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**MINUTES OF THE
PLANNING BOARD**

**MEETING OF
May 26, 2020**

A meeting of the Planning Board was held on May 26, 2020 remotely on the Zoom meeting app.

PRESENT: Keith Belair, Chairman; Michael Banks, Vice-Chairman; Beverly Donovan, Secretary; Mike Lyons, Selectman’s Rep; Jeff Hatch; Joe Feole; Paul Pelletier; Ross Moldoff, Planning Director; and Jacob LaFontaine, Assistant Planner

The meeting was called to order at 7:00 p.m.

Chairman Belair explained that due to the State of Emergency declared by the Governor, as a result of the Covid 19 pandemic and in accordance with the Governor’s emergency order # 12, pursuant to the executive order 2020-04, this public body is authorized to meet electronically. There is no physical location to observe and listen contemporaneously to this meeting which was authorized pursuant to the Governor’s emergency order. In accordance with the emergency order Chairman Belair is confirming that we are A) providing public access to the meeting by telephone, with additional access possibilities by video and other electronic means. We are using Zoom for this electronic meeting and all members of the board have the ability to communicate contemporaneously during this meeting, through this platform, and the public has access to contemporaneously listen and if necessary participate in this meeting by calling 603-685-6451 or going to www.sgc23.com. B) providing public notice of the necessary information for accessing the meeting. We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website at www.salemnh.gov. C) providing a mechanism for the public to alert the public body during the meeting if there is a problem with access. If you have a problem, call 603-685-6451 or email rmoldoff@salemnh.gov. D) Adjourning the meeting if the public is unable to access the meeting - in the event the public is unable to access the meeting, it will be adjourned and rescheduled. All votes taken during the meeting shall be done by roll call vote. During the roll call attendance, please state if anyone is in the room with you during this meeting, which is required under the Right to Know Law.

- Keith Belair, Chairman – solo
- Mike Banks – Vice-Chairman - solo
- Beverly Donovan – Secretary - solo
- Joe Feole - solo
- Paul Pelletier – solo
- Jeff Hatch – solo
- Mike Lyons – solo

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1 Ross Moldoff – Planning Director - solo

2
3 Chairman Belair went over the agenda. There were no withdrawals.

4
5 **REVIEW OF MINUTES**

6
7 Ms. Donovan said we have minutes from the May 12, 2020 regular meeting.

8
9 **MOTION by Mr. Banks to approve the May 12, 2020 minutes as written.**
10 **SECOND by Mr. Hatch.**

- 11
12 **Mr. Banks – in favor**
13 **Ms. Donovan – in favor**
14 **Mr. Feole – in favor**
15 **Mr. Pelletier – in favor**
16 **Mr. Hatch – in favor**
17 **Mr. Lyons – in favor**
18 **Chairman Belair – in favor**

19
20 **VOTE ON MOTION: 7 - 0**
21 **UNANIMOUS**

22
23 **NEW BUSINESS**

- 24
25 1. **FROGGY’S PARTY PAD SITE PLAN – Public Hearing for 30-student pre-school at 419**
26 **South Broadway, Map 144, Lot 202.**

27
28 **MOTION by Mr. Banks to accept the Froggys Party Pad site plan application as complete.**
29 **SECOND by Mr. Pelletier.**

- 30
31 **Mr. Banks - in favor**
32 **Ms. Donovan – in favor**
33 **Mr. Feole – in favor**
34 **Mr. Pelletier – in favor**
35 **Mr. Hatch – in favor**
36 **Mr. Lyons – in favor**
37 **Chairman Belair – in favor**

38 **VOTE ON MOTION: 7 – 0**
39 **UNANIMOUS**

40
41 Abutters: There were no abutters present.
42 Mr. Moldoff said, if you have comments, please call or email.

