it drops down on the western side to 66 feet of right-of-way, so would hope as mitigation for the traffic impacts to this project that we include a condition of approval for dedication of a public access easement over that western portion of the site that drops down. You can see the bold dark line just to the west or the left of the driveway where it drops down and comes closer to the pavement area. Typically, we try and get 17 feet from each side of the road when the project comes in. It doesn't appear that by dedicating that they would have any impacts on their site development proposal. I take it back; it is probably about 50/50 or so within the 100-foot right-of-way versus the 66-foot right-of-way. Chairman Levenstein asked so you are asking just that the wider portion be extended to the end of the property line? Town Manager Sawyer replied yes. It would be a 17-foot dedicated right-of-way easement or public access easement. Mr. Foisie stated I was unaware that that is a norm on something like that. Does the State have jurisdiction over that since this is a State right-of-way or is that typically a request from the Town? Town Manager Sawyer replied obviously it is State right-of-way, it is fully within their jurisdiction. In the commercial zones on Route 101 we have it built into the Land Development Control Regulations that by dedicating the right-of-way it doesn't impact your

ability for lot coverage, but this is in the Residential Zone, so that same regulation doesn't necessarily apply and it was always optional, but for this kind of impact on Route 101 with the additional trips, at some point in time we certainly hope that the State will widen Route 101 all the way out to Wilton, certainly through Bedford all the way out, and having that easement is critical. Mr. Foisie stated with the additional trips that are being added, the trips are being added at a time that is outside of peak hours, that being on Sunday mornings and then after rush hour on weekdays. Is that a requirement for a site that does not have the negative impact to the roadway and can be deferred to a time when it would have a negative impact or when the State needs right-of-way to do their widening? Town Manager Sawyer responded it certainly would be up to the Board to make that request, and I think the request is minimal. Mr. Foisie stated I know Mr. Goedecke and Pastor Bob are here; I don't know what their thoughts on that are. I would typically like to have the State request that since it is their right-of-way, but if they are okay with that, I know they are looking to get this project started. Ms. Hebert asked Town Manager Sawyer, the conveyance would be to the State of New Hampshire. Is that correct? Town Manager Sawyer replied I am not sure whether it has to be to them or it could be to the Town, but just that it defines a public right-of-way easement. Ms. Hebert stated I know this is Phase 1 of a multi-phased project. It would help going forward to know that you would be measuring your setbacks from the edge of the 100-foot right-of-way section of the narrower section. It would help with your future planning. Mr. Foisie stated to reiterate what Ms. Hebert is saying, that portion of the right-of-way to the north or to the right is the 100-foot right-of-way. The church has future aspirations to develop north of the wetlands over there where they would impact the right-of-way and based off from those trips, they would probably be required to put in a left turn lane, so I see that as the area where the impact would be. Town Manager Sawyer stated that is all I have.

Mr. Fairman stated Mr. Chairman, Mr. Foisie mentioned a couple of waivers but they are actually asking for five waivers, and I think perhaps he ought to speak to each one of the waivers that have been requested. Mr. Foisie responded I can do that. I just skipped over them for the sake of time since staff recommended approval on those. Here are my responses to the five waivers:

1.) *Section 315.2.6, to provide NRCS soil mapping in lieu of HISS mapping.*

To accurately design this project what we needed was soil mapping. The other mapping would be extensive and since this is a church and their funds are generated by charitable donations, we felt it appropriate to try and save them as much money as possible.

2.) *Section 316.1.10, to not provide topographical mapping for the entire lot.*

This lot is about 9.5 acres, looking at the southern half of it, so having topography on the northern half is not necessary for the design of this project.

3.) *Section 317.1.11, to not provide a landscape design plan.*

I have already touched on this a little bit.

4.) *Section 317.1.12, to not provide wetlands mapping for the entire lot.*

This is the same as Waiver #2. We mapped the wetlands where they are relevant and affect the project.

