

**Town of Bedford
Planning Board Minutes
October 16, 2023**

A meeting of the Bedford Planning Board was held on Monday, October 16, 2023, at the Bedford Meeting Room, 10 Meeting House Road, Bedford, NH. Present were Charlie Fairman (Chair), Hal Newberry (Vice Chair), Matt Sullivan (Member), Matt Nichols, (Secretary), Logan Johnson (Alternate), Becky Hebert (Planning Director). Absent: Michael Strand (Town Council Alternate), Chris Swiniarski (Alternate), Steve Clough (Member), Priscilla Malcolm (Member), Phil Greazzo (Town Council), John Nelson (Alternate).

I. Call to Order and Roll Call:

Chair Charlie Fairman called the meeting to order at 7:00 p.m., introduced the Board members and appointed Ms. Johnson to vote in the place of Ms. Malcolm. Ms. Hebert reviewed the agenda and stated all four of the new applications have been reviewed by staff. It is Staff's opinion that the applications are complete and none of the applications represent regional impact. Staff would recommend the Planning Board accept the applications as complete and accept the agenda for tonight's meeting.

MOTION by Vice Chair Newberry to accept the agenda as read. Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

II. Old Business & Continued Hearings: None

III. New Business:

Chair Fairman invited the first applicant to present.

- 1. Jeffrey W. Healey and Yee Tip Edith & Kevin Clark (Owners & Applicants) – Request for approval of a lot line adjustment between two parcels at 385 Donald Street and 391 Donald Street, Lots 43-8 and 43-9-3, Zoned GR.**

Mr. Rob Deegan of S&H Land Services, LLC presented the application: Good evening. My name is Rob Deegan with S&H Land services on behalf of the Healey's and the Clarks, neither of whom were able to meet with us today. This is a pretty straightforward application. A survey of the Healey property, that's this larger property on the right, Lot 8, revealed that the property line actually went through the corner of the Clark's garage and a bit of their driveway was on the Healey property. And rather than fight about it, they've decided to just move the line, which is the nice neighborly thing to do. So we went before the Zoning Board in the spring to get the approvals to make this happen. Both these lots, as with all the lots in this part of Town, are substandard to zoning. Even the Healey property does not meet the lot area requirements, despite being much larger than the Clark property, and of course we were going to make it smaller to do this lot line adjustment. So we've got those approvals from the Zoning Board and there's not a whole lot else

to say about the project. There's an existing driveway on the land that goes to the Clark's garage. We're just moving the line over so that it's fully on the Clark's lot.

Chair Fairman asked are there any questions from the Board? There were no questions from the Board. There were no questions or comments from the public. Ms. Hebert said I will say the application needs several waivers, but it's standard for a lot line adjustment to need waivers from our Land Development Control Regulations and those waivers are listed in the staff report. Chair Fairman asked does the Board need any further information on the waivers? Any questions of those? Mr. Sullivan asked can we go through them as a collective as opposed to a single approval. All right. Good. I just want to make sure. Chair Fairman said hearing no discussion, I'll entertain a motion on the waivers first.

MOTION: Mr. Sullivan moves to grant the following waivers from the Land Development Control Regulations:

- 1. Section 218.1.11 that requires existing topography to be shown;**
- 2. Section 218.1.12 that requires HISS mapping to be shown;**
- 3. Section 218.1.13 that requires wetland mapping to be shown;**
- 4. Section 218.1.14 that requires drainage calculations;**
- 5. Section 218.1.15 that requires erosion control;**
- 6. Section 231.3 that requires the calculation of the minimum lot size for unsewered areas; and**
- 7. Section 231.5 that requires test pits for the placement of the onsite septic system.**

Vice Chair Newberry duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

MOTION: Mr. Sullivan moves to grant final approval of the lot line adjustment plan, prepared for Jeffrey W. Healey and Yee Tip Edith & Kevin Clark (Owners), Lots 43-8 and 43-9-3, Zoned GR, as shown on plans by S&H Land Services, LLC dated August 28, 2023, in accordance with the following findings of fact:

- The plans are found to be in compliance with the purpose and intent of the Bedford Land Development Control Regulations;
- The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision.

This approval is granted subject to the following conditions to be fulfilled within one year and prior to plan signature:

1. Any waivers granted by the Planning Board shall be noted on the plans.
2. All recording fees shall be submitted to the Planning Department at the time of recording.
3. The applicant shall update the NHDES Subdivision approval for Lot 43-8 and the permit number shall be noted on the final plan; or if NHDES determines the permit is not needed, the applicant shall provide documentation for project file.
4. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor, certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.

Vice Chair Newberry duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

Chair Fairman introduced the next two items on the agenda:

2. **Circle Drive Associates, LLC (Applicant & Owner) - Request for approval of a time-extension for Sebbins Brook Crossing development, a previously approved Site Plan for a 142-unit multifamily workforce housing development and a 96-unit elderly housing development (age 55+), and associated site improvements at South River Road, Lots 35-98-5 and 35-98-40, Zoned PZ.**
3. **Circle Drive Associates, LLC (Applicant & Owner) – Request to amend the conditions of final Site Plan approval for Sebbins Brook Crossing development, to remove condition #25 requiring the development be converted to a condominium form of ownership for the residential units, including 142 units of multifamily workforce housing and 96 units of elderly housing (age 55+), at South River Road, Lots 35-98-5 and 35-98-40, Zoned PZ.**

Atty. Jon Levenstein presents: Good evening members of the Board. My name is Jon Levinstein. I'm an attorney in Bedford and I'm representing Circle Drive Associates tonight. I think it must be an epidemic. My client can't make it either. He's sick also, but he does want you to know that he would have been here but unfortunately, he developed COVID and is recovering at the moment. This is a project you guys have seen many times before. Various forms and various applications started back in 2019 when we came to the Board for a conceptual discussion. It got approved in October of 2020. Basically, the project is a multifamily residential development consisting of two 4-story buildings which will contain 142 units, 25 percent of which will be workforce housing. There are various amenities also over there. I think there's a clubhouse and a pool.

The second portion is a 96-unit age-restricted building, which will also have affordable units in there, 25 percent based on the ordinance of the Town requirements. When we initially got approval, the plan was to have all of these units as condominium ownership units. We're going to try and make a development for people who couldn't afford houses in Bedford but wanted to have some sort of ownership. Unfortunately, when we got the approval, it was in the middle of the COVID situation and it's been one setback after another as far as trying to get these things built.

Initially we came back to the Board asking that the Board allow us instead of having ownership units to have workforce rental units and allow the age restricted units to also be rental units. The plan at the time was still to have them as condominiums. The idea being that at some point in time they could be converted back into ownership units, if need be, and if not in the interim they could be rented out. Since that time, COVID has lifted somewhat, though it seems to be coming back a little bit. Though the economic situation as far as building these things has dramatically changed. Inflation has caused the cost of materials, cost of labor and most recently, the cost of financing any project of this nature to be just prohibitive. We've had a number of people come and make—well, two people have actually entered into purchase and sale agreements. Both of them after doing their due diligence, found that it just was too complicated to do the project as condominium units. The primary problem is if you do them as condominium units, they're going to be separately assessed. Each unit is going to be separately taxed. The utilities are going to be separately billed and both of the people who looked at the project as far as purchasing it just felt that it would be too overwhelming to handle the logistics of running this thing as 144 condominiums and 96 age restricted condominiums that were being rented out.

The original approval had a condition, it's condition Number 25, which I can read here. Condition 25 stated that prior to the issuance of building permit, a condominium subdivision plan and associated documents to create individual units within the apartment buildings shall be approved by the Planning Board and recorded at the Hillsborough County Registry of Deeds. We previously had gotten permission to rent them out and as part of that, the Board discussed the fact that when approved—after we discussed the fact that it could be a single-owner renting out all 144 units. Again, it turns out that it's just logistically very difficult to do it that way. What we're asking is that the requirement that they be condominium units be taken out of the conditions of approval. It won't change anything as far as they still can be rented. They're allowed to be rented now. It just gets rid of the logistics of having each of them treated as a separate unit and makes it less of a nightmare to run this type of project.

The second part of our application is just for an extension of time. We've been trying to get them either sold or get financing to build them, but at this stage the principal of Circle Drive is 95 years old, and I think he has lost his desire to possibly build this thing. So what he's been looking to do is sell it. And as Becky said in her staff report, there's a requirement that we get a building permit within a year of the plan being approved. We got an extension of a year about this time last year and we're asking for another extension until October of 2024 at this point. So, if anybody has any questions, I'll be glad to answer them.

Chair Fairman asked are there questions from the Board? Comments? Vice Chair Newberry said I have a question I think for staff, really. So removing condition 25 right now is in conflict with the current approved variation of rental or condominium. Do I have that right? Ms. Hebert replied

no. So the plan was approved with a requirement that the workforce units be ownership units and that all of the units be put into a condominium form of ownership. And the applicant came back and asked for relief from the requirement for the workforce and affordable units to be ownership units and wanted to be able to rent all of the units but said we'll still create the condominium. So you could have one developer owning the building, which would be made-up of 142 condominium units, and they could rent or sell them. It would give them flexibility, but it's been explained to us that this is a difficult model to get financing for. And it's a difficult model to manage if your intent is to rent the units because typically, a single developer would own the building, or an investor would own the building and would rent the units and they wouldn't be comprised of individual sort-of fee owned condominium units. Does that clear up your question at all? Vice Chair Newberry replied I think so, yeah. Ms. Hebert said OK. It's confusing, but really, it's the form of ownership for those units that the request is to change to allow it to be owned by one individual that could rent the units. Removing this requirement wouldn't preclude a future owner from creating condominium units down the road if that became desirable, marketable, something that the developer might want to do. They can come in at any time and create that condominium and have units that could be sold for fee ownership.

Chair Fairman said I certainly understand the utility issue of having a separate electric meter for each one of these units. If you're renting them all normally, you'd have just one. And so I certainly can understand that complication. Attorney Levenstein added right, exactly, and frankly the tax bill was kind of getting 200 tax bills and having to deal with the mechanism of doing those because they would be separately billed. Chair Fairman said on the other hand, at the time we certainly liked the idea of condominiums, because it would give an opportunity for people to rent for a while and then buy one of these units as a step to get into an individual house. So it was something we didn't have much of in Bedford. So, we liked the idea. That's unfortunate that it doesn't work. Attorney Levenstein replied yes, I think basically Mr. Smith's feeling is that it's still a good idea and it just hasn't panned out. He hasn't been able to do it. Chair Fairman said I still think it's laid out to be an attractive development and a good addition to Bedford.

Vice Chair Newberry asked so, given that you're asking for another year's extension, does that mean that it's still viewed as a potentially viable project? Attorney Levenstein replied oh, yeah, definitely. Like I said, we had two people who've we actually entered into purchase and sale agreements with and for a number of reasons, both of them fell through. But one of the problems was that condition that we turn it into condominiums. The other problems we had no control over. This one we do. If we can find some good financing that might help. Chair Fairman said I would think they'd be, even at the higher price today, very rentable units. If you look at the way apartments have been filling up in Merrimack and right down the street from there, there's a huge development in Bedford. Attorney Levenstein replied oh, no question, no question. And I think one of the things that we did envision, and it has come to fruition, is the development of Londonderry, frankly, and its proximity here to that airport access road. You can get right into Pettengill Park and there's a tremendous number of businesses there and a number of new ones popping up. So, it is a good location. I think it's a good project. It's just a question of timing and putting it together. Chair Fairman asked are there any other questions from the Board? Comments? There were no further questions. There were no questions or comments from the public.

MOTION: Vice Chair Newberry moves the Planning Board grant a one-year time extension to provide an additional year for Circle Drive Associates, LLC (Owner) to apply for a Building Permit for the proposed Sebbins Brook Crossing residential development, off of South River Road, Lots 35-98-40, 35-98-50 & 35-98-51 Zoned PZ, in accordance with the following findings of fact:

- The request is in compliance with the purpose and intent of the Bedford Land Development Control Regulations;
- The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision.

This approval is granted subject to the following conditions to be fulfilled within one year and prior to plan signature:

1. The Applicant shall obtain a building permit for the project by October 12, 2024.
2. All conditions of the October 13, 2020 and October 25, 2021 Planning Board approvals shall remain in full effect.

Mr. Nichols duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

MOTION: Vice Chair Newberry moves the Planning Board approve the request to amend the Site Plan approval of the Sebbins Brook Crossing development, to remove condition #25, requiring the residential units be converted to a condominium form of ownership, with the condition that all other Planning Board conditions of the October 13, 2020 and October 25, 2021 approval, shall remain in full effect. This motion is made in accordance with the following findings of fact:

- The Board previously approved the request to allow both rental and ownership units, and the amendment is consistent with the Site Plan amendment approved in 2021; and
- The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision.

Mr. Nichols duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

Chair Fairman said thank you, Jon. Good luck. Hope to see you start soon.

4. **470 Route 101 West, LLC (Owner) – Request for approval of a Conditional Use Permit to allow electronic reader board signs over gasoline pump stations; to allow an electronic reader board sign displaying the gas pricing on an existing freestanding**

sign; and to permit modifications to an existing non-conforming freestanding sign, at 470 Route 101 (Mobil Station), Lot 31-14, Zoned HC.

Mr. Peter March of NH Signs presented the application: Good evening. My name is Peter March, NH Signs, 66 Gold Ledge Avenue, Auburn. So, we're applying for a conditional use permit for gas price signs at the Mobil station, 470 Route 101. And we're also applying for digital prices on the pumps themselves. So digital pump toppers on top of the dispensers to replace the existing manual magnetic ones and then we wish to consolidate the ID sign. You can see a picture here from that appearance.

What we want to do is incorporate the price sign and the Dunkin' Donuts into a single sign cabinet. It has a marginal reduction in size from 49 square feet to 47 square feet. We would like to maintain the height, and we're going to leave the Mobil sign on top alone. Currently, all the signs conform to their variances. In other words, they're all opaqued out. Only the letters light on those signs. It's the Mobil sign and obviously the price sign, the Dunkin' Donuts, and we will continue that. So toppers are required by State law and normally not counted as signage. Traditionally they were magnetic placards in a metal frame, but they're increasingly becoming digital signs. The ID sign has been placed for many years and is non-conforming for the following reasons:

Setback—the sign has a setback of about two feet from the road, where 10 feet is required. The sign is roughly 16-foot 8' high where the code requires maximum of 10 feet. And it incorporates a changeable reader board in the form of the manual price changers, which are prohibited in all Zoning districts. When the site was converted from an Irving to a Mobil about, I'm guessing five years ago, the price sign was moved to below the Dunkin' to make it easier to change the numbers. Currently a person has to change the manual prices in all weather and in close proximity to the road. This is an example of how close the sign is to the road. That's 101 and the edge of the sign is really right on the road. So, it's quite a difficult task for someone to change those numbers.

We, as I said, we want to use LED price changers and incorporate both Dunkin' Donuts and the price sign into a single sign cabinet and move it higher up on the pole. The size of the sign will be reduced by an inconsequential 2 square feet. There's only one other sign on the property, a 30-square-foot Dunkin' sign, which is actually mounted to the building. The Mobil waves and blades and koalas have no lettering on them and when originally installed were not considered signs. To our knowledge, and that of the owner, no variances for an increase in the size of, or other requests have been granted over time. LED price changers and toppers are a technology that's replacing the old technology of manual reader boards and magnetic numbers. They make it easier for the public to read gas prices. In the case of the ID sign, they improve traffic safety. The existing signs on the ID sign are difficult and dangerous to change as they're so close to the road. These signs—both the road sign and the signs on top of the pumps—are networked so the owner can actually change the signs on the pumps, the toppers and the road sign remotely and by a network. Obviously, that's not possible with the manual signs.

So, the points required for the conditional use permit: Encourage the use of signs as an effective means of communication. Moving the price sign up on the pole improves visibility and thus traffic safety. Converting the entire prices to toppers and ID signs to digital allows for the signs to operate

as a system and communicate the correct pricing on all of the required media, clearly and effectively.

To prevent hazards to vehicular and pedestrian safety by regulating the type, number, location, size of signs. Digital signs are an effective method of displaying information, and in general, the ID sign will produce no more glare than the sign currently produces, not adding any more signs to the site, and the area remains the same. Clutter, therefore, would not be increased. The digital sign on the ID sign will improve operator safety substantially. I spoke to the owner of the site today and he said one of the issues that they have is when a snowplow goes past that sign in the winter, it knocks all the numbers out of the sign, frequently. Traffic on 101 obviously is going somewhere around 40 miles an hour. And that sign is within 2 feet of the roadway. So, that in itself is a hassle, and it's a danger to people and changing the sign. So, these signs will prevent the owners and their employees and the owner's task of changing the pump topper prices and for clamoring over snowbanks close to busy road in winter to change prices on the ID sign and protect the public from hazardous and distracting displays. These signs don't display information other than number digits. They can't display anything other than 123456. They can't display letters, nor do they flash, nor do they animate. They change using the POS system in the store every one to two days, but otherwise they're completely static. They adjust to ambient light. In other words, when it gets lighter outside, they lighten up, when it gets dark, they darken and they're becoming the standard method of displaying prices.

I put several appendices to my application. Appendix A is an executive summary of the leading report on distraction with digital signs, and it clearly states that there is no evidence that these signs distract any more than any other static signs. The other thing is Appendix B is an electronics report. Electronics is a leading vendor in this business. We're not going to be using their product, but we will use the product that conforms to the same criteria that that product does, in other words the luring report. Basically what the luring report says that to be effective and to be satisfactory, these signs need to be no lighter than .3 candle foot above ambient light. So, they're not glaring, and they don't distract from that point of view and our science will basically conform to that. Maintain and enhance aesthetic character and scenic quality in the Town's residential and commercial neighborhoods. These signs are less subject to missing numbers and general wear and tear than the manual signs they replace and improve the aesthetics of the site. Minimize the potential adverse effect on signs, and yet nearby public and private property. Signs have no effect, either adverse or otherwise on adjacent properties, apart from the fact that we're marginally reducing the size, but that will not be noticeable to any passerby. Support businesses and community vitality by informing the public of goods, services and activities. Only signs to allow the owner of the site to display prices more quickly and efficiently on the site and the dispensers. They're also clearer than the old placards and they improve traffic safety and obviously operate the safety as well. Enable fair and consistent enforcement of sign regs. The ID sign does not conform to the current regulations in several respects, as I mentioned earlier. However, the changes did not result in increased light output. The sizes remain the same and essentially nonconformity does not increase. Several other gas stations in Town have digital toppers and at least one other has digital road signs. The sign proposed has been a fixture at that location for many years. It's unlikely to cause offense when modified. The pump toppers are generally not regulated, but lighted units will help display the required information more clearly than the prior method.

The Planning Director asks us to address the following question: The changes to the existing sign are substantial by removing and replacing sign cabinets. The Board may ask the applicant why not a more conforming monument style, not greater than 10 feet tall, was considered. Please explain why the sign could not be replaced by a monument sign. The sign has been in existence for many, maybe more than 30 years, many years more, maybe more than 20 years. This change does not result in an overall increase in the size of the sign, and we feel that the change is not substantial. We feel that the sign is protected under section 674:19 of the New Hampshire State Code, which grandfathers existing structures, and I'm happy to go into that in more detail. Replacing the sign with a monument sign 10 foot tall will cost at least double the changes that we're looking to make. The other thing is it will result in a sign that is substantially less practical. If the owner is subject to snowplows passing by and knocking letters out of the existing sign when it's at the height it is, the changes that we are proposing will reduce that substantially. Bringing it down to 10 feet is going to cause much more hassle and much more potential damage to that sign.

I have read the comments by the Planning Director, and I would have several comments to that. Firstly, she notes the fact the sign is non-conforming. I would like to mention that it is actually legally pre-existing non-conforming which gives it a measure of protection. Again, the monument cell sign, I think I've addressed the fact that if we brought the sign down to a maximum of 10 foot in height, it would cause substantial trouble, particularly with snowplows going by the sign. That alone is an argument for not doing it. As far as the protection that we feel we're allowed under the New Hampshire code, bear with me. Section 674:19 of the New Hampshire State code says applicability of the Zoning Ordinance adopted under RSA 674:16 shall not apply to existing structures of the existing use of any building. It should apply to alteration of a building for use of purpose and matter, which is substantially different to the use in which it was put before application. Sure, the Boards were the New London case, which allows four criteria. Firstly, does the proposed change arise naturally through evolution, such as new or better technology out of the grandfathered use. In this case, I would argue that this is a new technology that is substantially different to the old technology of manual changes. Is it required for the purpose of making the existing use more available to the owner? Or does it constitute a new or different use? This is the same—it's a sign. It's a price sign. The use is substantially unchanged. In fact, it's completely unchanged. Will the change or expansion rate of the premises proportionally less adequate for the use in terms of the requirement of the ordinance? Clearly this is a gas station. It's a gas station sign. It was before this, and it will be afterwards. This is just adopting a new form of technology. And then to the last point, will the change or expansion have a substantially different effect on abutting property or the neighborhood? And I think the argument would be that that is not the case in this case. I'm happy to answer any questions.

Chair Fairman said I'd like to go through the pump signs. Will we discuss this? Mr. March replied yes, certainly. Chair Fairman said you might talk about the pump changes. Mr. March replied yes. So, what we have on the pump is a small digital sign that conveys the price of the three grades of gas that are available on site. And in one case diesel because one pump is a diesel as well pump. So, that would have 4 digits on it. The digits are approximately this size. Again, they hook into a network, and they're tied electrically into the pump so when the operator changes the price on the pump, which is changed through for the sales system, the pump changes its price and then the digital signs on top of the pump will change as well.

Ms. Hebert explained if you scroll the document down, you'll see an image of the pump toppers. Ms. Hebert said in your photo simulation, it appears to be smaller. Is it truly smaller? Mr. March replied it's approximately the same size, yeah. Ms. Hebert asked so, it's not smaller? Mr. March replied it's not smaller. It's about the same size. Ms. Hebert asked do you know the dimensions? Mr. March replied I don't off hand, no. My guess is that there may be 3 feet by 18 inches—something in that order. Ms. Hebert said they're not shown correctly on the image. Mr. March replied that is an actual picture of an actual pump. Not this pump, obviously, but this one here and I'm happy to approach the Board and bring it to their attention, but it's about the same size as what is on the pump. They only come in one size and the size that they come in basically is regulated by the size of the manual price changes that they replace. I think the Planning Department asked if we would change the numerals to white. I don't see a problem with that.

Chair Fairman said presently you have, it looks like 6 prices. You're going to have four when you're done. Mr. March replied the intent is not to do a dual cash credit pricing. A lot of people are going to cash credit or affinity card type pricing. The intent of the owner is to do a single price. So, you'll always pay the same price at the pump.

Ms. Hebert said I'm a little concerned that the application material doesn't accurately depict the dimensions of the proposed sign. It would be difficult for staff to determine whether they're compliant with the conditional use permit without having those details. Is it twice the size of what's being shown? Mr. March replied this is the exact size of what is being shown in that one there. It fills the space just like a manual price.

Vice Chair Newberry said right but what you're showing is the proposed design, and what you've got on your placard looks different. Mr. March replied I mean, maybe a condition would be that it's no larger than the existing manual pump toppers? That would be a reasonable condition. Mr. Sullivan asked but didn't you just say they come in one size? Mr. March replied yeah, they do come in one size, yeah. Mr. Sullivan said so if we put a condition on the sizing, but they only come in one size, what if the sizing conditions don't fit that one size? Mr. March replied that's a good point.

Ms. Hebert said the ordinance specifically prohibits this type of sign for many reasons, and the Board has only allowed it under certain circumstances. They're described in the staff report, but I would be more comfortable if we knew the exact dimensions of this sign because looking at the graphics that were provided, it looks like it's about half what exists today and it's new information that it is a larger sign than what's... Mr. March said that is not the case. They're approximately the same size as what is there currently. Ms. Hebert said OK.

Vice Chair Newberry said well speaking for myself, I would have difficulty approving a conditional use exception when I don't really know what it is I'm agreeing to. You've got a representation there, but it is apparently not an accurate representation of what the finished product will be. Mr. March replied if it pleases the Board, I'd be happy to come back next month and show an accurate representation. I'd actually even be able to bring one in here and allow the Board to see it.

Vice Chair Newberry said speaking for myself, I think that would be easier to support for this piece of the application. Mr. March said I'm happy to do that. Vice Chair Newberry said the roadside sign is another issue, in my mind. Chair Fairman said yeah, that's the reason I kind of brought him back to this because I thought this is easier than the other one. We have got a lot more discussion to go on the other part of the application, but I think you're right. I think we need a little more detail, definitive on the sizing. I'll vote for that. Mr. March said I'd be happy to attend the next meeting and I'll have an example of each.

Vice Chair Newberry said as a concept, I don't have any serious problem with it. We've approved it in at least several other situations in Town. But I do think, speaking for myself, that if I'm going to vote to approve a conditional use, I want to know what it is that we're approving. Mr. March replied I understand. I'm happy to reattempt. Chair Fairman said also, to be consistent, the staff memo points out that we'd like white with a black background. Mr. March said yeah, and I'll revise the drawing to show white digits on a black background.

Chair Fairman said all right. Are there any other questions or comments on the pump signs at this point? Why don't we move on to the questions on the pedestal sign versus the monument sign. With that price on your pump, you'll get a lot of business.

Vice Chair Newberry asked do you have a plot plan of the site? Mr. March replied I don't believe I do. Ms. Hebert said there is an aerial photo in your packet that you could pull up on the screen if that's helpful. Vice Chair Newberry said the reason I ask is that as the staff memo points out, I'm not sure that I would support making a non-conforming, grandfathered sign more non-conforming, if there is such a concept. Because that appears to be what your design does. It takes a grandfathered, non-conforming sign and an approval would make it more non-conforming than it already is. Mr. Nichols asked are you speaking due to the size? Vice Chair Newberry explained well the size and the fact that it would have an electronic leaderboard on it. Mr. March answered well, the size is a reduction in the nonconformity. We're going from 49 square feet to 47. It's not a consequential change, but it's not an increase in size. Ms. Hebert said the sign message is moving taller. It's moving higher up on the post, where a conforming sign wouldn't be taller than 10 feet in this zone. Mr. March said the points that I raised earlier was if you bring it down to 10 feet, it becomes less practical because of the impact of particularly snowplows and passing traffic. I think you can imagine changing placards on that sign under even sunny conditions. You're right next to traffic and you're asking employees to be right next to traffic.

Chair Fairman said this section of road is three lanes, right—the middle turn lane and the two. Mr. March replied I believe so, yeah. It's still, traffic passes right by the edge of the sign and at breakneck speed. Chair Fairman said oh yeah, I'm very familiar with it. Ms. Hebert said so the sign is right about here. Mr. March said that sign is this sign right here. I mean, there's the edge of the... Chair Fairman said it is not a full three-lane in here. The turn lane... Ms. Hebert said there is space over here. Chair Fairman said that very short section. Mr. March said there's nowhere really to move the sign on the property. There's no practical location to put it other than that. The other thing is, as I said earlier, I think it was protected under that RSA 674:19 of the New Hampshire Code. I believe that that offers it strong protection. I'm sure the Board is familiar with that, but, if need be, I have some handouts that explain what I'd be happy to hand out.

Ms. Hebert said if the Board's concerned about that, we can consult with our attorney, but it's not my opinion that they're protected. They're in here for a conditional use permit and need additional approvals in order to construct the sign as proposed. Mr. March said I have a letter that I've anonymized as well. We faced exactly this problem in another neighboring town, and I have the attorney's letter, or I have the building inspector's letter to the ZBA in this particular case that refers directly back to the same problem we're discussing now. And, again, I think I have 3 or 4 copies and I'd be happy to distribute, but it verifies what I'm saying. In other words, a pre-existing sign in this case would be protected by that particular RSA.

Ms. Hebert said, and I would recommend we have our attorney review that issue. Vice Chair Newberry said I'm sympathetic to the snow problem with your current location, but if we're considering tabling this to get clarity on the signs over the pump, I would also like to see that there is no other reasonable solution to what you're asking for. That green to the east is a possibility, in my mind. Possibly an island dividing in and out traffic would be a possibility for locating a sign that is more conforming than what you currently have. I think in the current location, you are kind of limited, but in my opinion, if we're going to grant a conditional use, that's such an exception to everything else in Town, I think you need to make a very good case that there is no other reasonable solution to what you want to accomplish. Because we certainly don't want to encourage random signs of non-conforming use, non-conforming dimensions. Mr. March said I mean the comment I would have is this sign has been here for many, many years and predates the current regulation. Vice Chair Newberry said no, I understand that and that doesn't make it wrong, but it doesn't make it right either.

Chairman Fairman said I agree with Hal, and I think that I'd like to see what it would take to have a conforming sign. We worked hard to come up with that sign and I think it's a great sign. It certainly is clear to everybody moving on the road and meets the full requirements. It also has Dunkin' Donuts on it. It has everything that you need for what you're looking for, and I don't think that the traffic is that different there. Both places are very busy. Route 101 moves a little faster, I agree. But 90 percent of your people know where they're going anyways when they get there. So it isn't that they're barreling down and all of a sudden, whoops, there's a gas station I want to go in, in most cases. So, I think you could find a place a little bit better location than this one—a different location. We also have to keep in mind that there is a study going on to widen Route 101 through this whole stretch. I don't know what that's going to come out with that study, but it is there. This is an opportunity to move back a little bit. I would think some sort of an island, or at least a bulge in the greenery space there. We certainly have adequate space to make the sign a better location, a more conforming location and a more conforming sign. I see no reason for the big pedestal sign in that location. Your argument about snow—that's true any place in the Town, but most of our signs are conforming—business signs. So I think it behooves you as a longtime citizen of the Town, to help us improve the overall sighting and viewing of the Town and as you come down through the main road.

Mr. March asked may I pass the information that I have on pre-existing, non-conforming signs, including the letter from the other town to the Planning Department and have them consult the town attorney and then revisit the question at the next meeting? Chair Fairman said OK.

Ms. Johnson said I have a question, I think for Becky. Would they be able to put another sign in a better location and keep the current one, maybe without the pricing? Ms. Hebert replied that would be even more non-conforming to have two free standing signs, but they only have one wall sign on the building for Dunkin' Donuts at the moment. Maybe the owner would want to consider a very small Mobil sign on the canopy and a smaller free-standing sign? There are other ways to become more conforming. Mr. March replied pricing is the most important thing in any gas station. It's the driver of most business in a gas station. So the display of prices is a very key element of a gas station. I mean, the brand is also important, but the price is one of those things that is a key driver. But I mean I'd appreciate a chance for Becky to get to the town attorney. I'll give her the letter from the town attorney at the adjacent town or the building department for the adjacent town and also the discussion on that RSA, which I think may provide some clarity to my argument. Mr. Nichols said I'm personally not interested in what the other town had to say. Mr. March said it's the other town's attorney interpreting that RSA.

Vice Chair Newberry said that sounds to me like information that would be useful both to staff and to the Board. Mr. March replied yes, thank you. Vice Chair Newberry added, and I would just comment that given that particular location, depending on what you come back with as a design solution, my comment would be that I might be a little more supportive of pushing the limits a little bit. That is a high-speed section of road. I don't know how the rest of the Board feels about it or will feel about it when we see the alternative. But speaking for myself, I think that might be justification in my mind to maybe push the limit a little bit of the sign standard limits. My other question/comment is how much room do you have on the west end of the parcel? Mr. March replied you know, when I looked at this previously, I felt that there was no other alternative. I'm happy to re-explore that. I think the other issue you have got to bear in mind is that to take the sign and to move it say to that green patch where the cursor is, is a substantial investment. You're putting a new sign in; you're putting a new base in and you're moving power to the sign. I'm not sure where the closest power there is. But those are all fairly substantial costs over substantially more than what we're proposing. So, that may be a negating factor for the owner. But I'm happy to address it with him and have a discussion with him and maybe that is the best solution. Maybe it's something he'd be amenable to.

Ms. Johnson said I think for me, the biggest current issue that you likely have is the safety issue, which I would say is not a Planning Board issue. It's your customers' issue, clients' issue. So I'm not opposed to having the electronic version if it helps with safety, but I think there's other alternatives that are not being explored yet, probably because of cost. But it seems like safety is a big issue and I would encourage you to look into other options to keep everybody safe. Mr. March said yes, I understand.

Chairman Fairman said I don't think that the Board in general has an issue with electronic, changeable signs. We've approved them already in some places. I think it's the overall size of the sign and as Hal indicated, we might be willing to push that a little bit from the requirement. The sign would be a little bigger than the requirement, but I can't guarantee that with the lawyer approval obviously, but I think that would certainly be amenable to listen to that idea. I just think that it would be a lot nicer if you replaced the pedestal with a monument sign and got all the requirements you wanted for signage in that type is signed rather than... Mr. March said so if I understand, what you're telling me is lower the height slightly. If I understand what you're saying,

we should consider lowering the height, making it a little lower, maybe not ten feet, but you know, somewhere in between the 18 feet that it's at and the 10 feet that it's supposed to be at, turning it into a monument. Ms. Hebert asked is it 18 feet tall? Mr. March replied it's at 17 and change. Ms. Hebert said the application is at 16. Mr. March said maybe that's correct. So, you're going to bring it down a little bit, but not the entire dimension. Leaving it in the same location, but then changing to digital signs. Is that, I mean, is that what I'm understanding?

Ms. Hebert replied I think we'd like to see you explore other locations as well. Mr. March replied OK. Vice Chair Newberry said Becky could the applicant work with the Planning Staff a little bit with some concepts at least, so they don't have to go into a full design, but maybe work with you and staff on some things that would be likely to be supported by the Board? I would just comment that the further you deviate from the standards, the more likely you are to run into resistance from the Board. Mr. March replied I understand that.

Mr. Nichols said Mr. Chairman, can I ask a question? I'm looking at the picture of the existing and the proposed sign with the Table with the dimensions right underneath, and one of the things that I'm curious about is that the picture isn't drawn to scale, I don't think. Because it looks like visually, the Dunkin' Donuts sign is staying largely the same size and then the price sign is certainly getting bigger, again, just by the picture, right? So it would be helpful, it sounds like, maybe if the application will come back to us, that table at the bottom under the proposed column, maybe if we could just add the breakout there? Mr. March replied there's a breakout on the bottom. Mr. Nichols continued but the existing one has Dunkin' Donuts and Price and then the other side, right? Just because the picture just looks funny, that's all. Mr. March said I think what's happening is that the signs are being reduced in width marginally, and that's where you're gaining some of the extra square footage. Mr. Nichols said it would be helpful just because I think based on the comments, right, it's already non-conforming. We don't want to make it more non-conforming, and so to me the overall square footage is a sign in that case is pretty important. And so that's why I was... Mr. March said yes, I'm happy to revise that.

Ms. Hebert said it would help to have the dimensions on the existing sign and the proposed sign. Mr. March replied I can certainly do that.

Chairman Fairman asked are there any other questions or discussion? Looking at that sign, I could see if you took the gasoline price sign and the Dunkin' Donut sign from side by side, they're almost the width of the Mobil sign, right, and then lowered it down and put it on some sort of stone base or something. So, it's not a huge—it's a big change, but I can just see that working quite well. Something along those lines and not have them stacked up them side by side. Mr. March replied we'll have a shot at that and do something. Chair Fairman said the actual size of the signs wouldn't change much. Mr. March said so, if I understand what you're saying, regardless of the location change which, obviously, we'll talk to the owner about and if he's amenable to it, then we'll do something. But if we made the price sign and the Dunkin' Donuts sign approximately the same width as Mobil and raise the whole thing up and or maybe dropped it down a little bit so that it was somewhere between 10 and whatever the current height is 16... Chair Fairman said yeah, drop it down quite a bit from where it is now, but I think then you'd be on the right path. Mr. March said I mean, just to give you an idea, this is maybe a \$12,000 sign change. To put a base in for a new sign, alone, just the base is about \$8,000, notwithstanding the sign, dragging power to

it. So, you're looking at probably three times the price to put a new sign in. So, that's a contextual thing. And if the owner is prepared to do that, then obviously we'd be happy to assist him doing that.

Ms. Hebert asked did you look at just replacing the existing changeable copy with an electronic message? Mr. March replied yeah, we could do that. My sense about that is, I'm not sure that the existing sign has the structure to withstand digits. They're fairly big and wide. Let's say, for example, there was a technical problem of doing it, the other problem is that, again, it just gets battered by snow and ice and that sort of stuff in that location. So the aim to raise it up was really to keep it out of that. And you could do that with the digital sign. You can't do it with a manual sign. Because it would be three times as difficult to change manual prices at the height you're seeing the digital prices at.

Chair Fairman asked are there any other questions or comments? Ms. Johnson asked is the existing sign lit up at night currently? Backlit? Mr. March replied it is, but it's conforming to the Town code in that only the letters light, the background doesn't light. Ms. Johnson said thank you.

Chair Fairman said all right. I think we're looking at tabling this application for reasons we've discussed on both the pumps and the free-standing sign. Vice Chair Newberry said I have a question for the applicant. If we were to table this, how much time would you want in order to respond to some of the concerns and comments this evening? Mr. March replied I think I could do it within the month. I mean, I'd obviously work with Becky. I'd work with the property owner. Vice Chair Newberry said so you'd like to be on the next available? Mr. March replied if that's amenable to you, yes.

Ms. Hebert said the next meeting is October 30th and the meeting after that is November 20th, so I'd recommend going to the 20th. Mr. March replied yeah, happy to do that. Ms. Hebert said OK, great, November 20. Vice Chair Newberry questioned, November 20, you said, Becky?

MOTION: Vice Chair Newberry moves the Planning Board Table the Conditional Use Permit for the proposed modifications to the existing free-standing sign and modifications to the pump top signs and that the applicant come back to the November 20th meeting with a response to the concerns and suggestions in tonight's discussion.

Mr. Nichols duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.

Mr. March said thank you, Sir. Chair Fairman replied good discussion. Good luck with it. Mr. March hands out paperwork to the Board members. Ms. Hebert asked could you also send the before and after pictures of the sign that's in question here—of the one for the example you've provided us? Well, it's very hard to... a picture is worth 1,000 words. What community is this in? Mr. March said that's the confidentiality. It was written from the attorney to the town and it's basically a Shell sign and it had the same signs that had been... Ms. Hebert said I think our attorney is going to want to see that before and after picture to get a sense of what was considered.

IV. Concept Proposals and Other Business: None

V. Approval of Minutes of Previous Meetings September 18, 2023 Workshop and October 2, 2023.

There were not enough members present to vote on the September 18, 2023 Workshop Minutes. Vice Chair Newberry corrected the October 2, 2023 Minutes: The second on the Motion to accept the agenda was credited to Mr. Nelson rather than Mr. Nichols. Mr. Nelson was not present.

MOTION: Mr. Nichols moves the Planning Board accept the minutes for October 2, 2023 as corrected. Ms. Johnson seconded the motion. Vote taken – all in favor. Chair Fairman abstained. Motion carried.

VI. Communications to the Board

Ms. Hebert said the Town Council is hosting a Volunteer Appreciation Breakfast on Saturday, November 4th at 8:30 at the Old Town Hall. You should have a copy of this invitation with your Planning Board packet.

The other announcement is the Public Forum for the Housing Project will be held on November 14th at 6:00 p.m. at the Bedford High School cafeteria. I'll be sending more information out about that evening event. Chair Fairman said that's a move. Weren't you going to have it at the library? Ms. Hebert said we moved it to the High School to hold a larger group of people. Chair Fairman said sounds like a very good idea.

Your next meeting is October 30th. That date switched from a November date and moved up a week. So check your calendars and make sure you have October 30th for our next regular Planning Board meeting.

VII. Reports of Committees

Ms. Hebert said The Housing Working Group met today and began talking about the Public Housing Forum, which will be on November 14th. They plan to meet one more time before the 14th, and I think the project is moving along well and as anticipated. The group held a public meeting on September 20th with the Board, Commission and Town Council volunteers, and that was well attended. The next big public event will be this meeting on November 14th, and we'll need all the Planning Board members and our Board and Commission members to help spread the word. Chair Fairman asked how is that being publicized? Ms. Hebert replied it is being publicized. We'll send emails out to all of our Board and Commission members. We'll send notices out on the Town's social media platforms, BCTV. But really, we need everyone's help to get the word out for this event.

VIII. Adjournment:

MOTION by Vice Chair Newberry to adjourn at 8:21 pm. Mr. Nichols duly seconded the motion. Vote taken – all in favor. Motion carried.

The next meeting of the Planning Board is scheduled for October 30, 2023.

Respectfully submitted by
Sue Forcier