

TOWN OF BEDFORD
January 27, 2020
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, January 27, 2020 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Chairman), Hal Newberry (Vice Chairman), Chris Bandazian (Town Council), Rick Sawyer (Town Manager), Jeff Foote (Public Works Director), Randy Hawkins, Mac McMahon, Charlie Fairman (Alternate), Matt Sullivan, (Alternate), Priscilla Malcolm (Alternate), and Becky Hebert (Planning Director)

I. Call to Order and Roll Call:

Chairman Levenstein called the meeting to order at 7:00 p.m. Regular members Kelleigh Murphy and Karen McGinley, and Town Council Alternate Phil Greazzo were absent. Assistant Planning Director Mark Connors was also absent. Mr. Fairman and Ms. Malcolm were appointed to vote.

II. Old Business & Continued Hearings: None

III. New Business:

1. **Harvey Construction (Applicant), Lyophilization Services of New England, Inc.** (Owner) – Request for approval of a site plan amendment to allow several changes to the approved site plan for an office, light manufacturing, and warehouse facility currently under construction on Harvey Road, Lot 35-98-48, Zoned PZ.
2. The Planning Board will conduct the second and final public hearing on proposed zoning amendments submitted by the Planning Board. 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

IV. Concept Proposals and Other Business: None

Ms. Hebert stated staff has reviewed the Harvey Road site plan application and would recommend that the Planning Board find the application to be complete. The abutters have been notified, and it is our opinion that the application does not pose a regional impact. We would recommend that the Planning Board accept the agenda and in so doing, adopt the staff recommendations that the Harvey Road application is complete and does not pose a regional impact.

MOTION by Vice Chairman Newberry to accept the agenda as read. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.

- 1. Harvey Construction (Applicant), Lyophilization Services of New England, Inc. (Owner) – Request for approval of a site plan amendment to allow several changes to the approved site plan for an office, light manufacturing, and warehouse facility currently under construction on Harvey Road, Lot 35-98-48, Zoned PZ.**

Bob Duval of TF Moran was present to address this site plan amendment on behalf of the applicant.

Mr. Duval stated originally this was going to be a warehouse for Harvey Construction themselves, and then in May of this year they came back before the Board to receive approval for a site plan amendment to modify the use of the building, which would now be owned by Lyophilization Services of New England, Inc. (LSNE) and the use would be changed for their operations instead of a storage warehouse/office for Harvey.

Mr. Duval stated what we are here for this evening is a fairly minor amendment to the plan. It includes concrete stairways added to the south elevation as shown and chillers being added on a concrete pad next to the loading dock that was approved earlier and some minor changes, a pipe handrail to the wall, a gravel truck turnaround here to make maneuvering out of this new loading platform more easy for large trucks, a gravel shoulder on the driveway onto Harvey Road for the same purpose, relocation of the dumpster pad here, reconfiguration of a few parking spaces from west side to east side, and also not related to these changes, there is a bit of a drainage problem that has turned up in the front here along Harvey Road. We have discussed with staff and just went over the proposal here with Mr. Foote just a few minutes before this meeting, and finally the snow is gone enough so that we can see what the problem is. The problem is that the swale was obliterated in part during construction, so we are going to put that swale in per original plan and then it will drain the way it is supposed to onto the frontage in front of the next property to the east. Those are most of the change, and the one that is precipitating a new waiver is this generator in the back of the project.

Mr. Duval stated it is a fairly large generator because LSNE is hoping to have this generator run all of their operations essentially. It is a 12-foot high by about 28 feet long, I think it is, generator pad, and that is mounted here in this location. In the past where we have done generators of apparently a more modest size, they haven't been subject to setbacks, so we had proposed to put it here in this location. The infrastructure that would be routed to that generator is already under construction, they have kind of moved ahead, they had to move in anticipation and trying to keep their schedule because of lead times and so forth. We are asking this Board to consider a waiver to allow this generator to be inside the structure setback, and as you can see, the structure setback is this light line shown on the plan, that passes through the front of the generator. The generator itself, located here, is about 28 feet and so forth by about 12 feet high. I can show you on the grading plan that the generator does sit about 3 or 4 feet below the level of the ground up here. This is 214, 212, so the ground here in this area in front of the generator is, at least in the line of sight to the nearest building, which is about 90+/- feet away, is about 3 feet below that ground up here that the abutter's property is, so that helps screen some of the noise

and some of the vision of the generator. We are also proposing to put substantial landscaping there. Posted now is the landscaping plan with the proposed landscaping, which basically has a solid row of arborvitaes, a mix of tall and short arborvitaes, 6 to 8 feet on these and 12 feet and up on these. What I would propose to do this evening is extend the taller arborvitaes right around the corner to make sure that, and remember, they are 3 to 4 feet higher than the generator, so they should completely shield the generator from view from this building by using all of the taller arborvitaes, and they would be planted dense so you couldn't see through them.

Mr. Duval stated that is really what is here before the Board tonight.

