

TOWN OF BEDFORD
June 28, 2021
PLANNING BOARD
MINUTES

A meeting of the Bedford Planning Board was held on Monday, June 28, 2021, at the Bedford Meeting Room, 10 Meeting House Road, Bedford, NH. Present were: Mac McMahan (Chairman), Town Councilor Bill Duschatko (Vice Chairman), Priscilla Malcolm (Secretary), Harold Newberry, Steve Clough, Charlie Fairman, John Quintal (Alternate), John Nelson (Alternate), Matthew Nichols (Alternate), Becky Hebert (Planning Director), and Jillian Harris (Assistant Planning Director)

I. Call to Order and Roll Call:

Chairman McMahan called the meeting to order at 7:00 p.m. Regular member Matt Sullivan and Town Council Alternate Kelleigh Murphy were absent. John Quintal was appointed to vote in place of Mr. Sullivan.

II. Old Business & Continued Hearings:

1. **Raymond and Nancy Demers (Owners & Applicant)** – Request for final approval of a subdivision of one lot into three lots located at 501 Route 101, Lot 30-10, Zoned R&A.
2. **Bowman Place of Olde Bedford (Applicant) & Senior Living of Bedford (Owner)** – Request for a Conditional Use Permit for a sign located at 24 Old Bedford Road, Lot 10-50-3, Zoned R&A.

III. New Business:

3. **Daniel and Jeanne Hughes (Owners & Applicants)** – Request for an amendment to a previously approved Subdivision Plan, located at 25 Holbrook Road, Lot 10-37-2, Zoned RA.
4. **Circle Drive Associates, LLC (Owners & Applicants)** – Request for final Subdivision approval of one lot into three lots located at South River Road, Lot 35-98-40, Zoned PZ.
5. **LSNE c/o Tom Panella (Applicant) & LSNE Real Estate, LLC (Owner)** – Request for final Site Plan approval to construct a two-story light industrial building, at 29 Commerce Drive, Lot 35-98-24 with driveway access through 358 South River Road, Lot 35-98-26, Zoned PZ.

IV. Concept Proposals and Other Business: None

Ms. Hebert stated of the new applications that the Planning Board accepted tonight, all of the abutters have been notified and it is the opinion of staff that none of these applications are of regional impact.

MOTION by Ms. Malcolm to accept the agenda as read. Vice Chairman Duschatko duly seconded the motion. Vote taken – all in favor. Motion carried.

1. Raymond and Nancy Demers (Owners & Applicant) – Request for final approval of a subdivision of one lot into three lots located at 501 Route 101, Lot 30-10, Zoned R&A.

Tom Burns, Senior Project Manager of TF Moran, was present to address this request for final subdivision approval that was tabled from the June 14, 2021 Planning Board meeting, on behalf of the applicant.

Mr. Burns stated this an application that was before the Board a few weeks ago to propose a subdivision of the existing lot in the R/A Zone that would add the creation of two new residential parcels on the property. At the last meeting there were a few housekeeping items that we were asked to look at and a few changes to the subdivision plan, so I am here tonight to provide the Board an update on that and to go through those changes and to seek a conditional approval of the subdivision.

Mr. Burns continued briefly going through the list of some of the items that we discussed with the Board at the last meeting; a request that we reconfigure the proposed Lot 30-10-2 and Lot 30-10 so that we could include the back portion of the property that is, when looking at the plan, along the north side. We included that back portion with the proposed Lot 30-10-2, thereby meeting all of the building area requirements for the lots. We provided a 150-foot no-cut deed restriction across the entire north side of the parcel and provided a deed restriction document as well to the Town. We have relocated the cistern to be shown off of Joppa Hill Road, as was requested by the Fire Department, to a location that was suitable to them. We agreed to a condition that can be placed on the subdivision that if the existing house should be razed in the future, that a maintenance easement can be provided along Route 101 to be provided to NHDOT, the proximity of the house to the right-of-way, this is an area of the right-of-way that is so close that they can't widen without that as long as the house is there, and, again, we have provided the no-cut deed restriction along the northerly line to the benefit of the abutters, which is shown on the posted sheet. What we have done therefore is located the two proposed houses similar to the existing house along the frontage of Route 101 with a shared access drive that would serve all three lots, because as a State controlled road this is a limited access right-of-way. By doing one driveway, that allows us to limit the number of curb cuts along Route 101 and provide the access to the three lots. Based on that common driveway serving those lots, we have a waiver request in front of the Board as well. We do have State permits that have all been submitted that are pending approval, which includes the driveway permit from DOT, State subdivision approval and wetlands approval for the common driveway that would be crossing the area wetlands to access the three lots.

Mr. Newberry stated on the center parcel, once a house is on there and you have a septic and leach field, is there really any room there given the setbacks impacting them for outbuildings or any

further development beyond the proposed house. Mr. Burns responded yes. There would be room, for example, if they wanted to put a shed in or something like that. The 4K area that is shown for septic and leach field typically wouldn't take up that entire area, so they could probably get a small structure like a shed in there, but relative to another accessory structure on the lot, it most likely wouldn't have that room in that area. Obviously we wouldn't want to site a building over the leach field area. Mr. Newberry stated thank you.

Chairman McMahan opened the public hearing on this application.

Richard Beuchsenschuetz, 19 Hearthside Circle, stated I live on Lot 17 on the plot plan in Town. I just want a clarification from Mr. Burns, there was another easement proposing a no-cut zone across the entire length of that as I see it on the presentation. The last time it was just covering two lots, this is covering all three. Is that correct? Mr. Burns replied that is correct.

