

TOWN OF BEDFORD
February 8, 2016
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, February 8, 2016 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Harold Newberry (Acting Chairman), Chris Bandazian (Town Council), Jim Scanlon (Town Council Alternate), Jim Stanford (Public Works Director), Karen McGinley, Philip Cote, Mac McMahan (Alternate), Charlie Fairman (Alternate), and Rick Sawyer (Planning Director)

I. Call to Order and Roll Call

Chairman Newberry called the meeting to order at 7:00 p.m. Chairman Levenstein and Mr. Dermody were absent. Mr. Fairman and Mr. McMahan were appointed voting members. Mr. Sawyer reviewed the agenda.

II. Old Business - Continued Hearings: None

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

1. Vibe Salon, 32 South River Rd, LLC (Owner) – Request for final site plan approval for a change of use from a residence to a hair salon and spa, including a 581 square foot building addition with access, parking and associated site improvements at 32 South River Road, Lot 11-13, Zoned PZ.
2. Bedford Norwalk, LLC c/o Hannaford Bros. Co., LLC (Applicant) & Hannaford Bros. Co., LLC c/o Maple Rock, LLC (Owner) – Request for final approval of a waiver to Article 275-68 and Table 6, Performance Zone Sign Standards to allow two building signs with areas of 125 sq. ft. and 75 sq. ft. and to permit the signs to be installed higher than 12 feet, at 7 Kilton Road, Lot 24-99-4, Zoned PZ.
3. John Steward/Bedford Martial Arts Academy (Applicant) and DWD Realty, LLC (Owner) – Request for final site plan approval for a change of use from a church and martial arts studio to a martial arts studio and daycare for afterschool programming at 292 Route 101, Lot 27-31-3, Zoned CO.

IV. Concept Proposals and Other Business: None

Mr. Sawyer stated for the new business items the applications 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 Councilor Bandazian to approve the agenda as submitted. Ms. McGinley duly seconded the motion. Vote taken – all in favor. Motion carried.

Councilor Scanlon stated I'd like to make a quick observation. A citizen pointed out last time that there was a misunderstanding on his part as to whether our Town Manager and Planner, Rick Sawyer, voted or votes. For the record, I want to make sure everybody understands that Mr. Sawyer will not vote and does not vote. Thank you.

1. Vibe Salon, 32 South River Rd, LLC (Owner) – Request for final site plan approval for a change of use from a residence to a hair salon and spa, including a 581 square foot building addition with access, parking and associated site improvements at 32 South River Road, Lot 11-13, Zoned PZ.

A staff report from Becky Hebert, Assistant Planning Director, dated February 8, 2016 as follows:

I. Project Statistics:

Owners: 32 South River Road, LLC
Applicant: Vibe Salon
Proposal: Change of use
Location: 32 South River Road (Lot 11-13)
Existing Zoning: "PZ" – Performance Zone
Surrounding Uses: Residential & commercial

II. Background Information:

There is an existing single family residence on the site which was constructed in 1939. The house is 1 ¾ story cape with a partial finished basement and two car garage. There have been no Planning Board or ZBA actions associated with the property.

III. Project Description:

This site plan includes the change of use and redevelopment of the house to a 3,830 square foot hair salon, and the construction of a small parking area and associated site, landscaping and access improvements. The Applicant currently owns Vibe Salon at 38 South River Road and will be moving their business to the new location.

The property is on the west side of South River Road, at the northwest corner of the Hull Road and South River Road intersection. The parcel contains 0.325 acres and is generally flat with a wide paved driveway off of Hull Road that loops behind the building and exits onto South River Road. There is an existing residential property to the rear, an uninhabited and dilapidated residential structure to the north, and commercial properties across Hull Road and South River Road. Hull Road is a dead-end street, with commercial land uses along South River Road and residential properties behind. All of the land accessed by Hull Road is in the PZ District.

The project involves renovating the interior of the building, removing the existing garage, closing the driveway onto South River Road and constructing a small parking lot behind the building with access off Hull Road. A 581 square foot future addition is proposed off of the northerly side of the

building. Although the building footprint is shown on the plan and conceptual sketches have been provided to show the basic design of the addition, the Applicant will need to return to the Planning Board for final approval of the final design (condition #11) should they choose to move forward. The basic sketch of the addition shows an 11 foot soffit height which would require an 11 foot side setback and the front setback requirement is 50 feet along South River Road. The Applicant is requesting a waiver to permit a reduction in the side and front setbacks to allow a building addition to be within 5.9 feet of the side property line and 39.6 feet of the front property line (waiver #1). The house is 39.6 feet from the front property line and the proposed addition will not be located any closer to South River Road than the existing building. The Applicant would like to build the addition off of the north side of the building because space is limited on the property, given the size of the lot and the placement of the existing house. Staff does not object to the waiver request as the Planning Board is recommending a reduction to the front setback along South River from a 1:4 to 1:2 building height to setback ratio and removing the 50 foot minimum front setback for properties along South River Road. Staff does not object to the reduction in the side setback, due to the location of the existing building and the limited space for building expansion.

Access, Parking & Traffic

The site plan includes closing the South River Road driveway and removing the existing garage. A new parking lot with 13 spaces will be constructed to the rear of the building. The hair salon is required to provide at least 13 spaces, one of which will be a van accessible handicap space. A possible future connection from the proposed parking to the adjacent property to the north is also shown on the plan. A new handicap accessible ramp and stairway will be constructed on the south side of the building sidewalk connections are provided from the parking lot to the front door and to South River Road.

A traffic memo was submitted together with the site plan application (see attached). The study indicated that the proposed use is expected to generate 6 vehicle trips on the average weekday PM peak hour (1 arrival and 5 departures) and 5 trips (5 arrivals and 0 departures) are anticipated during the weekday AM peak hour. Based on the information provided in the traffic memo, the project does not create enough additional vehicle trips to warrant a more detailed traffic study and the change of use will not negatively impact traffic along South River Road.

The project is within the South River Road corridor improvement project and will need to pay a fair share contribution towards the roadway improvements (condition #12). Keach Nordstrom Associates has calculated the project cost to be \$16,034 (see attached).

Drainage & Utilities

The existing site is approximately 62.7% impervious surface and the proposed site plan will be decreasing the impervious area on the property by 3.9%. The site improvements result in a decrease in peak rate of stormwater discharged from the site. There is a catch basin at the southwest corner of the property that was installed by the Town as part of the South River Road improvements. The catch basin was installed to control stormwater runoff on Hull Road and an easement was never conveyed from the owner to the Town. As a condition of approval, staff is recommending that a drainage easement be conveyed to the Town for the catch basin and drainage pipe located on the property (condition #4). There is also an existing utility pole and fire hydrant

on the property, which were moved as part of the South River Road construction. The Applicant has agreed to convey a utility easement to the Town for these improvements (condition #5).

A trash enclosure with a 2 yard dumpster and wheeled trash barrel is proposed on the northeast corner of the parking lot. The dumpster will be screened from view with a vinyl fence enclosure. The Applicant is requesting a waiver to permit the dumpster to be located 11.5 feet from the northerly side lot line where a minimum of 30 feet is required (See waiver #2). Staff does not object to this waiver, the proposed dumpster enclosure is located 49 feet from the adjacent residential property. The dumpster enclosure is also small and could not hold a full size dumpster. Staff is recommending that the Board restrict the time of trash pick to non-business hours because a truck will need to back into the site to access the proposed dumpster (condition #6).

The Applicant is proposing to use an existing overhead utility line. Staff is recommending that the line be placed underground if the service is upgraded or replaced in the future (condition #7).

The building will be served by municipal water and sewer.

Architecture & Landscaping

The Applicant is proposing to make very few changes to the exterior of the building. The garage will be demolished and the exposed wall will be re-sided with gray vinyl siding to match the existing. A single-story future addition (581 sq. ft.) is proposed on the northern side of the building to make up for floor area reduction after the garage is removed. The exterior improvements also include constructing new stairs and handicap accessible ramp. The Applicant has not yet submitted building elevations or a design for the proposed ramp. As a condition of approval staff will need to review and approve the final design of accessible ramp (condition #8).