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1 Mark Donohoe is here on behalf of Froggy's Party Pad. We have been before you a few times on
2 this. You were first introduced to Froggy's Party Pad operation on weekends for kids under 6 in
3 November 2016. In May 2019 the board approved small gatherings in the evenings for adults for
4 75 individuals. That was also on weekends. Now we are using a portion of the same space that
5 was already occupied to have a daycare for kids 3-5 years old in this space, Monday through
6 Friday, full time from 6:00 am to 5:30 pm. As part of that, we intend to use approximately 1,200
7 square feet of existing space that is highlighted on the plan. He then showed the shaded area that
8 is approximately 1,200 square feet of space that this daycare will be run in. They intend to have a
9 maximum of 30 students and 2 teachers and one assistant teacher. Parents will drop off between
10 6:00 am and 9:00 am. The parent will park and walk their children into the building and to the
11 space, with a check in with the teachers, and then the parents will go back to their cars. And then
12 they will repeat that process at the end of the day, either at 4:00 pm, or the latest pickup is at 5:30
13 pm. This is the second location for Vinny Nunez, the owner. She has a successful daycare in
14 Haverhill, that started out the same way, as a weekend play event, then it moved to a daycare.
15 She is in the process of talking to the State about licensing. The next step is to inspect the space
16 but she doesn't want to schedule that until we go through the process with the town. The landlord
17 is in support of this application. And Birches Academy is also in support. Many of the teachers
18 there have preschool children that will go here. The owner of Froggy's, her oldest child goes to
19 Birches so she can explain the drop off. Historically the issue is parking. We had a furniture
20 store that required less parking, and when it went out of business, we had to re-tenant the
21 building. In doing so, Ross asked us to count cars at the times of drop off and pickup. We chose
22 to do that in the morning when buses were there for school. That would be the most critical time
23 for everyone. We counted cars in January, on 5 different days. There were never less than 69
24 empty spaces to the front of the building. He didn't include any of the parking lot that the school
25 uses. Nobody will park there. So we only dealt with the front spaces in front of the building and
26 to the left of the building, which we intend to use for employee parking. There are an average of
27 17 to 26 cars parked in the morning and it is similar in the afternoon. There are 96 parking spaces
28 in front of the building, and there were never less than 69 empty spaces for parking when we did
29 the counts. This space has been allocated 44 spaces. The school requires 8 spaces. So we are
30 talking about adding 8 spaces to a site that typically has 69 empty spaces every morning and
31 afternoon. So we don't think we have a parking issue, but he will discuss that with you.

32

33 Staff Comments:

34 The last time you saw the site, you approved a party business in November 2016.

35 They have an access for the traffic light on the abutting lot. There were long discussions about
36 that.37 You may want to ask about pick up and drop-off procedures. That's typically an issue you're
38 concerned about.

39 Parking is the one issue, 257 spaces based on all the building uses. They have 163 provided.

40 They need a conditional use permit. You may want to ask him to read his letter for the record.

41 They need a State license for the daycare.

42 Ross got an email today from the Engineering Department. Their only issue is the demand
43 benefit assessment and estimate of water usage. That will be provided at the building permit
44 stage.

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1 The Fire Department was OK with the plan.
2 He hasn't heard from the Police Department.
3 Public Works didn't have concerns.
4 Recommend - if you are satisfied with the parking situation, he recommends you grant
5 approval of the conditional use permit, and approve the site plan. He can give conditions.
6

7 Chairman Belair asked for public input.

8 Mr. Moldoff said, if anyone wants to make comments, you can call 603-685-6451 or email
9 rmoldoff@salemnh.gov.

10
11 Ms. Donovan mentioned the playground area. You mentioned sharing that between Birches
12 Academy and the preschool. It's a big age spread. Does the State require different types of
13 equipment and space? Is there a chance to expand on that play area, it's pretty tight.
14

15 Mr. Donohoe explained that Birches has their recesses 2 grades at a time. They are running that
16 through their lunch breaks and in the most age appropriate. The time that Froggy's uses the
17 playground will be separate from the school. There will be no Birches Academy children at the
18 time Froggy's will use it

19 Ms. Donovan said, she is more concerned about the equipment and appropriateness of the
20 equipment.

21 Ms. Nunez explained that the school does use mostly their parking lot. They have a fenced in
22 area, that is more of what we'd be interested in using and they agreed that we can use. The State
23 said it's more for fresh air and running and walking. She told the school that she'd agree to
24 purchase a structure, that would be more towards the under 5 age, and they were OK with that.
25 They don't really use the fenced in area. They have been doing a lot of gardening. But when they
26 are out there, they put cones around the parking lot and the kids run around there. Her plan is to
27 speak with the director on getting a structure for her age group.

28 Mr. Donohoe said, the State will come by and tour that playground as part of their accreditation
29 process.

30 Ms. Nunez said she has been talking to Nicole Burke from the Child Licensing Unit, and she was
31 able to meet with the Director of the School and told him the plans and they were OK with it,
32 and she brought that information to Nicole Burke. And Nicole said she'd come out to look at the
33 space as soon as we are ready.
34

35 Mr. Pelletier said that the Assistant Fire Chief had a couple of notes. One is that the evacuation
36 meeting spaces are not designated on the plan. This space is to the far left of the building, and the
37 plan isn't clear on where exits are to get down to the ground level. Can you explain where the
38 emergency exits are, being on second floor?

