

**TOWN OF BEDFORD**  
**January 14, 2019**  
**PLANNING BOARD**  
**MINUTES**

A meeting of the Bedford Planning Board was held on Monday, January 14, 2019 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Harold Newberry (Acting Chairman), Karen McGinley (Secretary) arrived at 7:10pm, Chris Bandazian (Town Council), Rick Sawyer (Town Manager), Kelleigh Murphy (Town Council Alternate) arrived at 7:10pm, Jeff Foote (Public Works Director), Mac McMahon, Charlie Fairman (Alternate), Matt Sullivan (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

I. Call to Order and Roll Call:

Acting Chairman Newberry called the meeting to order at 7:00 p.m. Chairman Jon Levenstein and regular member Randy Hawkins were absent. Alternates Mr. Fairman and Mr. Sullivan were appointed to vote. Mr. Connors reviewed the agenda.

II. Old Business – Continued Hearings: None

III. New Business:

1. George H. Parker Jr. Family Trust (Owner) and Donny & Brandie Parker (Owners) – Request for approval of a lot line adjustment between two residential properties at 446 Joppa Hill Road and an abutting undeveloped parcel on Joppa Hill Road, Lots 4-35 and 4-35-22, Zoned R&A.
2. The Planning Board will conduct the first public hearing on proposed zoning amendments submitted by the Planning Board and by citizens' petition. The full text of the amendments is available in the Town Clerk & Planning offices during normal business hours and on the Town website at [www.bedfordnh.org](http://www.bedfordnh.org).

IV. Concept Proposals and Other Business: None

Mr. Connors stated the application has been reviewed by staff and is complete, the abutters have been notified, and it is the opinion of staff that the application poses no regional impact. Two of the zoning amendments trigger the notification requirements of RSA 675:7, so the Planning Department has notified all property owners in the Office District that the amendment would eliminate a permitted use in that district. Additionally, the staff has notified all of the abutters to Lots 20-39 and 20-41, which is proposed for rezoning as part of Amendment #7. Staff would

recommend that the Planning Board accept the agenda and in so doing, find the application to be complete.

**MOTION by Councilor Bandazian to approve the agenda as presented. Town Manager Sawyer duly seconded the motion. Vote taken - all in favor. Motion carried.**

**1. George H. Parker Jr. Family Trust (Owner) and Donny & Brandie Parker (Owners) – Request for approval of a lot line adjustment between two residential properties at 446 Joppa Hill Road and an abutting undeveloped parcel on Joppa Hill Road, Lots 4-35 and 4-35-22, Zoned R&A.**

Bob Kilmer of Sandford Surveying and Engineering was present to address this lot line adjustment request on behalf of the applicant. The plot plan was posted on the screen.

Mr. Kilmer stated we have two lots. We have one parcel, which is Map 4, Lot 35 that now consists of 11.1 acres. It is a vacant property which is basically old pastureland. We also have Map 4, Lot 35-22, which is a 5-acre parcel that was subdivided out of Lot 35 in April of 2007, which now there is a single family residence.

Mr. Kilmer continued what we are proposing to do is take approximately 7.9 acres from Lot 35, which is Parcel A on the plan, and combine that with Lot 35-22. That way we are creating basically a 12.9-acre lot. What we are leaving for the remainder of the parcel Lot 35, is a 3.1-acre parcel. New Lot 35 meets all zoning regulations and developmental regulations of the Town. We have done wetlands flagging, topography just for the area of the development for Lot 35 and, again, have shown a proposed driveway coming out on Joppa Hill Road. You will find that it does have the sight distance required by the Town. You see a test pit on one of the sheets for Lot 35 and we also have State subdivision approval for this lot previous. Are there any questions at this time?

Mr. Kilmer stated with this application we are seeking three waivers of the developmental regulations. They are Section 218.1.11 for a topographic survey of Lot 4-35; Section 218.1.12 for HISS mapping of Lot 4-35; and, Section 218.1.13 for wetlands mapping of Lot 4-35. Again, we are asking for the waivers as we are showing Lot 35-22 redeveloped with a single family residence, has its own septic system and well onsite, and we have shown the area of development for the new Lot 35 showing that we can get an area showing the buildable square of 75 x 100 for a well on the parcel. There are portions that we have located the wetland along the front of Parcel A and we just have not done the other side. We have wrapped it around to get all its impacts on the new parcel. There are small wetland pockets up front on Lot 35 that we have located. The back parcel, the large area in back of the lots, has been flagged but we have not done the location hoping that showing the development of the lot in here of this area will be sufficient for the Board to make a decision and that, again, Lot 35-22 all of this was done to create that back in 2007.

Acting Chairman Newberry asked are there any questions from the Board on the waiver requests. I will just point out that the staff memo also cites that it is an already developed parcel and that there are no additional building lots proposed, so staff doesn't see any objection to the waiver requests.

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

**MOTION by Councilor Bandazian that the Planning Board grant the three waivers from the Bedford Land Development Control Regulations listed below, for the reasons that it meets the criteria for granting a waiver as presented by the applicant's representative and in the staff memo dated January 14, 2019.**

- 1.) Section 218.1.11 for a topographic survey of Lot 4-35
- 2.) Section 218.1.12 for HISS mapping of Lot 4-35
- 3.) Section 218.1.13 for wetlands mapping of Lot 4-35

**Town Manager Sawyer duly seconded the motion. Vote taken – all in favor. Motion carried.**

**MOTION by Councilor Bandazian that the Planning Board grant final approval of the lot line adjustment plan, prepared for the George H. Parker, Jr. Family Trust and Donny and Brandie Parker (Owners), Lots 4-35 and 4-35-22, Zoned R&A, as shown on plans by Sandford Surveying & Engineering, Inc. last revised December 28, 2018, with the following precedent conditions to be fulfilled within one year:**

1. The applicant shall address all remaining technical comments to the satisfaction of the Planning Director and the Director of Public Works.
2. Any waivers granted by the Planning Board shall be noted on the plans along with the date of approval.
3. All outstanding (if any) engineering review fees shall be paid to the Department of Public Works.
4. All recording fees shall be submitted to the Planning Department at the time of recording.
5. NHDES State Subdivision Approval shall be obtained and the permit number shall be noted on the plan.
6. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor, certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.

**Town Manager Sawyer duly seconded the motion. Vote taken – all in favor. Motion carried.**

Ms. McGinley and Councilor Murphy arrived at 7:10pm.

- 2. The Planning Board will conduct the first public hearing on proposed zoning amendments submitted by the Planning Board and by citizens' petition. The full text of the amendments is available in the Town Clerk and Planning offices during normal business hours and on the Town website at [www.bedfordnh.org](http://www.bedfordnh.org).**

Ms. Hebert stated tonight we are going to be discussing seven proposed zoning amendments. Amendments #1 - #3 are proposed by the Planning Board. This is the first public hearing on these amendments. The Board will discuss the amendments, make any very minor changes and then at the next meeting on January 28<sup>th</sup>, the Board would be voting whether or not to move Amendments #1, #2 and #3 to the official ballot for Town vote in March. Amendments #4 - #7 have been submitted by citizens' petition. These amendments are going on the ballot as they are written regardless of the Board's opinion about the amendments, but the Board at your next meeting will be making a vote to either support or not support the petitioned zoning amendments. On the Town ballot there is an annotation underneath the petitioned zoning amendments that says this amendment is supported by the Planning Board or is not supported by the Planning Board. Tonight is the first public hearing for all of the zoning amendments and the second public hearing is on January 28<sup>th</sup> and that is usually when the Board makes the final decision on the zoning amendments and makes their final recommendation on petitioned zoning amendments.

Acting Chairman Newberry stated it is now time to open a public hearing, and once that is done we will review each amendment. If it is a citizens' petition and there is someone representing that particular petition, the Board will ask them for a brief explanation of the purpose and goal of the proposed amendment. We will then do questions from the Board and then finally we will take comments from the audience on each amendment.