The Applicant is requesting a waiver to the Performance Zone landscaping standards to not provide the side and rear landscaping strips (waiver #2). In order to accommodate the required number of parking spaces, the parking lot will be paved to within a few feet of the side property lines. The Applicant is proposing to screen the adjacent residential property with a 6 foot high white vinyl fence, which would run the length of the westerly side lot line and along the edge of pavement to the north of the parking lot. The site complies with all of other performance landscape standards. Several trees will be planted along the South River Road frontage and foundation plantings are provided along the base of the building.

One lighting fixture with a mounting height of 15 feet is proposed on the east side of the parking lot. A lighting plan has been submitted, which complies with the Town's standards for illumination.

A monument sign has been shown along the South River Road frontage and will be placed within the required landscape bed.

IV. Waiver Requests:

The Applicant is requesting the following waivers of the Zoning Ordinance and Land Development Control Regulations for which the Board will need to take action (see the attached letter):

1. *Section 275-62 A(1) of the Zoning Ordinance, Table of Performance Dimensional Standards, to permit a reduction in the front setback from 50 feet to 39.6 feet and the side setback from 11 feet to 5.9 feet;*
2. *Section 275-63 E(4) of the Zoning Ordinance, Minimum landscape performance standards for side and rear landscape strips, to remove the side and rear landscaping; and*
3. *Section 327.2.1 of the Land Development Control Regulations to permit a solid waste storage facility to be located within 30 feet of the property line.*

The Planning Department has no objection to any of the requested waivers as a many of them arise from existing conditions of the site, or provide a reasonable use of the property.

V. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waivers from Sections 275-62 A(1) and 275-63 E(4) of the Zoning Ordinance and Section 327.2.1 of the Land Development Control Regulations, as described above.

The Planning Staff recommends that the Planning Board grant final site plan approval for Vibe Salon at 32 South River Road (Lot 11-13), as shown on plans by Keach Nordstrom Associates, Inc., last revised January 15, 2016, with the following precedent conditions to fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

1. *Any waivers granted by the Planning Board shall be noted on the plans.*
2. *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.*
3. *The Applicant shall submit any outstanding engineering review fees to the Department of Public Works.*
4. *A drainage easement shall be conveyed to the Town for the existing catch basin and drainage pipe, as shown on the plan.*
5. *A utility easement shall be conveyed to the Town for the along South River Road, as shown on the plan.*
6. *A note shall be provided on the site plan restricting the time of the dumpster pick-up to non-business hours.*
7. *A note shall be added to the site plan stating that the overhead utility line shall be placed underground if the service is upgraded in the future.*
8. *Staff shall review and approve the final design of the handicap accessible ramp and the design shall be incorporated into the final set of plans.*
9. *Prior to commencement of work, a pre-construction conference shall be held with the Planning, Building, Fire and Public Works Departments.*
10. *Prior to the issuance of a certificate of occupancy for the building, all site improvements depicted on the plan shall be completed.*

- 11. Prior to the issuance of a building permit for the proposed 581 square foot future addition, the Planning Board shall review and approve the architecture and a note indicating this shall be included on the plan.*
- 12. Prior to a building permit being issued, a check made payable to the Town of Bedford Department of Public Works in the amount of \$16,034 for the Applicant's fair share contribution to the South River Road improvement project.*
- 13. Prior to the issuance of a certificate of occupancy for the building, the Applicant shall pay the sewer accessibility fee.*

Jason Lopez, Keach-Nordstrom Associates, and Scott Briggs, 32 South River Road, LLC, were present to address this final site plan application.

Mr. Lopez stated the property is currently listed as a 2-bedroom, single family home, and the goal is to have a change of use to relocate Vibe Salon and Day Spa two doors down. They are currently two properties to the south. They had the opportunity to get this building, expand a little bit in square footage, so they are going to move down the street a little bit. The property is located on the corner of Hull Road and South River Road, kind of diagonally across from T-Bones, the lot fronts on the recently improved South River Road corridor; it is a 0.3 acre lot with a driveway access onto South River Road and an accesspoint onto Hull Road. Shown on the posted plan is indicated the existing driveway onto South River Road and then Hull Road is the second accesspoint. That driveway looped right around the building. The property is currently served by municipal water and sewer, overhead utilities, there is a fire hydrant at the corner of Hull Road and South River Road, and currently the drainage is all sheet flow that flows into the catch basins along South River Road and Hull Road. The proposal seeks to remove a portion of the garage and also to shut down that existing driveway that accesses South River Road. In its place we're going to extend the parking lot along the rear of the property and in the future they are anticipating putting up a small addition to the north side of the building, which will be a 581 square foot addition. In the future the plan is to receive approval at the location this evening but come back to the Board later with architectural drawings for approval at that time. The reason we are looking for approval now is the removal of that driveway and the expansion of the parking requires the demolition of the garage, while that garage is usable space for the salon if the addition could not be built. We have some waivers that we would need in order to do this. We want to make sure that we can get these waivers approved before they demolish a portion of the building. The existing structure is 3,729 square feet gross floor area after the garage removal and the future addition, we're looking at 3,830 square feet of gross floor area, so that would be an increase of 101 square feet. The addition will require a waiver on the setbacks. Along South River Road we're required to have a 50 foot setback and we are proposing 39.6 feet. Currently the existing building is about the same at 39.5 feet. So we are not going to encroach any closer onto South River Road. The sideline setback is based on soffit height; we're looking at a soffit height of 11 feet so we're looking for a waiver to go down to 5.9 feet on that side. The square foot area of the building requires 13 parking spaces and we have provided 13 spaces. There is one ADA space and we are also constructing an ADA ramp up to the front entrance, and that will be on the south edge of the building. The parking lot was laid out with a 24 foot drive aisle and that will connect straight up through the abutter's property for potential future connection. It is anticipated in time that future development will take place on the two parcels to the north, so we felt it was pertinent to provide some sort of future connection there. In order to provide 2-way traffic in that parking layout, we have had to push parking spaces close

to the property line thereby eliminating the vegetated buffer along that westerly property and northerly portion of the parking area. In place of the vegetation we have put in a 6 foot high vinyl fence to provide some screening and buffer. Actually this evening Mr. Briggs had completed a conversation with the abutter to the west and I will let him share that a little bit later, and that is relative to the fence in place of vegetation and what they are willing to do in working with the abutter.

Mr. Lopez stated we have a third waiver that we would be looking for and that is for the dumpster. The dumpster is off the rear of the proposed addition, is required to be 30 feet off the property line, and we are looking to be 11.5 feet. This is a smaller dumpster pad; we're looking for a 2-yard dumpster, fenced-in area, and a couple of wheeled barrels. They don't need a lot of refuse space, but until we see what happens with the northerly properties, trash trucks will need to, depending on the vehicle they have, drive into the site, pick up the trash, and then back onto Hull Road, or if it is a rear-load machine, they will have to drive in, back into the site and then pull out onto Hull Road. So at this time either process will require some backing onto Hull Road. We're looking to put the hours of pickup at off hours while there are no vehicles on the site, and Hull Road is a dead end street and currently none of the residential properties on that street have turnarounds on their lots. So the backing movement into the street is a common occurrence on that road, and again, hopefully in the future development to the north we can eliminate that by connecting through.

Mr. Lopez stated for site signage we have shown that on the plan. We have a permanent sign on the corner of Hull Road and South River Road and then we are proposing a temporary sign in front of the building during construction.

Mr. Lopez stated the landscaping for the remainder of the site, not including the areas I already discussed around the parking; we have provided enough plantings to meet the requirements around the frontage, Hull Road side, and also to the northerly abutter. We also have one site light we're proposing centrally located in the parking area. That will be a 15-foot high downcast LED light. The location is as shown on the plan. It is more of a Colonial type lantern style but it is all recessed up into the cap and being an LED can be controlled directionally. There were not any drainage improvements required; we have a decrease in impervious area on the property so additional drainage facilities were not required. Other miscellaneous items: the property was reviewed and a rational nexus evaluation was calculated for fair share cost allocation for improvements to South River Road. That total value was determined to be \$16,034.09. This was reviewed by VHB and found consistent with the methods used. We also prepared a traffic memo. The report states that the AM peak hour will be five vehicles and the PM peak hour will be six vehicles per hour. The property currently has the single family house, and when you take a look at the current traffic from that, one vehicle per hour AM and PM, that nets the site will have an impact of four vehicles per hour in the AM and five vehicles per hour in the PM. South River Road just to the north of the property currently has 17,000 vehicles per day so this property will have little impact to that corridor.

