The Chairman called the meeting to order at 6:00 pm and welcomed those in attendance.

1. Public Hearing – Pike Industries: Continuation of a request for Earth Excavation approval to increase quarry depth. Property is located at 308 Depot Street, Tax Lots 235-058-000-000, 232-031-000-000 & 236-014-000-000 in the “I” & “R” Zones. PB# 1019P.

The chairman opened the public hearing.

Attorney Robert J. Dietel, Esq.; Mr. Jeff Cloutier; Mr. Cory Gucwa; Mr. Dick Fraser, CPESC; Mr. David Maclean, PG; and Mr. Timothy Rath were present for this application.

P. Harris acknowledged that a lot of work has been done on both sides for this application. The applicant has provided the information the Board requested, and allowed the Board time to get their own experts. There have been many meetings, as well as a site visit, to help Board members understand what is being asked and to bring the Board up to speed. There were many people involved in the process.

Attorney Dietel thanked Board members for attending the site visit. He stated the applicant has answered questions the Board asked. He said he hopes the Board got a better sense of what the site looks like, how the excavation area site sits, and the scale of the operation. In reviewing the proposed approval conditions in the Staff Report, the first item addressed questions about complaints for adverse effects. Pike does not have a history of problems with those types of impacts and they don’t expect an issue. They understand and can live with the condition. It is comprehensive and includes water quality and impacts, residential wells, and expansion of wetlands impacts. The second item creates an escrow account with readily available funds if necessary, and replenishment of the funds. This is on top of the insurance and reclamation covered elsewhere. The third item addresses the Quarry Pond at the eastern end of the excavation area. Water pumps out of there and has two purposes. The wash facility ultimately cycles water back into the pond. Test sampling showed 0.4 mg/L of nitrate, which is 25 times lower than DES ambient water quality standard. This is a significant finding. Ammonia and nitrite were not detected above lab detection limits. There was a comment during this application process about adding the pond to the proposed water quality plan as an additional testing site, and it has been added to the plan. The Town’s expert has seen the plan. The fourth item involves blasting materials and whether they will accumulate on site or be trucked off site. The experts have indicated those are not viable concerns. The
Town’s expert is in agreement with this.

Attorney Dietel concluded that this has been a deliberate process. It is an application we are proud of. We have satisfied the question of grandfathering. This is located in a district where it is permitted, it meets the Earth Excavation standards, and goes above and beyond. The water quality management proposed provides substantial protection that DES is not requiring. He asked that the Board approve the application with the conditions outlined. Attorney Dietel thanked the Board for their time and attention.

P. Harris asked if the Board has any questions. He clarified that alternate member D. Grimes may ask questions but will not vote at this meeting.

The chairman asked if anyone in the audience had additional questions or comments.

Mr. George Condodemetraky said he has not seen the site but they are going to dig a big 100-foot hole in the ground. He has been in town 50 years and lived most of his life here. The Town has gone from 1,200 to 8,000 residents. He has a problem with this application because he worked as an engineer in quarries and digging a hole in the ground will eventually create a problem. “The Planning Board’s job is to protect the health and welfare of the people of Belmont. Kids will do certain things that we don’t understand why.” The example Mr. Condodemetraky gave is that his kids went to a well and the door was open. He told the Town that it needed to be locked up so kids don’t fall in. He said, “That is a minor example of what I see as a danger for young kids. The problem with a hole that deep filled with water is the danger to any teenager that wants to get adventurous. Pike Industries will make a lot of money; that is why they are in business. If Pike can make $5 selling granite, they can afford $1 to put sand back in there. There should be a balance of what is taken out and what is put in. I don’t have a problem with the approval but things should be conditioned that the hole must be filled in and it will save the lives of young kids in the future. It is important to the townspeople of Belmont. This decision will have future ramifications. I am trying to avoid future ramifications. It would be generous for Pike to abide by that.”

P. Harris responded that those concerns have been brought up over and over through this process. There are no regulations that Pike has to be here for this operation. The best we can do is ask for fencing. Mr. Condodemetraky asserted that is not going to protect anything. He referenced a personal military experience where a group climbed a fence in the middle of the woods to find that the other side contained mines left over from World War II. Mr. Condodemetraky expressed that there will be a legal battle with insurance companies and payment demands when kids climb over the fence. It is the Board’s responsibility to protect the health and welfare presently and in the future.

J. Pike commented that it was too bad the selectmen before us didn’t put in any ordinances for reclaiming a quarry. A gravel pit needs to be reclaimed, but not a quarry. Mr. Condodemetraky said he was on the Selectboard. J. Pike stated there was never a problem before. Mr. Condodemetraky countered that the Board can condition that. J. Pike observed that the applicant has done more than they have to, because this was grandfathered. G. Condodemetraky recommended the Board let the applicant sue the Town and let a judge decide what is right and wrong.