39 Mr. Donohoe said, beside this 1,200 square foot shaded area, there is a new staircase that was
40 installed as an emergency egress to allow the people from Froggy's to occupy the original space
41 in 2016. We installed a new staircase next to the area the children will occupy during the day,
42 and leads out of the building and they can evacuate that way. That's intended to be their main
43 egress route. They also have a staircase up from the front of the building. There is also one at
44 Birches Academy.

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1
2 Mr. Hatch mentioned the proposed drop-off route. He is in this parking lot at least 3 times a
3 week. For the most part, during the peak times. Birches Academy, during the peak times, a lot of
4 times they will close off the parking lot that's to the south end of that building, because that's the
5 way the buses exit. They come in off Route 28, and take a right, and you see the arrows in front.
6 That is not the way the buses go. They go to the aisle closest to Route 28, and so don't most of
7 the parents. The big issue is, during the peak time, you will have school, daycare, and the paint
8 store all competing for peak times, and during the evening you will have the restaurant. Almost
9 nobody parks to the southern side of the building, so we're all competing for the spots out front.
10 So add the buses, the parents, and then at the same time you have the 18 wheeler that comes in
11 from Benjamin Moore every morning. That parks in front of the building. You almost can't get
12 by it. He doesn't think there is enough parking, especially if something is going on at Birches
13 Academy, such as a show. They tie up the entire parking lot. So those spaces are all gone.
14 Regarding the play area, he doesn't know how much area they need, but that is only about 16
15 feet wide by 70 feet long, and he is not sure that's long enough for 3-5 year olds. That's his big
16 concern. The flow that is showing on this proposal isn't the flow that's happening now. When
17 Birches Academy is at recess they block off the entrance and exits near the southern side, so you
18 can't go that way. Everyone has to go in at the lights.

19
20 Mr. Donohoe said, this plan is the approved plan that Birches Academy got approved in like
21 2012. This was the original engineered plan that was approved by the board. The bus drivers
22 figured out it wasn't the best route, so they come in at the light. He explained their circulation.
23 He showed where typically the bus drops kids off and they walk up onto the sidewalk. That
24 wasn't originally what the town agreed to, but we have never heard of an issue so he is surprised
25 to hear about this. We did ask the paint store to adjust their hours of delivery to accommodate the
26 school drop offs in the morning, but apparently that's not happening. If we have to re-address
27 that with the paint store, we can try to address that. There are only 4 buses in the morning and 5
28 in the afternoon. But he understands the concern. With 69 empty spaces every morning for
29 dropping off kids to school, and only requiring 8 spaces and people drop off between 6:00 to
30 9:00, the school is only adding a few cars at a time. Many will be dropping off before 7:00 am.
31 He doesn't see any issue about spaces. He doesn't travel it like Mr. Hatch does. Mrs. Nunez can
32 speak to it, she drops her child off every day.

33 Ms. Nunez said, based on the experience of her daycare in Haverhill, drop off is basically done
34 before 8:30. We open at 6:00 and our busiest time is a little after 7:00. Most start at 7:00 or 8:00.
35 Not too many at 9:00. The different times her parents will be dropping off, she doesn't think it
36 will mix with the school's drop off time.

37
38 Chairman Belair asked, are you dropping students off for this at the far side where the Birches
39 school is, or somewhere near where your stairs are?

40 Ms. Nunez said we have 3 doors, but the main entrance is by the elevator. We also have a door
41 close to the pizza shop.

42
43 Mr. Donohoe showed the entrances on the plan.
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1 Chairman Belair said it makes more sense to go to the other side where there is nobody parking
2 and it is a dedicated entrance.

3 Mr. Donohoe said it is his intention that cars will park in the section across from the courtyard.
4 He thinks they will be on the building side of the bus route that they actually use. There are 69
5 empty spaces every day. We can figure that out.

6 Mr. Hatch said, they'll park in the center portion which is where Birches Academy parents park.
7 Most of the Birches Academy employees and the employees of the businesses all park along the
8 front row next to Route 28. He'd feel better, if we start using the parking to the south side of the
9 building where nobody is parking.

10 Mr. Donohoe said that he can go back to Birches Academy and talk to them because they are
11 supposed to park all of their cars in the south part, not in front of the building. That is what was
12 agreed to with the board. They were to park in that section and have about 12 cars, leaving the
13 rest of the parking for the rest of the building, knowing that we had parking issues. If we need to
14 re-address that we will.