Chairman Levenstein asked can you go back to the plan showing the grades. Ms. Hebert stated there are some photographs of the site that might be helpful for the Board to see that illustrates the drainage and just kind of what is going on on the site because you are midway through construction. Mr. Duval stated in this photo this berm was carried right out to the road and you can see that it is high here. The first 200 feet of that swale is about 1-foot to 1.5-foot deep, and then from here on it is essentially level with the road, so they just erased the swale. When spring comes and the frost is gone and we can work this and stabilize it, we will make sure that Harvey restores that swale to about 1.5-foot deep and continue it around in front of the abutter's property so that that section drains properly. We did assure ourselves that the stormwater system is working properly, and in fact, there is no surface stormwater running now. The water that you see here is a combination of saturated soils and snow melt from the heavy rains this weekend and groundwater also from the heavy rains this weekend, which probably is much higher than usual because there is some residual frost under the ground there. This condition will stop when the swale is extended in the front.

Ms. Hebert asked please open up the warehouse pictures too to give folks a sense of what the building looks like today. I think the generator is kind of roughly where the job trailer is. Mr. Duval stated the generator would be way at the back at pretty much the opposite end of the building. This posted shows the entrance to the site, so the generator would be at the diagonal corner opposite the site here in the back. This is Harvey Road and this is the main site driveway, and this is where that gravel shoulder would be extended. Chairman Levenstein asked are you going to be able to do that without damaging the culvert? Mr. Duval replied yes.

Mr. Duval stated now posted is the grading plan. It is 210 here and 212, 213, 214 right up here. Chairman Levenstein asked does that property keep on going up or levels off after that? Mr. Duval replied the building finished floor is about 214, if I remember correctly, so it sort of plateaus at 214.

Vice Chairman Newberry stated the staff memo recommends positioning that generator so that you don't need a waiver. What prevents you from finding no place else on that whole lot to position that generator? Mr. Duval replied originally the generator was positioned here in the front corner, but it turned out the size of the generator needed to accommodate LSNE's needs for emergency power actually had it extending over the space that was available for it, plus that was closer to these buildings, so in an effort to get it farther away from the buildings, as far as possible, and still be in reasonable proximity to the building because that takes a lot of copper to go from a big generator like that into a panel, a very expensive proposition. This seemed to be

the most appropriate place for it. At the risk of seeming like we caused our own problem here, Harvey did already extend the conduits in that direction and put in the pad, since they have to receive this generator pretty quickly. If at all possible, if the screening that we would provide would be considered adequate, and remember this is an industrial area, so we are not talking about any residential uses in close proximity. The generators run once a month, I believe it is typically on a Sunday morning, so it is not really an obnoxious use, if it was less than 6 feet high, according to other rulings we have had from Wayne in the past, it is not a structure, not subject to the setback, it is just the size of the generator that causes the problem here. We can make the generator completely disappear behind landscaping and the noise is in no way, shape or form going to cause a problem to the neighbors here. We are hoping that they don't have to basically start over and reposition the generator. I am sure we could find a place for it in that area, but I think it would just be wasteful to have to do that. Of course, if the Board does not support this waiver, they would have to do that. But we are hoping that the nature of the neighborhood, the nature of the use, the low impact that it is going to have on anybody and the extra landscaping we are going to have to mitigate the impacts, would be enough to justify a waiver in this case.

Chairman Levenstein asked for any further questions from the Board.

Councilor Bandazian asked it is going to be fueled by natural gas? Mr. Duval replied it will be diesel. Chairman Levenstein asked where is the tank? Mr. Duval replied it is an underbelly day tank.

Chairman Levenstein asked for any comments or questions from the audience. There were none at this time.

Mr. Fairman asked do we want to add a condition on that water runoff? Mr. Foote responded I think if they follow what was approved, that is the condition. Mr. Duval stated the approved plan does call for that swale, so it needs to be put in regardless. Mr. Foote stated it might be good just to clarify that you did say it would be about 1.5 foot deep. Mr. Duval replied yes; 1.5 foot deep.

Mr. McMahon stated it would have been nice to get ahold of the Planning Board or the Planning staff before laying the pad and before digging the ditches. Mr. Duval responded yes; I agree. I found out about it today actually that the pad was in.

Chairman Levenstein stated we have to address the waivers first, and they are both for the same thing? Ms. Hebert responded they are. One waiver is that your Performance Zoning requires that larger aboveground utilities not be viewed from the public right-of-way or adjacent properties. These amendments kind of collectively added additional equipment to the back of the property, and occasionally if these are out of view of the public way or don't need waivers, staff would approve amendments like this administratively, but this property is unique in that it faces the front side of the industrial building to the rear. So we wanted to make sure that these changes were discussed by the Board and in a public forum. One of the waivers is for the screening of the additional equipment, the chillers in the southeast corner of the property and generator. Chairman Levenstein asked do we consider landscaping as screening? Ms. Hebert replied I do. We have really specific standards for screening and it says like enclosed, like the

dumpster has to be enclosed, so it is more just so that we could talk about these changes so they didn't just appear on the site without any discussion. Chairman Levenstein stated it seems like an enclosure would be even more obtrusive in this case than the landscaping. Ms. Hebert responded potentially. I don't know how large the chiller units are or if they are a color or made to match the back of the building. David Abernathy from LSNE responded for the chiller screening, we were planning on doing a fencing sort of screening and will match sort of the detail of the building. There is going to be no landscape plan around the chillers. Town Manager Sawyer asked could you talk about the height of the chillers? Mr. Abernathy replied I don't have that detail. Typically, they would not be more than 6 to 8 feet high. Chairman Levenstein asked where do the chillers go? Mr. Duval replied in this area indicated on the plan. Chairman Levenstein asked that is not in any setback? Mr. Abernathy replied no, and not visible from a public way.