Paul Toscano, 9 Hearthside Circle, stated I am an abutter to the north and just west of Mr. Bryant and Mr. Beuchsenschuetz. I would like to follow up from a question two weeks ago about what goes into the stipulation of the no-cut zone, how does that read, how is that enforced. I think you had that question, and I also wanted to take the chance to thank the current owners for this consideration, it is very much appreciated by all of us. I am just looking to find out more details about how that would be enforced and kept as no-cut for as long as someone lived there. Mr. Burns responded the no-cut would be a deed restriction that is filed with the lots at the time of, I believe, that is filed at the time of signatures of the plans. If you would like, I could read for the abutter and the Board for the record. 'The no-cut deed restriction with respect to the parcel of land, being unimproved forestland, field and wetland consisting of an area of 150 feet from the north side of the property. The purpose of this deed restriction is granted exclusively for the following conservation purposes: 1) The assurance that the property will be retained as forestland, field, wetland, and wildlife habitat area. 2) We have applied use limitations to that land that includes the property shall be maintained in perpetuity as open space, no structure or improvement including, not limited to a dwelling, an office, any portion of a septic system, tennis court, swimming pool, dock, tower, or mobile home shall be constructed, placed or introduced on the property. 3) There shall be no cutting of any live and standing trees for any purpose other than to establish and maintain a right-of-way for a hiking trail or to remove hazardous trees or limbs, and there shall be no removal, filling or other disturbances of soil surface nor any changes in topography, surface or subsurface water systems, wetlands or natural habitat in that area.'

Chairman McMahan asked does that answer your question, Sir? Mr. Toscano replied yes it does.

Joe Foti, 2 Freedom Way, stated I missed the last meeting. The only question is we have water problems in Bedford, especially in that part of town. For 27 years we have struggled with water issues, and my concern is with two more lots has there been a water study taken so that it is not going to affect the wells around them. That is my question. Mr. Burns replied there has not been a groundwater study relative to the addition of two new wells in this area. Chairman McMahan asked are you familiar with the hydraulic engineers and how they do that? Mr. Burns responded what you would be looking at is somewhat of a hydrogeologic survey of the area to determine groundwater capacity. To my knowledge in this area, having worked on other projects along Route 101 in this area, we have never had an issue with that. I would say for the addition of two homes and for what is typically a water demand or daily design flow that as a designer, what we would

expect for withdrawal for two additional homes, I would not expect there to be an issue for a groundwater aquifer. Chairman McMahan stated hydrologists in the past when they have attempted to answer this question, have explained how it is very difficult to be able to predict what is under the ground. Mr. Burns responded yes. Mr. Foti, does that answer part of your questions? Mr. Foti replied yes.

Chairman McMahan closed the public hearing on this application.

Mr. Fairman stated I would like to thank the owners and the engineers for doing such a good job in answering the concerns from two weeks ago and stepping up to answering those. Thank you.

MOTION by Mr. Fairman that the Planning Board grant a waiver from Section 231.1.4 of the Bedford Land Development Control Regulations, to allow for a shared driveway for the three lots. Mr. Quintal duly seconded the motion. Vote taken - all in favor. Motion carried.

MOTION by Mr. Fairman that the Planning Board grant final approval of the subdivision of Lot 30-10 to create three new residential lots, in accordance with the plan prepared by TF Moran, Inc. with a revision date of June 16, 2021, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

- 1. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor, certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.**
- 2. The Planning Director and the Department of Public Works Director shall determine that the applicant has addressed all technical review comments to the Town's satisfaction.**
- 3. All outstanding (if any) engineering review fees shall be paid to the Planning Department.**
- 4. If the waivers are granted by the Planning Board, they should be noted on the plan.**
- 5. All recording fees shall be submitted to the Planning Department at the time of recording.**
- 6. A note shall be placed on the plan stating that a Driveway Permit from NHDOT shall be required prior to the issuance of a building permit for the proposed lots.**
- 7. The NHDES Subdivision permit and NHDES Wetlands permit shall be obtained and the permit numbers shall be noted on the plan.**
- 8. A note shall be added to the plan stating that prior to the issuance of a certificate of occupancy; School and Recreation Impact Fees shall be paid for Lot 30-10-1 & Lot 30-10-2.**
- 9. The outbuildings noted to be removed on Lot 30-10-2 and Lot 30-10 shall be demolished.**

- 10. Prior to a demolition permit for the existing house at 501 Route 101, Lot 30-10, an easement for roadway widening to benefit NHDOT shall be granted to continue the 100-foot dimension from the CAROW all the way to the easterly corner of the property for all purposes involved in operating and maintaining a highway. The plan shall be updated to note this requirement. The easement format shall be to the satisfaction of NHDOT.**
- 11. A note should be added to the plans indicating the maximum number of bedrooms that the lot sizing calculations were based on. If more than 4 bedrooms are proposed, the Lot Area Calculations should include the adjustments required by Section 231.2.4 of the LDCRs.**
- 12. A note shall be added to the plan stating that all telecommunication and electric utilities shall be placed underground as required by Section 237.1 of the LDCRs.**
- 13. Prior to the issuance of a building permit for Lots 30-10-1 and 30-10-2 the shared driveway construction should be complete.**
- 14. The applicant shall obtain approval for a Stormwater and Land Disturbance Management Permit from the Department of Public Works.**
- 15. The applicant shall update the plans to meet the size, location and specifications of the required fire cistern for the Fire Department in accordance with Section 236 of the Land Development Control Regulations.**
- 16. All requisite easement documents shall be executed by the Applicant and submitted to the Planning Department to be recorded simultaneously with the plan, including:**
 - a. Declaration of Common Access and Utility Easements**

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

2. Bowman Place of Olde Bedford (Applicant) & Senior Living of Bedford (Owner) – Request for a Conditional Use Permit for a sign located at 24 Old Bedford Road, Lot 10-50-3, Zoned R&A.

Eldon Munson, Development Director of Bowman Place of Olde Bedford, was present to address this Conditional Use Permit application.

Mr. Munson stated thank you for the opportunity of returning to discuss our conditional use request for the sign at the entrance of Bowman Place on Old Bedford Road. We have not changed any of the conditions of the sign, merely redesigned it in light of the comments and requests from the Board two weeks ago. As you can see by the display, Sousa has taken the sign and basically down sized it, it is now approximately 20 square feet in size, I am glad they put in the figure of a man standing next to it, you can see the height of the proposed sign and the detail of the lighting hood for downlighting is on the right-hand side. You can just see a curve of the hood that would downlight the sign. Obviously, the color was changed as a design factor. It is merely a committee decision that a dark background would be better visible with the light-colored letters. The construction of the sign is the same with stone pillars and the siting would be the same. We believe we have answered the main issue that was raised last time, which is the size of the sign. It is fully

our intent to downlight it, and we submit this for your consideration. I would be glad to answer any other questions.

