

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
NORTHERN DISTRICT

SUPERIOR COURT

New Hope Christian Fellowship

v.

Town of Bedford

Docket No. 216-2021-CV-00551

**DEFENDANT’S OBJECTION TO PLAINTIFF’S
MOTION FOR PRELIMINARY INJUNCTION**

NOW COMES the Defendant, Town of Bedford (the “Town”), by and through its attorneys, Devine, Millimet & Branch, Professional Association, and submits this Objection to Plaintiff’s Motion for Preliminary Injunction, and states as follows:

PRELIMINARY STATEMENT

The plaintiff has filed a Motion for Preliminary Injunction seeking to enjoin the Town from enforcing its land use regulations and allowing the plaintiff to use and conduct religious activities at a property it has converted from residential to non-residential use and that is currently undergoing significant construction without first obtaining a Certificate of Occupancy. As explained more fully below, the plaintiff, like all other property owners in the Town, is required to obtain a Certificate of Occupancy prior to occupying or using property where the property owner requests a change to the existing use of the property or makes significant structural changes or site improvements to the property.

Here, the plaintiff purchased residential property and then submitted a Site Plan Application to the Town Planning Board seeking to change the existing use of the residential property to a place of religious worship and to make significant structural changes and site

improvements to the property, including building a 472 square-foot addition onto the existing building, constructing a 26-space parking lot, and adding a 24-foot wide driveway to allow for two-way traffic. As a result, the plaintiff was required to obtain a Certificate of Occupancy prior to using or permitting others to use the property for the new purpose. In fact, the Planning Board's written approval of the site plan includes a condition that "Prior to issue of a certificate of occupancy of for the building, all site improvements depicted on the plan shall be completed." The plaintiff has not completed all of the site improvements depicted in the plan and, therefore, the Town has not issued a Certificate of Occupancy.

The plaintiff nevertheless contends that it is being treated differently than non-religious property owners because it cannot use the living room in the pre-existing building for religious services and Bible studies prior to the issuance of a Certificate of Occupancy. While the plaintiff alleges that the Town does not impose the same restrictions on non-religious property owners, it provides no evidence of this alleged differing treatment. In any event, and as explained, all property owners who request a change to the existing use of a property or to make substantial structural changes or site improvements are required to obtain a Certificate of Occupancy prior to using the property. This is true whether the new use is for commercial, political, social, or, in this case, religious use. The plaintiff, thus, has not been treated differently than non-religious property owners.

For this reason and for the additional reasons discussed below, the Town requests that the Court find that the plaintiff has failed to satisfy the requirements for a preliminary injunction and issue an order denying the plaintiff's Motion.

STATEMENT OF MATERIAL FACTS

1. On or about March 18, 2020, the plaintiff purchased a residential property located at 445 Route 101 in Bedford, New Hampshire (the “Property”). See Amended Petition at ¶¶ 5-7.

2. On July 29, 2020, the plaintiff submitted a Site Plan Application (“SPA”) to the Town of Bedford Planning Board relating to the Property. See Affidavit of Rebecca Hebert (“Hebert Aff.”) at Ex. 2.

3. The SPA describes the plan purpose as follows: “To **change the use of the existing residential home to a place of worship** sized to hold 50 patrons. Construct the associated necessary site plan improvements **for the change of use and the building addition.**” Id. (emphasis added).

4. In conjunction with the SPA, the plaintiff also filed Architectural Plans detailing the proposed renovations and additions to the Property. Id. at Ex. 3.

5. The Town Planning Department issued a Staff Report on September 14, 2020, that described the scope of the proposed project, which included building a 472 square-foot addition at the front of the existing 2,442 square-foot building with the entire building devoted to church use, widening the driveway to 24-feet to accommodate two-way traffic, and constructing a parking area to serve 26 vehicles, including two accessible spaces. Id., at Ex. 4. The project also required a Driveway Permit from the New Hampshire Department of Transportation because the Property is located on Route 101, which is a state-maintained road. Id.

6. The SPA was placed on the agenda for the Planning Board’s September 14, 2020 meeting. Id., at Ex. 5.

7. Consideration of the SPA was tabled at the September 14, 2020 Planning Board meeting due to time limitations. Id., at Ex. 6.

8. The SPA was then placed on the agenda for the Planning Board's October 12, 2020 meeting. Id., at Ex. 7.

9. The Planning Board considered and approved the SPA at the October 12, 2020 meeting. Id., at Ex. 8.

10. The approval included granting several waivers requested by the plaintiff. Id., at Ex. 8 at p. 12.

11. The approval also contained numerous conditions, including the following: "Prior to issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed." Id., at Ex. 8 at p. 13.

12. On October 26, 2020, the Planning Board issued a letter to the plaintiff officially confirming the approval of the SPA. Id., at Ex. 9. The letter described the waivers the Planning Board had granted, and listed the conditions of approval, including that "Prior to issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed." Id.

13. The plaintiff did not seek reconsideration of the approval of the SPA or any of the conditions attached to the approval, including the requirement that all site improvements on the plan must be completed prior to the issuance of a Certificate of Occupancy. Id. at ¶ 16.

14. On or about October 15, 2021, the Town issued a Cease and Desist Order to the plaintiff notifying the plaintiff that it was in violation of Sect. 92-10 of the Building Code Ordinance and Sect. 111.1 of the International Building Code. Id., at Ex. 10.

15. The Cease and Desist Order quoted Sect. 92-10 of the Building Code Ordinance, which states as follows:

92-10: No person shall use or permit the use for any purpose of any building, structure, or premises thereof after erected, altered, converted or extended until a

certificate of occupancy or a building final is issued by the Building Code Official or his designee.

16. The Cease and Desist Order also quoted Sect 111.1 of the International Building Code, which states as follows:

111.1: Use and Occupancy. A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

17. The Certificate of Occupancy requirement applies to all requests by property owners to change the existing use of the property or to make significant structural changes or site improvements to property. Id. at ¶ 20.

18. The Town requires a Certificate of Occupancy regardless of whether the new use of the property will be for commercial, social, political, religious, or other reasons. Id. at ¶ 21.

19. The purpose of the Certificate of Occupancy requirement is to protect the safety, health and welfare of the public by confirming that all required site improvements have been properly completed and that the property can be safely used for its intended purpose and complies with all applications and conditions in the planning board approval. Id. at ¶ 22.

20. The plaintiff is not able to obtain a Certificate of Occupancy because the site improvements have not been completed and the Property is an active construction site at this time. ¶ 23.

STANDARD OF REVIEW

The issuance of injunctions, either temporary or permanent, has long been considered an extraordinary remedy. Murphy v. McQuade Realty, Inc., 122 N.H. 314, 216 (1982). As a result, an injunction should not issue unless there is an immediate danger of irreparable harm to the

party seeking injunctive relief, and there is no adequate remedy at law. Id. Also, a party seeking an injunction must show that it would likely succeed on the merits. Kukene v. Genualdo, 145 N.H. 1, 4 (2000). It is within the trial court’s sound discretion to grant or deny an injunction after consideration of the facts and established principles of equity. Thompson v. N.H. Bd. Of Medicine, 143 N.H. 107, 109 (1998).

ARGUMENT

I. THE PLAINTIFF IS UNLIKELY TO PREVAIL ON THE MERITS

The plaintiff argues that it is likely to prevail on the merits in this matter because (1) the Cease and Desist Order fails to comply with RSA 676:17-a and (2) the Town’s Certificate of Occupancy requirement is unconstitutional and/or violates RLUIPA. Each of these arguments is addressed below.

A. The Cease and Desist Order Does Not Violate RSA 676:17-a

The plaintiff first argues that the Court should issue a preliminary injunction allowing it to use the pre-existing building for religious purposes without obtaining a Certificate of Occupancy because the plaintiff is likely to prevail on its claim that the Town’s Cease and Desist Order (the “Order”) does not comply with RSA 676:17-a.¹ In support of its position, the plaintiff argues that the Order is defective because it does not sufficiently identify the alleged violation nor does it describe the corrective action necessary to cure the violation. See Plaintiff’s Memorandum of Law in Support of Motion for Preliminary Injunction (“Plaintiff’s Memo”) at ¶¶ 15-17. The Order, however, identifies the property where the violation has occurred and

¹ On November 12, 2021, the plaintiff filed an Appeal with the Town Zoning Board of Adjustment (“ZBA”) requesting that the ZBA find that the Cease and Desist Order is invalid because it does not comply with RSA 676:17-a and because it violates the plaintiff’s constitutional rights and rights under RLUIPA. The ZBA has not yet had an opportunity to consider the plaintiff’s appeal. The plaintiff’s request for a preliminary injunction is not ripe given the pending appeal since the plaintiff has not yet exhausted its available administrative remedies. See RSA 676:5 and RSA 677:15, I-a.

identifies the specific Bedford Ordinance and International Building Code sections that the plaintiff is violating. See Order, attached as Exhibit 10 to Hebert Aff. These land use regulations, which are quoted in the Order, state that where a property owner has requested a change in the use of an existing property or has made structural changes to the property, the building cannot be used or occupied until a Certificate of Occupancy has issued. Id. The Order, thus, makes clear that the violation is using a property that has been changed from a residential use to a non-residential use and is undergoing significant structural changes and site improvements without first obtaining a Certificate of Occupancy. The corrective measure is equally self-evident – the plaintiff must obtain a Certificate of Occupancy prior to continuing to use the property.

The plaintiff's contention that the Order is not sufficiently specific is belied by its own filings in this case. In the Motion for Preliminary Injunction, the plaintiff argues that "the Town's requirement that the church need (sic) to obtain an occupancy permit to use the former residence violates RLUIPA. . . ." See Plaintiff's Memo at ¶ 20. The Amended Petition recently filed by the plaintiff in response to the Order similarly demonstrates the plaintiff's understanding of the violation and corrective measures in the Order. In this regard, the Amended Petition states that the "Town of Bedford has required the Church to obtain a certificate of occupancy prior to praying or worshiping in the building." See Amended Petition at ¶ 35. The plaintiff, thus, clearly understood the Order to prohibit the plaintiff from using the property without first obtaining a Certificate of Occupancy and that the corrective action to cure such a violation was to obtain a Certificate of Occupancy, which the SPA makes clear requires the completion of "all site improvements depicted in the plan." It is disingenuous for the plaintiff to argue that the Order fails to sufficiently identify the violation and means to cure the violation when the

plaintiff's own filings with this Court acknowledge the alleged violation is using the property without a Certificate of Occupancy and that the cure is to obtain the required Certificate of Occupancy.

Even if the Order failed to comply with RSA 676:17-a, this would not provide a basis for the Court to enter the requested preliminary injunction. A Cease and Desist Order is simply a legislative prerequisite for a municipality to assess fines and seek legal redress for an alleged violation of a local ordinance or code. See RSA 676:17 (stating that fines run from “the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation”). If the Order is deemed insufficient it means that the Town cannot assess fines or seek further legal redress until the insufficiency is corrected. It does not create a legal basis for injunctive relief authorizing the plaintiff to engage in conduct in violation of local ordinances and codes. As such, even if the Order does not adequately identify the violation and required corrective action, this deficiency does not and cannot serve as a legal basis for a preliminary injunction permitting the plaintiff to violate the Town's land use regulations and to use and occupy the Property without first obtaining a Certificate of Occupancy.

B. The Town Treats Religious and Non-Religious Property Owners the Same

The plaintiff alternatively argues that requiring it to obtain a Certificate of Occupancy prior to occupying or conducting activities at the Property violates its constitutional rights and statutory rights under RLUIPA. In support of its position, the plaintiff argues that the “issuance of the Order is unlawful because the Town imposes different rules for religious gatherings by requiring an occupancy permit on a pre-existing building which would not be required for similar sized non-religious gatherings in the pre-existing building.” See Plaintiff's Memo at ¶¶ 19 and 20 (“The Town prohibits 10 people from gathering in the pre-existing living room for religious

services and Bible studies, but would not impose the same restrictions on a similar sized gathering for non-religious purposes in the same building.”). The plaintiff then argues that because the Town’s differing treatment of religious and non-religious property owners imposes a “facial-content based distinction,” the Town must demonstrate that it has a compelling interest in treating religious and non-religious property owners differently.

The plaintiff’s argument fails because it is based on the false assertion that the Town only requires a Certificate of Occupancy when a property is used for religious activities. The plaintiff has failed to offer a shred of evidence in support of its conclusory assertion that the Town treats religious and non-religious property owners differently and only requires a Certificate of Occupancy for religious property owners. The plaintiff, therefore, has failed to carry its burden of proof and its request for preliminary injunction must be denied for this reason.

The evidence submitted by the Town, moreover, establishes that the Town treats religious and non-religious property owners the same. In this regard, where a property owner seeks to change the existing use of property from a residential use to a non-residential use or to make significant structural changes or site improvements to the property, the property owner must submit a Site Plan Application to the Town Planning Board. See Hebert Aff. at ¶ 20. The Planning Board then either approves or denies the Site Plan Application. Id. If the Site Plan Application is approved, the Town of Bedford Ordinance (§ 92-10) and the International Building Code (§ 111.1) require that the property owner may not use or permit the use of the property until the building official has issued a Certificate of Occupancy.² Id. at ¶ 21. The

² The Town Site Plan Regulations similarly provides that “[n]o occupancy permits shall be granted for any structure until all work shown on an approved site plan is complete to the satisfaction of the Building Inspector, Fire Department, Public Works Department, and the Planning Department. However, in certain cases, for good cause and reason, a temporary certificate of occupancy may be granted for a site provided the owner provides a performance guarantee in an amount and form acceptable to the Town, to serve as a surety that remaining improvements not yet completed or begun will be satisfactorily completed within a predetermined time period.” See Hebert Aff. at Ex. 1, § 341.4.

Ordinance and Building Code, which were cited in the Town Cease and Desist Order, apply to all property owners who seek to change the existing use of a property or make significant structural changes or site improvement to the property. Id. For example, if a property owner seeks to change the existing use of a residential property to a commercial property (such as a day care center or law office), the property owner must have a Site Plan Application approved by the Planning Board and then obtain a Certificate of Occupancy prior to using or permitting the property to be used for its new purpose. Id. A religious organization seeking to change the use of an existing residential property to a religious property (*i.e.*, a church) must meet the same requirement. Id.