Acting Chairman Newberry stated a few rules of engagement that the Chair has is to respect everyone's opportunity to speak and everyone's time. I ask that you try to keep your comments concise. We don't have as large of an audience as I thought we might tonight, but to avoid repeating earlier comments, if you agree with them, just reference them, you don't need to repeat them, and then finally respect everyone's comments whether you agree with them or not.

**MOTION by Councilor Bandazian to open the public hearing on the proposed zoning amendments. Town Manager Sawyer duly seconded the motion. Vote taken - all in favor. Motion carried.**

#### **ZONING AMENDMENTS PROPOSED BY THE PLANNING BOARD:**

*Amendment #1 is a housekeeping amendment in response to changes to municipal regulation of small wind energy systems. RSA 674:63 was amended to prevent municipalities from setting a noise level lower than what is specified by the Site Evaluation Committee rules. Under the current statute, the noise limit will change with any future changes to the rules.*

Ms. Hebert stated whatever noise level the Site Evaluation Committee sets is the noise level that municipalities need to use when they are reviewing wind energy systems. This change is intended to make us consistent with State law.

*Amendment #2 is intended to further restrict the land that may be used to calculate the density of a workforce housing development. The amendment creates a definition for net developable area and limits density to 12 units per acre of net developable land rather than using the entire tract regardless of its development capacity. The amendment also clarifies how to calculate density for mixed use developments.*

Ms. Hebert stated right now density is 12 units per acre and that land area doesn't take into account wetlands and things that may limit the development capacity of a property. The amendment also clarifies how to calculate density for mixed use developments and has a subtraction of land that is solely being used for another use. When you are looking at density for workforce housing developments, that land would need to be removed from the density calculation the same way wetlands or other types of land that are not developable.

*Amendment #3 is a housekeeping amendment in response to changes to state law. RSA 674:33 was amended to clarify when variances granted prior to August 19, 2013, would expire. If the amendment passes, the Town will be required to post a notice on April 1, 2019 stating that "Variance and/or special exceptions authorized before August 19, 2013, are scheduled to terminate, but shall be valid if exercised within 2 years of the expiration date of this notice or as further extended by the Zoning Board of Adjustment for good cause." The notice must be posted for at least a year.*

Ms. Hebert stated if a variance is granted prior to August 19, 2013, it is unclear when that variance or special exception would expire and this amendment is intended to follow changes to State law that would clarify when those variances and special exceptions would expire.

Acting Chairman Newberry asked the Board and audience for comments or questions with regard to proposed **Amendment #1**. There were none.

Acting Chairman Newberry asked the Board and audience for comments or questions with regard to proposed **Amendment #2**.

Susan Tufts Moore, 27 Bedford Center Road, stated I think this looks like an excellent proposal for a proposed zoning amendment and something that should be clarified and take into account the actual conditions of the land of the lot that would be proposed to be developed. Thank you for putting it on here.

Acting Chairman Newberry asked the Board and audience for comments or questions with regard to proposed **Amendment #3**. There were none.

**ZONING AMENDMENT SUBMITTED BY CITIZEN PETITION:**

*Amendment #4 is a citizen petition to remove workforce housing as a permitted use in the Commercial District and the Office District and to allow workforce housing in the Performance Zone with the restriction that the lot not have frontage on the F.E. Everett Turnpike or U.S.*

*Route 3. This amendment also limits the number of units in any one building to 12 for workforce housing developments in the Performance Zone.*

Acting Chairman Newberry asked is there anyone here who represents or can speak to **Amendment #4**. There was no one present to speak.

Acting Chairman Newberry stated Ms. Hebert if you could walk us through citizens' petition #4.

Ms. Hebert stated citizens' petition zoning **Amendment #4** is a petition that removes workforce housing as a permitted use in the Commercial District and the Office District and permits workforce housing as an allowed use in the Performance Zone under certain conditions. Lots would not be able to have frontage on the FE Everett Turnpike or South River Road, US Route 3, and the amendment also limits the number of units in any one building developed for workforce housing in the Performance Zone to 12 units or less.

Ms. Hebert stated we have some staff analysis in your Staff Report and I am happy to go through that now if you want to start that review or if you want to hear from the public. What is the pleasure of the Board? Ms. McGinley stated I think the review is important for the people here in the audience or anyone who is listening at home. Councilor Bandazian stated I think the map in particular of all of the parcels on South River Road that are opened up to workforce housing would be instructive as well as the properties or property removed in the Commercial District.

Ms. Hebert stated the staff's analysis will consider the three main prongs of this amendment:

- *Remove workforce housing as a permitted use in the Commercial (CO) and Office (OF) Districts.*
- *Permit workforce housing in the Performance Zone on lots without frontage on South River Road or the F.E. Everett Turnpike*
- *To limit workforce housing developments in the Performance Zone to no more than 12 units per building*

The Workforce Housing Ordinance was adopted in 2009 in response to changes to state law. The Town has an obligation to provide reasonable and realistic opportunities for the development of workforce housing in the majority of their residentially zoned districts and also needs to provide realistic opportunities for the development of multi-family style workforce housing. Bedford's zoning ordinance provides for both workforce housing from a rental unit standpoint and also for ownership housing. In both cases, a monthly rent or mortgage payments cannot exceed 30 percent of the gross income of someone earning no more than 60 percent of the median income for a 3- person household in the Manchester Fair Market Rent Area.

Ms. Hebert stated in the back of your packet we have a chart that New Hampshire Housing Finance Authority develops that outlines what those rates are and Bedford falls into the Manchester New Hampshire HUDD catchment area. Monthly rent could not exceed \$1,120 and maximum purchase price could not exceed \$276,500.

Ms. Hebert asked does the Board have any questions in general to workforce housing? I do want to say that in Bedford workforce housing is often tied with multi-family garden style apartments but that is not the only way to develop workforce housing in Bedford and it is important to keep in mind that workforce housing in Bedford can take on different development types. Since the zoning was adopted in 2009 we have two workforce housing multi-family developments constructed in town, both in the Commercial District and none in the Office District. We have the Cooper Lane apartments behind the Copper Door where there are 144 apartments and under our workforce housing definition only 25 percent of those units need to be affordable meeting that rent limitation of the \$1,120 per month. And we have also had the Kensington Woods apartments constructed off from Kensington Lane. This project is at the corner of Kensington Lane and Meeting House Road and this is 100 percent workforce with 42 units. Additionally, the Bedford Green apartment building on Hawthorne Drive was also constructed. This was built in the Performance Zone and approved via the waiver process that the Board takes on when they review uses that wouldn't be permitted by right in that zone. The Board has the authority to waive the zoning under certain circumstances and that is how the Bedford Green apartment building was constructed. This one has 83 units and is also 25 percent affordable. So 25 percent of the units are affordable and the remainder are market rate apartments.

Ms. Hebert stated in the Commercial and Office Districts multi-family workforce housing units are required to be served by public water and sewer. We looked at the Town zoning and tried to wrap our heads around what it would look like from a development standpoint if you took use away from the Office District and the Commercial District where could you build workforce housing today in these districts, where would this use no longer be available. On this map posted on the screen you can see there is one lot in the Office District off from Constitution Drive and it is shaded in almost a black color; the Office District is the blue patch of land on the map just south of the Route 101 and the Route 114 interchange, and that is an undeveloped parcel that would be eligible for workforce housing. Just to the west of Nashua Road you would have some land across from the Walgreen's off from Wallace Road, also across from Harvest Market. We have the pending Bow Lane apartment project off from Chestnut Drive and there may be some other properties off from Chestnut Drive that could be available for potential workforce housing development. And then anything in that general area that might be up for redevelopment would be eligible for workforce housing provided they had access to municipal water and sewer utilities.