Town Manager Sawyer asked please post the photo labeled warehouse with the job trailer in it. Mr. Duval stated the chillers are going as shown in the photo, and also, this pad is approximately 4 feet below this ground up here. Town Manager Sawyer asked those existing trees are on the abutting property for the most part? Mr. Duval replied they are right on the property line. Town Manager Sawyer asked so you are adding your stuff in front of those? Mr. Duval replied there is a thicker section of trees here, as you can see. In discussion with this property owner, we did take steps to save the larger trees in this area here on the property line. Chairman Levenstein asked have you heard from him? Mr. Duval replied I haven't heard from him since the first time I came here a couple of years ago, but at that point he was concerned about making sure that his landscaping here remained intact. As I remember, he didn't want a fence and we worked that out. I understand he pops into the trailer from time to time to make sure that his property is respected and so forth, but I haven't heard any complaints from him. Chairman Levenstein asked Ms. Hebert, have you heard from him? Ms. Hebert replied no.

Vice Chairman Newberry stated I have a question for Ms. Hebert. When you and staff were reviewing and had a concern over the location of that generator, was the landscape screening that we are seeing tonight the same? Ms. Hebert replied no; they have added some landscaping to this plan to further screen that equipment. It came up as an issue because of the sheer size of the generator and it was the Building Official who brought it to my attention. Vice Chairman Newberry stated I was originally thinking if they move it up to the building, but thinking about it a little more, I may actually be better acoustically screened and visually screened at that location than moving it in by the chillers or something. Ms. Hebert stated there is a noticeable grade change. That parking lot is sunken if you are standing in the parking lot at 27 Harvey Road.

Bob Gallagher, 27 Harvey Road, stated I heard a little bit about the generator and its size. One question I have is what the dB level is when it is running. And the chillers are probably a little bit more of a concern of how many dB those displace the noise when they are in operation, because they will be in operation all of the time during the summer, I am sure. I am not sure what the best place to have the generator is, but I appreciate that it is further to the south. Of course, I would like to see it all the way on the south end of their building a little further from use. One question I have is it down on the lower part of the grade, and they said it is 12 feet high by 28 feet, so how much above our grade is the generator sticking up? Mr. Duval responded where it sits is about 2 feet below the closest property corner, but probably about 4 feet below

the actual building elevation. Mr. Gallagher asked if you are in our parking lot, it is below the grade? In other words, if you are looking at ground level from us going across, it is below that or it is 4 feet above it? Mr. Duval replied the bottom of it is 4 feet below at grade, so the top of it would be 8 feet above that grade. It would a little bit above eye level looking at it.

Vice Chairman Newberry asked could you bring back the landscape plan and talk specifically about the plants that are planned to be put in there. I think they are all fairly tall. Mr. Duval responded all of these plants here are a dense arborvitae screen. These dark ones are 12 feet high at planting and those would be continued right around the corner. So even from day one, they would be taller than the generator.

Mr. Gallagher asked do you know how many decibels the generator is and how many horsepower it is? Mr. Duval replied I don't know those. Mr. Gallagher asked is it gas? Mr. Duval replied it is diesel fuel. It is only exercised once a month and that is typically on a Sunday morning. Mr. Gallagher stated as I said, the generator is an issue because it is hidden and it is not running a lot, so I would probably would have more concern with the chillers. Do you know what the decibel level of the chillers are? Mr. Duval replied I don't, but I am sure that where they are located they will more than comply with Town standards at the property line. Chairman Levenstein asked how often do they run? Do they run constantly? Mr. Abernathy replied yes. I believe the chillers were previously approved, which were rooftop units, but we did bring them to the ground level. They were planned for the building; this is just a movement of them. I don't know if being on the ground level would actually mitigate the noise rather than having them up above. It is hard to say. Mr. Gallagher stated my only concern with the chillers would be I know of another community that my parents live in that they had a lot of chillers around a building and the noise level was actually quite significant. Again, they are not quiet and what they reflect off from, I am not sure how it would affect where they are showing them because I believe that is on the far southeast corner of the building. Mr. Duval stated where I am indicating on the screen are the chillers and Harvey Road is here in the front, so it would be behind the building. Mr. Gallagher asked so it would be in the southwest corner? Mr. Duval replied yes. Mr. Gallagher asked how many chillers are there or how many fans are there? Mr. Gallagher stated two units with two fans each. Mr. Gallagher stated I guess my biggest concern would be what the noise level is. Again, if you put it on the south end of the building, it doesn't necessarily reflect up towards us. I don't know where else you could put the generator. I appreciate that it is further down on the property than it was. I would prefer to see it further south, further to the other property line.