The Town’s evidence establishes that on March 18, 2020, the plaintiff purchased a residential property located at 445 Route 101 in Bedford, New Hampshire. See Amended Petition at ¶¶ 5-8. On July 29, 2020, the plaintiff filed a Site Plan Application with the Town Planning Board for the following purpose: “To **change the use of the existing residential home** to a place of worship to hold 50 patrons. Construct the associated necessary site improvements for the **change of use** and building addition.”³ See Hebert Aff. at Ex. 2. In addition to the requested change of use, the plaintiff sought to make significant structuring changes and site improvements, including building a 472 square-foot addition at the front of the existing 2,442 square-foot building with the entire building devoted to church use, widening the driveway to 24-feet to accommodate two-way traffic, and constructing a parking area to serve 26 vehicles, including two accessible spaces. Id. at Ex. 4. The project also required a Driveway Permit from the New Hampshire Department of Transportation because the Property is located on Route 101, which is a state-maintained road. Id.

³ The plaintiff presumably sought to change the existing use of the property, including the pre-existing building, from residential to a “place of worship” so that it could seek a religious-based tax exemption for the entire property.

The Planning Board approved the Site Plan Application at its meeting on October 12, 2020 and provided written confirmation of the approval to the plaintiff on October 26, 2020. Id. at Ex. 5. Since the plaintiff was seeking to change the existing use of the property and to make significant structural changes and site improvements to the property, the Planning Board, in compliance with the Town's land use regulations, required that the plaintiff obtain a Certificate of Occupancy prior to using or permitting the property to be used for the non-residential purpose and included a condition in its approval that "Prior to issuance of a certificate of occupancy for the building, all site plan improvements depicted on the plans shall be completed." Id. at Ex. 8, 9. The plaintiff did not challenge or seek reconsideration of the Certificate of Occupancy requirement. Id. at ¶ 16. The plaintiff has not completed the structural changes or the site improvements and the property is still actively under construction at this time so the Town cannot issue a Certificate of Occupancy. Id. at ¶ 23.

The process applied to the plaintiff's application is the same process applied to all applications seeking to change the existing use of property or to make significant structural changes or site improvements to the property, regardless of whether the change in use is for commercial, social, political, or (in this case) religious use. See Hebert Aff. at ¶ 20-21. As a result, the plaintiff has not been treated differently than non-religious property owners and is not entitled to the requested preliminary injunction.

II. THE PLAINTIFF WILL NOT BE IRREPARABLY HARMED AND HAS ALTERNATIVE LEGAL REMEDIES AVAILABLE

The plaintiff argues that it will be irreparably harmed and has no other adequate legal remedy other than injunctive relief because if an injunction does not issue it will be "prevented from holding church services and Bible studies in its pre-existing building" and will be "harmed each day where it cannot hold religious services or Bible study gatherings in the pre-existing

building due to an invalid Order.” See Plaintiff’s Memo at ¶¶ 29-31. Again, the plaintiff fails to introduce any facts to support this conclusory statement. Instead, the plaintiff asks the Court to simply assume that the pre-existing building is the only location where the plaintiff can hold religious services or Bible study gatherings. The plaintiff, however, does not allege or offer any evidence that the pre-existing building is sacred or that its religious activities can only take place at this location. In fact, the plaintiff acknowledges that it conducted services via Zoom and Facebook due to the COVID-19 pandemic and conducted services at a different location prior to purchasing the Property. See Amended Petition at ¶ 6, 11.

The plaintiff has the ability to hold religious services and studies at an alternative location or in an alternate form until all of the site improvements are completed and a Certificate of Occupancy issues as required in the approval of the Site Plan Application. The Order, therefore, does not prevent the plaintiff from holding religious services or Bible studies, it only prohibits the plaintiff from doing so at the Property until the plaintiff complies with the applicable land use regulations, including the Certificate of Occupancy requirement. To the extent the plaintiff incurs a cost for using an alternative space to hold services and studies, the plaintiff is free to seek damages from the Town to compensate it for these costs if it somehow prevails on the merits of its claims.

The plaintiff has not been irreparably harmed and has alternative adequate legal remedies available. As a result, the plaintiff is not entitled the requested preliminary injunction.

III. PUBLIC POLICY FAVORS ENFORCEMENT OF LAND USE REGULATIONS

The final factor the Court must consider is whether granting the preliminary injunction would serve the public interest. The purpose of the Town Site Plan Regulations is to protect the public safety, health and welfare by providing for regulation of the development or change or

expansion of use of property located within the Town. See Town Site Plan Regulations § 303; See also *15 New Hampshire Practice: Land Use and Planning and Zoning* § 30.02 (4th ed. 2010) (“Site plan approval is designed to assure that sites will be developed in a safe and attractive manner and in a way that will not involve danger or injury to the public health, safety or prosperity of the abutting property owners or the general public.”). The site plan regulations apply to “all site plans, for non-residential and/or multifamily development, expansion, or change of use located within the boundaries of the Town of Bedford.” See Town Site Plan Regulations at § 304.1.

The enforcement of the site plan regulations serves the public interest by protecting the health, safety and welfare of the public through the consistent application of the Town’s land use regulations. See *15 New Hampshire Practice: Land Use and Planning and Zoning* § 30.02 (4th ed. 2010) (“The purpose of site plan approval is to insure that the details of a site plan for an authorized use of a particular parcel of property will be such that the development of the property will not offend the public interest.”). The Certificate of Occupancy requirements similarly protect the safety, health and welfare of the public by confirming that all required site improvements have been properly completed and that the property can be safely used for its intended purpose. See *Hebert Aff.* at ¶ 22. Allowing the plaintiff to use the Property without a Certificate of Occupancy and before the site improvements have been completed creates a risk of danger to the public.

The plaintiff does not discuss the public interests served by the land use regulations and, instead, simply states in conclusory fashion that “[i]t is in the public interest to protect constitutional rights.” See Plaintiff’s Memo at ¶ 32. As explained, the plaintiff is unlikely to prevail on its constitutional claims since the Town treats religious and non-religious property

owners the same in that all property owners are required to obtain a Certificate of Occupancy if they change the existing use of the property or make significant structural changes or improvements to the property. The public interest would not be served by compelling the Town to allow the plaintiff to occupy the Property without a Certificate of Occupancy and without confirming that the property can be safely used for its new non-residential purpose. If the Town must do this for the plaintiff, it is difficult to see how the Town could enforce the Certificate of Occupancy requirement for any property owner. Depriving the Town of its ability to enforce land use regulations does not serve the public interest.

CONCLUSION

The plaintiff is not entitled to a preliminary injunction because: (1) the plaintiff is unlikely to prevail on the merits of its claims; (2) the plaintiff has not and will not sustain irreparable harm and has alternative legal remedies available; and (3) the public interest favors enforcement of the Town's land use regulations. As a result, the Town requests that the Court issue an order denying the plaintiff's Motion for Preliminary Injunction.

Respectfully submitted,

TOWN OF BEDFORD

By its Attorneys,

DEVINE, MILLIMET & BRANCH, PA

Date: November 15, 2021

By: /s/ Donald L. Smith

Donald L. Smith, Esquire, (No. 13525)

111 Amherst Street

Manchester, NH 03101

(603) 669-1000

dsmith@devinemillimet.com

CERTIFICATION

I hereby certify that a copy of the forgoing was forwarded to counsel of record on this date in accordance with the Superior Court Civil Rules.

/s/ Donald L. Smith

Donald L. Smith, Esquire

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
NORTHERN DISTRICT

SUPERIOR COURT

New Hope Christian Fellowship

v.

Town of Bedford

Docket No. 216-2021-CV-00551

AFFIDAVIT OF REBECCA HEBERT

I, Rebecca Hebert, being duly sworn do hereby depose and state a follows:

1. I am the Planning Director/Zoning Administrator for the Town of Bedford, New Hampshire and I have personal knowledge of the facts set forth in this Affidavit.

2. The Town of Bedford Land Development Regulations relating to Site Plan Regulations (Section 301-Section 319) are attached to this Affidavit as Exhibit 1.

3. The Site Plan Regulations apply “to all site plans, for non-residential and/or multifamily development, expansion, or change of use located within the boundaries of the Town of Bedford.”

4. On July 29, 2020, the plaintiff submitted a Site Plan Application (“SPA”) to the Town of Bedford Planning Board related to residential property that it had purchased located at 445 Route 101 in Bedford, New Hampshire (the “Property”). A copy of the SPA is attached to this Affidavit as Exhibit 2.

5. The SPA describes the plan purpose as follows: “To change the use of the existing residential home to a place of worship sized to hold 50 patrons. Construct the associated necessary site plan improvements for the change of use and the building addition.”

6. In conjunction with the SPA, the plaintiff also filed Architectural Plans detailing the proposed renovations and additions to the Property. A copy of the Architectural Plans is attached to this Affidavit as Exhibit 3.

7. The scope of the project is described in the Bedford Planning Board Staff Report which is attached as Exhibit 4 to this Affidavit. The scope of the project included building a 472 square-foot addition at the front of the existing 2,442 square-foot building with the entire building devoted to church use, widening the driveway to 24-feet to accommodate two-way traffic, and constructing a parking area to serve 26 vehicles, including two accessible spaces. The project also required a Driveway Permit from the New Hampshire Department of Transportation because the Property is located on Route 101, which is a state-maintained road.

8. The SPA was placed on the agenda for the Planning Board's September 14, 2020 meeting. A copy of the Agenda for the September 14, 2020 Planning Board meeting is attached to this Affidavit as Exhibit 5.

9. Consideration of the SPA was tabled at the September 14, 2020 Planning Board meeting due to time limitations. A copy of the Minutes for the September 14, 2020 Planning Board meeting is attached to this Affidavit as Exhibit 6.

10. The SPA was then placed on the agenda for the Planning Board's October 12, 2020 meeting. A copy of the Agenda for the October 12, 2020 Planning Board meeting is attached to this Affidavit as Exhibit 7.

11. The Planning Board considered and approved the SPA at the October 12, 2020 meeting. A copy of the Minutes for the October 12, 2020 Planning Board meeting is attached to this Affidavit as Exhibit 8.

12. The approval included granting several waivers requested by the plaintiff.

13. The approval also contained numerous conditions, including the following: “Prior to issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed.”

14. On October 26, 2020, the Planning Board issued a letter to the plaintiff officially confirming the approval of the SPA. A copy of the approval letter is attached to this Affidavit as Exhibit 9.

15. The letter described the waivers the Planning Board had granted, and listed the conditions of approval, including that “Prior to issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed.”

16. The plaintiff did not seek reconsideration of the approval of the SPA or any of the conditions attached to the approval, including the requirement that all site improvements on the plan must be completed prior to the issuance of a Certificate of Occupancy.

17. On or about October 15, 2021, the Town issued a Cease and Desist Order to the plaintiff notifying the plaintiff that it was in violation of Sect. 92-10 of the Building Code Ordinance and Sect. 111.1 of the International Building Code. A copy of the Cease and Desist Order is attached to this Affidavit as Exhibit 10.

18. The Cease and Desist Order quoted Sect. 92-10 of the Building Code Ordinance, which states as follows:

92-10: No person shall use or permit the use for any purpose of any building, structure, or premises thereof after erected, altered, converted or extended until a certificate of occupancy or a building final is issued by the Building Code Official or his designee.

19. The Cease and Desist Order also quoted Sect 111.1 of the International Building Code, which states as follows:

111.1: Use and Occupancy. A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

20. The Certificate of Occupancy requirement applies to all requests by property owners to change the existing use of the property or to make substantial structural changes or site improvements to the property.

21. The Town requires a Certificate of Occupancy regardless of whether the new use of the property will be for commercial, social, political, religious, or other reasons.

22. The purpose of the Certificate of Occupancy requirement is to protect the safety, health and welfare of the public by confirming that all required site improvements have been properly completed and that the property can be safely used for its intended purpose and complies with all applications and conditions in the planning board approval.

23. At this time, the Town cannot issue a Certificate of Occupancy for the property because the site improvements have not been completed and the property is actively under construction.

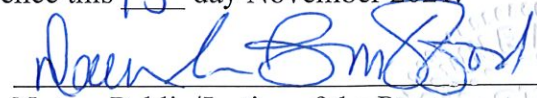
FURTHER AFFIANT SAYETH NOT

Dated: Nov. 15, 2021

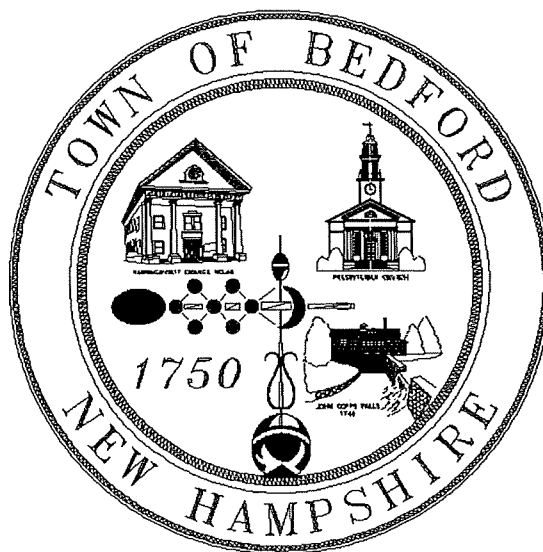

Rebecca Hebert, Planning Director/Zoning Administrator

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

Sworn before me and subscribed in my presence this 15 day November 2021.


Notary Public/Justice of the Peace
DAWN E. BOUFFORD
Notary Public - New Hampshire
My commission expires December 18, 2025

Town of Bedford New Hampshire



Land Development Control Regulations

November 04, 2002
Revised through
August 16, 2021

Part III - Site Plan Regulations

ARTICLE 300 - GENERAL PROVISIONS

Section 301 - Title

Part III of these Land Development Control Regulations shall be known as the Site Plan Regulations of the Town of Bedford, New Hampshire.

Section 302 - Authority

These regulations have been prepared in accordance with the authority vested in the Town of Bedford Planning Board by vote of Town Meeting on March 14, 1978 and in accordance with RSA 674:43, as amended.