Mr. Lopez stated with regard to the architectural; we're working with Dennis Mires on this and he is not able to join us tonight. He put together a sketch showing what we're looking at. For the removal of the garage, we're just going to remove it and then that back face where the garage was connected is just going to be vinyl shakes that will match the color and materials that exist on the

rest of the structure. Then there will be the construction of the ADA access ramp and stairs up to what is going to be the main entrance. Then with the future addition you can see that he is planning on matching the style of the structure, same materials, colors, etc. and that final plan would end up having to come back before the Board for approval.

Mr. Briggs stated we have talked to the abutters right behind us at 4 Hull Road about what they felt their needs were. Long before we even knew we were going to be making some of these changes we knew they would want some kind of screening to that parking lot even as it exists today. We discussed having a vinyl fence put up, which is on the plan, and they were happy with that and supportive of that plan, but we have taken it a little step further. They wrote a letter in support of what we're doing and we're going to continue to work with them to put some type of vegetation and screening at certain points along that fence that is on their side of the fence. There are certain windows and sight lines that they might have from certain positions on that property, and we will continue to work with them as the fence goes up to determine what should be put there. Acting Chairman Newberry stated from the plan it looks like that fence is virtually on the lot line. Have you worked out an agreement with them that will allow you to service the fence from the west side? Mr. Briggs replied we don't have a formal agreement. We haven't worked that out but we are more than willing to do that just to make sure that we're meeting their needs and meeting the needs of maintaining whatever structures we put up. Acting Chairman Newberry stated because I think otherwise you're going to have to hold that fence off the line, which is going to impact your parking field and your ability to maintain the width to get 2-way traffic through there.

Ms. McGinley stated you mentioned that you would want to have the dumpster serviced or emptied off hours. I would want to make sure that those are not sleeping hours, that you don't have someone picking up at 6:00 AM or at 10:00 PM, and that that is done during off hours for your business but not during sleep hours.

Ms. McGinley asked is the 15-foot high light too high given the neighbor next door? Mr. Sawyer replied it meets our standards in that zone. I believe you can go up to 25 feet in that zone. As described, it is supposed to be downcast and the lighting focused on the property and the foot-candles show that it is. Will the neighbor be able to see the light out the window over the fence? Probably in some instances depending on what is on that side of the house. Mr. Briggs stated we probably kept it at the height that height to meet your regulations but to keep in mind the neighbor right next to us.

Mr. Lopez stated hours of operation of the business are from 9:00AM to 9:00PM, Tuesday through Friday, and Saturday from 9:00AM to 5:00PM. That is something we could set the dumpster pickup time at like 7:00AM to 9:00AM, just before they open, or 5:00PM or after, work something out and add a note to the plan. You don't want before 7:00AM? Ms. McGinley replied that is correct.

Councilor Scanlon stated I will assume from your description that the fence has a north/south run as opposed to an east/west run. Mr. Lopez replied that's correct. Councilor Scanlon asked what is the length of the run? The question is directed towards whether it provides full coverage to your abutter's property. Mr. Sawyer stated it is running the full length of the property. Mr. Lopez stated

it runs the full length of the lot line. Councilor Scanlon asked is it a Frontier fence? What is the design? Mr. Briggs replied it is 6-foot high, Colonial looking, so it has 4-inch x 4-inch posts and every 6 feet there is a 6-foot panel with Colonial trim with a Colonial cap on the post. Acting Chairman Newberry stated I think it is visually opaque, is what Councilor Scanlon is trying to determine. Mr. Briggs replied yes.

Mr. Stanford stated you mentioned something about future access to the abutting property. Are you providing an easement? Mr. Lopez replied currently no; we are not providing an easement. There are no current plans for the properties to the north but we have sat down and met with them to discuss that. We don't want to provide a formal written easement at this point without the proper communications taking place once they present their idea. I guess we don't want to give away the farm not knowing what is going to be in the future. The hope would be to be able to work out something. The meeting and conversations we had seemed to be very positive, everyone seems to be onboard, but there is no formal proposal yet. Acting Chairman Newberry stated so the point is your design accommodates that. Mr. Lopez responded it will accommodate it, we're hoping that something can happen there, and Mr. Briggs is more than willing. We looked at how can we work with future developments but a little reluctant at this point to actually providing an easement until we know what those plans are. Ms. McGinley stated you can't really provide an easement until you have a recipient, but we have asked in the past, most recently with the front parcel where Calamar's building of senior housing at the back, there is a front commercial parcel, and the Town did ask for a draft of something for their files so that the potential abutter sharing the driveway would have something to go from. Mr. Sawyer, is that something you would look for in this case? Mr. Sawyer replied we could, but in that case it was one developer of the front and back parcels and we were putting an agreement in place to make sure that everybody understood that that was there. Ms. McGinley stated I'm not talking about the connection between the two parcels but the one to the south. Mr. Sawyer responded you are right. It could be something similar. Just put something in writing that they thought of being able to share access is there but not actually granting it. It would be one step further than the applicant has been willing to do so far. Ms. McGinley stated that was a pretty good example, and I think we had a problem with another parcel where there was a note on the plan that a connection would be put through but no document was drafted and we have received pushback from the parent parcel on granting a right-of-way. Is that correct? Mr. Sawyer replied that is correct. We didn't push as hard on this one because of the limited scope of this property and how much traffic we would be willing or wanting to put through this fairly small parking lot. It would be great to have some kind of document on record that at least talks that there is recognition of willingness to pursue it. He clearly can't commit it until we know what is being built on the other side. There is potential for some fairly high traffic generator projects next door, and I'm not sure that the Board would want those. Do we want to preclude it? No. We want to be able to have that option in the future. Mr. Lopez stated and on the site plan I did add the note, it doesn't sound like it covers as much as you want, but we have that area hatched out as potential future connection, showing that intent, where it would happen, and where it could happen. Ms. McGinley stated I think that is what had in the one where we have had a problem. The document goes one more step closer.

Acting Chairman Newberry stated I have a question about your signage. You show where it will be located; I didn't see what the sign is intended to look like. Will that be part of your elevations that you're coming back with? Mr. Lopez replied no. Mr. Briggs stated I was assuming we would

pull a sign permit and then design the sign to the specs of whatever the requirements are for size that is allowed for that area. But essentially it wouldn't be all that much different than what we have today. Acting Chairman Newberry stated if you have the signage when you come back with the elevations, it would be desirable. Mr. Sawyer stated they are going to move forward and open long before they are coming in. Acting Chairman Newberry stated once you have the sign design, just work with the staff to make sure that it meets the requirements, and I think you have already talked about the size of it and the location.