P. Harris stated that question was asked more than once. There is no win for the Town. It would cost the taxpayers money. Mr. Condodemetraky disagreed and started to explain about the night club on Route 106. P. Harris stated that we need to stick to this application. R. Segalini said it doesn’t relate to this application. Mr. Condodemetraky continued that the judge decided he was right. They stopped the night club operations. P. Harris replied that there is a difference between a bar and Pike Industries.
J. Pike questioned Attorney Dietel about a blasting issue. He said people that live higher up on the east side of the blasting area talked about feeling the blasting in their homes. Can it be measured? If it is, or becomes an issue, what do they do? They still have water, but if the house is shaking is there a procedure to appeal or go through. R. Segalini commented that they can request monitoring and should go through the Town Administrator or Land Use Technician.

Mr. Timothy Rath explained the science of how a seismograph measures vibration and noted that human beings are very sensitive and feel low level vibration. A modern home would only be affected at 5.4” per second, which is 270 times what a person could feel.

D. Grimes asked about the issue of the pit being left over. He pondered if the pit could be a solution for clean fill, where the blasting would be done and the pit filled in afterwards, with Town supervision. R. Segalini said no. D. Grimes said this could set a precedent.

Attorney Dietel confirmed that the design review process will be completed every 10 years to bring the town together to look at the site. R. Segalini commented that how they will leave it supersedes any state requirements. P. Harris asked about areas of the site that could be used for reclamation. J. Cloutier replied that they are manufacturing whatever they can to meet consumer needs. P. Harris asked if going forward will certain areas be graded to get to green areas. Attorney Dietel remarked there is no crystal ball, but the review process in 5 years will give an opportunity to talk about it. Attorney Dietel said he hopes they have demonstrated to the Board how much Pike is willing to work to be responsible and to have good faith.

The chairman asked if anyone in the audience had additional questions or comments. There being none, he closed the public hearing.

**Board’s Action – Pike Industries:**

**MOTION:** M. LeClair moved that the application be granted Final, conditional approval as it appears to meet all of the technical requirements of the Ordinances and Regulations of the Town of Belmont with the following conditions:

Conditions (precedent) to be complied with or secured (as appropriate) prior to plan being signed and decision recorded. No site improvements or approved uses shall commence and no building permit shall be issued until plan is signed and decision recorded.

1. This action is based on a plan or plan set dated 5/24/19.
2. Submit final plans (6 paper, 1 reduced). Submit one copy for approval prior to submitting all required copies.
3. Add/identify/include note on plan:
   a. Hours of operation for blasting activities (8 am – 3 pm, Monday - Friday, no weekends or town holidays) unless exigent circumstances reasonably warrant a deviation for public safety purposes, subject to notification to the fire department.
4. Payment of decision recording fees. Check made payable to BCRD for Notice of Decision recording fee - $28.60.
5. Applicant shall demonstrate that the excavation site is included as a covered location under the insurance policy summary provided to the Land Use office on July 3, 2020.
6. Security: Security shall be provided for site reclamation in case of abandonment or...
discontinuation. Applicant shall submit engineer’s cost estimate of closure costs to the Land Use office for approval and the owner shall post required security in the form acceptable to the Town in an amount to be set by Town based upon engineer’s estimate. Security to be reviewed for each 5-year compliance hearing.

7. NH Alteration of Terrain permit shall be obtained as applicable.
8. Air Quality and other required environmental permits shall be obtained as applicable.
9. Evidence of other required local, state and federal permits received.
10. Payment of all reviewers hired to review the project pursuant to Earth Excavation regulations Section 5.B shall be finalized utilizing funds provided by the applicant.

General conditions to be complied with subsequent to plan being signed and decision recorded:

12. Permit expires on August 24, 2050
13. Approved uses include earth excavation to include blasting activities.
14. Operator shall comply with the following best management practices:
   c. Part Env-Wq, 1510, Best Management Practice for blasting, fueling, and maintenance of construction equipment
   d. WD-DWGB-22-6, Best Management Practices for Fueling and Maintenance of Excavation and Earthmoving Equipment
   e. Fugitive Dust, NH DES Fact Sheet ARD-42, 2019
   f. WQE-1 AoT Permit Requirements for Sand & Gravel Pits;
   g. Env-Sw302.03 Solid Waste Permit Exemptions (waste cement, brick, bituminous concrete);
   h. WMD-SW-7 Stump & Brush Management
   i. WD-DWGB-26-8 Water Efficiency Practices for Quarries and Sand & Gravel Operations
   j. WD-DWGB 22-4 Best Management Practices (BMPs) for Groundwater Protection
15. A copy of the Quality Assurance Program shall be provided to the site contractor(s) prior to work commencing.
16. Ground and surface water quality and well monitoring shall be conducted as proposed, including as follows:
   a. Sampling results will be maintained on site and available upon request, and shall be reported to the Belmont Planning Board/Department if test results indicate levels of nitrates, nitrites, and ammonium in excess of NHDES or United States Environmental Protection Agency standards.
   b. Operator will prepare a letter summarizing sampling results for the year and comparing results to previously collected data. The letter will be prepared following receipt of laboratory results from the last sampling event of the year and will be submitted to the Belmont Code Enforcement Officer and Belmont Land Use Technician.
   c. Following the collection of five years of sampling data, Operator may approach the Planning Board to discuss the need for continued supply well sampling based upon sampling results, trends, and evaluation of data collected.
   d. If test results indicate levels of nitrates, nitrites, and ammonium in excess of
NHDES or United States Environmental Protection Agency standards, which are associated with blasting. Operator shall report such results to the Belmont Planning Board/Department, and the NHDES, for evaluation of whether any corrective action is necessary.

e. All protocols proposed in applicant’s 8/17/2020 Water Monitoring and Reporting Program shall be followed.

