



PLANNING BOARD MEETING AGENDA

Thursday December 3, 2020

Burgess Meeting Room, Berwick Town Hall

6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Public Comment

Approval of Minutes

- November 9, 2020

New Business

- June 2021 Land Use Ordinance Amendments

Public Comment

Informational Items

Adjournment



PLANNING BOARD MEETING MINUTES

Thursday November 19, 2020
Burgess Meeting Room, Berwick Town Hall
6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Dave Andreesen; Nichole Fecteau; Frank Underwood

Regular Member Absent: David Ross-Lyons; Michael LaRue

Alternate Member Present; Jerry Graybill (voting member)

Staff Members Present: James Bellissimo, Director of Community Development & Planning; Jenifer McCabe, Code Enforcement Officer

Public Comment

Alyson Graybill 10 Pond Road introduced herself. Ms. Graybill asked what the intent of the 1,000-foot setback is. Ms. Graybill proposed the 1,000-foot radius should apply to non-contiguous lots. Ms. Graybill asked the Board to consider limiting the amount of buildings one business could have. Ms. Graybill recommended that a marijuana caregiver not be allowed to cultivate within an apartment building due to odor and safety concerns. Jenifer McCabe said she is speaking with Town Council on multiple topics within Home Cultivation.

Approval of Minutes

- October 15, 2020

Motion: Nichole Fecteau motioned to approve the minutes as presented.

Second: Frank Underwood

VOTED – 4-0 in favor

Motion Passed

In favor: Dave Andreesen; Nichole Fecteau; Jerry Graybill; Frank Underwood

Opposed: None

Abstain: None

New Business

- June 2021 Land Use Ordinance Amendments

James Bellissimo introduced the Food Sovereignty. The purpose is to allow some direct sales from producers to consumers without the producers needing licensing. Frank Underwood said more thought needs to go into any Ordinance adopted. Mr. Bellissimo said the State has adopted the Food Sovereignty Act as a State Statute.

Mr. Bellissimo said the next amendments for frontage and Access to Lots are to make the requirements easier to understand. Frank Underwood asked where the proposed amendments came from.

The Planning Board and Staff discussed Cluster Subdivisions and Sliding Scale requirements.

The Board and Staff discussed Marijuana Testing Facilities and having it be excepted from the 1,000-foot radius from other Marijuana Establishments.

Nichole Fecteau brought up the following suggestions and talking points:

- Methods of increasing density by creating an Incentive Zone. An incentive zone would allow increased density in exchange for a public benefit that otherwise would not be required. Ms. Fecteau suggested a higher standard of design or sidewalk fund could be that public benefit.
- Incongruity between definition of “person”
- Dumpster should be screen period; it should not be specified to be wood or masonry.
- Added clarity on a 50-foot buffer is required. Is it 50’ wide, or 50’ long?
- Add in R1 next to Urban Residential District.
- Manure should be kept from all wells.
- Added clarity on accessory structures.

Public Comment

Informational Items

Frank Underwood asked about the Policies and Goals in the Comprehensive Plan. Mr. Bellissimo said all goals and policies from the past plans will be integrated into the one document.

Adjournment

Motion: Jerry Graybill motioned to adjourn.

Second: Nichole Fecteau

VOTED – 4-0 in favor

Motion Passed

In favor: Dave Andreesen; Nichole Fecteau; Jerry Graybill; Frank Underwood

Opposed: None

Abstain: None



**PLANNING BOARD MEMORANDUM
TOWN OF BERWICK, PLANNING DEPARTMENT**

TO: BERWICK PLANNING BOARD
FROM: JAMES BELLISSIMO, PLANNER
SUBJECT: LAND USE ORDINANCE AMENDMENTS
DATE: DECEMBER 1, 2020
CC: JENIFER MCCABE, CEO

Critical Dates

- Public Hearing: February 4th, 2021
- Finalize Amendments: February 18th, 2021

Food Sovereignty

We will have a guest to speak to the Board about the Ordinance.

Access to Lots

This has not changed since last meeting.

Marijuana

- The 1,000-foot setback has been clarified to apply to same businesses on lots that are not contiguous.
- Home Occupation standards have been added to limit the footprint of the use.

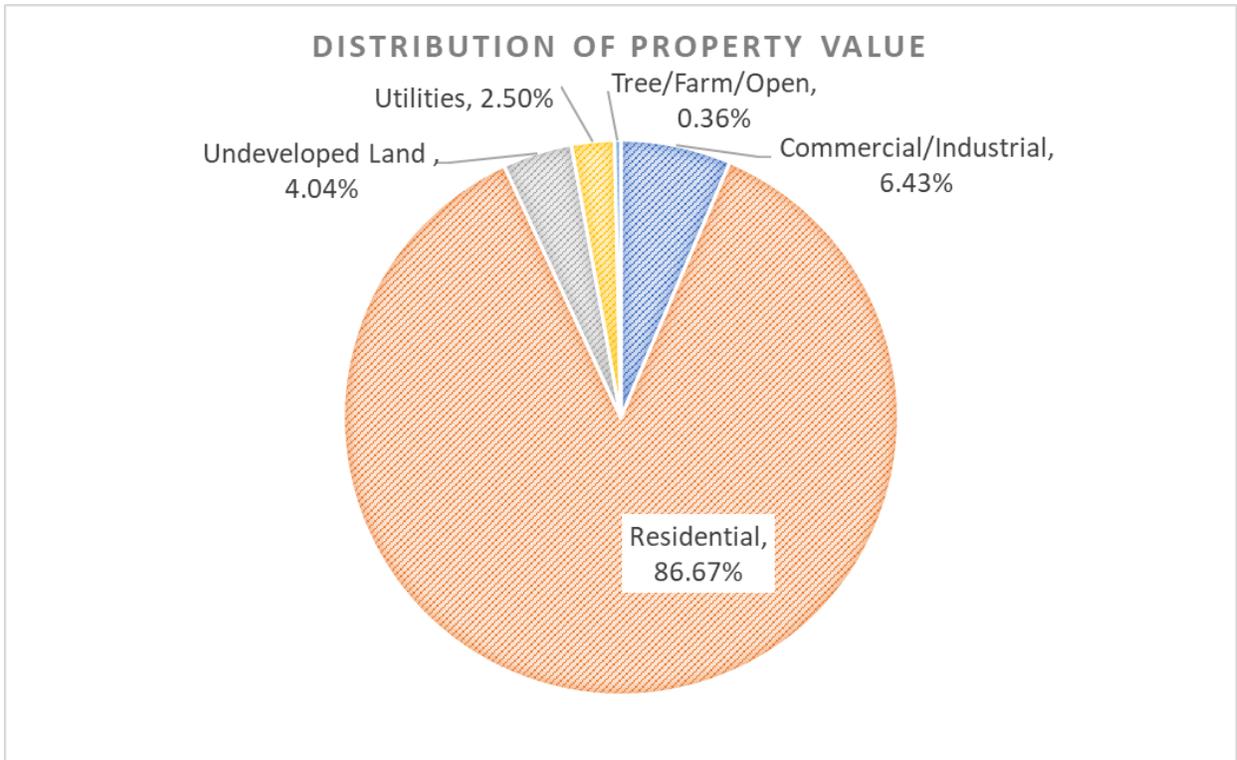
Warehousing; Storage; Distribution

- The intent by these changes is to increase commercial uses in town while minimizing nuisance issues to the fullest extent possible.
- Warehousing and Distribution currently applies to all levels of scale. There are now Low Impact Warehousing types of business.
- These types of uses could typically be allowed under “Home Occupation” but this amendment would allow for folks to apply for this use not at their residence.
- Heavy Commercial Trucks comes directly from the Home Occupation standard, and is now proposed to be defined.
- This amendment allows this use in the R3 Zone along Collector Streets.
 - Berwick Road, Blackberry Hill, Cranberry Meadow, Diamond Hill, Guinea, Keay, Little Rive, Long Swamp, New dam, Pine Hill, Ridlon, Sullivan and Worster are examples of Collector Streets.

Comprehensive Plan Backup:

“Encourage a balance between tax consuming development i.e. residential growth and tax producing development i.e. commercial and industrial growth, to prevent precipitous tax rate increases.”

The distribution of property value (2020 shown below) is practically identical to where it was in 1990.



Impact Fees

This amendment permits waivers for Impact Fees. This provision was modeled after Portland Maine’s Ordinance. There are examples of waivers being accepted for Impact Fees across the State of Maine.

The waiver provisions allow for a developer to ask the Select Board to make improvements within Recreation or Open Space and the value of those improvements would be credited toward Impact Fees. OR (with the exception of Subdivisions) if

Open Space is required i.e. for The former Prime Redevelopment, that value for the Open Space requirement can be credited toward the Open Space Impact Fee.

Other Changes

- Person is proposed to be deleted out since it is already defined.
- Agriculture is clarified to “any” well.
- 8.6 Apartments is also clarified by striking the type required for the 6’ screen and the 50’ buffer is proposed to be deleted due to a lack of clarity and any buffer requirement would be addressed through the Subdivision Regulations.

Land Use Ordinance Amendments for June 2021

1. [Food Sovereignty](#)
2. Simplifying frontage

Frontage: ~~The dimension between the two sidelines of a lot, measured along the property line that borders upon whatever way serves as legal access to the lot. The following ways shall constitute legal access to a lot: (a) a way accepted by or established as belonging to the Town, the County, or the State; (b) a way shown on an approved subdivision plan; or (c) an unaccepted street existing prior to the original enactment of the Town's Subdivision Regulations provided it is shown on a plat recorded in the registry of deeds prior to such enactment and is deemed adequate as a street by the Planning Board as evidenced by its endorsement on the subdivision plan.~~

The distance of the line separating the lot from a street, road, or right-of-way. Where a lot is situated on a curve of a street or on a corner of two streets, the measurement of frontage may include the entire length of the property line along such street or streets.

3. Simplifying 7.21

7.21 Access to Lots.

Road Standards		
Dwelling Units	Standard	Deeded Right of Way
One Dwelling Unit	12' Wide 15" Deep of Bank Run Gravel * See Note Below	50'
Two Dwelling Units	15' Wide & 15" Deep of Bank Run Gravel * See Note Below	
Three or More Dwelling Units	Town of Berwick Road Construction Standards	
NOTE: * Drainage ditches and culverts shall be installed at all appropriate points as determined by the Town of Berwick or Third-Party Engineer hired by the Town at the applicant's expense. Access to Lots refers to any street(s), road(s) or right-of-way(s) utilized to access the lot.		

If the development is located in the R2, R3 or AP Zone, dead end streets shall remain private until connectivity to other streets may occur except if the road is part of a subdivision approved before the year 2019 and is still considered active by the Planning Department. If the street is connected to another street making it a through way with a

second means of egress to a public way and built to town standards it may be petitioned to become a public way.

More than two dwelling units may be allowed on a discontinued road for those lots created prior to March 14, 1987, provided that the road is brought up to the standards for two dwelling units as described above. One dwelling unit shall be allowed per lot of record, and a second dwelling allowed per lot of record provided that the building permit is issued only to a child of the record owner.

~~A. the road standards described above are met (minimum width of fifteen feet, minimum depth of fifteen inches of bank run gravel, and have drainage ditches and culverts at all appropriate points), and~~

~~B. the applicable zone road frontage and lot dimensions requirements are met, and~~

~~C. the building permit is issued only to a child of the record owner (this precludes any additional permits for those lots of record owned by other than an individual person or persons), and~~

~~D. access to the additional dwelling unit shall be from the discontinued road and no other right of way, and~~

~~E. a survey of the lot done by a State of Maine registered surveyor is recorded in the York County Registry of Deeds prior to the issuance of the additional building permit, said registered survey to contain the following provisions:~~

~~1. No further subdivision of this lot is permitted without compliance with the Town of Berwick subdivision regulations then in existence.~~

~~2. No further conveyance of this lot is permitted for five years from the date of the recording of the survey.~~

~~3. The discontinued road is not maintained nor plowed by the Town of Berwick. The Town of Berwick is not responsible for any upgrading or plowing of the discontinued road. Any upgrading or plowing of the discontinued road will be at the expense of the lot owner.~~

~~F. the conveyance creating a lot to the child of the record owner shall be recorded in the York County Registry of Deeds prior to the issuance of the additional building permit and said conveyance shall also contain the three provisions set forth in paragraph E. above as survey requirements, and~~

~~G. the additional building permit issued contain the following provision:~~

NOTICE

~~THE DISCONTINUED ROAD IS NOT MAINTAINED NOR PLOWED BY THE TOWN OF BERWICK. THE TOWN OF BERWICK IS NOT RESPONSIBLE FOR ANY UPGRADING OR PLOWING OF THE DISCONTINUED ROAD. ANY UPGRADING OR PLOWING OF THE DISCONTINUED ROAD WILL BE AT THE EXPENSE OF THE LOT OWNER.~~

4. Excepting Marijuana Testing Facilities from the 1,000-foot setback. And
5. Clarifying 1,000 foot to other establishments

8.25.3

Marijuana Establishments* cannot be within 1,000 feet of+:

- Any school – as measured from the nearest property line of the land used for the school to the nearest portion of the proposed business’s building, via straight line measurement.
- Drug or Alcohol Treatment Facilities – as measured from the nearest property line of the land used for the treatment facility to the nearest portion of the proposed business’s building, via straight line measurement.
- Child Care Centers – as measured from the nearest property line of the land used for child care purposes to the nearest portion of the proposed business’s building, via straight line measurement.
- Other Marijuana Establishments* and **Establishments under the same ownership on non-contiguous lots** – as measured from the nearest portion of the existing or pending center or store’s building to the nearest portion of the proposed business’s building, via straight line measurement.
*** Marijuana Testing Facilities are exempt from the 1,000-foot requirement from other Marijuana Establishments.**

6. Home Occupation Standards

8.25.2. Exemptions: As an accessory use, Medical Marijuana Caregivers shall be permitted as a Home Occupation Business in any qualifying patient’s residence or any medical marijuana caregiver’s primary year-round residence in every base zone and overlay zone.

A. The floor area for the entire use shall be limited to 2,000 square feet and the cultivation area limited to 500 square feet.

7.

8.27 Wholesale Business **Warehousing; Storage; Distribution**

A. Location Restrictions.

1. Within the R1 and R3 Zoning District Wholesale-Businesses **and Warehousing; Storage; Distribution** are allowed only on major highways (Rt. 236, Rt. 9), **Collector Streets (as defined in the Berwick Comprehensive Plan)** and subdivisions approved for commercial use.

2. Heavy Commercial Vehicles are prohibited for this use on Collector Streets.

Heavy Commercial Vehicle: Truck tractors, and similar vehicles with two or more rear axles.

	R1	R2	R3	V/C	RC/I	AP	LR	SC/I	RP	SP
Warehousing; Storage; Distribution	X	X	X C*	X	C	X	X	X	X	X

8.

15.7 Modifications of Impact Fees

A. A required impact fee may be modified, in whole or in part, by formal vote of the Board of Selectmen if the Board finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to make improvements for which the impact fee would be collected or an equivalent improvement approved by the reviewing authority; or

2. The developer or property owner is required, as part of a development approval by the Town or a state or federal agency, to preserve open space, make or to pay for improvements for which the impact fee would be collected or an equivalent improvement.

Credit amounts shall be determined based on plans, details, and cost estimates for the proposed infrastructure improvements for which the credit is requested. Such plans, details, and cost estimates shall be prepared by a licensed professional engineer and submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates. On-site or immediately adjacent improvements providing direct service to a site as required under subdivision regulations shall not be considered eligible under this section.

B. The Select Board may by formal vote modify the payment of a required impact fee, in whole or in part, if it finds that documentation is provided to demonstrate that a proposed use will impose no or substantially-reduced demands on capital facilities for which impact fees have been adopted. Such documentation shall be prepared by a licensed professional engineer and include a written analysis of the demand for capital facilities generated by the proposed use based on industry standards. Documentation shall be submitted at the time of the building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates.

9.

~~**Person:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.~~

10.

8.12 Agriculture and Animal Husbandry.

The following restrictions apply to agriculture and animal husbandry.

a. All pastures, barns, barnyards and other areas where the livestock animals or fowl are kept, housed, fed or cared for shall be a minimum of 100 feet from the nearest dwelling other than the applicant's.

b. Uncovered manure shall be kept 150 feet from the nearest dwelling other than the applicant's and 300 from a **ny** well

11.

8.6 Apartment Buildings and Multifamily Developments

5. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. Privately owned stormwater management facilities shall be maintained in - 87 - accordance with Article 7.23. All outdoor storage areas for waste collection shall be enclosed by a ~~wooden or masonry~~ screen at least six feet in height. ~~A 50-foot landscaped buffer shall be provided along all property boundaries.~~