

TOWN OF BEDFORD
October 10, 2016
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, October 10, 2016 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Chairman), Harold Newberry (Vice Chairman), Chris Bandazian (Town Council), Rick Sawyer (Town Manager), Karen McGinley, Philip Cote, Mac McMahan, Jim Scanlon (Alternate), Charlie Fairman (Alternate), Rene Pincince (Alternate), Mark Connors (Assistant Planning Director), and Becky Hebert (Planning Director)

I. Call to Order and Roll Call

Chairman Levenstein called the meeting to order at 7:00 p.m. and introduced members of the Board. Regular member Alex Rohe has resigned from the Planning Board. Jim Stanford (Public Works Director) and Melissa Stevens (Town Council Alternate) were absent. Mr. Fairman and Mr. Pincince were appointed voting members. Mr. Connors reviewed the agenda.

II. Old Business: None

III. New Business:

1. 318 South River Road, LLC (Owner) – Request for a time extension to meet conditions of approval for a Site Plan approved on September 14, 2015, at 318 South River Road, Lot 24-98-20, Zoned CO.
2. 393 Route 101 Associates, LLC (Owner) – Request to amend the previously approved Site Plan to modify the architecture for the proposed restaurant, at 393 Route 101 (former Weathervane), Lot 31-15 & 44-29, Zoned CO.

IV. Concept Proposals and Other Business:

3. The Bedford Planning Board will hold an informal workshop to discuss general community planning issues.

Mr. Connors stated all the applications have been reviewed by staff and are complete, the 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 Ms. McGinley to approve the agenda as presented. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.

Chairman Levenstein stated the workshop that is scheduled later in the meeting is usually held as an entirely separate meeting. It is separate from public hearings and is generally not televised. It is just a chance for the Planning Board to discuss what planning issues the staff thinks are things we should be dealing with now and into the near future. What we will do this evening is have the two public hearings and then after that we will stop the televised meeting, still have discussion of the workshop items, in which the public is welcome to stay, but there is no public input.

1. 318 South River Road, LLC (Owner) – Request for a time extension to meet conditions of approval for a Site Plan approved on September 14, 2015, at 318 South River Road, Lot 24-98-20, Zoned CO.

A staff report from Becky Hebert, Planning Director, dated October 10, 2016 as follows:

I. Project Statistics:

Owner: 318 South River Road, LLC
Proposal: Change of use from manufacturing to medical office
Location: 318 South River Road, Lot 24-98-20
Existing Zoning: "PZ" – Performance Zone
Surrounding Uses: Office

II. Background Information:

On August 14, 2015, the Planning Board approved a change of use to convert 8,050 square feet on the first floor of the building from light industrial/manufacturing to medical/professional office use at 318 South River Road.

The property is located on the west side of the road between the intersections of Moore's Crossing Road and Commerce Park North. The existing two story 16,100 square foot building is centrally located on the 3.5 acre site. The building contains professional office space on the second floor and light industrial/manufacturing space on the first floor. Access is provided via a shared curb cut with the property to the north. Parking surrounds the building on three sides with paved walkways to the entrances, which have been improved for handicap access. There are no changes proposed to the site or the exterior appearance of the building as part of this application.

III. Project Description:

This request is for an additional one-month time extension to fulfill the precedent conditions of approval for the site plan approved on September 14, 2015. Attached please find a letter from T.F. Moran requesting the extension, as well as a copy of the notice of decision.

Conditions #1 through #5 on the approval letter are the precedent conditions which must be satisfied before the plans can be signed. On September 14, 2016, the Applicant filed the request for extension because condition #4 had not yet been satisfied. This condition requires the Applicant to provide documentation to demonstrate that the existing septic system is adequate for the

proposed medical office use and if the system needs to be upgraded, a new system needed to be designed and approved by NHDES. Since the request has been filed, the Applicant has received NHDES approval for a new septic system and the condition has been met.

No significant changes are pending or anticipated to the ordinances or regulations that might impact the project during the next month. If the request is granted the approval would expire on October 14, 2016. The Applicant has provided mylars and plans for the Planning Board's signature, which can be signed after tonight's meeting.

IV. Staff Recommendations:

Planning staff recommends that the Planning Board grant a one-month time extension for the precedent conditions to be met as required by the Board on September 14, 2015, for 318 South River Road, LLC (Owner) at 318 South River Road, Lot 24-98-20, Zoned PZ, in accordance with the engineering plans prepared by T.F. Moran last revised October 10, 2015.

Jeff Kevan T. F. Moran, was present to address this request for a time extension. Mr. Kevan stated this is a site plan that came before you that was brought by The Greater Manchester Board of Realtors; they were buying the building. It was formerly the Expert Server Group that was in there, they had offices on the upper floor and some light assembly work within the computers, and then shipping on the lower floor. The site plan is to convert the lower floor into office space, it was approved, and one of the conditions was that we had to get a septic system approved in case the existing one had to be replaced. The reason for the request is that the building has changed hands, and during that time we were put on hold as far as the septic system goes. We got the septic approved on the last day of the requirement, so we have requested the extension so that we can update the plan. We have to change the name of the owner, put the septic system approval number on it, and get signatures. Because of the lapse I guess we would have about a week to do that, so I would request instead of 30 days we would have a 60-day extension.

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

MOTION by Councilor Bandazian that the Planning Board grant a one-month time extension for the precedent conditions to be met as required by the Planning Board on September 14, 2015, for 318 South River Road, LLC (Owner) at 318 South River Road, Lot 24-98-20, Zoned PZ, in accordance with the engineering plans prepared by T.F. Moran last revised October 10, 2015. Ms. McGinley duly seconded the motion. Vote taken - all in favor. Motion carried.

2. 393 Route 101 Associates, LLC (Owner) – Request to amend the previously approved Site Plan to modify the architecture for the proposed restaurant, at 393 Route 101 (former Weathervane), Lot 31-15 & 44-29, Zoned CO.

A staff report from Becky Hebert, Planning Director, dated October 10, 2016 as follows:

I. Project Statistics:

Owners: 393 Route 101 Associates, LLC & Hamza K. Alam
Proposal: Site plan amendment for changes to the site and building design for Murphy's Taproom
Location: 393 Route 101 (Lot 31-15 & 44-29)
Existing Zoning: "CO" – Commercial, "R&A" – Residential Agricultural
Surrounding Uses: Residential & vacant land

II. Background Information:

On January 25, 2016, the Planning Board granted final site plan approval for 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.

On May 23, 2016, the Planning Board approved a site plan amendment to remove the requirement for a right turn lane on Route 101 at the main entrance.

III. Project Description:

This application seeks to modify the design of the proposed building and make a few minor changes to the site.

The specific changes include the following:

- 1) The color of the building has changed from yellow with white trim and green accents with dark brown vertical barn board to a grayish-beige building with white trim and red accents with red vertical barn board;*
- 2) The cultured stone at the building entrance and along the base of the barn has been removed, but the exposed cultured stone chimney on the east elevation will remain;*
- 3) The roof over the kitchen area on the south and west elevations has been modified from a peaked roof with a gable and dormer to a flat roof with a parapet wall to screen mechanical equipment;*
- 4) Several window and door locations have moved due to changes to the internal layout and to accommodate fire department access to the building and electric fire pump;*
- 5) The ground mounted electric transformer has been relocated closer to the building, to the west of the right-in/right-out driveway;*
- 6) The stonewalls along the edge of the patio have been removed and replaced with low bollard cut-off lights;*
- 7) The cabana will not be constructed immediately; and*
- 8) A retaining wall has been added under the west deck to provide access to the fire pump room.*

The original staff report included the following description of the restaurant and function hall:

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. 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.

Staff does not object to the proposed building and site changes and still feels the architecture is attractive. The Board's architectural guidelines discourage the use flat roofs but the flat roof over the kitchen area is located to the rear of the building and the architect has included a parapet wall to screen any roof-mounted mechanical equipment.

IV. Staff Recommendation:

The Planning Staff recommends that the Planning Board approve the architectural and site changes for Murphy's Taproom at 393 Route 101, 393 Route 101 Associates, LLC & Hamza K. Alam (Owners).

Ms. McGinley and Town Manager Sawyer recused themselves from this site plan amendment request. Mr. Scanlon was appointed a voting member for this request.

Keith Murphy, 393 Route 101 Associates, LLC (Owner), and Jonathan Halle, Warren Street Architects, were present to address this site plan amendment request.