Section 303 - Purpose

303.1 Uphold the purposes set forth in RSA 674:44 to:

- a. Provide for the safe and attractive development or change or expansion of use of the site and guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of: inadequate drainage or conditions conducive to flooding of the property or that of another; inadequate protection for the quality of groundwater; undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, light, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties; and inadequate provision for fire safety, prevention, and control; and the inadequacy of vehicle and pedestrian safety;
- b. Provide for open, harmonious and aesthetically pleasing development of the subject site, the municipality and its environs;
- c. Provide for open spaces and green spaces of adequate proportions;
- d. Require the proper arrangement and coordination of streets within the site and in relation to other existing or planned streets;
- e. Require suitably located streets of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for firefighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system;

- f. Require, in proper cases, that plats showing new streets or narrowing or widening of such streets be submitted to the Planning Board for approval;
 - g. Require that the land indicated on plats submitted to the Planning Board shall be of such character that it can be used for building purposes without danger to health, safety or welfare; and
 - h. Include such provisions as will tend to create conditions favorable for health, safety, convenience, and prosperity.
- 303.2 To assist the Planning Board in carrying out the objectives of the Town's Master Plan.
- 303.3 To provide for the timely installation of off-site and on-site improvements necessitated by the development and for the payment of such improvement costs.

Section 304 - Applicability

- 304.1 These regulations shall apply to all site plans, for non-residential and/or multifamily development, expansion, or change of use located within the boundaries of the Town of Bedford.
- 304.2 Neither non-residential nor multi-family residential land development activities shall commence until:
- a. The proponent has obtained final approval of the site plan; and
 - b. An adequate performance guarantee, if required, as outlined in Section 330 of these Regulations, has been received by the Town.
- 304.3 Notwithstanding these regulations, any person may, without Planning Board approval, record a plan of the type described in RSA 676:18, II, and II-a, provided however, that no other or additional information is included thereon except as authorized by said statute and certified thereon in accordance with RSA 676:18 III.
- 304.4 No tree cutting or disturbance of the land shall occur in anticipation of site plan approval until the plat has been approved by the Bedford Planning Board.

Section 305 - Appeals

- 305.1 Any person aggrieved by any decision of the Planning Board upon these Regulations may appeal to the Superior Court as provided in RSA 677:15.

- 305.2 Any person aggrieved by a decision of the Planning Board concerning site plan approval or disapproval may appeal to the Zoning Board of Adjustment if the decision was based upon the terms of the Zoning Ordinance, as provided in RSA 676:5, III.

Section 306 - Waivers

- 306.1 Upon request of an applicant, the Planning Board may find that the strict compliance with each and every one of these regulations is not applicable for a specific application. In the case of such a finding, the Board may modify or waive one or more sections of these Regulations, provided that:
- a. The information is not necessary in order for the Planning Board to make an informed decision;
 - b. The waiver shall not have the effect of nullifying the intent and purpose of these Regulations;
 - c. The Planning Board requires such conditions as will, in its judgment, secure the objectives of the Regulations which are waived;
 - d. The waiver is requested in writing;
 - e. The waiver is based on evidence presented to the Board by the applicant;
 - f. The Planning Board formally votes on such waiver; and
 - g. The waiver is noted on the final approved plan.
- 306.2 The requirements of Section 110 of these Regulations pertaining to "Special Flood Hazard Areas" shall not be waived.

ARTICLE 310 - APPLICATION, SUBMITTAL AND APPROVAL PROCEDURES

Section 311 - General

- 311.1 Prior to formal application for any site plan approval, the applicant is encouraged to meet with the Planning Staff to review the proposal.
- 311.2 Any application where abutter notification is required shall be filed at the Planning Board office in accordance with the annual schedule of Meeting and Deadline Dates. The application form shall be executed by the owner(s) or a letter of authorization provided.
- 311.3 The Planning Board office shall provide the applicant with a receipt stating the date, time of the application and all fees received, if so requested by the applicant or agent at the time of application delivery.
- 311.4 A final application which has been submitted to the Planning Department office for Planning Board approval, shall not be supplemented, revised or modified after public notice of hearing has been given. Changes will be allowed prior to such notice as the result of Planning Board, staff and consulting engineer comments.
- 311.5 An application may be withdrawn prior to the hearing, however, all application fees shall be forfeited and the applicant shall remain liable for all consultants' fees incurred prior to withdrawal of the application.
- 311.6 By filing an application with the Board, the applicant, including all the applicant's agents, consultants and representatives, consents to the review of the application by independent consultants retained by the Board at the applicants expense for the purposes of:
- a. Confirming that the application conforms with applicable state and local requirements; and
 - b. Recommending to the Board any additional studies or investigations and/or information from land surveyors, engineers, architects, attorneys, soil scientists, wetland scientists, or others with expertise in a particular field, and which could facilitate the Board's actions on the application.
- 311.7 All plans submitted to the Board for review shall be prepared by a Professional Engineer, Architect, or Land Surveyor, as applicable, who is licensed to practice in the State of New Hampshire.

- 311.8 Failure to comply with these application procedures or failure to comply with all applicable state and federal laws, ordinances and regulations shall be grounds for disapproval of the application.
- 311.9 All presentations to the Planning Board at public meetings shall include an overview of the project in an electronic image file - PDF - suitable for projection on the overhead screen located in the Planning Board's meeting room. A compact disk of the PDF to be used for the presentation at the public meeting shall be submitted with the Concept, Design Review, or Final application, and the Planning Staff will project the images during the applicant's presentation, at its discretion. The applicant may use his/her own computer equipment to make a presentation, including Powerpoint slides, provided that a copy of all such files shall be submitted to the Planning Department at the time of the public presentation, so that the images can be incorporated into the public record.

Section 312 - Conceptual Review

- 312.1 Prior to formal application for Site Plan approval, an applicant, or the authorized agent, may request an informal consultation under RSA 676:4 II (a) with the Board to discuss the proposal and preliminary concepts associated with the proposed development, and to provide the Board an opportunity to provide its input in order to assure conformance with current regulations.
- 312.2 This consultation shall neither bind the applicant nor the Board.
- 312.3 This consultation shall be limited to conceptual discussions related to the desirability of the proposed development.
- 312.4 This consultation shall occur only at a regular or special meeting of the Board.
- 312.5 This consultation shall require formal abutter notification via U.S. Mail (non-certified).
- 312.6 Plan review under this section shall not constitute a completed application, nor formal acceptance by the Board under RSA 676:4, I (c); nor shall any plans submitted for conceptual consultation be deemed to be a completed application under that section.
- 312.7 For Conceptual Consultation, an applicant shall provide information sufficient for the Planning Board to give meaningful comments. Three (3) copies and a portable document format (pdf) file of the concept plan shall be submitted, along with the completed Site Plan Application, an abutter list and one set of abutter labels. A completed checklist is not necessary.

Section 313 - Comprehensive Planning Application - deleted November 5,
2012

Section 314 - Design Review Phase

- 314.1 Design Review Phase is not required, but is strongly recommended, particularly in cases of developments of significant size or complexity.
- 314.2 Design Review Phase shall be used for design review under RSA 676:4, II (b). During Design Review, the Board may engage in non-binding discussion with the applicant that may extend beyond conceptual and general terms.
- 314.3 Design Review Phase shall not constitute a completed application nor formal acceptance under these regulations or under RSA 676:4, I (c); nor shall any plan submitted for design review be deemed to be a completed application under this section.
- 314.4 Design Review Phase review may occur only after notice and publication as prescribed under RSA 676:4, I (d), including the notification of all abutters.
- 314.5 Three (3) copies and a portable document format (pdf) file of the Design Review Phase Submittal shall be filed with the Board at the time of Design Review Phase Application. In addition, a completed Site Plan Application shall be filed. The Board will then study the preliminary site layout and proposed streets in connection with the topography of the area, the existing requirements of the community, and the best use of the land to be developed and that of the adjoining areas.
- 314.6 The Board may hold discussions with the applicant or agent(s) and may hear and confer with other parties whose interests may be affected by the proposed layout. After such discussions, the Board shall communicate to the developer the specific changes, if any, which it may require as prerequisite to the subsequent approval of the final site plan.
- 314.7 The applicant is encouraged to discuss the proposal with the Town's consulting review engineer during the Design Review process.

Section 315 - Requirements for Design Review Phase Submittals

315.1 Presentation requirements:

- 315.1.1 Scale of all drawings shall be 50 feet to the inch or less for all Design Review Phase submittals, and shall be limited to a sheet size of 22 inches by 34 inches with a one-inch margin on three sides for binding.
- 315.1.2 Lettering size shall be not less than 1/10 (0.10) inch.

- 315.1.3 If more than one sheet is necessary to show the entire site at the required scale, an index plan at a scale adequate to show the entire site on one plan sheet shall be provided and shall be drafted so as to create a graphical index of sheets.
- 315.1.4 All match lines shall be clearly shown and labeled.
- 315.2 The Design Review Application shall be accompanied by three (3) copies and a portable document format (pdf) file of the proposed site plan which shall include the following information:
- 315.2.1 Proposed development name, location, north arrow, scale, and date of preparation.
- 315.2.2 Boundary information prepared from existing deeds and field information. Distances may be shown to the nearest foot and bearings shall be shown to the nearest one-minute. Area of subject parcel(s) in acres and square feet and location and elevation of any flood hazard areas situated on the parcel.
- 315.2.3 Names, addresses and phone numbers of the: Owner(s) of record; Applicant; and Engineer and/or Land Surveyor.
- 315.2.4 Locus map at a scale of 2,000 feet to the inch or less.
- 315.2.5 Abutting lot lines, streets, alleys, easements, parks, public open spaces, and zoning districts. All shall be clearly labeled and Tax Map numbers indicated where applicable. Name and addresses of all abutters shall be included and shall also be submitted on a separate sheet of paper.
- 315.2.6 Wetland mapping of the subject parcel shall be completed by a Certified Wetland Scientist. HISS mapping performed by a Certified Soil Scientist shall be completed if the site will be served by on site sewer and water facilities.
- 315.2.7 Location and dimensions of all existing and proposed easements, building setbacks and other restrictions.
- 315.2.8 Existing topography showing surface contours at an interval of two feet or less, watercourses, ponds, standing water, wetlands (as determined by a Certified Wetland Scientist, rock outcrops and ledges, tree lines, utility poles, buildings, pavement and gravel areas, and other physical features as may be found within fifty (50) feet of the parcel boundary.

- 315.2.9 Existing and proposed water mains, sanitary sewers, storm sewers and culverts including size, material and direction of flow.
- 315.2.10 Location and dimensions of existing and proposed buildings and accessory structures. A note shall be provided on the plan which indicates the total gross floor area of each existing and proposed building with a breakdown of the total gross floor area in each building assigned to a particular use. Pedestrian access and service/loading provisions for each building will be identified as applicable.
- 315.2.11 Location and layout of all existing and proposed parking areas, aisles and access drives. Parking calculations based on proposed site use shall be provided.
- 315.2.12 Preliminary Exterior Lighting and Landscape Plan.
- 315.2.13 Preliminary Drainage Report and Calculations.
- 315.2.14 Drainage plan showing the following: the direction of runoff, both existing and proposed, through the use of arrows; the existing and proposed methods of handling storm water runoff; and the location, elevation and size of all catch basins, storm sewers, culverts, drainage ditches, swales and retention/detention basins.
- 315.2.15 Preliminary design plans of any proposed off-site improvements.
- 315.2.16 The applicant will submit a completed Design Review Application; a completed Design Review Application Checklist; and all required fees.

Section 316 - Final Application Phase

- 316.1 At the initial Public Hearing of a Final Site Plan Application, the Board shall determine whether or not the submitted application is complete according to the Regulations of the Board as outlined below and pursuant to RSA 676:4, I (c). Such determination shall be made by vote of the Board within 30 days of delivery of the application. If the Board determines that the application is not complete, the Board shall notify the applicant in writing of the determination in accordance with RSA 676:3, and shall state in that notice the information, procedure or other requirement necessary for the application to be complete.
- 316.2 If the Board determines that a final Site Plan Application is complete according to the regulations of the Board, the Board shall vote to accept the application for jurisdiction. The Board shall then begin formal consideration of the application.

- 316.3 Before the Final Application is approved or disapproved, the Board shall hold a public hearing on the same, which may occur at the same meeting that the Application is accepted.
- 316.4 The Board shall vote to approve, approve subject to conditions, or disapprove the application within 65 (sixty-five) days of the vote that the application is complete unless:
- a. upon request by the Planning Board, the Town Council granted an extension not to exceed in additional 90 (ninety) days; or
 - b. the applicant waives this requirement in writing and consents to a mutually agreeable extension of time.
- 316.5 If the Planning Board fails to act within the time specified by these regulations, RSA 676:4, or any previously agreed extension, then the applicant may apply to the Town Council for relief as described in RSA 676:4, I (c).
- 316.6 The Town Council is hereby specified as the Municipal Board which shall issue on behalf of the Planning Board, a certificate of failure on the part of the Planning Board to take action on approval or disapproval of a plat submitted to it, as provided in RSA 676:4, I (c) (1).

Section 317 - Requirements for Final Application Phase Submittals

- 317.1 A complete Final Application for the purposes of these regulations and for the purposes of RSA 676:4, I (c) shall be accompanied by three (3) copies and a portable document format (pdf) file of the proposed plans, which shall include the following information:
- 317.1.1 Proposed development name or identifying title, name and address of the owner of record and developer, and the name of the consultant(s), date, scale, north point, lot numbers, location map at a scale of 2,000 feet to the inch or less, revision block, surveyor's certifications, sheets numbered sequentially, plan notes and purpose, owner's signature block and a Planning Board approval block located in the lower right hand corner of the cover sheet, adjacent to the title block.
 - 317.1.2 The area of the parcel, street frontage and zoning requirements for minimum lot size and frontage.
 - 317.1.3 Zoning classification(s) of the parcel and the location of any abutting zoning districts or municipal boundaries.