Ms. Hebert stated keep in mind the Performance Zone is Bedford's largest commercial zoning district with generally the highest valued land in town, and it is our most flexible zoning district in terms of what could be built in the zone. Right now the Town does not allow any residential uses by right in the Performance Zone, and looking at this change the zoning amendment restricts land that has frontage on the FE Everett Turnpike and South River Road although larger parcels that may front either off these roadways may be subdivided partially to allow for meeting the frontage requirement where they wouldn't have frontage on either of those roads. Parcels identified in the black color would meet the zoning requirement but might need additional Planning Board subdivision actions to remove frontage on either South River Road or the FE Everett Turnpike, and then areas identified in a purple color are potential parcels for redevelopment. Looking to the north of the district you can see the Walmart site is an example of a property that may be redeveloped someday and then undeveloped parcels are identified in

red. We have a more detailed PowerPoint that we can walk you through. That map didn't take into account parcels that might be merged with adjacent parcels. The combinations are kind of endless when you think about a property line not being static. If property is redeveloped, parcels are merged, additional opportunities could open up especially in the northern part of the district where we have some established residential neighborhoods off from Wathen Road. Mr. Connors reviewed the sites on the map posted on the screen.

Mr. Connors stated this site indicated on the screen is the only undeveloped parcel in the Office District. The Office District is pretty much only parcels that are on Constitution Drive and it would be a good candidate for workforce housing because it is large and it has very little frontage along Constitution Drive so it might not be as attractive for an office user. Councilor Murphy stated I know we discussed the same parcel at the Town Council level for totally different reasons from time to time, but between the easement for the power lines, am I remembering correctly that there is a wetland issue with that land. How much of it is actually developable? Ms. Hebert replied there is a significant area that is developable, and I believe the property was looked at for housing several years ago and the owners never followed through with final plans for the housing project. Councilor Murphy asked is there also an access issue where there is no second point of ingress and egress? Mr. Connors replied there could be. Councilor Murphy stated it looks like there would be a narrow sort of entry/exit off from Constitution Drive but it was my understanding always that you would need a second point of ingress or egress and I am not sure where you would get that from there. Ms. Hebert replied it depends on the type of construction and how the Fire Chief feels about access around the buildings and fire protection within the buildings depending on the type of construction. If we are discussing the same fire comments with the Bow Lane project where that project only has one point of access into the site.

Mr. Connors stated the other parcel that Ms. Hebert mentioned is, I believe, a Curry parcel off from Wallace Road. Currently there is a single family home there but it is a large parcel of 16 acres and most of the parcel is zoned commercial, so under the current zoning this is a parcel that could become workforce housing. Ms. Hebert stated this is one that is also significantly wet. The property itself has significant areas of wetlands associated with Riddle Brook but there are developable portions to the site.

Mr. Connors stated and then we are just looking really at any opportunity in these two districts. There is a mostly undeveloped parcel at the end of Chestnut Drive. There is a cell tower there but otherwise it is undeveloped. It is not very big, it is only 1.7 acres, but potentially that could be a small workforce housing development there. We are just looking at redevelopment opportunities and there are not too many in these two districts but I thought possibly this, which I think is 8 Chestnut Drive, just because the building is older, it doesn't have any frontage on Route 101, so potentially it might become attractive down the road for workforce housing.

Mr. Connors stated now going into the Performance Zone; this is one of the large undeveloped parcels in the district, which is off from Kilton Road. It is 14 acres and it has frontage on both Kilton Road and Ridgewood Drive. Currently it is owned by Dartmouth Hitchcock but obviously if they chose to sell it, it could be attractive for workforce housing because it meets the requirements of the zoning amendment. There is also one abutting parcel right behind

Hannaford's. This is about 3 acres that also meets the requirements of the ordinance. This one shown is another one that would meet the requirements and is off from Hawthorne Drive. It is 4 acres right next to the Arbor's assisted living facility. The Arbor's owns it and I believe they have long term plans to develop it but if they chose to sell it, it would meet the requirements of the amendment. This one is something that I noticed is a paper street, so there is no street here at this time, but it looks like the right-of-way has been set aside. It is a road right between Technology Drive and Commerce Park North. This is a 5-acre parcel that would meet the requirements of the amendment. Then there are these two parcels off from Harvey Road that meet the requirement. Both are undeveloped on the northern part of Harvey Road.

Mr. Connors stated looking at redevelopment opportunities Ms. Hebert mentioned the Walmart. I think it is one of the only major retail developments without frontage on South River Road, so if Walmart were to leave, we hope they don't, but if they were to leave, it might become attractive for workforce housing. This one shown is just a side road off from South River Road, Sunset Lane and I picked this because they have come in for conceptual review for housing here. I know the owners are interested in developing housing one day. These are small lots, just 2 acres total but they would meet the requirements. A similar situation would be two residential parcels off from Moore's Crossing Road that would meet the requirements. This one now shown is on Harvey Road, just a potential redevelopment opportunity and this is an office user at the corner of Harvey Road and Autumn Lane. This one now is on Somerville Drive, which is some kind of propane facility at the end of Somerville Drive just north of the airport access road. It is a fairly large parcel and appears to be underutilized; it could potentially be developed into workforce housing. This lot now where the Korean church occupies this parcel, and I chose it because it is such a large parcel of 30 acres. It has the potential to either redevelop it or subdivide it for workforce housing, although we do know that there are substantial wetlands on this property. This lot now indicated is the McEwan property, I think the largest or one of the largest undeveloped parcels in the Performance Zone. This is the parcel where you see the greenhouses along South River Road. It has frontage on Hawthorne Drive and Moore's Crossing Road so you could subdivide it to create parcels where you could do workforce housing. This parcel now shown is at the end of Commercial Drive North; similar to that situation you could subdivide it to create a middle parcel here that wouldn't have frontage on either of those two main roads. Now shown is the lot that has the adult business at the corner of Autumn Lane and South River Road. This is kind of a dated property so it might be one that you could subdivide and create a parcel with just frontage on Autumn Lane to develop for workforce housing. Finally, now shown is an undeveloped parcel at the end of Harvey Road and you could subdivide it to create a parcel without frontage where it could be workforce housing. Councilor Murphy asked is that a paper cul-de-sac? Mr. Connors replied yes.

Acting Chairman Newberry stated it would be fair to say there are still a fair number of parcels that could be potentially used even with this amendment as written. Ms. Hebert responded yes. This would open up a lot of land for residential use where it is currently not zoned.

Mr. Fairman stated just for clarification; when you are talking workforce housing, you are talking about apartment complexes that have 25 percent workforce housing. Is that correct? Ms. Hebert replied that is correct, but it could also be a townhouse style structure. Mr. Fairman stated but in general each one of those sites would be some sort of multi-family development

with 25 percent workforce housing. I get confused when you use the term workforce housing as something that isn't 100 percent workforce housing. Ms. Hebert responded yes, they would not need to be 100 percent workforce housing but they can be.

Mr. Fairman stated this change would open up a lot more opportunities for multi-family than we have now and therefore potentially have a lot more impact on our school systems. Is that correct? Ms. Hebert replied it would open up a lot of land for higher density residential, yes.

Ms. Hebert stated I have a little bit of background of residential uses in the Performance Zone. In the early 2000's the Planning Board removed elderly housing and multi-family residential as permitted uses in the Performance Zone. Because this is Bedford's largest Commercial District and it is a place where we see the most economic development and construction in town, it has really been an engine for economic development for Bedford and the land that is developed in the Performance Zone contributes significantly towards the Town's tax base.

Ms. Hebert stated there are approximately 1,200 existing units in either a multi-family or elderly housing arrangements in the Performance Zone, and in recent years since I have been working for the Town, the Board has been very careful when reviewing housing proposals in the Performance Zone and has typically reviewed housing or allowed housing when it is part of a mixed use development. An example would be the Wayfarer redevelopment project where there is a 133-unit market rate apartment building associated with that redevelopment project but it was part of a mixed use project. The Town also has the River Corridor/Smart Growth zoning district, which has not yet been enacted because the Board needs to adopt design guidelines to fully enact that zoning, but the zoning does allow housing as part of a mixed use development from a vertical mixed use. That would be housing apartments on the second or third floor of a building and office or retail on the first floor, what you would traditionally see in a more urban environment. So the Board has been very cautious in the past when reviewing housing proposals in the Performance Zone given that there aren't a lot of opportunities for new construction or undeveloped land left in Bedford and these sites happen to be located primarily in the Performance Zone.