Mr. Murphy stated we have a letter that I think you have a copy of, which is the list of eight things we are requesting to change on the previously approved site plan. Most of them are very minor changes. The first one is that the color of the building has changed. When we initially came before you the building was a generic yellow color and that was never intended to remain the permanent color; we just hadn't selected a permanent color. The building color in the design is changed to a deep red on the barn structure, posted is the previous image, and the restaurant side into a more muted gray. We think it is a more unstated look, and it is going to be more attractive.

Mr. Murphy stated the second change that we are looking to do is to reduce the amount of stone on the face of the building by the door. Previously you could see stone on the side and our feeling

was that under the covering by the door that wouldn't be as visible, so we carried the white trim element across and lowered the siding on the barn closer to the foundation line.

Mr. Murphy stated the third thing is the flat roof, the parapet above the kitchen and screening mechanical equipment. One thing we heard routinely when we went out to bid this project was that it would be a lot more cost effective, require a lot less money and a lot less labor, to go with some HVAC on top of the building, and that also allowed us to delete some pads that we had been planning for the rear of the building and that got the HVAC equipment off the ground and onto the building. That change is not visible from Route 101, as you can see on the building site plan. Shown is where we are going to put the flat roof and that won't be visible. It is an invisible change for anyone driving past the site.

Mr. Murphy stated the fourth and eighth changes are related. When we met with the Fire Department in preparation for filing for the permits, they made it very clear that they would have liked to see some exterior access directly into a fire sprinkler room. We initially had it located down a hallway and rather far from the door and they asked for exterior access, so we redesigned the basement to allow that to happen. As a result, we had to add a small retaining wall under the west deck to create that doorway access and obviously some rear doors and windows had to be moved around. If we show you the new design and then the old design, I think you will see that they are very, very similar. The ground-mounted electric transformer has been relocated closer to the driveway in front of the building. We are looking to put it by the Weathervane sign that is still there. We are going to be repurposing that sign. The initial site plan had it located over by the patio, it was sort of on the top of a knoll, and we thought it would be more attractive closer to the road, closer to the sign, and less visible off that knoll by the patio. It is also a more direct path from the pole to the building itself.

Mr. Murphy continued the sixth item is that the stone walls at the patios would be deleted. We are looking to add some very low patio lights, low voltage lighting, along the perimeter of the patios along with the landscaping that was previously approved. Between the landscaping and the lights there would still be a very nice definition between the patio and the rest of the site. And the eighth item is that we are deleting the gazebo we originally had on the plan.

Mr. Murphy stated that summarizes the changes that we are seeking to make.

Vice Chairman Newberry on average how high are those proposed shrubs around the patios? Just roughly. Mr. Murphy replied my impression is that they are approximately 30 inches tall. Vice Chairman Newberry stated looking at the east elevation, can you explain the light band under the eaves. From the elevation it wasn't clear to me what the material is or what that looks like. Mr. Murphy replied that is a PVC trim, and I believe that was on the previous site plan. It is just a continuation of the same band, a little bit larger, around the restaurant portion of the building. Vice Chairman Newberry asked are there panels to it? Mr. Murphy replied yes. Vice Chairman Newberry stated the panels didn't show in the original elevation. Mr. Murphy stated it is probably that the white is more vivid given the red of the building now. Vice Chairman Newberry asked and the screening around the rooftop equipment is all solid? Mr. Murphy replied it is.

Mr. Fairman stated with going to the flat roof are you gaining interior space, and if you are, what is your plan for that interior floor space. The second question is about around the patios; it isn't clear to me. If you are taking away the stonewalls that define the exterior patios, what is going to define the edge of the patios relative to people walking in and out with drinks, etc. I think they do have to be limited to that, don't they? Mr. Murphy replied they do. The Liquor Commission has very strict regulations delineating the difference between an area approved for service for food and beverage and an area not approved. They will require to their satisfaction some sort of very obviously difference. We are going to have to make sure that the plantings there are sufficient to make that very obvious. There is a big mulch border all the way around the patio, it is a stamped and stained concrete patio, and off the edge of those plantings there is a pretty significant drop off. It is not as if someone can simply just walk straight across. They would have run down a hill. I don't believe the Liquor Commission would have any issue with that kind of delineation. There is a 6-foot border around those patios filled with plantings and mulch. The first question you asked was regarding any additional floor space. There is none. The only difference was a slight decrease in attic area.

Chairman Levenstein asked for comments or questions from the audience.

Andrew Cutting, 23 Grey Rock Road, stated I have one question with regard to the screening on the flat roof. You were referencing the visibility from Route 101, and obviously we are not so concerned with that because we live on the opposite side of the building. It is hard to tell from the pictures but it looks somewhat satisfactory from here as long as we can't see the equipment. I would certainly be able to see the building looking up through the woods. More than that, I am concerned about any noise. Does that screening also buffer noise from HVAC equipment and other ventilation systems on top of the roof or will that bounce off the structure and we will hear a hum? I would like to know more about that aspect. Mr. Murphy responded the parapet wall is 42 inches high, which is the height of the equipment itself. It will not be visible. In addition, the residences that are adjacent are down a rather steep hill, again, previously referenced, so it is going to be very, very difficult. You will have to go outside and look up. They will be able to see the building but they will not be able to see any equipment. The angle simply won't work for that. In terms of any noise; ventilation fans and HVAC equipment just isn't very noisy. I don't believe that anyone will be able to hear that equipment from those homes. Vice Chairman Newberry asked is there still forestation between your building and the residential area? Mr. Murphy replied yes.

Brian Driscoll, 45 Grey Rock Road, stated I am one of the abutters. Has each and every member of the Board actually visited the site since construction has begun? Councilor Bandazian stated I drive by it; I don't trespass on it. Mr. Driscoll stated the reason I am asking is that the Board at one point approved what I would call the wholesale invasion of the residential buffer zone by permitting the infiltration basin and the scope of that is enormous. It is one thing to see a diagram on this screen but it is another to actually visit the site. I would welcome each and every member of the Board to access that site and if Mr. Murphy would not allow trespassing on his site, I will ask that you come to visit our location and just take a visit from our side because our concern, as Mr. Cutting had mentioned, is not so much the Route 101 side, it is our side. The wholesale destruction of all of the forestation is enormous. Any intent of downplaying the scope of this is really counterproductive to the abutters. I believe also the downplaying of the blasting at one point was kind of shuffled under the rug. This has been an enormous blast site that has affected the

neighbors with surveys, etc. Also the magnitude of all of the constant noise and trafficking with the steam shovels, the bulldozers, has really disturbed the neighbors. The dust factor has been enormous. I know we have had a dry summer but everything that we touch is covered with dust and dirt. That would be cars, houses, air conditioning units, everything. I am wondering whether they underplayed the scope and magnitude of the cost factor of this site plan and whether that has affected doing things a little bit more on the cheap. I would really ask that all of the members of the Board visit the site on a regular basis before making any decisions. Mr. Murphy stated Mr. Chairman, I would say that anyone here including behind me, is very welcome to come to the site. I am happy to walk them around and show them every corner of it.

Mr. Murphy stated I have a couple of quick responses for Mr. Driscoll. The basin that was required was required by State regulation. It was quite an expensive undertaking and it was one that was not required when the Weathervane was constructed, but obviously in this day and age it is. It wasn't as if I had a choice to simply not build it. The blasting was certainly anything but cheap. I believe we paid somewhere north of \$300,000 in ledge removal. Ledge removal is the kind of thing that you don't know how much is there until you begin to actually dig. We did test pits, we did due diligence, we knew there was some ledge but there was more than we expected, and the good news is that that has been finished for weeks. We do not foresee any additional blasting requirements. I did my best to speak to some of the neighbors via email and via phone to tell them that it was coming and to answer any questions and concerns. Regarding any dust; it was a dry summer and if the wind blew, I am sure there was some dust, and for that I can apologize to the neighborhood. If there is something that I can do to solve that at this point, I certainly would be happy to. We have hydro-seeded as much of the site as is possible, which is to say a good bit of it, most of what is left uncovered is either the building site itself or the parking lot, which is nearing completion as far as the grading goes. I think we will be pouring asphalt inside of three weeks. That will no longer be a dust issue either. I am happy to clarify anything I may have missed. Mr. McMahan asked was any of the construction on the basin or associated area beyond the scope that was previously approved by the Planning Board? Mr. Murphy replied no, Sir.