17. Applicant shall promptly commit to remedy any adverse impacts upon property owner's well water supply/production quantity or water quality caused by the applicant’s operations, failing which excavation and blasting shall cease until the Applicant has committed to address the property owner's adverse water supply or water quality impacts. The Applicant agrees to confer with the Town regarding any complaints of adverse impacts within one week following receipt of notice of a complaint, or if that time is not reasonably possible, at a time agreed upon with Town Planning staff.

18. Applicant shall establish and maintain either an escrow account with Town of Belmont, or a letter of credit issued by a New Hampshire Bank in a form acceptable to the Town and its legal counsel, for the benefit of the Town of Belmont water well users, in the sum of $20,000, which shall be established for the purpose of remedying adverse impacts to water wells in the event that such impacts are caused by the applicant’s operations. Said sum shall be used to install water treatment equipment or to drill a new or deeper well, as needed to address adverse water quality or supply issues caused by the Applicant’s operations. Such monies may be drawn upon by the Town, as advised by its consultants, upon a finding by the Town, supported by specific evidence that the applicant’s operations have caused an adverse impact. Such funds shall be replenished by the Applicant to the original amount should they be drawn upon. Amount shall be adjusted for inflation during the term of approval based on the Consumer Price Index commencing on the approval date.

19. Applicant shall address and remedy, any expansion of wetlands, or flooding of uplands, whether onsite or offsite, or other related offsite adverse water environmental impacts caused by the pumping or redirecting of onsite waters related to the excavation site.

20. Notification shall be extended as proposed prior to each blasting event to include advance notice to local police and fire departments, as well as abutting residents, one hour before blast occurs by telephone.

21. Seismic monitoring shall be conducted as proposed, and additional seismographic or structural monitoring shall be conducted as necessary.

22. Airblast overpressures shall be monitored during blasting operations and weather conditions shall be reviewed prior to blasts that are predicted to be near or at 134dB at nearby structures.

23. Applicant shall proceed with excavation and final grading activities in a manner that prepares the completed excavation site to reasonably accommodate uses permitted in the underlying zoning districts in accordance with the design standards of the Belmont Earth Excavation Regulations.

24. Applicant shall support and participate in the implementation of applicant’s 7/1/2020 Design Review and Reporting Program.

25. Operations shall cease if at any time it is determined by the Planning Board that operations are not proceeding in a manner that prepares the completed excavation site to reasonably accommodate uses permitted in the underlying zoning districts.

26. Applicant shall maintain insurance coverage for the excavation site in a manner comparable to that specified in the insurance policy summary provided to the Land Use
office on July 3, 2020. Applicant shall provide updated copies of insurance coverage to the Town annually and within 30 days of a request at any time. In the event of a cancellation of insurance coverage, the Town shall be notified 30 days prior.

27. Submission of annual aquifer inspection checklist demonstrating compliance with applicable requirements is required. Town shall be permitted to conduct periodic aquifer inspections.

28. Noise, dust and other potential nuisances shall be managed as proposed and in accordance with applicable best management practices.

29. Routine compliance hearings shall be held every 5 years, to run concurrent with NH DES Alteration of Terrain renewal schedule. Additional compliance hearings shall be scheduled by Board as necessary. Compliance hearing submissions shall conform with the compliance hearing requirements of Excavation Regulations Section 11, as amended or renumbered.

30. In addition to compliance hearings, excavation reports shall be submitted annually by completing the Earth Excavation – Annual Report to Planning Board form available from the Town.

31. The entire perimeter of the area to be disturbed shall be demarcated. No encroachment outside the demarcated area is permitted without prior approval from the Town in conjunction with review by project engineer.

32. A physical barrier shall be formed around the quarry rim consisting of a 6-foot high chain link fence, or other suitable barrier approved by the Planning Board, and to include warning signs spaced at a distance no greater than 50 feet.

33. Excavation shall be monitored and certified by a consultant appointed by the Board at the applicant's expense if any.

34. The Town retains the right to require an independent review at the applicant’s expense, if any problem occurs, or becomes apparent in the design or implementation of the approved plan.

35. The property owner shall be responsible to inspect, maintain and make immediate repairs to stormwater management features to assure they function in the manner intended and protect water quality.