Ms. Hebert asked are there any questions about the Performance Zone or current zoning? Councilor Bandazian stated my understanding is that under State law workforce housing is taxed at 10 percent of the assessed value. Is that correct? Ms. Hebert replied if you are a 100 percent workforce housing project, which our zoning only requires the 25 percent, but we don't have an ability to require or regulate whether or not developers charge less. So they can provide more opportunity for workforce housing under our current zoning and that would be considered a permitted use. So the one project in town that would fall under that assessment category is the Kensington Woods workforce housing at the corner of Meeting House Road and Kensington Lane.

Ms. Hebert stated looking at that zoning amendment it has three prongs to it so the first is to remove workforce housing as a permitted use in the Office District and the Commercial District and permit it in the Performance Zone with certain criteria. One of the criteria is to limit workforce housing developments in the Performance Zone to not more than 12 units per building. Right now the workforce housing in the apartment residential and the general

residential are currently limited to not more than 12 units per building, however, most of the multi-family style projects or apartments that have been constructed in Bedford are much larger than that. They have many units in one building so the Bedford Green apartments is 83 units in one building. Some of the older apartment buildings that were permitted prior to the workforce housing zoning and are just multi-family market rate apartments are Heritage on the Merrimack, which is 240 units in eight buildings, and Hawthorne Green is 204 units in five buildings. We typically see much larger structures but that is a design standard that comes right from our zoning, it is a restriction we have in the apartment residential and the general residential district.

Ms. Hebert stated I think we reviewed the third part of that amendment that had to do with lots could not have frontage on South River Road or the FE Everett Turnpike, and I think we reviewed that when we looked at opportunities in the various districts for this type of element. Mr. Fairman asked you list five apartment complexes and do all five of these have workforce housing in them? Ms. Hebert replied no. Some of these apartment complexes are apartments designed for seniors and some are market rate. The Bedford Green apartments, 83 units in one building, that is a workforce housing project, so 25 percent of those units are affordable. All of the rest are market rate. Maple Ridge is elderly housing. Mr. Connors stated we just cited these to show that most of the recent residential development in the district has been kind of larger scale than 12 units per structure. Mr. Sullivan asked if the limitation is 12 units per structure and it exceeds 49 – 50 units, that means it is under the 25 percent, does that preclude it from a special designation or access of waivers that we have seen, for example with the Bow Lane project? By being 25 percent it could build in the commercial zone? By being under 25 percent, do they lose anything or the ability to build? Ms. Hebert replied they would have to be at least 25 percent workforce to be categorized as a workforce housing project to be considered a permitted use. Mr. Sullivan asked so in conjunction with that cap of 12, that means really the total unit capacity would be 49 – 50 roughly to accommodate 25 percent? Ms. Hebert replied it really is based on the total number of units. You could have a 12-unit project and 25 percent would be need to be set aside as affordable. It could be a very small project; these projects can take a lot of different shapes and sizes. We have typically seen larger apartment buildings.

Ms. Hebert stated the aspect of the 12 units per structure that the Board needs to consider carefully is whether or not the restriction could be challenged or if this restriction would limit the economic viability of constructing workforce housing in Bedford and that is part of state law. We need to be consistent with state law and we need to be providing that reasonable opportunity for this type of construction in an economically feasible fashion. Acting Chairman Newberry stated 12 units per building likely would not be economically attractive. Ms. Hebert responded it would cost more to build many small buildings than it does to build one larger building, yes. Acting Chairman Newberry asked as this is written would also open up the Performance Zone to residential development rather than the way it currently is by exception. Ms. Hebert responded yes. Right now the Board reviews residential development on a case-by-case basis and you have been very cautious in granting waivers to allow this use. This would permit residential development in a workforce housing capacity, a workforce housing style, to occur under these certain circumstances on the sites that we have identified in the Performance Zone. Acting Chairman Newberry stated so a possible effect of this would be to encourage residential development in the Performance Zone. Ms. Hebert responded yes. Acting Chairman Newberry stated potential. Ms. Hebert stated and there is a lot of demand for this type of use in the

Performance Zone. I know that I receive calls frequently and explain it is not a permitted use and explain the Board's policy in reviewing case-by-case and looking for mixed uses and other characteristics in a project. I know Town Manager Sawyer has probably had similar experience when he was Planning Director. This part of Bedford is in high demand for this type of use. Town Manager Sawyer stated it would be interesting whether the 12 units per building restriction would keep most of the developers that I had seen when I was Planning Director away or not because most of the time they wanted larger projects on our largest parcels in the district. Ms. McGinley asked are there significantly more or more frequent than most of us know questions of your office asking for units for developable workforce housing units, more places for it to be? Ms. Hebert replied yes. We get calls frequently looking for land that might be available for workforce housing. Town Manager Sawyer replied I think in my tenure it was not necessarily workforce housing but multi-housing. When they learn that they can do multi-family by having 25 percent workforce, that is an acceptable answer to them, but really they were looking for multi-family housing primarily when I was in that position. Ms. Hebert stated I am actually seeing both. I have folks looking for the workforce housing as well because there are certain tax credits that are associated with the workforce projects and for some reason that is attractive.

Ms. McGinley stated one of the things you haven't talked about is that our workforce housing criteria is somewhat based upon what Manchester can do because we are in that 'zone,' and when I was practicing law, I know I had clients that were developing in other areas close to Bedford but not here because they could charge more money for the workforce housing units because they were not connected to Manchester, which has a significant number of full-income housing already available and it pulls our number down. That hasn't been a deterrence for people wanting to do these units? Ms. Hebert replied it doesn't seem to be. Ms. McGinley asked do we have land in the Performance Zone that is not really developable for a significant number of uses that we have? Is that part of why people want to do these? Ms. Hebert replied no, I think it is just a development type that is in demand right now. Apartments seem to be in demand statewide. I saw a headline that Merrimack was reviewing a significant project and it seems to be a land use that is in demand so you are seeing more proposals for multi-family housing. The Performance Zone has a broad list of permitted uses, so it ranges from commercial, retail, various office uses, medical office, all the way down through industrial light manufacturing, and I think the Board is hoping to see the land that is remaining in the district to be developed in ways that would help support the tax base.

Ms. McGinley stated I heard from some parents of schoolchildren in the schools now, and the people who I talked to were talking about the high school, that they were oversubscribed. Maybe Councilor Murphy could talk about that. Do you hear about that in your meetings? Councilor Murphy replied yes; in the meetings, outside of the meetings, in the grocery stores, etc. It is a pretty dominant point of conversation at this point. Ms. McGinley asked are we going to stress the school system so much by approving potential new projects with this? Ms. Hebert responded we do need to remember this is at the 12-units per building, which is going to restrict the size of the buildings. The Board can waive that requirement under certain circumstances. Councilor Murphy stated and there is a certain portion of it that is not predictable. I know that one of the discussions that comes up most frequently amongst the parents in town is whether or not restricting workforce housing or restricting new development to a certain area of town is going to push numbers in a particular elementary school, for example, over the edge, so as to cause a

situation where you would need to redraw the lines and people wouldn't be in the school district that they are in right now. That is the context I hear come in most often. Ms. McGinley stated if you look at the map of Bedford, we all could identify those areas and for instances of the elementary schools, or at least the youngest ones are spread out, and if the burden is always on the schools that are near the Performance Zone, then I could see that there would be a problem.

Ms. Hebert stated in summary, the Town needs to provide for multi-family workforce housing somewhere in town, in the commercial districts where it can be feasibly constructed, so land with access to water and sewer, and we have an amendment that shifts this from the Commercial District and Office District to the Performance Zone, which is really I think the only way you could make this shift and still be complying with State law, would be to shift this land use to the Performance Zone. We have two small pockets of apartment residential and they are fully built out. Mr. Connors stated we have heard as part of the Master Plan some kind of public sentiment that people would prefer workforce housing in this part of town instead of along the Route 101 corridor.