Tammy Williams, 33 Grey Rock Road, stated I have a lot of concerns. One thing about the construction is that it has been very noisy. I think the dust probably is over because of the point they are at now. It has been really bad. The Planning Board sort of was going to limit the construction hours to not start before 7:00 AM. This morning, for example, they started the trucks up at 6:10 AM and they start digging anywhere from 6:30 AM to 6:40 AM on a regular basis and this is Monday through Saturday. When the DOT used the site to repave Route 101 and resurface that, they used the site until about 3:30 AM and of course they pave at night. So there were a couple of weeks where our sleep was so intermittent and it has just been really, really hard. I have a couple of concerns as far as noise with the plan. One is with the HVAC being on the roof. We have put up with so much noise, and I don't know what that is going to sound like, I really don't know, but I hope that you look into that before you make a decision. The other thing is the back patio that is outside the event center; as far as I know that hasn't been approved for any sort of seating or hanging out. If they are looking to save money, I am wondering if that back patio is really necessary because that overlooks our neighborhood and it is just aimed right towards us, it is not on the Route 101 side. I am not really sure that is supposed to be used for, but we are worried about people coming outside and opening the doors and being loud and drinking and the band when the door is open and all of that. Can you address the operating hours of the Jennings

Construction? Mr. Murphy replied I will certainly address the operating hours with the people from Jennings that are working for me. I made it very clear to them that they are not to start work before 7:00 AM. If they started work before 7:00 AM, I am happy to hear about it, and I will certainly address it in no uncertain terms. I wouldn't want equipment by my house operating at 6:10 AM, so I can certainly understand that point. Obviously I have no control over DOT equipment. When they repaved Route 101 and made a lot of noise at 3:00 AM, I am sorry. Nobody in this room can change that. Ms. Williams stated but if they could wait until 7:00 AM to start their trucks. Some of us that don't work a day shift it would help because it is constant noise. It is really getting to us. Chairman Levenstein stated talk to them about it, but if you have the problem, call either Mr. Murphy or Ms. Hebert and Ms. Hebert will make sure that that is taken care of. Ms. Williams asked do you know what that back patio is supposed to be used for? Mr. Murphy replied the plan for the back patio was to allow an area for people to gather before or after a ceremony. If we had a wedding, we could have it there on that patio, strictly adjacent to the actual event center. It is not intended for people to have tables out there, loiter out there all hours of the day and night, it is a place for people to meet immediately before or after a ceremony or perhaps while an event is going on, or if they want to step outside to smoke. That is what that is intended for.

Mr. Pincince asked don't we have a noise ordinance in Town? Ms. Hebert replied we do not have a noise ordinance in Bedford but we do ask that contractors working on sites use common courtesies and not start their equipment before 7:00 AM. It is the backup alarms and the warming up of equipment that can cause some neighborhood problems. Mr. Pincince stated my suggestion was going to be to simply call the police and tell them they are not respecting the abutters. I worked my entire life in the construction industry and I sat many times where Mr. Murphy is, so I am very sensitive to starting at 7:00 AM.

Harold Williams 33 Grey Rock Road, stated we had no heads up on the DOT using this site. I think with having a residential neighborhood back there it would have been nice to know there was going to be a 24-hour operation keeping us up all night. We have a sound machine and ear plugs and when the dump trucks dump and then that tail gate slams, it is like a gong every 10 minutes throughout the entire neighborhood. I don't think that should have been allowed. DOT has other sites that aren't around residences that they could have used. The first night that they did, I did call the police. I actually went up to the site because I didn't know what was going on at 2:00 AM, but then I eventually found out when I saw Cooper's and figured out what was going on. As far as the dust goes; we had to deal with a lot of dirt and dust all summer long. We stopped and talked to Ms. Elmer at the Planning Department and there was supposed to have been water mitigation. We have been up there almost every day and we have seen a water truck once. Supposedly part of this DOT agreement was to have unlimited water, which is what Mr. Murphy told us in an email. After the dust was done and everything was hydro-seeded, now the stone dust started because of onsite rock crushing. They had this rock crusher set up right at the back of the property feeding in this granite, crushing it all day long with a big cloud of dust coming out of this thing. There was no water, no tarps, nothing, all heading right toward our neighborhood. It is all over our cars, our houses, deck, furniture or whatever. I don't think the Town should have allowed rock crushing onsite or there should have been a continuous water spray on it to keep that down.

John VanHouten, 59 Seton Drive, stated I have listened to the people come up and address the noise factor, and the noise factor should have been assessed at the beginning of this project. I have been listening to Mr. Murphy say we will look into it and such. If the noise of the construction is noisy, which I presume it is because I hear it at my property, and it is on a daily basis, early in the morning through Saturday. You can't say that it is local; it is several miles away. The issue of the back patio is a little bit sensitive to me because I think Mr. Murphy should eliminate the back patio for gathering of anyone on the back side of the property so that the neighbors who live down the hill who are complaining today of the expansion of devastation of the entire property from the roadway to the trees and what is going to come after that is people having a good time with beer and drinking. So I would say that the back patio should be eliminated from approval.

Ms. Hebert stated I can clarify for the Board that we had a preconstruction meeting with Mr. Murphy and with his site contractor before construction started. We went over the noise concerns and the abutters' concerns, the Town's expectations for erosion control, and tonight is not the first time we have heard about some of these complaints. I think Mr. Murphy has kept us in the loop and the neighbors have kept the Planning Department in the loop with regard to the dust and the noise issues. It is unfortunate what happened with DOT, but we don't have control over the State's paving contracts and how they bid them. They must have bid this particular project to be night work. We do have a third party inspector that goes out to the site routinely to check for dust, and it is our understanding that there is water available to keep the dust control down. Mr. Murphy stated the rock crushing is completed and there is water on the site as Ms. Hebert just stated. We have a truck that drives around the site and does what it can to keep the dust down. It was a very hot, dry summer, and, again, I apologize to the neighbors if they had dust on their property as a result. As a matter of timeframe, the entire site should be free of that heavy equipment in a few weeks. We are wrapping up the heavy equipment phase and soon the only thing that is going to be out there is hammers.

Chairman Levenstein asked are all of the trees down that were planned to come down? Mr. Murphy replied yes. There are no more trees coming down. Chairman Levenstein asked is the buffer that was on the site plan still there? Mr. Murphy replied yes it is. Chairman Levenstein asked Ms. Hebert, we have someone who has checked that? Ms. Hebert replied yes we do. Chairman Levenstein asked no trees have come down from any place other than Mr. Murphy's lot? Ms. Hebert replied none. After tonight's testimony I will call VHB first thing tomorrow morning and have them go out and check for dust at the site. They have routinely checked the limits of clearing, the erosion control on site, and everything has checked out so far. We haven't had any reports that have come back with concerns from an engineering perspective.

Mr. Williams stated I have something to mention about the trees. Initially when they came and clear-cut everything, and we know that was going to be done to make way for the infiltration basin, but they built a construction perimeter around the property of a 3 foot high tarp. There is probably 30 feet of clear-cut between that and the treeline. Why did they need to remove those trees within that if they put that perimeter up there? We would have liked every little tree that we could have had. Now there is a zone between the treeline where they cut to and this perimeter line. Chairman Levenstein asked is that siltation fences? Mr. Williams replied yes, I guess it must be. Chairman Levenstein stated those are just during construction; those won't stay up there. Mr. Williams stated but it was unnecessary to remove that vegetation from there to the treeline is what I am saying.

There is about 30 feet there that could have been saplings, there were probably some big trees involved, some oaks and stuff. It is all leaf coverage; everything that provides more of a barrier. That is my point. Mr. Murphy responded tree removal is expensive and I didn't do any of it I didn't have to do. Mr. Williams replied it was actually to the right of where you are indicating on the plan. There was a berm that had to be created right along the edge of that, and I suspect that must be the cause of that. Chairman Levenstein asked is there going to be plantings on top of that berm? Mr. Murphy replied yes, there are plantings specified.

Mr. Pincince stated the HVAC equipment that is going to be used on your project; your HVAC designer can easily garner from the information that is provided from the equipment manufacturer the decibel it is producing. To appease the neighbors relative to sound generation from that equipment running, it would probably be a kind gesture to do that for the purposes of the neighbors. If it was found that it is noisy, that screen wall material can go to some kind of an acoustic material that would deaden the sound and never leave the area. I would suggest that you speak to your HVAC engineer. Mr. Murphy replied I will contact him and get those decibel ratings to the neighborhood.

MOTION by Mr. Cote that the Planning Board approve the architectural and site changes for Murphy's Taproom at 393 Route 101, 393 Route 101 Associates, LLC and Hamza K. Alam (Owners) as presented. Mr. McMahan duly seconded the motion.

Vice Chairman Newberry stated I'd like to make an amendment that the site plan reference the Warren Street Architects Sheets A3-1 and A3-2 dated August 15, 2016. Mr. Cote stated I am not sure that is all inclusive for all of the changes because there are site changes also. Vice Chairman Newberry stated we should also include the T. F. Moran Sheet 5 of 18 dated September 30, 2016.