36. Upon receipt of a resident complaint regarding site operations, operator shall promptly evaluate and report its findings to the Belmont Land Use office for evaluation of whether any corrective action is necessary.

37. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.

38. All reports, correspondences and other documents submitted pursuant to this application by the applicant or any of its agents are incorporated as a condition of this approval.

39. No changes shall be made to the approved plans unless application is made in writing to the Town.

40. Other operational conditions of the Town and other agencies shall be met.

The motion was seconded by R. Pickwick, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

Attorney Dietel thanked the Board again for their time and attention, especially during the pandemic.

2. Plan Submission Meeting and Public Hearing – Tap Public House Inc.: Request for site plan
approval to allow outdoor seating, expand the existing use to include the downstairs and add parking spaces. Property is located at 930 Laconia Road, Tax Lot 122-057-000-000 in the “C” Zone. PB # 0320P.

Attorney Philip Brouillard of the Quain Trust, and Mr. Michael Campione, tenant, were present for this application.

Attorney Brouillard said he will speak first and then turn things over to Mr. Campione. One of the issues is parking. We have 48 existing parking spots. The parking analysis was shared with the Board. We have the Yolk which is not open at night. That helps with parking for Mr. Campione. With COVID, Michael and the Yolk have had no issues with parking, with the tents in place.

Attorney Brouillard continued that with 48 parking spots, the only time there is a problem is on the weekends. The actual parking is based on each tenant saying how many people they will have actually parking. From 6 am to 2 pm weekdays we need 65 but have 33. From 2 pm to 10 pm we need 46. It is okay on weekdays. Obviously, this is a deck so it is not open in the winter. If you look at when the deck is closed, there are 47 spots per requirements and there are 39. On the weekend when the deck is open, per requirements we have 73 but actual is 65. During COVID, what is observed for parking is that there are not cars on the road or the grass and there has been no trouble.

Mr. Campione explained that there is a 60’ x 20’ tent in the parking lot with an occupancy of 78 approved by the Fire Department. There has been no issue with parking. He can’t speak for the Fire or Police Departments but they can attest to that. So even though it doesn’t meet requirements, it has been a prime season with business up 13% over last year. It is amazing. He doesn’t see a negative. Mr. Campione said with the outside space there are new customers and faces and with more room there have been minimal issues with people spread out. The business flows a lot better. Right now, he thinks there are 12 less parking spots than if they didn’t have the tent, between the Yolk and the Tap.

D. Sassan reminded the chairman that this application has been not accepted as complete even though the case was continued from the last meeting. There are several waiver requests.

R. Pickwick stated the parking is designed for the Yolk not being open in the evening. Attorney Brouillard stated “this is pre-existing.”

M. LeClair requested that deliberations stop.

P. Harris said there are requests for waivers. Attorney Brouillard requested to speak briefly. He summarized that this has been an approved shopping center for over 20 years. They are trying to add a seasonal deck to a restaurant. He doesn’t agree that when there is a property like this that when approved, they have to start over every time they have a new tenant. He said this Board approved the shopping center at one point. They can’t apply the requirements to what was 20 years ago. It is unfair. The rules back then are not the same as now. Attorney Brouillard requested these waivers be granted because this is already approved and they are just adding a deck. He asked the Board to concentrate on what is important about adding the deck.

W. Peterson asked about fixing the parking lot. He said it has been like that for 20 years and hasn’t been fixed. Attorney Brouillard responded that someone is set to start work on it in 2 weeks. He wants to fix it this fall. He has agreed to that condition.
P. Harris commented that they need to expect more cars. Some nights people can’t get in there. On a Saturday evening people park at the Penguin. The place is really crowded. He has witnessed it and can’t believe that efforts have not been made to work with what they have.

D. Sassan acknowledged the Staff Report packet that was mailed was missing some pages. To summarize some of the items in the Staff Report, the waiver requests to be addressed now are for administrative completeness of the application. The Land Use office supports granting all of these waivers, however there is a waiver request for parking that does not relate to administrative completeness. It is related to a regulation in the Site Plan review and the Land Use office is making a different recommendation that can be addressed when we get to that point. In order to get to the point of determining if the application is accepted as administratively complete, the requests on page 2 need to be addressed. Then following the Department comments there is the additional waiver request.

**MOTION:** M. LeClair moved that the request to waive a) Soils Map & Report (Site Plan Review Section 5.D.3) be granted because physical alterations associated with this proposal shall not significantly impact soils.

The motion was seconded by R. Pickwick, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

**MOTION:** J. Pike moved that the request to waive b) Topographic Plan (Site Plan Review Section 5.D.4) be granted because physical alterations associated with this proposal shall not significantly impact topography or drainage.

The Board discussed that drainage is a big issue, but the driveway will be fixed.

The motion was seconded by M. LeClair, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

D. Sassan explained the application has no expansion to the parking lot. J. Pike commented the Board knows there are problems with the parking lot, even with the existing traffic. It is a health hazard. W. Peterson has seen one foot of water and ice in the lot. R. Pickwick stated if they are asking for a deck approval there will have to be more people there. D. Sassan noted that it may be appropriate to lump the waivers together so there does not need to be a roll call vote on each motion. He clarified that he is not recommending members approve the application. He is only recommending the waivers could be handled together.