Town Manager Sawyer stated I don't know if it was intentional or not but you left off some of the residential housing on Eastman, Wathen, Park, and Bowdoin in the Performance Zone. That is primarily single family homes, although one or two also have accessory dwelling units in them, but someone could take those single family homes and cut them in two and have a permitted duplex that we don't permit anywhere else in town or I guess buy two or three lots on one of those streets and put in a much higher density building. I guess it would have trouble meeting some of the other setbacks requirements and Performance Zone requirements, but I see that you could probably just split some of those houses upstairs/downstairs and make them both rental workforce housing or one workforce housing unit and one market rate unit in some way. I just didn't want those other streets left out of the analysis. Mr. Connors stated there is definitely other opportunities. Those are small parcels and that is why I didn't mention them, but as Town Manager Sawyer mentioned, the kind of northern part of the Performance Zone is where we have a lot of single family lots that could potentially be redeveloped or merged into other lots to create larger opportunities. Mr. Fairman stated another piece of property in the Commercial District that you didn't mention is the Grendel flower shop up by Goedecke's that we have had some indication that people want to develop. That is an old, old building that could be easily torn down and something done in that lot. Ms. Hebert responded there would be challenges bringing sewer to serve that building. Mr. Fairman responded that is true.

Acting Chairman Newberry asked if there were any comments or questions from the audience on proposed **Amendment #4**. There were none.

*Amendment #5 is a citizen petition to eliminate the provisions for the one-third density bonus for adding workforce ownership housing units to a single family residential cluster development in the Residential & Agricultural District and the General Residential District.*

Acting Chairman Newberry asked is there anyone here who represents or can speak to proposed **Amendment #5**. There was no one present to speak.

Ms. Hebert stated this one would eliminate a density bonus calculation that allows for additional units to be constructed when workforce housing is built as part of a cluster residential subdivision in the General Residential (GR) District and the Residential & Agricultural District. It eliminates the provisions for a one-third density bonus. This zoning allows for workforce housing to be built in our GR District and the Residential & Agricultural District not as a multi-family large garden style apartment, which is what we typically see in the Commercial District, but as ownership housing they can be built up to four attached units, which I imagine would be a townhouse style structure or single family homes that are affordable. They are for ownership, they are not for rent, and when the Board reviewed workforce housing in 2009, one of the state requirements is you have to make workforce housing reasonably available and up to 50 percent of your residentially zoned land. This incentive, although no one has used it, goes a long way towards meeting the state requirement towards providing an incentive in inclusive zoning that allows for workforce housing development in the bulk of the Town's residentially zoned land. We have not seen any workforce housing ownership projects constructed in town, so these would be those units that would be ultimately owned and restricted by deed to be affordable over time. When the zoning was established in 2009, we attached the Planning Board's minutes of this discussion, but it was the Board's sentiment that this bonus density was important in Bedford's compliance with state law. Ms. McGinley asked if these are imposed in a subdivision that has covenants and the covenants prohibit what we are describing here, how would that be handled, preexisting covenants that wouldn't permit the extra housing to be built on a lot? Ms. Hebert replied covenants are typically enforced privately, so they are enforced by the homeowner's association in the development. They aren't typically something that the Town gets involved in. Councilor Bandazian asked are you asking if there are restrictive covenants could we use the land to try and satisfy the 50 percent requirement? Ms. McGinley replied the question I have is are we going to be creating conflicts among subdivisions that have covenants that wouldn't allow this. Ms. Hebert responded this isn't a type of development we have seen widely built anywhere in New Hampshire really. We need to provide opportunity for workforce housing in Bedford and this provides an incentive for building ownership style workforce housing in Bedford. Mr. Connors replied I don't think we have any at the moment. Ms. Hebert stated we haven't seen any proposals and we don't have any in town. Town Manager Sawyer stated this amendment isn't creating a use, it is actually decreasing the density of the use, so we are not creating a new problem that hasn't already been in our zoning since 2009. Ms. McGinley asked if you have an owner who has a big piece of land for his/her lot and they look at this, would they be able to do that despite the private covenants that may be in existence? Would they be able to build a separate house on their big lot? Mr. Connors replied it would be something they would have to work out with their association. Ms. McGinley asked are we creating conflicts? Ms. Hebert replied no. This is a tool in the zoning toolbox for building workforce housing in Bedford and it gives a bonus density if you are building workforce housing and workforce housing would otherwise in this style of development would be primarily single family homes and would need to meet the same density calculation as any other new single family residential subdivision or cluster residential development. Ms. McGinley stated I think what I am trying to say, there will be people in Bedford who read this and think this is good because the Town is permitting this if it is voted in, then I can build a small house for my daughter or son and his or her family. Ms. Hebert responded let's back up. This is to eliminate the provisions for the one-third bonus density. If this amendment passes, it would reduce opportunities for workforce housing. Acting Chairman Newberry stated it would discourage workforce housing in R&A zones. Ms. Hebert

stated it would reduce the incentive for building. Councilor Murphy stated so the density boost that you are getting right now goes away under this. Ms. Hebert stated no one has used it, we haven't seen it widely used but we do think it goes a long way towards meeting State law and providing inclusive zoning and opportunities for workforce housing. Ms. McGinley stated I understand what you are saying because it appears that you would think that it only applies to undeveloped land. Is that our intent? Ms. Hebert replied no; you could tear a house down and subdivide. Town Manager Sawyer stated or if you had enough land, you could leave the house and add additional properties by subdividing. Just rereading the minutes from 2009 and remembering all of the work that the committee put into this, it was the development community at the time that said to make sure we are compliant with the law it has to be a reasonable and realistic opportunity and the cost of land in Bedford if he didn't provide some incentive would make it fairly clear that it is not a realistic opportunity for the development of workforce housing if you didn't provide some incentive. At the time the minutes show that at least the one developer that was on the committee appointed by the Planning Board said that this density bonus did provide that realistic opportunity. We did have one project that went pretty far down the road of designing townhouse style development, which was going to be workforce housing of I think every unit. I could be wrong, but they were also going to do zero energy buildings, but couldn't make the access work. But there has been at least one developer who really did want to try and make a development like this work.

Acting Chairman Newberry stated so the practical effect of this **Amendment #5** and **Amendment #4** is likely to be to press workforce housing into the Performance Zone period, within town. Councilor Bandazian replied in some way. There is a risk involved and the risk is builders' remedy litigation where the power is taken away. There is a case in Windham, a case in Ossipee, where basically the Superior Court decides that the Town has not provided a reasonable opportunity and their zoning restrictions are void. This increases the risk in the residential zones, and I think to me it makes it an unacceptable risk. Town Manager Sawyer stated and I think there are two different types of workforce housing. This one is for ownership workforce housing. Ms. Hebert responded yes; ownership workforce housing that could be built at a maximum of four attached units as far as the density goes, so that would be four townhouse units per building. So you wouldn't get the garden style multi-family workforce housing in the R&A district. Councilor Bandazian stated unless a judge said you had to. Ms. Hebert stated unless a judge said you had to because you didn't have enough opportunity for workforce housing. You do need to provide opportunities for workforce housing in the majority of your residentially zoned districts, so this incentive I think goes a long way toward meeting that goal for Bedford where most of our town is zoned residential and agricultural. Town Manager Sawyer stated at the time we found the only way to meet it without really opening up large areas for workforce housing by making even greater incentives. We felt that this was a reasonable incentive and, again, the developer in the group at the time said it was reasonable. Ms. Hebert stated and the amendment doesn't eliminate ownership workforce housing in these districts, it simply eliminates the bonus. Acting Chairman Newberry stated just because nothing has been done along this line, it certainly doesn't mean that it couldn't or wouldn't become attractive. Mr. Sullivan stated I think my biggest problem with this is what Councilor Bandazian mentioned is the fact that it could have unintended consequences of opening up more opportunities for workforce housing where the petitioners of this amendment clearly are trying to limit that, but if we don't provide reasonable opportunities, then we could end up in Superior Court and then have

more workforce housing as a result. Ms. Hebert responded yes. Acting Chairman Newberrystated and less control rather than more.

Ms. McGinley stated all of my questions are not because I don't understand what it says, but I think that if in the past it may be misunderstood or at least homeowners' prior obligations that are restricted by a covenant that the homeowner is under, it may open a possibility for strife between homeowners if someone thinks that this would allow a current homeowner in a large lot decides that it would be used to subdivide it and do a second lot. Town Manager Sawyer stated this amendment does the opposite; it makes it more challenging to have more workforce housing units. It still would allow workforce housing; you just couldn't have the bonus density.

Mr. McMahan asked has the Town's attorney looked at this amendment? Ms. Hebert replied yes, and he warned us that these amendments may have the effect of making workforce housing less reasonable, less economically feasible in Bedford. Mr. McMahan stated we could be at risk. Town Manager Sawyer stated we probably were at risk in 2008 and 2009 when the State law was being passed and that is why it was done. The Planning Board went out and got a grant and we were one of the first communities to get a grant to study this. We hired consultants, we formed a committee, and the consultant advised the Planning Board to come up with the regulations that are in place to protect us and it has protected us so far from being sued and it has allowed for reasonable opportunities, it is just that no one has taken us up on the ownership units yet.

Mr. Fairman stated I wouldn't want to open a can of worms by passing this amendment. It has worked so far. Town Manager Sawyer stated the State could come in and make changes too and take it out of local towns' hands if towns really make it onerous and they could just bypass this and make it state zoning one way or another like they have done with other uses. Mr. Fairman stated but if a developer and you had a piece of farmland, you could come in and take the Town to court saying you don't provide adequate space/land for workforce housing, I want to use this piece for workforce housing and take you to court. We think we are protected at this point, nobody has done that, but if you start changing some of these and tweak them a little bit, like this one is doing, all of a sudden you have opened that 'can of worms' and you are headed down that path. There is farmland out here on North Amherst Road and somebody might want to do that. I think we have to be very careful. Town Manager Sawyer stated we won't know until somebody sues us, but, again, when we created it years ago, we had legal representation and we had planning consultants that told us this was meeting the spirit and intent of the law. This change would be concerning if we would still be meeting the spirit and intent of the law, to me. Councilor Murphy asked where is the underlying law? Town Manager Sawyer replied state statute. Ms. Hebert stated the RSA is 674:58. There is a workforce housing primer in the back of your packet that kind of outlines the requirements of state law. Mr. Fairman stated that was very helpful.

Acting Chairman Newberry asked if there were any comments or questions from the audience on proposed *Amendment #5*.

Pricilla Malcolm, 24 Pebble Beach Drive, asked has the State come down on any of the surrounding towns or any of the towns in southern New Hampshire for providing this? Councilor Bandazian responded if by state you mean court, the answer is yes. Ms. Malcolm

asked which towns have? Councilor Bandazian replied Windham is the one I know of. I think Ossipee and I think there was a case in Concord, at least it was Merrimack County Superior Court. If you want to Google Suncoast Properties, Inc. v. Town of Windham, you will see some of the risk. Ms. Malcolm asked how does the Town of Windham stack up in comparison with this amendment? Do they have something like this that would prevent court action or not? Councilor Bandazian replied I couldn't answer that off the top of my head. Mr. Connors stated I believe they adopted something after they were sued in court. Town Manager Sawyer stated it goes all the way back to the early 1990's with two cases in Chester that started this whole endeavor. I think it is Britain v. Town of Chester. This has been going on in the state for a long time and the State makes changes and the towns adapt the best we can.

Councilor Murphy stated I am a little concerned because looking at the statute, even if I look at the definition for inclusionary zoning and I start looking at the incentives that are offered routinely in workforce housing, the first thing that comes up is the density bonus issues, so I am not sure that by removing that language we are not running afoul of the underlying chapter.

Acting Chairman Newberry stated so I think we have some concerns. Is there any further research the Board would like related to this one? I think we have explored some of the concerns around this proposed amendment. Town Manager Sawyer stated I would just like to make it clear. I know Ms. Hebert said it in the beginning, the Board has no ability to change this, so if we sat around here and said one-third might be too high, let's go with ¼, we can't change that provision. This has to go on as written, for people watching at home. Acting Chairman Newberry stated that is an important point. The citizens' petition proposed amendments have to be carried through to the voters exactly as they were written. The provided wording cannot be changed. Ms. Hebert stated the Board simply votes to support or not support the zoning amendment. That vote would be taken at your next meeting.

Councilor Murphy stated do we allow density bonuses for conventional housing developments? Ms. Hebert replied no. Elderly housing in the Residential & Agricultural District and cluster. Councilor Murphy stated if you offer density bonuses for other housing, it would appear, just on a quick 30-second read of the statute, that you couldn't decrease the density bonus for workforce below what you are offering for others. Town Manager Sawyer responded that is correct. If I am remembering correctly, if there was a bonus for elderly in a certain district, we matched it with workforce. Ms. Hebert stated they are matched for elderly and workforce in A&R and this is the inclusive zoning that provides a bonus density for workforce.

*Amendment #6 is a citizen petition to reduce the maximum building footprint allowed in the Commercial District from 40,000 to 25,000 square feet per floor and to limit the height of buildings to not more than two floors.*

Acting Chairman Newberry asked is there anyone here who represents or can speak to proposed **Amendment #6**. There was no one present to speak.

Ms. Hebert stated currently zoning restricts the building footprint in the Commercial District to 40,000 square feet per floor and doesn't have a limitation on the number of floors but rather

limits the height of the building. The maximum height of a building in the Commercial District is currently 48 feet, and just to give you a sense of scale, the Elliot medical office building next to the Copper Door has a building footprint of roughly just under 25,000 square feet, so that gives you an idea of the scale of the buildings. The impact of the zoning amendment would reduce the size and the height of buildings in the Commercial District. It would also make several structures that exist nonconforming with regard to their overall building size and their height. So if they were to add onto their building or modify their building, they would need to seek variances from the Zoning Board. Some of the existing buildings that exceed the 25,000 square feet include the Harvest Market Plaza, the Hannaford's on Jenkins Road, the Bedford Falls assisted living facility, the Flatly Office building off from Corporate Drive, and the Optics One manufacturing and office building also at the Bedford Hills development.

Ms. Hebert continued historically the Town of Bedford limited the overall building footprint to lots that were both zoned and located in the Historic District to be not larger than 25,000 per floor, but didn't limit the number of stories. I think all of the commercially zoned land was removed from the Historic District in 2012. We no longer have that restriction on the size and scale of buildings. There are also several buildings that would become nonconforming with regard to height.

Ms. Hebert stated recently constructed buildings that would meet the size criteria would be buildings like Convenient MD, the Murphy's Tap Room, Members' First Credit Union, Primary Bank, so there are several buildings in the district that have recently been built that meet this general size and scale, but we do have a handful of a buildings that exceed the size and our zoning typically doesn't regulate per floor, we typically regulate overall building height.

Acting Chairman Newberry asked the Elliot urgent care at 25,000 is the footprint? Ms. Hebert replied the footprint is just under 25,000. Acting Chairman Newberry asked and it has how many floors? Ms. Hebert replied three stories.

Mr. McMahon stated it might help discussion and it would be nice if there is anyone that has any knowledge on the rationale for presenting this. Ms. McGinley stated I don't remember where there was a petitioned zoning change where we don't have someone presenting. Usually there is somebody presenting or at least explaining why this amendment has been proposed. Councilor Murphy asked did Jane indicate that she couldn't be here for some reason? Ms. Hebert replied no. Councilor Murphy stated I don't understand why she is not here to speak to her proposed zoning amendments. Town Manager Sawyer stated there is no requirement to. Councilor Murphy stated I understand that there is no requirement to but it is certainly confusing when questions arise and I am not in her head and I don't know why it was written the way it was written and you would think that someone would come and explain multiple citizens' petitions that they circulated. Acting Chairman Newberry stated it would certainly help the Board and the public to understand the rationale and that is kind of why I said at the beginning that it would nice to get the purpose and goal of the citizens' positions from somebody who was involved in it. Councilor Murphy responded right, especially where the issue has been so vocal and it has played out on a wide range of social media and an email campaign. This is the forum where it is most appropriate to discuss the reasoning behind why these were crafted this way, and I am disappointed. Acting Chairman Newberry stated maybe that will happen in the subsequent

hearing. Councilor Murphy responded it would be advisable. Ms. Hebert stated I would like to just make the note that Jane Akin and Kevin Gagne developed these zoning amendments, and I do know that Kevin is planning to attend the next Planning Board meeting but was unable to make tonight's meeting. Councilor Murphy stated I only know that they were technically referred to by the name of the first person that signs the petition and Jane's was the name that came first. Mr. McMahon stated it would be interesting to see what would happen to Market & Main if this was enforced right now in Bedford. Mr. Connors responded it wouldn't apply to that district; just the Commercial District. Town Manager Sawyer stated primarily Route 101 and a few other parcels. Mr. Fairman stated I can't speak for the petitioners but the word I am hearing on the street that it is all part of the desire to put stricter requirements on the Route 101 corridor and this is all part of that desire by a fair number of people to do that. I would rather hear what the petitioners say but that is what I am hearing. Ms. McGinley stated I think this is the first time that we have petitioned changes brought to the Board with no explanation from the petitioner. Mr. Fairman stated there were a lot of people that signed the petition so somebody should have been here.

Acting Chairman Newberry stated as I recall from previous conversations that I think involved getting to the 40,000 square foot that we currently use, I think one of the concerns was whether anything significantly less than 40,000 square feet is economically viable or whether you would be setting yourself up to have structures that just wouldn't support viable businesses. I think that is a concern that I would have with the idea of cutting back to 25,000. Mr. Fairman stated Ms. Hebert listed four new ones that have been built that meet these requirements and I can think of a couple of other ones probably. The medical center and the veterinarian center meets them, so there are at least some people that are developing and making it feasible.

Councilor Bandazian stated when we reduced it to 40,000, what I was told at the time was the Bedford Hills, probably a misnomer, but that area was one area where you could build a 40,000 square foot building and then the corner of Jenkins and Route 101 where Hannaford is is another location, and maybe there is one other location where a 40,000 square foot building or larger could be constructed on the corner of Hardy Road and Route 101. I am not aware of any other parcels that would be affected by this or that are singled out by this. Ms. Hebert responded no, I think it is just some of those existing structures that exceed. Acting Chairman Newberry asked does the submitted draft say 2 stories? It doesn't specify an actual height? Two stories can be pretty high. Ms. Hebert responded it says 2 stories and our height limitations would still apply.

Acting Chairman Newberry asked if there were any comments or questions from the audience on proposed ***Amendment #6***.

Susan Tufts Moore, 27 Bedford Center Road, stated I have had nothing to do with this particular amendment but I have been going to these hearings for many, many years and I remember when we talked about 40,000 square feet many years ago and there were a lot of concerns, as I recall, for a footprint or a building size that large. I think all of those years ago people were hoping that the developments would be on a smaller scale, so I just bring that up as a historic recollection in my mind that at that point people felt that 40,000 square feet was a pretty large size.

Acting Chairman Newberry stated one other thought that I just had was that larger than 25,000 square feet wouldn't preclude multiple tenants necessarily, which may be more attractive or viable than three or four separate standing smaller structures. That is just something to consider.

*Amendment #7 is a citizen petition to rezone a portion of land at 137 Bedford Center Road and 209 Route 101 (Harvest Market Plaza) from Residential & Agricultural (R&A) to Commercial (CO) by shifting the district line northerly to the property boundary, so the entire parcel would be commercially zoned and to move the Historic District line to the northerly property boundary to remove the commercially zoned land from the Historic District.*

Acting Chairman Newberry asked is there anyone here who represents or can speak to proposed **Amendment #7**. There was no one present to speak.

Ms. Hebert stated we have a map to best describe **Amendment #7**. This proposed amendment proposes to rezone properties at 209 Route 101 and 137 Bedford Center Road. Indicated on the map is the Harvest Market property and an existing residential property just to the northeast of Harvest Market. You can see these two properties, along with others in the Commercial District, are what we call split zoned. Right now the commercial zone follows Route 101 and runs parallel to Route 101 causing the properties to be partially zoned commercial, the area in yellow is commercial, and to be partially zoned R&A so the balance of these lots outlined in red are zoned R&A. The proposed zoning amendment is to rezone this backland from R&A to commercial, and the Town's Historic District also follows this R&A line with the Commercial District so it would also move the Historic District boundary to the back of these properties so they are wholly out of the R&A district and the Historic District and zoned commercial.

Ms. Hebert continued we looked at the land and looked at old site plans for the property and the balance of this backland is primarily wet. Riddle Brook divides the two properties and the wetlands and floodplain associated with Riddle Brook kind of lie behind the Harvest Market and in between these two properties. There is some area that has some development capacity on the Harvest Market property and there is clearly some developable land at the 137 Bedford Center Road lot as well. The effect of the zoning amendment eliminates the split zone, which can sometimes cause some administration and enforcement issues but it would also bump the Commercial District closer to the surrounding residential properties.

Acting Chairman Newberry asked what you are showing there is really the only part of that parcel that is potentially still developable? Ms. Hebert replied I would say so. There is kind of a piece of high and dry land where that box is located in white on the map in front of you, and then immediately to the right is the existing residence at 137 Bedford Center Road, and you can see there is some developable land where the house lot could be redeveloped and there seems to be some dry land in the back. Acting Chairman Newberry asked what is the yellow dash line? Ms. Hebert replied the yellow dash line is the current zoning district line, so that is the current zoning district boundary. Acting Chairman Newberry asked so the likely developable piece of that whole parcel is already Commercial District? Ms. Hebert replied correct. Acting Chairman Newberry asked and the back line of the Commercial District is what is measured off from some line on Route 101? Ms. Hebert replied it is. Acting Chairman Newberry asked it is a set

distance? Ms. Hebert replied 400 feet. Mr. Sullivan stated but in theory barring the passing of proposed Amendment #2 that would allow for or change the developable land metrics, that if you combine the back portion of 137 with the back portion of 209, and then you could conceivably have a much larger developable area barring, again, the passing of Amendment #2, which would discount the wetlands out of it. Is that correct? Ms. Hebert replied yes. That land would be able to count towards density for a future workforce housing project if that were to remain permitted in the Commercial District, but it bumps the Commercial District line to the edge of the property boundary and would include any developable land that may be zoned R&A, rezoning it commercial aiding in the redevelopment of 137 Bedford Center Road or any future development at the Harvest Market plaza.

Acting Chairman Newberry stated I have a question for staff. Might this be considered spot zoning? Ms. Hebert replied this would not be considered spot zoning. Spot zoning would be to take an isolated lot of land and decide to rezone it commercial. This is taking a lot that is split zoned and moving the line to include the entire property. Acting Chairman Newberry asked making it consistent? Ms. Hebert replied yes. We have a lot of split zone lots in town and split zoning has disadvantages as well.

Mr. Fairman stated the Historic District Commission, which I am the representative from this Board on, had concerns about it mainly because it brings the Commercial District up behind Lot 287, which is a residential home on Wallace Road, it would then be very close to it. They felt that it was just further encroachment of the commercial land onto the Historic District and just moving it in. I have a concern myself, maybe not spot zoning, but I will call it zoning creep, and I think we have to be very careful on Route 101 not to let commercial zoning back up into the residential areas. I think that is a precedent we need to be very careful of because there are a lot of areas that we don't want it coming back up Wallace Road in both directions, or Jenkins Road in both directions and Hardy Road, all of these side roads off from Route 101, Meeting House Road, Liberty Hill Road, all of them. We don't want the commercial zone backing up into those roads and I think this one fits that concern. Ms. Hebert stated the Historic District Commission did take a formal vote to oppose the zoning amendment. Mr. Fairman stated yes, they were unanimous in saying to oppose this. I know they don't have a lot of say but they took a unanimous vote wishing to express their concern and dislike for the idea.

Mr. McMahon stated Ms. Hebert, could you go over again how much of that parcel we are talking about that has wetlands. Ms. Hebert responded by looking at the map you can see Harvest Market and the parking lot in front of Harvest Market, Primary Bank sits kind of in this location here, this is Riddle Brook and this land right along the edge of the pavement is wet, and the wetlands kind of take up most of that backland. This is a proposed parking lot expansion that was never constructed at Harvest Market, so there is a little bit of developable land along Wallace Road and there is that pocket of developable land that we saw on the second plan. Here is Primary Bank, here is that edge of pavement going around behind Harvest Market and you can see there is kind of a pocket of developable land just past the bridge over Riddle Brook, and then the adjacent lot, which is also part of the zoning amendment, appears to have developable land along Bedford Center Road, which is currently zoned commercial, and then this area back here also appears to have some development possibilities. Acting Chairman Newberry asked in that second parcel that you were pointing to it looks like it might have potential for redevelopment?

Ms. Hebert replied yes. Mr. Fairman stated both lots are owned by the same owner. Councilor Murphy stated just to be clear, that area right behind Primary Bank is all wet. Ms. Hebert responded that is all wet. Anything with this little white stipple symbol represents wetlands, so this whole area is wet, and if we go back to this one, it takes a trained eye but you can kind of see where the wetland boundary is on the aerial photo, you see a texture change in the vegetation, so you can see there are some larger trees along here and then the wetland likely follows his boundary here. This is Riddle Brook, these darker stripes, and you can see that there are some wetlands along here, maybe a little island of high and dry land, and then the wetlands continue back towards Bedford Center Road and this is where Riddle Brook crosses Bedford Center Road.

Mr. McMahon stated just an observation from the Conservation Commission. Almost the majority of what we consider right now are all wetland setback variances or requests to do so.

Ms. McGinley asked Ms. Hebert, was there any statement given to the Planning staff about why the proposed zoning change was submitted? Ms. Hebert replied the petitioner is planning to come to the next Planning Board meeting; I believe he was out of town tonight. I think they would like to just bring their entire lot into the Commercial District because the primary use on the property for Harvest Market is commercial, and I believe they have purchased 137 as an investment for future redevelopment.

Acting Chairman Newberry asked if there were any comments or questions from the audience on proposed *Amendment #7*.

Eric Erickson, 36 North Amherst Road, stated my property directly abuts both of these pieces of property. On your wetlands map it doesn't accurately reflect what is going on behind 137. There is approximately 100 feet of wetlands between my property and the edge of that property. In addition, it continues all the way around to the edge of my other property on the other side. The most you are going to get out of development of 137 is approximately 150 feet there because of the wetland setbacks and that sort of stuff. So it seems to me as though this zoning request is a satisfaction of 100 feet worth of developable land since the front half of approximately 300 feet is already commercial. You are going to be missing out on perhaps 100 feet but that is all that is left back there to develop. Other than that, I oppose it, it of course infringes upon my property by bringing the commercial line directly in back of it. This whole area here in back of Harvest Market is wetlands, it is good wetlands as evidenced by the beavers who have dammed the whole thing up and flooded it for about 6 to 8 inches in the last two or three years.

Dave Bouchard, 287 Wallace Road, stated my property is probably most impacted by this, I believe. He took the words right out of my mouth; I don't know if any of you have been behind there but the whole place is underwater. During the Mother's Day floods I had 2 feet of water came right up to my wall, that entire parcel is in a flood zone for a reason and it was flooded. I immediately see the value of my property nosediving if a potential buyer, which my wife and I are in our 60's now and we do plan on downsizing the next few years, and a potential buyer even if nothing is done to that land, just hearing that it is zoned commercially, I see the value of my property nosediving. If that land is developed, I don't know how that is going to change the floodplain. Right now the floodplain comes to the edge of my property, and I know that because I had to investigate it because a bank wouldn't refinance us at one point because they said we are

in the floodplain and I had to show them that we weren't. Anything that is done back there to make it commercial, in my opinion, is just an absolute waste of time. The only thing it is going to do is hurt the abutters. I don't see it helping them except they can't get what they want on the other side of the street, they are going to try to get it on this side of the street. Hopefully they will threaten to tear down Harvest Market. I just don't see a reason for it. I am dismayed; I am totally confused as to why they would want to change the zoning of that land. We constantly on a daily basis see deer, we see bear, and I had a bobcat in my driveway the other day. It is there for a reason; it is there as part of Bedford. Bedford is a town and these people don't care about Bedford; they care about their pockets. We need to put a stop to it and this is a simple stop. I don't want to be fighting this for the next three or four years when they want to construct something there. They want to do this, they want to do that, and if we don't zone it commercial, yes there are other things they could do there but being in a flood zone I don't think it is going to be financially feasible to put anything smaller than what they are probably thinking to put in there. I had three pages of stuff I was going to read but I just figured I would go from my heart. Town Manager Sawyer stated you can always submit it to the Planning Director in writing for the next hearing.

Richard Moore, 27 Bedford Center Road, stated I am opposed to this too. I was thinking about it and I was really concerned about the wetlands and how extensive it was. My recollection was that it was very extensive, and there is a little bit of the already developed land that is grandfathered in and if you go to that northern corner, it is filled into that wetland already, but if you want to get a good perspective of how huge this wetland is, just go and stand at the edge of that fill and look out over it. That would be beside the Subway or behind it where you get a good vantage point. And I also went to the Town website for the GIS map to show the lot lines and the Historic District line and to try and get a good view of the wetland. I printed out some copies which I think helps answer the questions I have heard here that show up a little better, at least on my printout. The map was distributed to the Board. It really shows that the vast majority of especially the Harvest Market lot, which is the biggest one, is wetland. The part that is undeveloped, the vast majority is this big wetland. If you look on the map, it is the lighter shade of green, and what I showed was the hybrid map, which is a composite base map plus the aerial photograph and it shows quite clearly this extensive wetland. You have to wonder why a developer wants to include that in his lot for commercial. I also considered an encroachment on the residential area, and, again, the wetland also is this valuable resource to the community. The nature uses it and it is a water resource for our town too. I would hope that you would vote against supporting this amendment.

Mr. Bouchard stated I'd like clarify on that proposed parking area. The proposed parking area didn't meet the setbacks. We were at that meeting and they had approved it but then they realized it didn't meet the setbacks. I just wanted to clarify that.

**MOTION by Councilor Bandazian to close the public hearing on the proposed zoning amendments. Town Manager Sawyer duly seconded the motion. Vote taken - all in favor. Motion carried.**

V. Approval of Minutes of Previous Meetings:

**MOTION by Town Manager Sawyer to approve the minutes of the December 17, 2018 Planning Board meeting as submitted. Councilor Bandazian duly seconded the motion. Vote taken; motion carried, with Mr. Foote, Mr. Sullivan and Mr. McMahon abstained.**

VI. Communications to the Board:

Ms. Hebert stated the 2019 Planning Board meeting schedule is in your packet.

Ms. Hebert stated you have a letter from the Department of Transportation. About a year ago the Town hosted a public meeting on a proposed bridge replacement over New Hampshire Route 101 over Pulpit Brook at the Twin Brook Lane intersection, very close to Twin Brook Lane, and the meeting was well attended by folks who live on Twin Brook. The Board submitted a letter requesting that the DOT consider constructing a left-turn lane at that location on Route 101. We have received notice that they are including this in their design, which is great. The advertising date for the project moved back a year, so this wouldn't be advertised until 2021 but the Town would also have a public hearing hosted by the DOT on the proposed project and the left-turn lane.

VII. Reports of Committees: None

VIII. Adjournment:

**MOTION by Ms. McGinley to adjourn at 8:52pm. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.**

Respectfully submitted by  
Valerie J. Emmons