Mr. Fairman stated in my seven years on the Board we have never waived the size of a sign in the R/A Zone, and I don't think we should start now waiving the size of the sign. The owners of this property knew they were in a R/A Zone when they built it, and they knew, or should have known, the restrictions on signs. There are several signs on Old Bedford Road that are all compliant, that are in the R/A Zone. I see no reason; you have not provided a reason why a compliant sign will not meet the requirements. As I stated two weeks ago, we don't need the advertisement on the sign, it should be a directional sign, don't need the logo. Bowman Place and the number of the street is all that is needed and that is what we allow in a R/A Zone. I cannot approve a waiver for this sign, and I don't think we should set that precedent. I think it is a bad and dangerous precedent to allow big signs in the R/A Zone in Bedford.

Ms. Hebert stated I just want to clarify, Mr. Fairman, I am sorry but the Board has waived the sign standards for Bedford Village Inn for the directional sign that is located in the R/A Zone. Mr. Fairman asked that is oversized? Ms. Hebert responded that is oversized, that is correct. Mr. Fairman stated we did ask last time if they could make it that size, similar size, to that size. I stand corrected. Thank you, Ms. Hebert. I knew we waived the location, I didn't realize there was a size waiver as well. Ms. Hebert responded you did. Mr. Fairman stated a sign that looks like that one and would be that size with the just the name and I don't even think they have a street number on it because of the location. Just the name and the street number would be adequate and look a lot like that sign would be very nice. This is still way too big.

Mr. Munson stated first of all, we asked Sousa Signs to take the size of the Bedford Village Inn Grand sign into account, and roughly speaking, this sign is approximately the same size in width and height. Their sign is a different design. It is filigreed, but the basic size is very close. Mr. Fairman stated I have stood beside that sign and it is up to here on me, not up to there. Mr. Munson responded because our sign is vertical, not horizontal. Secondly, the other signs on this road, I don't want to cast any aspersions at my neighbors, but there are neighbors on this road that have signs that are temporary and lettered, they are very large, and they are in the immediate vicinity of this sign, so there are other signs on the road that advertise for rural and agricultural zone products and activities and they are significant in their placement and in their numbers. Thirdly, the idea of advertising I think, if I may, an interpretation. When we say assisted living and memory care, we are only stating who we are. I have pictures, if you would like to see them, of three of our fellow assisted living facilities, if I may show them.

Mr. Munson stated posted on the screen now is a picture of The Arbors on Hawthorne Drive. Not only did they identify themselves as assisted living and memory care, but they also say celebrating today's memories, and indicate their function as assisted living and memory care. This next picture is of Bentley Commons, a premiere assisted living facility. Bedford Falls is across the street identified as a benchmark senior living community, assisted living and memory care. So they all identify themselves as assisted living. We consider this an important component of who we are. It is our statement that we do assisted living, memory care is not technically an advertisement but rather than identification. Mr. Fairman stated tell me which ones are in the R/A Zone. Mr. Munson responded I don't believe any of these are. Mr. Fairman stated that is my point, Sir. Thank you.

Mr. Newberry stated I share Mr. Fairman's concern about precedent, but when I look at this particular site and what your out-of-town traffic is likely to be, I don't really find this an objectionable sign. I think it functions as a directional sign. That road is not an easy place to turn around if you go by the driveway, and I don't think that it is in a particular situation where some of Mr. Fairman's points is so much of an issue. I think the reason to have waivers is so that the Board can look at each individual situation and determine whether it fits or not. I think we probably have been a little free in handing out waivers sometimes, but I think if we can state clearly why we think that a particular waiver is warranted, either between the Board's observation and/or the applicant's argument for the waiver. I think the precedent, while certainly a consideration, a little less of a major concern, from my perspective, as long as we can be clear on why we granted one waiver and why we didn't grant another waiver.

Chairman McMahan stated I would point out that their waiver is a Conditional Use Permit, and as I remember when you first came, there was a list of seven criteria and at that time you went through all seven of those. Mr. Munson replied yes I did.

Chairman McMahan stated I do remember at our last meeting we talked about and we asked you to take a look at the sign that was right next door and could you mirror approximately what that was. You agreed to do so, and you came here fulfilling what you said you were going to do.

Chairman McMahan opened the public hearing Were there any electronic comments from the public. Ms. Hebert stated we did not receive any emails on this application. There were no members of the public asking to speak on this application. Chairman McMahan closed the public hearing.

Mr. Fairman stated I will point out that the proposed sign is twice the size of a compliant sign in the R/A Zone, twice the size. I do believe they could still get that sign down close to a compliant sign, if not a compliant sign and then meet all of the requirements. This is for a directional sign. The speed limit on this road is 30 or 35 MPH, they are not going that fast, you can't because you have a big curve ahead of you, so I don't see any need for a big sign.

Mr. Clough stated I agree with you, Mr. Chairman, that we asked him to come back and give a compromise between the original size of the sign and the compliance and I think they did that. I agree with you.

MOTION by Mr. Fairman that the Planning Board deny the Conditional Use Permit and find that the criteria have not been met per our deliberations to allow a 20.6 square foot monument sign, as shown on the plans prepared by Sousa Signs with a revision date of June 17, 2021, for Senior Living of Bedford (Owner & Applicant), 24 Old Bedford Road, Lot 10-50-3, Zoned R&A. Mr. Newberry duly seconded the motion. Vote taken. With Mr. Fairman voting in the affirmative and all other members of the Planning Board voting in opposition, the motion failed.