J. Pike stated the Board should see the plan for fixing the parking lot and approve and waive the rest of these after the fact. D. Sassan verified that the way applications are handled is that waiver requests related to administrative completeness must be addressed first. If the waiver requests are granted, the application may be accepted so that deliberation can proceed and a ruling can be made on the parking waiver. If the Board denies the parking waiver, the application would not proceed tonight and something would need to be done. Verification of stormwater would be required later.

R. Ball explained the waiver of stormwater management is to not do the whole lot at one time. If extra parking is needed, they would do a simple plan just for that area of the parking as it relates to the new parking. They are proposing to fix the problem that is there now. R. Ball confirmed he spoke with the contractor and they have developed a plan that is better than what is there now. R. Segalini noted that...
there is history that goes with the lot. The State will not allow a pipe to discharge into their system. R. Ball asserted the problem that is there now will be remedied. R. Ball said whether this application moves forward or not, they will fix the bottom parking lot.

J. Pike noted the Board has never done something like this. They need to take each item and vote it individually.

**MOTION:** J. Pike moved that the request to waive c) Aquifer Plan (Site Plan Review Section 5.D.5) be granted because physical alterations associated with this proposal shall not significantly impact impervious surfaces or pose any elevated impacts to the aquifer.

The motion was seconded by W. Peterson, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

**MOTION:** J. Pike moved that the request to waive d) Utilities & Fire Protection Plan (Site Plan Review Section 5.D.6) be granted because the Building Inspector and Fire Chief will inspect the premises to ensure its safety and compatibility with other uses prior to issuing occupancy approval, and because additional information can be requested if deliberation reveals that more detailed plans are needed prior to rendering a decision.

The motion was seconded by M. LeClair, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, and G. Grant. (6-1) R. Pickwick opposed.

J. Pike reiterated that the parking should be fixed first, before a vote on stormwater management. R. Pickwick agreed. D. Sassan explained again that these waivers are for administrative completeness. The applicant is asking for a deck. The issue that the Land Use office has is not related to administrative completeness, which comes first in the process. The problem the Land Use office has is that there is already not enough parking and we don’t want to further exacerbate that issue. It may not make sense, but unfortunately following proper procedures leads us this way.

J. Pike said he has never seen this format before the Board

W. Peterson questioned if there was another parking lot proposed. R. Ball responded yes, on the grassy knoll. Attorney Brouillard said what he applied for was to add some parking spots. He does not want to have parking out back. Attorney Brouillard believes he has grandfathered rights to replace the parking that is there. He wants Mr. Campione to have his deck and use his grandfathered rights. It is not viable to spend the money on parking. He has a right to repair the parking lot and is willing to do it as a condition of this approval with R. Ball’s supervision. R. Ball said there was never a drainage study done before. He is making it better than it was before. They did not have a drainage study when this was approved. It will have bigger pipes and more stone, increasing the capacity of water storage. Attorney Brouillard said he has the right to fix the existing parking.

R. Pickwick said this is so many parking spaces, and it is presuming that the Yolk only goes until 2 pm. They had rights to do evening events and catering for weddings. The applicant will knock out all of their parking spaces. They are now limited to 2 pm. If a deck is put on, all of the parking will be needed, and the parking is not up to standards.

Attorney Brouillard said the Board does not recognize rights for what we have.
D. Sassan reminded the Board that the parking waiver request is not related to the completeness of the application. Before deliberation can take place, the Board must determine if the application is complete. Then we can move on to parking and address it by granting or denying the waiver for parking. If the Board decides to grant the waiver for parking, which is not recommended by the Land Use office, there is a condition the applicant has accepted that the parking lot must be replaced in kind with the approval of the Land Use Technician before the deck can be utilized.

R. Segalini commented when the tent goes away, the deck goes on, and there will be about 30% less people than now. There would not be an increase in people.

W. Peterson stated the Board needs to discuss the completeness of the application and regional impact.

**MOTION:** J. Pike moved that the request to waive e) Stormwater Management Plan & Report (Site Plan Review Section 5.D.7) be granted because physical alterations associated with this proposal shall not impact stormwater drainage. If additional parking is required, as is recommended later in this report, this case will be continued and adequate stormwater management reporting will be required at that time.

The motion was seconded by M. LeClair, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

**MOTION:** J. Pike moved that the request to waive f) Street & Driveway Profiles and Plan (Site Plan Review Section 5.D.8) be granted because physical alterations associated with this proposal shall not significantly impact streets and driveways.

The motion was seconded by W. Peterson, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, and G. Grant. (6-1) R. Pickwick opposed.

**MOTION:** J. Pike moved that the request to waive g) Landscape Plan (Site Plan Review Section 5.D.9) because physical alterations associated with this proposal shall not significantly impact landscaping.