15 Mr. Hatch said he was talking about the parking on the northern side of building. He understands
16 that they need the southern side for the playground for the kids.

17 Mr. Donohoe discussed the parking. They agreed to the layout we showed you and you accepted
18 in your decision, as being enough space for their school. If they decided to use more space
19 without telling anyone, he doesn't know what to say about that, except that we can re-address
20 that with them. They don't have many teachers so there are not many full time cars. We still have
21 69 empty spaces in the front lot. Those are all school days. He doesn't personally see an issue
22 with the 8 spaces for this, especially since most will be dropped off outside of the bus route times
23 given the number of empty spaces.

24
25 Mr. Lyons said he appreciates Mr. Hatch bringing up his knowledge of the site. Thinking of all
26 the votes he has made and the ones that troubled him, this approval is one that he loses sleep
27 over. He doesn't have as much experience with this site as Mr. Hatch, but he has driven by it
28 enough, and it bothers him that what we have out there right now, he doesn't think is suitable for
29 this site. He won't vote for approval tonight, and he doesn't know if he would approve it at all.
30 He thinks you need to do more work to show us that this is safe. He knows nothing has happened
31 in ten years, but it just has to happen once. You have already pointed out that you are submitting
32 a plan, and based on what you said about the bus drivers going the route they will go, unless you
33 are going to enforce it differently, that's not your intent.

34
35 Mr. Donohoe said he found out on Friday that Birches Academy isn't following their plan and he
36 was under the impression that they were following the plan. It is up to the board. He thinks the
37 bus drivers are smart enough to know that driving in the outer lane is easier and safer. He doesn't
38 have a problem with that. He is not thrilled that Birches Academy has taken it upon themselves
39 to park in front instead of where they agreed to park. That is Birches Academy not following the
40 decision by this board, and has nothing to do with Froggys. But he didn't know they were doing
41 that until this call.

42 Mr. Lyons said, that's fine but we need to deal with what is here.

43 Mr. Donohoe asked, does the board want him to go back to Birches Academy and enforce the
44 decision?

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1 Mr. Lyons said, this could be a denial for him. He can't see expanding the use on this site when
2 he thinks we made a mistake approving the use to begin with.

3
4 Mr. Pelletier said, he was here when Birches Academy came for their first approval. The parking
5 lot on the right hand side was dedicated to the parking of teachers and parents dropping kids off
6 with their cars, not the buses. Regarding the playground, the one that is designated was granted
7 by this board as their designated playground. Birches Academy chose not to use that designated
8 area because they said it was wet. He doesn't know if it still is. When they asked for more room
9 at a later date, he believes they asked if they could use the immediate parking lot to the right as
10 long as it doesn't obstruct deliveries from the dock on the right. And they've done a fantastic job
11 by barricading that right lot with their cars and cones. He was adamant about the proper amount
12 of cones when kids go from the door to the playground area, that those kids will be safe. They
13 exercised that very well. He is not concerned too much about the congestion of the parking lot in
14 front because the kids are dropped off by bus. His concern is the safety of kids in that area at
15 recess. As far as he has seen, they've done that very well.

16
17 Mr. Banks sees that there is a valid concern from the standpoint of shipments coming for the
18 paint store and then the buses. He is torn on whether to hold up this plan because of these other
19 issues. It's the same property, but he is looking at it as a separate thing. He leans more towards
20 approving the conditional use permit, but he sees that there are other concerns. He needs to get a
21 better sense that some of these other issues can be addressed. He thinks they are valid. That's his
22 point of view.

23 Chairman Belair agreed. The 8 spaces where there are 69 based on a real count, that seems like it
24 is pretty straightforward. But that parking lot on the southwest corner, they block it off and run
25 buses through there, and parents drop their kids off, it seems like a disaster. And adding these 30
26 students to go across the parking lot. He doesn't understand why the north parking lot wouldn't
27 be the ideal situation.

28
29 Mr. Donohoe spoke about the safety concerns. The only people that wouldn't be using that
30 access is the parents. He explained where they can park.

31 Chairman Belair said, it seems that the concerns of the board are centered around the southwest
32 part of this lot and you have access to the northeast. Why would you want to make someone
33 else's problems your problems?

34 Mr. Donohoe said, if he had a chance to, he would have adjusted his proposal. If the board would
35 be amenable to that entrance being used as the main entrance, then we'd be happy to designate
36 the north parking area, the 18 spots as the drop-off area for this use.