Mr. Cote and Mr. McMahan accepted an amendment to the motion as follows:

The site plan shall reference Sheets A3-1 and A3-2 from Warren Street Architects dated August 15, 2016 and Sheet 5 of 18 from T. F. Moran dated September 30, 2016. Vote taken on the motion as amended - all in favor. Motion carried.

Town Manager Sawyer returned to the meeting.

V. Approval of Minutes of Previous Meetings:

Amendment: Page 30, Line 14, "flushed" should be "fleshed"; and, Page 31, Line 19, "flushed" should be "fleshed."

MOTION by Councilor Bandazian to approve the minutes of the September 26, 2016 Planning Board meeting as amended. Vice Chairman Newberry duly seconded the motion. Vote taken; motion carried, with Ms. McGinley and Town Manager Sawyer abstaining.

The Planning Board took a 5-minute break at 7:45 PM.

1. The Bedford Planning Board will hold an informal workshop to discuss general community planning issues.

A staff report from Becky Hebert, Planning Director, and Mark Connors, Assistant Planning Director, dated September 26, 2016 as follows:

Gas Station Amendment

In December of 2013, the owners of Lot 28-20 (Two Hardy Rd, LLC) and Amanda Hess Corp. approached the Planning Board with a concept plan for an eight-bay gas station and convenience store at 2 Hardy Road and NH Route 101. The parcel is located in the Commercial District which does not allow gas stations or other automotive uses. Members of the Board expressed some concern related to the size and scale of the proposal, its architecture and traffic impacts. The applicants pared down the size of the proposal and the Conservation Commission recommended its approval subject to conditions in January 2014. However, in March 2014 the Zoning Board of Adjustment denied the applicants a variance to operate a gas station in the Commercial Zone after several residents and a nearby gas station owner expressed opposition. According to the minutes of that meeting, ZBA members agreed that the proposal did not meet the spirit of the Zoning Ordinance and its denial would not result in an unnecessary hardship.

More recently, the owners procured a neighboring parcel (Lot 28-21) and re-approached the Town, noting that they continue to believe a gas station and convenience store represent the highest and best use of the location. The applicants noted the relative lack of gasoline stations in Bedford and the benefit of a more competitive environment for town residents as a result of more fueling facilities. Two Hardy Road, LLC has submitted a letter requesting the Planning Board to consider a zoning amendment to permit gas stations as an allowable use in the Commercial Zone (see attached). The owners note that they are open to restrictions on such uses, including that fueling facilities are serviced by public water, are permitted only in conjunction with convenience or retail uses, and are only allowed at signalized intersections and not within one mile of other gas station facilities. However, even with these restrictions several sites along the Route 101 corridor would become eligible for the siting of a gas station. Staff has included the letter from Two Hardy Road, LLC for the Planning Board's consideration along with two letters received from nearby residents in opposition to the proposal.

Ms. Hebert stated the Planning Board received a letter from 2 Hardy Road, LLC requesting that the Board consider a zoning amendment to permit gas stations as an allowable use in the Commercial Zone. There is a copy of this letter in your packet and the request was that the Board consider this as one of their workshop items. The letter explains that they would like the Board to consider a zoning amendment to permit the gas station use in the Commercial Zone but subject to some suggested restrictions, including that potential sites be serviced only by public water, be permitted in conjunction with convenience or retail uses, or be allowed only at signalized intersections, and also suggested that there could be a potential separation requirement between existing gas station facilities of one mile.

Ms. Hebert stated here is some history on the 2 Hardy Road site. The owners of 2 Hardy Road are 2 Hardy Road, LLC, the property at the corner of Route 101 and Hardy Road, at the intersection with the Hannaford supermarket. The owners came to the Planning Board with a potential gas station site in 2013 with a concept plan and the Board made some recommendations on that site plan. Then the owners went to the Zoning Board to seek a variance for the use, and the variance was denied by the Zoning Board in 2014. Since that time the owners of 2 Hardy Road have acquired rights to the adjacent property, as shown on the screen, and they are reviewing the possibility of a potential gas station at that site again and submitted the letter to the Planning Board. The Board has also received several letters from neighbors in the residential properties behind this site in opposition to a potential zoning amendment, and you have copies of those letters as well. The nearby residents cite several concerns, including environmental concerns related to contamination from potential underground storage tanks for the gasoline, and also cite inconsistency with the Route 101 corridor study and the Town's Master Plan, which recommends limiting automotive uses along Route 101. To give you a little bit of background on gas stations in Bedford: There are five existing gas stations in Bedford right now. One is on the corner of Technology Drive and South River Road, and the site is located in the Performance Zone. The second one is on Route 114 off from White Avenue and the site is located in our Highway Commercial District. The third is on Route 101 in the R/A District near the center of Town. The fourth is on Boynton Street in the Highway Commercial District. The fifth is in the western end of Route 101, Worthen's Gas Station, also in the Highway Commercial District. Three of these sites are in the Highway Commercial District, one is in the Performance Zone, and one is considered a non-conforming use in the R/A District. The gas station use is currently permitted in the Performance Zone, subject to a conditional use permit and it is permitted in the Highway Commercial District, provided that gasoline stations are located not less than two miles apart. The gasoline service stations in the Performance Zone need to meet the conditional use permit standard and some of the conditional use permit requirements, there are several, but they include access to sewer and water, screening of refuse and pumps, environmental safeguards to protect from leaks from the underground storage tanks, market data to support the location, the site needs to be at a signalized intersection, the applicant needs to submit a traffic analysis, which is a standard requirement anyway, there needs to be termination provision for the gasoline service station if it were to discontinue use, and they need to provide a map of service stations within a 5-mile radius. The zoning map was posted and the locations of the gas stations were indicated on the map. There are restrictions in place that limit gas station uses in Town and there aren't that many places where gas stations could be currently located.

Mr. Pincince stated there is a 10-year Master Plan for Route 101, and from what I understand Route 101 is to be widened to a 4-lane highway. If we were to allow such a gas station to be built, is that in conflict with the future plans for Route 101 going west? Ms. Hebert replied as proposed by 2 Hardy Road, LLC, the restrictions that they are recommending would open up several sites but one of their suggested requirements would be that the gas stations would need to have access to a signalized intersection. I don't believe that would be in conflict with the Route 101 widening proposal, but it certainly limits sites, although it does open up some sites, potentially at the Nashua Road/Route 101 intersection and the Wallace Road/Route 101 intersection. Staff would need to do a little bit more research but there may be other sites where potential gas stations could be located in the Commercial Zone if this zoning amendment were approved in March. The Commercial Zone is indicated on the zoning map in the pink.

Mr. Fairman stated in addition to changing the requirement in the zone, they are also asking that you change the distance between gas stations. Right now the requirement is two miles and they would like us to reduce it down to one mile. Is that a correct statement? Ms. Hebert replied in the Commercial Zone. Right now the use is not permitted in the Commercial Zone at all. If the site at Hardy Road were zoned Highway/Commercial, it would need to be at least two miles from the nearest service station. Mr. Fairman stated where it is approved at the 2-mile requirement. Ms. Hebert replied that is right. Chairman Levenstein stated but there isn't that requirement in the Performance Zone. Ms. Hebert replied no.

Mr. Cote stated you mentioned in the Performance Zone that one of the conditions is environmental safeguards. You mentioned leak protection. Are there other requirements beyond that? Ms. Hebert replied the zoning is vague. I think it leaves some room for the Board's interpretation of what environmental safeguards they feel would be appropriate. It simply lists environmental safeguards. Mr. Cote asked do you know if surrounding towns have certain setbacks as far wetlands or other environmentally sensitive areas for gas stations? Ms. Hebert replied I haven't done research or a comparison study on how surrounding towns zone for this particular use, but if the Board wanted more information, we could certainly do that research. Mr. Fairman asked aren't there state and federal requirements on how a gas station is built today? Ms. Hebert replied yes; there is a DES permit for the underground storage tanks.