MOTION by Ms. Malcolm that the Planning Board grant the Conditional Use Permit and finds that the criteria have been met per our deliberations to allow a 20.6 square

foot monument sign, as shown on the plans prepared by Sousa Signs with a revision date of June 17, 2021, for Senior Living of Bedford (Owner & Applicant), 24 Old Bedford Road, Lot 10-50-3, Zoned R&A. Mr. Duschatko duly seconded the motion. Vote taken - all in favor. Motion carried.

3. Daniel and Jeanne Hughes (Owners & Applicants) – Request for an amendment to a previously approved Subdivision Plan, located at 25 Holbrook Road, Lot 10-37-2, Zoned RA.

John Lefebvre of Meridian Land Services was present to address this request for an amendment to a previously approved subdivision plan on behalf of the applicant.

Mr. Lefebvre stated for some history; in 2014 we proposed a 3-lot subdivision of the Mark Schapler property. At the time we were going to hook the existing home and one of the lots to municipal water that was available off of New Boston Road. Because we were making two connections, we felt the most appropriate thing to do would be to make all three municipal water if possible. When we contacted Pennichuck Water Works; we received feedback from them that this would be okay to do with an easement. Several years went by, when we finally went to construct the home and do the hookup, Pennichuck Water Works had stated that their current policies prevent them from allowing hookups to any properties that don't have frontage on the road where the water service is available. We are now in a situation where we would like to drill a well on the property. The only change to this property is the fact that we will be doing a private well versus a municipal connection. To make the lot legal, we have to go through the proper procedures, therefore, we are here tonight to ask for an amended subdivision approval. We have submitted to the State for subdivision approval with the amendment, and we have received approval just last week. That is what I have.

Chairman McMahan asked if there were any comments or questions from the Board. There were none.

Chairman McMahan opened the public hearing on this request for an amendment to a previously approved subdivision plan. There were no members of the public asking to speak on this application. There were no electronic communications on this application. Chairman McMahan closed the public hearing.

MOTION by Mr. Newberry that the Planning Board move to approve the Request for an amendment to a previously approved Subdivision Plan, located at 25 Holbrook Road, in accordance with the plan prepared by Meridian Land Services, Inc., last revised June 1, 2021, subject to the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

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

2. **All recording fees shall be submitted to the Planning Department at the time of recording.**
3. **NHDES subdivision approval shall be obtained and the permit number noted on the plan.**
4. **Plans should note that a Septic Permit is required to be reviewed and approved by the Building Dept. and any changes to the placement of the well shall be reviewed and approved by the Building Dept.**
5. **A note shall be placed on the plan stating that prior to the issuance of a building permit, the owner shall apply for and receive approval of a driveway permit from the Department of Public Works.**
6. **Prior to the issuance of a certificate of occupancy, school and recreation impact fees shall be paid.**

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

4. Circle Drive Associates, LLC (Owners & Applicants) – Request for final Subdivision approval of one lot into three lots located at South River Road, Lot 35-98-40, Zoned PZ.

Attorney Jon Levenstein was present, along with Katie Weiss of Bedford Design Consultants, to address this application requesting final subdivision approval of one lot into three on behalf of the applicant.

Attorney Levenstein stated as you will recall, back in October of last year site plan approval was given to this project, which consists of three different elements. The project is 142 workforce housing condominiums, 96 elderly housing condominiums, and a portion of the frontage, which is being reserved for commercial development. The applicant has been working since then to get approvals from the State to get the site plan signed, meet other conditions of approval, and also to delve into the financing aspects of getting these projects financed. Primarily they have been working with New Hampshire Housing and Finance Authority to get the workforce housing financing. As part of that, they have been advised that in order to get the financing, the workforce housing has to stand alone on its own lot. Additionally, for the elderly housing what was initially planned was a master condominium with three different subcondominium associations. The reason for that was two-fold. One is that workforce housing regulations requires that there be no age restrictions. I believe it is the workforce housing. Ms. Hebert responded the workforce housing requires that there not be any age restrictions. In addition to the Town's workforce housing regulations, which don't allow for age restrictions, the federal law, which allows for age restrictions, require that the age-restricted be on a separate lot. I don't know whether they contemplated a mixed development like this. We thought we would be able to do this as a condominium with subcondominiums, but it turns out it is a lot easier to just subdivide the three lots off into three separate lots and that is what we are here today to request, a subdivision approval allowing for one lot, which would be the commercial development lot, the second lot would be the age-restricted condominiums and a third lot, which would be the workforce housing condominiums. Ms. Weiss can go through the engineering parts.

Ms. Weiss stated there is not too much to it. The workforce housing lot will be the main lot. The whole lot currently is about 25 acres, 17 of those acres are going to be the workforce housing lot and we will have the main access drive located on that property. Then we have the big commercial lot up front, and then you can see the red line indicated on the screen where it divides into the separate lot in the back for the elderly. On this particular plan I just drew on these red lines. They are not the plan and at the front was the subdivision line, I just drew these on Photoshop so you could see overall about where the lines are with the buildings in place.

Attorney Levenstein stated I think it is important to know that we are not changing the development at all. Basically what we are doing is putting lines on pieces of paper, putting boundaries up, and separating them as legal entities, as legal lots, but as far as what is going to be built on them, that will be exactly the same.

Ms. Weiss stated in the staff memo they mentioned some other places around Bedford that also have done things like this. That would be like Carrabba's, Bedford Hills, the Highlands, and the Wayfarer redevelopment have similar lots like this for financing.

Ms. Weiss stated looking at the waiver requests; the first waiver request is to allow buildings and pavement within the required landscape setback, which is mainly for the elderly housing because this lot is coming along the edge of the driveway and then along the edge here where there is parking where we kind of have to put the lot line. This doesn't meet the standards for landscaping in terms of setbacks. The second waiver is for the elderly housing to be located within the building setback. Because this building is several stories tall, generally it is then required to be located further back from the property lines, but, again, since this is for financing and the building itself is near the property line like that, so we are asking for a waiver. For the third waiver, each lot is to have frontage on a public street. As we explained before, this is for financing purposes. The fourth waiver we did not provide a topographic plan, so there are no contours shown on our subdivision plan. That doesn't typically get recorded and we have submitted basically the exact same sheets were submitted as part of the site plan with wetlands as well, which is the fifth request that we don't provide wetlands mapping as a record as it was submitted when we did the site plan approval back in the fall. Those are the five waivers that we are requesting.