37
38 Chairman Belair asked, where is the elevator?

39 Mr. Donohoe said, it is in the Birches Academy lobby, in the far corner.

40 Chairman Belair asked, is that opposite the Balducci's entrance?

41 Mr. Donohoe said yes.

42
43 Mr. Banks asked, if this applicant was to use the north parking, 8 of those spots, would there be
44 signage to direct people?

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1 Mr. Donohoe said, we can do that and we can create a plan to run by Ross to show where the 18
2 spaces are. Birches Academy was required to deliver a parking and access plan that we attached
3 to our application. They were required to send that out to all of the parents. We can do the same.
4

5 Ms. Donovan said she is assuming, because it's a daycare/preschool, people won't come at the
6 same time. It will be staggered through the morning. Does using that different entrance pose a
7 problem?

8 Ms. Nunez thinks it may be better for the parents, because the stairs lead right into the actual
9 classroom. She thinks it is more convenient for the parents.

10 Ms. Donovan asked, is there going to be a safety issue in terms of strangers coming in?

11 Ms. Nunez said no, we have a door lock system in Haverhill and we would set up the same
12 system. So parents will have a code to go up and anyone else would have to get buzzed in and
13 will be screened before being buzzed in.
14

15 Mr. Donohoe then read the conditional use permit criteria.
16

17 1. The proposed modification complies with the purposes of the parking regulations because this
18 new, proposed use will not impede the free movement of ordinary public or private traffic on the
19 site, nor on the adjacent or nearby streets. Furthermore, the proposed use and associated parking
20 will not cause congestion on or off the property, nor will it cause unsafe conditions at the site.
21

22 2. As you may be aware, the original building was primarily built as a furniture store that, under
23 the parking regulations, has a lower parking requirement than if the building was primarily used
24 for standard retail. Although we tried to lease the building (or portions thereof) for a similar use,
25 we were unable to do so and have since renovated most of the first floor spaces and some of the
26 second floor spaces. Moreover, the site cannot be expanded due to adjacent wetlands and, thus,
27 the parking field cannot be expanded.
28

29 3. The existing parking at the property is sufficient to handle the existing and proposed uses,
30 especially when taking into account the hours of operation for this proposed business.
31

32 4. This property is directly adjacent to a wetland area and farm on two sides, and the former New
33 Hampshire State Liquor Store on the other side. There is no access to and from the wetland/farm
34 properties. The proposed use will not adversely impact the neighboring properties and there
35 should be no visible change in the neighborhood due to this tenancy.
36

37 5. While this new tenant may account for an increase in cars to the site, the times that this will
38 occur are not at peak travel or commuting times and Route 28 can certainly accommodate this
39 traffic.
40

41 6. The proposed modification will not negatively impact the aesthetic character of the site. The
42 exterior of the space will not change other than tenant signage.
43

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1 7. The requested use fits in well with the spirit and intent of the zoning ordinance and master
 2 plan. This new use will allow the landlord to adapt the use of the property to provide for a
 3 community-oriented use, without creating a burden on vehicular or pedestrian safety.
 4

5 **MOTION by Mr. Banks to grant the conditional use permit for Froggy’s Play Pad on**
 6 **South Broadway for reduced parking, per Section 490-701D and citing the applicant’s**
 7 **letter dated April 30, 2020, and read into the record.**

8 **SECOND by Mr. Pelletier.**
 9

10 Mr. Hatch said, he is still with Mr. Lyons. There is a lot going on and he doesn’t think it is a
 11 good fit. Birches Academy has expanded and he doesn’t feel comfortable with this and the
 12 parking situation, so he will vote no.

13 Mr. Donohoe said, when Birches Academy was approved for 225 students from the start, they
 14 expanded into the space that was their space, but they didn’t expand students. They expanded
 15 into the space they used for the school.
 16

17 Mr. Lyons said he is voting no as well. He can’t agree with 70% of what was read on the
 18 conditional use permit. He can’t see expanding this use on this site. Section 2.7 gives us the
 19 authority to protect the safety of the town. It is our duty to protect the safety of the town. This is
 20 one of those that he wishes he had back, and he won’t make it again.

21 Ms. Donovan said, Froggy’s is already there. If it has been working out well that’s fine. She has
 22 a lot of concerns about the weekday use and adding more, especially with the playground
 23 situation. She thinks the drop off can be worked out. She would be willing to look at this plan
 24 again. She was the realtor on this deal when it first happened, and it was tough to get this passed
 25 through the Planning Board, mainly because of the parking. She doesn’t think we are improving
 26 that here. She thinks we are adding more problems to it. She is not comfortable with it now as is.
 27

28 Mr. Pelletier said, from time to time, he still monitors locations and he hasn’t seen an issue in
 29 this location due to safety of children, which is his first concern. If he did see one, he’d be the
 30 first to say it. He is in favor.