Mr. Scanlon asked with the submission by the applicant for a consideration of change, did they provide at that time any of the relevant information from the time it went through the Zoning Board? I remember having been on the periphery of that consideration and watched it with great interest. The one thing I do remember being impressed by was the depth of the data that they supplied in response and concern for spills, drainage and the way the tanks were going in, with how construction of the tanks was formulated and made. I do remember walking away very impressed with at least that part of the application, and I would assume that a similar submission will occur if it hasn't been attached to their application now. Ms. Hebert responded this request was simply for a discussion of a potential zoning amendment. We don't have that type of information, but, again, if the Board wanted more information on environmental safeguards, that is something staff could look into. Mr. Scanlon stated I should think we would want something like that for the Board's consideration because the feasibility of recommending it or supporting it in some part would be dependent on satisfactory information to assess on the environment. I for one think that information would be relevant for our use. Mr. Fairman stated it seems that information is more applicable to actually approving a site for that application. We are actually looking at a change of zoning. I'm not sure that the environmental issue is one that should have an effect on whether or not we change zoning. I think zoning has to stand on its own, and the environmental issue is a very big one when it comes to site planning. One of the real questions here is whether there is enough need for gas stations in this town that we ought to be changing zoning to open up new areas for gas stations. We have five gas stations of various sizes, and our gas stations are very close to the border on three of the streets.

Mr. Fairman stated frankly I don't see enough of a need for a gas station, or additional gas stations, that we ought to be changing the well thought-out zoning plans that we have in this town. That is basically where I sit. Somebody has to really convince me why we ought to be changing zoning

for a specific business. Vice Chairman Newberry stated I kind of agree with you, Mr. Fairman, and the way I think of it is, what is the problem we are looking at here. I think as a board we need to be looking at it from the municipal or the Town's perspective, and I just don't see any evidence of a compelling argument for more gas stations, particularly if you try to look at it from the perspective of the Town. I don't think there is a need or a reason to open up Route 101 to this and possibly additional gas stations with all of the attendant traffic, environmental, best use issues that those open up. In my mind it would be much better to leave it as it is, and if some applicant wants to apply to the Zoning Board of Adjustment for a variance, the Zoning Board of Adjustment is equipped to look at the circumstances related to a specific proposed development and apply specific criteria to whether or not that variance is justified. I think that is a much better way of dealing with any proposed exception to the current zoning than for the Board to consider opening it up and creating what we really don't know are additional issues and problems. There are already two service stations between Route 114 and the Amherst town line on Route 101 anyway. Without compelling evidence from a municipal perspective that we need more gas stations on that piece of Route 101, I really don't see any reason to support changing anything. I want to be sure that the Board understands that my comments on the environmental studies do not necessarily mean a vote in favor or a vote against. The two comments were independent of each other, so I agree with what I have heard from Mr. Fairman and Vice Chairman Newberry. Mr. Pincince stated although I wasn't a member of the Board at the time, this is a recent memory regarding this site, and then as a private citizen it appeared to me that the Town did its due diligence and made a decision relative to the development of this particular property for a gas station. For it to come back to us again in a relatively short period of time is unwanted, at least from my opinion. Chairman Levenstein stated I understand what you are saying in theory that it is a zoning change for the whole Commercial Zone, so even though it is being proposed by this particular entity, which owns that land, if we do feel that it is a worthwhile proposition for the Commercial Zone in general, I don't know whether we should limit ourselves just because that previous applicant didn't get the variance, which didn't mean even if they got the variance we were going to approve the gas station there anyway. That doesn't say I disagree with you about the gas stations. Town Manager Sawyer stated the Chairman pointed out earlier that even if the Planning Board doesn't support this, they can develop a citizens' petition and it can end up on the ballot anyway. They do have ways of going forward and changing the law.

Town Manager Sawyer stated I agree and think Vice Chairman Newberry put it exactly the way I would probably put it and just build on that a little bit more. The zoning has been in place since zoning was adopted in this Town in 1953 and when that Commercial Zone and the automotive uses were taken out after the 2001 study. I think there were automotive uses that you could have done before that, and for the 2010 Master Plan we looked at this again and there was not a proposal from a townwide community decision making process that this was something that needs to come back in at this point. There has been one variance to the automotive uses on Route 101 that I am aware of and that is the Dunkin Donuts at the Bedford Hills site. The Zoning Board granted that because they felt it was a unique situation. I haven't seen anything from a community perspective that would say this is the time to do it. We are about to start the 2020 Master Plan in a couple of more years and I would hope it would be part of that conversation but haven't seen anything come forward from a community perspective that would get my support at this point.

Chairman Levenstein asked when we make changes to our Bedford Land Development Control Regulations; do we have to have public hearings? I know uses in all zones are something that we have talked about modifying. If there was a big public outcry, that might be a time where people could voice their feelings that it is something that is necessary. Town Manager Sawyer stated the Planning Board could decide to maybe not put it on the ballot but to form a study committee that would go out and seek community input on something like that. Chairman Levenstein stated I think the Master Plan is the way to get that and it is coming up. Town Manager Sawyer stated the last zoning change we made that changed districts or uses was the zoning change up near Market Basket and Donald Street in that area.

Mr. Fairman asked have we had any zoning changes go to a vote by a citizens' petition? Without Planning Board recommendation is a zoning change more or less likely to get voted for? Town Manager Sawyer replied if the Planning Board doesn't support it, it generally does not get passed, and I would say if it is not 100 percent but it is 99.9 percent of the time. We have not had a citizens' petition within the last decade that I am aware of that has even been brought forward to the ballot. I think the Board has a history of looking and making change when change is needed or new things come up in society that we need to deal with, but I am not convinced this one is ready.

Chairman Levenstein stated it doesn't look like there is a big consensus to push this forward.

Ms. McGinley returned to the meeting

Bedford Snapshot

"Even if you're on the right track, you'll get run over if you just sit there" (Will Rogers)

At approximately this time next year, the Town will begin the process of updating its Master Plan (last overhauled in 2010). As you are aware, a Master Plan is a planning document that guides the overall character, growth and development of a community. It represents an opportunity to reflect and document community values and objectives, and provides a foundation in which to consider when making decisions related to zoning and land uses, budgets, capital improvements and economic development efforts. NH state law (RSA 674:2 1) provides that:

"The purpose of the Master Plan is to set down as clearly and practically as possible the best and most appropriate future development of the area under the jurisdiction of the planning board, to aid the board in designing ordinances that result in preserving and enhancing the unique quality of life and culture of New Hampshire, and to guide the board in the performance of its other duties in a manner that achieves the principles of smart growth, sound planning, and wise resource protection"

One key feature of a Master Plan is a thorough review of existing conditions in a community, particularly those related to demographics and land uses. The Planning Department has prepared a Bedford 2016 Snapshot, which includes a very brief review of how Bedford stacks up on a few key demographic and economic metrics. Staff hopes that the upcoming Master Plan process will be the most innovative, engaging and inclusive in the Town's already proud history of long-range

planning efforts. It is never too early to share your ideas for the Master Plan, and we encourage you to contact staff to share your thoughts.

Mr. Connors reviewed a Snap Shot of Bedford PowerPoint presentation prepared for the Planning Board. Information included in his presentation spanned many areas of the community, including population, employment, school enrollment, median age, median household income, the Town's total valuation, education attainment, home sales, job growth, and much more. A copy of the PowerPoint presentation is available in the Planning Department.

PZ Committee

The Planning Board established the Performance Zone subcommittee following discussions at last year's Planning Board workshop. The committee set the following guiding goal statement:

Review the Performance Zone to evaluate its past effectiveness and make recommendations for modifications to the ordinance that will help to achieve the economic development goals of the Master Plan and encourage the highest and best use of the developed and underdeveloped land within the district.

Over the past year, the committee has focused on drafting proposed zoning amendments to relax the sign standards and building setbacks in the Performance Zone to increase flexibility for landowners in the district. The committee also hired Russ Thibeault, a New Hampshire Economist to review the current economic conditions in the Performance Zone (PZ). They completed a review of existing sewer and water utilities in southern portion of the PZ District and is recommending that the Planning Board establish a policy in Land Development Control Regulations that requires neighboring properties to provide easements for the extension of sewer and water utilities were feasible. The committee is currently reviewing wetlands setbacks and discussing the possibility of modifying the setback standards in the PZ District. This is ongoing and needs further review and outreach to the Conservation Commission before recommending action on any zoning amendments.

The Committee has also discussed the need to finalize the draft guidelines for the River Corridor Smart Growth District. Four years have passed since the River Corridor Smart Growth District was established. The zoning was adopted with the provision that the ordinance would not take effect until the Planning Board adopted Design Review Guidelines. Draft Guidelines have been reviewed by the Board but have not yet been adopted. Staff would recommend that the committee review the River Corridor Smart Growth District with the goal of adopting the guidelines in 2017.