Attorney Levenstein stated one final thing, in order to make this work as three different subdivision lots, we have submitted to the Town a declaration of covenants restrictions and easements allowing for cross easements to go across the road from the elderly housing lot and the commercial lot, to go across the road, which is actually on the workforce housing lot. And also to allow water lines, utility lines and natural gas to go across to be utilized by all three lots.

Chairman McMahan asked the Board for any comments or questions.

Mr. Newberry asked the easements then would be how you would handle the creation and maintenance of landscaping along lot lines and maintenance? Attorney Levenstein responded the landscaping itself would be each individual lot, wherever the landscaping is located, that lot owner would be responsible for the landscaping on that lot. The stormwater drainage, which I spoke with Ms. Hebert about, for that infrastructure there will be cross easements to allow for whoever is affected to repair and to maintain the stormwater drainage infrastructure, so that is being watched

over. There is also a drainage easement that I put in that declaration. Mr. Newberry asked so you anticipate then that landscaping can be created and maintained without “trespassing?” Attorney Levenstein responded it would be the individual lot owners who would be taking care of their landscaping, so there would be no trespassing. Mr. Newberry stated I am just imagining instances where you might have to get on somebody’s “property” in order to either create or to maintain the landscaping. Attorney Levenstein responded we can put it in. It is a condition of approval that we do it, I submitted a declaration already, but I can amend to it. Mr. Newberry stated I am just concerned that we don’t create a situation that makes it difficult to impossible to maintain the landscaping. Attorney Levenstein responded not a problem at all to put it in. Mr. Newberry stated thank you.

Mr. Fairman stated as I recall, there were paths, either sidewalks or walking trails or something throughout this development. Attorney Levenstein responded those are cross easements across all of those lots. Mr. Fairman stated they are not shown on this posted plan. Ms. Weiss stated there is a walking trail that goes along here and here. Mr. Fairman asked how are those handled relative to the three different lots and the use of them and maintaining them and so on? Attorney Levenstein responded basically all of those are on the elderly housing lot the way we designed it. The other two lots will have access or permission, an easement, to use those paths and roadways, and there is a division of the cost of maintenance of it. It will be paid for by the workforce housing and then the elderly lot has a 40 percent share of the property that they will pay for. Mr. Fairman stated thank you.

Mr. Clough stated I am a little bit confused as to you said it is not just drawing a bunch of lines on a piece of paper. Why wasn’t this foreseen when they first developed this? All of a sudden they are cutting the land up into individual lots, and the staff report says that it is commonly done in New Hampshire, but Kohl’s, Carrabba’s, Bedford Hills, and Bedford Highlands, but I am not sure, I would guess that these examples didn’t subdivide their property after they were given permission. Attorney Levenstein responded I believe they were. Mr. Clough asked this is a financing tool? Ms. Hebert responded it is a standard practice for handling different uses in a mixed-use development. Bedford Hills is a good example; all of those buildings sit on individual lots, but when you drive into Bedford Hills, you don’t think this is the Copper Door, this is the Elliot medical office building, they all kind of share a circulation system and parking is parsed out amongst the various uses and if people are going to go to the Copper Door, they park closest to the restaurant. But that is all maintained as part of one comprehensive development, and I think that you will find this is a similar arrangement. The Wayfarer site was also carved up into separate lots, the Provident Bank sits on its own distinct lot from the Whole Foods lot. Mr. Clough asked did they have to come back to the Board and apply for more waivers? Ms. Hebert responded they did. Alternatively, they can do a land condominium unit and I think Attorney Levenstein can probably speak to this, it can be a cumbersome land development proposal, and then if you are going to create sub condominiums within the condo land unit, it becomes a very cumbersome declaration; this is just another tool basically, that is how we look at it from a planning standpoint. Attorney Levenstein stated that is what I was trying to explain before. We were initially going to have three condominium units, one having the commercial, one having the age-restricted, one having the workforce housing but then we would have had to have a subcondominium association so that we could sell off individual condominiums in each of the two housing type developments. While it might have worked, I was a little worried after we started talking to the financing people

that they weren't going to accept that type of thing and that there could be some issue as far as the fair housing laws. I think this is just cleaner; and as far as the waivers, the only reason the waivers are necessary is because once we do the subdivisions then all of the setbacks, which we had worked out for the site plan initially, changed because now there are individual lot lines that weren't there initially. Also, as far as financing, a lot of banks and other institutions that do financing, they want a single entity owning the property so that there is no issue. Like with this, if there was financing from New Hampshire Housing and Finance Authority for the workforce housing and there was different financing for the age-restricted housing, and mortgages would have to be placed on all of that property for each of those different uses and banks are reluctant to have somebody else have an interest in their property. Mr. Clough stated my only concern is that I know we have handed out a lot of waivers for this site originally and now we are handing out five more and one of them is kind of a major one where you have proposed Lot 1 will be accessed by a private road and that lot is supposed to have frontage on a public street. It is just that we seem to be going down a primrose path here with a lot of waivers. Thank you for the explanation.

Vice Chairman Duschatko stated I would like to elaborate a little bit on what Attorney Levenstein and the Planning Director has said. You have a situation where you have three different uses on here. You have the workforce housing, which tends to be financed under totally different programs, certainly would not be part of the commercial financing. And then you have the elderly because now it makes this a group of different rules with the elderly, and on top of that, these are all for sale units and condominiums, so there will be a series of releases each time they are sold to individual owners. So put it all together in one big package would be a nightmare. I don't think anybody with a reasonable expectation would be able to pare that away to make any sense. You also have to remember that the end result of the first financing usually is a mortgage document that gets resold into a secondary market. It may have some pretty clear restrictions on what they would buy and it could be more complicated and it just makes it extremely difficult to sell, if you could sell it all. Although I personally am not happy with all of the waivers, it is unfortunate that this couldn't have been done prior to this, but I certainly understand the reasons for it.

