



PLANNING BOARD MEETING AGENDA

Thursday February 20, 2020

Town Hall Meeting Room

6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Public Comment

Approval of Minutes

1. February 6, 2020

Public Hearing

2. Conditional Use Application. Adult Use Marijuana Storefront & Adult Use Marijuana Production Facility. 569 Portland Street (R72 9-1) RC/I Zone. Straight Fire Farms.
3. Land Use Ordinance Amendments & Subdivision Regulations Amendment

Old Business

2. Conditional Use Application. Adult Use Marijuana Storefront & Adult Use Marijuana Production Facility. 569 Portland Street (R72 9-1) RC/I Zone. Straight Fire Farms.
3. Land Use Ordinance Amendments & Subdivision Regulations Amendment

New Business

4. Conditional Use Application. Substantial Expansion. Redimix Corporation. 541 Portland Street (R72 7-A) RC/I Zone.

Public Comment

Informational Items

Adjournment



PLANNING BOARD MEETING MINUTES

Thursday February 6, 2020
Town Hall Meeting Room
6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Dave Andreesen; Nichole Fecteau; Sean Winston; Michael LaRue

Regular Member Absent:

Frank Underwood

Alternate Member Present:

David Ross-Lyons (voting member)

Alternate Member Absent:

Staff Members Present:

James Bellissimo, Planner

Public Comment

Priscilla Dube of 21 Rochester Street spoke as an abutter to Dana Cotton of 20 Rochester Street. Ms. Dube voiced her concern about privacy if Mr. Cotton's property is changed from R1 to C/I and Village Overlay District.

Dana Cotton of 20 Rochester Street said he is not planning on doing anything with the property other than the request to rezone.

Approval of Minutes

1. January 16, 2020

Motion: Michael LaRue motioned to approve the minutes as presented.

Second: David Ross-Lyons

VOTED – 3-0-2 in favor

Motion Passed

In favor: Dave Andreesen; Michael LaRue; David Ross-Lyons

Opposed: None

Abstain: Nichole Fecteau; Sean Winston

Public Hearing

2. Rezoning Request. 20 Rochester Street (U4-87) from R1 to C/I and Village Overlay District. Dana Cotton.

Patty Moade of 21 Sullivan Street asked about a limit to the boundary of the Village Overlay District.

Old Business

2. Rezoning Request. 20 Rochester Street (U4-87) from R1 to C/I and Village Overlay District. Dana Cotton.

James Bellissimo said that there is a sliver of property of 20 Rochester Street that is already in the Village Overlay District and C/I Zone. Mr. Bellissimo said when the time comes for additions on 20 Rochester Street, it would come before the Board and that would be the time to address privacy concerns and screening.

Dave Andreesen said the Board should look into a limit for expansion of the Village Overlay District.

Motion: Nichole Fecteau motioned to forward the request to the Board of Selectmen.

Second: David Ross-Lyons

Nichole Fecteau said the request will be voted on in June.

VOTED – 5-0 in favor

Motion Passed

In favor: Dave Andreesen; Michael LaRue; David Ross-Lyons; Nichole Fecteau; Sean Winston

Opposed: None

Abstain: None

3. Conditional Use Application. Adult Use Marijuana Storefront & Adult Use Marijuana Production Facility. 569 Portland Street (R72 9-1) RC/I Zone. Straight Fire Farms.

James Bellissimo said since the last meeting, the applicant has submitted an odor control plan, a revised site plan and revised narrative. The odor control plan includes a negative air machine and carbon filtration. Mr. Bellissimo continued to read his memo to the Board.

Paul Blanc from MJS Engineering introduced himself. Mr. Blanc said the septic system will be done before a Certificate of Occupancy is granted.

Nichole Fecteau requested to see the design on the rain garden.

Motion: Nichole Fecteau motioned to find the application complete.