- 317.1.4 Sufficient data to determine readily the location, bearing and length of all street lines, lot lines, boundary lines and to be able to reproduce such lines upon the ground. All dimensions shall be shown to the hundredth of a foot and bearings to the nearest one second. The error of closure shall not exceed 1 in 10,000. The Final Plat shall show the boundaries of the property, the location and description of all monumentation, a benchmark referencing U.S.G.S. Datum and shall be prepared and shown on a plan(s) and shall be sealed by a Licensed Land Surveyor, unless taken from a reference plan meeting the above requirements. If boundary data taken directly from a reference plan, the registry recording number and title of said plan shall be cited.
- 317.1.5 Abutting lot lines, streets, pavement widths, alleys, easements, parks, public open spaces and similar relevant facts. Tax map, lot number, owners names and addresses for all abutting parcels matching similar data provided on the abutters list submitted with the application.
- 317.1.6 Location and elevation of any designated flood hazard areas.
- 317.1.7 Street right-of-way lines, building setback lines, pedestrian ways, lot lines, reservations, easements and areas to be dedicated to public use and areas, the title to which are reserved by the developer.
- 317.1.8 All stipulations and restrictions intended to remain in perpetuity shall be shown on the Final Plat. This will include those required by the Planning Board, Conservation Commission and Zoning Board of Adjustment as applicable, to said plan. In addition, any waivers granted by the Planning Board shall also be duly noted on the final plan.
- 317.1.9 Draft copies of all proposed easements deeds or other legal documents shall be submitted with the application.
- 317.1.10 Two-foot contour interval topographical survey data of the subject site and immediate surroundings. This existing conditions survey shall show all existing site improvements and tree lines, ledge outcroppings and other significant features on subject site and immediate vicinity. Topographical survey data provided shall be referenced to USGS Datum.
- 317.1.11 High Intensity Soil Survey Mapping (showing soil types and locations) shall be prepared, shown on a plan(s), and shall be sealed by a Certified Soil Scientist, where site is to be served by on site water supply and sewage disposal facilities. USDA - SCS mapping shall be provided where site is to be served by municipal utilities.

- 317.1.12 Wetlands mapping shall be prepared, shown on a plan(s), and shall be sealed by a Certified Wetland Scientist. Names of water bodies and streams shall be noted.
- 317.1.13 Location and exterior dimensions and height of existing and proposed buildings, accessory structures, and the location of existing wells and septic systems and their disposition.
- 317.1.14 A note on the plan indicating total gross floor area of each existing or proposed building to remain, as well as a breakdown of the total gross floor area for each building by use classification, and percentage of building and impervious lot coverage.
- 317.1.15 Access points and service/loading areas for all buildings.
- 317.1.16 Location, widths, inside radii and layout of all proposed/existing drives, parking areas, fire lanes, guardrails & fences, pavement areas, existing/proposed curbing and walks.
- 317.1.17 Detailed parking calculations. (See Section 322)
- 317.1.18 Solid waste storage areas (See Section 327.2), snow storage areas (See Section 327.3), traffic control signs and pavement markings per the Manual on Uniform Traffic Control Devices (MUTCD).
- 317.1.19 Exterior lighting provisions and details of all proposed lighting fixtures. (See Section 327.1) In addition, the location of all overhead utility lines, poles, towers, etc.
- 317.1.20 Landscape design plans and details.
- 317.1.21 A detailed erosion and sedimentation control plan. (See Section 327.5)
- 317.1.22 Commercial signage details and locations. (See Section 327.4)
- 317.1.23 Construction details of all site improvements.
- 317.1.24 A detailed site grading plan with proposed finish/design grades indicated by contours and/or spot grades, limits of tree clearing area, along with the location of all test pits when applicable.
- 317.1.25 Detailed off-site improvement plans, where applicable.

- 317.1.26 Drainage calculations shall be prepared and sealed by a Licensed Professional Engineer; and drainage improvements shall be shown on a plan(s).
- 317.1.27 Sanitary sewer or septic design calculations shall be prepared, when applicable, and be sealed by a Licensed Professional Engineer: all sanitary sewer or septic improvements shall be shown on the plan(s).
- 317.1.28 Water distribution design calculations shall be prepared and sealed by a Licensed Professional Engineer. All water distribution system improvements shall be shown on the plan(s).
- 317.1.29 Traffic Impact Statements (TIS), when required, shall be prepared and sealed by a Licensed Professional Engineer. The scope of a TIS shall be determined through a scoping meeting with the Town's traffic consulting engineer. The Planning Staff should be contacted prior to the commencement of any TIS.
- 317.1.30 Fiscal Impact Study (FIS), when required, shall be prepared using the spreadsheets provided by the Planning Department. The scope of a FIS shall be as determined by the Planning Department.
- 317.1.31 Drawings required with the Final Plat shall be prepared, certified and sealed by a Licensed Professional Engineer and shall include: profiles of all proposed streets, water mains, sewers and open waterways with a horizontal scale of 1 inch to 50 feet, and vertical scale of 1 inch to 5 feet. All elevations shall refer to an established benchmark.
- 317.1.31.1 Drainage, sanitary sewer and water distribution plans shall be subject to the following requirements:
- a. Outlines of streets, lots, easements, etc. as shown on the final plan with distances to the nearest foot;
 - b. Location of all manholes, catch basins, hydrants, structures downstream drainage facilities and utility poles or underground lines and pipes;
 - c. Sizes and type or class of all pipe, including storm sewer, sanitary sewer, water and gas mains and service stubs;
 - d. Location, type and detailed design of special structures or bridges; and
 - e. Proposed tax map and lot number for each lot.

- 317.1.32 Elevation drawings detailing materials, colors and finishes, shall be required by the Planning Board.
- 317.1.33 Copies of all required State, Federal, and local project permits necessary for the subject site development proposal.
- 317.1.34 The hours of operation of the proposed development, including but not limited to operational times, loading and unloading, dumpster activity, and lighting operations may be regulated by the Planning Board if it is determined by the Board that the proposed use will have a detrimental impact upon abutting properties.
- 317.1.35 All other information identified on the Bedford Planning Board's Nonresidential Site Plan Review Application Checklist.
- 317.1.36 Seven (7) paper and two (2) mylar copies and a portable document format (pdf) file of the final plans shall be submitted for Planning Board signature.

Section 318 - Fees and Costs

Upon submittal of an application, the Planning Department shall determine the application fee prior to a public hearing. The application fee, along with costs for legal notification, outside consultant review, advertising, recording and other applicable fees, shall be billed to the applicant. The Applicant shall pay all fees prior to the Planning Board accepting the application at a public hearing. A complete fee schedule is on file at the Bedford Planning Department.

Section 319 - Public Hearings

- 319.1 Whenever a public hearing is required by these Regulations or by applicable statutes, the following procedures shall be used.
- 319.2 The applicant shall be present at the public hearing. If the applicant is not the owner of the parcel under review, the applicant shall provide a written authorization, containing the notarized signature of the owner(s), authorizing the applicant to act as an agent, for and on behalf of the owner(s), at such public hearings, and authorizing the agent to make all decisions and commitments with respect to the Board's review of the proposal which the owner(s) could make if personally present.
- 319.3 Notice of the application shall be sent by certified mail sent at least 10 days prior to the public hearing to the following persons:

- a. Abutters as defined in Section 102.5 of these Regulations;
 - b. The applicant and current property owner;
 - c. Holders of land conservation, preservation or agricultural preservation restriction; and
 - d. Every engineer, architect, land surveyor, soil scientist, or wetlands scientist whose professional seal appears on the plat submitted to the Board.
- 319.4 Notice to the general public shall be given by publishing in a newspaper of general circulation at least 10 (ten) days prior to the public hearing and posting in two public places within the Town.
- 319.5 All notices shall include a general description of the proposal, the applicant's name, the location of the proposal, the date, time and place of the public hearing, and the proposed actions to be taken by the Board.
- 319.6 Additional notice is not required for additional hearings on a proposal if the date, time and place of the additional hearing was made known at the prior hearing.
- 319.7 At the Public hearing, any applicant, abutter, holder of conservation, preservation or agricultural preservation restriction, or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board.

Town of Bedford

SITE PLAN APPLICATION



PLANNING BOARD

24 North Amherst Rd.
Bedford N.H. 03110
Tel. (603) 472-5243
Fax (603) 472-4572

MAP/LOT: _____

Date Received: ____/____/____

MUNIS No. _____

1. PROJECT TYPE: ☐ Conceptual ☐ Design Review ☒ Final Approval
☐ Renewal ☐ Re-approval ☐ Site Plan Amendment
☐ Change of Use
2. PROJECT NAME: New Hope Christian Fellowship ZONE RA
3. PROJECT LOCATION: 445 ROUTE 101
4. PRIMARY CONTACT: Samuel Foisie, P.E. Phone: (603) 673-1441
☐ Applicant ☐ Owner ☒ Surveyor/Engineer E-mail: srfoisie@meridianlandservices.com
5. Applicant(s): Alan Geodecke, New Hope Christian Fellowship
Address: 445 ROUTE 101 City: Bedford State: Nh Zip: 03310
Phone: _____ Fax: _____ E-mail: alangodecke@comcast.net
6. Owner(s): New Hope Christian Fellowship
Address: 445 ROUTE 101 City: Bedford State: NH Zip: 03310
Phone: _____ Fax: _____ E-mail: alangodecke@comcast.net
7. Surveyor/Engineer (Firm): Meridian Land Services, Inc.
Address: 31 Old Nashua Rd #2 City: Amherst State: NH Zip: 03031
Phone: (603) 673-1441 Fax: _____ E-mail: srfoisie@meridianlandservices.com
8. Plan Purpose [as stated on plan to include proposed use(s)]: To change the use of the existing residential home to a place of worship sized to hold 50 patrons. Construct the associated necessary site improvements for the change of use and the building addition.
9. Site Area: 9.45 acres Existing Building Area: 2,554 sf Additional Building Area: 480 sf No. Stories: 1
Percent Building Coverage: 0.74% (Note all areas in square feet. Building area refers to gross building area.)

I/We have read the site plan requirements in the Land Development Control Regulations. The undersigned understands that the Bedford Planning Board must have a completed application on file with the Planning Department in accordance with the Planning Board's annual schedule of meeting and deadline dates. I/We also certify that the abutters are as shown in the Town's records within 5 (five) days of filing this application.

I/We designate Alan Geodecke as the person/persons to whom all communications to the applicant may be addressed.

Applicant's Signature: Alan R Goedecke

Digitally signed by Alan R Goedecke
Date: 2020.07.29 11:58:49 -0400

Date: _____

I/We (property owners) Alan Geodecke of the land located at 445 ROUTE 101, Bedford, NH do hereby authorize Samuel Foisie, P.E. (name) of Meridian Land Services, Inc. (firm) to serve as my/our agent before the Bedford Planning Board for the site plan applied for in this application.

Owner's Signature(s): Alan R Goedecke

Digitally signed by Alan R Goedecke
Date: 2020.07.29 11:57:24 -0400

Date: _____

Note: The applicant or an authorized representative must be present at the scheduled Planning Board meeting(s).

rev

Town of Bedford

PLANNING BOARD APPLICATION PROCESS



PLANNING BOARD
24 North Amherst Rd.
Bedford N.H. 03110
Tel. (603) 472-5243
Fax (603) 472-4572

Other than Engineering Review, all submissions are to be made to the Bedford Planning Department in accordance with the Planning Board's Annual Schedule of Meeting and Deadline Dates.

Application Deadline Requirements:

- Please submit:
 - Five (5) complete plan sets and one CD with the plan in PDF format.
 - One (1) copy of all required documents (traffic worksheets/reports, drainage reports, waiver requests, easements, etc.) needed for site plan or subdivision review.
 - An abutters list with 3 sets of labels (only 1 set of labels required for Conceptual Plans).
 - A completed application and checklist (no checklist required for Conceptual Plans).
- This submittal does not require fees or mylars.
- Projects requiring outside engineering review (see below) should have review letters **prior** to submitting to the Planning Board, however necessary revisions are not required to be completed until the Plan Review Committee comments are received.

Agency Review:

- The Plan Review Committee will meet and then provide the applicant or their representative with comments which should be addressed along with any outside engineering review comments as part of a revised submittal. Meetings may be set up with applicants or their representatives to review the comments.

Final Submission:

- Upon receipt of Plan Review Committee comments, final submittals should be submitted in accordance with the Annual Schedule of Meeting and Deadline Dates.
- The revised submittal should consist of:
 - Two (2) full size paper sets of plans (mylars are not required until after Planning Board action)
 - Sixteen (16) 11"x17" sets of plans
 - A PDF of the plan set (including architectural and site photos)
 - One (1) copy of any revised document (reports, easements, waiver requests, etc.)
 - A signed application (owner and applicant)
 - All required fees (amounts will be provided as part of the Agency Review)

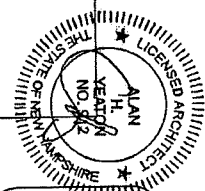
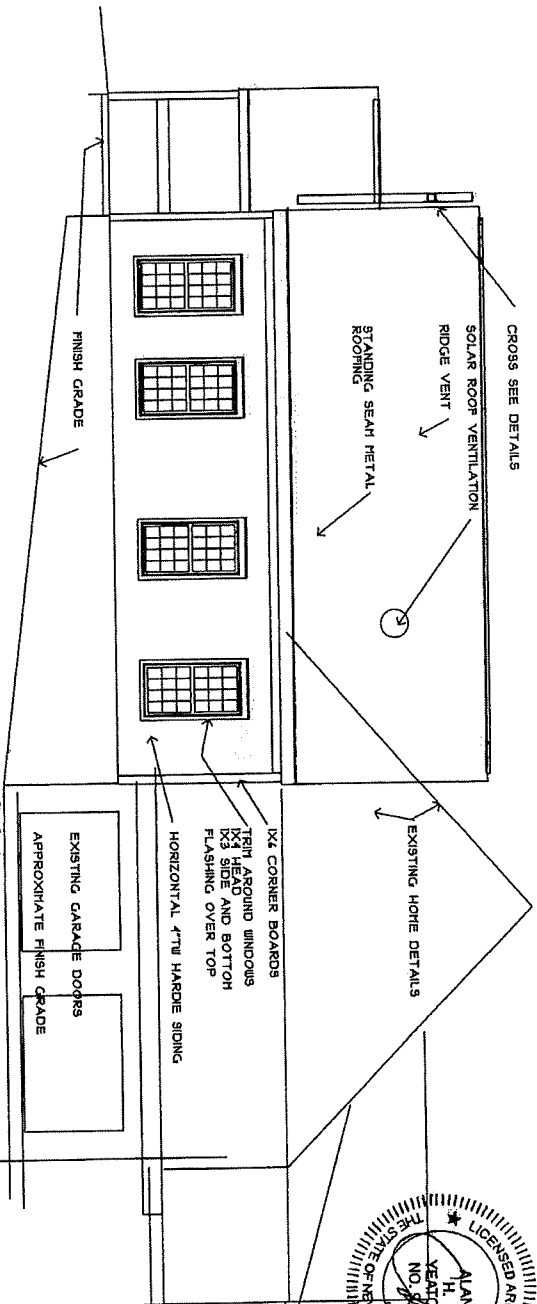
Planning Board Hearing:

- * ***The Applicant or an authorized representative must be present at the scheduled Planning Board meeting.***
- The Planning Board requests that plans be presented via computer for projection in the meeting room and for viewing over the cable TV broadcast. The PDF supplied as part of the Final Application will be loaded on a Town computer and available to applicants during the meeting.
- It is suggested that color rendered drawings be presented rather than the basic site plan. Applicants are welcome to use their own computers for the presentation however it is recommended that PDF's or Power Point files of the presentation materials be sent to the Planning Department prior to the meeting for loading on the Town's computer.