Mr. Gallagher stated my other question might be a little off track; I think I heard you mention it when I tried to catch some of this on TV. They have water discharging at the south corner of the property that flows across the street. Chairman Levenstein stated that is part of the whole thing is fixing that.

Mr. Gallagher stated I guess that is basically my concern is the noise level. If the generator is screened so I don't see it, I really don't care. I don't think they are going to run it if the power is out. My biggest concern is the chillers, the sound level. Chairman Levenstein asked do you have those chillers at any of your other buildings. Mr. Abernathy replied we do have similar units at other buildings. I don't have a sound decibel on them. They are not noticeable from

inside the building. We own several properties at 19 Harvey Road with the same exact construction, we have them at that building closer to our building than where he is to that building and you cannot hear them inside the building. None of the buildings at 27 Harvey Road have openable windows. We do expect there will be noise from the chillers but that you won't be able to hear it from the front of our building or from the adjacent buildings. Mr. Duval stated I would also point out that it has been pointed out that there will be some architectural screening on this, which is going to further dampen any sound produced by those units.

Mr. Fairman stated I have a question about the screening. Can the screening be made of materials that will absorb some of the sound? Mr. Abernathy replied we can certainly look into that. I am sure they make some sort of acoustical screening. We haven't sourced that or tried to scope that into the project, but it seems like something I would be willing commit to if it makes that big of a difference to the sound level. Mr. Fairman stated at least look into it and see if it is a feasible idea to do some screening that would absorb the sound. Mr. Duval stated on other projects we have worked on, we have found that wooden slats, like a stockade fence with a gap between the boards and then an impervious surface behind that, which sounds like it would be a fairly easy fix, has been very effective at breaking up sound.

Mr. Gallagher stated my only comment would be that I don't really have a major objection, just that concern. I would just ask if you are going to approve it, is that maybe you put the caveat that if it is considered objectionable where staff would say this is a little bit more than it should be, that then they would do something to mitigate it. Chairman Levenstein asked do we have any type of noise ordinance? Ms. Hebert replied we do not have a noise ordinance. There is a performance standard. Chairman Levenstein asked what does that provide? Ms. Hebert replied performance standards is 75 dB beyond the property boundaries upon which the sound or noise is generated. Chairman Levenstein stated so there is something that if there is an issue, there is some reason to come back and revisit it. Mr. Gallagher stated if it was on all of the time, that can still be a significant sound level. Town Manager Sawyer stated it would be. Mr. Gallagher stated every decibel is a doubling of the sound. That would just be probably my biggest concern that we keep it out of view, whatever it is, and try to make sure that the sound level is within reason. Chairman Levenstein responded I think they will be cooperative as far as doing what they can to make it as quiet as they can. Mr. Duval stated I am sure that this can be easily made less than 75 decibels at the property line.

Councilor Bandazian asked do you have any way scaling with what you have here how far the chillers are from the FE Everett Turnpike. It looks like about 400 feet, but I am just guessing. Mr. Duval replied it is approximately at least the length of that property line. I would say it is probably 300 feet from the turnpike right-of-way.

MOTION by Vice Chairman Newberry that the Planning Board approve the waivers from the Bedford Zoning Ordinance as follows:

- **Section 275-62(A) (Table 3), Performance Zone setbacks, to allow the generator inside the rear setback**
- **Section 275-65(C), screening of loading docks**

Mr. Fairman duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Vice Chairman Newberry that the Planning Board grant final approval for the revised site plan for the office and manufacturing facility, at Harvey Road, Lot 35-98-48, in accordance with engineering plans prepared by TF Moran, last revised January 21, 2020, with the following conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1 All conditions of the September 10, 2018 and May 20, 2019 site plan approval shall remain in effect.**
- 2. The chiller units shall be screened with fencing or other suitable enclosure.**
- 3. The Director of Public Works and the Planning Director shall determine that the Applicant has addressed all remaining technical review comments to the Town's satisfaction.**
- 4. If the Planning Board approves the waiver, it shall be noted on the plans.**

Town Manager Sawyer duly seconded the motion.

Mr. Fairman stated on your plans you say a gravel truck turnaround. It is really not a gravel truck turnaround, it is a gravel surface truck turnaround, and I would think you would perhaps correct that minor change in your English on your plan. I wouldn't want them to come back and say pave it later without concerns because it does not say it is a gravel surface, which is what the intent is.

Councilor Bandazian asked does the motion adequately address the landscaping changes where Condition #2 is just that the generator shall be relocated? Ms. Hebert replied yes. The plan that you have already adds additional landscaping from the plan that we have on file as approved today. And then it sounds like LSNE is already planning to add some fencing around the chillers so that would cover the other condition.

Chairman Levenstein called for a vote on the motion. Vote taken - all in favor. Motion carried.

- 5. The Planning Board will conduct the second and final public hearing on proposed zoning amendments submitted by the Planning Board. 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.**

Ms. Hebert stated at tonight's public hearing, the Planning Board will be taking testimony on the three proposed zoning amendments. After the public hearing is closed, the Planning Board would need to vote on whether or not to forward these zoning amendments to the Town ballot. The Board can move any or all of the zoning amendments to the ballot. Ms. Hebert reviewed each of the amendments listed below.