5.) *Section 322.4.2, to permit 18 parking spaces and a portion of the driveway to be a gravel surface where bituminous pavement is required.*

That gravel area is in an area that is the least amount traveled at a relatively high speed because it is a parking area. Like I said, the church has plans to move to the north part of the property. In that plan they would like to convert this back to a single family lot. The gravel is to assist with that transition back.

Chairman Levenstein asked for any comments or questions from the audience. Planning Staff had no members of the public raising their hand to speak or any emails to the Planning Inbox.

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

Chairman Levenstein asked does the Board have to do the waivers separately because of the regulations or can we do them all in one motion? Ms. Hebert replied you can do them in one motion, you have used that form in the past. I think if you are going to be adding conditions to one of them or want to talk about them individually, for that reason I would suggest you do them individually. Chairman Levenstein stated we will do them individually.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 315.2.6, to provide NRCS soil mapping in lieu of HISS mapping, as they provided the information in the area of the site that is being developed. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 316.1.10, to not provide topographical mapping for the entire lot, as they have provided it in the area of the lot that is being improved. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board deny the waiver to Section 317.1.11, to not provide a landscape design plan, as I believe the staff report indicated that it is a pretty minimal request and it is a typical requirement for all non-residential development. Mr. McMahan duly seconded the motion. Those voting yea: Mr. McMahan, Vice Chairman Murphy, Town Manager Sawyer, and Mr. Fairman. Those voting nay: Councilor Duschatko, Mr. Foote, Ms. Malcolm, and Mr. Clough. The motion failed.

MOTION by Councilor Duschatko that the Planning Board grant the waiver to Section 317.1.11, to not provide a landscape design plan. Ms. Malcolm duly seconded the motion. Those voting yea: Councilor Duschatko, Vice Chairman Murphy, Mr. Foote, Ms. Malcolm, and Mr. Clough. Those voting nay: Mr. McMahan, Town Manager Sawyer, and Mr. Fairman. The motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 317.1.12, to not provide wetlands mapping for the entire lot, as the information has been provided in the area of the lot that is being developed. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 322.4.2, to permit 18 parking spaces and a portion of the driveway to be a gravel surface where bituminous pavement is required. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant final approval of the site plan to convert a single-family residence to a church at 445 NH Route 101, Lot 31-44-1, in accordance with engineering plans prepared by Meridian Land Services, Inc., last revised September 1, 2020, and the architectural plans by Amoskeag Architectural Group, last revised July 27, 2020, with the following conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. The Director of Public Works and the Planning Director shall determine that the applicant has addressed all remaining technical review comments to the Town's satisfaction.**
- 2. In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.**
- 3. The Applicant shall submit any outstanding engineering review fees, if any, to the Planning Department.**
- 4. The plan shall be revised to include a note that the treeline shown on the site plan shall be undisturbed.**
- 5. The Applicant shall revise the plan to include a landscape plan that is to the satisfaction of the Planning Director.**
- 6. The plan shall be revised to include a note that the maximum occupancy of the church shall be limited to no more than 50 people.**
- 7. The plan shall be revised to show a dumpster location consistent with Town requirements or a note shall be added to the plan indicating trash disposal will be handled internal to the building.**
- 8. The plan shall be revised to note that exterior lighting will be shut off after 10 pm.**
- 9. The stormwater basin design shall be modified so that the outlet is located further from the property boundary. The revised design shall be to the satisfaction of the Planning Director.**
- 10. The applicant shall obtain approval for a Stormwater & Land Disturbance Management Permit from the Department of Public Works.**
- 11. Prior to the commencement of work, arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.**

- 12. Prior to commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works and the Building Department.**
- 13. Prior to commencement of work, a performance guarantee in an amount approved by the Town for onsite maintenance of erosion and sedimentation controls shall be placed on file.**
- 14. Prior to the issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed.**
- 15. Prior to the issuance of a Certificate of Occupancy the applicant shall dedicate a 17-foot public right-of-way easement over the western portion of the site where the existing right-of-way drops to 66 feet.**

Mr. Foote duly seconded the motion.

Town Manager Sawyer stated Mr. Chairman, if I could speak to the additional condition. I think they can work with staff, in my opinion. I know we have done easements in the past where it doesn't impact setbacks, that it is an easement and not a full dedication of right-of-way, so that is the intent of what I am saying here. It is not to impact their development in any way, but to provide that opportunity for the public expansion to the highway when we need it.

Chairman Levenstein stated I have one other question on the motion. Town Manager Sawyer, did you want to address Condition #9? Town Manager Sawyer replied no; I think it is pretty broadly worded where it is to the satisfaction of the Planning Director. It appeared that there might be some ways that they could move that basin down to the south and east and not have it tucked as far over to the west side of the parking lot, but have it a little further south or make it longer and skinnier, and maybe have it discharge a little bit further away. If the Planning Director ends up being satisfied that it can't be moved, I think the condition already allows for the Planning Director to move it forward. Chairman Levenstein responded okay, I just wanted to clarify that.

Mr. Fairman stated I have a question about Condition #5. Do we leave this in so that they do a small landscape plan? Town Manager Sawyer stated that is a good point.

Town Manager Sawyer stated I will amend my motion to remove Condition #5.

Mr. Foote approved the amendment to his second of the motion.

Chairman Levenstein called the roll. On a unanimous roll call vote, the amended motion carried.

- 2. 206 Route 101, LLC & Bow Lane Bedford, LLC (Owners) – Request for approval of a site plan amendment for a previously approved 93-unit workforce housing development on Chestnut Drive, Lots 20-22-14, 20-99-1, 20-99-2, 20-99-3, and 20-99-4, Zoned CO. *This application was postponed from the September 14, 2020 meeting.***

Vice Chairman Murphy, Mr. Sullivan and Mr. Clough recused themselves from this application and left the meeting. Mr. Quintal was appointed to vote in Vice Chairman Murphy's absence.

Attorney John Cronin of Cronin, Bisson & Zalinsky, Bob Duval of TF Moran as landscape architect, and representatives of the applicant were included via the Zoom platform meeting.

Attorney Cronin stated when this was before the Board back in August, the applicant acknowledged responsibility for some trees being removed that shouldn't have been taken down. At that particular time the Board asked that some landscape architects get involved. VHB was appointed by the Town as the review engineer, the landscape architect for that firm worked with the landscape architect from the applicant. In addition, the abutter Joanne Dumas engaged an architect and collectively they worked together on a revised plan for the berm. I am happy to report that with the cooperation of all, they have come up with a plan that almost doubles the amount of trees that were on the site in the original application. The cost of the revised buffer is approximately \$100,000, not including retaining walls over wetlands initially placed on the plan. At the end of the day it is believed by all parties that this revised buffer is an improvement over what was there initially, the trees that were up were tall pines with high canopies that didn't provide the same type of buffering that this revised buffer is believed to provide that will have various species of trees. During the process there were many tweaks to it up until the last few days with some requests I believe from Ms. Dumas asking for trees to be staggered rather than in a line to provide a more comprehensive buffer. That is what is before you. We regret that we are here but that is what it is and we are asking that you look favorably on it and approve it. Thank you.

Chairman Levenstein asked for any comments or questions from the Board.

Mr. Foote stated I have one question relative to the proposed fence location, which is not directly but very close over the forced sewer main. Have all of the parties agreed that that is the best location there, 25 feet from the property line versus along or close to the property line? Attorney Cronin responded I will let Mr. Duval address that. I know there was a lot of give and take from the Dumas engineers and Jim McCord and Mr. Duval and his team to deal with some of those connections. Ms. Hebert stated I can share the plan. We had a new plan come in very late in the day, so I just want to make sure I am sharing the plan that everybody wants us to see. There is a revision date of October 9th on the plan. Is that the correct plan? Mr. Duval replied yes it is.

Mr. Duval stated you can see the fence line at the inside edge of the plantings, and fence line was always part of the approved plan, and this 6-foot stockade fence has been preserved in this revised buffer plan, we have just pushed it a little farther into the property to make room for a larger buffer there. Does that answer the question? Attorney Cronin stated I think Mr. Foote had a question about the connections for the utilities, which if you can slide that up, you can see where they are at. Mr. Duval asked does the fence interfere with the utility location? Is that the question? Mr. Foote replied yes, and then there is also did the Dumas' agree with this plan. Mr. Duval replied the Dumas' are here and I am sure they can give us their point of view, but as far as I know, the plan is acceptable to the Dumas' and I am sure they will be happy to follow up. The fence is close to the utilities as drawn here but it will be located to make sure that it is 5 feet clear of the centerline of the pipe as installed. Ms. Hebert stated just to note, the fence would

probably terminate and not turn a corner the way it is shown on the plan. Is that right, Mr. Duval? Mr. Duval asked turning up along the side? Ms. Hebert replied right. Mr. Duval asked isn't that part of the approved plan? With it turned up that way? We weren't proposing to change that, Ms. Hebert. Ms. Hebert responded okay.

Attorney Cronin stated just to supplement with Mr. Foote, I worked with Attorney Sokul and they had a request to relocate the water and sewer for convenience to them if and when they elected to develop that it would be closer to their property line and that is what prompted the change. That was not something that was initiated by the applicants but I will let Attorney Sokul or Ms. Dumas speak to that. Chairman Levenstein asked Attorney Sokul, do you want to speak to that? Attorney Sokul asked Ms. Hebert, could you please post the other plan that got submitted this afternoon? Ms. Hebert stated I received six new plans. Attorney Sokul stated it is the utility plan. Chairman Levenstein asked Attorney Sokul, what are you looking to show? Attorney Sokul responded what we had requested is where the utilities would allow for the Dumas family to connect now under the improved site plan is where the edge of pavement ends on the portion of Bow Lane to be constructed. At the time that seemed like the most logical place to put the utilities to allow for further future connection, and going way back in time with the original proposal for this project, they were going to bring Bow Lane all the way through to the Dumas family property and they dialed that back a little bit because they got opposition on filling some wetlands in connection with extending that roadway. So where the utilities are for the Dumas family to connect to are mid-site. One of the reasons we did not consider extending closer to the Dumas family boundary line was because trees in the buffer that were to be preserved would have needed to be cut or at least worked very close to and could have compromised those trees. Now unfortunately that is not an issue, it is not an impediment and all we have asked is where that force main is shown on the plan is for the utilities to cross about 10 or 12 feet onto the Dumas family site right there close to the school property so they can connect. I do not know the developers position on that, so before I speak to the landscaping plan I would like to ask the developer whether that has been agreed to or not. Ms. Hebert stated Attorney Sokul, I just want to say that I did not get the utility plan in the email, so if your team wants to resend that to me, we can share that plan. I have the two restoration plans. Attorney Sokul responded I will send it right now. Attorney Cronin stated I can respond to Attorney Sokul's question on the record. At the location that we discussed and to facilitate the connection for the Dumas' is acceptable, and it will be shown on that utilities plan that I believe was submitted, but apparently it wasn't, but Attorney Sokul and I both have copies of it. We are fine with that. Chairman Levenstein asked Attorney Sokul, is that what you are looking for? Attorney Sokul replied it is. I did just send the plan to Ms. Hebert so she could just pop it up on the screen so nobody has any confusion about what we are talking about.

Attorney Sokul stated but that being the case, I did want to say a few things. We were very disappointed with what happened but over the last month or so we hired our own landscape architect and the developers landscape people have worked cooperatively with Suzanne Smith Meyer to incorporate her specific suggestions for the landscape plan where it intersects most closely to the Dumas property. Not that we would have wanted the trees to be taken down, but given that they were, it does provide some advantages with respect to a shorter more direct utility connection, and also if for whatever reason the Dumas family does not extend Bow Lane in the future, it would avoid any lot land impacts associated with them getting utilities to their property.