Engineering Review (coordinated by the Public Works Department)

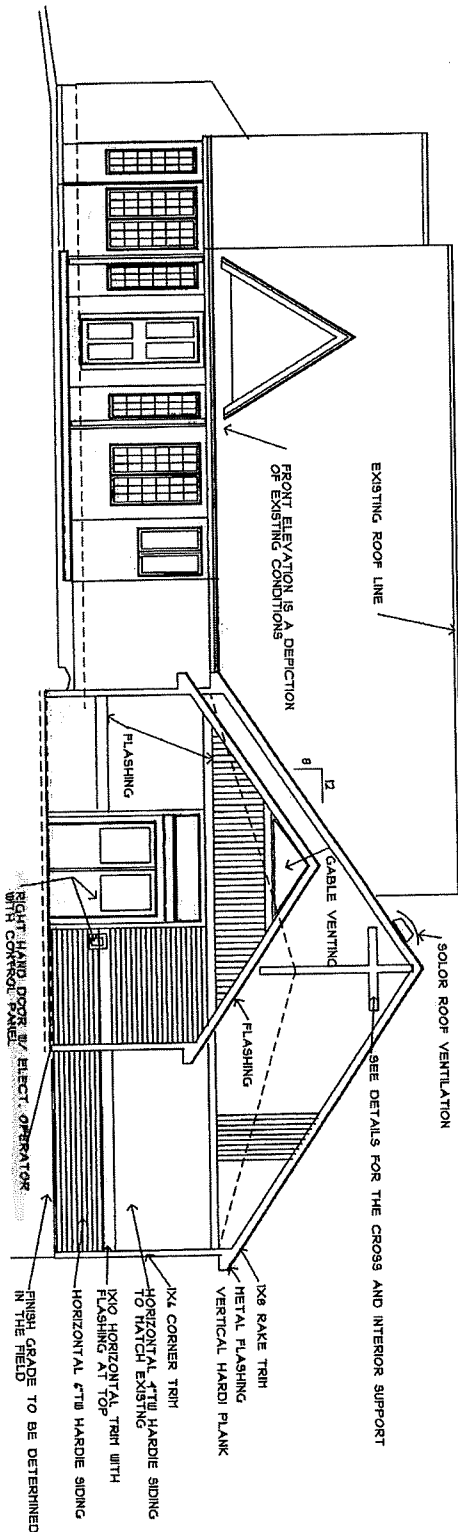
- Projects requiring outside engineering review must submit three (3) copies of all required documents (plans, traffic worksheets/reports, drainage reports, easements, etc.) along with a Project Review Transmittal form to the Bedford Public Works Department.
- Based on an estimate from the reviewing engineer you will be required to set up an escrow account with the Public Works Department to cover the anticipated cost of the engineering review.
- **If engineering review is required, it must be completed prior to applying to the Planning Board.**

RIGHT SIDE ELEVATION



This is a true and correct copy of the original drawing as submitted to the State of New Hampshire for recording and as the same appears on the public records of the State of New Hampshire. Made this 10th day of May, 2005.

FRONT ELEVATION



REVISIONS:
1.1.12
DATE: 5/23/05
DRAWN BY: A-1
CHECKED BY: A-1
DATE: 5/23/05

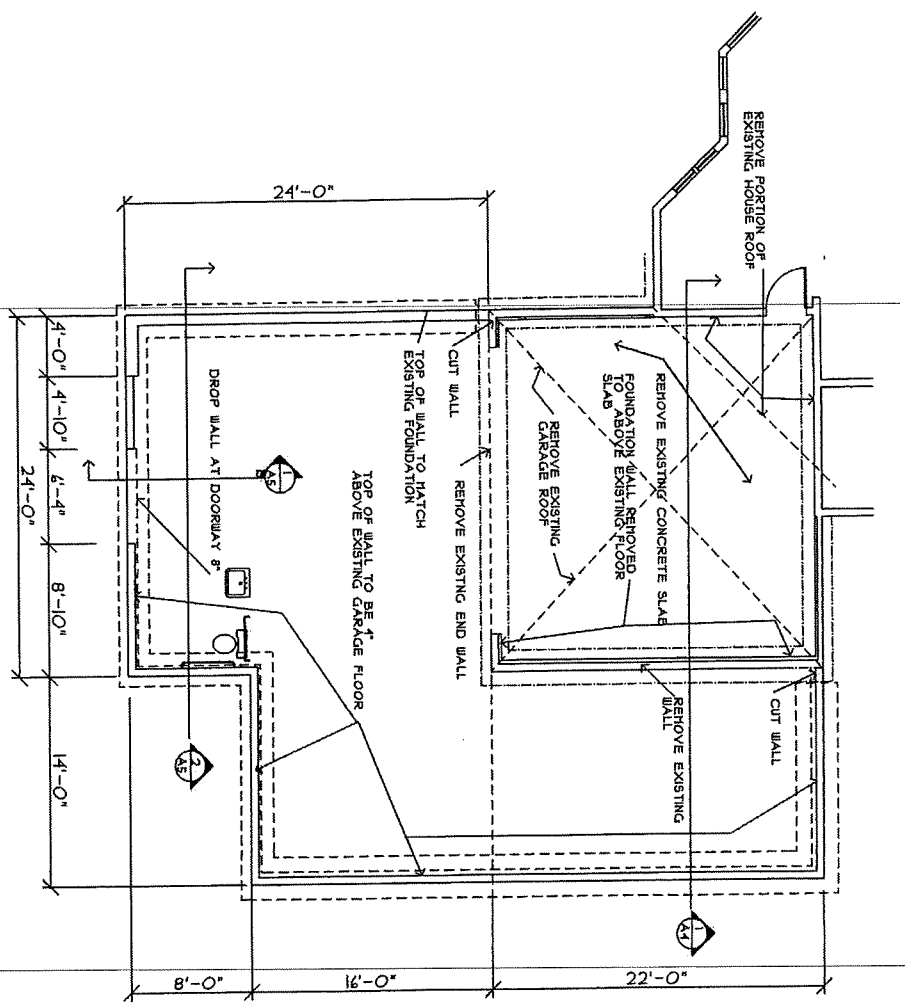
NEW HOPE CHRISTIAN CHURCH
ROUTE 101
BEDFORD, NEW HAMPSHIRE

AMOSKEAG ARCHITECTURAL GROUP
ALAN H. YEATON architect
1450 Elm Street, Suite 401 Manchester, NH 03101-1211
phone: (603) 606-1818 alanyea@comcast.net

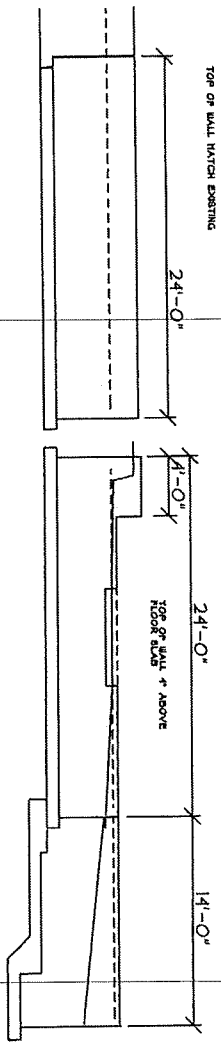
CONCRETE TO BE 3,000 PSI
 REINFORCING TO BE GRADE 40
 MESH FOR FLOOR SLABS 6x4 10/10
 VERIFY SOIL UNDER FOOTINGS
 4" POLY VAPOR BARRIER UNDER NEW SLABS
 DIVIDE NEW SLAB WITH CONTROL JIP STRIPS



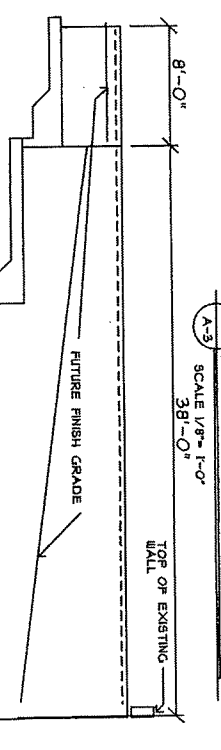
These drawings were prepared by the design engineer and the architect. The design engineer is responsible for the structural integrity of the design. The architect is responsible for the aesthetic and functional aspects of the design. The design engineer is not responsible for the construction of the project.



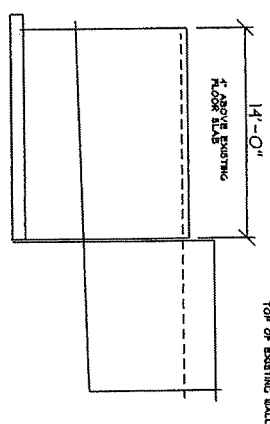
1 FOUNDATION PLAN
 A-3 SCALE 1/8" = 1'-0"



2 LEFT ELEVATION
 A-3 SCALE 1/8" = 1'-0"



3 FRONT ELEVATION
 A-3 SCALE 1/8" = 1'-0"



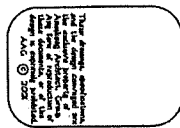
5 REAR ELEVATION
 A-3 SCALE 1/8" = 1'-0"

4 RIGHT ELEVATION
 A-3 SCALE 1/8" = 1'-0"

REVISIONS	DATE	BY	CHKD	APP'D
1	7.12.21			
2				
3				
4				
5				

NEW HOPE CHRISTIAN CHURCH
 ROUTE 101
 BEDFORD, NEW HAMPSHIRE

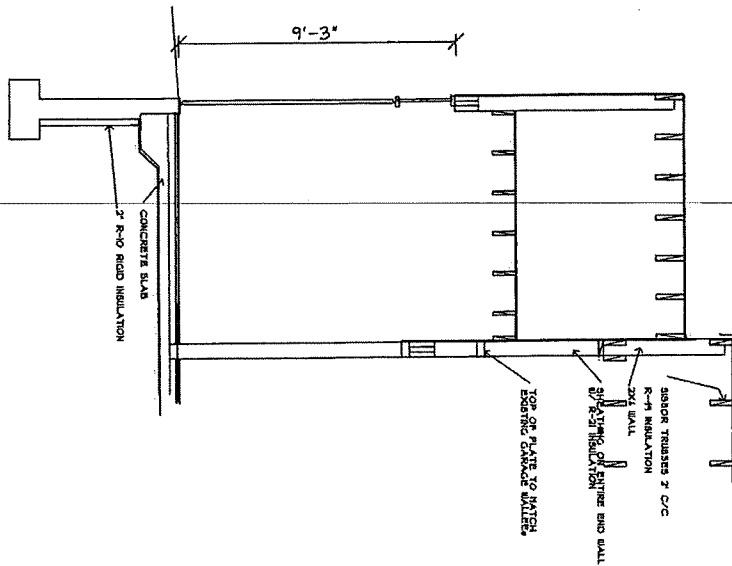
AMOSKEAG ARCHITECTURAL GROUP
 ALAN H. YEATON architect
 1650 elm street, suite 401, manchester, nh 03101-1217
 phone: (603) 406-1818 alanyeaton@comcast.net



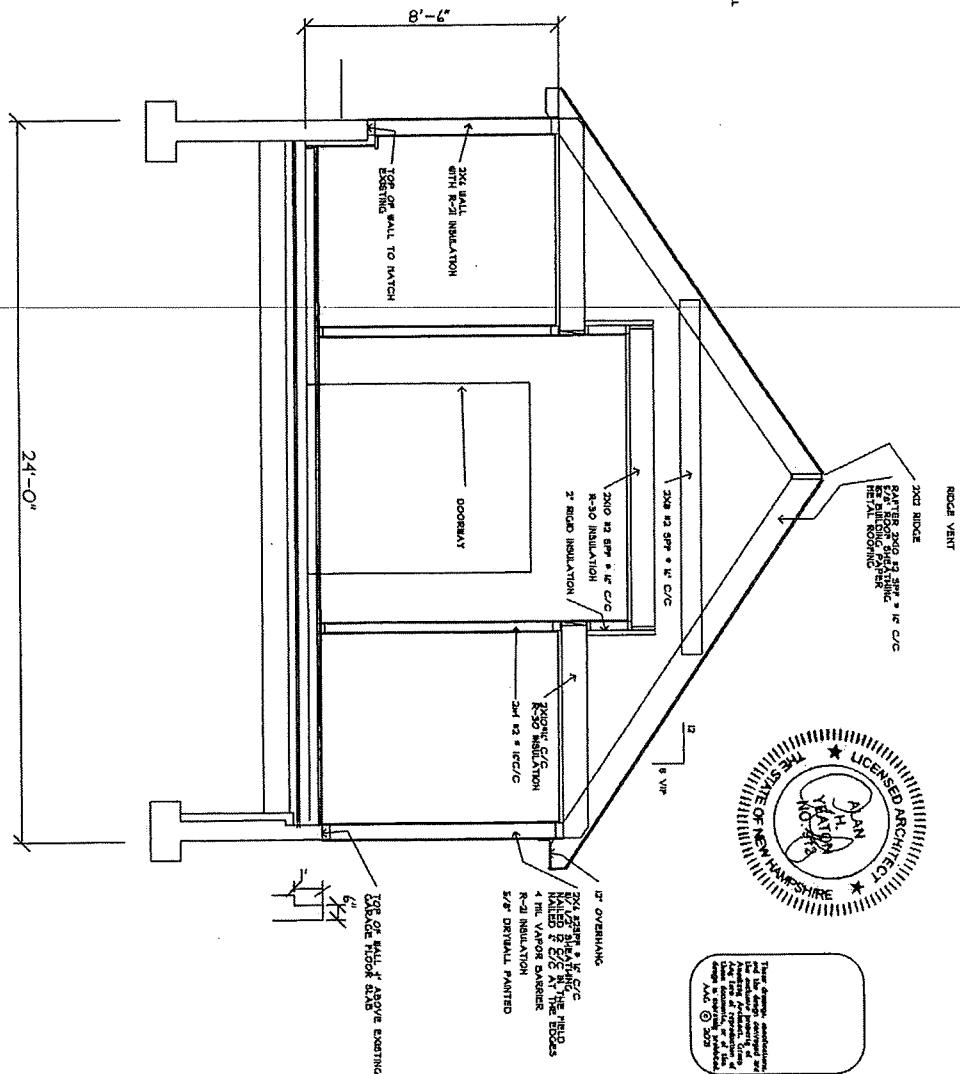
**AMOSKEAG ARCHITECTURAL
GROUP**
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1650 elm street, suite 401, manchester, nh 03101-1217
phone: (603) 604-1818 alonyeaston@comcast.net