Zoning Amendments Proposed by the Planning Board:

- **Amendment #1** modifies the Table of Dimensional Requirements, to increase the minimum frontage for lots in the Residential and Agricultural District from 150 feet to 200 feet.

Frontage is defined in the Bedford Zoning Ordinance as the distance along the lot line dividing a lot from either:

- (1) a public highway, excepting limited access highways as defined by RSA 230:44 and Class VI highways; or
- (2) A road shown on an approved and recorded subdivision plan.

Frontage along cul-de-sacs is the line parallel to the front lot line, at the appropriate front yard building setback depth from the front lot line, between the points of intersection with the side lot lines.

The 150-foot frontage requirement has been in place since the 1960's and is the distance used to determine the minimum spacing between residential lots on a public street in the Residential Agricultural District. The change would make the majority of the existing lots in Bedford nonconforming with regards to lot frontage. However, landowners would not need to take any actions to increase the frontage of their existing lots and would only be impacted when applying for a lot line adjustment or subdivision.

Newly subdivided lots in the Residential and Agricultural District would need to have a minimum of 200 feet of frontage along a public street. The change would not apply to cluster residential developments which allows for a minimum lot frontage of 25 feet. However, the increased lot frontage would reduce the number of lots permitted in a cluster subdivision, because the permitted density cannot be more than what is allowed using the conventional subdivision standards.

Potential advantages for increasing the lot frontage would be to promote rural character and encourage cluster subdivisions. Infill subdivision development in the existing residential neighborhoods would be more difficult. Drawbacks include needing to build longer roadways to accommodate the same number of lots in a subdivision, which may result in higher costs and less efficient use of land.

The comparable zoning districts in the surrounding towns have similar frontages. Amherst requires 200 feet; Merrimack's lot frontage ranges from 150 feet to 200 feet depending upon the quality of soils; Goffstown's frontage is 200 feet; and Londonderry requires between 100 feet to 200 feet depending on how many bedrooms are proposed and the quality of soils on the lot.

Ms. Hebert stated this is a change to the dimensional requirements for the creation of new lots in the R/A District. I would also affect existing lots in that all of the existing lots that were created with 150-foot standard would become non-conforming. This wouldn't affect a property owner unless they were going to further subdivide their property or if they were going to adjust the lot

line, the side lot line in such a way that it would make their frontage less conforming than it does today. Most people would just go on existing with their current property and its current dimensional standards and not have any issues.

Vice Chairman Newberry asked if someone wanted to subdivide and this were adopted, they could still take their proposal to the Zoning Board of Adjustment to get an exception? Ms. Hebert replied yes; they would need a variance for the dimensional requirement only if they were going to be making their frontage less conforming. Say if they have a lot that has 150 feet of frontage along a public road and they want to adjust a lot line that is to the rear of the property and they are not changing their frontage at all, they wouldn't need to go to the Zoning Board. But if they were going to modify their side lot line such that they were going to decrease their frontage from 150 feet to something less than that, they would need a variance. Chairman Levenstein asked what if they have 170-foot frontage and you are decreasing it to 150 feet? Do you need a variance to do that? Ms. Hebert replied yes you would. Chairman Levenstein asked and if you have 350 feet, you would not need a variance to make the new one 200 feet? How would you do that? Ms. Hebert replied you would need to maintain 200 feet of frontage along the frontage for both lots, so you could not subdivide. Mr. Hawkins stated you would need 400 feet along the frontage to subdivide now. Mr. Sullivan asked but you could do a lot line adjustment, like a lot trade with a neighbor if you give that extra 100 feet to them and you still have 200? Ms. Hebert replied you could. The mother lot would need to maintain 200 feet of frontage to be conforming, and any modification that would decrease the frontage to be less than 200 feet would need a variance. All of those lots that exist today with something less than 200 feet, would just continue to exist in that form unless the property owner went to modify it.

Mr. Hawkins asked are there any further definitions of a cluster subdivision and do they need to be blind ending dead end or what constitutes a cluster subdivision where the frontage only has to be 25 feet? Ms. Hebert replied the cluster subdivision is a land use type that developers can elect to design using our cluster subdivision standards and there are requirements for setting aside a percentage of the property as open space. In exchange for protecting some land, the developers can reduce the lot size and reduce the frontage requirements to make the development more condensed. Chairman Levenstein stated my understanding in a cluster subdivision is you can have more lots than you could have if it was a conventional subdivision. Ms. Hebert responded that is correct. Chairman Levenstein stated so if you need 200 feet of frontage now for the conventional subdivision, you are going to get less lots in the cluster than you would presently. Is that correct? Ms. Hebert replied that's correct. For the cluster you do have to show a yield plan and our current standards do not permit more houses than what would be allowed under a conventional design and there are some bonus densities that are allowed, but the rule of thumb is that you can't have more than what would be permitted under a conventional standard unless you are meeting those bonus densities. Town Manager Sawyer stated and you have to have 15 acres to start with to do a cluster.

Ms. Hebert stated this is really going to affect those folks that may have had backland they were thinking about subdividing and just hadn't done it yet, and those people likely don't meet the 15-acre minimum tract requirement for a cluster.