Acting Chairman Newberry stated there are also a number of conditions I noticed on this particular application in the staff memo. I wanted to touch on a couple of them. Condition 4 is a drainage easement made to the Town. Mr. Lopez pointed out the location on the posted plan. Acting Chairman Newberry asked is that still an open issue or is that resolved? Mr. Lopez replied we do not have an easement drafted up on that at this time. That was just recently installed; it doesn't appear to have been installed within the easement that was on the plans. Acting Chairman Newberry asked is your intent that that will be done? Mr. Lopez replied yes, Mr. Briggs is willing to work with that. Acting Chairman Newberry stated Condition 5 was a utility easement conveyed to the Town. Mr. Lopez replied that is the same thing. The items are outside of the easement that was shown on the plan. Acting Chairman Newberry stated Condition 6 I think we talked about and that is the dumpster and controlling the time that that would be accessed. Condition 7 is adding a note to the plan as far as an overhead utility being placed underground if you replace the service in the future. Mr. Lopez responded there are currently enough service panels now. Mr. Briggs didn't anticipate on replacing those. Acting Chairman Newberry stated the only reason I brought that up is that I understand that it is some additional expense or that it might be just as easy to bury it now then to come back and have to tear up your parking lot if you find you need or want more service. Mr. Briggs stated that is a good point, and we have talked about that. When we repave the parking, we will certainly put in the piping to be able to do the service, but pulling it is not something we plan to do, but we will certainly make it easy to do. Acting Chairman Newberry stated it's not a requirement but it might make it easier on you. Condition 8 states staff is going to review the handicap access ramp and design because that is something that is still being developed. Mr. Lopez asked so a formal design from Mr. Mires on that? Acting Chairman Newberry replied yes. We don't usually do this but I'm going through them because there seem to be a lot of open items on this particular application, and I just want to make sure that you guys are good with it and that we understand what we're doing with these conditions. The other one I had a question on was Condition 11 and that is prior to a building permit for your 581 square foot addition. The Planning Board will review and approve the architecture and there should be a note indicating that is included on the plan. I just wanted to make sure that you were aware and comfortable with those conditions because those, among other conditions, are from the Planning staff memo, which I think you have a copy of. Mr. Lopez stated we already included Note 19 on Sheet 3 of the site plan: "Final architectural design of the future addition shall be reviewed and approved by the Planning Board prior to construction."

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

Mr. Fairman stated I wanted to thank the applicant for engaging the abutters before you came in here. It makes things a lot easier for us when the abutters have been engaged in the process. Thank

you very much. Mr. Lopez stated along with that we do have a letter from the abutter that I will give to Mr. Sawyer for the Board's files.

MOTION by Ms. McGinley that the Planning Board grant the waivers from Sections 275-62 A(1) and 275-63 E(4) of the Zoning Ordinance and Section 327.2.1 of the Bedford Land Development Control Regulations, as described in the Planning staff report dated February 8, 2016. Mr. Cote duly seconded the motion.

Acting Chairman Newberry stated you have done a good job of addressing why these waivers are reasonable requests to this application. I think that helps the Board certainly in supporting waivers.

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

Mr. Lopez stated Mr. Briggs would like to have a quick discussion with the Board on Condition 12 dealing with the fair share contribution. Mr. Briggs stated this item is new to us so we're discovering the need to talk about this fee or be prepared to pay this fee. Is there any ability to give consideration to the fact that our main entrance is off from Hull Street and reconsider the amount of the fee? It is something that we have been working several years out of the current location two houses down so this is something that we realize we would be impacted by because we are already operating at that location, not the same building obviously, but just down the road. We are removing the accesspoint off from that property to South River Road and only have that access off from Hull Road. Acting Chairman Newberry responded I will ask if Mr. Sawyer or Mr. Stanford might be able to speak at least to the detail of where that comes from. Mr. Sawyer asked the amount? Acting Chairman Newberry replied the amount and the whole concept of contribution. Mr. Sawyer replied the amount first of all has been consistently applied for well over a decade by the Planning Board in this community on South River Road and also all of our road projects. The amounts vary by project depending on where the project is located. This project happens to be in probably one of our biggest, most expensive corridors that we just invested a lot of money in, or are currently investing a lot of money in, so it is a fairly high number per trip if you were looking at a per trip. We have also used the law test that came to us from case law by test and those tests are outlined in the materials that the Board saw here tonight and comes up with an equation for each test and those are averaged together to come up with the amount. When I saw the number I thought it was fairly high, but when I look at this corridor and compare it to what other projects in the corridor have been paying, I think it remains rational as compared to those other projects. Unfortunately it is a 5-lane cross-section and required traffic signal improvements in the corridor so it became a very expensive project. The one thing I could suggest is the condition currently says prior to a building permit being issued. The Board often has changed that to being prior to a Certificate of Occupancy being paid, so it gives the applicant a little bit more time to put that into the funding and work it into the loan process or whatever the bank loan is, to however the project is being financed so we don't need that up front during the construction loan aspect of it but towards the end of the project. But I don't see anything that was unrational about the five tests in this case; they just work out to be a fairly high number, and when I look at the data, any of the improvements on Hull Road weren't included in this calculation, so we didn't bill them or charge them for any of the improvements that are currently being made to Hull Road, but rather just the South River Road corridor. The number could have been a little bit higher if we included Hull

Road in there. Acting Chairman Newberry asked have you had a chance to see the Keach-Nordstrom Associates calculation of the assessment? Mr. Sawyer replied yes. Mr. Fairman asked what triggers this assessment? Is it the change of property, is it the sale of the property or because he's doing construction? Mr. Sawyer replied certainly any change of use that brings additional traffic to a site. In this case going from residential to commercial increased the amount of traffic, which generated the requirement. If this road had been a road that we had done years ago and weren't making an investment more than six years ago, we wouldn't be requesting anything from the applicant, or if it was more than six years out before we were going to make the improvements, we wouldn't be asking for anything. It is if it falls within that 12 year window when the improvements are being made, either six years before or six years after. Mr. Fairman asked and the fact the taxes from this property go into paying the bond doesn't alleviate the need for their assessment? Mr. Sawyer replied it is in addition to that and those calculations for the TIF financing include developer contributions, which is what this would be, this goes into paying off the TIF funds so it would in theory or in practice does pay off that TIF loan quicker and then the TIF funds can be distributed across the Town quicker. But you are absolutely right; the projects within the TIF zone are paying for those primarily and this is part of how those are being paid off. Acting Chairman Newberry stated it sounds like the best we can offer you in terms of relief would be to make that a condition related to your Certificate of Occupancy rather than your building permit, as Mr. Sawyer pointed out, and make it a little more manageable. Mr. Sawyer stated I don't want to steer you wrong, but it is completely the Board's decision to do whatever you feel is a rational number. We have used this test and this test has been the practice of the Planning Board but you can set aside any portion of the test if you looked at those numbers and felt like one of the numbers was off. We really look at it that there are only two numbers that you're dealing with and their decimal points are very far to the left so they are pretty small numbers being used there to multiply against a very large cost of the project. But if some reason you said frontage was not an appropriate test in this case, we have had that in other projects where we had one lot that ate up 75 percent of the frontage on the road segment being built and you felt that that wasn't rational. In this case the frontage is fairly minimal compared to the overall length of the corridor. I believe that is the only test that I have seen this Board throw out in the past is frontage, and in this case I would say that frontage is definitely a key factor that would stay in. In the other tests I think they all equally worked out just as well. Ms. McGinley stated I think an example of what you just described is probably one on Wallace Road where we had a couple of curb cuts put in for houses and they just had very long frontages compared to the impact that the development was going to have on the road. Mr. Sawyer responded correct. Acting Chairman Newberry asked are there other comments from the Board regarding Condition 12?

Mr. Briggs stated all of this happened really quickly when we purchased the property. The curb cut remains off from South River Road and one of the things that we're agreeing to do away with and take care of ourselves is that curb cut. Could any consideration be put upon the fact that we are doing that out of our pocket and not out of yours to address that, which in all honesty having a curb cut off from South River Road is much more valuable than off from Hull Street. We are trying to be accommodating to what, like our abutters, we also reached out to the Town to discuss what would you like this site to look like and how would you like it to be used because we truly just want to be a salon not a major pad site there. So we approached the Town to talk about those things and be as helpful in the process to the neighbors and the Town as to ourselves. Along with the other fact that we are already on this road and we're not going to impact any more traffic on