A-4

REVISIONS:
7.12.21
DATE: 28/22/21
SOURCE: V8 - T-O
DRAWN BY: AHY
JOB NO: 1015



1 BUILDING SECTION
A-5 SCALE 1/8" = 1'-0"



2 BUILDING CROSS SECTION
A-5 SCALE 1/8" = 1'-0"



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REVISIONS:
1/2/21
DATE: 5/23/21
SCALE: 1/8" = 1'-0"
DRAWN BY: AHY
JOB NO: 1006
A-5

NEW HOPE CHRISTIAN CHURCH
ROUTE 101
BEDFORD, NEW HAMPSHIRE

AMOSKEAG ARCHITECTURAL GROUP
ALAN H. YEATON architect
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**BEDFORD PLANNING BOARD
STAFF REPORT**

TO: Bedford Planning Board
FROM: Mark Connors AICP, Assistant Planning Director
FOR: September 14, 2020
RE: **New Business #6 – New Hope Christian Fellowship Site Plan**

I. Project Statistics:

Owners: New Hope Christian Fellowship
Proposal: Request for approval of a site plan to convert an existing single-family residence to a church and to add a 472 square-foot addition and related site improvements
Location: 445 NH Route 101, Lot 31-44-1
Zoning: “R&A” – Residential & Agricultural
Surrounding Uses: Single-family residential, retail, conservation land, undeveloped parcels

II. Background Information:

The subject parcel is 9.45 acres and currently includes a single-family home and some small accessory structures. The parcel is located on the north side of NH Route 101A between Grey Road Road and Elk Drive just a bit west of the Pizza Mia retail center. A wetland bisects the lot flowing from the Town-owned Ash Bog conservation land to Route 101 where it flows through a culvert. The existing home and areas proposed for improvements are located on the western third of the lot. The applicant, New Hope Christian Church, currently operates out of a multi-tenant commercial building at 291 NH Route 101.

On July 13, 1998, the Planning Board denied a request to subdivide this parcel to create one additional lot due to safety concerns associated with adding an additional residential curb cut off of NH Route 101.

On December 16, 2019, the applicants appeared before the Planning Board with conceptual plans to develop another parcel, Lot 31-13, into a 4,000 square-foot church with a 51-space parking area capable of accommodating 136 parishioners. The Planning Board provided several comments, and were generally supportive of the use and the conceptual plans for the lot. The main concern expressed was if left-turning traffic accessing the site would necessitate a left-hand turning lane.

III. Project Description:

The applicant has acquired a separate property, located across the street from the site it previously considered, and is proposing a much smaller church than what was conceptually proposed in the December application. The applicant proposes to utilize the existing 2,441 square-foot single-family residence and add a 472 square-foot addition constructed at the front of the building with the entire building devoted to a church use. The existing driveway would be widened to 24-feet to accommodate two way traffic and a parking area would be constructed to serve 26 vehicles, including two accessible spaces, with two additional spaces provided in the existing garage. The applicant is requesting a waiver from Section

322.4.2 to allow 18 of the parking spaces and a portion of the driveway to be constructed of gravel instead of asphalt. With the improvements, the building would total 2,892 square-feet.

According to the applicant, the structure's primary use would be for church services, attended by 40-50 people on Sunday mornings, and bible studies and music practices, attended by 5 to 8 people, on Wednesday evenings. It is common however for churches to be utilized as community centers of sorts, with houses of worship hosting a variety of civic or charitable meetings. The applicant has submitted a trip generation memo showing that Sunday morning church services would generate the most intensive use of the site with 34 trips projected between 9 am and 1 pm on Sundays, including 17 trips entering and 17 trips exiting.

NH Route 101 is a state-maintained road and on August 5, 2020, NHDOT issued a Driveway Permit for this proposal (included in the Planning Board packets). Staff spoke with NHDOT engineer Brian Desfosses, who indicated he did not have any concerns due to the small scale of the proposal and the off-peak nature of traffic associated with church uses. The Southern NH Planning Commission has provided staff raw traffic counts collected in 2018 west of Jenkins Road on Route 101 (included in the packets) showing that Sunday traffic volumes are generally about 25 percent lower than weekday volumes. The applicant has provided calculations showing that the driveway will meet the Town's all season sight distance requirements.

The western portion of NH Route 101 remains a concern for the Town due to the higher posted speed limit (50 mph) and the lack of left-turn lanes provided for many roads and commercial uses. Those concerns are mitigated due to the limited nature of this proposal and the fact that its primary use will occur when Route 101 traffic counts are low. However, staff would recommend that the maximum occupancy of the church be limited to no more than 50 people to ensure that driveway traffic is not overwhelmed (Condition #6).

The existing residence is not visible from NH Route 101 due to the existing foliage and treeline and the plan shows that most of the existing treeline buffering the property will be preserved. Staff would recommend a note be added to the plan that the treeline shown on the plan should be undisturbed (Condition #4). The plan set does not include a landscape plan and the applicant is requesting a waiver from Section 317.1.11 to provide a landscape design plan. Recognizing that this use is somewhat unique, staff would not support a complete waiver of the landscape requirements and recommend that a landscape plan be provided showing some plantings adjacent to the improved areas of the site (Condition #5).

The applicant has provided an architectural elevation showing the front of the addition, which will be one-story in height and include a pitched roof and two windows of a traditional residential character. The addition will be built off the portion of the front of the house that currently includes a garage and the garage will be retrofitted to part of the church interior. Another two car garage on the east side of the home will remain. The narrative notes that the addition will be designed to blend in with the existing residential building, including clabboard siding of the same color and asphalt shingles. and indicates that no exterior changes are proposed to the existing residential home apart from the addition. There are several building and fire code issues associated with converting a single-family residential building to a church and staff has encouraged the applicant to meet with Fire and Building Department staff to ensure there are no surprises when internal renovations are pursued.

The applicant proposes to treat stormwater via a detention basin located to the southwest of the proposed parking area. The applicant has provided a full stormwater report indicating that peak stormwater flows and volumes will not increase under post development conditions. The Town's consulting engineer, VHB, has reviewed the plans and report and only minor comments are outstanding. Staff would recommend that the applicant modify the design for the basin so that the drainage outlet is located further from the abutting conservation land (Condition #9).

The applicant is proposing to maintain existing well and septic facilities on the lot. VHB notes that the applicant should receive confirmation from the Building and Fire Departments that the well is acceptable to serve the use and that septic flows should be calculated to confirm the existing septic system meets NHDES disposal system standards. The applicant will have to address those comments prior to final plan signature.

The applicant has provided a lighting plan showing that the exterior lighting will not encroach on to abutting properties or to Route 101. Staff would recommend that a note be added to the lighting plan indicating that exterior lighting will be shut off after 10 pm (Condition #8). The plans do not show a dumpster location and staff would recommend that the plans be revised to show one or a note be added to the plan that disposal will occur internal to the building (Condition #7).

The Fire Department reviewed the plans and provided several comments to the initial plan submission, but have indicated all of their comments have been addressed in the current plans.

IV. Waivers

The applicant is requesting the following waivers of the Zoning Ordinance and Land Development Control Regulations (please see Waiver Request Letter provided by Sam Foisie of Meridian Land Services):

- 1.) Section 315.2.6 to provide NRCS soil mapping in lieu of HISS mapping
- 2.) Section 316.1.10 to not provide topographical mapping for the entire lot.
- 3.) Section 317.1.11 to not provide a landscape design plan.
- 4.) Section 317.1.12 to not provide wetlands mapping for the entire lot.
- 5.) Section 322.4.2 to permit 18 parking spaces and a portion of the driveway to be a gravel surface where bituminous pavement is required.

Staff does not object to Waivers #1, 2, and 4, and 5. The applicant has provided topographic and wetland mapping data for all portions of the lot where improvements are proposed. The area where such information is not provided is separated from the rest of the lot by a wetland. The gravel parking area should be lightly utilized relative to commercial uses and the Fire Department has raised no objection. For the reasons previously stated in this report, staff would not support a waiver from providing a landscape plan and would recommend that the plans be revised to include one (Condition #5).

IV. Staff Recommendations:

The Planning Board needs to vote on whether or not to grant the waivers from Sections 315.2.6 (HISS mapping), 316.1.10 (topographic mapping for entire lot), 317.1.11 (Landscape Plan), 317.1.12

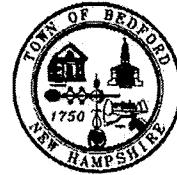
(wetland mapping for entire lot), and 322.4.2 (gravel parking surface) of the Land Development Control Regulations.

Planning staff recommends that the Planning Board grant final approval of the site plan to convert a single-family residence to a church at 445 NH Route 101, Lot 31-44-1, in accordance with engineering plans prepared by Meridian Land Services, Inc., last revised September 1, 2020, and the architectural plans by Amoskeag Architectural Group, last revised July 27, 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. 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. In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.
3. The Applicant shall submit any outstanding engineering review fees, if any, to the Planning Department.
4. The plan shall be revised to include a note that the treeline shown on the site plan shall be undisturbed.
5. The Applicant shall revise the plan to include a landscape plan that is to the satisfaction of the Planning Director.
6. The plan shall be revised to include a note that the maximum occupancy of the church shall be limited to no more than 50 people.
7. The plan shall be revised to show a dumpster location consistent with Town requirements or a note shall be added to the plan indicating trash disposal will be handled internal to the building.
8. The plan shall be revised to note that exterior lighting will be shut off after 10 pm.
9. The stormwater basin design shall be modified so that the outlet is located further from the property boundary. The revised design shall be to the satisfaction of the Planning Director.
10. The applicant shall obtain approval for a Stormwater & Land Disturbance Management Permit from the Department of Public Works.
11. Prior to the commencement of work, arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.
12. Prior to commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works and the Building Department.
13. 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.
14. Prior to the issuance of a certificate of occupancy for the building, all site improvements depicted on the plan shall be completed.



TOWN OF BEDFORD New Hampshire



Town of Bedford
PLANNING BOARD AGENDA
September 14, 2020
7:00 P.M.
Revised: September 14, 2020

Due to the Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Planning Board is using the Zoom platform to conduct this meeting electronically. Please note that there is no physical location for this meeting and the BCTV building is closed to the public.

The Town of Bedford is providing public access to the meeting live on BCTV, streaming at www.Bedfordnh.org/393/BCTV, and by calling into the meeting. Please email planning@bedfordnh.org or call 603-472-5243 to receive the call-in information.

Planning staff will also be accepting questions and comments by email at planning@bedfordnh.org. Please notify staff by email if there are technological issues with the audio transmission during the meeting.

(Click here to display a Google Map with applications listed by date, and links to staff reports.)

I. Call to Order and Roll Call

II. Old Business & Continued Hearings:

1. **ER Bedford, LLC c/o Encore Retail, LLC (Owner)** – Request for approval of a site plan and associated waiver requests, for the proposed Market & Main mixed-use development to include three additional buildings comprising 40,561 square feet of retail uses, 20,046 square feet of restaurant uses, a cinema with 11 screens (1800 seats), 200 upper level multi-family units, a 90-room hotel, and associated architectural and site changes at 125 South River Road, Lots 12-33, 12-33-1 and 12-33-2, Zoned PZ. *This application was postponed from the August 17, 2020 meeting.*
2. **I & Q Enterprises, LLC (Owner)** – Request for approval of a Conditional Use Permit to allow six electronic readerboard signs over gasoline pump stations at 381 Boynton Street, Lot 44-23, Zoned HC. *This application was postponed from the August 17, 2020 meeting.*

III. New Business

3. **206 Route 101, LLC & Bow Lane Bedford, LLC (Owners)** – Request for approval of a site plan amendment for a previously approved 93-unit workforce housing development on Chestnut Drive, Lots 20-22-14, 20-99-1, 20-99-2, 20-99-3, and 20-99-4, Zoned CO.

4. **Bar Harbor Bank & Trust (Applicant), R.K. Bedford, LLC (Owner)** – Request for approval of a sign waiver to install a monument sign on a parcel with two existing monument signs at 7 Kilton Road, Lot 12-23, Zoned PZ. *Postponed to the October 12, 2020 Planning Board meeting at the request of the applicant.*
5. **New Hope Christian Fellowship (Owner)** – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A.

IV. Concept Proposals and Other Business: None

6. The Planning Board will review and offer comments on the proposed Capital Improvements Plan for 2021.

V. Approval of Minutes of Previous Meetings

VI. Communications to the Board

VII. Reports of Committees

VIII. Adjournment

Applicants must be prepared for presentations at 7:00 pm. Any person with a disability who wishes to attend this public meeting and needs to be provided a reasonable accommodation in order to participate, please call Christine Szostak at 792-1304 at least 72 hours in advance.

TOWN OF BEDFORD
September 14, 2020
PLANNING BOARD
MINUTES

A remote Zoom platform meeting of the Bedford Planning Board was held on Monday, September 14, 2020. Members who were present remotely: Jon Levenstein (Chairman), Kelleigh Murphy (Vice Chairman), Harold Newberry (Secretary), Bill Duschatko (Town Council), Rick Sawyer (Town Manager), Jeff Foote (Public Works Director), Mac McMahon, Priscilla Malcolm, Steve Clough, Charlie Fairman (Alternate), Matt Sullivan (Alternate), John Quintal (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

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Planning staff will also be accepting questions and comments by email at planning@bedfordnh.org. Please notify staff by email if there are technological issues with the audio transmission during the meeting.

I. Call to Order and Roll Call:

Chairman Levenstein called the remote meeting to order at 7:00 p.m. The entire Planning Board was present except for Town Council Alternate Phil Greazzo who was absent.