The motion was seconded by W. Peterson, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

**MOTION:** J. Pike moved that the application be accepted as complete for the purposes of proceeding with consideration and making an informed decision. However, additional information shall be requested as necessary and must be submitted in a timely manner to complete review and act on the application. The Board shall act on this proposal by 10/28/2020 subject to extension or waiver.

The motion was seconded by R. Segalini, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, and G. Grant. (6-1) R. Pickwick opposed.

The chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide
opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

**MOTION:** M. LeClair moved that the proposal does not have a potential regional impact.

The motion was seconded by R. Segalini, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

The chairman opened the Public Hearing.

P. Harris read from the Staff Report:

**Departmental Responses:**

- The Land Use Technician responded that “Parking is not sufficient. We need to take into account the Yolk, Tap upstairs and deck, Brookside, the retail space, and the laundromat. There was a plan to build an upper parking area where the grassed area is. What will that do to the 75% allowable coverage? Drainage calculations will be needed for any additional pavement. The deck will be within 20’ of the abutting dumpsters and propane tanks on the abutting lot (not depicted on site plan). Smell of dumpsters may not be conducive to outdoor activities. The pond that forms in the lower parking lot must be fixed!” RBV – when go on site 7-9 cars illegally parked behind yolk on abutting property and behind propane tanks on grass on Condodemetraky parcel.

- The Police Department responded that “Our concerns would be for parking. Keeping cars off 106. Current parking is limited in front of the building and the parking lot below is a disaster. Fire Department would need to determine capacity limits which would need to be adhered to.”

Parking Requirements information: “Although the parking standards in site plan review carve out a certain amount of leeway for the Planning Board to tailor parking requirements to a specific situation, it is not intended that the Board should completely disregard the parking standards. Parking calculations provided by the applicant reveal that existing parking does not provide compliant parking for the currently existing business and approval of this proposal would further aggravate the discrepancy between what is required and what is provided. Per the applicant’s own calculations, the site is currently deficient by over 40 parking spaces and approval of this proposal would increase that deficiency to 70 spaces. It is the opinion of the Land Use office that at least 30 parking spaces must be added to the site plan before it would be appropriate for the Planning Board to begin considering what standards might be tailored to suit the specific circumstances of the site.”

P. Harris said the parking lot seems to be of concern to Board members. Are there comments or questions about the request? If this waiver is denied, as advised by the Land Use office, it is recommended that the Planning Board continue the meeting to a date certain, thus maintaining continuation of notice and providing the applicant to submit a plan for increased parking.
M LeClair has concerns about a few things. He said he is “pro-business” and you should be able to do what you want with your property. You pay the taxes and it is yours. But in this location operating under COVID, the applicant is not seeing the traffic they would normally see. M. LeClair said this is not just dealing with your business. It is about the location. As a representative of the Town, saying yes and allowing this, allows us to be subjected to other businesses both in the past, and in the future, to question the amount of parking spaces needed, and to request variances of the amount. Right now, the business is operating under COVID and doing well. Five years from now at Motorcycle Weekend what will be happening? Mr. Campione said they have a proven method of how the parking works. Occupancy in the front tent is 78, with 30 inside. Normally there are 65 inside. The reason for cars parked out back is because the tent is there. He thinks Yolk employees park out back. With a 13% increase in business the parking is proven. M. LeClair asked when they anticipate starting construction on the deck. M. Campione commented that he does not want to mix feelings about the deck with parking because he is just the lease holder. He wants the parking fixed. He said he would like to start building in April. That would let Attorney Brouillard get the parking issues under control. Mr. Campione again commented that there has been enough parking during the governor’s orders for outdoor dining and there has not been parking on the road. W. Peterson observed that the governor is now allowing 100% occupancy. Mr. Campione said yes, but there is no way to have full occupancy with table 6 feet apart. Normal occupancy is 65 and they can’t get 30 right now. It wouldn’t be worth opening the doors without outdoor seating.

R. Pickwick confirmed Attorney Brouillard wanted to repair the drainage by fall. Mr. Brouillard said they hope to get the driveway started in two weeks. That will help the situation. If we start in two weeks, parking will be bizarre depending on how long it takes. Attorney Brouillard said he is going to fix the parking, but he can’t justify spending money to add parking. This project has another building that is allowed and he won’t give up the grandfathered rights of this site plan to add parking.

R. Pickwick expressed his opinion that Attorney Brouillard’s application letter was arrogant. Attorney Brouillard responded that members of this board approved this plan. He is going to fix the existing parking. He is not going to build new parking if the deck is allowed. Which comes first? If he wants another building, he can’t submit a parking expansion. R. Ball assured the Board that the old site plan expired many years ago. Attorney Brouillard asserted the plan was substantially complete.

P. Harris said the Board’s problem is that the site is not in compliance with the last site plan. Attorney Brouillard said the Board doesn’t trust him. P. Harris countered that there is an opportunity to attract more people than now. People are not going there because they can’t get in there. There is a big attraction on two state highways but you can’t park there. It is not the building; it is the parking. W. Peterson commented that he can’t park to pick up pizza.