The last thing I wanted to mention is I believe that the changes to the utilities are so minor that they could be handled administratively and would not require a further Planning Board public hearing. I see the plan and you can see where most of the red comments are, which are right near the intersection of the school property, the Dumas family property and the Bow Lane project and it would just come from where the water line crosses into their property now and heads due south towards to the Dumas property, would just be a short little connection right there, and then whatever the Dumas family did in the future, they would extend from their own property and would not have to go down however many feet of that into Bow Lane. With Attorney Cronin having confirmed that that is acceptable, we would like to have that shown on the final plan and we would encourage the Planning Board to approve the landscaping plan that was shown on the most updated plan, as well as this utility plan. Ms. Hebert stated I feel comfortable reviewing this administratively. It is a minor utility change. Attorney Sokul stated I just wanted to confirm that that is all at no cost to the applicant, that is on the developer's ledger to compensate for what has been done here. I think that goes without saying. I just want to confirm. Attorney Cronin stated Attorney Sokul, I sent you the email late in the day that confirms that. Attorney Sokul responded I didn't see it, so thank you very much.

Town Manager Sawyer stated I have a comment that I know none of us wanted this to occur, but I think all the landscape architects involved I have tremendous respect for have come up with a great plan and solution.

Chairman Levenstein asked have there been any comments or questions from people in the audience. Ms. Hebert stated I do not see or hear anyone. There have been no emails received. I would like to echo what Town Manager Sawyer said. The landscape architects and the designers involved in this restoration plan have really worked together and I think developed a plan that when presented some compromises with a really nice design. Nothing can replace the mature trees that were dropped but I think that people will be pleased with this solution that is included in the restoration plan.

Town Manager Sawyer stated I will make the motion, and I am going to leave the utility discussion for just working out with staff because I believe those things need to be worked out with Pennichuck and maybe the DPW on the sewer design and the water line extensions. As Ms. Hebert said, that can be handled administratively.

MOTION by Town Manager Sawyer that the Planning Board approve the Site Plan amendments described above, for the revisions to the landscape plan and the offsite improvement plan, as shown on plans prepared by T.F. Moran, dated October 5, 2020, with the following precedent conditions to be fulfilled within one year and prior to plan signature and the other conditions to be fulfilled at noted:

- 1. All conditions of the June 10, 2019, Planning Board approval shall remain in full effect.**
- 2. The landscape plan shall be modified to satisfy the comments in the VHB technical review memo, prepared by Erik Bednarek, dated September 9, 2020, to the satisfaction of the Planning Director.**

- 3. The installation of the plants shall be inspected by a licensed landscape architect, to ensure that the planting specifications are followed appropriately and to verify the sizes of the plantings at the time of installation.**
- 4. Prior to the issuance of a certificate of occupancy, the financial guarantee in an amount, approved by the Planning Director, shall be provided. The financial guarantee shall be held by the town for two years following the final inspection of the landscaping, to ensure the plants are established and healthy.**
- 5. A maintenance plan shall be provided for the proposed landscaping improvements.**

Chairman Levenstein asked Ms. Hebert, did you have an October 9th plan. Ms. Hebert replied I think we did have an October 9th plan that just came in this evening. I am comfortable updated the date for that plan. I had talked with the landscape architects about some of the changes and was expecting to see a revised plan come in.

Town Manager Sawyer amended his motion to include the following: “as shown on plans prepared by T.F. Moran, dated October 5, 2020 plan or any newer plan received by the Planning Director.” Councilor Duschatko duly seconded the motion as amended. Chairman Levenstein called the roll. On a unanimous roll call vote, the amended motion carried.

V. Approval of Minutes of Previous Meetings: None

VI. Communications to the Board:

Ms. Hebert stated you do have another meeting tomorrow night. Chairman Levenstein stated I will not be attending tomorrow night, therefore, Vice Chairman Murphy will be chairing the meeting.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Town Manager Sawyer to adjourn at 8:30 p.m. Ms. Malcolm duly seconded the motion. On a unanimous roll call vote, the motion carried.