Second: Sean Winston

VOTED – 5-0 in favor

Motion Passed

In favor: Dave Andreesen; Sean Winston; Michael LaRue; Nichole Fecteau; David Ross-Lyons

Opposed: None

Abstain: None

A Site Walk & Public Hearing was set for February 20th

4. Review and Approval of Findings of Fact. Tricann Alternatives. Adult Use Marijuana. 513 Portland Street (RC/I Zone).

Motion: David Ross-Lyons motioned to approve the Findings of Fact.

Second: Michael LaRue

VOTED – 4-0-1 in favor

Motion Passed

In favor: Dave Andreesen; Sean Winston; Michael LaRue; David Ross-Lyons

Opposed: None

Abstain: Nichole Fecteau

New Business

5. Conditional Use Application. Adult Use Marijuana Storefront. 60 Route 236 (R-57 55) RC/I Zone. Silver Therapeutics.

James Bellissimo read part of Lee Jay Feldman's memo. Mr. Feldman did the initial review and requested supplemental information. The applicants have since submitted the requested supplemental information.

Josh Silver of Silver Therapeutics introduced himself. Mr. Silver said he has two business partners in Maine, one who lived in Berwick, and two existing stores in Massachusetts.

Chris Smith of Saratoga Associates introduced himself as the engineer of the project. Mr. Smith said pervious pavement will replace some packed gravel, drainage ditches will also be installed. Fencing will be installed to block headlights.

Nichole Fecteau asked to see the external design of the building with lighting on it.

Dave Andreesen asked about lighting and signage. Silver Therapeutics has an existing sign that will be shared for the next Planning Board meeting.

Motion: Nichole Fecteau motioned to find the application complete.

Second: Sean Winston

VOTED – 5-0 in favor

Motion Passed

In favor: Dave Andreesen; Sean Winston; Michael LaRue; Nichole Fecteau; David Ross-Lyons

Opposed: None

Abstain: None

A Site Walk & Public Hearing was set for March 5th at 5PM.

Land Use Ordinance Amendments

6. Land Use Ordinance Amendments

James Bellissimo read though the proposed amendments.

On Accessory Dwelling Unit, Nichole Fecteau said the old standards looked simpler but agreed on changing the name.

On the subject of allowing more roads on private roads, Nichole Fecteau asked what happens when the road degrades. Ms. Fecteau said the R3 would be further developed, which is what the Board does not want to do. The Board agreed to table the discussion.

There was a discussion about allowing three and four family residences like two-family, which are permitted through the Code Enforcement Officer. Mr. Bellissimo said three-family dwellings are considered Subdivisions. Andrea Burns of 55 School Street said she is looking to add a third dwelling unit to her lot and she feels the existing process has many components that are non-applicable.

Public Comment

Jody Rodgers of 420 Portland Street asked about the standard in Marijuana 8.25 which specifics existing structures.

Informational Items

Adjournment

Motion: David Ross-Lyons

Second: Sean Winston

VOTED – 5-0 in favor

Motion Passed

In favor: Dave Andreesen; Sean Winston; Michael LaRue; David Ross-Lyons; Nichole Fecteau

Opposed: None

Abstain: None

Minutes prepared by Berwick Planner James Bellissimo, for consideration at the next Berwick Planning Board meeting.

Signed as Approved by the Board:

Town of Berwick Planning Board
Conditional Use Findings of Fact
Applicant: Straight Fire Farms
569 Portland Street (Tax Map R-072, Lot 9-1)

Date: February 20, 2020

On November 7, 2019 Ron Fousek, co-owner of Straight Fire Farms, filed an application in the Berwick Planning Office. Straight Fire Farms requested a Conditional Use Application for an Adult Use Storefront and Adult Use Production Facility.

The applicant proposed a 2,945 ft² addition to an existing 5,072 ft² building. Part of the existing HP business will be converted to an Adult Use Storefront and the expansion proposed to be an Adult Use Production Facility. The septic system was proposed to be moved. A rain garden was designed to capture stormwater from the building expansion. Because of the added retail use on the site, 7 additional parking spaces were required and were shown on an updated Site Plan.