- **Amendment #2** creates a minimum lot size of 5 acres for the placement of new commercial ground-mounted wireless telecommunication facilities in the Residential and Agricultural and General Residential Districts. The purpose of this change is to minimize potential impacts to abutting properties.

Ms. Hebert stated the purpose of this change is to create a new minimum lot size requirement for cell towers in our residential districts where we currently don't have one, with the idea of potentially minimizing impacts to abutting properties.

Mr. Hawkins asked is that number arbitrary or have we looked at the available places in Bedford that could accept a cell tower with that 5-acre minimum? Ms. Hebert responded there are many sites that meet that 5-acre minimum. There is an existing zoning requirement for a setback to residential properties, which is not being affected by this zoning amendment, but that is much more restrictive than this 5-acre requirement. This would just create a minimum lot size so we would not have a 1- or 2-acre property coming in and asking to also collocate a cell tower on a residential property.

- **Amendment #3** updates and strengthen the intent and purpose statements of the Wireless Telecommunication Facilities Ordinance. The current section is general and expanding the purpose statements will help to strengthen the ordinance and clarify why it is important to Bedford.

Ms. Hebert stated this amendment creates new intent and purpose statements to strengthen the ordinance and further explain and state why the ordinance is important to Bedford and what about the siting of cell towers is important to Bedford.

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.

Earl Sandford, 597 New Boston Road, stated I have the dubious distinction of being the first to ever have a subdivision plan refused because it didn't have the 200 feet of frontage. Also, maybe the dubious distinction of being the first one to realize that I now live on a non-conforming lot. I think there is an effect, even if it is a stigma that your lot is no longer a conforming lot. I am not in favor of it. Also, there is a reasonable expectation of something that has been in place this long, people often come to me and ask what is the value of my land. I say you have 300 feet of frontage, you have 10 acres, you should be able to subdivide into two lots. Now I get to say sorry, that piece of land you were holding for retirement worth \$150,000, kiss it goodbye. This is a change that has kind of come up suddenly. It goes against a reasonable expectation of landowners suddenly your land is being devalued. It also flies in the face of affordable housing because it is really going to jack the price, you are going to get fewer lots on a piece of property, you are going to have to have larger lots to facilitate it, it is kind of going against some of the things, and a lot of the things I have been hearing in planning where people are trying to make things more affordable. I am glad it was brought up that the cluster zoning is dependent on the 200, so we went back and looked at a job we are working on. Even if it was a

cluster, my client would be losing two lots because for the yield plan you have to use 200 feet of frontage. I know they have medical bills and they are trying to make things work and I would just feel badly if this thing goes through, but it is what it is on that.

Mr. Sandford stated Amherst's Planning Board under certain conditions does have the right to do reduced frontage. It is 200 but it can go down to 35 feet if the Planning Board chooses, and the thrust of that is to minimize new roads in the town. So if you are allowing small frontage with larger back lots, you are minimizing those town roads and you are saving the taxpayers' dollars by allowing exceptions in the case of the 200 but I see this as going to 150 without any exceptions. It's probably not appropriate, but I am in a place where there is city water but there is no reduction in areas or anything for that, but that is probably off the track.

Mr. Sandford stated I think I have hit all my points. As a resident, I think is sort of a reasonable expectation that I bought a lot that is conforming and it should stay conforming unless there is a rational nexus to really bump it up, and I haven't heard what the rational nexus would be for that. If you are talking about wells and things, there are ways to create like in New Boston you have to put a 200-foot x 200-foot square in there, some of those things make more sense if you are trying to go after a density thing. If it is a density thing, then it should be the area and not the frontage. Again, I think it is a reasonable expectation for as long as I have done work in town that you can use your land for development if you an appropriate amount of area and you have 150-foot frontages, and I think it really should be studied more before it be put into action.

Mr. Foote asked Mr. Sandford, you have been in front of us on a number of these and me sitting here seems like every time a proposal comes in we are granting a waiver. In the project you are working on today, I am not sure if you are going to request any waivers, but would you rather know what the rules are or think that you can come back for a waiver when it is convenient for you? Would you rather have it set at 150 with no waivers on a project like this or 200 with waivers? Mr. Sandford replied I don't remember ever getting a waiver for frontage. That is zoning so it would have to get a variance. Mr. Foote stated I am not saying this pertains to this particular proposed warrant article, just general. Mr. Sandford replied in general obviously we try to go by the rules but I am a firm believer in the waiver process because if you can make a convincing argument that maybe for people the ordinance wasn't thinking about this special situation or that special situation, and there are a lot of times when I think it was intended more to be the Cadillac and sometimes it is acceptable to have something less. I would hate to get rid of the waiver process, put it that way. Obviously I feel like I don't like to have to do waivers because it decreases my chance of a successful project, but for frontages, again, that is a variance where you have to prove hardship, so it is not something where you could just come in and say I don't the 200 so I will go for a variance. So I hope that wouldn't be something that the audience would say don't worry about it, you can get a variance, because that isn't the way it works. You really have to prove hardship and you are probably going to get denied unless you have some real mitigating circumstances.