II. Old Business & Continued Hearings:

1. **ER Bedford, LLC c/o Encore Retail, LLC (Owner)** – Request for approval of a site plan and associated waiver requests, for the proposed Market & Main mixed-use development to include three additional buildings comprising 40,561 square feet of retail uses, 20,046 square feet of restaurant uses, a cinema with 11 screens (1800 seats), 200 upper level multi-family units, a 90-room hotel, and associated architectural and site changes at 125 South River Road, Lots 12-33, 12-33-1 and 12-33-2, Zoned PZ. *This application was postponed from the August 17, 2020 meeting.*

asked we can get this on the October 12th agenda? Ms. Hebert responded sure. We can put everything on the 12th, it is a queue.

Vice Chairman Murphy asked do we have to move them individually or can we bulk move them? Ms. Hebert stated I think we should move them individually because it presents notice to the abutters.

MOTION by Mr. Newberry that the Planning Board table the application of 206 Route 101, LLC & Bow Lane Bedford, LLC (Owners) requesting for approval of a site plan amendment for a previously approved 93-unit workforce housing development on Chestnut Drive, Lots 20-22-14, 20-99-1, 20-99-2, 20-99-3, and 20-99-4, Zoned CO, to the October 12, 2020 Planning Board meeting, and this shall serve as public notice. Mr. McMahon duly seconded the motion. With Vice Chairman Murphy, Mr. Sullivan and Mr. Clough recused, the motion carried on a roll call vote.

4. **Bar Harbor Bank & Trust (Applicant), R.K. Bedford, LLC (Owner) – Request for approval of a sign waiver to install a monument sign on a parcel with two existing monument signs at 7 Kilton Road, Lot 12-23, Zoned PZ. *Postponed to the October 12, 2020 Planning Board meeting at the request of the applicant.***

Chairman Levenstein stated this application has been postponed to the October 12, 2020 Planning Board meeting at the request of the applicant.

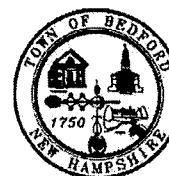
5. **New Hope Christian Fellowship (Owner) – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A.**

MOTION by Mr. Newberry that the Planning Board table the application of New Hope Christian Fellowship (Owner) requesting site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A, to the October 26, 2020 Planning Board meeting, and this shall serve as public notice. Vice Chairman Murphy duly seconded the motion. On a unanimous roll call vote, the motion carried.

6. **The Planning Board will review and offer comments on the proposed Capital Improvements Plan for 2021.**

Chairman Levenstein asked Town Manager Sawyer, do we have to get this done today? Town Manager Sawyer replied no; there is no action by the Planning Board. The staff report and the first five or ten pages of the Capital Improvements Plan really outline what that plan is, and if you

TOWN OF BEDFORD New Hampshire



Town of Bedford
PLANNING BOARD AGENDA
October 12, 2020
7:00 P.M.
Revised: October 9, 2020

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Planning staff will also be accepting questions and comments by email at planning@bedfordnh.org. Please notify staff by email if there are technological issues with the audio transmission during the meeting.

Applications on this agenda not heard at the October 12, 2020 meeting will be postponed to a Planning Board overflow meeting to be held on October 13, 2020 at 7 pm. The October 13 meeting will also be conducted electronically and there is no physical location for the meeting. The Town of Bedford is providing public access to the meeting live on BCTV, streaming at www.Bedfordnh.org/393/BCTV, and by calling into the meeting. Please email planning@bedfordnh.org or call 603-472-5243 to receive the call-in information.

I. Call to Order and Roll Call

II. Old Business & Continued Hearings:

1. **I & Q Enterprises, LLC (Owner)** – Request for approval of a Conditional Use Permit to allow six electronic readerboard signs over gasoline pump stations at 381 Boynton Street, Lot 44-23, Zoned HC. *This application was postponed from the September 14, 2020 meeting.*
2. **206 Route 101, LLC & Bow Lane Bedford, LLC (Owners)** – Request for approval of a site plan amendment for a previously approved 93-unit workforce housing development on Chestnut Drive, Lots 20-22-14, 20-99-1, 20-99-2, 20-99-3, and 20-99-4, Zoned CO. *This application was postponed from the September 14, 2020 meeting.*
3. **Bar Harbor Bank & Trust (Applicant), R.K. Bedford, LLC (Owner)** – Request for approval of a sign waiver to install a monument sign on a parcel with two existing

monument signs at 7 Kilton Road, Lot 12-23, Zoned PZ. *This application has been postponed to the December 7, 2020 meeting at the request of the applicants.*

4. **New Hope Christian Fellowship (Owner)** – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A. *This application was postponed from the September 14, 2020 meeting.*
5. **Circle Drive Associates, LLC (Owner)** – Request for approval of a site plan and associated waiver requests for a proposed multi-family residential development to include a 142-unit workforce housing development, consisting of two four-story buildings, and a 96-unit elderly housing development (age 55 and over), consisting of one four-story building, and associated site improvements at South River Road across from Iron Horse Drive, Lots 35-98-5 and 35-98-40, Zoned PZ. *This application was tabled from the August 31, 2020 meeting.*

III. New Business: None

IV. Concept Proposals and Other Business: None

V. Approval of Minutes of Previous Meetings

VI. Communications to the Board

VII. Reports of Committees

VIII. Adjournment

Applicants must be prepared for presentations at 7:00 pm. Any person with a disability who wishes to attend this public meeting and needs to be provided a reasonable accommodation in order to participate, please call Christine Szostak at 792-1304 at least 72 hours in advance.

TOWN OF BEDFORD
October 12, 2020
PLANNING BOARD
MINUTES

A remote Zoom platform meeting of the Bedford Planning Board was held on Monday, October 12, 2020. Members who were present remotely: Jon Levenstein (Chairman), Kelleigh Murphy (Vice Chairman), Bill Duschatko (Town Council), Rick Sawyer (Town Manager), Jeff Foote (Public Works Director), Mac McMahon, Priscilla Malcolm, Steve Clough, Charlie Fairman (Alternate), Matt Sullivan (Alternate), John Quintal (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

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Applications on this agenda not heard at the October 12, 2020 meeting will be postponed to a Planning Board overflow meeting to be held on October 13, 2020 at 7 pm. The October 13 meeting will also be conducted electronically and there is no physical location for the meeting. The Town of Bedford is providing public access to the meeting live on BCTV, streaming at www.Bedfordnh.org/393/BCTV, and by calling into the meeting. Please email planning@bedfordnh.org or call 603-472-5243 to receive the call-in information.

I. Call to Order and Roll Call:

Chairman Levenstein called the remote meeting to order at 7:00 p.m. Secretary Hal Newberry and Town Council Alternate Phil Greazzo were absent. Mr. Fairman was appointed to vote in place of Mr. Newberry.

II. Old Business & Continued Hearings:

1. **I & Q Enterprises, LLC (Owner)** – Request for approval of a Conditional Use Permit to allow six electronic readerboard signs over gasoline pump stations at 381 Boynton

4. **Bar Harbor Bank & Trust (Applicant), R.K. Bedford, LLC (Owner) – Request for approval of a sign waiver to install a monument sign on a parcel with two existing monument signs at 7 Kilton Road, Lot 12-23, Zoned PZ. *This application was postponed from the September 14, 2020 meeting.***

Chairman Levenstein stated this application has been postponed at the request of the applicant.

5. **New Hope Christian Fellowship (Owner) – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A. *This application was postponed from the September 14, 2020 meeting.***

Sam Foisie and Tom Carr of Meridian Land Services, Pastor Bob and Alan Goedecke of New Hope Christian Fellowship were present to address this request for a site plan approval.

Mr. Foisie stated thank you for your time tonight. I know you have a marathon today and tomorrow. Just to reiterate what the Chairman said, the New Hope Christian Fellowship is looking to change the use of an existing 2,500 square foot single family dwelling unit to a place of worship. In doing so, they plan to add onto the building by 480 square feet at the front where the garage is located. They are going to add associated parking with it and then they have some stormwater management system that is in compliance with the Bedford regulations. Currently the single family home is served off from a well and then also a septic field. Mr. Carr has shown that that is adequately sized for a place of worship, and if you need him to speak more, he is here to do so. We are in agreement with most of the conditions. Since we have had that lapse of the month, I have gone and made some of the improvements to the plans that being any of the notes regarding the treeline, the notes regarding no more than 50 people, the trash and recycling has been added to the site plan, not on this one because I did not get the plan to Mr. Connors in time, but they are located in the area in the rear to where they are shielded from view from the public. Also, the exterior lighting will be shut off at 10:00pm.

Mr. Foisie stated there are two conditions that I would like to discuss. One is in regard to the stormwater management basin, which is Condition #9 on the staff report. We have looked into moving that and moving back the outlet. Due to the grading of the site and the topography it makes sense for the stormwater basin to be in that area where it collects as much of the stormwater as possible. It is sized to the Bedford regulations and then the outlet is forced to be there based off from the grading of the berm. The outlet height is roughly 10 feet with some riprap to control the discharge. The other is in reference to one of our waivers, which is Waiver #3, which is in reference to the landscape plan. The site meets the Bedford regulations for landscaping where it is screened from public view and public properties. We have requested a waiver from providing a landscape plan strictly so there are no landscaping improvements proposed with this site plan. If you look at the architectural pictures, there is already landscaping around the existing building. At this time, I would like to field any questions or concerns that you have.

Chairman Levenstein asked the Planning Board members if they had any comments or questions on this application.

Mr. McMahon stated one of the VHB comments on your project mentioned that they wanted you to confirm the septic was reviewed and be acceptable to the suggestions of VHB. Are you familiar with that? Mr. Foisie replied I will defer to Mr. Carr to answer any septic questions. Mr. Carr stated I did a septic inspection with Mr. Goedecke several months ago. The first thing I did was review all of the records for the septic system. It does have a 600 gallon per day State approved septic system in the ground, that is 600 gallons per day for a 4-bedroom residential property. It has an operational approval from the State, so it was legally designed and legally installed and exists as a legal system in the ground.

Mr. Carr continued with respect to the use of the property, I think the church has used about 3 gallons per day per patron on any given day, and I think they have about a maximum of 40 participants in the church right now, so we are well below the 600 gallon per day approved loading for that septic system. We did do another test pit down below that existing leach field just in case the Town wanted to have a secondary design in place, but the system is in perfect working order and the baffles in the septic tank are in good condition, everything is in good condition to handle the proposed load that they want to use there. Mr. McMahon stated thank you.

Ms. Malcolm stated I have one comment. Your entrance to Route 101 is in the middle of one of the very few passing zones on that road. I would ask you to caution your congregation to look carefully before they pull out into traffic. Thank you. Chairman Levenstein asked do you have to get a new driveway permit from the State? Mr. Foisie replied they do have State approval on the driveway permit. Mr. Goedecke and Pastor Bob are also on here, so I am sure they have heard about that caution to their patrons.

Mr. Clough asked is there a maximum number of people that will be attending this church? I am assuming that it only has seating for so many people. Is that right? Mr. Foisie replied yes, that is correct. One of the conditions is a maximum capacity of 50 people. That note has been added to the plan. I have talked about that with Mr. Goedecke and Pastor Bob. The church's goal is to grow their community and then eventually move to the north portion of this site, which is across that wetland to the house, and then build a larger church with all of the appropriate facilities for a larger congregation.

Mr. Clough asked does it have any daycare facilities? Mr. Foisie replied it does not have any daycare facilities. The goal of the church right now is to have 50 people on Sundays and then have small classes, I believe it was eight to ten people in classes in the evenings I believe on Wednesday nights. Pastor Bob stated because of the Covid virus regulations and restrictions faced by the government, we have close to 20 people that can attend, keeping the required distance and masking, unless we are anticipating, as most of you have probably heard, that the restrictions are going to be going on for a while. This will facilitate in part the few that we have coming, the remainder are meeting with us on Zoom on Sunday mornings, so the parking is not an issue, the space for meeting is not an issue at the moment, by the time should the Town board approve this, by the time we have the extension built onto the front of the building, we are going to use the space we can with our congregation, we hope and pray with Covid regulations on it as well.

Town Manager Sawyer stated I have a few things, and I guess maybe some of them are for staff. Mr. Connors, do you want to speak to the stormwater basin outlet being moved? I don't know if the technical review committee identified a way to move that further away. Obviously the applicant has said that they can't and it seems like the request on the landscape plan is pretty minimal and should be onerous on the applicant. Then I have a question afterward on those two things. Mr. Connors stated typically with applications like this we see some kind of a landscape plan to show screening the parking areas, the walkways into the buildings, there is kind of a traffic island in the middle, just some landscaping to improve the aesthetics of the site. With regard to the second one. Town Manager Sawyer asked would that fall further away from the property line? Mr. Connors replied yes; it is just that it is currently sited so close to the property line that it is something that typically finds our attention, concerned that this is a large lot, we added that condition that they look at ways to move the basin, but I don't have another suggested area.

Town Manager Sawyer stated the last thing, you might need to bring up the overall plan again for this one. That is in cooperation with the State we have always tried to attain a full 100-foot right-of-way on any parts of either Route 101 or Route 3, South River Road, when the right-of-way drops down I think it is probably about 60 or 75 percent of the site is within the 100-foot right-of-way but then it drops down on the western side to 66 feet of right-of-way, so would hope as mitigation for the traffic impacts to this project that we include a condition of approval for dedication of a public access easement over that western portion of the site that drops down. You can see the bold dark line just to the west or the left of the driveway where it drops down and comes closer to the pavement area. Typically, we try and get 17 feet from each side of the road when the project comes in. It doesn't appear that by dedicating that they would have any impacts on their site development proposal. I take it back; it is probably about 50/50 or so within the 100-foot right-of-way versus the 66-foot right-of-way. Chairman Levenstein asked so you are asking just that the wider portion be extended to the end of the property line? Town Manager Sawyer replied yes. It would be a 17-foot dedicated right-of-way easement or public access easement. Mr. Foisie stated I was unaware that that is a norm on something like that. Does the State have jurisdiction over that since this is a State right-of-way or is that typically a request from the Town? Town Manager Sawyer replied obviously it is State right-of-way, it is fully within their jurisdiction. In the commercial zones on Route 101 we have it built into the Land Development Control Regulations that by dedicating the right-of-way it doesn't impact your ability for lot coverage, but this is in the Residential Zone, so that same regulation doesn't necessarily apply and it was always optional, but for this kind of impact on Route 101 with the additional trips, at some point in time we certainly hope that the State will widen Route 101 all the way out to Wilton, certainly through Bedford all the way out, and having that easement is critical. Mr. Foisie stated with the additional trips that are being added, the trips are being added at a time that is outside of peak hours, that being on Sunday mornings and then after rush hour on weekdays. Is that a requirement for a site that does not have the negative impact to the roadway and can be deferred to a time when it would have a negative impact or when the State needs right-of-way to do their widening? Town Manager Sawyer responded it certainly would be up to the Board to make that request, and I think the request is minimal. Mr. Foisie stated I know Mr. Goedecke and Pastor Bob are here; I don't know what their thoughts on that are. I would typically like to have the State request that since it is their right-of-way, but if they are okay with that, I know they are looking to get this project started. Ms. Hebert asked Town Manager Sawyer, the conveyance would be to the

State of New Hampshire. Is that correct? Town Manager Sawyer replied I am not sure whether it has to be to them or it could be to the Town, but just that it defines a public right-of-way easement. Ms. Hebert stated I know this is Phase 1 of a multi-phased project. It would help going forward to know that you would be measuring your setbacks from the edge of the 100-foot right-of-way section of the narrower section. It would help with your future planning. Mr. Foisie stated to reiterate what Ms. Hebert is saying, that portion of the right-of-way to the north or to the right is the 100-foot right-of-way. The church has future aspirations to develop north of the wetlands over there where they would impact the right-of-way and based off from those trips, they would probably be required to put in a left turn lane, so I see that as the area where the impact would be. Town Manager Sawyer stated that is all I have.