Ms. Hebert stated the members of the Committee have been meeting almost on a monthly basis. They include Mr. Cote, Ms. McGinley, Mr. McMahan, and Chris Riley. Over the past year they have drafted zoning amendments, and we had several that were approved last year, mainly related to making adjustments to the building setbacks and signage in the Performance Zone. They also spent a couple of meetings reviewing sewer and water utilities and specifically how sites in the southern part of the Performance Zone either have access or maybe don't have access to these utilities and what needs to happen, from a utilities standpoint, to develop the remaining undeveloped sites. We have had a couple of sites in the southern end of the Performance Zone

where a main sewer line might run just 10 or 15 feet from the property but because there aren't access rights to hook in, where for instance the Blue Bird site decided to build an onsite septic system. If those easements had been in place, or the requirement to the intent to convey an easement was in place and required by the Planning Board, we might have had them hook up. Ms. McGinley stated we need to have drafts of easement documents put in a file, which is evidence of fulfillment of the requirement of the Planning Board. We need to keep that in mind to do when we go forward on these projects because it is easily forgotten. I think it will help us get the connections.

Ms. McGinley asked is there any way that we can take control over the utility lines that run across people's property that are private? Ms. Hebert replied you can take them. Town Manager Sawyer stated or just accept them if they are willing to give them to you, but most of the time they are not built to Town standards. Ms. McGinley asked would it be to our benefit to have them in key places, whether it is close to an undeveloped lot that seems to be held up because there is no sewer or water? I know that as there have been developments we have done this in some places. Town Manager Sawyer replied absolutely there are key places. We would have to map those out and figure those out a way to acquire them if we wanted to. Ms. Hebert stated I think coming up with a plan for these undeveloped sites or underutilized sites, if they have challenges with utilities, working with Public Works to come up with a plan so that there a clear process for a developer to make a connection. Town Manager Sawyer stated if there is a way by ordinance to force these easements to be provided when projects are coming forward, I would support that ordinance. That is why we struggled as much as we did with the Bedford Mall because they weren't willing to grant the actual easement until they knew what the uses were on either side. They showed where an easement would be but retained the right to say no and they have said no so far. If there is a way to force it by law, which is legal, an ordinance, let's do it. Give the staff and the Board the power to enforce those. That is one I would love to see them work on. Ms. Hebert stated it is on the list. We were focused on utilities but we can look at the access issues and creating the cross-access easements where it makes sense.

Ms. Hebert stated the committee is also talking about the wetland setbacks. In the Performance Zone the Planning Board has the ability to waive most of the Zoning Ordinance requirements except the wetland setback. In Bedford we have a 50-foot wetland setback, which is a structural setback, not a buffer. You can pave, grade, and improve the land right up to the edge of a wetland. There may be an opportunity to incentivize, maybe an improved stormwater treatment in exchange for allowing buildings to be a little bit closer than 50 feet to the wetlands. It is something they just started talking about. It needs a lot more discussion, especially with the Conservation Commission. Ms. McGinley stated the basis for that was that the technology for stormwater treatment is a lot better than it used to be so it doesn't just all run off the site. Ms. Hebert stated where we don't have a vegetative buffer, we are sending people to the Zoning Board for this particular requirement when they may be able to work with the Planning Board to achieve a different site layout or the Board may be able to work with them to improve stormwater treatment or improve a vegetative buffer. Ms. McGinley stated the problem that you have with the Zoning Board is that they have a very strict set of criteria under which they can grant variances. They don't have the ability to be creative and handle something in a different way.

Ms. Hebert stated the committee has not spent a lot of time on this but it is something the Town needs to review. It has been about four years since the River Corridor Smart Growth District was established, and the zoning is an overlay district in the Performance Zone, and it was adopted with the provision that the ordinance would not take effect until the Planning Board adopted design review guidelines for the district. The draft guidelines were reviewed by the Board a few years ago but they have never been adopted. We have this River Corridor Smart Growth District on the books but it is not yet in effect. That is something that the Board and committee should probably take some time to review over the next year. Ms. McGinley stated these are regulations and don't have to go for a vote before the Town. Ms. Hebert stated unless there are also some changes to the ordinance that would be coupled with it. It would be good to wrap this up, as it is one more tool for developers to use.

Potential 2017 Zoning Amendments

Below is a list of potential zoning amendments based on suggestions/requests of town staff and Planning Board members for discussion and are mostly based on recent issues in town. Discussions of these topics at the workshop will determine if staff will prepare amendments for the Board's consideration in December.

- *Revise the Accessory Apartment standards to clarify that apartments must be connected to the main house with a heated interior living space and that the apartment cannot be separated from the main house by a garage or other unfinished space;*

Ms. Hebert stated this is something that the Zoning Board used to take care of when they reviewed special exception applications for accessory apartments, but last year a zoning amendment was adopted that allowed the accessory apartments by right and took away the requirement for the special exception. Our building code department is struggling with this interpretation. Chairman Levenstein asked why do we care if the apartment is above a garage that is separated from the house? Ms. Hebert replied we may not. It has been the interpretation that is difficult. They do need to be attached but the Board could discuss whether or not they feel like having this heated space is important. It creates a little bit higher standard for the apartment itself. It has to be more integrated into the main house than if it were connected by a breezeway or maybe a back door off from a garage. Town Manager Sawyer stated this has been the application of this ordinance for a long time. If there was relief needed from it in the past, it would have gone to the Zoning Board, so it is really putting the zoning text interpretation into the ordinance. Chairman Levenstein asked does State statute require that it be attached to the house? Ms. Hebert replied it does. We still have the same standards that the Zoning Board reviewed in the special exception process, but all accessory apartments need to meet those standards, and if they do, they are permitted by right. Town Manager Sawyer stated it is to keep the apartments looking as much a part of a single family home and not impacting the aesthetics and character of the neighborhoods. Ms. McGinley asked are homes with these accessory apartments still considered a single family dwelling? Ms. Hebert replied yes, with an accessory apartment.

Ms. Hebert stated we can draft something. It sounds like we don't care so much that it be heated interior space, as long as there is a doorway connecting the apartment to the main house. Mr. Pincince stated at the end of the day, we want it to look like it belongs in the neighborhood. Town

Manager Sawyer stated the classic duplex around the state is you put a garage between the two units and you have units on both sides. This prohibits that from happening, and I don't believe this Town is ready to have two units on either side of a garage. Ms. Hebert stated we have other standards they have to meet. The current zoning includes some language that says the apartment needs to be clearly incidental to the primary use for the property of a single dwelling and the living space can't exceed 1,000 square feet. It also has a provision that there be no new entrance or exit to an accessory apartment that faces the front of the single dwelling. Basically, you can't have two front doors. The language that is confusing says at least one interior connecting door or other interior access for persons to pass between the primary residence and the accessory apartment shall be provided. So it has been interpreted that that interior connecting door be through a heated space.

- *Amend the special exception requirements for cellular communication towers to allow a balloon test or crane test;*

Ms. Hebert stated this is a housekeeping item. Right now we require a crane test. The balloon test is more common, so it would be adding that. Town Manager Sawyer stated I don't believe we have ever required a crane test to be performed. It has always been a balloon test. Councilor Bandazian stated in really sensitive areas we have required crane tests. Ms. McGinley you could add to that "at the choice of the Zoning Board."

- *Revise the restrictions on recreational vehicle (RV) parking to permit one RV in the side or rear yard;*

Ms. Hebert stated we have had a couple of Zoning Board application cases for the parking of an RV in the front yard or the side yard, and right now the Town restricts parking of an RV to the rear yard only or in a private garage, provided the trailer is not occupied and it belongs to the owner or lessee of the land. We have had a few people ask why can't I have it in my side yard. Councilor Bandazian stated not long ago we granted a variance to someone on Rundlett Hill Road to do that and they had to do some kind of screening. Where it is visible to the rest of the neighborhood, there probably ought to be some kind of screening requirement. Chairman Levenstein stated maybe make it a special exception so they don't have to find some hardship. Town Manager Sawyer stated side yard by special exception and rear yard by right. Chairman Levenstein replied yes. Mr. Fairman stated I think the ordinance is fine as it is written. Chairman Levenstein stated if it is by special exception they can judge how big the RV is and things like that. Ms. Hebert stated that would be special exception for a side yard with screening and some additional provisions.

- *Amend the uses permitted in the Office District to include research and development as well as warehousing and light manufacturing as accessory uses;*

Ms. Hebert stated this might cover some of those tech industries that might want to be locating in our Office District. This could get lumped into the Table of Uses or it could be pulled out as a separate amendment that we tackle this year. Constitution Drive is the only Office District. If you look at the Table of Uses, it is fairly limiting what you can do in the Office District, and it doesn't allow for accessory uses. We may be able to allow these uses as accessory provided a certain percentage of the building maintains an office use. From a practical standpoint I think some

businesses need a little bit of storage space and we have been seeing some industries have some sort of light manufacturing that is more geared towards a technical industry. Chairman Levenstein stated there is one there now, maybe by variance, and you can't tell it is any different than anything else in that entire district. Vice Chairman Newberry stated I would be concerned with the warehousing. I think that should have some kind of a constraint on that. Ms. Hebert stated it would just be an accessory use to the business. We can look at defining light manufacturing also.