31 Mr. Lyons said, nothing has happened yet, but it only has to happen once.

32 Chairman Belair said, the problems all seem to be with Birches Academy, and he would hate to
 33 tie the two together despite the fact that they are on the same lot.
 34

35 **Mr. Banks – in favor**

36 **Ms. Donovan – in favor**

37 **Mr. Pelletier – in favor**

38 **Mr. Feole – in favor**

39 **Mr. Hatch - opposed**

40 **Mr. Lyons - opposed**

41 **Chairman Belair – in favor**

42 **VOTE ON MOTION: 5 - 2**
 43

44 Mr. Moldoff read the following conditions:

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- 1 1. Prior to the building permit, submit the State childcare license.
- 2 2. Prior to the building permit, revise the plan to show the use of the north parking spaces for
- 3 drop-off and pick up.
- 4 3. Note the conditional use permit for reduced parking on the plan.
- 5 4. The applicant must operate the business so that the parking lot capacity is not exceeded.
- 6 5. All representations made by the applicant or their agents and all notes on the plan are
- 7 incorporated as part of the approval.

8
9 Mr. Moldoff asked, do you want to add something about the Birches Academy parking? They
10 are supposed to be parking their teacher vehicles and also drop-off and pickup on the south side
11 of the lot. If you want, we can incorporate that as a condition.

12 Mr. Donohoe said he will have to relay that to the landlord and ask them to get involved.

13
14 Mr. Lyons said, we have a plan right now, that they are not executing to. He is not in favor of
15 either, but he just heard Ross say that all representations are accurate, and that includes the plan
16 that's submitted.

17 Mr. Donohoe said he submitted the town approved plan and found out that Birches Academy
18 isn't following it. He can submit a plan that shows what Birches Academy does. He thought he
19 was to produce a plan that showed the drop off area in the north lot for Froggy's drop-off and
20 pickup. He was going to designate 18 spaces for Froggy's parents only, and show the arrows to
21 the two staircases and elevator. He was not intending to change the plan for the Birches
22 Academy bus route, but he can.

23 Mr. Lyons said he is not in favor either way. Do you have an enforcement issue? Do we want to
24 modify the plan?

25 Chairman Belair said he doesn't think the square footage that this applicant is looking for has an
26 ability to reach back to an 8 year old approval. He doesn't like to tie someone to someone else's
27 problems. Given the fact that nothing is open, if this came back to us, with a modified plan as we
28 discussed tonight, and some sort of enforcement capability, either through Ross or the landlord,
29 to make it work. He doesn't want to hold up someone's plan, but if the plan isn't executable
30 because places like this are not open, would a delay in our process be real to the applicant?

31 Mr. Donohoe said he doesn't know what they are doing in New Hampshire.

32 Ms. Nunez said the schools are closed.

33 Mr. Donohoe asked, are you intending to open when the State authorizes it?

34 Ms. Nunez said no. We were looking for September. Right now, she just wants to start
35 furnishing, get her license in order, and get ready. She wasn't going to open right away.

36
37 Mr. Moldoff said we will address the issues that have been raised by Mr. Hatch with Birches
38 Academy, to enforce the site plan that was approved by the Planning Board. And that will be
39 separate from whatever action you take tonight.

40 Mr. Banks said, another condition would be to note the parking on the north end for this
41 applicant and the signage that goes along with that.

42 Mr. Donohoe asked, are you asking for parking lot signs for 8 parking spaces to be dedicated to
43 this use?

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1 Mr. Banks said, in his mind, it’s a matter of getting those cars associated with Froggy’s Play Pad,
 2 over to the north end.

3 Mr. Donohoe suggested a Froggy’s Play Pad drop-off sign on the corner of the building.

4 Mr. Banks said to make it explicit.

5 Mr. Donohoe said he will talk with the sign company.

6
 7 Ms. Donovan said that Ross mentioned making a note that Birches Academy will enforce it, but
 8 is there latitude there to look at everything all together, and see if there may be something better?

9 Mr. Moldoff said, in terms of getting action on this plan it wouldn’t require that. We will look at
 10 what was approved by the Planning Board and speak with Birches Academy about what they can
 11 do, or modify it.