Chairman McMahan stated as I read it, four out of the five waivers have already been previously approved.

Chairman McMahan opened the public hearing on this application for final approval of a subdivision. There were no members of the public asking to speak on this application. Ms. Hebert stated there were no electronic communications. Chairman McMahan closed the public hearing.

Ms. Malcolm asked what are the waiver requests that have been approved already? Chairman McMahan responded 2, 5 and 1. Ms. Malcolm asked we have to vote on those again? Chairman McMahan responded I think we will have to vote on all of the waivers.

Mr. Newberry stated I haven't heard any major concern with the requested waivers, so we could vote for them all at once.

MOTION by Mr. Newberry that the Planning Board grant the following waivers:

- 1. Zoning Ordinance Article 275-63, Minimum Landscape Performance Standards, to allow buildings and pavement within the required landscape setbacks. A comprehensive landscaping plan was approved as part of the Site Plan application and there are no changes proposed to the landscape plan.**
- 2. Zoning Ordinance Article 275-62 and Table 3, the Table of Performance Dimensional Standards, to allow lots to be created without meeting the minimum structure setback requirements. The proposed apartment building for elderly housing will be located within the building setback for the new lot line, but the approved location of the building has not changed.**
- 3. Land Development Control Regulations Section 231.1.2, 231.1.4 and 231.1.5, requiring each lot to have frontage on a public street. The proposed lot 1 (elderly housing) will be accessed by a private road.**
- 4. Land Development Control Regulations Section 218.1.11, to not provide a topographic plan. The topographic plan was provided as part of the Site Plan application and there are no changes to the approved grading plans.**
- 5. Land Development Control Regulations Section 218.1.13, to not provide the wetlands mapping on the subdivision plan. The complete wetlands boundary is shown on the approved Site Plan and the subdivision is not proposing any changes to the approved Site Plan.**

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

MOTION by Ms. Malcolm that the Planning Board grant final subdivision approval of the request by Circle Drive Associates, LLC (Owner) to subdivide Lot 35-98-40, located on South River Road, Zoned PZ, into three lots as shown on the plans prepared by Bedford Design Consultants, last revised May 11, 2021, with the following precedent conditions to be fulfilled within one year and prior to plan signature:

- 1. 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.**
- 2. 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.**
- 3. Any waivers granted by the Planning Board shall be noted on the plans.**
- 4. The Sebbins Brook Crossing conditional Site Plan approval, granted on October 13, 2020, shall be finalized the Site Plan shall be signed by the Planning Board.**
- 5. Prior to the plan being recorded, the declaration of covenants, easements and restrictions, to allow for shared use and maintenance of the driveway and utilities between all three lots, shall be submitted to the Planning Department to be recorded. The easement language shall be to the satisfaction of the Planning Director and all recording fees shall be paid by the applicant and submitted to the Planning Department.**

Vice Chairman Duschatko duly seconded the motion. Vote taken - all in favor. Motion carried.

5. LSNE c/o Tom Panella (Applicant) & LSNE Real Estate, LLC (Owner) – Request for final Site Plan approval to construct a two-story light industrial building, at 29 Commerce Drive, Lot 35-98-24 with driveway access through 358 South River Road, Lot 35-98-26, Zoned PZ.

Tom Burns, Senior Project Manager of TF Moran, was present to address this request for final site plan approval on behalf of the applicant. Also present was Tony Nazaka of Stone River Architects.

Mr. Burns stated this is the site that was the former Southeast Regional Educational Service Center, LSNE purchased the site about three years ago, and what they are looking to do is construct a 2-story building with a connection to the existing office building on the site. The existing building is approximately 32,000 square feet of office and warehouse assembly space. What they are looking to do is construct a light industrial processing facility. The footprint would be about 28,500 square feet with a partial mezzanine and second floor that would be a little over 11,000 square feet.

Mr. Burns stated as you are looking at the plan, the building addition would be located along the west side of the property. It would be constructed over an area that is presently an existing parking area for the site. The prior users of the site typically maxed out or utilized almost all of this parking area, there were about 280+/- parking spaces on the overall site, the current users, based on work shifts and based on parking demand, they are only going to need a little over 100 spaces. So we were able to propose a building over existing impervious so that we are not increasing the impervious footprint on the site or increasing stormwater runoff over what is there now, while still meeting the parking requirements for the user.

Mr. Burns continued and stated access for the site would continue to be off of Commerce Drive, there is an existing driveway coming in and a secondary access would be proposed through the adjacent lot. That is Lot 35-98-26, which LSNE also owns that will provide for a driveway that extends off from the end of the cul-de-sac into the site.

Mr. Burns stated stormwater management for the property would continue to operate as it does today. It would be connected as part of a closed drainage network. There is a Storm Tech system under the existing parking that would continue to be utilized with no increases in discharge from any of the annualized rainfall events. The building is serviced by sewer and water that would connect to the new building as well. Lighting on the building would be a downcast lighting so that there would be no illumination or no ambient light extending off from the property. To offset the proposed impacts of the structure, we would have new landscaping, a plan that has been provided for landscaping along that rear boundary area, that westerly boundary of the site.

Mr. Burns stated I will let Mr. Nazaka speak to the aesthetics and the design of the building and then we can circle back for any questions that the Board may have.

Mr. Nazaka stated I am an associate architect and project manager for this project. I will guide you through the exterior design. First I will touch on the form of the building. As Mr. Burns said, there is currently underground stormwater retention in the areas indicated on the screen, and that sort of guided the form of the building. We were trying to stay away from touching those or working on them or removing them or reworking them. That really guided the whole building footprints. As you all know, LSNE is a manufacturing company, they need large open spaces for developing their product, which is why the footprint is as large as it is. We like to be cognizant of what Bedford does in trying to break up the form of the building within the site. I feel we did a pretty good job with that in this project. As you can see, while it is a large box, we do have these little appendages, this area here is the dock entry for the warehouse, this area over here is a utility area and then this main space is their main entrance space. While it is two stories technically, the second story is really just a small utility mezzanine, second story architectural jargon that we just have to call it a second story, but for the most part there is just one main story, the second story is about 1,600 square feet.