this road than we already do today. Acting Chairman Newberry asked Mr. Sawyer, is the location of the curb cut factored in when Keach-Nordstrom Associates does their calculation? Mr. Sawyer replied no, because all of the trips have to go to South River Road, so whether they go to a driveway that is to South River Road or from Hull Road to South River Road, they all have to end up on that location. Ms. McGinley stated I think the theories that this property, because South River Road has been recently improved with additional lanes, is more friendly and attractive to have customers travel it than it was before. Councilor Bandazian stated Mr. Chairman, I think the only justification I could see for some adjustment of the rational nexus amount is if the applicant is conveying a drainage easement and utility easement, and I don't know what the value of those things are. I know that this property is benefited by the catch basin, so if that has some value to the Town. Mr. Sawyer responded in your last meeting I believe you did have similar language where you said discounted by any value of any easements needing to be obtained. We certainly could add that language, but I just want to tell you that it is not going to be a lot of money. I believe we pay \$1.00 a square foot for these kinds of easements, maybe \$2.50 on a permanent easement for access, but I don't believe we have any access easements or utility easements, so you are not generating thousands of dollars where it is going to bring down the value significantly but you certainly could include that in your motion to discount the value of any easements that are needed. Ms. McGinley asked we could do that without arriving at a number tonight? Mr. Sawyer replied that is correct. We have standard numbers that we use, it is not a number that we negotiate typically, but you did this similar thing on Wallace Road at your last meeting and just said discounted by the value of any easements needed to be obtained. Councilor Scanlon asked this is the rational nexus of \$16,034? Mr. Sawyer replied that is correct. Acting Chairman Newberry stated I think the Board wants to be careful not to start getting into negotiating numbers, but if there are issues such as were just discussed, I think it might be a reasonable thing for the Board to engage in. For Condition 12 we will see what the motion is. Did you have any other comments relative to that specific condition? Are there other comments from the Board on Condition 12 or on this application in general? Mr. McMahan stated just for my own edification. When you do the calculations for the fair share contribution, is there any consideration at all, which I believe you brought up, that right now they have X number of customers and they are going to continue to have X number of customers, so is there that and can that be taken into account? There are minus traffic and then there are plus traffic and that may not be a factor that is even taken into consideration. Mr. Sawyer responded that's correct. It doesn't come into consideration because the site that they are leaving is a commercial space and all of those traffic counts still exist on that current location. Mr. McMahan stated I wanted to ask the question because you brought it up. I don't know whether or not you received the answer that you were looking for. Mr. Briggs replied I did. Mr. Sawyer stated for the access to South River Road and Hull Road, your regulations in the Performance Zone say if you have a corner lot property like this, the access must be from the side road, it cannot be from the main road, and I can assure you staff would not have been recommending approval of this project if the access was staying onto South River Road. I know it is a lot of money and it is hard on a small business, I totally understand that it is an expensive number, but the other side to this is that we were told three or four years ago now that this road would be in failure 10 years from now, the project was six years out, and we would essentially be denying all projects at this point until we had a solution to improve the South River Road corridor because you were seeing that the road would be in failure, especially at that Palomino Drive intersection, so we probably would have been at the point of having a moratorium on development within the South River Road corridor had we not invested that \$5 million to make these improvements, which now unfortunately

or fortunately depending how you look at it, each project that comes in has the ability to build otherwise nobody would be building in that corridor. But as we hear all of the time, road and pavement is very expensive work. Acting Chairman Newberry stated although it may seem painful, it is not without benefit. Is the Board comfortable with the discussion on Condition 12? There were no further comments or questions.

MOTION by Ms. McGinley that the Planning Board grant final site plan approval for Vibe Salon at 32 South River Road (Lot 11-13), as shown on plans by Keach Nordstrom Associates, Inc., last revised January 15, 2016, with the following precedent conditions to fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. Any waivers granted by the Planning Board shall be noted on the plans.**
- 2. 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.**
- 3. The Applicant shall submit any outstanding engineering review fees to the Department of Public Works.**
- 4. A drainage easement shall be conveyed to the Town for the existing catch basin and drainage pipe, as shown on the plan.**
- 5. A utility easement shall be conveyed to the Town for the along South River Road, as shown on the plan.**
- 6. A note shall be provided on the site plan restricting the time of the dumpster pick-up to between 7:00AM and 8:00PM.**
- 7. A note shall be added to the site plan stating that the overhead utility line shall be placed underground if the service is upgraded in the future.**
- 8. Staff shall review and approve the final design of the handicap accessible ramp and the design shall be incorporated into the final set of plans.**
- 9. Prior to commencement of work, a pre-construction conference shall be held with the Planning, Building, Fire and Public Works Departments.**
- 10. Prior to the issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed.**
- 11. Prior to the issuance of a building permit for the proposed 581 square foot future addition, the Planning Board shall review and approve the architecture and a note indicating this shall be included on the plan.**
- 12. Prior to the issuance of a Certificate of Occupancy, a check made payable to the Town of Bedford Department of Public Works in the amount of \$16,034, discounted by the value of the easements granted to the Town by the Applicant, for the Applicant's fair share contribution to the South River Road improvement project.**
- 13. Prior to the issuance of a Certificate of Occupancy for the building, the Applicant shall pay the sewer accessibility fee.**

14. The applicant will provide a draft easement to the parcel to the north (without identifying the user or the party), subject to approval of the Town in the event that easement is used.

15. The sign for the business shall be reviewed and approved by Planning staff.

Mr. Fairman duly seconded the motion.

Ms. McGinley asked how does Condition 12 sound to the Board? Acting Chairman Newberry replied I thought you nailed the wording to Condition 12. Are there any other comments from the Board on Condition 12? Ms. McGinley stated for Condition 14 there is a sample of the easement draft that was provided in the project that Calamar had approved and it was not to the shared parcels, they own the front and the back, but to the parcel to the south so it left open the location and other items that you would negotiate once you actually had a user. Mr. Sawyer stated we could provide that to the Planning Board members.

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

2. Bedford Norwalk, LLC c/o Hannaford Bros. Co., LLC (Applicant) & Hannaford Bros. Co., LLC c/o Maple Rock, LLC (Owner) – Request for final approval of a waiver to Article 275-68 and Table 6, Performance Zone Sign Standards to allow two building signs with areas of 125 sq. ft. and 75 sq. ft. and to permit the signs to be installed higher than 12 feet, at 7 Kilton Road, Lot 24-99-4, Zoned PZ.

A staff report from Becky Hebert, Assistant Planning Director, dated February 8, 2016 as follows:

I. Project Statistics:

Applicant: Hannaford Bros. Co., LLC
Owners: Bedford-Norwalk, LLC c/o Hannaford Bros. Co., LLC
Proposal: Sign waiver
Location: 7 Kilton Road, Lot 12-23
Existing Zoning: "PZ" – Performance Zone
Surrounding Uses: Retail, Office & Residential

II. Project Background:

In January 2003, the Planning Board approved the redevelopment of the Caldor site into the retail center that exists today which includes the former Stop & Shop Supermarket, Home Goods, TCBY and Super Cuts. In 2007, the Board approved the installation of a Starbucks within the supermarket and a parking waiver for 16 spaces, which was never installed and has since expired.

In August 2012, the Board approved a change of use to convert 2,019 square feet within the building fronting on South River Road from a retail use to fast food for TCBY ("The Country's Best Yogurt").

In 2013, the Stop & Shop store closed and in February 2014, the fueling center was removed.

In 2015, The Planning Board granted final approval for the architectural changes to the building façade, construction of a pharmacy drive-thru and grocery pick-up lane, and approved a waiver from the Bedford Land Development Control Regulations for Section 327.1.4 to permit the wall mounted building lights to shine upward.

III. Waiver Requests:

The Applicant is requesting two waivers of Section 275-68 & Table 6 of the Performance Zone Sign Standards (Please see attached letter). The first waiver is to allow two wall signs with a total area of 285.73 square feet, where 81 square feet would otherwise be permitted. The second waiver is to allow the proposed wall signs to be placed at a height greater than 12 feet.

The first sign consists of two lines of internally illuminated red channel letters reading “Hannaford Supermarket & Pharmacy.” The town’s sign ordinance requires signs to be measured by drawing a box around the largest features, using this method the sign area is 159.33 square feet. If the sign is measured by drawing a box around the “Hannaford” text and a second box around the “Supermarket & Pharmacy” text, the sign area is 125 square feet. The second sign is the triangular shaped Hannaford logo. The actual area of this sign is 75 square feet; but measuring the sign using the Town’s method the sign (drawing a box around the largest features) the logo is 126.40 square feet. The actual area of the two signs is 200 square feet, but for zoning purposes the overall proposed sign area is 285.73 square feet.