The Berwick Police Chief sent a memo to the Planning Office on January 9th 2020 indicating he had reviewed the plan and had no further requests. The applicant introduced the project at the January 16th Planning Board Meeting. For the February 6th, 2020 Planning Board meeting, the applicant submitted an odor control plan, a revised site plan and a revised narrative. For the February 20th, 2020 meeting the applicant submitted details of the rain garden.

At the Public Hearing [redacted] spoke and [redacted].

The Board voted [redacted]

Findings of Fact

1. Conformance with the Comprehensive Plan: *All proposed conditional uses and site plans shall conform to the Comprehensive Plan of the Town of Berwick and with the provisions of all pertinent federal, state and local codes, ordinances, and regulations.*

The application conforms to the Comprehensive Plan because it is permitting an appropriate commercial use within the RC/I zoning district.

2. Preserve and enhance the landscape: *The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is complete, landscape shall be designed and planted that will define, soften or screen the appearance of off street parking areas from the right of way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on the neighboring land uses.*

No landscape will be removed. A raingarden will be added to the site.

Relationship of the proposed buildings to the environment: *Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features such as slope, soil type and drainage ways.*

The proposed building expansion will have a visual relationship to the existing building and it will be placed behind the existing building.

3. Vehicular access: *The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and controls of access points including site distances, turning lanes, traffic signalization when required by existing and projected traffic flow on municipal road systems.*

The vehicular access will remain the same from the previous use.

4. Parking and circulation: *The layout and design of all vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangements and use of parking areas.*

7 addition parking spaces have been added to the site in two separate locations. This will not impact the existing circulation on the site.

5. Surface water drainage: *Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of unpolluted run-off waters shall be utilized to permit groundwater recharge on the site.*

A rain garden has been installed for run-off from the building expansion.

6. Existing utilities: *The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities.*

Not Applicable. There are no public utilities on this section of Route 4.

7. Advertising features: *The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.*

No signage has been proposed with this application. Any proposed signage shall meet the sign ordinance standards found in section 7.12 of the zoning ordinance.

8. Special features of the development: *Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have sufficient setback and screening to provide an audio/visual buffer to minimize their adverse impact on other land uses within the development area and surrounding properties.*

Not Applicable

9. Exterior lighting: *All exterior lighting shall be designed to minimize adverse impact on neighboring properties.*

No additional lighting is proposed

10. Emergency vehicle access: *Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures.*

The current building and site are not being changed significantly to serve this use. The current layout of the site has adequate access for emergency vehicles.

11. Municipal services: *The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewer treatment plant, school, open spaces, recreational programs and facilities, and other municipal service and facilities.*

No adverse impacts on municipal services have been identified.

12. Will not result in water or air pollution: *In making this determination, it shall at a minimum consider: The elevation of the land above sea level and its relationship to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its attest on effluents; and the applicable state and local health and water resources regulations.*

The applicant has stated a minimal amount of wastewater will result from the Marijuana Production Facility.

13. Has sufficient water available for the reasonable foreseeable needs of the development (*this is usually considered to be ten years approximately*).

This standard has been met.

Will not cause an unreasonable burden on an existing water supply, *if a municipal or community water supply is to be utilized.*

This standard is not applicable.

14. Will not cause soil erosion or reduction in the capacity of the land to hold water *so that dangerous or unhealthy conditions may result.*

Not Applicable

15. Will provide for adequate sewerage waste disposal.

This standard has been met by the use of an onsite septic disposal system

16. Will not have adverse effects on the scenic or natural beauty of the area, aesthetics, or rare and irreplaceable natural areas.

The building expansion will be placed behind an existing building and will not have an adverse effect on the aesthetics of the area.

17. The developer has adequate financial and technical capacity to meet the above stated standards.

The above standards will not add a significant financial or technical burden so the developer will have adequate capacity to meet the above standards.

18. Whenever situated in whole or in part within 250 feet of any pond, lake or river, will not adversely affect the quality of such body of water or affect the shoreline of such body of water, based on the standards outlined in Section 9.8.I.1.j.

This standard does not apply because the site is not located within 250 feet any type of water body.