Mr. Nazaka continued this main view sort of sums up the building in general. This view is as you come into the site in the drive in the existing parking area, that is sort of the focal point of the building. We tried to utilize the technological look of new design, but what we did was introduce brick into the new building to sort of tie into the whole Commerce Drive buildings and aesthetic and utilize that in the main entry and as you go around this portion of the building. The rest of it is metal panel, although we do use three different kinds in five different colors to sort of break up the building to try and be cognizant of Bedford's design aesthetics for larger buildings, trying to break up the building visually, while we don't really break it up, the large form you can kind of visually see it broken up. Up here is a large penthouse to house the mechanicals and keep them out of the elements. As we always try to do with LSNE projects, is introduce solar panels on the roof to utilize solar energy. One of the main focal points is this connecting bridge to the existing building, trying to keep the building footprint down, workers in this building will be able to use office space and break rooms in this building, again, to keep the size of this building down. There wasn't really a need in that area, there are usually 20 – 25 people sort of monitoring the manufacturing line but they don't really need offices right in that building. While it is not cheap to do, we felt this was sort of an offset to do offices in the building and gave it sort of architectural interest and really is adding to the LSNE campus that is growing. That is about all of it.

Vice Chairman Duschatko asked how long is that connecting bridge? Mr. Nazaka replied that is about 90 feet. Ms. Malcolm asked is that glass in there or is that open to the elements? Mr. Nazaka replied glass.

Mr. Newberry stated could you kind of give us an overview of the landscaping that will either change or be maintained or what the plan is. Mr. Burns responded when you are looking at the plan we are proposing landscaping, we have a color presentation posted on the screen, you will see the plantings that are proposed along the southwest corner and then continuing along that westerly boundary line, and then we have landscaped areas that are along the north boundary line. It is a series of trees, as well as lower plantings, bushes along there to kind of fill along those boundaries to create kind of that landscape buffer and really kind of accentuate it. There are also some internal planting areas, green areas, between the new building and the existing parking area and just some pocket landscaped areas around it as well. It is really kind of designed to enhance

the site, compliment the building, but also provide that buffer/screening along the FE Everett Turnpike side.

Mr. Newberry stated with the traffic geometry in the entrance off from Commerce Drive. I assume you have geometry there that will support 2-way traffic with a tractor trailer coming out or do you not anticipate having any traffic trailers. Mr. Nazaka responded the new drive to the south is the tractor trailer entry, so they will be able to come right up and back into the loading dock here and leave. I don't believe it is frequent. Mr. Newberry stated the spot I am looking at is in the first entrance off from Commerce Drive, the existing drive. Mr. Burns responded we run truck turning movements through the site to make sure that the vehicles when they are exiting the site they can come out, and we are able to navigate the turn throughs. There is an area that is going to be striped, as shown on the posted plan, it is going to be expanded and striped out. That will provide for the turning movement for the trucks to make the turn to navigate back out onto Commerce Drive. So the intent is to have them come in to make entrance coming in off from the cul-de-sac on the proposed drive, and then when they are exiting, they can drive out through the site and then make the left turn out of the driveway. Mr. Newberry stated what I was specifically looking at is where I guess is a stop bar there on the pavement outbound. That just caught my eye as I assume you have room to get a tractor trailer outbound with traffic inbound. Mr. Burns responded yes. Mr. Newberry stated thank you.

Vice Chairman Duschatko to follow up on that; at the southwest corner of the building, is that radius big enough to have a tractor trailer turn there. Mr. Burns responded yes. Vice Chairman Duschatko stated I am looking at the darker gray shade there, is that an extension of the driveway. Mr. Burns responded yes. That area that you are seeing there, that allows for the sweep of the truck making the turning movement. Vice Chairman Duschatko stated thank you.

Mr. Fairman stated it is great to see a great company continuing to grow in Bedford. Thank you.

Vice Chairman Duschatko asked where are your dumpsters located? Mr. Nazaka responded it is right next to the loading dock area. Chairman McMahan asked do they have fencing around them? Mr. Nazaka responded yes.

Chairman McMahan stated I have some questions concerning the traffic. Is there a difference between what you had and what VHB had? Generation estimates using square footage versus the number of employees for manufactures use. It is likely that it underestimates weekday AM and PM peak hour site generation volumes. There is a memo by VHB. Did you address that with them? Mr. Burns responded we still have to submit the updates for the traffic. Relative to the differences between when you are doing an employee count versus square footage count, in the ITE calculations when we do a trip analysis there is a slight difference in the numbers. Relative to this proposal and what was the existing traffic numbers for the site, the existing was on the magnitude of six times higher than what is proposed during the peak hour trips and that is a product of the proposed work shifts for the site, not beginning or ending during peak hours. So you are not going to generate that peak hour vehicle traffic as the previous use did. We are going to be updating the traffic study, but relative to the numbers, it is still going to be well below. Again, it is an order of magnitude of about six, so we are going to continue to be well below what was the previous trip generation. Chairman McMahan asked Ms. Hebert, will that be a condition for what

we are doing today? Ms. Hebert replied yes. That is considered a technical comment, so we will resolve any of those discrepancies in the traffic study as part of our final review. TF Moran did address some of these issues in their recent memo dated June 18, 2021, but we do need to have that incorporated into your final traffic memo. Mr. Burns stated yes.

Chairman McMahan stated you are going to be submitting the sign later. Is that going to be within the limits of Bedford perimeters? Mr. Burns replied yes. Chairman McMahan asked no waivers? Mr. Burns responded no waivers are being requested at this time.