12 Mr. Lyons spoke about when we were waiting for the State to fix Exit 2, and someone came in
 13 and added 6 parking spots and we went through the ringer because of the history. He doesn’t buy
 14 the argument that this isn’t their problem. This is on their site and the site has problems.

15
 16 Chairman Belair said that Ross mentioned a condition about the north lot. Does that require a
 17 revised plan?

18 Mr. Moldoff said, they’ll put notes on the plan to address that. And they’ll put signage and that’s
 19 the intent. So he will work with the applicant to make sure that gets done. You don’t need to
 20 revise the conditions because it’s one of the 5 conditions.

21
 22 **MOTION by Mr. Pelletier to approve the Froggy’s Play Pad site plan located at 419 South**
 23 **Broadway, second floor, for the addition of 33 school children in a 1,200 square foot**
 24 **portion of an existing party business, and with all the conditions stipulated by Ross.**

25
 26 Mr. Moldoff said there are 5 conditions.

27
 28 **SECOND by Mr. Banks.**

- 29
 30 **Mr. Banks – in favor**
 31 **Ms. Donovan – in favor**
 32 **Mr. Feole – in favor**
 33 **Mr. Pelletier – in favor**
 34 **Mr. Hatch - opposed**
 35 **Mr. Lyons - opposed**
 36 **Chairman Belair - in favor**
 37 **VOTE ON MOTION: 5 - 2**

38
 39 Chairman Belair said, we trust that, everything that can be done to make that site better and
 40 anything Mr. Donohoe can do with the landlord to get those other people to toe the line.

41
 42 **PUBLIC MATTERS**

- 43
 44 1. BHT Site Plan

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1
2 Mr. Moldoff said he received a letter from Mr. Fredette regarding the BHT site plan. This is a
3 project that you allowed some changes to. This is a 12 unit townhouse project on Main Street. At
4 the last meeting, you approved some minor changes. In the letter that was submitted, they said
5 they are reducing the number of bedrooms from 30 to 24. Mr. Fredette called and said he made a
6 mistake. The number of bedrooms is increasing from 30 to 36. You were given a plan and the
7 approved plan showed (6) two bedroom units and (6) three bedroom units. Now they want all 12
8 units to be three bedrooms. Do you have any concerns or issues? Do you want to see it? It
9 doesn't change the parking, but it is different from what you saw. Do they need to come back?

10
11 Chairman Belair asked, does it change the impact fee?

12 Mr. Moldoff said no.

13 Chairman Belair asked, it doesn't affect any infrastructure, or anything there?

14 Mr. Moldoff said no, you may have more people there. That remains to be seen.

15 Mr. Pelletier asked, more people won't increase the parking?

16 Mr. Moldoff said, it is 2 spaces per unit.

17 Chairman Belair said it will increase the number of cars going in, but not spaces that our
18 regulations require them to have.

19 Mr. Banks said it could be a kids bedroom, so he doesn't have too much of a problem with it.

20
21 The consensus of the board is that they are OK with this.

22
23 2. 284 North Broadway

24
25 Mr. Moldoff said that a Hookah and Tobacco business wants to go in at 284 North Broadway. It
26 was an insurance agency and they want to convert from office to retail. He hasn't looked at how
27 the building was originally approved. He can do that, but he thinks the parking will be sufficient.
28 Do you have any concerns?

29 Ms. Donovan asked, is it a hookah lounge or are they just selling it?

30 Mr. Moldoff said it is retail. He read from the letter. They said its retail, but he can find out if
31 they will have seating. That will change things.

32 Ms. Donovan also mentioned that smoking on site will require air handling.

33 Chairman Belair said to check for sure that it is retail and look at how the building was originally
34 done. He can't recall.

35
36 3. Christmas Tree Shop

37
38 Mr. Moldoff said that Christmas Tree Shop wants to put a tent in the parking lot, for the sale of
39 merchandise. We have allowed tents for outdoor seating, and in this case they want to do sales of
40 patio furniture, for two months until the end of July. Most of the stores aren't open. Typically
41 you approved tent sales. They applied for a permit. It is in the parking lot. Do you have any
42 concerns?

43 Chairman Belair said, these places are hurting. He has no problem.

44 Mr. Banks said, he has no problem as long as it is going through the permitting process.

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1
2 The consensus of the board is that they are OK with this.