- *Amend the sign ordinance to correct a few typographic errors and inconsistencies;*

Ms. Hebert stated we need to clean up the sign ordinance to correct a few typographic errors and inconsistencies.

Ms. Hebert stated there is one zoning amendment that I thought of today while we were listening to the Murphy site plan. When the Murphy site plan was proposed, there was an interpretation that Town Manager Sawyer made on the detention pond and that it was a permitted accessory use that would be allowed in the Residential District even though it was serving a commercial site located in the adjacent district. It would be good to clear that up and clarify what accessory uses could be located when you have a split zone. We don't have too many split zone properties, it is unique, but it caused some tension and confusion. As the Zoning Administrator, I would like to clean that up. Ms. McGinley stated my concern is if we propose these changes, we are going to have a big backlash from the unique people to which they would apply. Town Manager Sawyer replied anytime you make a change like that, it is going to impact somebody. Ms. McGinley stated if the clarification is you can use either, you are probably not going to have a backlash. But if you change it so it is more restrictive, you could have a big backlash. Ms. Hebert stated with the Murphy's interpretation, the drainage, electric utilities, and telecommunication utilities could typically cross through or be located in that Residential District. Vice Chairman Newberry stated I did a quick scan of the split lots and it doesn't look like there are any split lots that have enough square footage. Could you say that the larger percent of the square footage falls in either zone, then that is what the requirement is, so the one that is by Bow Lane, neither of those lots would be Commercial Zone? Ms. McGinley stated I think you are going to get a lot of backlash from people who think they own land in the Commercial Zone, and then we rezone and they can't use them as commercial. I think what Ms. Hebert was talking about would be more palatable, but I think it would be better not to change a commercial zone to a residential zone because you happen to own more in the residential zone. Ms. Hebert responded I just want to clarify what accessory uses could be located in the Residential District. It doesn't have to be a split lot, it could be that someone has a commercially zoned lot and the guy in an adjacent lot that is in the residential district and they decide they are going to put all of their detention on the residential lot, merge the two properties. Vice Chairman Newberry stated what you are suggesting is a way of managing the issue without having to rezone anything. Ms. Hebert replied yes. It could be that access drives and utilities could cross through the Residential District but maybe not detention ponds because they tend to be really large in scale. I think it needs a little more review.

- *Amend the zoning ordinance to include purpose statements for each of the zoning districts.*

Chairman Levenstein stated come up with some draft for the purpose statements. Ms. Hebert responded we are just looking at adding purpose statements to the Zoning Ordinance to give some

clarity about what we intend for development in each of the districts. There is some language in the Master Plan, and it was a recommendation of the Master Plan, so we can model off from that. I think it will help the Zoning Board when they are reviewing use variances also.

Potential changes to the Land Development Control Regulations

Ms. Hebert stated these changes can happen anytime throughout the year.

- Revise Sections 363.2.1 & 234.4, which require connecting to public water. The regulation conflicts with the exemption in RSA 485-A:29 & RSA 485-A:30-b, which states that a landowner cannot be required to connect to a municipal water system if the landowner can demonstrate compliance with the state septic and well regulations. The Town approved a zoning amendment in 2014, but the LDCR also need to be updated.

Ms. Hebert stated this is a housekeeping item to clarify that we can't require a landowner to connect to municipal water if they can demonstrate compliance with the State septic and well regulations. We had updated the zoning but this is a housekeeping item; we just need to update the Bedford Land Development Control Regulations to be consistent.

- *Update the table of Off-Street Parking Requirements to include additional categories that are commonly used but missing from the table such as function hall, garden center, and small fitness/dance studios.*

Ms. Hebert stated there are a few uses that need to be added to the table of Off-Street Parking Requirements. This is the table that sets out how many parking spaces are required per 1,000 square feet of a certain use. There are a few miscellaneous ones that we have been keeping notes on that need to get added back in.

- *Amend the LDCR to include a requirement for landowners to provide the necessary easements for sewer and water utility extensions.*

Ms. Hebert stated we had been talking about requiring easements for sewer, water or access connections between adjacent properties where it makes sense.

Lot Line Adjustments

The Board has reviewed a significant number of minor lot line adjustments in recent years (which do not result in the creation of any new lots) and there has been some discussion regarding the potential expedition of Planning Board review of such applications. Lot line adjustments are considered subdivisions or re-subdivisions of land under state law and thus may be subject to Planning Board regulation and review (RSA 674:1 and 674:35). RSA 676:4 provides that public hearings are not required for "Minor lot line adjustments or boundary agreements which do not create buildable lots," though notice to abutters must be given along with an opportunity for abutters to be heard prior to application approval.

The Planning Department has researched review processes in other communities regarding minor lot line adjustments and found that most applications are reviewed by Planning Boards.

Minor Lot Line Adjustments subject to Planning Board Approval:

*Amherst
Concord
Dover
Exeter
Goffstown
Londonderry
Manchester
Merrimack
Milford
Portsmouth*

Based on this review, and state legislation requiring abutter notification and the opportunity to be heard, staff would not recommend any changes to the review and approval of minor lot line adjustments at this time, though staff will continue to research opportunities to better manage the Board's caseloads.

Mr. Connors stated we reviewed quite a number of these and since they don't result in the creation of a new buildable lot, they tend to not be very controversial, and there was some discussion if we could kind of expedite the review process, maybe handle it administratively. We looked at what other communities are doing in terms of minor lot line adjustments and also what the State legislation is governing. We don't have to have a public hearing but we do have to do many of the things we already do for a public hearing. We have to notify the abutters and have to give them an opportunity to express themselves. Looking at the communities around us, they all handle lot line adjustments the same way we do, which is before the Planning Board. Our conclusion was that at this time we probably shouldn't change it. Ms. Hebert stated we will look into maybe changing the State RSA's on this one through our Planning Association for the really simple lot line adjustments.

Zoning District Purpose Statements

The Bedford Zoning Ordinance does not currently include purpose statements or descriptions for most zoning districts in the community as is customary in many municipal zoning ordinances. The Performance Zone is the only zoning district in Bedford to note the purposes of the district (Section 275-58 of the Zoning Ordinance). Purpose statements generally explain the rationale for the creation of a district and the objectives behind use and site regulations particular to individual districts. For example, a purpose statement for the Residential & Agricultural District would likely note the Town's agricultural history, and its desire to preserve its rural character and natural resources.

Staff believes that the addition of purpose statements to the Zoning Ordinance would strengthen the document and provide residents and developers a stronger framework in which to understand the intent and objectives behind zoning use and site regulations. Staff would recommend drafting purpose statements for all of the Town's zoning districts over the coming weeks for the Board's

consideration for zoning amendments. For your information, the purpose statement for the Performance Zone is included below.

The purposes of this Performance Zoning District Ordinance are:

- 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.*

Table of Uses

The Bedford Zoning Ordinance was first adopted by the Town in 1953 and re-codified in 1993. Although the ordinance and its Table of Uses have been amended on a nearly annual basis, there are several items that may be somewhat obsolete, do not reflect current economic and demographic conditions, and may be inconsistent with the vision and goals of our Master Plan and the long-term objectives of the Board. This is noticeable in reference to the Ordinance's Table of Uses. For example, the Office District does not permit research and development facilities, information processing, or light manufacturing uses. There are likely uses that could be added or removed from certain zoning districts and some new uses that should be defined in the ordinance such as social service centers, residential social service centers, mini-warehousing or self-storage. Staff would recommend reviewing the Table of Uses during the year with the goal of recommending a zoning amendment for 2018.

Ms. Hebert stated the table of uses in the ordinance was first adopted in 1953, recodified in 1993, and as we have talked about, it has been changed, massaged, probably on an annual basis since then. As a long-term project, I think this is something that needs a little bit of study and review, maybe something that the Performance Zone Committee could take on as aside or another subcommittee could be formed or it could be purely staff driven, whatever the pleasure of the Board is. This would be to take a more comprehensive look at the Table of Uses and how we define the uses, are there uses that we are missing. We would want to review ordinances from surrounding towns and make sure we were up-to-date with all of the current interpretations. Ms. McGinley stated updating them would be good. Town Manager Sawyer stated I would recommend staff, who deals with this on a daily basis, take the first crack at this and bring it forward to the Board. Ms. Hebert stated it will help everyone to update it.