D. Grimes mentioned the upper green area was previously thought of for parking. Attorney Brouillard said it was for “Phase 2” parking. He said he could not get 30 spaces in there. D. Grimes asked if anyone thought to add bike parking with cars in a different area, because they don’t take up as much space. It would free up parking for cars and might solve problems. He likes the idea of fixing the parking and drainage for the environment and customer safety. It may be an alternative. R. Pickwick asked if Attorney Brouillard proposes building down below, and not on the knoll. Attorney Brouillard answered yes, between the Yolk and the dumpster. R. Segalini stated that has nothing to do with this meeting.

Ms. Ruth Mooney said she doesn’t go to the Yolk because of the parking. It affects the business. There is a laundromat and another business that is not there right now in the other building. Are there also apartments? Attorney Brouillard said no, it is just office and storage space, which does not add more
parking. R. Ball said there were businesses there before. Ms. Mooney said there is a problem with the parking. You need to park down back and then go up the hill. As a landlord with awesome tenants it is something that has to be addressed. It would be in the landlord’s best interest to get it taken care of sooner rather than later. The deck won’t be started until April. Ms. Mooney doesn’t understand the Planning Board approval. Could the applicant get preliminary approval with the parking lot being upgraded? D. Sassan said there are two issues. The parking lot is in failure. If the applicant was not before the Board this evening, repairs would still be necessary for the existing approval. The applicant will repair the driveway in kind. The other issue is that if it is fixed, in kind, the lot would still be deficient by over 40 spaces by the owner’s own statement. This would increase the deficiency to 70 spaces. The precedent it could set to waive the regulations for that extreme amount would not be recommended by the Land Use office.

J. Pike said there are a lot of parking spaces directly in front of the pizza outlet. It is hard to get in and out of there. They could do a sign for take-out, where people could drive in and get back out. He said he is not as concerned with the spaces as the condition. If the Yolk goes back to a dinner menu there is a problem. He doesn’t know how to say yes to further the business and the community. We need to make some exceptions. We need to see faith the parking will be fixed. W. Peterson acknowledged it would be one thing to waive two or three spaces for certain businesses, but not to this extent, and knowing there is a big issue. If someone fills the empty space or the Yolk does something different a few nights a week, the parking lot would be buried. Attorney Brouillard stated he could not create another 30 spaces and have any green area. J. Pike said he would rather have a waiver for the green area and keep the people safe. He thinks 70 is high, but that would make more of a difference and might help with rental of the middle property. The yard needs to be straightened out. The money should go to fix the lower yard. It is not going to be a lot of money to pave up top.

D. Grimes asked what percentage of parking is for motorcycles. Mr. Campione said bikes have declined in the last 2-3 years. It is only about 10% of his business. With the deck plan to build 5 feet off the corner of the building with a retaining wall he would plan to put 15 motorcycle spaces in front of the deck. D. Grimes asked what is there now. Mr. Campione replied the guardrail. He also stated that he can’t enforce where people park. He doesn’t want to be in the middle of the Town and the property owner. He knows how fast customers are for take in and out, and how long they stay in the lounge. He is trying to balance and add business with moderate changes to add revenue. G. Grant commented that business is up 13%, and how are the parking problems. Mr. Campione responded that only one person parked in front of a hydrant. G. Grant said other businesses are complaining that your business takes up all of the parking. Mr. Campione said Mark hasn’t come in with any complaints.

M. LeClair asked how many seats will be on the deck. Mr. Campione described 7 tables with 4-6 people each. It will be about a 20% decrease. P. Harris asked again if the intention is to build the deck in the spring. Mr. Campione said yes, he has a couple of different ideas. One is to have a roof for when it is rainy. M. LeClair asked for clarification on the square footage of the existing tent. Mr. Campion stated it is 30’ x 60’ and has 10 tables with an occupancy of 78 people. This is with the 6-foot rule.

P. Harris reminded the Board the applicant obtained ZBA relief in June for this project. The Planning Board is concerned with more than the ZBA. The Board supports Staff and looks up to their expertise. He doesn’t see a problem with continuing to the next meeting. Mr. Campione said they have the outdoor seating now to prove what can be done.

MOTION: W. Peterson moved that the request to waive Parking Requirements be denied because of
the large amount of spaces that would need to be waived, which could set a precedent.

The motion was seconded by R. Pickwick and carried on a roll call vote by W. Peterson, P. Harris, M. LeClair, R. Segalini, and R. Pickwick. (5-1-1) G. Grant opposed. J. Pike abstained.

**MOTION:** M. LeClair moved to continue the TAP application 0320P until the driveway repair is completed.

The motion was seconded by J. Pike, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

3. Plan Submission Meeting and Public Hearing – Fantasy Factory LLC: Request for site plan approval for a single-family subordinate unit, outdoor inventory parking and tenant/customer parking. Property is located at 48 Dearborn Street, Tax Lot 123-028-000-000 in the “I” Zone. PB # 1020P.