19. Low Impact Design: *Each applicant is required to submit a statement to the Planning Board documenting proposed Low Impact Design (LID) for the site, which will help to reduce storm water volumes and help to enhance storm water quality. LID includes, but is not limited to, green roofs, rain gardens, tree wells, infiltration basins and permeable pavement.*

The applicant designed a rain garden to capture stormwater from the building expansion.

I, David Andreesen, certify that I am Chair of the Planning Board of the Town of Berwick, Maine, a Planning Board established pursuant to Maine State Statute (30-A § 4401) and I further certify that this decision was approved by the Planning Board at its meeting of February 20, 2020

Findings of Fact Approved

Conditions of Approval



Application Approved 

David Andreesen, Planning Board Chair

Date



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

TO: BERWICK PLANNING BOARD
FROM: JAMES BELLISSIMO, PLANNER
SUBJECT: LAND USE ORDINANCE AMENDMENTS
DATE: FEBRUARY 18, 2020
CC: LEE JAY FELDMAN, DIRECTOR OF PLANNING;
JENIFER MCCABE, CODE ENFORCEMENT OFFICER

Land Use Ordinance Amendments

#1 and #2 and #4 through #10 have not changed since last meeting.

#3 Accessory Dwelling Units – The definition is inclusive of accessory buildings. The change on the use table is to permit them in SC/I. The standard on 8.13 #1 is rephrased but is the same requirement. The other change is striking number 4, allowing external expansions. Other changes are cosmetic.

Marijuana Changes

The Berwick Select Board was not favorable toward putting a cap on permits and instead suggested having it not allowed in C/I & SC/I and adding in additional standards. To that end, you will see significant changes to 8.25.7. The requirements call for a floor plan, neighborhood responsibility plan, elevations of buildings, a wastewater plan and rendering of proposed signage. With the 1,000 radii, we are reaching a natural upper limit. A workshop could be scheduled between the two boards if we felt we needed to communicate further on the topic.

New definitions have been added as recommended by Phil Saucier of Bernstein Shur (Town Attorney).

Marijuana Testing Facility has been added to the table. Medical Caregiver Store (formerly Medical Marijuana Storefront) is now not allowed in C/I or SC/I.

Cosmetic changes are made inserting Marijuana Establishments instead of naming all the different variations. The + notation has switched from Structures to Facilities, which would allow facilities permitted before marijuana was defined to expand within the 1,000' setback, but no closer than 500'.

Land Use Ordinance Amendment

1. 6.3 Dimension Requirement Notes:

10. All uses within the Village Overlay District are exempt from dimensional **and** **density** requirements of the underlying District, except the 25' setback requirement from the river, and subject to the requirements established in Section 6.4.

2. Removing Timber Harvesting for State consistency

Q. — Timber Harvesting

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet inland from the normal high water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.

(b) — Beyond the 75 foot strip referred to in Section 14.15(P)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

(2) — Except in areas as described in Section 14.15(P)(1) above, timber harvesting shall conform with the following provisions:

(a) — Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(i) — Within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy five (75) feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(ii) — At distances greater than one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy five (75) feet, horizontal distance, of the normal high water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

~~(b) — No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high water line of a water body or tributary stream shall be removed.~~

~~(c) — Timber harvesting equipment shall not use stream channels as travel routes except when:~~

~~(i) — Surface waters are frozen; and~~

~~(ii) — The activity will not result in any ground disturbance.~~

~~(d) — All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.~~

~~(e) — Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~

~~(f) — Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high water line of a water body or upland edge of a wetland.~~

3. Updating Owner Occupied Apartment to Accessory Dwelling Unit (ADU)

Owner Occupied Apartment: A separate dwelling located within and subordinate to a single-family dwelling, and where the principal dwelling unit or apartment is occupied by a person who has a possessory interest in the real estate.

Accessory Dwelling Unit (ADU): An apartment created by converting part of a single-family dwelling or accessory building into a separate dwelling unit. See Section 8.13 for Performance Standards.

	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
Owner Occupied Apartment <u>Accessory Dwelling Unit</u>	P	P	P	P	C*	C*	C*	P*	X	X

8.13 ~~Owner Occupied Apartments.~~ Accessory Dwelling Units (ADUs)

The Code Enforcement Officer may approve the addition of one dwelling unit to an existing single-family dwelling and which must comply with the following standards.

1. ~~The existing dwelling unit must have a minimum of 1,200 gross square footage of living area to be considered for an accessory apartment.~~ **The accessory apartment shall be more than 400 square feet and shall not exceed 50** percent of the total living area of the building.

2. ~~"Owner-occupied" means that either~~ The principal dwelling unit or the accessory apartment **shall be** occupied by a person who has a possessory interest in the real estate, who bears all or part of the economic risk of decline in value of the real estate and who receives all or part of the remuneration, if any, derived from the lease or rental of the other dwelling unit.

3. A single family dwelling as contained in this section means the building proposed for conversion and any accessory building attached. Only one accessory apartment shall be permitted per lot. **An Accessory Dwelling Unit**, however, shall not be allowed in a single-family dwelling within an approved subdivision that contains a note or condition on the plan recorded in the York County Registry of Deeds that specifically allows only single family residential uses.

4. ~~There will be no external expansion of the structure, except for stairwells and elevators.~~

5. ~~The dimensional **Minimum Lot Size** standards found in Section 6.3 are waived with the exception of the standards for lot coverage, which can not be increased above set standards or that which is existing at the time of the proposed conversion, whichever is greater.~~

6. Any request for an accessory apartment shall conform to all provisions of the Maine State Plumbing Code and no dwelling that is served by an on-site wastewater disposal system shall be modified to create an accessory apartment until a site evaluation has been conducted by a licensed soil evaluator which demonstrates that a new system can be installed to meet the disposal needs of the dwelling units or the existing system has adequate capacity for the proposed use.

7. This provision shall not prohibit the conversion of a single family dwelling to a multiplex dwelling or the conversion of a duplex dwelling to a multiplex dwelling so long as said conversion complies with all district and zoning standards, including but not limited to dimensional requirements.

8. Upon approval by the Planning Board, the owner of the accessory apartment shall record within his/her deed at the York County Registry of Deeds that such dwelling shall be and is to remain "owner occupied" even upon future transactions.

4. Rename Low-Impact Industrial to Low-Impact Manufacturing
5. Since Industrial is no longer in C/I. Rename the Commercial/Industrial District to Village/Commercial
6. **7.6 Noise**

No person shall engage in ~~construction~~ activities on a site abutting any residential use between the hours of 10 p.m. and 7 a.m.

7. A substantial expansion requires Conditional Use approval. Substantial expansion shall be defined as:

1. Floor space increase of ~~500~~ **1,500** square feet or 25 percent of the existing floor space, whichever is less; or ...

8. Mineral Extraction from Allowed to Conditional Use

	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
Mineral Extraction	A C*	A C*	A C*	A X	A C*	A C*	A C*	A C*	A C*	A C*

9. **Parking Space:** An area of ~~200 square feet, exclusive of drivers or aisles~~ for the parking of vehicles.

10. Reduce RC/I front setback from 50' to 40'

<u>REQUIREMENTS</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>C/I</u>	<u>RC/I</u>	<u>AP</u>	<u>VILLAGE</u>
Minimum Front Yard	25	50	75	25	50 40	75	See Note 10

Subdivision Regulations Amendment

6.3.C. Final Plan. The subdivision plan for a Minor Subdivision shall consist of ~~reproducible, stable-based transparencies~~ two plans on 20 pound white paper, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. The ~~reproducible transparencies~~ plans shall be embossed with the dated seal and signature of the individual(s) responsible for preparation of the plan. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read.

8.2 Submissions.

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. ~~Two reproducible, stable-based transparencies~~, Two 20 pound white paper, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of the plan shall be submitted.