Mr. Sandford stated as a taxpayer of the town, I hate to see something that is going where we are going to have push our road out another 100 or whatever. As a taxpayer, that is going to come back on me as a result of expanding what is required to get a buildable lot.

Mr. McMahon stated it wouldn't be the first time that we have proposed a zoning amendment that hasn't been overturned by the public when there is enough people that a vocal about it. Also, you may have a test case for the first variance if this thing does pass.

Vice Chairman Newberry asked Ms. Hebert, do you have any insight on Amherst's ordinance or rules that gives the Planning Board it sounded like what he was describing some latitude in looking at specific cases? Ms. Hebert replied I am not familiar with that waiver process, but I think what Mr. Sandford has explained to me in a phone conversation is that they allow for relief from their 200-foot frontage requirement under certain circumstances and it is based on large lot size. So if you have a large lot size, there is a sliding scale of reducing the frontage requirement. It didn't come up when I did my research, it didn't jump out at me, so it must be buried in their zoning somewhere, but it wasn't in their dimensional standards. Mr. Sandford stated it is tough because the zoning throws it back to the Planning Board. All they talk about in zoning is 200 feet unless it is a reduced frontage lot, and you have to go to planning to figure out what that is. If you look through zoning what reduced frontage means, you won't find it. It is not a waiver. It is just if you have 10 acres, you can get a reduction to 35 feet, and then if you have more, it can cut two driveways in a 35-foot common driveway, all in the thrust to say here is an alternative from making long cul-de-sac roads, let's come up with an alternative. I think Amherst is winning the game in terms of the number of roads that have been prevented by allowing some of this creative way of developing and not needing every lot to have 200 feet frontage. Vice Chairman Newberry stated for something like that to work I would expect you would need pretty specific criteria to what is a candidate and what is not a candidate. Ms. Hebert responded yes.

Mr. Fairman asked have we considered how much devaluation of property and how much tax we are going to lose because of this? As Mr. Sandford just pointed out, a 10-acre lot with 250 foot of frontage is now worth half the value that it was previously, and any place that previously could have subdivided to two lots cannot now, so there is perhaps significant loss of evaluation of tax revenue. Have you looked at that at all? Ms. Hebert replied I have not looked at that. I think it is an excellent question. Vice Chairman Newberry stated I think there are two parts to that. It is not necessarily a 50 percent loss, and if you look at it as a neighborhood, the neighborhood's development can impact the value of multiple locations within the neighborhood if the neighborhood comes to be perceived as having been checker boarded up to the point where it is perceived as less attractive. Mr. Fairman responded I don't know how much a lot is in town these days, but let's say \$75,000 for a building lot. Ms. Hebert stated it is more than that. It is \$200,000 to \$225,000. Mr. Fairman stated I have a piece of land that is presently at 150 feet has two building lots. That valuation I assume for tax reasons is twice whatever a lot is, so \$200,000. If I can only get one lot out of that, that is only \$100,000. You can only sell that now for \$100,000 versus \$200,000. Ms. Hebert responded no. It is important to remember in Bedford that this is one dimensional standard for the creation of a new lot. The Assessor is not looking at lots and going they have 300 feet of frontage, they get a second lot, because it depends so much on soil qualities, wetlands, the steep slopes, and characteristics of the land. Chairman Levenstein stated the way you could potentially lose tax income is if that person was to be able to subdivide it, you would get tax income on it, but until they do, I don't think he assesses it at how many lots you can get out of it. Councilor Bandazian stated the other thing I would say is you have to look at the cost as well as the benefits, and there are very few houses in town that pay their own way in terms of tax revenue. Each new house would put 1.6 schoolchildren in

school and that is a cost of about \$25,000 a year to taxpayers. The magnitude of the loss of having lots built upon is much greater than the tax revenue that you would gain by having the average house. If it was an \$800,000 house, it is possible to be a breakeven proposition. Town Manager Sawyer stated it is more than that. It is \$1.1 million, if you assume a school aged child or two. Mr. Fairman stated 60 percent of our homes don't have school aged children in them. Councilor Bandazian stated our average is 1.6.

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

Town Manager Sawyer stated I just wanted to state for the record, and I don't believe I saw it in the minutes, but I think for the last meeting we had a letter from Mr. Lamontagne in opposition to Amendment #1. I just wanted to state for the record that we did receive it and it was in our packets. Ms. Hebert stated for those who weren't at the last meeting, I will pass the letter around. It is a letter from Bob Lamontagne, Lamontagne Builders, objecting to the proposed zoning amendment.

MOTION by Councilor Bandazian that the Planning Board add proposed Zoning Amendment #1 to the 2020 ballot. Vice Chairman Newberry duly seconded the motion.

Mr. Sullivan asked do we have a precedent of zoning amendment that does a wide redefinition of non-conformity like this? Ms. Hebert asked for dimensional standards? Mr. Sullivan replied for any type of zoning amendment that suddenly makes a redefinition of a large number of current lots into non-conforming lots. Ms. Hebert replied I don't think so.