Mr. Fairman stated Mr. Chairman, Mr. Foisie mentioned a couple of waivers but they are actually asking for five waivers, and I think perhaps he ought to speak to each one of the waivers that have been requested. Mr. Foisie responded I can do that. I just skipped over them for the sake of time since staff recommended approval on those. Here are my responses to the five waivers:

- 1.) *Section 315.2.6, to provide NRCS soil mapping in lieu of HISS mapping.*
To accurately design this project what we needed was soil mapping. The other mapping would be extensive and since this is a church and their funds are generated by charitable donations, we felt it appropriate to try and save them as much money as possible.
- 2.) *Section 316.1.10, to not provide topographical mapping for the entire lot.*
This lot is about 9.5 acres, looking at the southern half of it, so having topography on the northern half is not necessary for the design of this project.
- 3.) *Section 317.1.11, to not provide a landscape design plan.*
I have already touched on this a little bit.
- 4.) *Section 317.1.12, to not provide wetlands mapping for the entire lot.*
This is the same as Waiver #2. We mapped the wetlands where they are relevant and affect the project.
- 5.) *Section 322.4.2, to permit 18 parking spaces and a portion of the driveway to be a gravel surface where bituminous pavement is required.*
That gravel area is in an area that is the least amount traveled at a relatively high speed because it is a parking area. Like I said, the church has plans to move to the north part of the property. In that plan they would like to convert this back to a single family lot. The gravel is to assist with that transition back.

Chairman Levenstein asked for any comments or questions from the audience. Planning Staff had no members of the public raising their hand to speak or any emails to the Planning Inbox.

Chairman Levenstein asked for any further comments or questions from the Board. There were none.

Chairman Levenstein asked does the Board have to do the waivers separately because of the regulations or can we do them all in one motion? Ms. Hebert replied you can do them in one motion, you have used that form in the past. I think if you are going to be adding conditions to one of them or want to talk about them individually, for that reason I would suggest you do them individually. Chairman Levenstein stated we will do them individually.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 315.2.6, to provide NRCS soil mapping in lieu of HISS mapping, as they provided the information in the area of the site that is being developed. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 316.1.10, to not provide topographical mapping for the entire lot, as they have provided it in the area of the lot that is being improved. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board deny the waiver to Section 317.1.11, to not provide a landscape design plan, as I believe the staff report indicated that it is a pretty minimal request and it is a typical requirement for all non-residential development. Mr. McMahon duly seconded the motion. Those voting yea: Mr. McMahon, Vice Chairman Murphy, Town Manager Sawyer, and Mr. Fairman. Those voting nay: Councilor Duschatko, Mr. Foote, Ms. Malcolm, and Mr. Clough. The motion failed.

MOTION by Councilor Duschatko that the Planning Board grant the waiver to Section 317.1.11, to not provide a landscape design plan. Ms. Malcolm duly seconded the motion. Those voting yea: Councilor Duschatko, Vice Chairman Murphy, Mr. Foote, Ms. Malcolm, and Mr. Clough. Those voting nay: Mr. McMahon, Town Manager Sawyer, and Mr. Fairman. The motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 317.1.12, to not provide wetlands mapping for the entire lot, as the information has been provided in the area of the lot that is being developed. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant the waiver to Section 322.4.2, to permit 18 parking spaces and a portion of the driveway to be a gravel surface where bituminous pavement is required. Councilor Duschatko duly seconded the motion. On a unanimous roll call vote, the motion carried.

MOTION by Town Manager Sawyer that the Planning Board grant final approval of the site plan to convert a single-family residence to a church at 445 NH Route 101, Lot 31-44-1, in accordance with engineering plans prepared by Meridian

Land Services, Inc., last revised September 1, 2020, and the architectural plans by Amoskeag Architectural Group, last revised July 27, 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. 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. In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.**
- 3. The Applicant shall submit any outstanding engineering review fees, if any, to the Planning Department.**
- 4. The plan shall be revised to include a note that the treeline shown on the site plan shall be undisturbed.**
- 5. The Applicant shall revise the plan to include a landscape plan that is to the satisfaction of the Planning Director.**
- 6. The plan shall be revised to include a note that the maximum occupancy of the church shall be limited to no more than 50 people.**
- 7. The plan shall be revised to show a dumpster location consistent with Town requirements or a note shall be added to the plan indicating trash disposal will be handled internal to the building.**
- 8. The plan shall be revised to note that exterior lighting will be shut off after 10 pm.**
- 9. The stormwater basin design shall be modified so that the outlet is located further from the property boundary. The revised design shall be to the satisfaction of the Planning Director.**
- 10. The applicant shall obtain approval for a Stormwater & Land Disturbance Management Permit from the Department of Public Works.**
- 11. Prior to the commencement of work, arrangements shall be made with the Planning Department regarding payment and coordination of third party inspections.**
- 12. Prior to commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works and the Building Department.**
- 13. 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.**
- 14. Prior to the issuance of a Certificate of Occupancy for the building, all site improvements depicted on the plan shall be completed.**
- 15. Prior to the issuance of a Certificate of Occupancy the applicant shall dedicate a 17-foot public right-of-way easement over the western portion of the site where the existing right-of-way drops to 66 feet.**

Mr. Foote duly seconded the motion.

Town Manager Sawyer stated Mr. Chairman, if I could speak to the additional condition. I think they can work with staff, in my opinion. I know we have done easements in the past where it doesn't impact setbacks, that it is an easement and not a full dedication of right-of-way, so that is the intent of what I am saying here. It is not to impact their development in any way, but to provide that opportunity for the public expansion to the highway when we need it.

Chairman Levenstein stated I have one other question on the motion. Town Manager Sawyer, did you want to address Condition #9? Town Manager Sawyer replied no; I think it is pretty broadly worded where it is to the satisfaction of the Planning Director. It appeared that there might be some ways that they could move that basin down to the south and east and not have it tucked as far over to the west side of the parking lot, but have it a little further south or make it longer and skinnier, and maybe have it discharge a little bit further away. If the Planning Director ends up being satisfied that it can't be moved, I think the condition already allows for the Planning Director to move it forward. Chairman Levenstein responded okay, I just wanted to clarify that.

Mr. Fairman stated I have a question about Condition #5. Do we leave this in so that they do a small landscape plan? Town Manager Sawyer stated that is a good point.

**Town Manager Sawyer stated I will amend my motion to remove Condition #5.
Mr. Foote approved the amendment to his second of the motion.**

Chairman Levenstein called the roll. On a unanimous roll call vote, the amended motion carried.

- 2. 206 Route 101, LLC & Bow Lane Bedford, LLC (Owners) – Request for approval of a site plan amendment for a previously approved 93-unit workforce housing development on Chestnut Drive, Lots 20-22-14, 20-99-1, 20-99-2, 20-99-3, and 20-99-4, Zoned CO. *This application was postponed from the September 14, 2020 meeting.***

Vice Chairman Murphy, Mr. Sullivan and Mr. Clough recused themselves from this application and left the meeting. Mr. Quintal was appointed to vote in Vice Chairman Murphy's absence.

Attorney John Cronin of Cronin, Bisson & Zalinsky, Bob Duval of TF Moran as landscape architect, and representatives of the applicant were included via the Zoom platform meeting.

Attorney Cronin stated when this was before the Board back in August, the applicant acknowledged responsibility for some trees being removed that shouldn't have been taken down. At that particular time the Board asked that some landscape architects get involved. VHB was appointed by the Town as the review engineer, the landscape architect for that firm worked with the landscape architect from the applicant. In addition, the abutter Joanne Dumas engaged an architect and collectively they worked together on a revised plan for the berm. I am happy to report that with the cooperation of all, they have come up with a plan that almost doubles the amount of trees that were on the site in the original application. The cost of the revised buffer is approximately \$100,000, not including retaining walls over wetlands initially placed on the plan. At the end of the day it is believed by all parties that this revised buffer is an improvement over

TOWN OF BEDFORD New Hampshire



October 26, 2020

Alan Goedecke
New Hope Christian Fellowship
445 Route 101
Bedford, NH 03110

Samuel Foisie, P.E.
Meridian Land Services, Inc.
31 Old Nashua Rd #2
Amherst, NH 03031

Re: New Hope Christian Fellowship (Owner) – Request for site plan approval to convert an existing single-family residence to a church at 445 NH Route 101 and associated improvements including a 482 square-foot building addition and parking and access improvements, Lot 31-44-1, Zoned R&A.

Dear Alan:

This letter will serve as official confirmation that the Bedford Planning Board at its October 12, 2020 meeting granted the following waivers for the above referenced application from the Bedford Land Development Control Regulations:

1. Waiver from Section 315.2.6, to provide NRCS soil mapping in lieu of HISS mapping.
2. Waiver from Section 316.1.10, to not provide topographical mapping for the entire lot.
3. Waiver from Section 317.1.11, to not provide a landscape design plan.
4. Waiver from Section 317.1.12, to not provide wetlands mapping for the entire lot.
5. Waiver from Section 322.4.2, to permit 18 parking spaces and a portion of the driveway to be a gravel surface where bituminous pavement is required.

The Planning Board also granted final approval of the site plan to convert a single-family residence to a church at 445 NH Route 101, Lot 31-44-1, in accordance with engineering plans prepared by Meridian Land Services, Inc., last revised September 1, 2020, and the architectural plans by Amoskeag Architectural Group, last revised July 27, 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:

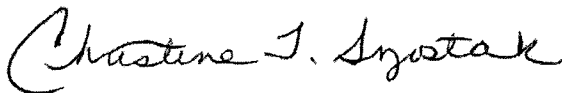
1. The Director of Public Works and the Planning Director shall determine that the applicant has addressed all remaining technical review comments to the Town's satisfaction.
2. In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.
3. The Applicant shall submit any outstanding engineering review fees, if any, to the Planning Department.
4. The plan shall be revised to include a note that the tree line shown on the site plan shall be undisturbed.
5. The plan shall be revised to include a note that the maximum occupancy of the church shall be limited to no more than 50 people.
6. The plan shall be revised to show a dumpster location consistent with Town requirements or a note shall be added to the plan indicating trash disposal will be handled internal to the building.
7. The plan shall be revised to note that exterior lighting will be shut off after 10 pm.
8. The stormwater basin design shall be modified so that the outlet is located further from the property boundary. The revised design shall be to the satisfaction of the Planning Director.
9. The applicant shall obtain approval for a Stormwater & Land Disturbance Management Permit from the Department of Public Works.
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 building, all site improvements depicted on the plan shall be completed.
14. Prior to the issuance of a Certificate of Occupancy the applicant shall dedicate a 17-foot public right-of-way easement over the western portion of the site where the existing right-of-way drops to 66 feet.

Please submit seven (7) full size paper plan sets and one (1) mylar set signed by the property owner. Upon completion of the above conditions, the Planning Board will sign the final plans.

If you have any questions regarding this decision letter, please do not hesitate to contact Mark Connors, Assistant Planning Director at 792-1377.

Sincerely,



Christine T. Szostak
Land Use Executive Assistant

Cc: Becky Hebert, Planning Director (via e-mail)
Mark Connors, Assistant Planning Director (via e-mail)
Bill Ingalls, Assessor (via e-mail)
Doug Irvine, Assistant Assessor (via e-mail)
Jeff Foote, Public Works Director (via e-mail)
Jeanne Walker, Town Engineer (via e-mail)
Wayne Richardson, Code Official (via e-mail)
Terry Carter, Building Inspector (via e-mail)

Town of Bedford

New Hampshire

Fire Department

(603) 472-3219

Fax (603) 472-4565 Bedford, NH 03110-6008 (603) 472-3838

safety@bedfordnh.org Fax (603) 472-4565

Bedford Safety Complex

55 Constitution Drive

Building Department

Health Department

Email:

Cease and Desist

Attention: Alan Goedecke

New Hope Christian Fellowship

16 Greyrock Rd

Bedford , NH 03110

Alan,

The property located at 445 Route 101, identified in the Bedford Tax Records as Map 31, Lot 44-1, and owned and occupied by your organization, is being used in violation of the Bedford Ordinances, specifically the Building Construction Ordinance, §92-10 and the International Building Code §§ 111.1, as follows:

92-10: No person shall use or permit the use for any purpose of any building, structure, or premises or part thereof hereafter erected, relocated, altered, repaired, converted or extended until a certificate of occupancy or a building final is issued by the Building Code Official or his designee.

111.1 Use and occupancy. A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the *building official* has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction

You are hereby ordered to cease and desist from violating the applicable codes and ordinances of the Town of Bedford immediately.

If you fail to obey this notice, or the violation is not otherwise resolved by November 1, 2021, the Town Council has instructed this department to seek judicial relief in the form of an injunction, a fine of \$275 for each day the violation continues following the date of this notice, and an award of attorneys' fees and costs.

You may appeal this decision to the Bedford Zoning board within (30) days of this notice.

Regards,

Matthew Lavoie
Code Official
Town of Bedford, NH
mlavoie@bedfordnh.org