**MOTION:** P. Harris moved to continue the Fantasy Factory case 10-20 to the September 28, 2020, 6 pm Planning Board meeting, as requested by the applicant.

The motion was seconded by J. Pike, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

4. OTHER BUSINESS:
   A. Approval of Minutes 07/27/2020:
   **MOTION:** J. Pike moved to approve the minutes of July 27, 2020 as written.

   The motion was seconded by R. Pickwick, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

   B. Approval of Minutes 08/17/2020:
   **MOTION:** W. Peterson moved to approve the minutes of August 17, 2020 as written.

   The motion was seconded by P. Harris, and carried on a roll call vote by W. Peterson, P. Harris, R. Pickwick, and G. Grant. (4-0-3) J. Pike, M. LeClair, and R. Segalini abstained.

C. Staff Report:
   1. ConvenientMD – 77 Daniel Webster Highway – Map/Lot 201-029-001-000: R. Ball reported that quite a while ago the Board agreed to change from the first proposal for the slope from a rock armor/rip rap to a soil glue. They were supposed to do Bioflex Terra spray, then netting, and then spray more on the top but they have only hydoseeded. Their current thought is that it is enough. R. Ball requested the Board have them come in for a compliance hearing. J. Pike agreed with R. Ball. R. Ball noted there are rocks coming down the hill and they have not yet cleaned the ditch, which will be 4-8 feet wide with 8-10 feet of rip rap. The whole slope could come down. D. Grimes observed the first torrential rain will ruin it. R. Ball is concerned they are running out of growing season. R. Segalini asked how they were able to deviate from the original plan. R. Ball answered that the engineer had done a written change order that was approved by Staff. They have not completed what was agreed to. J. Pike suggested the engineer’s change should not have been accepted.
MOTION: R. Segalini moved that ConvenientMD be required to attend a compliance hearing on September 28, 2020.

J. Pike asked what will happen if they do not comply. R. Ball explained their Certificate of Occupancy would be pulled. D. Grimes expressed concern about the new plan for the slope; the engineer made an error and it didn’t work like it was supposed to. R. Ball remarked that this new technique has worked behind Lowe’s. R. Segalini stated that is because it was done right. R. Segalini requested a copy of the cut sheet of the original detail of that slope.

The motion was seconded by M. LeClair, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

2. Mosquito Squad – 6 Farrarville Road – Change of Use/Tenant - Map/Lot 224-038-000-000: D. Sassan explained the current tenants are being removed and replaced with a pesticide company that treats homes for mosquitos and ticks. Staff recommends site plan review as it would most likely resemble a contractor’s yard. This is on the existing Greenwood Auto property and would require a Special Exception. Staff is seeking the Board’s determination if site plan review is required. This is for a Change of Use that requires a Special Exception.

M. LeClair asked if the landscaping will be fixed. D. Sassan said not at this point. J. Pike asked about the chemicals. W. Peterson noted that often the treatment is cedar oil. M. LeClair asked how can the Board address the landscaping. Would there have been a previous plan? J. Pike noted plans always have a condition to keep the property in a “sightly manner”. M. LeClair asked if site plan review can be waived if they restore the landscaping. R. Ball noted it would be a part of the current site plan review. There was discussion that review should not be waived because it is a different use.

D. Sassan gave the Board additional information from the application: the business is not open to the public, it is seasonal, there will be 10 trucks, employees will park personal cars in the location of their service vehicle. They don’t plan to change the garage or the house and the property will be maintained in the winter.

MOTION: R. Segalini moved that the Mosquito Squad application requires site plan review.

The Board discussed that if there are no building or additions to the property, you could normally waive review, but because the use is being change it is required.

The motion was seconded by J. Pike, and carried on a roll call vote by W. Peterson, P. Harris, J. Pike, M. LeClair, R. Segalini, and R. Pickwick. (6-1) G. Grant opposed.

3. NGP Management LLC/Dunkin’ Donuts – 223 Daniel Webster Highway – Change of Use/Tenant - Map/Lot 101-028-000-000: D. Sassan explained that this is to place a Dunkin’ Donuts in the former Pasta Patio location. The Board recently determined that site plan review would not be needed for Empire Beauty School. The existing approval came after an extensive application with a restaurant proposal. Land Use Staff recommend that site plan review is not needed.

MOTION: J. Pike moved that the NGP Management LLC application will not require site plan review.

The motion was seconded by R. Pickwick, and carried on a roll call vote by W. Peterson,
P. Harris, J. Pike, M. LeClair, R. Segalini, R. Pickwick and G. Grant. (7-0)

C. New Business: None

D. Adjournment:
   MOTION: On a motion by J. Pike, seconded by M. LeClair, it was voted unanimously to adjourn at 8:10 p.m. (7-0)

Respectfully submitted:

Colleen Akerman
Building & Land Use Clerk