Landscaping During Drought Conditions

In September, the Town Council implemented a voluntary ban on outdoor water use for watering lawns and gardens in response to the current severe drought conditions in southern New Hampshire. The recent ban on watering has raised the question of whether or not the Planning Department should be requiring developers to install landscaping as required per their site plan approval prior to the issuance of certificates of occupancy. Staff would recommend accepting a financial guarantee in lieu of planting during this time of severe drought. The timeframe for installing the plantings could be at the discretion of the Planning Director, who can monitor the drought conditions. This would mean that sites would become occupied before they appear to be complete and this may impact aesthetics of new developments. All construction sites would need to continue to stabilize disturbed ground with loam seed to prevent erosion, in accordance with state and federal permits.

Ms. Hebert stated we are in an extreme drought, and I have given you a handout providing you with a little more information on this. I have a map that shows as of October 6th illustrating the drought designations for the state that is posted. The Town Council implemented a voluntary outdoor use or watering ban for all the residential properties in town and there are some other bans in place being administered by Pennichuck in Bedford. The question was raised would we continue to require the commercial sites to implement their full landscaping plan as a requirement for their Certificate of Occupancy. Typically we require those sites to be landscaped with all the plantings in place before the Certificate of Occupancy is issued, and it seems to be that we should be willing to take a financial guarantee in lieu of planting trees and shrubs and perennials to limit the amount of irrigation while we are in this severe drought. The sites would still need to be stabilized with loam and seed, grass established. This is required per the DES Alteration of Terrain permit and the Environmental Protection Agency from a soil erosion standpoint. We wouldn't want to have these sites not be stabilized, but folks are spending a lot of money on landscaping, and this summer I noticed when I went out to a few sites several times because plants were dying and they had to be replaced. It is something that staff can monitor. Ms. McGinley stated I would suggest that to make it easier on the developer/owner and staff to do it as an escrow. That would be easier to do for the landowner than trying to go out and get some kind of financial guarantee like a bond. Ms. Hebert stated we will accept an escrow, and for a financial guarantee we will accept a letter of credit, a bond or a check that we hold in escrow. That has been our practice. Vice Chairman Newberry asked it would be severe drought as defined by the New Hampshire Department of Environmental Services? Ms. Hebert responded yes. Ms. McGinley stated you could have sites that have no landscaping for years. Ms. Hebert responded we could. Maybe we need to monitor it, do it on a 6-month basis and then revisit it. Mr. Pincince stated I think you need to assess the particular application or condition. In the Murphy case, I don't think that would bode well for us to say that you can't plant the trees because you can't water them and they will die. Ms. Hebert stated it certainly has an effect on the aesthetics of the site; the sites won't look as finished as they should. Ms. McGinley maybe we can have an alternative way, when it really is screening, as opposed to just the landscaping not serving as screening. Councilor Bandazian stated you could have a situation where you run the abutters' wells dry. Town Manager Sawyer stated then we have made a developer or anybody put in tens of thousands of dollars of landscaping that they know is going to die. I don't know why we would do that to anyone. Vice Chairman Newberry stated if we had declared drought conditions like this, maybe we could allow a temporary modification of the landscape plan so that you could get something to settle the site as opposed to absolutely no landscaping. Mr. Fairman stated I think there is a difference between

landscaping for beautification and landscaping to protect neighbors or abutters. I do think that you might be able to say you don't have to do the beautification part but the trees and the berms and things that have to be put in to protect the abutters need to be done as scheduled. Vice Chairman Newberry asked would they just leave what would eventually be landscape areas raw earth? Ms. Hebert replied they would have to stabilize it. Grass or some sort of groundcover has to be established to protect the soil. I could develop a policy statement for the Board with some provisions for requiring screening to abutting properties. Vice Chairman Newberry stated and maybe substitutions when you are under a declared drought condition to maybe not a full landscape plan but at least something with some drought resistant vegetation that can handle little or no water. Town Manager Sawyer stated I think we are talking about doing this at the developers' option. We are not mandating that nobody plant their landscaping. We are giving them an option if they don't have a reliable water source or something that will otherwise impact the neighborhood that surrounds them.

Short-term Rentals

Ms. Hebert stated Airbnb rentals, Home Away rentals, and those types of short-term rentals are often thought of as vacation rentals. Staff recently became aware of a few short-term rentals in Bedford, of which a few appear to be renting rooms within the house as opposed to renting the entire house for certain durations of time. That type of use would fall under our definition of a boarding, lodging or rooming house, which is not permitted in any of our zoning districts. The short-term rentals are a very popular trend in the sharing economy. As a planner, common issues that I have heard about with short-term rentals mainly have to do with violation of municipality zoning laws, removal of housing stock from a rental market, which really isn't an issue in Bedford, inconvenience to neighbors, which I think could become an issue in Bedford, disruption of neighborhood character, building safety and ADA issues, unfair competition for nearby hotels or bed and breakfasts, and unpaid taxes because we have a rooms and meals tax. I'm not sure what the Town can do from that standpoint. Some towns have started to adopt registration systems and specific regulations including notification requirements for neighbors, fees, and kind of restricting the use in certain neighborhoods. This topic needs a lot more research, but I wanted to know if it was something the Board wanted to consider permitting in town. These Airbnb rentals that we are aware of are not permitted uses, especially the ones renting the rooms within the house, and we haven't sent out any violation notices. I wanted to get a sense of what the Board thought, and do we want to consider allowing it as a use or continue to restrict. Ms. McGinley stated as you are working on this, look at the State fire code about it because we don't want to come up with a definition or even a title that puts it into where they have to have sprinklers and hardwired alarms and things like that that they couldn't meet at all. I would think the Fire Chief may be able to help you craft something that doesn't run afoul of the fire code if this is something that we want to do as a permitted use. Mr. Pincince asked how would you police this? Ms. Hebert replied it sounds like a challenging undertaking. We could look at what other communities that share Bedford's demographics are doing on this topic. It is something that I think people all over the country are dealing with, probably more so in the tourist destinations and large cities.

Chairman Levenstein asked would this be part of the Zoning Ordinance or some general Town code? Ms. Hebert replied right now it would fall under our definition for a boarding, lodging or rooming house, which has a very specific definition. "Any dwelling unit which is occupied by

more than two adult persons not related by blood or marriage and which provides sleeping accommodations on either a transient or permanent basis with or without meals but without separate cooking facilities. The definition shall not apply to group quarters for special needs.”

Look at Sign Criteria for Market & Main

Vice Chairman Newberry stated I thought it might be worth at least putting on the list to have a look at the sign criteria for Market & Main that was put together by their sign consultant. It seems to me there may be some nice things in there that we might want to consider, not spend a huge amount of time on it, but maybe if staff could take a look at it and see if it looks like there are some things in there that we should consider either conceptually or dimensions or anything in there that might be helpful to our ongoing sign struggles. Mr. Connors stated other Board members mentioned that, so we will look at that.

Alternative Park & Ride

Ms. McGinley stated David Preece from the Southern NH Planning Commission called me and asked if I had any ideas of an alternative Park & Ride because he had some funds available. One of the thoughts I had, and I would like to know what you think of it, is the State owned parcel where the rail was supposed to go just south of the bridge. It would seem to be a very good out-of-the-way handy place for people to get on and off the highway. I offered to help him pursue that but I wanted to get some feedback from Bedford before I did that.

Mr. Connors responded we know that people are parking at the Macy's site and since that site is being redeveloped, they are going to lose that de facto Park & Ride. We are looking at working with the State to come up with an alternative site to do a Park & Ride. The State did have an I-93 community grant round that Bedford had participated in before and we were thinking about doing that for a Park & Ride, essentially doing a feasibility study looking at locations for a Park & Ride, and maybe if we could do a Boston Express type service in Bedford. Unfortunately the minimum amount was \$150,000, which is high for that kind of study, and the match required from the Town was 20 percent. We didn't feel like the Town Council would be necessarily supportive of that large amount on a Park & Ride study but it is definitely on our radar and is something we have talked to Southern NH Planning Commission about pursuing through other channels. Ms. McGinley stated I will inquire about it and get back to Planning staff. I know we need something and my thought on it was another private parking lot that is very large. Town Manager Sawyer stated when we lose the Macy's lot, we will have more and more people just taking up a space or two all over the area, like Kilton Road. I think it is the State's obligation to do it and maybe it is part of I-93 to do it.

VI. Communications to the Board: None

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Councilor Bandazian to adjourn at 10:15 PM. Vice Chairman Newberry duly seconded the motion. Vote taken – all in favor. Motion carried.

Respectfully submitted by
Valerie J. Emmons