Chairman Levenstein stated I don't think we should put Zoning Amendment #1 on the ballot for a number of reasons. I don't think it serves the purpose that it is really meant to serve. I don't think it sits there and preserves the character of our neighborhoods when the character of our neighborhoods is 150-foot frontage. So why all of a sudden do we have to have 200 feet of frontage to preserve something that we already have. I don't think it does that. I think that as far as promoting cluster subdivisions, I don't think you are getting a promotion because I think you are not getting any more lots out of it than you would. If you have to have 200 feet of frontage for your yield plan, I think you are basically making it just as difficult to have a cluster and more difficult than it is now, because now you can get some yield and now it is more of an inducement to do it. As far as the wells, I don't see enough evidence that the number of lots that this is going to really affect is going to really put some burden on our aquifer or anything like that. I think, as Mr. Sandford said, there are other ways to preserve the wells or to make whatever goals we have for wells to be somehow codified, which are less intrusive to people who already have these lots. As Mr. Sandford said, there are a lot of people who sit there and say I am going to subdivide my lot, I am going to go and sell off one, this is what I am going to fund my retirement with, so I don't really see a purpose for doing it. I would recommend that we not put it forward.

Mr. Fairman stated I concur with everything the Chairman just said. I have stated before my objection to this proposed zoning amendment for a variety of reasons. I think you summed them

up very well. I see no reason for it, and I believe that it just makes the wrong statement about our town.

Mr. McMahon stated it is probably too late, but I would be a lot more comfortable if we knew exactly how many lots this would actually impact. If it is only a few, do we balance that against what Mr. Sandford would like to do for his profession, as you say, helping people that have planned on subdividing it for the future. I just don't know what that number is, and I would probably like to know more on that before we take this step.

Councilor Bandazian stated I think better spacing between lots and driveways and curb cuts would be positive. It would be a public safety enhancement, as well as an aesthetic enhancement. We know the cost of a house that is breakeven from a tax proposition, so any development basically costs the taxpayers money. There are not likely going to be too many seven figure houses that are going to be going in, and I do have concerns about well quality and quantity of water. We have experienced a severe drought in 2016 people may have forgotten about, but any additional drain on our groundwater is a risky proposition. I have said those things before.

Mr. Foote stated I was just reading today that the Town's AAA bonding was extended for our bond that is going to be let out. In one of the updates to our credit profile said the Town is largely built out limiting significant tax base expansion, and I guess at some point we may need that extra 50 feet. I have a real issue too, Ms. Hebert, with making every lot since the 1960's non-conforming. That is a big hurdle for me.

Mr. Fairman stated if there was a real strong reason I could see for doing it, but I haven't heard or come up with any reason that is so strong that we ought to make everything non-conforming.

Mr. Foote stated as I tried to imply with Mr. Sandford, I would rather see us be more consistent and not grant waivers. We just spend a lot of time on a generator waiver and was that hardship, they couldn't move it, but we spend ½ hour, and I would just like to see us adhere more to what the current rules and regulations are.

Town Manager Sawyer stated I am not a strong proponent for this amendment, but I am willing to let it be on the ballot and let the residents/voters decide.

Chairman Levenstein called for a vote on the motion. Vote taken; with Councilor Bandazian and Town Manager Sawyer voting in the affirmative, the motion failed.

MOTION by Town Manager Sawyer that the Planning Board place proposed Zoning Amendments #2 and #3 on the March 10, 2020 ballot as proposed. Councilor Bandazian 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 January 13, 2020 Planning Board meeting as written. Councilor Bandazian duly seconded the motion. Vote taken; motion carried, with Vice Chairman Newberry, Mr. Hawkins and Mr. Foote abstained.

VI. Communications to the Board: None

VII. Reports of Committees:

Ms. Hebert stated the Master Plan Think Tank met in January between your last meeting and this meeting, and they had a nice discussion with our Planning Consultants about the Master Plan and mapped out a schedule for completing the document and releasing the draft for public review and input. Right now we are looking at the month of February giving them time to finalize the document, finalize graphics and having a plan available around the last week of February to the first week in March and a tentative date of March 26th for a public informational meeting. Check your calendars and let me know if March 26th is good or not good for you. It is a tentative date; we need to pin that down with the consultant and with the Think Tank, but we are excited to have a detailed schedule for completing the document and getting a document out for public review. I want to remind everyone that it is a draft that is being released, it is not the final document. We expect to get a lot of comments from the community and we want to make sure the document is widely circulated to the public and that folks are aware of the public informational session.

Chairman Levenstein asked when would this be coming back to the Planning Board for the building permit's public hearing? Ms. Hebert replied I think we talked broadly about aiming for a date in June for a public hearing with the Planning Board. I am trying to target a meeting that would be before people left Bedford for their summer vacations, so sometime right around the second meeting in June was the target.

Vice Chairman Newberry asked the draft document will be available online? Ms. Hebert replied it will be available online, it would be sent to you, it would be widely publicized. I have yet to see the draft. We are working with the consultants and are excited to have something that I think the community will also be excited about.

VIII. Adjournment:

MOTION by Town Manager Sawyer to adjourn at 8:14 p.m. Mr. Foote duly seconded the motion. Vote taken – all in favor. Motion carried.