The former Stop & Shop grocery store received a waiver permitting up to 200 square feet of signage on the building. The Applicant believes the proposed signage is reasonable because the actual sign area does not exceed the 200 square feet that was permitted for the Stop & Shop. Staff does not object to the proposed sign area and believes it is in keeping with the overall sign area that was permitted in the past. The existing Hannaford store at Colby Court has approximately 300 square feet of building signage and this would be a reduction in sign area. Also, because of the way the signs are measured these signs will not appear as large as an internally illuminated square panel of the same size.

Staff does not object to the sign height, because the Board has recommended a proposed zoning amendment for the 2016 ballot which would remove the 12 foot height restriction for building signs in the PZ and the proposed height is consistent with this amendment.

The Zoning Ordinance permits a waiver in the Performance Zone where the applicant demonstrates substantial compliance with the five purpose statements listed below:

- A. To attract environmentally acceptable commercial, industrial, recreational, institutional, and residential uses to the District;*
- B. To encourage diversity in the community tax base through appropriate flexibility in land use and land use development;*
- C. To optimize financial return on public infrastructure investments and expenditures, including municipal sewer, municipal water supply, the Manchester Airport, Class I and II public highways, and the Merrimack River amenities;*

- D. To minimize adverse traffic impacts on U.S. Route 3, the I-293/NH Route 101 Interchange, and surrounding local streets and roadways; and*
- E. To preserve valuable historical, cultural, and natural features within the district and to minimize adverse environmental impacts such as water, air, light, noise pollution, flooding, clear cutting of vegetation, and the blocking of scenic views.*

IV. Staff Recommendation:

In the event the Planning Board decides to approve the waivers (or chooses to approve one waiver but deny the other), the following draft motions are provided:

- 1. I move that the Planning Board approve a waiver from Section 275-68 & Table 6 of the Performance Zone Sign Standards, to allow two wall signs with a total area of 285.73 square feet (actual area of 200 square feet), at 7 Kilton Road, Lot 12-23, as shown on the plans prepared by Walton Signage dated December 21, 2015, as the Planning Board finds that the applicant has shown substantial compliance with the purpose statements of the Performance Zone.*
- 2. I move that the Planning Board approve a waiver from Section 275-68 & Table 6 to of the Performance Zone Sign Standards, to allow the building signs to be placed higher than 12 feet at 7 Kilton Road, Lot 12-23, as shown on the plans prepared by Walton Signage dated December 21, 2015, as the Planning Board finds that the applicant has shown substantial compliance with the purpose statements of the Performance Zone.*

In the event the Planning Board decides not to approve the waivers (or choses to approve one waiver but deny the other), the following draft motions are provided:

- 1. I move that the Planning Board disapprove a waiver from Section 275-68 & Table 6 of the Performance Zone Sign Standards, to allow two wall signs with a total area of 285.73 square feet (actual area of 200 square feet), at 7 Kilton Road, Lot 12-23, as shown on the plans prepared by Walton Signage dated December 21, 2015, because the larger wall signs do not meet the spirit and intent of the Zoning Ordinance and no compelling hardship or substantial compliance has been shown.*
- 2. I move that the Planning Board disapprove a waiver from Section 275-68 & Table 6 to of the Performance Zone Sign Standards, to allow the sign to be placed higher than 12 feet at 7 Kilton Road, Lot 12-23, as shown on the plans prepared by Walton Signage dated December 21, 2015, as the request does not meet the spirit and intent of the Zoning Ordinance, and no compelling hardship or substantial compliance has been shown.*

Jay Lord, Maple Rock Marketing & Project Development, stated I am here representing Hannaford Brothers. We are here tonight looking for two waivers. One is on size of the signs and the other is the elevation of a sign, where one can't be placed higher than 12 feet in the zone that we're in. We have tried to break this down into three separate signs. The way the Hannaford letters are on the sign is that there is a lot of empty space above the a, n, o, and r, space that the H, f, and d take up, and there is a lot of space between supermarket and pharmacy and under that if you draw it as one big sign. We have tried to take a look at that as two separate signs and downsize those so that

both of those combined, if you draw a rectangle around each one of those, the combination of both of those come up to be 125 square feet. The icon size we have limited to 75 square feet so that the total that we're requesting based upon how we would like to look at this is 200 square feet, basically trying to keep the prior approval that Stop and Shop was allowed for three signs, limiting itself to 200 square feet. We did work with staff on this. We started with five signs and certainly narrowed it down and tried to put it in perspective. These signs are about two-thirds the size of what we have on our present site at Colby Court, so for a visual you can see that it is much smaller. At Colby Court all of the signage is in one place and here this is broken down into two locations. We're trying to do the icon right above the main entrance, and the secondary entrance where everybody would be leaving we would put Hannaford and the subscript supermarket and pharmacy. That is what we're trying to accomplish here. I think it blends well with the architecture, I think the size is probably much better than now where it is, and I think it is probably in keeping with what has been allowed before and what would look nice on the building as well. Distance-wise we are a long way off from South River Road, which is 427 feet from South River Road and 482 feet from the corner and about 335 feet from Kilton Road. If any sign is smaller, looking at it from the perspective of Colby Court, I think up there we are only 225 feet away. In relationship to what we have at Colby Court, not only is the size we're proposing two-thirds of that, but it would appear much smaller because of the further distance that we're away from all of these roads.

Mr. Lord continued for the height, the top of the Hannaford sign I believe is 21.3 feet above the ground and the top of the icon, I think, is 31 feet above the ground. It is basically centered between the parapet and the opening and we basically tried to center the Hannaford on the parapet below the cornices in that area.

Mr. Fairman stated I assume there are going to be other signs like directional signs for the Hannaford-To-Go and the pharmacy drive-in. Do we have to approve those too, should it all be one package of signs, what is the story on the rest of the signage for the property? Mr. Lord replied right now there are presently two pylon signs onsite. There is one on South River Road and one on Kilton Road. Those signs aren't changing; the only thing we're going to do is replace the panel itself. Those signs will remain absolutely the same. The directional sign for the pharmacy and the Hannaford-To-Go pickup were on the site plan that was approved.

Ms. McGinley stated given the distance from South River Road and Kilton Road, I think the signs are proportional to the size of the building and the need to be seen. Acting Chairman Newberry stated I would agree. I can support this waiver just based on the distance from the roads and the fact that depending on how you want to calculate the square inches of the sign or the square feet of the signs, it is roughly equivalent and appears to me as what was previously approved for the same site. Ms. McGinley stated in addition, we have placed on the March ballot a provision that has us calculating the size of the sign based upon the actual lettering. Mr. Sawyer stated it would actually be a little bit harmful to this applicant the way it would read, and I think it is something we realized after this application came in that we may want to come back to you and tweak it. Currently language would measure those Hannaford and supermarket signs separately but we're changing that, that it would be one box around the entire Hannaford-supermarket-pharmacy. We may want to revisit that and not do that in the future. We were trying to write a regulation that accommodated all signs, and I think the example we were dealing with previously had the logo

next to the text and so that was driving a strange thing, so we were changing the language to accommodate that and it somewhat hurt this. I agree with the applicant on these kinds where there are individual letters on the background of the building, those words could be measured independently and not as a group or a mass. We need to tweak that. But the other amendment that is also on the March ballot would eliminate one of the waivers you are dealing with tonight, which is the sign height. You have proposed eliminating that, so that would be a waiver that would be gone entirely. I think the signs for this architecture fit perfectly and are appropriate. Acting Chairman Newberry stated I don't know that 31 feet in height would work in all locations, but I think that given the elevation of the building, it works reasonably well to my eye, so I would support the waiver.

Mr. Cote stated you talked about some other signs when you came in. Was one of those that designate which one is the entrance? Mr. Lord replied there was a welcome sign over the front doorway, which is directly below the icon, which would be removed. And there was one above the set of windows that are a set of three horizontal windows where there was something like a kitchen café. That service is one the pylon sign. I think there was a Hannaford-To-Go over the door as well, so we worked on eliminating the Hannaford-To-Go over the door, the kitchen café with the windows, and the welcome sign over the door. Mr. Cote stated I think having two separate sets of doors a lot of people may go to the wrong one, although I assume it is the one with the logo. Mr. Fairman stated both of those are entrances and exits. Mr. McMahan stated considering the size of the building compared to the size of the sign, I would say that that is minimal. If they came forward for a sign that was slightly bigger, I don't think I would even argue with that.