Definitions

Marijuana Caregiver Retail Store: A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Marijuana Cultivation Facility, Adult Use: A facility licensed under this chapter to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

Marijuana Dispensary, Medical: An entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Marijuana Establishment: A cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed by the State of Maine.

Marijuana Manufacturing, Adult Use: The production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

Marijuana Testing Facility: A facility licensed by the State of Maine to research and test marijuana, marijuana products and other substances.

~~**Medical Marijuana Dispensary/Storefront:** An entity registered pursuant to Section 6 of the State of Maine 10-144 CMR Chapter 122 Rules Governing the Maine Medical Use of Marijuana Program that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.~~

~~**Marijuana Production Facility, Adult Use:** A facility used for cultivating, processing, and/or storing Adult Use Marijuana by an Adult Use cultivator at a location which is not their primary year-round residence or their patient's primary year-round residence.~~

	R1	R2	R3	C/I	RC/I	AP	LR	SCI	RP	SP
Medical Marijuana Dispensary/Storefront Marijuana Caregiver Retail Store or Dispensary	X	X	X	X	C*	X	X	X	X	X
Marijuana Testing Facility	X	X	C*	X	C*	X	X	X	X	X
Marijuana Cultivation Facility & Marijuana Manufacturing, Adult Use	X	X	C*	X	C*	X	X	X	X	X

8.25 Adult Use & Medical Marijuana

~~Adult Use & Marijuana Production Facilities and Dispensaries/Medical Marijuana Storefronts~~ **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** ~~Marijuana Production Facilities~~ – 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.

+Existing Medical Marijuana Facilities permitted prior to November 2017 are subject to 500’ setbacks from schools only.

8.25.4. Odor Control

All ~~Marijuana Production Facilities and Dispensaries/~~**Storefronts Establishments** must submit an odor control plan with the conditional use application.

A. Odor Control Plans shall consist of the following:

1. Specific Odor-emitting activity(ies) – This section should describe the odor emitting activities or processes (e.g., cultivation) that take place at the facility, the source(s) (e.g., budding plants) of those odors, and the location(s) from which they are emitted (e.g., flowering room)
2. Odor Mitigation Practices – For each odor-emitting source/process outlined in Section 1 of the odor control plan, specify the administrative and engineering controls the facility implements or will implement to control odors.
 - The best control technology for marijuana cultivation facilities is carbon filtration

8.25.5. Security

A. All growing of medical marijuana within a commercial production facility shall occur inside and only within a completely enclosed structure. This does not apply to home

growing of medical marijuana.

B. Prior to granting approval, the Planning and/or Code Enforcement Department shall receive a written statement from the Berwick Chief of Police or designee that ~~security measures are acceptable and also consistent with State requirements.~~ the Department has reviewed the measures and if they have any recommendations.

8.25.6 Performance Standards

A. Signage and advertising. All signage and advertising for any facility responsible for the cultivation, manufacturing, sale or distribution of marijuana shall comply with all applicable provisions of the Land Use Ordinances.

~~B. Cultivation. If marijuana and/or products containing marijuana are sold on the same site, the cultivation area shall be no greater than 50% of the total floor area of the building.~~

B. Consumption.

- Pursuant Maine LR 2395 section 1501 subsection 2, marijuana in the Town of Berwick may only be consumed in a private residence or on private property. Such private property must not generally be accessible to the public and the consumption of marijuana or marijuana products must be explicitly permitted by the property owner. All other consumption limitations in Maine LR 2395 Section 1501 Subsection 2 shall apply in the Town of Berwick.

C. Visibility of activities. All activities of dispensaries, cultivation facilities, processing facilities and marijuana establishments shall be conducted indoors.

8.25.7 Application Requirements

A. An operating plan for the proposed marijuana business including:

1. A description of products and services to be provided by the business.

2. A dimensioned floor plan including the layout of the structure and floor plan where the marijuana business is to be located.

B. A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.

C. Elevations of all buildings, existing and new.

D. For cultivation facilities, a plan that specifies how wastewater will be handled.

E. A rendering of the proposed signage.