Chairman McMahan stated there is a comment in there about solar panels. Is that an oddity or are you seriously considering doing that? Mr. Nazaka replied they are seriously considering doing that. I wouldn't say it is a guarantee up front, it is a very expensive building as it is, but we are fitting up the building, plan extra steel, electrical to fit that up, so they are spending that upfront money to design for it. It will be down the road to add that in. Chairman McMahan asked there doesn't appear that there is going to be any problem with trees blocking them during the four seasons? Mr. Nazaka replied no.

Chairman McMahan asked is there any other energy advantage in any of the materials that you are using when you build this? Mr. Nazaka responded the philosophy for our firm is we overdesign the wall assembly, the cavity, to above energy code. This wall assembly does that. The exterior wall assembly is a 4-inch continuous insulation that I think achieves R-32 or something like that, energy code you either need a full assembly of R-21 or 13 in the wall cavity and continue to 6 inches. This is a continuous actually R-30 insulation. The envelope is super tight; the roof is like 9 inches of continuous insulation. We don't typically apply for the energy code or LEED, it costs money to do that and time, but if we were to go for energy star, we would probably have no problems achieving it. I am not too sure about LEED because I am not too privy on LEED certification, but we just sort of design as nice of a building envelope as possible and go able and beyond energy code. Chairman McMahan stated that is commendable. You have done a cost benefit analysis and it should save you money in the long run. Mr. Nazaka stated absolutely.

Mr. Newberry stated please go back to the 3D rendering. Those little notches in the second story; are those renderings of solar panels or is that something else? Mr. Nazaka responded those would be the solar panels.

Mr. Fairman asked Ms. Hebert, is this an official change of use going to a warehouse or not? Ms. Hebert replied yes; this is a change of use and because it is a brand new facility. Mr. Fairman asked should the approval for the change of use be in the motion? Ms. Hebert asked for the SRESC building? Mr. Fairman replied changing from office to warehouse. Mr. Newberry stated it is a new building, is it changing use. Mr. Fairman stated it states proposed to convert the existing office building to an office/warehouse. So something is being changed according to the staff memo. Is that an official change of use, and should that be in the motion? Ms. Hebert responded the existing building is currently occupied by LSNE and there was a component, we reviewed this with TF Moran when they occupied the facility, it is primarily an office use, it is not a manufacturing facility, and this new building will be the bulk of the manufacturing facility. That is a great question, but it is not my understanding that there is a change of use in the existing

building, that the new facility will be the office and warehousing use. They are adding that use to the existing site. That is a good question.

Chairman McMahan opened the public hearing on this application for final approval of a site plan. There were no members of the public asking to speak on this application. Ms. Hebert stated there were no electronic communications. Chairman McMahan closed the public hearing.

MOTION by Ms. Malcolm that the Planning Board grant final approval of the Site Plan to construct a two-story light industrial building, at 29 Commerce Drive, Lot 35-98-24 with driveway access through 358 South River Road, Lot 35-98-264, in accordance with the engineering plans prepared by TF Moran, last revised June 1, 2021, and the architectural plans prepared by Stone River Architects, received June 2021, with the following precedent conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:

1. 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.
2. The applicant shall coordinate with DPW for requirements to make the necessary utility connections, including repaving of Commerce Drive from trench to the end of the cul-de-sac. A performance guarantee in an amount approved by the Public Works Director for the proposed off-site improvements shall be provided.
3. All requisite easement documents shall be executed by the Applicant and submitted to the Planning Department to be recorded simultaneously with the plan, including:
 - a. Access and Utility Easement for the benefit of Lot 35-98-24
4. A Stormwater and Land Disturbance Management Permit shall be approved by DPW.
5. The Applicant shall submit any outstanding engineering review fees, if any, to the Planning Department.
6. The Fair Share Roadway Contribution, in an amount to be determined by the Town's consulting engineer, shall be paid to the Planning Department, as applicable.
7. A letter from Manchester Water Works stating that they will be able to serve this project shall be submitted to the Planning Department.
8. The proposed monument sign and any proposed signage will be required to meet town standards. A Sign Permit should be submitted for review and approval by the Planning Dept. and DPW.
9. The landscape plan (sheet 7) shall be updated with the required signage landscape strip per Section 275-63(E)(7).
10. Prior to the commencement of work, arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.

- 11. Prior to commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works and the Building Department.**
- 12. Prior to commencement of work, a performance guarantee in an amount approved by the Town for onsite maintenance of erosion and sedimentation controls shall be placed on file.**
- 13. Prior to the issuance of a certificate of occupancy for the addition, the sewer accessibility fee shall be paid.**
- 14. Prior to the issuance of a certificate of occupancy for the light industrial building, all existing landscaping shall be restored or removed and replaced in kind as per approved plans, such that it is consistent with previously approved plans for the site.**
- 15. Prior to the issuance of a certificate of occupancy for the addition, all site improvements depicted on the plan shall be completed.**

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

V. Approval of Minutes of Previous Meetings: None

VI. Communications to the Board:

Ms. Hebert stated I have an announcement I would like to share about the former Planning Board Chairman, Jon Levenstein. He recently received an award from the New Hampshire Planners Association. I will read a little bit from his application: Jon was awarded Citizen Planner of the Year by the New Hampshire Planners Association. NHPA annually recognizes distinguished leaders in New Hampshire with this Citizen Planner of the Year, and the award is for people who have promoted the cause of planning in the public arena. As you all know, Jon has served tirelessly as a member of the Planning Board but he has volunteered for the Town of Bedford on various boards in the public arena for the past 25 years, starting on the Historic District Commission in 1996 and retiring as the former Chairman of the Planning Board in 2021. When you do see him please congratulate him. I am very pleased to make that announcement.

Chairman McMahan stated the New Hampshire Planners Association has also designated Becky Hebert as Planner of the Year for the state of New Hampshire. Ms. Hebert responded thank you all. I was very surprised and humbled to receive the New Hampshire Planners Award this year. Thank you. Chairman McMahan stated well deserved.

VII. Reports of Committees: None

VIII. Adjournment:

MOTION by Mr. Quintal to adjourn at 8:18 p.m. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Motion carried.