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

MOTION by Mr. Cote that the Planning Board approve a waiver from Section 275-68 and Table 6 of the Performance Zone Sign Standards, to allow two wall signs with a total area of 285.73 square feet (actual area of 200 square feet), at 7 Kilton Road, Lot 12-23, as shown on the plans prepared by Walton Signage dated December 21, 2015, as the Planning Board finds that the applicant has shown substantial compliance with the purpose statements of the Performance Zone; and, the Planning Board approve a waiver from Section 275-68 and Table 6 to of the Performance Zone Sign Standards, to allow the building signs to be placed higher than 12 feet at 7 Kilton Road, Lot 12-23, as shown on the plans prepared by Walton Signage dated December 21, 2015, as the Planning Board finds that the applicant has shown substantial compliance with the purpose statements of the Performance Zone. Councilor Bandazian duly seconded the motion.

Acting Chairman Newberry stated I would just point out that the purpose statements are in the staff report dated February 8, 2016 Items A through E, and I think the discussion has covered those statements pretty well.

Acting Chairman Newberry called for a vote on the motion for the two waivers. With all members voting in the affirmative, the motion carried.

3. John Steward/Bedford Martial Arts Academy (Applicant) and DWD Realty, LLC (Owner) – Request for final site plan approval for a change of use from a church and martial arts studio to a martial arts studio and daycare for afterschool programming at 292 Route 101, Lot 27-31-3, Zoned CO.

A staff report from Becky Hebert, Assistant Planning Director, dated February 8, 2016 as follows:

I. Project Statistics:

Owner: DWD Realty, LLC
Applicant: John Stewart (Bedford Martial Arts Academy)
Proposal: Site plan change of use to convert 3,545 SF from church use to daycare facility during non-service hours
Location: 292 Route 101, Lot 27-31-3
Existing Zoning: "CO" – Commercial
Surrounding Uses: Commercial, Church & Residential

II. Background Information:

In 1984, the Planning Board approved a site plan for a 12,000 square foot hardware store. The store closed in the 1990's and the Board approved a change of use from retail to office in 1994. The building was divided into four office units.

In 2007, the Board approved a change of use to convert one of the office units to a martial arts studio. Another change of use plan was approved in 2009 to convert an office unit to a church.

III. Project Description:

The application is for a partial change of use to allow 3,545 square feet of church space to also be used as a daycare facility for an afterschool program associated with the martial arts studio. The change of use will be for Monday through Saturday (during non-service hours), and the space will continue to be used as a church Sundays. Bedford Martial Arts Academy will use the existing 3,085 square foot martial arts space and will operate a daycare from 2:30 PM to 6:00 PM to provide afterschool care for children. The program includes transportation from local schools in vans owned by the martial arts academy, snack time, play time, homework time, and a karate lesson. The daycare facility will be approved for up to 50 students, all of whom will be enrolled in the martial arts academy.

The 3.024 acre lot is located on the south side of Route 101 just east of the Bethany Covenant Church. The land is in the Commercial District (CO) and the building is served by private well and septic. The Building Code Official has determined the existing septic system is adequate for the proposed change of use. A 2,500 square foot outdoor play area with 4 foot high chain link fence will be located west of the existing building. The Applicant will also be replacing the siding with gray vinyl cedar shake (see attached).

The Applicant is currently coordinating with the Fire Department and Building Code Official to address any life safety or building related concerns. As a condition of approval, the Applicant should obtain a certificate of compliance from the Fire and Building Departments (condition #4).

Parking

The church requires a higher rate of parking (9.21 spaces per 1,000 sq. ft.) than the daycare (3.5 spaces per 1,000 sq. ft.) and the site currently has 69 parking spaces (3 accessible) and is required to have 62 spaces. The proposed daycare would require 12 additional parking spaces, but because the church and daycare will be sharing space and will not be occupying the building at the same time, the Applicant is requesting approval for a shared parking arrangement. Section 322.3 of the Land Development Control Regulations allows for the approval of shared parking arrangement but typically the required number of spaces would be determined by a parking study based on the Urban Land Institute Shared Parking Report. The Board may waive the parking study for smaller project where the impact to the site will be minimal. The Applicant has applied for a waiver to Section 322.3.4 requesting that the parking study be waived (waiver #1). Staff does object to the waiver request given the shared use of the space.

The Applicant will be restriping the parking lot and installing new handicap parking signs. Bedford Martial Arts is also proposing to park their company vans on the west side of the building and the location has been noted on the plan. Article 275-73 P of the Zoning Ordinance, was revised in March 2013, and requires commercial vehicles or equipment with signage that are routinely parked at a business establishment be shown on the site plan and screened from view.

Traffic

Access to the site is provided by a single 38 foot wide driveway which is centrally located along the site frontage and the parking lot is also connected to the adjacent property (to the east) with a shared driveway. TF Moran prepared a traffic memo for the proposed change of use (please see attached memo from TF Moran). TF Moran has concluded that the change of use from office to daycare would result in an increase of 41 new vehicle trips during the weekday PM peak hour, which is about one vehicle in or out every three minutes. TF Moran concluded that the proposed development would have no impact on traffic flow. This traffic impact analysis appears to be reasonable, especially in light of the fact that the children in the daycare program are transported from local schools by vans owned by the martial arts academy. The sight distance at the driveway was also evaluated and has the required 400 feet of all season sight distance.

IV. Waiver Requests:

The applicant is requesting the following waiver of the Land Development Control Regulation for which the Board will need to take action (see the attached letter):

- 1. Section 322.3.4, to not provide a parking study for the proposed shared parking arrangement between the daycare and church uses.*

V. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waiver from Land Development Control Regulations, for Section 322.3.4 as described above.

Planning staff recommends that the Planning Board grant final approval of the change of use site plan for John Stewart (Bedford Martial Arts) and DWD Realty, LLC, to allow a 3,545 SF daycare facility as an additional use at 292 Route 101, Lot 27-31-3, 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 waiver, the plan shall be updated to list all waiver granted as approved.*
- 2. 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.*
- 3. The Applicant shall submit any outstanding engineering review fees to the Department of Public Works.*
- 4. Prior to use of the space, the Applicant shall obtain a certificate of compliance from the Building and Fire Departments for the proposed daycare.*

Tom Burns, T. F. Moran, and John Stewart, owner Bedford Martial Art Academy, were present to address this application for site plan approval for a change of use.

Mr. Burns stated we are here before the Board to seek a partial change of use for the existing site and building at 292 Route 101. Mr. Stewart currently operates Bedford Martial Arts Academy, which is located at 334 Route 101, and his proposal is to relocate his operation just down the road to this site to occupy the existing building. This is a 1-story building, multi-tenant operation that has four primary units in it that are typically leased out. Two of those units are currently occupied by office uses, a third unit is operated by the New Hope Christian Church, which has Sunday services on the site, and the fourth unit is the former location of ATA Martial Arts Studio. Bedford Martial Arts Academy is proposing to acquire this property and to operate their martial arts studio basically in the location of the former studio that was in this building at one time. The component that we're seeking for the change of use approval is on the primary difference between Mr. Stewart's martial arts academy and what was formerly there, in that Mr. Stewart also has a licensed afterschool program through the State. Part of his operation is to bring Bedford area children to his site by van to get martial arts training and then they can have a study time and activity time, which he currently offers at his existing site, and would be seeking to operate here. The location of the afterschool portion of his operation would be within the unit that's currently used by the aforementioned church because their services are offered on Sundays when his site would be closed, so they have basically a non-conflicting schedule to have the availability to share that space. Part of the proposal also would be to construct a 2,500 square foot fenced in playground area of that size located on the southeast corner of the existing building in the parking area. Based on the uses that are currently in the site, as well as the proposed use, the site still meets the parking requirements per the site plan ordinances. The only material change to the exterior of the site or the primary change would be that playground area being fenced in to provide an area for the children in the afterschool program, and then there would be some cosmetic changes that would be proposed to the building, some updates of residing the building, updating painting as needed, and restriping of the parking area where the striping has faded over time. Beyond that the site is going to remain pretty much as it is today. Again, the partial change of use is martial arts to martial arts with an afterschool component that is included in it.

Acting Chairman Newberry asked is the church aware or in agreement with this? The only reason I ask that is because it is not addressed anywhere in any of the documents. Mr. Stewart replied I spoke with the pastor on many, many occasions, as well as their elders, who are four or five

members of their church. We have sat down in many meetings and they are very much onboard with this. They are excited about the opportunity and they are excited to see what we as a martial arts school will bring along with us. We are going to be bringing our students to the place and hopefully for their sake putting more eyes on their congregation that they didn't have before. The pastor is very excited and so are the elders. I don't have that in writing with me today, but I do have several email communications with that aspect.

Acting Chairman Newberry asked you are a licensed daycare? Mr. Stewart replied yes. Acting Chairman Newberry asked could you briefly outline for the Board the requirements for your business? Mr. Stewart replied absolutely. The State of New Hampshire Childcare Licensing Bureau requires very stringent things and they should because we are dealing with kids. We run a school-aged base program for ages five years and older. We transport the kids, so we have two kinds of afterschool. We have mobile afterschool and we have onsite afterschool. Mobile afterschool is when they are physically in the vans and then onsite is when they are at our facility. During the afterschool program the children are exposed to activities such as karate lessons and all sorts of fun games in the afterschool area. They have a chance to have a snack, which the parents provide. We are not able to provide, nor do we want to, due to allergies today. They also are given ample opportunity for homework time. We have five certified teachers on staff that does homework with the kids, they sign off on the homework, and the parents love it. Our current program runs where the van picks up at school at 2:20PM when school gets out, the van is onsite at the school at that time, they come back to our facility anywhere between 2:30PM and 2:45PM, then they are there until pickup by their parents, and the program is done at 6:00PM. The reason we are licensed is because we wouldn't have it any other way. We do everything by the book, we get a licensing coordinator that comes in at least once in a quarter to check on us, they are very fair people, they make sure we are doing what we are supposed to be doing, and the way I run the operation is we always pay very close attention to make sure that the parents know they are getting a great value out of the program. We have a one-of-a-kind program that doesn't exist in many other locations, and we feel that we're only going to try to make it better. We are looking to make this improvement for the betterment of the kids.

Mr. Fairman stated I have a couple of traffic questions. I have a meeting there once a month in the evening and I always have a hard time finding the entrance off from Route 101. It is very dark and not an easy entrance to find. I'd like to suggest that perhaps you're going to have a lot more traffic going in and out of there and some sort of post and reflectors or a streetlight would be ideal, but something because that entrance is very dark and hard to find. The second question I have is that I believe there is also an exit on the north of this into the neighboring business. Have you discussed with that business that there is probably going to be an increase in traffic because I see traffic coming in, picking up, and then continuing onto that other property? I think that you at least need to have some discussion with them or make arrangements for easy turnaround for parents picking up their kids. Mr. Stewart replied regarding the abutter that owns Two Italian Girls LLC. I did speak with her; she is in New York and she asked that I have a conference call with her earlier this week along with her property manager. She didn't have particular traffic concerns; she was concerned whether or not it impacts her septic system. She had some confusion as to when the septic and water meters are read and whether or not we're reading a meter that also accounts for her site as well. So there was some clarification on that. Her other concern was basically just the location of the play area, where it was on the opposite building from hers, and it

is my understanding that there is a tenant in that building that also provides a child education program and her question was primarily would the kids be interacting with the kids from that site, or would the kids potentially be going over to the play area. Mr. Fairman stated you might mention the traffic when you have another conversation so she is aware that that is a potential. Mr. Stewart stated her property manager, who is onsite, who is local, was trying to explain some of the items to her, but again, those were her particular focuses but we can certainly mention that to her.

Ms. McGinley asked is there an easement between the two properties? Mr. Sawyer stated I don't believe they are showing one. Acting Chairman Newberry stated it is not on the plan. Ms. McGinley stated one thing that I don't think has to be on a plan, so I'm not concerned that it is not on the plan, I was just wondering because that actually helps set the framework for the relationship between the properties. Mr. Stewart responded we can go back and confirm it. The site has been through a number of changes of use in recent years and we can go back and see, but I don't recall seeing anything in the files for it. Acting Chairman Newberry asked this is not a new cross-connection? This is existing? Mr. Stewart replied yes.

Ms. McGinley stated in looking at the plan that you prepared and not the color rendering, I wondered about putting the playground where you put it that it prevents circulation around the building. Mr. Stanford, do you see any problem with that in terms of emergency access? There is plenty of access, but it just doesn't make a complete circle. Mr. Stanford stated there is no Public Works issue; I don't know that Chief Wiggin mentioned anything from the Fire Department. Mr. Sawyer stated there is no access today. I know the plan makes it look like there is access there. Ms. McGinley stated with the color rendering it looks like there is grass. Mr. Sawyer responded there is grass there. We can call up the aerial photograph and you would see because I absolutely thought the same thing the first time I saw it, but there is no connection around the building today. Acting Chairman Newberry stated also on the staff memo Condition 4 shows that the applicant should obtain a Certificate of Compliance from the Fire Department and Building Department.

Councilor Scanlon asked regarding the fence, am I correct in assuming that it is a 3-sided fence or 4-sided? Mr. Stewart replied the fence would extend out from one of the side entrances of the building with a gate about 3 feet away from the door of the building. In meeting with Wayne Richardson he said that we couldn't put the fence to the door as he didn't want the kids exiting directly into the playground area because it cuts off the secondary emergency access. So the fence comes off from the side of the building just to the side of the door and then wraps back around to the back. It is essentially a 3-sided fence except for a small portion that would tie back into the back corner of the building. Councilor Scanlon asked what kind of fence is it? Mr. Stewart replied it would be a 4-foot chain-link fence with a self-locking gate.

Mr. Sawyer stated Mr. Chairman, we did put on your desk tonight a staff recommended new Condition 4 so there are now five in total, recommending that the State childcare permit be obtained, which technically should have been on our original staff report. That was an element caught by VHB on their review that we just got on Friday. Mr. Stewart stated I can reach out to Bill O'Donnell and find out whether DOT has even updated it. We did have a discussion of this whether or not we put a package together to send over to DOT District 5 for a partial change of use. They may or may not want to update. I know that was part of VHB's review that I believe it was kind of soft language that be required. Mr. Sawyer replied it is fully up to the State. We just

want to have it noted. Acting Chairman Newberry stated I think to be clear, you would either need to provide the permit number or documentation that stated it was reviewed and wasn't necessary.

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

MOTION by Mr. Cote that the Planning Board grant the waiver from the Bedford Land Development Control Regulations, for Section 322.3.4, to not provide a parking study for the proposed shared parking arrangement between the daycare and church uses. Ms. McGinley duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Cote that the Planning Board grant final approval of the change of use site plan for John Stewart (Bedford Martial Arts) and DWD Realty, LLC, to allow a 3,545 square foot daycare facility as an additional use at 292 Route 101, Lot 27-31-3, in accordance with the plans last revised on January 26, 2016 by T. F. Moran, 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 waiver, the plan shall be updated to list all waiver granted as approved.**
- 2. 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.**
- 3. The Applicant shall submit any outstanding engineering review fees to the Department of Public Works.**
- 4. A NHDOT driveway permit shall be obtained and the permit number shall be noted on the plan or a letter from NHDOT shall be obtained stating that a driveway permit is not necessary.**
- 5. Prior to use of the space, the Applicant shall obtain a certificate of compliance from the Building and Fire Departments for the proposed daycare.**

Ms. McGinley duly seconded the motion. Vote taken - all in favor. Motion carried.

V. Approval of Minutes of Previous Meetings:

MOTION by Ms. McGinley to approve the minutes of the January 11, 2016 Planning Board meeting as written. Mr. Fairman duly seconded the motion. Vote taken; motion carried, with Acting Chairman Newberry abstaining.

VI. Communications to the Board:

Mr. Sawyer stated as no applications were tabled tonight, we are able to cancel the Planning Board's February 22, 2016 meeting, which is school vacation week.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Ms. McGinley to adjourn at 8:20 PM. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted by
Valerie J. Emmons