3
4 4. Linehan Limousine

5
6 Mr. Moldoff said, Linehan Limousine wants to do an office for a dispatcher at the Ermer Road,
7 Route 111 intersection. They want to park 12 limos on the property in the front, on the corner of
8 Route 111. They are moving from a place in Windham. He spoke with the landlord who sent
9 Ross parking calculations and a site plan showing where the spots will be located. Do you have
10 any concerns? Do you want to see that and do something more formal?

11
12 Chairman Belair doesn't think it is an issue.

13 Mr. Banks asked, how do you figure out parking with limos?

14 Mr. Moldoff said, he asked if they fit in the parking spaces. They will put them in regular
15 parking spaces.

16 Ms. Donovan said, they are mostly suburbans and town cars.

17 Mr. Banks said he is OK with it.

18
19 Mr. Hatch asked, are these limos going to have some type of signage on them? In the past, a
20 restaurant used to do that with a sign, and we got mad. There is not much difference between the
21 two.

22 Chairman Belair said, a lot of the classier limos don't have lettering on the side. Let them know
23 about the signage issue because that is a different issue.

24
25 **PLANNING BOARD MATTERS**

26
27 Jacob Lafontaine, Assistant Planner, will speak about sign ordinance revisions. The intent is to
28 review proposed amendments to the sign ordinance drafted by himself, Ross, and attorney
29 Michael Courtney. They were drafted in response to a 2015 Supreme Court case. It is our first
30 amendment court case that relates to signage. The Town of Gilbert Arizona put stricter
31 limitations on signs. This graphic he showed demonstrates that. The signs in question were
32 religious services, and were only allowed to be displayed 12 hours before and one hour after.
33 Political signs were also much larger and at a more lenient time period. The court's issue was
34 that they felt that content based restrictions were unconstitutional because each sign had the same
35 effect on traffic safety and aesthetics, and there was no rationale to limit one rather than the
36 other. The court's decision resulted in a "need to read", which he explained. If you have to read
37 the rule then they found it to be unconstitutional. If you want to have a content based regulation,
38 then it has to serve governmental interest. He showed and explained the dos and don'ts after
39 Reed. They encourage us to add a severability clause and substitution clause, and to have a
40 strong purpose clause. And don't enforce content based regulations or enact a moratorium on all
41 sign permits. If there is a content bias, it exposes us to a higher risk of possible legal challenge.
42 We went through our ordinance. And there were recommendations to remove categorical
43 regulations. We propose to eliminate the section that regulates commercial temporary signs and
44 allows signs without permits. The majority of those signs were incorporated into a table that he

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1 showed. We tried to incorporate the regulations in our current ordinance and tie them to a
 2 compelling governmental interest to enhance traffic safety. If some are different than what was
 3 posted on the website, initially we took the most conservative approach. We had to figure out a
 4 way to address it in our ordinance. This is the manner we determined is best to address these.
 5 This is the most significant change, is the elimination of those sections and the incorporation of
 6 aspects of those sections into this chart. Beyond that, a lot of it was the functional aspects that
 7 were recommended to us by MHMA. We need to review our purpose statement. We added
 8 language in there which he showed, to bolster our ordinance. We added a nondiscrimination
 9 clause to bolster our ordinance and eliminate the presumption of content bias discrimination. We
 10 also adopted some nondiscrimination material. And in Section E4 which permits the Board of
 11 Selectmen to grant special permission for signs on public property. This criteria is all content
 12 neutral. We adopted a substitution clause which he explained, and a severability clause which
 13 was also a recommendation from MHMA. Some of them are sweeping changes, but these are
 14 ones that each municipality has to deal with as a result of the case regarding the Town of Gilbert.
 15 We had a lot of consultation with Attorney Courtney.

16
 17 Chairman Belair said he assumes the process is a zoning amendment proposal, that goes through
 18 the process in December, the vote in January, and goes to the ballot in March.

19
 20 **MOTION by Mr. Banks to adjourn.**
 21 **SECOND by Ms. Donovan.**

- 22
 23 **Mr. Banks – in favor**
 24 **Ms. Donovan – in favor**
 25 **Mr. Feole – in favor**
 26 **Mr. Hatch – in favor**
 27 **Mr. Pelletier – in favor**
 28 **Mr. Lyons – in favor**
 29 **Chairman Belair – in favor**
 30 **VOTE ON MOTION: 7 – 0**
 31 **UNANIMOUS**

32
 33 The meeting adjourned at 8:30 p.m.

34
 35 For further information, kindly refer to the videotape dated 5/26/2020, located in the Planning
 36 Office.

37
 38 Minutes by: Susan Strugnell, Planning Board Recording Secretary
 39 Approved: Planning Board
 40 Date: