

TOWN OF BEDFORD
January 25, 2016
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, January 25, 2016 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Chairman), Chris Bandazian (Town Council), Jim Scanlon (Town Council Alternate), Karen McGinley, Chris Riley, Philip Cote, Mac McMahan (Alternate), Charlie Fairman (Alternate), Rebecca Hebert (Assistant Planning Director), and Rick Sawyer (Planning Director)

I. Call to Order and Roll Call

Chairman Levenstein called the meeting to order at 7:00 p.m. Jim Stanford (Public Works Director) arrived late. Vice Chairman Harold Newberry, Bill Dermody, and Alternate member Alex Rohe were absent. Mr. McMahan and Mr. Fairman were appointed voting members in place of the Town Manager vacancy and Mr. Dermody's vacancy. Ms. Hebert reviewed the agenda.

II. Old Business - Continued Hearings: None

1. 393 Route 101 Associates, LLC (Owner) – Request for final Site Plan approval for a 22,265 square foot restaurant and banquet facility, with 142 seat restaurant, 120 outdoor seats and a function hall with 240 seats, with associated access, parking and site improvements at 393 Route 101 (former Weathervane Restaurant). Lot 31-15, Zoned CO & R&A. (Continued from the January 11, 2016 Planning Board meeting)

III. New Business - Application Acceptance and/or Public Hearings on Applications:

2. Claudette Prive (Owner) – Request for approval of a residential subdivision of one lot into four at 125 County Road. Lot 21-10, Zoned R&A.
3. Earlose Realty Trust c/o Nancy Weston, Trustee (Owner) and Joseph & Jamie Bourgeois (Owner) – Request for final approval to adjust the lot line between Lots 27-35 & 27-36 and to subdivide Lot 27-35 to create one new residential lot at 216 & 224 Wallace Road. Lots 27-35 & 27-36, Zoned R&A.
4. The Planning Board will conduct the second public hearing on proposed zoning amendments submitted by the Planning Board. The full text of the amendments is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org.

IV. Concept Proposals and Other Business: None

Ms. Hebert stated for the new business items the application are complete, abutters have been notified; it is the opinion of Planning Staff that none of the items are of regional impact, and the agenda is ready for the Board's acceptance.

MOTION by Mr. Riley to approve the agenda as submitted. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.

- 1. 393 Route 101 Associates, LLC (Owner) – Request for final Site Plan approval for a 22,265 square foot restaurant and banquet facility, with 142 seat restaurant, 120 outdoor seats and a function hall with 240 seats, with associated access, parking and site improvements at 393 Route 101 (former Weathervane Restaurant). Lot 31-15, Zoned CO & R&A. (Continued from the January 11, 2016 Planning Board meeting)**

A staff report from Rick Sawyer, Planning Director, and Becky Hebert, Assistant Planning Director, dated January 25, 2016 as follows:

I. Project Statistics:

Owners: 393 Route 101 Associates, LLC & Hamza K. Alam
Proposal: 22,265 square foot restaurant and banquet facility, with 142 seat restaurant, 120 outdoor seats and a function hall with 240 seats
Location: 393 Route 101 (Lot 31-15 & 44-29)
Existing Zoning: "CO" – Commercial, "R&A" – Residential Agricultural
Surrounding Uses: Residential & vacant land

II. Previous Action by the Board:

On January 11, 2016, the Planning Board opened the public hearing and discussed the application. The Board voted to continue the hearing to allow time for the Applicant to consider comments raised by abutters. Please see the attached letter from the Applicant addressing concerns raised at the last meeting. The Applicant is planning to meet with the abutters this week and will provide an update to the Board at the meeting.

An appeal has been filed with the Zoning Board of Adjustment challenging the Zoning Administrator's decision to allow the infiltration basin to be located in the Residential Agricultural District and to permit the appeal to be heard more than 30 days after the decision was made. In Staff's opinion, the Planning Board process can proceed as though the appeal was not filed. If the ZBA were to overturn the decision after the Planning Board approved the site plan, the Applicant would need to modify the site plan to remove the infiltration basin from the residential district and the Board would need to approve the amended plan (condition #19).

The recommendations for conditional approval have been updated to include additional evergreen plantings along the north side of the proposed infiltration basin (condition #18). After reviewing photographs of the property with the abutter, it was clear to Staff that the existing vegetation does not provide an effective screen and more plantings should be provided. Aside from these

conditions, the remainder of the report is unchanged from the previous version and there have been no modifications to the site plan since the first public hearing.

III. Background Information:

The site is the location of the former Weathervane Restaurant which was demolished in 2015. The most recent site plan on file with the town is from 1989 for a 260 seat restaurant.

IV. Project Description:

The property is 10 acres, located partially within the Commercial District and partially in the Residential & Agricultural District. As noted above, the existing restaurant building was demolished but the paved parking lot and freestanding sign remain. Residential uses abut to the south, north and west. Vacant commercial land abuts to the east. The site is approximately 5 feet higher than Route 101. The developed portion of the site is relatively flat but slopes downward in the northerly and westerly direction with an overall grade change of approximately 68 feet at the northwest corner of the property.

The site plan includes the construction of a new 22,265 square foot restaurant and function hall with two outdoor patios and associated access, parking and site improvements. The facility will accommodate up to 142 seats in the restaurant and bar, 120 outdoor seats on the patios and up to 240 seats in the function hall.

Access, Circulation & Parking

The property has approximately 738 feet of frontage on Route 101. There are three existing full access driveways and the proposed redevelopment also includes three driveways. The main entrance is a full access shared driveway along the easterly side lot line with dedicated right turn and left turn egress lanes. This driveway is partially located on the adjacent lot and is intended to serve both the Murphy's Taproom facility and a future development on the vacant lot. There is a centrally located "right-in/right-out" driveway in close proximity to the restaurant and a third full access driveway to the west of the restaurant which will be designated for employees and service vehicles only. The sight distance at all of the proposed driveways complies with the Town's standards. The project will need a NHDOT driveway permit due to the change of use and new construction (See condition #3).

The site plan includes 241 parking spaces (7 accessible spaces) where 233 spaces are required. The majority of the parking (224 spaces) will be located to the east of the building within the main parking lot. There will be 17 spaces reserved for employees in the gravel parking lot to the west of the building. The gravel parking lot will connect to the main parking lot via a gravel drive behind the building. The Applicant has requested a waiver to Section 322.1.5 & 322.4.1 of the Land Development Control Regulations to permit the construction of the gravel parking lot and driveway and to not stripe the parking spaces in the gravel lot (Wavier #2). Staff does not object to the requested waiver for the gravel parking lot. The plan provides more than the required parking spaces and the gravel lot will be used by employees and deliveries only.

The shared driveway extends along the length of the main parking lot which is located within the 30-foot setback for pavement from the side property line. The Applicant has requested a waiver

from Section 322.1.9 of the LDCR to allow portions of the parking and circulation driveways to be setback less than 30 feet from the property line (Waiver #1). Given the shared driveway, staff does not object to the proposed waiver. Portions of the Weathervane parking lot are within a few feet of the front lot line and the proposed redevelopment removes pavement from within this setback resulting in a greater setback of 24 feet. Because the setback along the front lot line is being made more conforming, a waiver is not required.

The site plan includes internal pedestrian walkways on the eastern side of the restaurant, connecting pedestrians to the main entrance.

The Fire Department has reviewed the site plan and determined that the fire access is acceptable as shown.

The building will be equipped with a sprinkler system for fire suppression and a “no parking” lane has been provided at the western end of the parking lot for emergency vehicle access. As public water is not currently proposed, a cistern and fire pump system will be located within the building.

Traffic

A Traffic Impact and Access Study was completed for this project (see attached summary). The report was reviewed by VHB and their comments are attached. The proposed quality restaurant and function hall are expected to generate 135 (100 entering and 35 exiting) vehicle trips on the weekday evening peak hour and 170 (120 entering and 50 exiting) vehicle trips during Saturday mid-day. Based on the traffic analysis, this represents an increase of 28 more trips during the PM peak hour and 32 more trips during the mid-day Saturday peak hour over what the Weathervane restaurant (high turnover restaurant) could have generated based on the ITE data. The ITE manual does not have a separate land use code for function hall and VHB explains in their memo that unlike a restaurant, vehicles generally arrive and depart at the same time before and after events. The study estimates pass-by trips for the development to be 45% percent, but VHB has noted that it is likely the function hall trips will be 100% new trips. The study also assumes that 67% of the site generated traffic will travel to/from the east on Route 101 and the remaining 33% will travel to/from the west. Route 101 experiences a traffic volume of approximately 850 vehicles during the weekday PM peak hour and the Saturday mid-day peak hour.

The report concluded that warrants are met for a left turn lane and right turn lane on Route 101 at the main project entrance. The study recommends using the existing 10-foot shoulder as a by-pass lane in both directions. VHB disagrees with this recommendation given the 50 mph posted speed limit on Route 101 and the use of the shoulder as a by-pass lane also leaves no travel way for bicycles or pedestrians. VHB is recommending that the Board include a condition requiring the applicant to construct a separate left-turn lane on Route 101 eastbound and a right-turn lane on Route 101 westbound at the primary project entrance (condition #16). Staff agrees that the turning lanes are needed to safely accommodate access to the site and this is also consistent with the recommendations of the Route 101 Corridor Study (page 66).

The Applicant agrees that thru traffic needs to be separated from left-turning vehicles that are stopping or stopped, but believes the current use of the shoulder as a by-pass treatment will function appropriately for left turns. They indicated that the cost to construct the left turn lane is

prohibitive but a concept sketch or engineering analysis has not been submitted to support this. The Applicant states that the westbound shoulder could be restriped as a 10-foot wide right turn lane without significant cost.

All improvements to this section of Route 101 are also subject to NHDOT approval which is still pending. The applicant will provide a detailed presentation on the traffic impacts at the hearing and the Town's consultant traffic engineer will be available to answer questions.

Stormwater, Utilities and Environmental

Stormwater will be collected through a combination of open and closed drainage systems. There is a large infiltration basin to the north of the main parking lot and a bio retention area on the north side of the restaurant. These facilities will provide treatment of stormwater and groundwater recharge. Portions of the infiltration basin are located within the residential district. The Zoning Administrator has determined that the drainage system is an accessory use and permitted within the district. Overall the design complies with the Town's standards for the qualitative and quantitative treatment of stormwater. The plans have been reviewed by VHB and only minor comments remain. The project will also require an Alteration of Terrain permit from the NHDES (condition #4).

The site will be served by a new onsite well and septic system. There are three leach fields proposed and one water supply well. The NHDES approval for the subsurface disposal system limits the number of outside seats to 46. The outdoor seating may be expanded to 120 seats if the site connects to municipal water. The Applicant is pursuing the waterline extension, but a note has been provided on the site plan indicating the phasing of the permitted outdoor seating. Municipal water currently exists at the intersection of Route 101 and Hardy Road.

The telecommunication and electric utilities will be placed underground. Two dumpsters and a 2,000 gallon propane tank will be located on the north side of the employee parking lot.

Architecture & Landscaping

The Murphy's Taproom facility has been designed to resemble a farmhouse with an attached barn. The building will be three levels with a footprint of approximately 13,000 square feet. The main level will include the restaurant, bar and function hall, the upper level includes a 2,362 square foot mezzanine for the function hall within the barn portion of the building. The lower level includes a walkout basement with offices, storage and access for employees and deliveries. The "house" portion of the building will have yellow vinyl siding with white PVC trim. The "barn" will be finished with a cement barn board painted dark brown also with white PVC trim and the roof will be an architectural shingle with a cupola above the barn. The Applicant has indicated that the proposed colors have not yet been finalized. As a condition of approval, additional notes need to be provided on the final building elevations identifying the proposed color (condition #8). The barn will be 45' 9" to the main ridge line and the house will be 32' 4". A large cultured stone chimney is on the south facade and there is a cultured stone finish around the main entrance. Two large patios are located on either end of the building. The patios are enclosed with decorative stone walls. A gazebo is also shown on the north side of the building and a deck is located off of the main restaurant. It is Staff's opinion that the building is attractive and in keeping with

architectural styles typically encouraged by the Board and the restaurant will be a nice addition to Bedford. Please see the attached narrative for a more detailed description of the architecture.

Decorative sign panels are shown on either side of the main entrance and a proposed sign band has been identified on the barn. The existing freestanding sign will be refurbished to advertise Murphy's Taproom (see attached image). The sign is partially located in the right-of-way and is non-conforming with regards the setbacks, height and area. Although the sign is out-of-character with regards to signage typically seen along the corridor, the Applicant has the right to maintain the existing sign.

The building's HVAC system has not yet been designed, staff will need to administratively approve the location and screening for ground or roof mounted mechanical units as well as any proposed changes to the architecture to accommodate the mechanical equipment (condition #9).

The project needs to provide a 110-foot residential buffer along the rear and westerly side lot lines. The first 25 feet within the buffer needs to provide a visual screen to shield views of the development from the adjacent residences on Grey Rock Road. The project proposes a buffer consisting of existing vegetation and 9 evergreen trees are provided on the north side of the infiltration basin to fill in existing gaps along the buffer. The developed portion of the site is also at a higher elevation than the surrounding residential properties and the slope will help to screen the parking lot.

The landscape plan includes clusters of tree and shrub plantings along the project frontage to soften views of the parking lot from Route 101. Trees are provided within internal landscape islands and foundation plantings line the front of the building and stone walls. Staff would recommend that three additional shade trees be provided along the Route 101 frontage (condition #10). Given the extensive frontage along the Route 101, the number of trees appear sparse along the frontage. Shrubs also need to be provided to screen the dumpster enclosure (condition #10).

The lighting plan includes 26 downcast pole mounted lights within the parking lot and exterior lighting mounted to the building and within the patio areas. The lighting fixtures and illumination plan complies with Town's standards as designed.

The hours of operation for Murphy's Taproom are noted on the plan as Sunday through Wednesday from 11:00 AM to 11:00 PM and Thursday through Saturday 11:00 AM to 1:00 AM.

V. Waiver Requests:

The Applicant is requesting the following waivers of the Land Development Control Regulation for which the Board will need to take action (see the attached letters from T.F. Moran):

- 1. Section 322.1.9, to permit parking and circulation driveways within the required 30-foot setback to the property line;*
- 2. Section 322.1.5 & 322.4.1 to permit a gravel employee parking area and delivery driveway and to not stripe the parking spaces within the gravel lot; and*

3. *Section 317.1.11 to provide site specific soil mapping in lieu of the high intensity soil mapping; the site specific mapping provides a greater level of detail and is required for the Alteration of Terrain Permit.*

Planning Department has no objection to the requested waivers.

VI. Staff Recommendations:

The Board may table the application to allow more time to review the traffic with regards to the right and left turn lanes on Route 101. The Town's traffic engineer will be present at the meeting to answer questions regarding the traffic. A recommendation for conditional approval has been provided if the Board decides to act on the application.

The Planning Board needs to vote on whether or not to grant the waivers from Land Development Control Regulations, for Sections 322.1.9, 322.1.5, 322.4.1 & 317.1.11 as described above.

Planning Staff recommends that the Planning Board grant final approval of a Site Plan for a 22,265 square foot restaurant and function hall with associated access, parking and site improvements at 393 Route 101, Lot 31-15 & 44-29, in accordance with engineering plans prepared by T. F. Moran last revised December 23, 2015, and the architectural plans prepared by Warrenstreet Architects dated November 3, 2015, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

1. *In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.*
2. *The NHDES subsurface and water supply approvals shall be obtained and noted on the plan.*
3. *The NHDOT Driveway Permit shall be obtained and the permit number shall be noted on the plan.*
4. *The NHDES Alteration of Terrain Permit shall be obtained and the permit number shall be noted on the plan.*
5. *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.*
6. *The Applicant shall submit any outstanding engineering review fees to the Department of Public Works.*
7. *If a construction sign is requested at the hearing and is approved by the Planning Board, then its location shall be shown on the plan.*
8. *The building elevations shall be revised to note the color of the proposed building and the final color shall be approved by Staff.*
9. *The location of the mechanical equipment shall be noted on the final utility plan and/or building elevations and all ground mounted and roof mounted equipment shall be screened in accordance with the Land Development Control Regulations.*

10. *The Landscape Plan shall be revised to provide three additional shade trees along the Route 101 frontage and evergreen plantings shall be provided to screen the dumpster enclosure.*
11. *Arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.*
12. *All required easement documents and recording fees shall be submitted to and approved by the Planning Department, including the following:*
 - a. *Access, drainage and grading easement for the proposed shared driveway*
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 commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works, Fire Department and the Building Department.*
15. *Prior to the issuance of a building permit, the Applicant shall provide retaining wall design drawings (stamped by a licensed structural engineer) to the Town for proposed retaining walls 4 feet high or greater.*
16. *Prior to the issuance of a building permit, a plan shall be provided for the construction of a left-turn and right-turn lane on NH Route 101 at the primary entrance to the site, the design shall be reviewed and approved by the NHDOT.*
17. *Prior to the issuance of a certificate of occupancy for the building, all site improvements depicted on the plan and the off-site improvements on Route 101 shall be completed.*
18. *The plan shall be revised to include 10 additional evergreen trees along the northern edge of the proposed infiltration basin, the exact location of the trees shall be approved by the Planning Director at the time of planting to ensure the trees provide an effective screen to the abutting property.*
19. *Should the administrative decision regarding accessory uses (stormwater basin) relied on by this application be overturned the project must return to the Planning Board for approval of a revised site plan.*

Nick Golon, T. F. Moran, Keith Murphy, owner of 393 Route 101 Associates, LLC, and Johnathan Halle, Warrenstreet Architects, were present to address this item in this continued hearing on the application for a final site plan approval.

Mr. Murphy stated I wanted everybody to know that I met with the abutters for about 1.5 to 2 hours last week, we had a very productive meeting, and I did my best to resolve any issues or reassure them of any concerns they had. There were a lot of concerns. I took them all very seriously, and in some cases I think sharing information is what they were really looking for. I did my best to reassure them. I think many of them left that meeting feeling better, I wish I could say that every single person there thinks this project is the best thing ever, but it may not be the case but I can say that I did my best.

Mr. Golon stated with the original presentation we started to talk about them and worked our way around the entire project. What we thought to make good use of your time this evening is really

to make sure that we address the outstanding comments, some of which were from the Board and some of which were through the abutters. You should have a response letter that we had provided directly to the Board, but to the benefit of those in the audience, I thought it would be of benefit just to go through each one of those items and how we feel we have addressed them. I am essentially going to read it verbatim.

Mr. Golon continued the first item had to do with site lighting and potential for light trespass on abutting properties. The posted graphics plan gives a nice representation of the site as a whole relative to the illumination levels that are proposed and this plan is the one that we want to look at. These dashes and dots that we see are really the values for the illumination. This shows what extent the footcandles are on the project and how far it extends. We do see some overlap on the driveway itself. Shown is Mr. Alam's property and we are in good standing there as he is a party to the application. Then you can see a little bit of the distance that we have relative to our other abutters. One of the other things that is important to point out here is the vertical grade difference. A photometric plan has been provided showing the proposed illumination levels on the subject properties, full cutoff LED light fixtures have been utilized to limit proposed lighting to necessary areas on the site such as entrances, pedestrian walkways, and the parking lot. Specifically pole lights used to light the parking lot are located internally to the parking lot, and that is one of the items that I wanted to show you. These lights are located about 42 feet from the edge of pavement. Part of our evaluation in choosing the site lighting for this was to limit the lighting as much as we could to the paved areas only. You can see as it extends off that we are looking at 0.1 – 0.2 footcandles, they are very low levels and they don't come anywhere near to the abutting property lines, only internally in the parking area, not at its limits. The light they produce will not project down the slope beyond towards the abutters located along the northerly property line, and we understand the plan submitted complies with the Town regulations. Meeting the Town regulations is one thing, but we did want to highlight this distance that you see with the illumination levels to the abutting property lines. Relative to site lighting, we wanted to make sure to make a point of that.

Chairman Levenstein asked the area toward the back of the lot is going to remain treed? Is that right? Mr. Golon replied the limits of the treeline that will remain are shown here. I'm indicating the actual existing treeline in this location and this is what is proposed here. So there is an area of clearing that is in between. Indicated is the area of the infiltration basin, and we will make sure we address that as one of the comments that we received.

Mr. Golon stated the next item is limits of tree removal and landscaping. We will leave the overall colored graphic posted on the screen so we have a comparison between the two. The drawing to your left, the area of light green represents the area of tree removal and the dark green area represents the area of trees to remain. I do want to note that this solid blue line represents our property line, so these areas beyond are not on our site, so those are trees that we couldn't touch regardless, but this does show the limitations of the tree removal. As far as the overall areas, the existing tree cover on site is 3.4 acres and 3.5 acres will remain. There was some question before about 60 or 70 percent of the trees being removed; this gives us the exact numbers. It is 3.5 acres that would remain. One thing I think is important to note when we look at this graphic is there are some areas of white that are intermixed here. Those are areas that are going to be grass and in fact this area here, which is the infiltration basin, will also be grassed leading all the way up the slope

to the edge of the pavement. So although these areas are where the mature trees will be removed, they will have the opportunity, at least on these steep side slopes here and here, to have vegetation that will regrow. We're not interested in having the manicured lawn in those locations. The infiltration basin itself will have to be maintained so we need to make sure that we have access to it, but that is readily available through an area that we left as flat as we could for maintenance. One of the important things to point out here is really the steepness of the topography. When you look in the background and what we have overlaid here are the existing and proposed contours. These contours indicated are a little bit steeper than 3:1 and then we work our way up in the proposed 3:1 slopes. The reason for that grade differential is twofold in part; we have our proposed septic system. This is a mounded system so that we have separation from estimated seasonal high water table; we have one that is located as shown, as well as one that is located as shown. That creates one of the conditions why we're not able to maintain this treeline that falls between infiltration basin and the septic system. There is also a third system that is located as shown, and you can see that area of fill that is relatively flat on the top, that is the area of the septic, and then we project down at a 3:1 slope so we can weave into the existing topography as quickly as possible. That is really what is predicating that treeline to a large extent through the majority of this. I will read from the letter: "The area of tree removal on the subject properties is approximately 4.1 acres with 3.9 acres on Lot 31.15, which is our parent lot, and 0.2 acres, or 9,002 square feet, on Lot 31-44-29, which is the smaller area we see as shown on our abutter's lot, who is also a party of the application, which accounts for the shared driveway. We have prepared the attached pre and post development tree plan graphic to clarify the limits of the tree removal and proposed tree plantings. Please note that the graphic also provides the existing proposed topography to help clarify the limits of tree removal and how they were determined."

Mr. Golon continued one other thing we did, although we didn't note it specifically here, we also put some elevations on this, which is another important point when we're looking at making sure adequate buffers are provided, especially with a commercial use to a residential use. When we look at the elevations of the proposed parking lot, we are at about 358 – 360 elevations, we do slope down approximately 12 feet to our basin where we slope back up to create the back berm, which will be an area of fill, and then we slope back down approximately 12 feet. So what this is going to be is a 12 foot berm and that is primarily what this abutter is going to see when they are in their backyard. You will have this existing tree screen, but there are some evergreens, but it is a little bit of a variety so I believe one of the conditions that was requested by staff, which the applicant has agreed to, is to place a row of 10 trees on the back side of the berm to further aid in the cause of providing a continuous screen. That is a condition of which we are accepting. When we look at the actual elevation of this home at approximately 323, and these are derived off from either Google maps, in which we could pull grade, as is these tree lines. These aren't properties that we actually went onto for purposes of survey, but this is from a graphical representation but it gives a little bit of an idea on what that grade differential is. So working the way around from right to left, building D, and we're talking about a 32 foot elevation difference to parking lot, to the building is 42.5 feet, building C is 35 feet approximately to that elevation, so that is that grade drop we are looking at from this building to the parking lot itself. I won't go through each one, you have those numbers in front of you, but they vary essentially between 30 and 50 feet and then from the elevation of the restaurant between 42 feet and almost 65 feet. So looking at this topography I think you can certainly get a little bit better feel for it if you haven't been out there. There is a tremendous grade drop across this site, and we do feel that is one of the important things

to note when we're talking about existing tree lines to remain. There is a fairly good sized one here as shown; there is also quite a bit of difference in the elevation as well.

Mr. Golon stated one of the next questions that we had had to do with the parking lots. I have posted both next to each other so we can make sure we are looking at the same thing. They are slightly different scale, just so we can see the entirety of the work. Looking at the areas of the parking lot, the dark grey color is as proposed; the lighter gray represents the existing. You could say there is a difference; there has been a change in regulations over time so the number of parking spots that are required for our proposed use has also changed. We have about 120 existing parking spaces, whereas the proposed is 240, so there is legitimately double in the number of parking spaces. When we look at the building square footage, it is almost double, and when we look at the parking lot, you don't see an exact duplication, this doesn't double the number. What we were able to do is be a little bit creative about how we aligned the parking areas so that we are not increasing it twofold. It is more like going from 47 to 83 as far as that square footage. But reading from the letter in which we provided relative to the limits of existing and proposed parking: "The area of existing parking is approximately 1.1 acres, 47,095 square feet, and the area of the proposed parking is 1.9 acres, 83,114 square feet, and the graphic that we just discussed has been provided just to give a little bit of help as far as the feel for where those impervious surfaces would be located. Chairman Levenstein asked Mr. Sawyer, do you feel that the parking of 240 spots is necessary? Mr. Sawyer replied yes. I believe they are only eight or so spaces over the required parking, so they are right in line with our regulations. Chairman Levenstein stated my thought was maybe you didn't think that it was really going to need that, whether we could not have them build it right away but it sounds like they are going to need it right away. Mr. Sawyer responded if our regulations are on target, then they will need them. As the Board knows we just updated those in 2013. We had hired a consultant to look at national, local and state standards to see what the right parking counts were. I have no reason to believe those aren't the right numbers. Mr. Golon continued so relative to the existing number of parking spaces, the information was requested and we are here to provide that today. It was one of the considerations we looked at whether or not to provide a waiver to try and reduce parking was a viable option, but as was mentioned, right now this appears to be the right amount of parking for what is being proposed.

Mr. Golon stated the next question that we received, which was really brought forth by abutters so we want to make sure that is addressed appropriately. That was potential impact on abutting water wells due to the project's stormwater management systems, effluent disposal systems, the septic, and our proposed water well. Reading from the letter: "The stormwater management systems and effluent disposal systems, septic, for the project have been designed in accordance with all federal, state and local regulations and have been sited accordingly." The requirements as far as setbacks or otherwise are provided directly on the septic plans, the nitrate setbacks if you will. In regard to the stormwater management system we are asking for no waivers for alteration of terrain in regard to that. "The stormwater management report generated for the project shows a decrease in the peak rates of runoff from the site and that the volume of runoff recharged to the groundwater will be maintained." What that second statement means is that we're reducing the amount of volume of stormwater that leaves this site from pre- to post-development. One of the areas of the site where it probably makes the most sense to point out what that value is more specific is really the lot straight behind our infiltration basin that is located as shown. What we were able to do in the design of this infiltration basin is really try and take account for more of a volumetric storage than

just relying on the infiltration rate of the soils below. Based off from the number, including infiltrative capacity, we have a reduction of approximately 24 – 25 percent of runoff, and when we look at the volumes, it is nearly a 30 percent reduction and this is for the 50-year storm event. It varies as you look at the smaller year storms, but I think it is important to point that out that we are trying to be sensitive. It was something that was actually raised during our opening presentations, and when walking the property we did notice there are some issues in the back on abutting properties along that property line where there was some standing stormwater or otherwise. Although it is not the applicant's responsibility to resolve any of those issues, the stormwater management system that he is installing does in part help that; it is reducing the volume of flow that is leaving the site. I wanted to make sure that that was highlighted, in that the stormwater and septic designs meet all siting requirements, an appropriate maintenance plan has been provided, that was one of the questions that we received from one of our abutters to make sure there is a maintenance plan that goes along with this. They only work as well as they are maintained, and as part of the alteration of terrain there is a management program that has to be undertaken by the applicant. As such we would not anticipate adverse impacts on abutting water wells. Please also note that in coordination with the proposed site improvements, the existing septic fields, including those located in close proximity to abutting properties, will be removed. As I had highlighted early when we were looking at the area map, there are some areas of clearing; those are the areas of the existing septic. When you look at our plan, our septic systems are pushed back further from the abutting properties and in one example we had a septic that was almost over the property line. The original septic was never pushed back to be in keeping with the requirements as far as nitrate setbacks, which really has to do with the location of the neighbor's well more so than the property line. That is something to keep in mind.

Mr. Golon stated the project also proposes to discontinue the use of their two existing water wells. We have one as shown on the posted plan, as well as one located here, the order of magnitude of 10 gallons per minute on one and 2 gallons per minute on the other. So the project also proposes to discontinue the use of the two existing water wells and will install one new water well in front of the restaurant as shown in the island. The existing wells will be discontinued and the new restaurant will incorporate water saving technology into the building design, something that certainly didn't exist with the previous structure. We anticipate no increase in the use of water for this facility and as such, no direct impact on abutting water wells. I would love to go as far as to say it is going to be a dramatic reduction, which I believe would likely be the case, but we can certainly say with every affinity that we shouldn't be pulling more than they were prior with the previous use.

Mr. Golon continued the next item is the project traffic impacts. It was something that was discussed at length at the last meeting relative to how we were going to address the request for left-turn and right-turn lanes being installed on Route 101. As we explained then, but I will reiterate now, is that the project team has accepted that condition and noted that we are going to continue to talk with DOT, Town staff, as well as your review consultant, to try and find what we believe to be more of a consistent mitigation measure for the project and that we will be back to this Board with that mitigation measure if we were seeking to have that condition modified. Reading from the letter again: "Relative to traffic impacts for the project we have accepted the Planning Board condition of approval requiring offsite improvements, including construction of right- and left-turn lanes to the primary site driveway. Yet we feel there may be a more appropriate

solution to mitigate the project's traffic impacts than the condition states, we will continue to work with DOT, Town staff, and the third party review agent to find what we believe to be a more appropriate solution. Should an alternative solution be acceptable to all parties, we will be back before the Planning Board to provide a presentation on that design."

Mr. Golon stated the last item, which really had to do with the concerns with noise relative to the facility. I will read from the letter and I will let Mr. Murphy speak to that because it is an operational issue, it is not so much of an engineering issue. "Relative to noise generated by the continued use of the property as a restaurant, the building orientation is designed such that any live music located at the restaurant patio (as shown on the posted plan), will be directed to New Hampshire Route 101..." So if you have a setup on the patio, that music will be amplified in the direction indicated. "...and away from abutting residential uses. The applicant has confirmed that they will meet all of the requirements to the Town noise ordinance, and should that concern arise relative to noise generated by the restaurant once it is in service, the applicant has acknowledged they will make themselves personally available to resolve that concern." I will let Mr. Murphy continue the dialogue on this.

Mr. Murphy stated this was a major issue brought up towards the end of the abutters' meeting that we had last week, and I believe I was able, I could be wrong, but I believe I was sincerely able to reassure every abutter that I would take any issues seriously. They all have my email address, they all have my personal phone number, and I would encourage them to text me or call me or email me if there was ever a problem. I gave them my personal guarantee that I would address it immediately. I also emphasized that I am not looking to have live music outside until 11:00 PM every night or even every weekend. What I would like to do is have what other restaurants in town have, which is the ability to have several times a year special events that go until 10:30 PM or 11:00 PM and close it down and lock it up. This is a marketplace, there are several restaurants in town that have these sorts of things, and I am seeking no more or no less than my future competitors. I believe my abutters feel better about that, but if they do not, I would like to hear about it. If I could answer any questions about that, I would be happy to go into more detail.

Mr. Golon stated we gave a much longer presentation last time touching on all items, we wanted to make sure that we specifically addressed the items that were brought forth at the last meeting, and I believe we have done so. We want to turn it back to the Board if you have questions, and we have a few people in the room that may have questions as well. We have our project team here to answer them.

Ms. McGinley stated are you going to need to do blasting in the area? Mr. Golon responded relative to the subsurface program, we ensued for this project to evaluate where ledge is; we have made every effort so that ledge is not impacted. Relative to the quality of ledge as evaluated by our geotechnical engineer, it would appear that it is something that could be rammed or otherwise removed. As proposed there aren't significant ledge profiles that are proposed to be removed, it is not cost effective to do so, so we have tried to grade the site accordingly. There are a few locations, specifically up at the front of the property, where we have a highlight profile where we need to install drainage structures. In those cases I would say there may be the potential need for ledge removal there, which doesn't need to be specifically blasted. I don't think we can answer that tonight, but it would be our expectation that that does not need to be blasted. Ms. McGinley

stated I would recommend that if you do discover that you have some blasting to do closer to the homes that surround this property, that you let homeowners know and then perhaps do surveys of their structures so that you have a baseline and they will know what happened.

Ms. McGinley stated you mentioned coming back in the future about changes for Route 101, whether you would change from what we now see that not require the additional lanes. Mr. Golon responded there are a couple of different things here, but first is the original memorandum that was issued by DOT that wasn't the final letter, it wasn't from the district engineer, it was from the highway design department saying that they would like to see the left-hand and right-hand turn lane. In the follow-up coordination that we had with VHB, they definitely agree that they think the left-hand turn lane is required. I think there may be some opportunity for further discussion on the right-hand turn lane and the response letters that were provided I thought signified that. What would potentially change is perhaps the full buildout. Our original estimation was talking about 2,500 linear feet of construction that would have to take place, including maintaining that existing 10-foot wide shoulder. Relative to what Mr. Murphy and his partners are proposing, maintaining that 10-foot shoulder doesn't appear appropriate, and I should say VHB wasn't recommending that as a clarification, that is what was in the DOT letter, but order of magnitude with the other projects that have been on Route 101, they have not been required to maintain the width of that lane. That is a significant investment when we're talking about expanding not only to accommodate a left-hand turn lane but another 10 feet to expand that shoulder as well. It is one of those things we would like to see, to be able to work our way through, to see if that is truly desirable. Relative to the order of magnitude costs for these types of improvements as well, right now they are unobtainable. So we're trying to find a middle ground where the traffic is still mitigated appropriately and all parties agree.

Ms. McGinley stated another question having to do with traffic that I think was raised by the neighborhood representatives that were here, was the concern that people would turn into their neighborhood to turn around because they went west instead of east. Is there a possibility of putting a sign up at the end of that roadway for the residential area that there is no outlet? I think that may be one of the confusions if somebody turned the wrong way and they thought they might be able to turn in there and get out that way and they can't. Mr. Sawyer responded that could be a possibility if it is not there already. I believe it is already there.

Ms. McGinley stated one thing that I know we have asked for is more trees. If you could not plant them near your sign because we recently had the first sign conditional use permit that was requested in Town for the bank next to Walgreens because the beautiful trees they planted grew up and blocked the sign and they were going to need a variance. Then at Town Meeting last year it was changed to a conditional use permit so they could have a small pedestal sign on the highway. If you have building signs, don't plant the trees that are going to block those signs. Mr. Murphy replied understood.

Mr. Fairman stated I have questions relative to hours of operation. When the restaurant says it closes at 1:00 AM, it is my understanding that that means that is when you seat your last patron; it is not when you close the doors and everybody leaves. The restaurant is open until 1:00 AM, and I believe that is the normal interpretation. I'm kind of wondering if you could describe for us the customer that you expect to have coming into this restaurant, and given that we are a bedroom

community and Amherst is a bedroom community, what is the customer that you expect to come in and sit down in your restaurant at 12:30 AM to 12:45 AM? Mr. Murphy replied let me correct a misapprehension. The restaurant will be empty by 1:00 AM to 1:15 AM every night. When I say I close at 1:00 AM, that means that service is completed and we are done at 1:00 AM. My employees are leaving between 1:30 AM and 2:00 AM. So in answer to what kind of customer I'm going to get, which I think the second part of the question was, it would be the same customer that you would see walking into the Copper Door at 12:15 AM, or the same customer that you would see at the River Road Tavern at 12:30 AM, and I could go on. There are a number of them I could see out there that have the exact same hours that I'm looking for. I'm not asking for here what other restaurants in town don't already have. Mr. Fairman stated I understand the competitive nature of the business, however, this is the only one that we have that is completely surrounded by residential abutters on three sides and one side is the road. None of the restaurants you refer to that have later hours, and none are as late as yours, I don't believe, I guess River Road Tavern is 1:00 AM, so that is the difference. What I'm concerned about is that this one is near abutters and the hours are pushing the hours of any restaurant in town, and I am glad hear you say that you basically are pushing your patrons out at 1:00 AM, not seating them at 1:00 AM. When I see a time on a restaurant, I always think that I can get seated at that time, up until that time. So you are basically saying you won't seat people after midnight on the weekends or at 12:15 AM or something because it takes an hour to serve someone. Is that right? Mr. Murphy replied that is correct. Again, let me just reiterate, all of the restaurants that I mentioned, and others that I would rather not mention, have residences much closer than there are in this case, and if you would like, I can certainly provide the proof of that. Mr. Fairman stated the Copper Door has the apartments that are not the same kind of residences as this and the restaurant was there before the apartments were built and a whole bunch of differences. Mr. Murphy stated there was a restaurant here before these houses were built, Sir. Mr. McMahan stated as a member I should know the answer to this question. Does the Planning Board even have the authority to adjust hours for businesses? Chairman Levenstein replied yes.

Mr. Murphy stated I just want to reiterate, Mr. Chairman, I take the responsibilities of my abutters very seriously. If anyone had any issue with any kind of noise issue or anything else, I would be remiss if I did not immediately address it. And all I ask for is the opportunity to demonstrate that I can operate the business responsibly and without impact before the assertion is made that I can't do so. I have 25 years of experience in this industry, I know what I'm doing, and I promise you that I can do it responsibly. Mr. Riley stated my issue isn't with you; I have faith that you are going to do what you say and deliver. You are a resident of town and you have done what you said you were going do right along. It is the next guy; the approval continues. If you move out and leave the state, someone else can move right in there and start operating. So we would have to hope that the next operator is as responsible as you are. I know that is not your intent, you wouldn't be investing this kind of money if you were planning on leaving, but it is always something we have to think about in the back of our minds. Mr. Murphy stated it is something I know as a current licensee that every year every town in the state has the authority and has the ability to request the Liquor Commission modify the hours of service at any time, whether it is this body or the Town of Bedford, has the ability to object to a license renewal and to ask for modifications and restrictions. That is something that hangs over the head of every licensee in the state, so it is not something that you grant it now and it would never be changed. It can always be changed.

Chairman Levenstein asked who issues the license? Is it the Town Council? Mr. Sawyer replied it is done with the Police Chief and the Town Manager. Chairman Levenstein asked that is done on a yearly basis? Mr. Sawyer replied I don't know that. I haven't seen any renewals, so maybe those just go through the Police Chief, but certainly the initial ones do go through the Town Manager as well. Ms. McGinley stated as I recall, there is a separate license for live entertainment? Mr. Sawyer replied there is. That is a Town Council ordinance that is done through the Town Manager.

Councilor Scanlon stated just to run through the numbers again. There were three perimeters that you established, which were your closing hours. On Monday – Wednesday they were 11:00 PM, your closing hours on Thursday – Sunday were 1:00 AM, and the third perimeter I believe you said last time, and I thought I heard again tonight, that your outdoor music would be nominally confined to a guitar or two facing towards Route 101, an event would not go beyond 11:00 PM on any night. Mr. Murphy responded all of that is correct, Sir.

Chairman Levenstein asked for comments or questions from the audience.

Skip Williams, 33 Grey Rock Road, stated my wife Tammy is with me and we abut right behind the property. We have an appeal in to the Zoning Board for the infiltration basin being in the Residential District, but I would like to speak to some of the concerns of the abutters about it. We met with Mr. Murphy last week and the number one concern amongst the abutters, particularly us because of the topography, is this infiltration basin. I have read through the stormwater report, I spent a lot of time in the Town office and looked at the flows and pre-flows and post-development flows. What concerns us is we have lived there a long time, there is a lot of water that flows down over this hill from the parking lot and whatever, and supposedly this basin is going to catch it, but it is going to overflow. I have been told by the Planning Board and by the State that this will overflow. Posted is a photo that shows our house, which is the taupe one in the background, you can see the standing water. This photo was taken at that last rain storm that we had in December. You can see that there is standing water that flows down across here. Shown now is Test Pit 11, which is the proposed output of this infiltration basin. You can see looking through here how this outflow is going to go down and continue this way and be directed right towards my property. It is not just towards my property, the problem is it is aimed at our house. There is a drainage ditch there currently and our well is within 15 feet of this, so any of this water flow gets there, it is going to get to our house and possibly to our well. We haven't seen any flow analysis or where this is going to go, we haven't really even spoken to the engineer about this, nobody has explained this to us, nobody has brought in an independent engineer to ease our minds on this or anything, so we are concerned about the amount of water that is going to overflow.

Mr. Williams stated another consideration is the times of year that we normally see water is in the fall and spring. In a perfect world this infiltration basin in the summertime is going to infiltrate this water supposedly within 72 hours. The research I have done on infiltration basins say 48 hours. What about when the ground is frozen and we have a rainstorm like we did the other day in December, January or early spring? That means there is 12.5 cubic feet entering this pond, the ground is frozen and not filtrating, this is going to overflow and come down this hill and right towards our property. I know that the engineering data shows that it is going to be a reduction but

has that been taken into consideration. Like I said, all of the abutters are concerned about that. With the removal of vegetation, you can see that there are quite a few trees. The photo posted is the back of the parking lot, which is proposed, so you can see the amount of trees down there that will all be removed, so that is another concern of ours. A lot of these saplings grow up, fill in in the springtime with leaves and block noise and sight and all of that. Those are our concerns with the infiltration basin and I will turn it over to Tammy. Chairman Levenstein stated the picture that is posted, where is that facing. Mr. Williams replied that is facing down at the hill at the back of the parking lot, at the very back of the parking lot down towards our house. Ms. McGinley asked the current or proposed? Mr. Williams replied this is proposed. Chairman Levenstein asked you don't have any photos looking up towards the parking lot? Mr. Williams replied no; I just thought that was a better vantage point pointing downhill rather than uphill, but she did take an uphill photo.

Tammy Williams, 33 Grey Rock Road, stated I would like to thank the Planning Board for listening to us again and giving us this opportunity. At the last meeting we had very little time to prepare and now this has given us a lot more time to look into things. We are excited to have a new restaurant to replace the Weathervane, I think it will be great for this end of Town, but we still do have concerns.

Ms. Williams continued what I wanted to say about the trees in that area is that they are mostly mature oaks, and in the winter, or 6 months out of the year, we can see all the way up the ridge and there is a nice treeline of evergreens at the top but that is right in the middle of where the parking lot is going to go, so it isn't going to provide any coverage for us. One of our biggest concerns is a buffer that would have to be put in so that we can have some privacy.

Ms. Williams stated this commercial property's code use is residential/club because years and years and years ago before there was a neighborhood there, it was actually some sort of strip club, so I heard. With this zoning it could be turned into a lot of other things. So it makes it even more important to limit the encroachment of this project into the residential zone and that is what our appeal will be about in a couple of weeks is trying to limit the construction of any structures, including the basin, to the commercial zone and not using the Residential District at all just to give us more tree coverage. I thought it was just our property that was going to be affected, but in looking at the plans again tonight it looks like on the west side of the property where the septic is going to go, there are a whole bunch of trees taken out there. Poor Mr. Burton that lives at 3 Grey Rock Road, I think he is in his 80's and he's a widower, and he's going to have the trees cut down and he's going to have live music on that patio three nights out of the week until very late. We all think the intensity of the new construction and the new use from what the Weathervane was is out of the norm for this area and will just have much greater impact on our quality of life, especially with the hours of operation. That will be key. I know there are a lot of places in town, and I went to a martini ice bar last winter and didn't realize that they closed it down at 9:30 PM and kind of got there a little too late, at another establishment, so there are places that do have some outdoor things that aren't as residential even and they still close fairly early. As far as the stormwater runoff; DES of New Hampshire lists infiltration basins as one of the most common sources of well contamination, and with the normal flow of this slope it will go to that low ground, which is 15 feet from our well, so we are concerned about that. We ask that you try and see if we can limit the stormwater runoff from the proposed parking lot from being directed to this one location, which

is our property. The parking lot I know was just estimated to be 25 percent bigger than it is right now. Looking at it to me it appears to be over twice as big as the footprint and maybe that is because all of the spaces aren't actually parking and there are a lot of things like the loop into the restaurant and the drive out lane, maybe that is why the parking spaces are just adding a little extra. It is so much bigger than the whole project so it just seems like a lot. All of that brand new asphalt with all the contaminants is going to be part of this. I know it is filtered, but it is ultimately going to the basin and will be part of this runoff that goes to our property.

Ms. Williams asked when the plan is approved, which I'm sure it will be eventually, we would like it to be in accordance with the buffer zone design and planting specifications as described in the Bedford Zoning Ordinance Section 275-21.2. The Bedford rules for new commercial construction adjacent to a residential property line is very specific in this ordinance as to the buffering of a residential zone from noise, lights, and unsightly structures of the business. It states in part planting in the buffer zone will provide maximum protection consisting of evergreens of which, and it gets really detailed, one third of the trees will be at least 8 feet tall and the remainder not less than 6 feet. Chairman Levenstein stated they are not asking for any waivers of those regulations. Ms. Williams responded that is not in the plan, so we just want to make sure that you are aware that these new plantings are not in the plan. I imagine that this is what maybe the Hannaford project got because if you go to that location where it is right up against the residents, there is a really tall fence and there are evergreen trees kind of on both sides and it goes all along the property line. Chairman Levenstein stated I don't know offhand what was granted there. They are a lot closer; they are right up against those properties. Ms. Williams stated but if you had an opportunity to do a site visit, this is really close to our home. Right now we look out our backyard and we can see all the way up to the ridge and then there are the evergreen trees and we rarely hear Route 101. It sounds kind of like a light wind and that is Route 101, unless somebody puts on airbrakes or a motorcycle or something like that. It is really hardly anything. We had a really great property and if the trees are brought all the way down to that 25-foot buffer and it is just the mature oak trees, we're going to see it all, we're going to hear Route 101, and it is going to flow down the hill. Chairman Levenstein stated I did hear them say before they are planting a row of evergreens on the upper side of the drainage system, so there will be evergreens there. Ms. Williams stated what I would like to see is kind of what the ordinance calls for; it mentions that there should be plantings and rear and side landscape strips should be put on the edge of the parking lot so that you can't hear noise. Chairman Levenstein asked Ms. Hebert is this for this zone or is she talking about the Performance Zone? Ms. Hebert replied it is the Performance Zone. Chairman Levenstein stated that is what I thought. That is not applicable to this zone. There will be a landscape plan; I don't have the plan in front of me. Ms. McGinley stated in the Performance Zone we've got commercial areas that go to the back of very small lot houses, and I think that is why we designed those buffers. Ms. Hebert stated the evergreen trees on the landscape plan within the residential buffer are 6 to 8 feet tall. Mr. Williams stated we had a question about the buffer strip too because normally it is 25 feet because of the elevation rise, down to the lowest point it adds another 85 feet making it 110 feet from our property line. Is that the entire width of the buffer that is not to be disturbed? That is the way we read it in Section 275. Mr. Sawyer replied no; that is not correct. It is the full width of the buffer but the only parts that needs to be vegetated is that first 25 feet. So they couldn't put structures or parking lots in that full width that you're talking about, but the Town has historically allowed things like drainage basins in that buffer and grading and drainage. Historically they have always been allowed in that. It is really that first 25 feet that

is the key area. Ms. Williams stated if that was left untouched of course, we would have even more of a privacy buffer. One of the things I'm concerned about, and I think our whole neighborhood is, if there was a fence put up in the commercial zone just separating, then it would help ensure our privacy in that customers wouldn't wander down to our back yards hanging out after they leave the bar or being curious just going down the hill and we live right there. It is really not a big distance; it is not that many feet from all of this. It is really, really close.

Ms. Williams continued one other question I had, because when Mr. Golon talks about the project and how the music is going to be pointing towards Route 101, I did read that if the municipal water is brought to the restaurant, which is right down the road at Hardy Road, then it will automatically allow them to have 120 additional outside seating. When I saw the plans and saw that event patio, I wondered if that could be possibly an additional patio that has those late hours that is actually facing a lot of the neighbors. Chairman Levenstein replied they would have to come back for that. Ms. Hebert stated the plan does include the phasing of the outdoor seating subject to the future extension of the water line that would allow up to 120 seats. It would not be 120 additional seats. Chairman Levenstein asked am I correct that they would have to come back if they wanted music on the back part? Ms. Hebert replied if the Board chooses to restrict music to the front patio, they would need to come back if they were to expand the outside venue. Ms. Williams stated so we are hoping and asking for more of the screen to have a dense, visual 4-season screen like is mentioned in the ordinances. A lot of these extra things that would buffer us would do a lot to alleviate our worries and concerns and our quality of life. I know our property is the most impacted because of the trees taken out for the infiltration buffer, but my neighbors across the street, while they are not considered official abutters, they are going to hear more as well, while the neighborhood and Hunter's across the road where the music is facing, they are going to hear that. It is just such a large project. So we would like your interpretation to be the most restrictive and imposing to the highest standards for the purpose of promoting the health, safety and general welfare of the Bedford citizens living on Grey Rock Road. We would like all of the 110 foot buffer, if possible, in the rear and westerly side lot lines, even that may not be enough to ensure that our quality of life or home values because who wants to live next to a tap room and banquet hall with outside patio seating and music. The sound from the music on the outdoor patio as well as vehicles after a few beers leaving the restaurant, will impact our neighborhood. Sound carries more at night and this commercial property is surrounded by families filled with young children, fathers, mothers, grandparents; we have such a wide group in our neighborhood and it is has been wonderful to meet them through this process. We have professionals with important jobs; for example we have two pilots that I know of on our street that need a good night's sleep because many lives depend on them. Our quality of life and home values will be diminished by a project that is too intense for this location to bear. I thank you so much for listening to us and your consideration.

Mr. Williams stated all the abutters at that meeting kind of came up with some solutions that night of alternatives and one would be to put the basin in this area shown on the posted drawing. Another one would be to put an infiltration trench in the front, as shown, to take some of the water or to the east, to have some of this water to go this way. Those are all viable.

Mr. Golon responded just in general, and Mr. Murphy will speak to how the patios are used or otherwise. Although I didn't attend the abutters' meeting, Mr. Murphy did a great job of sending me the notes saying these are the questions I have. I gave him a 3-page response that I believe he

forwarded to all of the abutters. The first concern had to do with stormwater overflow, which was one of the things we touched on in our opening. Relative to that lot specifically, we are reducing the volume of stormwater by almost 30 percent during the largest year storm that we evaluated, that 50-year storm event, and we dropping that highest flow that you would see at any moment in time by 24 percent. Those are big values; we are going from 8.6 CFS to 6.-something, I forget the number offhand, but just relative to the order of magnitude of what reduction is being seen is not always typical that you would see relative to a development. You typically try and meet your pre- and post-flows and call it good, and recognizing the situation that there is a drainage issue that the abutters are experiencing, we have done everything we could to provide a volumetric storage on our site so that even if you were to discount infiltration that we're assuming on this site, about a half CFS that we get and it is spread out over a surface area so it is variable as to the height of the stormwater within the basin, we're looking at the 2-year storm and 10-year storm and the 25-year storm. The amount of stormwater that leaves this basin is still less post-development to pre-development. It is not until you start looking at the 50-year storm event, the largest storm event, where you see even the potential for there to be an increase in stormwater. And one of the things that is really important when you're addressing stormwater conditions, is you need to look at your worst case scenarios. If it floods, where is it going to back up to, particularly if you're in the area of a building. That is something that you want to be careful about or an abutting property. When you have frozen conditions, what is going to happen? So there are a couple of things that we do under that situation. One of them is we look at what is going to happen if we remove the infiltration, which I just explained. The second is what we provide is a stone infiltration wick, which is a vertical stone chamber placed at the foot of the outfall that gets below the frost line so that if you do have a condition where the ground is frozen, you still have a conduit for that stormwater to go to groundwater and that is an important feature. So I wanted to make sure relative to frozen conditions and the stormwater overflow those items were addressed. I pulled the pictures back up and I think it paints a beautiful picture of what is out there now. It is a defined flow course. What we are doing, and the way in which we have modeled the stormwater system, that is the way we are taught as engineers is that you're trying to recreate essentially what Mother Nature did to some extent. If it was flowing there before you started, make sure it is going there afterwards. You just need to be sensitive to the peak flows as well as the volumes. So what we're doing so that we don't end up with an issue with erosion or otherwise, is we are redirecting to that channel, that is actually the intent of the design and something I had the opportunity to express with Town staff, and I think you have had the opportunity to see those photos also and I think it reiterated what I had originally told them that yes there is a nice defined flow course out there that we're going to discharge to. I know it is not the applicant's responsibility to fix a drainage issue and we're not necessarily claiming that we are, but relative to the calculations that have been provided, that shows improvements and we wanted to make sure that was noted. Ms. McGinley asked if you moved that catch basin and put it somewhere else, would the water flow still go down that bank? Mr. Golon replied yes, relative to the outlet from the stormwater basin, if we were to move this, and we can move it as far as 40 feet to the left. Ms. McGinley stated no; I'm just saying if you relocated that whole facility and put it someplace else on the property, would there still be flow because it is already flowing down there. Mr. Golon responded as far as the evaluation of discharge points property line to property line, because each individual owner has their own set of rights and I can't increase that stormwater from this property to any one of those properties, so relative to the way in which we have done our evaluation, each one of these properties has been defined as its own discharge point, so I cannot take stormwater into this volume to the Williams

property and redirect it to the Cuttings or the Parkers or anyone else. I have to make sure that pre-to post-development that I have not increased those peak flows or the volumes. So simply putting the basin here isn't a possibility for a couple of reasons. One is that I would be redirecting stormwater to a location where it doesn't presently flow. Engineering 101 and permitting-wise they wouldn't allow that; it is not something that we could do. The second issue we have, and it was something that we saw in the tree graphic that we looked at, that is incredibly steep terrain, that is a 3:1 drop at least and in some places it is 2:1. Trying to build a basin into that slope we did not recognize as a good design solution for the project. The third point that I will make is relative to our mapping of the site. It wasn't just a natural resource conservation service map that we pulled off from online, site specific soils mapping was conducted so someone went out there with their auger and were digging holes to evaluate what soil we have out there and their characteristics. This is the best possible location we have to infiltrate stormwater so we wanted to make use of that as well. I am hoping that I'm answering the question, but relative to trying to relocate the basin here, it wouldn't be plausible and also for the reason that there is a septic that is located here, there is one that is currently existing that is located here now, we're replacing one in approximately the same location. There are downstream matrix affects that I have to evaluate as well and there are certain separation distances that are required from a septic system to something like an infiltration basin that have to be maintained as well. So beyond the rigors of the topography, that wouldn't allow it to happen, and the setback requirements for those systems as well wouldn't be met.

Mr. Golon continued to the point that was raised about potentially moving the stormwater outfall. As was expressed in my response to Mr. Murphy, there is the opportunity to slide this a little bit further but the reality is there is that flowing line that kind of cuts through that property, so one way or the other it is going to continue to flow where it did, just ideally it is going to be a little less flow after we are done with the project. But if that is a request, we are certainly able to slide that discharge a little bit further away. Ms. McGinley stated can you describe again, because I'm not sure it was received, there is going to be a berm. Can you describe the berm and what plantings you are going to put on it? Mr. Golon replied certainly. What we see on the tree pre- and post-drawing and we see it in the background, we have about 6 feet of grade of change from the property line to the existing treeline that is going to remain. From there you have a berm that raises 12 feet, so what that abutter is going to be looking at from the property line is a grass slope. We could plant it with a New Hampshire DOT slope mix so we get some little saplings or otherwise that would grow in, that is a possibility, but those trees would be located along the top of this berm. Ms. McGinley asked what type of trees? Mr. Golon replied these trees shown that we were proposing in order to make sure we are meeting that 25-foot setback and this was an area where there just didn't happen to be trees now, so we are infilling. These are a combination of Norway spruce and white spruce to try and bury them a little bit to make sure that one of those survives as well as possible, and that is what you would have the opportunity to plant along the top of this berm. It will get well enough sun exposure because of the distance from the existing treeline, so I think those species would be rather successful at the top of that berm. Ms. McGinley asked they are evergreens? Mr. Golon replied yes. And just to clarify, Norway spruce are rather expensive trees. It does have a nice width, it grows to a nice height, these aren't arborvitae or otherwise that we were talking about planting back there. Relative to this area, these are some quality trees.

Mr. Golon continued relative to the limits of tree removal; we can see in the background this 110.5 feet, that is that residential buffer requirement in which the paved surfaces, the buildings, the driveways, aren't supposed to be located, that cuts across this access right here as shown. So you can see the lion share of this property does conform and it conforms in its entirety because we're not putting any parking there, we're not putting any buildings there, and I think Ms. Hebert clarified, as did Mr. Sawyer, it is the first 25 feet that needs to have that planting. So we are going a little bit further by adding some additional trees recognizing there may be a concern with some sight lines. It does bring us back a little bit to the point, and I will try not to belabor it, but when we start talking about the finish floor elevations, we are at 323 feet as shown, the top of this berm is at 348 feet, so when we start to think about sight lines and draw section, you are essentially looking into a grass slope much more so than you are looking uphill at the parking lot. That is the big difference we have here pre to post. You can see the amount of elevation change we have where we are grading up so that we have a good area of soils so that we can infiltrate our stormwater.

Mr. Golon stated I think that answers a couple of questions. We talked about the residential buffer. I think the use of the patios was one of the last items. I think it is probably important for Mr. Murphy to point out relative to what we were talking about how those patios would be used, or if you would like to hear it again or if you are comfortable with what was previously identified. Chairman Levenstein replied I think I understand. Ms. McGinley stated I think there is a concern that there will be music on the patio until 1:00 AM. Chairman Levenstein asked could you express how this patio would be used? Mr. Murphy replied that patio would not be used for day-to-day restaurant operations at all. The patio is intended as an area for people to gather before their function or during their function. Functions typically wrap up before midnight and there would never be music on that patio. If someone were getting married outside, perhaps there is a gentleman with a violin or a guitar, that would happen in the afternoon. Any live music, as a matter of course during business would be on the southwest patio facing Route 101.

Victoria Goedecke, 7 Grey Rock Road, stated if there is blasting, could there be a baseline of our wells not just structures? Chairman Levenstein asked is that required? Mr. Sawyer replied the Planning Board typically doesn't put additional blasting requirements up beyond what is already required by the State and Fire Chief who regulates blasting. Chairman Levenstein asked is that required by the State? Mr. Sawyer replied it would depend on the distance of the structure to the blasting. I wouldn't want to speculate whether this blasting, if it needs to occur, would require those types of surveys or not. Ms. McGinley asked do they include wells in addition to the structures? Mr. Sawyer replied again, I believe it depends on how far the blasting is to those facilities.

John Vanuden, 49 Seaton Drive, stated I am not an abutter but I am a resident of Bedford and have been for a good part of my life. First and foremost, I don't know if I'm welcome here or not. On January 13th there was a meeting of three individuals of the Board, of which one indicated that people would not be welcome here and if they said anything out of line, they would be thrown out. I am here to say a few things. On Page 71 of the *Hippo* for the entertainment in Manchester, of which Mr. Murphy's tavern is quite familiar. It says music this week, want more music, comedy or big name concerts at Murphy's Tavern, and Murphy's Tavern, I believe, wants to be in Bedford. My first comment to my wife was, when I heard about Mr. Murphy coming into Bedford, why do

we need another beer joint. The comment the other night at the Planning Board meeting, which I watched on TV, was a nightclub. We don't need nightclubs in Bedford and we don't need beer joints, not more of them. The comments were motorcycles and the Board was put out by it but it is a fact of life. We have motorcycles in New Hampshire, we have motorcycles coming from outside of New Hampshire, and they come in gangs and they raise hell and they travel at night a lot. Route 101 is quite a busy road. Some 50 or 60 years ago where the site is being looked at today, there was an old chicken farm, and there was a comment tonight about it being a strip joint. It was called the Sand Inn; it was a restaurant run by a couple of Chinese guys. The waitresses performed a little act at the restaurant. There was no harm done, it was kind of comical. On Page 72 of the *Hippo* it says Keith Murphy's Taproom happy hours 4:00 PM to 6:00 PM daily, half price for draft beers, upcoming events 120 beers on tap, the biggest selection in New Hampshire. There are listed bands and shows on and on. Chairman Levenstein stated I think this is a different facility though. Mr. Vanuden responded no it isn't. It is a fact of life that I, as a resident of the Town, would like my peace and quiet and I support these abutters. The terminology was to redirect the music to Route 101. What about the people who live across the street on Hunter's Run? I am very familiar with Hunter's Run, but on the same token, what gives a commercial business the right to direct music towards an abutter. They are an abutter, they are across the road. I am an abutter and on cool nights in the fall when there is outdoor music it travels and it travels far. Outdoor music is notorious. On Tuesday, January 12th this appeared in the paper that read, "Bedford Restaurant Planning Board Questions." There was controversy about that because there was no conceptual. What happened to the conceptual? All the times I have been in Bedford and going to Planning Board meetings there were conceptualls. There was no conceptual hearing. Mr. Murphy has been in business since 2007; I'd like to have a police history of his business from 2007 presented to the Board. There have been numerous problems in that area. It is a large facility. The Weathervane started off as a small place and then they added on an addition. It was a family oriented restaurant. Everybody and his brother knew about the Weathervane and they came from all over. This facility is 22,000 square feet. Watching television that night when it was being presented, all I heard was weddings. In the *Hippo* it says there are concerts, there is a function hall, what is the purpose of the function hall. It isn't for restaurants. Sure it could be a wedding but I think there is something else behind it. Noise will be a problem. It travels to the residential area. Some of the homes here are fairly expensive. I know Route 101. Today Route 101 gets a traffic flow of better than 25,000 cars a day and the traveling on Route 101 is very fast. The DOT was here and I guess their suggestion was a curb cut. I heard, and maybe I'm wrong, but it would be expensive and they have to cut down the building. So be it. I heard some of the abutters say it is difficult to go in and out of Grey Rock Road. I took the time to drive down there. I drove around the whole backside of that property and it is very nice down there, it is very quiet. It is a shame that it is going to be touched. I heard a lady present her case saying that it was a wildlife sanctuary. We have a responsibility to protect the wildlife and we also have a right to protect ourselves from development. Some years back when the rules and regulations were being written there was no thought about a beer joint coming down here. We have an epidemic in New Hampshire of heroin. This is not what I would call, and I'm not being disrespectful to Mr. Murphy, I'm stating a fact. I'm scared at night for many reasons. One is it is an area for break-ins; I heard comments tonight about wandering patrons. I take notice of that. I heard the other time one gentleman said how about building a road noise barrier like they do along the highways to keep the noise out. That is not a bad idea. The property values would diminish and that is what I'm concerned with. There was a comment about the patios with 46 seats. How many people will be standing in the patio

holding onto a drink; probably 156 or maybe more, but some of the comments and questions I have are what is the purpose of the hall. There is going to be more than just having weddings there. What time did the Weathervane close? Chairman Levenstein replied I have no idea. Mr. Vanuden stated okay, so the people who are the abutters have had the place that had a normal closing at 10:00 PM, and now Mr. Murphy wants to go to 1:00 AM and it could be later than that. He also says that probably the music time would be off at 11:00 PM. That is questionable. People come in and they want to sit down and such. Chairman Levenstein stated I do want to hear other speakers. Mr. Vanuden responded but you don't want to hear the truth of what the feeling is of the citizens of the Town. I believe that this application should be put forth to the Town because it will change the character of the Town. People come to Bedford and have come here because they want peace and quiet, they come here because it has a good school curriculum, the Town has been voted #1 in the State, in New England and most likely in good parts of the United States. Why do we want to tarnish it? Having beer joints is not a good complexion for the Town.

Jason Lucontoni, 15 Grey Rock Road, stated I have two questions. My first one is for Mr. Murphy. Considering this does go through and you do have these outdoor events on Thursday and Friday nights, what is your position with hiring a detail officer? Mr. Murphy replied we don't generally hire detail officers in Manchester just because we have never needed any. We have never had any kind of fight or issues and that is a much different restaurant than the one proposed here. Because we do not anticipate any problems, I would not look to preemptively hire a detail officer because this is a white tablecloth restaurant, this isn't in any way, shape, or form a nightclub with live music until all hours of the night or anything. Mr. Lucontoni responded I understand that, it is just the size of that establishment and you're going to have patrons there until 1:00 AM. If you are not considering hiring detail officers, has the Planning Board consulted with the Chief of Police at all how it is going to impact the Police Department, increase patrols at night, it could affect the taxpayers if they have to hire more officers than what is needed now. Mr. Murphy stated I would encourage anyone to call Chief Nick Willard from the Manchester Police Department and ask him what kind of business I run. I run a very, very nice establishment. It is a very different establishment and the reason for that is because it is across the street from the Verizon Wireless Arena. It is a quick-service restaurant, and yes, it has live music until 12:30 AM – 1:00 AM. It is a very different place. The price point here will be significantly higher, the food quotient will be much higher, and this is along the lines of the Copper Door or River Road Tavern, somewhere in that stratosphere. This is not a nightclub and I know the gentleman said he didn't mean to offend me, but the assertion puts me off a little bit because it is just not true. In regards to the size of the facility being 20,000 square feet; 8,500 square feet of that is in the basement, it is walk-ins, it is storage, and it is office space. The Weathervane office space was a 6-foot x 4-foot room and the reason for that was that they had a headquarters building in Maine for bookkeepers and accountants and menu consultants and function people and HR people. I don't have a headquarters so this office space in the basement is for my staff to replace that and that is why the building is initially larger. The footprint of the building is 13,000 square feet, so it is bigger than the Weathervane, but the function hall makes up for that. The restaurant portion is actually significantly smaller than the Weathervane had. Again, we don't have fights, I run a very nice restaurant in Manchester, very different than this, but the assertion that I'm running some sort of nightclub beer joint is just not true. Mr. Lucontoni asked did anyone consult with the Chief of Police of Bedford? Chairman Levenstein replied the Chief of Police gets all of our applications and has the opportunity to comment on them. Mr. Sawyer stated he had no specific comments on this application. Mr.

Lucontoni stated I don't know if there is any Town ordinance about mandating a police officer. Mr. Sawyer replied there is not.

Brian Driscoll, 45 Grey Rock Road, stated I am one of the abutters. I don't know which one of the Board members was also interested in seeing a sightline looking up towards the Weathervane. I have a couple of photos and would be glad to submit those. Mr. Driscoll submitted the photos to the Board. Coincidentally we have had a very dry winter so far, and yet in one little section there is actually standing groundwater still not frozen. That is how much runoff comes down towards my property. Chairman Levenstein stated not to demean the issue of groundwater, but obviously there is an issue now but the question is whether this project is going to make that issue worse. Mr. Driscoll stated some years back I actually had an issue with groundwater contamination from fecal coliform bacteria. I had contacted the Town, they sent out the Health Inspector, he acknowledged it; it was tested by Chemsolve, and at the time they suggested that I deal directly with the Weathervane. Chairman Levenstein asked it was from one of their septic? Mr. Driscoll replied I did deal with the Weathervane and the end result of it was pretty much that unless I could prove it, they really weren't going to do much about it. In this particular case the contamination did occur from a failed leach field and I kind of want to find out who is going to be ultimately responsible in the event that should that occur. Is it going to be Mr. Murphy or would the Town be standing behind them? Because if the Town is standing behind them in terms of the approval process, then I just want to know what my recourse is. I think part of this thing that is a little bit confusing to everybody is we're looking at a flat site plan and without the benefit of an actual visit, and I would encourage the Board to have a site visit so that they actually understand all of the topography and before they prejudge the feasibility of this largescale plan, I would ask that they give consideration to a site visit as well as exploring any alternative solutions for consideration. Because it is a largescale plan, and again, it is the only one, and I know people are running comparisons to other restaurants and bars, etc., to me this is a restaurant/bar/function hall but it is the only one of its scope that is surrounded by a residential neighborhood. So I don't think that is arguable and, therefore, whatever takes place in other areas I think is entirely different in regard to this particular project. Again, I would ask before anything is voted on that you would have the opportunity to actually walk the site and see what we're actually talking about. In addition, I'm sure there is a lot of water that flows down into the Town-maintained ditch and then culverts off into Ash Bog. These all are pertinent issues that I think would be beneficial for the Board members to actually pay attention to an actual site visit before they do anything further. Thank you.

Gary Edes, 52 Grey Rock Road, asked when there is a function going on and there is a DJ in the function hall, people are going to be going in and out on the patio at all times because it gets hot in the function room. That is going to be a leakage of noise, and DJ's could be worse than bands. Is there anything that can be done? This could be until 10:00 PM or 11:00 PM? Is that something you can do anything about? Mr. Murphy stated that certainly is a valid question. The functions are normally on the weekend, Friday, Saturday evenings for the most part, and they always wrap up by midnight. Is it possible that if there was DJ playing and someone would open a door by the patio? Yes, I can't rule that out, but that door is 500 feet away from the nearest residence, so really I do not believe there is a problem. Since the issue of noise continues to come up from people, I would give you my number, which is 203-1106. If anyone ever has a problem with noise, I definitely want the phone call, I want the text message, to tell me what it is so that I can go to the

DJ and turn down the knob and make sure that it doesn't happen again. The last thing I want is unhappy neighbors and unhappy abutters. I want these people to be my customers and my friends, so I will take seriously a phone call. I have never had a noise complaint in the nine years I have been in business at my current location. Mr. Edes stated but it is a different location. Mr. Murphy responded it is a very different location. That is with full sized bands. I'm talking about a guy with a guitar here.

Councilor Bandazian stated we haven't covered when dumpsters would be serviced. Mr. Murphy replied typically it is in the morning but I have the ability to specify that with the company picking up the waste. Councilor Bandazian stated on South River Road we usually make that 7:00 AM or something like that so the neighbors aren't being awakened by dumpsters being serviced. Mr. Murphy stated that is certainly reasonable. Typically for deliveries I would say deliveries and dumpster pickup from 8:00 AM to 11:00 AM. It has to be before we open the doors at 11:30 AM. Councilor Bandazian stated not at 4:00 AM. Mr. Murphy responded not at 4:00 AM.

Councilor Bandazian asked could somebody explain to me what the difference is between site specific soil and high intensity soil? Mr. Golon replied I don't have the answer to that. There are different methodologies for evaluating soils. The HISS, high intensity soils mapping, is something that was previously removed and has been somewhat replaced to a great extent by the site specific soils mapping, which is used for the Alteration of Terrain Bureau applications. So it is a different methodology more so than anything. Ms. Hebert stated I can speak to that as well. The DES requires the site specific soils mapping, and on applications where we especially see the alteration of terrain permit also being applied for, it is a common waiver request because otherwise you would have to hire a soils scientist to prepare two soil surveys for your site rather than one. Mr. Riley stated and this is a higher level of testing. Ms. Hebert stated it is a higher level and more test pits.

Mr. Riley stated the first waiver request is for the shared driveway location not the parking lot. Chairman Levenstein responded the three waivers that are requested are a waiver of Section 322.1.9. These are all from the Bedford Land Development Control Regulations. The first is to permit parking and circulation driveways within the required 30 foot setback to the property line and that would be along the property to the east. It is going to be a shared driveway at some point. Mr. Golon stated and there will be an easement placed over that. Ms. McGinley asked and that is to reduce the number of curb cuts? Mr. Golon replied that is correct. Chairman Levenstein stated the second is a waiver of Sections 322.1.5 and 322.4.1 to permit a gravel employee parking lot and delivery driveway and to not stripe the parking spaces within the gravel lot. The third waiver request is to allow for the specific soils mapping in lieu of the high intensity soils mapping and that is Section 317.1.11.

MOTION by Mr. Cote that the Planning Board grant the waivers from the Bedford Land Development Control Regulations for Sections 322.1.9, 322.1.5, 322.4.1 and 317.1.11 as previously described. There was no second to this motion.

Mr. Riley stated I'd like to request that we take the waivers individually. I still have an issue with the second waiver being requested. I brought that up in the first meeting; I don't know if we have gravel parking in Town and I don't want this to potentially open other sites to feel that it was used

on one and now we are going to use them everywhere in Town unless there can be a discussion that shows other locations. I think we mentioned Bank of New Hampshire, and that is a grass lot, which is a little bit different. Ms. McGinley stated the one point I wanted to make is that I think the abutters actually preferred the gravel to pavement, if I recall correctly from the last meeting. Chairman Levenstein stated we will take the waivers individually.

MOTION by Mr. Cote that the Planning Board grant the waiver from the Bedford Land Development Control Regulations for Section 322.1.9, as previously described. Councilor Bandazian duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Cote that the Planning Board grant the waiver from the Bedford Land Development Control Regulations for Sections 322.1.5 and 322.4.1, as previously described. Councilor Bandazian duly seconded the motion.

Mr. Riley asked Ms. Hebert, what is your opinion on that? What do you think? I am 50/50 on it. Ms. Hebert replied where this is a service drive behind the building abutting a residential property, I'm not as concerned with the gravel parking lot. Also the parking spaces are designated for employees only and they have a few more spaces than what is required. If they were trying to have gravel parking in lieu of the parking for their patrons or didn't have adequate paved parking on site, I would definitely feel different. Mr. Riley asked so it feels adequately designated? Ms. Hebert replied yes. Councilor Scanlon asked if you have gravel, does that mitigate to any extent drainage issues? Mr. Golon replied yes; it does have a slightly lower coefficient in runoff. Ms. McGinley stated in laymen's language that means that there is less runoff. Mr. Golon replied yes, although I will admit it is a very marginal amount. Ms. Hebert stated we typically consider it impervious surface. Andrew Cutting, 23 Grey Rock Road, stated I can only speak for myself but I am in favor of that gravel driveway. I don't want to encourage patrons to lap the building on the way in or out. It will keep them where they belong in the parking lot. People see gravel and you feel like you are in a place you are not supposed to be, I think psychologically. I can only speak for myself, but I think it is a good idea to keep people on the other side of the building entirely. Mr. Golon stated that was part of the methodology. Mr. Fairman stated that was going to be my point exactly. I think it keeps people from driving in the wrong driveway.

Chairman Levenstein called for a vote on the motion. With all members voting in the affirmative, the motion carried.

MOTION by Mr. Cote that the Planning Board grant the waiver from the Bedford Land Development Control Regulations for Section 317.1.11, as previously described. Mr. Riley duly seconded the motion. Vote taken - all in favor. Motion carried.

Chairman Levenstein stated somebody did mention taking a site walk. Does anybody feel that they would need to see the site, that they don't have enough of a feel for the area? Mr. McMahan stated I didn't walk the whole property but I went out there and took a look at it two weeks ago. From what I have heard and from what I saw seems to reflect what we have been discussing. Councilor Scanlon stated as did my wife and I. Chairman Levenstein stated I think the plan does show the grades and adequately shows the steepness of some of the terrain. Ms. McGinley stated

the one thing that leads me to want a site walk is the fact that we have such a large audience of neighbors here who do know the area better than we do because even a casual site visit with the current improved area doesn't give you the view that something greater would do. That is my only thought on that. Mr. Riley stated I am very familiar with the site; I've been to the site a number of times prior to the application, during the application process, I am very familiar with the Ash Bog area behind the other side of Grey Rock Road being an owner back there. I am familiar with what the water does behind your neighborhoods, so I'm very comfortable with what I have heard as far as engineering of the site. I think and Mr. Golon stated clearly on more than one occasion that the net effect from this site has been a reduction in existing condition. So the site as designed is going to provide less water flow to the abutting parcels. The topographical nature of that site is very steep. I had to chuckle when they said people would come down, and not to discredit that people would come down toward your property line, but if they were walking, they were rolling because it is pretty steep. I am sympathetic to abutters, I own property and I understand when things are being developed around me, I am very concerned about it. The sightline really from your yards, because you sit lower than the infiltration area of the site, the horizon line from your point of view is going to be into a grass knoll. If you look straight up, you are going to be seeing the upper part of the parking lots, but you are really going to have to look up to see that. The distance from your backyard to the elevation point, if you are a 6-foot person looking at that angle, it is going to be tough to see at that angle up to that parking lot. I have been back there; it is very steep, but that is not to say that I am not sympathetic to the concerns that have been brought up and some are very valid concerns. I don't feel that I need a site walk specifically to this issue.

Mr. Williams asked is it unreasonable to ask for a fence along the back of that parking lot? I don't understand why, it only benefits the residents so that we're not looking at a parking lot with a bunch of cars. I think it is reasonable to ask with the amount of money that is going into this project. Ms. McGinley stated I will have to say that we do require and request fences in the Performance Zone quite a bit because of the impact that commercial developments have on abutting residences. Mr. Golon stated relative to that request; I think that is in part why staff was requesting the 10 additional trees. That wasn't part of the original design consideration. I think that was actually working with the Williams' specifically to try and provide something more specific to that abutter was that we would add those additional trees along the top of that knoll to supplement the nine that were already being provided in the gap. Relative to the request, we are trying to provide what is being requested. More so the question is, is someone looking for trees or are they looking a fence. There are some design considerations that go into the placement of that fence. Obviously you would want it on the top of the slope, which is where one of our septic systems is located, so we would have a little bit of a redesign to accommodate it. I guess that is more of what I was trying to ask is how much belt and suspenders do we provide. Ms. McGinley asked if we're looking at a PVC or wooden stockade fence along the back of the parking lot, the opposite side from Route 101, just that section so that those that are below aren't looking up at a parking lot that slopes down. Could you do that at the back of the parking lot and not affect the drainage from the parking lot? Mr. Golon asked we are talking about the area indicated on the screen? Ms. McGinley replied yes. Mr. Golon replied relative to the drainage, no, it would impact the septic design. That was one of the questions that was asked to the abutter that I had responded to with Mr. Murphy; relative to keeping that septic system as far from the residential properties as possible, being that it was noted as a specific concern, we have that essentially within 1 foot of the edge of pavement. So being that we have the septic system right adjacent to that pavement, it will have to be pushed back

and be pushed closer to the residential abutters in order to accommodate a fence. We are talking probably 5 feet because you don't want to put a post hole down through your septic. If someone were to hit the fence or otherwise we want to make sure that that wouldn't unduly impact your septic, and we're talking holes 6 to 8 feet deep, so that the separation distance you would likely want to see from a fence, which is something like the septic system. So relative to the request could it be provided? Yes, it would be a redesign of the site but I think it is a question of what is the responsibility of the applicant. Mr. Riley stated I don't know if a fence would be the most visually pleasing item to put in that location but maybe staggered evergreens like we saw, and I don't know if they served the purpose that the abutter was necessarily looking for on that site because they sat above the site, but on Palomino Drive where the Naturalization office is, that slope was staggered evergreens and it definitely created a buffer. You can't see through that. So if something were done along that line with staggered evergreens, it would appease, I think, the abutters a little bit or soften the view for the abutters a little bit. It is a relatively inexpensive cost from your end other than the redesign area of the septic that you want to consider. Mr. Golon stated it is a great point because it is one of the things that we evaluated, and actually I think it was something that we discussed with Town staff specifically because during the early stages of the project it was what can we do here obviously to lessen the impact to any of the abutters and it was the opportunity to provide a screen of trees along the top of the slope and that makes perfect sense. One of the things that doesn't work real great about septic systems is you have roots that start to grow through them. Being that we have located that septic along that top of the slope, that is one of our hesitations. Being that this is going to be a commercial septic system, we want to make sure that we are designing with all care to make sure it reaches its healthy lifespan. Could we plant trees on either end if that is something that Mr. Murphy is amendable to? I wouldn't have an issue with it from an engineering perspective, but I certainly wouldn't want our landscape architect to put trees next to that septic from a design perspective. Ms. McGinley asked what about part way down the hill downslope? Mr. Golon replied they lose their effectiveness a little bit. The way our landscape architect looked at the visual impact, we spoke to the berm that would be provided, so when Ms. Hebert approached us and said what if we put evergreens on top of that berm, we said okay, that provides some benefit. You are right at the point of contact. If your property line is here and you have this nice berm, we stick some trees on top of it, you have lessened that sightline. We go upslope; it loses its benefit to a great extent. Now putting the fence at the very top of the slope makes sense. If we start doing intermittent plantings along the slope, it may look nicer but it is not really providing the visual lessening of the sightline that you would otherwise gain by placing trees at the bottom of the slope. Ms. McGinley asked what is the grade below the septic field and before you get to the berm? Mr. Golon replied you have about an 8-foot grade difference between the top of the parking lot to this area shown, which transitions into the basin. The basin is about 3 feet deep; it is designed to hold 2 feet of water, that comes back up and then slopes down 12 feet and then another additional 8 feet to the property line. Ms. McGinley asked what about at the line at the top of the berm? What is its elevation compared to an area where you could put trees between the infiltration system and the septic? Mr. Golon replied approximately elevation 349, which is only a 1-foot grade difference. Ms. McGinley stated so it is about the same. Mr. Riley asked what is the elevation of their property line? Mr. Golon replied based off from this posted plan, it is approximately elevation 334 and 323 is the actual house. Mr. Riley stated so 323 to 334. I would have to believe anything on the top of that berm would restrict any view. Mr. Golon responded that was the intent. That was a happy happenstance because that is where the basin had to go, and then when we looked at it, we said we should give these guys a really nice

screen. Mr. Riley asked you are talking 30 feet? Mr. Golon replied right. Mr. Riley stated that is pretty significant. Ms. McGinley stated the reason why I was asking for the different elevations is so everyone here could hear them all and to see if they would make any difference.

Mr. McMahan asked you use an environmental leach field? Mr. Golon replied yes. Mr. McMahan asked from your experience, how far away would you have to plant trees so that in 10 years they have not endangered the septic system? Mr. Golon replied in my personal experience, I wouldn't want them anywhere remotely close to them. You can't predict the root structure of trees, and I am not playing a landscape architect, but this is one of the things I always go over with our landscape architect is looking at the various utilities for the site, whether it is a water well, a septic, a stormwater system because with root structure typically you're only going to be down about 1.5 feet and low and behold there is the septic. And once that root structure starts getting into the systems, you can't just open the box and take them out. You are talking about excavation and that is when things start to go in directions you don't want them to. To answer your question, I wouldn't give you a distance, I would just say don't put them anywhere near it. Ms. Williams stated I love the idea of the trees on the berm, that sounds like it will be a great idea. The one thing about a fence at the parking lot is it will bounce noise that we get from Route 101 traffic and also people coming out of the bar talking before they get into their cars and drive away and they start up and if the same kind of people come to this location as the Manchester one, there will be motorcycles, which are very loud, and I think even just a 6-foot fence right at the edge would bounce a lot of that noise back because that is really our biggest concern is sound. Ms. Hebert stated I have another suggestion for the trees. The trees in the end islands on the parking lot are crabapple trees. On every other island there is a red maple and crabapples and a pair of red maples and then crabapples. Crabapple trees are small, they don't have a big impact on a parking lot from a visual standpoint, and an option might be to substitute those trees with a taller shade tree that might have more of a visual impact if abutters look up at the parking lot. Mr. Golon stated it is a good suggestion but from a setback, I want to go back to the conversation we talked about with the site lights because they are located in those islands as well. Those are 42 feet from the edge of pavement and then we have the distance that continues down that slope. I would say that yes over time when Mother Nature is fully taking her course and those trees have really had the opportunity to sprout and start to tear up our parking lot, would it be of benefit potentially, but I would think more that relative to how it is set back, we really would rather focus our efforts at the point in which that visual observation is going to take place, which as one of you astutely pointed out with the top of the berm. We want to have a little bit of variety in our parking lot as far as color. The crabapples provide some other benefits to that, but the point is well noted. Ms. Hebert stated they don't have a very significant visual impact. Mr. McMahan asked do you have the edification of being able to speak to the difference in noise attenuation between a 6-foot fence and evergreen trees? Mr. Golon replied no. I would have to have an acoustical engineer evaluate that. The one thing we do want to harken back to is you do have a noise ordinance. Mr. Murphy stated he will be in keeping with the requirements of the 75 decibels at the property line, but more so, graced us all with his cell phone number tonight to try and reiterate how important this is to be a good neighbor. Chairman Levenstein asked do we have a noise ordinance? Mr. Sawyer replied it is a subsection to the Performance Zone noise standard, which is 75 decibels at the property line. We don't apply that townwide but they offered up that they would be willing to stand by that. Mr. Cote stated that would be a pretty loud noise at the property line. Mr. Murphy stated I would not

plan to ever come near that standard. Councilor Bandazian stated that would be a loud conversation. Mr. Sawyer stated that is the only standard we have in Town.

Mr. Riley stated you have some barn board on the building. Mr. Murphy responded yes I do. Mr. Riley asked would you be staining it? Mr. Murphy replied yes on the inside and outside. Mr. Riley asked how do you feel about putting a fence on that one line along the parking lot and staining it to match? I'm saying stain it, which means wooden fence, which means less expensive. Mr. Murphy stated I understand. During the abutters' meeting we talked about a fence and it was something that I was happy to agree to at the time. Since then there has been the additional \$6,000+/- expense of the additional trees that have been thrown on top of it, so if it is something that I can do, a fence is fine. I'm not going to bicker over a fence. Mr. Riley stated we have to think of the architectural component also. Does it match the rest of the site, etc. and he has the barn board already.

Mr. McMahan asked what would be the impact if you waited another two weeks? Mr. Murphy replied I have a bank kind of standing by waiting for final approval of this to get the package together. I could live with it, but it wouldn't be a benefit. Chairman Levenstein asked what would you want for two weeks? Mr. McMahan stated I was just trying to make a point that there is one side and then the other, they are willing to do a fence, does that allow us to proceed. Councilor Scanlon stated I sort of got the impression during the last questions about fence versus evergreens, that evergreens represent a much better fill than a fence for noise. Chairman Levenstein stated I think Mr. Riley was talking about both. Mr. Riley stated that is so.

MOTION by Councilor Bandazian that the Planning Board grant final approval of a Site Plan for a 22,265 square foot restaurant and function hall with associated access, parking and site improvements at 393 Route 101, Lot 31-15 and Lot 44-29, in accordance with engineering plans prepared by T. F. Moran last revised December 23, 2015, and the architectural plans prepared by Warrenstreet Architects dated November 3, 2015, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.**
- 2. The NHDES subsurface and water supply approvals shall be obtained and noted on the plan.**
- 3. The NHDOT Driveway Permit shall be obtained and the permit number shall be noted on the plan.**
- 4. The NHDES Alteration of Terrain Permit shall be obtained and the permit number shall be noted on the plan.**
- 5. 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.**
- 6. The Applicant shall submit any outstanding engineering review fees to the Department of Public Works.**
- 7. If a construction sign is requested at the hearing and is approved by the Planning Board, then its location shall be shown on the plan.**

8. **The building elevations shall be revised to note the color of the proposed building and the final color shall be approved by Staff.**
9. **The location of the mechanical equipment shall be noted on the final utility plan and/or building elevations and all ground mounted and roof mounted equipment shall be screened in accordance with the Land Development Control Regulations.**
10. **The Landscape Plan shall be revised to provide three additional shade trees along the Route 101 frontage and evergreen plantings shall be provided to screen the dumpster enclosure.**
11. **Arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.**
12. **All required easement documents and recording fees shall be submitted to and approved by the Planning Department, including the following:**
 - a. **Access, drainage and grading easement for the proposed shared driveway**
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 commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works, Fire Department and the Building Department.**
15. **Prior to the issuance of a building permit, the Applicant shall provide retaining wall design drawings (stamped by a licensed structural engineer) to the Town for proposed retaining walls 4 feet high or greater.**
16. **Prior to the issuance of a building permit, a plan shall be provided for the construction of a left-turn and right-turn lane on NH Route 101 at the primary entrance to the site, the design shall be reviewed and approved by the NHDOT.**
17. **Prior to the issuance of a certificate of occupancy for the building, all site improvements depicted on the plan and the off-site improvements on Route 101 shall be completed.**
18. **The plan shall be revised to include 10 additional evergreen trees along the northern edge of the proposed infiltration basin, the exact location of the trees shall be approved by the Planning Director at the time of planting to ensure the trees provide an effective screen to the abutting property.**
19. **Should the administrative decision regarding accessory uses (stormwater basin) relied on by this application be overturned the project must return to the Planning Board for approval of a revised site plan.**
20. **Outdoor music shall be limited to the southwestern patio, concluding no later than 11:00 PM and not to exceed 2 musicians.**
21. **Service of the dumpster, delivery vehicles and other service vehicles shall commence no earlier than 7:00 AM.**
22. **The applicant shall construct a fence on the northwest boundary of the parking lot and work with Planning staff in arriving at a suitable fence design.**

Mr. Cote duly seconded the motion.

Mr. Riley stated I would just make a note that the applicant has complied with all of the Town of Bedford's ordinances as written, and the waiver requests were reasonable to other applications we have seen. There was not any special condition here or anything out of the norm. They have rights associated with the parcel they have purchased, and they have conformed to our standards to allow for the development of their site as defined by the Town.

Chairman Levenstein called for a vote on the motion. With all members voting in the affirmative, the motion carried.

Mr. Stanford joined the meeting.

2. Claudette Prive (Owner) – Request for approval of a residential subdivision of one lot into four at 125 County Road. Lot 21-10, Zoned R&A.

A staff report from Becky Hebert, Assistant Planning Director, dated January 25, 2016 as follows:

I. Project Statistics:

Owner: Claudette Prive
Proposal: Request for final approval of a residential subdivision of one lot into four
Location: Lot 21-10, 125 County Road
Existing Zoning: "R&A" – Residential & Agricultural
Surrounding Uses: Residential

II. Background Information:

The property is located at 125 County Road and includes an existing residence and out-buildings. The site was the former location of a grandfathered nonconforming construction/landscaping business. There have been no prior Planning Board or Zoning Board of Adjustment applications associated with this lot.

III. Project Description:

The proposal is for final approval to subdivide lot 21-10 to create four new residential lots. The property is located on the south side of County Road, to the south of the John Goffe Drive/County Road intersection. The lot contains an existing house and out-buildings which will be removed as part of the subdivision. The land is 11.74 acres with a large wetland encompassing approximately 6.5 acres. All of the developable land is located towards the front of the lot, adjacent to County Road. The land is generally flat but slopes uphill from the roadway and then slopes gradually downhill towards the wetland. A New England Power utility easement runs along the eastern side of the property.

The parcel is located in the Residential & Agricultural District which requires a minimum lot size of 1.5 acres and 150 feet of road frontage. The new lots range in size between 2.542 acres and 3.386 acres. The property has approximately 690 feet of frontage along County Road and the new lot frontages range between 150' and 235'. See the table below.

Area of Parcels for Subdivision (Acres)

	<i>Existing Area</i>	<i>Proposed Area</i>	<i>Proposed Frontage</i>
<i>Lot 21-10</i>	<i>11.74</i>	<i>2.872</i>	<i>152.13'</i>
<i>Lot 21-10-1</i>	<i>--</i>	<i>2.542</i>	<i>151.04'</i>
<i>Lot 21-10-2</i>	<i>--</i>	<i>3.386</i>	<i>150.75'</i>
<i>Lot 21-10-3</i>	<i>--</i>	<i>2.940</i>	<i>235.97</i>

The lots will be served by public water and sewer and therefore soils based lot sizing calculations are not required for this application. There is an existing well on the property which will remain, but will not be used for potable water. Electric, telecommunication and cable utilities will be installed underground and the existing overhead lines will be removed. Staff is recommending that the water and sewer utility connections serving lots 21-10-2 & 21-10-3 be located closer together to create one trench on County Road large enough for the two water connections and sewer connection (condition #11).

The lots will be accessed by two shared driveways off of County Road. The driveways split into separate drives at the property and the only shared portion of the driveway is within the Town's right-of-way. This design creates a wide curb cut (36') along County Road. The Public Works Department has asked the Applicant to reconfigure the driveways to narrow the curb cut at the roadway to a more traditional width for residential properties (18' – 20') and have the driveways split further into the property (condition #9). The shared driveway configuration also needs a waiver from Section 231.1.4 of the LDCR's which requires each lot to have access through its own frontage (waiver #2). Staff does not object to the waiver, provided the driveway design is modified to address DPW's concerns.

The driveway serving lots 21-10 and 21-10-1 is located directly across from John Goffe Drive. This layout also needs a waiver from Section 231.1.4 of the Land Development Control Regulations (LDCR) (waiver #1) to allow the driveway to be located immediately across from the John Goffe Drive. Planning staff does not object to the requested waiver. The Applicant has demonstrated that the driveway satisfies the Town's requirements for sight distance along County Road and there is low traffic volume on John Goffe Drive.

A stormwater drainage report was submitted and reviewed by the Town's engineering consultant. The report demonstrated that there will be no increase in peak stormwater flows as a result of this proposed development. The majority of the stormwater will continue to runoff into the large wetland complex, which naturally provides attenuation during peak storm events.

The town maintains a closed drainage system along the south side of County Road. In accordance with Section 231.1.7 of the LDRC, the Applicant needs to provide a drainage easement to the Town for the existing system (condition #10). The location of the easement needs to be a 10 foot off-set from the drain line.

IV. Waivers:

The Applicant is requesting the following waivers of the Land Development Control Regulations (please see the attached letter):

1. *Section 231.1.4, to allow the driveway to be located immediately across from John Goffe Drive; and*
2. *Section 231.1.4, which requires each lot to have access through its own frontage. As previously discussed lots 21-10 & 21-10-1 and 21-10-2 & 21-10-3 will share a driveway.*

V. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waivers from the Bedford Land Development Control Regulations, for Section 231.1.4, as previously described.

The Planning Staff recommends that the Planning Board grant final approval of the subdivision of Lot 21-10 to create four new residential lots, in accordance with the plan prepared by Sandford Surveying & Engineering, Inc., with a revision date of January 4, 2016, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

1. *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.*
2. *The Planning Director and the Department of Public Works Director shall determine that the applicant has addressed all technical review comments to the Town's satisfaction.*
3. *All outstanding (if any) engineering review fees shall be paid to the Department of Public Works.*
4. *A note shall be added to the plan stating that prior to the issuance of a certificate of occupancy; School and Recreation Impact Fees shall be paid.*
5. *All existing buildings need to be removed as noted on the plan so as not to create nonconformities.*
6. *All recording fees shall be submitted to the Planning Department at the time of recording.*
7. *In the event that the Planning Board approves the waivers, the plan shall be updated to list all waivers granted as approved.*
8. *The shared driveways shall be reconfigured to narrow the curb cut at the roadway to a more traditional width for residential properties (18' – 20') and have the driveways split further into the property. The revised plan shall be reviewed and approved by the Planning Director and DPW Director.*
9. *Driveway Easements for the shared driveways serving lots 21-10 & 21-10-1 and lots 21-10-2 & 21-10-3 shall be reviewed and approved by Staff and recorded with the plan.*
10. *Drainage easements for the existing town drainage system along County Road shall be reviewed and approved by Staff and recorded with the plan.*
11. *The plan shall be modified to locate the utilities serving lots 21-10-2 & 21-10-3 in one wide trench on County Road rather than three smaller utility trenches.*
12. *Arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections for work in the public right-of-way.*
13. *A performance guarantee in an amount approved by the Director of Public Works for work in the public right-of-way shall be placed on file.*

14. *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.*
15. *Prior to the commencement of work, the Applicant shall apply for a Driveway Permit from the Department of Public Works.*
16. *Prior to the commencement of work within the right-of-way, the Applicant shall apply for a street opening permit from the Department of Public Works.*
17. *Prior to the issuance of the first certificate of occupancy, the existing driveways shall be removed as noted on the plan.*
18. *Prior to the issuance of a certificate of occupancy for each building, the Applicant shall pay the sewer accessibility fee.*

Rick Bullock stated I am representing Claudette Prive. Before we start on this presentation I have an issue I would like to bring to the attention of the Board and that is my concerns relative to this meeting tonight. I have had a long-standing situation of adversity with Councilor Scanlon, to the extent that Councilor Scanlon and two members of the Board of Directors of BCTV on September 11, 2013 did a hatchet job on me professionally and personally. It was viewed by half of the Town on BCTV. I do believe, and it is my strong feeling, that his actions and his comments within that television program make him unacceptable to be involved in any judgment on any project that I am involved with. I am asking that he recuse himself and step down from looking at this proposal. Councilor Scanlon stated Mr. Bullock, if I thought that recusing myself would distance us any further, I should consider, as in the words of Lou Gehrig, “myself to be the luckiest man alive,” and with that good fortune, Mr. Chairman, I would ask you to consider my request for recusal. Chairman Levenstein stated Councilor Scanlon is recused from this item. He will remain at his seat at the table but will not offer any comment.

Raymond Shea, Sandford Survey and Engineering, stated this application is for a proposed subdivision of a piece of property located on the south side of County Road. The address is 125 County Road, it is opposite John Goffe Drive to the northwest, there are power lines running north/south on the east side, it is approximately 11.7 acres and there is an existing structure, which is 125 County Road, located just west of the middle of the property. It is a single family residence and also for quite a number of years has also acted as a construction/landscaping business. Our proposal is to subdivide the property into four lots, where each lot would have over 150 feet of frontage, the minimum lot size is 2.5 acres. The largest lot is 3.4 acres, the lots would be serviced by municipal sewer and water, there is a 16-inch water main out in County Road and there is a forced main of sewer that runs across the front, so our proposal is to tie each of the four lots into those. The proposal at this point, I believe, is to remove the existing structures, or at least those parts of the structures that will become non-conforming by creating these lot lines. The proposal to access the property is by two common drives. Each lot would share a common entrance with one of them right opposite John Goffe Drive, and then for the easterly two lots the common drive would be at the common lot line between the two. There are waivers that will be required for that. When we began the project, we met with Public Works and discussed the way out of common drives. County Road is a very busy road and there are a lot of groups fairly close together, so we thought for safety purposes common drives would be reasonable and in discussions with Public Works they agreed. That would be a waiver request. The other waiver is for the westerly common drive being opposite a street instead of offset 100 feet. #11 of the conditions of approval is requesting that we try and consolidate road cuts when we bring utilities to the property, and we're

certainly willing to do that. It specifies one wide transfer to bring the particular utilizes and as long as Pennichuck Water Works and the sewer department agree to that, we're certainly willing to do that. I just want to have a little flexibility in case we're not allowed to do that by Pennichuck Water Works, but otherwise the few road cuts the better for us as well. That is the overall plan for the property.

Ms. McGinley stated I have a plan question. On the first sheet there is a dotted line that runs on the right side of the right property. Mr. Shea responded that is the edge of the powerline easement. It is about a 350 foot wide easement, and that is why that line is a little wider and that is for the necessary building area. There is a triangle that I'm pointing out on the posted plan under the powerline. The powerline doesn't parallel, it kind of takes the corner off.

Chairman Levenstein stated these are all very wet in the back. Mr. Shea responded yes they are. About half the site is wet but because there is sewer and water we are able to have smaller building areas up front. There is no proposal to go back beyond the front of the lots.

Chairman Levenstein asked for comments or questions from the audience.

Kim Raff, 64 John Goffe Drive, stated I live right across the street. We are for this project. We have no problem with it, and we hope you go forward with that decision.

MOTION by Mr. Cote that the Planning Board that grant the waivers from the Bedford Land Development Control Regulations, for Section 231.1.4, to allow the driveway to be located immediately across from John Goffe Drive and which requires each lot to have access through its own frontage. Mr. Riley duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Cote that the Planning Board grant final approval of the subdivision of Lot 21-10 to create four new residential lots, in accordance with the plan prepared by Sandford Surveying & Engineering, Inc., with a revision date of January 4, 2016, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. 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.**
- 2. The Planning Director and the Department of Public Works Director shall determine that the applicant has addressed all technical review comments to the Town's satisfaction.**
- 3. All outstanding (if any) engineering review fees shall be paid to the Department of Public Works.**
- 4. A note shall be added to the plan stating that prior to the issuance of a certificate of occupancy; School and Recreation Impact Fees shall be paid.**
- 5. All existing buildings need to be removed as noted on the plan so as not to create nonconformities.**

6. All recording fees shall be submitted to the Planning Department at the time of recording.
 7. In the event that the Planning Board approves the waivers, the plan shall be updated to list all waivers granted as approved.
 8. The shared driveways shall be reconfigured to narrow the curb cut at the roadway to a more traditional width for residential properties (18' – 20') and have the driveways split further into the property. The revised plan shall be reviewed and approved by the Planning Director and DPW Director.
 9. Driveway Easements for the shared driveways serving lots 21-10 & 21-10-1 and lots 21-10-2 & 21-10-3 shall be reviewed and approved by Staff and recorded with the plan.
 10. Drainage easements for the existing town drainage system along County Road shall be reviewed and approved by Staff and recorded with the plan.
 11. The plan shall be modified to locate the utilities serving Lots 21-10-2 and 21-10-3 in one wide trench on County Road rather than three smaller utility trenches if allowed by the utility company.
 12. Arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections for work in the public right-of-way.
 13. A performance guarantee in an amount approved by the Director of Public Works for work in the public right-of-way shall be placed on file.
 14. 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.
 15. Prior to the commencement of work, the Applicant shall apply for a Driveway Permit from the Department of Public Works.
 16. Prior to the commencement of work within the right-of-way, the Applicant shall apply for a street opening permit from the Department of Public Works.
 17. Prior to the issuance of the first certificate of occupancy, the existing driveways shall be removed as noted on the plan.
 18. Prior to the issuance of a certificate of occupancy for each building, the Applicant shall pay the sewer accessibility fee.
- Ms. McGinley duly seconded the motion. Vote taken - all in favor. Motion carried.

3. **Earlrose Realty Trust c/o Nancy Weston, Trustee (Owner) and Joseph & Jamie Bourgeois (Owner) – Request for final approval to adjust the lot line between Lots 27-35 & 27-36 and to subdivide Lot 27-35 to create one new residential lot at 216 & 224 Wallace Road. Lots 27-35 & 27-36, Zoned R&A.**

A staff report from Becky Hebert, Assistant Planning Director, dated January 25, 2016 as follows:

I. Project Statistics:

Owners: Earlrose Realty Trust c/o Nancy Weston, Trustee and Joseph & Jamie Bourgeois

Proposal: Request for final approval of a lot line adjustment and residential subdivision of one lot into two
Location: 216 & 224 Wallace Road, Lots 27-35 & 27-36
Existing Zoning: “R&A” – Residential & Agricultural
Surrounding Uses: Residential

II. Background Information:

Lot 27-35 is located at 224 Wallace Road and contains an existing house and Lot 27-36 is at 216 Wallace Road and also has an existing residence. In 2007 the Planning Board approved a lot line adjustment between the two parcels to make the property at 216 Wallace Road larger.

III. Project Description:

The proposal is for approval of a lot line adjustment between lots 27-35 & 27-36 to transfer parcel A (0.08 acres) and parcel B (0.69 acres) from lot 27-35 to lot 27-36 and to subdivide lot 27-35 to create one new residential lot. The property is located on the west side of Wallace Road, south of County Road West/Wallace Road intersection. The land is forested and two streams cross through lot 27-35. The property slopes uphill from Wallace Road with a low point along the roadway with an elevation of 260 feet and high point at the top of the hill with an elevation of 380 feet.

Both parcels are in the Residential & Agricultural District and require a minimum lot size of 1.5 acres and 150 feet of road frontage. The lots will have more than the required frontage along Wallace Road. Lot 27-36 is nonconforming with regards to size and the lot line adjustment will make this property conforming. Both of the existing homes are also partially located in the front setback, but this proposal does not increase this nonconformity.

Area of Parcels for Subdivision (Acres)

	<i>Existing</i>	<i>Proposed</i>
<i>Lot 27-35</i>	<i>5.85</i>	<i>2.02</i>
<i>Lot 27-36</i>	<i>1.31</i>	<i>2.09</i>
<i>Lot 27-35-1</i>	<i>--</i>	<i>3.05</i>

The lots will be served by on-site septic and private wells. Soils based lot sizing calculations have been provided and the two existing lots and one proposed lot will meet the minimum requirements for a four bedroom house after the lot line adjustment and subdivision. There are three wells on lot 27-35 and two wells on lot 27-36. The plans need to be modified to identify which well on lot 27-36 is to be used for the domestic water supply (condition #7).

Lot 27-36 and new lot 27-35-1 contain at least 20,000 square feet of contiguous buildable area as required by the Land Development Control Regulations (LDCR). The Applicant is requesting a waiver to Section 231.2.2 of the LDCR, to permit lot 27-35 to have less than 20,000 square feet of contiguous buildable area (waiver #1). The lot contains two areas of buildable land one 13,400 square feet and another area of 16,500 square feet. The buildable area is bisected by a stream. Staff does not object to this waiver because the lot is developed and has an existing well and septic system. The applicant has also shown future location of a new well and septic, should the existing

systems need replacement. All three lots have enough contiguous buildable area to provide the required 75' x 100' rectangle or circle with a diameter of 100'.

A stormwater drainage report was submitted and reviewed by VHB, the Town's engineering consultant. The report demonstrated that there will be no increase in peak stormwater flows as a result of this proposed development. Since the initial review by VHB, plans were modified to remove a second proposed new lot due to concerns about the slope of the driveways and configuration of the proposed lots. The driveway design has been modified to reduce the grade from 15% to 10%. The Applicant will need to address any additional comments VHB and DPW may have for the new drainage design (condition #2). The new lot is accessed by a driveway approximately 300 feet long with a 10% slope. The drainage design includes a small detention pond at the top of the driveway and rip-rap swales will be constructed on both sides of the driveway (along the entire length). Stormwater from the driveway flows into a catch basin along Wallace Road. The plan states that the installation of the proposed catch basin at the base of the driveway will be coordinated with the Department of Public Works. At this time DPW is reviewing the revised design and may have additional comments regarding the proposed catch basin and flow of stormwater into the closed drainage system along Wallace Road (condition #10).

The Applicant will need to pay a fair share roadway contribution for the Wallace Road improvements (condition #11). The rational nexus analysis is being prepared by VHB and will be provided at the public hearing.

IV. Waiver:

The Applicant is requesting the following waiver of the Land Development Control Regulations (please see the attached letter):

- 1. Section 231.2.2, to permit lot 27-35 to have less than the required minimum contiguous buildable area of 20,000 square feet.*

V. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waivers from the Bedford Land Development Control Regulations, for Sections 231.2.2 as previously described.

The Planning Staff recommends that the Planning Board grant final approval of the lot line adjustment between Lot 27-35 & 27-36 and the subdivision of Lot 27-35 to create one new residential lot, in accordance with the plan prepared by Eric C. Mitchell & Associates, LLC with a revision date of January 5, 2016, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. 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.*
- 2. The Planning Director and the Department of Public Works Director shall determine that the applicant has addressed all technical review comments to the Town's satisfaction.*

3. *All outstanding (if any) engineering review fees shall be paid to the Department of Public Works.*
4. *NHDES Subdivision permit shall be submitted and the permit number shall be noted on the plan.*
5. *All recording fees shall be submitted to the Planning Department at the time of recording.*
6. *If waivers are granted by the Planning Board, they should be noted on the plan.*
7. *The plans shall be modified to identify which well on lot 27-36 is to be used for the domestic water supply.*
8. *The plans shall be modified to include erosion control measures for development on the proposed new lot.*
9. *A performance guarantee in an amount approved by the Director of Public Works for work in the public right-of-way shall be placed on file.*
10. *The drainage design shall be revised to address comments and concerns by the Department of Public Works.*
11. *A check made payable to the Town of Bedford Department of Public Works shall be provided for the Applicant's fair share contribution to the Wallace Road improvements.*
12. *Prior to the commencement of work, the Applicant shall apply for a Driveway Permit from the Department of Public Works.*
13. *Prior to the commencement of work within the right-of-way, the Applicant shall apply for a street opening permit from the Department of Public Works.*

Eric Mitchell, Eric C. Mitchell & Associates, LLC, stated my office prepared these plans for Earlose Realty Trust, who is the owner, and also the lot in the middle, which is Lot 36, which is owned by Joseph and Jamie Bourgeois. The Bourgeois' are part of the family for the rest of the property. The site itself is on Tax Map 27, Lot 35 having an existing farmhouse on it, and it is about 5.85 acres. The proposal is to cut the farmhouse off into its own lot, which would be just over 2 acres, and then a portion of the balance of the land so some of it would go to the middle lot owned by the Bourgeois', which is Lot 36, and that would make that lot just over 2 acres with a lot line adjustment, it is currently 1.3 acres, and then the balance of the property, which would be just over 3 acres, would be a new residential lot. The lots would all be serviced by septic systems and wells, there are current wells and septic systems for Lots 35 and 36, so there will be a new one for the proposed Lot 35-1. The soils out here are well drained glacial fills, slopes range from 8 to 25 percent so the average is between 15 and 20 percent. It is a fairly steep site, it goes up from the road and we have looked at the road improvement plans for Wallace Road with the Town and coordinated the location of our driveway and our drainage to incorporate the changes they have on the road. There are some details that still have to be worked out. We have the drainage there but there are still some things to be worked out with the staff review consultant on the final details of the drainage, but we have proposed to have no increase in runoff down to the road. Even on the proposed Lot 35-1 we have a small detention area just so we're not going to increase any water going down to Wallace Road. All of the improvements that we have proposed for the driveway do match up well with what the road improvement plans are proposed on Wallace Road, the driveway coming out would be at the height of the road, so we have good sight distance there. We also have one waiver request. Where the existing house is on the lot that will remain as Lot 35, we do not have the 20,000 square feet of area that is required outside of the setbacks, however, we do have one area near where the house is of 13,400 square feet and a second area of 16,000 but it

is an existing house and all the rest of the land is sort of remote from where the house is. So we would ask the Board to give consideration to that waiver.

Chairman Levenstein asked the house is already there and there are no lots around it? Mr. Mitchell replied that's correct.

Chairman Levenstein asked for comments or questions from the audience. There were none.

Chairman Levenstein asked Mr. Stanford, they are working it out with you on the drainage? Mr. Stanford replied they will have to work it out with the Town engineer. We have some issues with the slope coming into the right-of-way as well as them requesting a catch basin. It is just something we need to work out.

Chairman Levenstein asked what about the calculations as far as the fair share contributions for the lots? Mr. Mitchell replied we have received that and I think it is approximately \$3,400. Ms. Hebert stated we have one more update on that. In talking with the Town engineer, he is in the process of redesigning this section of Wallace Road to include a 2:1 side slope instead of a 1:1, and the plan that has been prepared is matching up with the steeper slope. So he has asked the Planning Board to include a condition of approval that a temporary construction easement is to be provided by the applicant to the Town for the 2:1 slope. The credit would be issued for the fair share roadway contribution to decrease that amount to take into account the value of the temporary construction easement. Chairman Levenstein asked is there any problem with the construction easement? Mr. Mitchell replied no there is not.

MOTION by Ms. McGinley that the Planning Board grant the waiver from the Bedford Land Development Control Regulations, for Section 231.2.2, to permit Lot 27-35 to have less than the required minimum contiguous buildable area of 20,000 square feet. Councilor Bandazian duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Ms. McGinley that the Planning Board grant final approval of the lot line adjustment between Lots 27-35 and 27-36 and the subdivision of Lot 27-35 to create one new residential lot, in accordance with the plan prepared by Eric C. Mitchell & Associates, LLC with a revision date of January 5, 2016, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. 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.**
- 2. The Planning Director and the Department of Public Works Director shall determine that the applicant has addressed all technical review comments to the Town's satisfaction.**
- 3. All outstanding (if any) engineering review fees shall be paid to the Department of Public Works.**

4. **NHDES Subdivision permit shall be submitted and the permit number shall be noted on the plan.**
 5. **All recording fees shall be submitted to the Planning Department at the time of recording.**
 6. **If waivers are granted by the Planning Board, they should be noted on the plan.**
 7. **The plans shall be modified to identify which well on lot 27-36 is to be used for the domestic water supply.**
 8. **The plans shall be modified to include erosion control measures for development on the proposed new lot.**
 9. **A performance guarantee in an amount approved by the Director of Public Works for work in the public right-of-way shall be placed on file.**
 10. **The drainage design shall be revised to address comments and concerns by the Department of Public Works.**
 11. **A check in the amount of \$3,430 be made payable to the Town of Bedford Department of Public Works shall be provided for the Applicant's fair share contribution to the Wallace Road improvements, less the value of the temporary construction easement.**
 12. **Prior to the commencement of work, the Applicant shall apply for a Driveway Permit from the Department of Public Works.**
 13. **Prior to the commencement of work within the right-of-way, the Applicant shall apply for a street opening permit from the Department of Public Works.**
 14. **The applicants grant a temporary construction easement for a 2:1 slope to accommodate the 2:1 slope along Wallace Road.**
- Councilor Bandazian duly seconded the motion. Vote taken - all in favor. Motion carried.**

Councilor Scanlon returned to the meeting.

4. **The Planning Board will conduct the second public hearing on proposed zoning amendments submitted by the Planning Board. The full text of the amendments is available in the Town Clerk's office during normal business hours and on the Town website at www.bedfordnh.org.**

A staff report from Becky Hebert, Assistant Planning Director, dated January 25, 2016 as follows:

- *Amendment #1 would create a new use category and local standards for Alternative Treatment Centers for the dispensing and cultivation of medical marijuana as allowed under state law. Without the proposed amendment, the facility would continue to be permitted in all non-residential zoning districts as required by state law.*

Ms. Hebert stated at the first public hearing the Board made a few suggestions to the language for Amendment #1, which is the amendment addressing alternative treatment centers, establishing new use categories and local criteria to further limit where alternative treatment centers could be located in Bedford. In this amendment the text has been updated to clarify that these alternative treatment centers for the use category and conditional use permit would be to further limit what is already restricted by State law.

- **Amendment #2** would remove the Special Exception requirement for accessory apartments and permit accessory apartments in the Residential Agricultural District and the General Residential District subject to the same standards that exist today.
- **Amendment #3** is a housekeeping amendment to clarify how sign area is measured.
- **Amendment #4** would modify the Performance Zone sign standards to allow first floor tenants with their own public entrance a 32 square foot building sign and to allow upper story tenants or tenants without a first floor entrance to share up to four 32 square foot building signs and to remove the 12 foot height restriction on building signs. The amendment also clarifies that the building signs are subject to design standards in Section 268C of the Zoning Ordinance. This amendment resulted from discussions with the PZ Committee and is intended to provide greater flexibility for signs in the PZ.

Ms. Hebert stated the language for Amendment #4 was updated to clarify ambiguity as to how many signs would be allowed on the building.

- **Amendment #5** would remove the requirement for the Planning Board to approve temporary signs advertising the coming of a development or permanent subdivision identification signs. The signs would be reviewed by Staff and would be subject to the standards for district in which they are located.
- **Amendment #6** would permit the allowable sign area for wall signs to be split into two signs which may also be located on the same or different walls as the initial sign.
- **Amendment #7** would allow lots within the General Residential (GR) District to have one accessory structure that is 120 square feet or less to have a side or rear yard setback of 5 feet. The average lot sizes in some the older neighborhoods in the GR are less than half an acre and the building setbacks are 35 feet (front) and 25 feet (side and rear) making the siting of sheds difficult.
- **Amendment #8** is a housekeeping amendment to clarify that roads, driveways and utilities may cross through the buffer to access lots within the cluster residential development.
- **Amendment #9** is a housekeeping amendment to remove the bedroom limitation section for cluster residential developments to correct an existing conflict within the ordinance which states that cluster residential developments have no minimum lot size but must comply with the New Hampshire Department of Environmental Services Subdivision and Individual Sewerage Disposal Systems Design rules.

- *Amendment #10 is intended to provide a minimum road frontage requirement for cluster residential developments.*
- *Amendment #11 would reduce the front setback for structures in the Performance Zone from 1:4 to 1:2 and to set a maximum side setback of 20 feet. The amendment also removes the incentive to provide parking to the side and rear of a building in exchange for a reduced (1:2) front setback. This amendment was included on Tuesday after discussions with the PZ Committee.*

MOTION by Councilor Bandazian to open the public hearing on the proposed Zoning Amendments. Mr. Fairman duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Councilor Bandazian to close the public hearing on the proposed Zoning Amendments. Mr. Fairman duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Riley that the Planning Board accept the proposed Zoning Amendments as presented and move them forward to the public ballot. Mr. Cote duly seconded the motion. Vote taken - all in favor. Motion carried.

V. Approval of Minutes of Previous Meetings:

MOTION by Councilor Bandazian to approve the minutes of the January 11, 2016 Planning Board meeting as written. Ms. McGinley duly seconded the motion. Vote taken; motion carried, with Mr. Stanford and Chairman Levenstein abstaining.

VI. Communications to the Board:

Mr. Sawyer stated I put on your desk tonight a copy of the Save the Date memo that has come out of the Office of Energy and Planning for the 22nd Annual State Planning and Zoning Conference, which will be Saturday, April 23rd. That conference usually lasts most of the day, and it will be at the Grappone Center in Concord. We would encourage any members who have never been should certainly try to save that date if possible.

Chairman Levenstein stated Chris Riley has advised me and the staff that he is resigning his position on the Planning Board. This will be his last meeting, and I would like to thank him for his service. He has been a valued member, and I think we will miss his input. Mr. Riley responded thank you. It has been very educational; I have had a really good time with the Board and have learned a lot. It just comes down to a matter of allocating your limited resource of time. Hopefully at a future date I can volunteer again with the Town, but at this point in time it is the right decision for me and the family. Councilor Scanlon stated I'd like to add I am sorry to hear this. You are a great asset to the Board and I value week after week the input that you provide. I am sorry to see you go but the best of luck. Mr. Riley responded thank you.

VII. Reports of Committees:

Mr. Sawyer stated the Performance Zone Subcommittee is scheduled to meet this week on Thursday morning.

VIII. Adjournment:

MOTION by Mr. Cote to adjourn at 9:36 p.m. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted by
Valerie J. Emmons