



PLANNING BOARD MEETING AGENDA

Thursday July 16, 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

- June 4, 2020
- June 18, 2020

Public Hearing

- Site Plan Review. Adult Use Marijuana Cultivation Facility. 11 Pond Road (R70-16) RC/I Zone. CAF Realty of Maine.
- Subdivision Amendment. Final Plan. Lot Line Adjustment & Expansion of Site Plan. 565 Portland Street (R72 9-2) RC/I Zone. Route 4 Self Storage, LLC.
- Site Plan Review. Multifamily (adding 1 unit to make 3 total). 55 School Street (U3-1) C/I Zone and Village Overlay District. Andrea Burns.

Old Business

- Site Plan Review. Adult Use Marijuana Cultivation Facility. 11 Pond Road (R70-16) RC/I Zone. CAF Realty of Maine.
- Subdivision Amendment. Final Plan. Lot Line Adjustment & Expansion of Site Plan. 565 Portland Street (R72 9-2) RC/I Zone. Route 4 Self Storage, LLC
- Site Plan Review. Multifamily (adding 1 unit to make 3 total). 55 School Street (U3-1) C/I Zone and Village Overlay District. Andrea Burns.

New Business

- Land Use Ordinance Amendments

Public Comment

Informational Items

Adjournment



PLANNING BOARD MEETING AGENDA

Thursday June 4, 2020

Burgess Meeting Room, Berwick Town Hall & Zoom Virtual

6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Dave Andreesen; David Ross-Lyons; Michael LaRue; Nichole Fecteau

Regular Member Absent: Frank Underwood; Sean Winston

Alternate Member Absent:

Staff Members Present: James Bellissimo, Planner; Jenifer McCabe, Code Enforcement Officer

Public Comment

Approval of Minutes

1. May 21, 2020

David Ross-Lyons and Michael LaRue pointed out typos.

Motion: Nichole Fecteau

Second: David Ross-Lyons

VOTED – 2-0-2 in favor

Motion Not Passed

In favor: Dave Andreesen; David Ross-Lyons

Opposed: None

Abstain: Nichole Fecteau; Michael LaRue

Public Hearing

- Site Plan Review. Adult Use Marijuana Cultivation Facility. 11 Pond Road (R70-16) RC/I Zone. CAF Realty of Maine.

Jerry and Alyson Graybill said they oppose the project for the following reasons:

- There are legal issues with the project, including issue with the road easement and sewer easement.
 - Ms. Graybill brought up the definition of frontage. Ms. Graybill asked if the gravel driveway will serve as legal access to the lot.
 - Ms. Graybill said the marijuana will produce potentially hazardous waste.
 - The Graybills requested that the Planning Board not act on the application until the easement issues are rectified.
- Concerned with private well and South Berwick water supply.
- Concern with odor.
- Overall impact to the neighborhood.
- Ms. Graybill said they would like to see the facilities clearly designated if there was a fire that there is a distinction from the existing apartments on 11 Pond Road.
- Because of concern of runoff and contamination, the Graybills were wondering if the DEP has been contacted.
 - Chapter 700 states that no hazardous waste can be within 300' of a wellhead.
- Crime. Ms. Graybill said the Credit Union ATM close by was broken into and the 4' fence with barbed wire is not sufficient.

Ben Gauthier of 2 Pond Road asked what value the production facility would bring to the Town. Mr. Gauthier encouraged the Planning Board to consider the health and welfare of the neighborhood. Mr. Gauthier expressed concern with the Mr. Ayer's approach to dealing with the septic easement. Mr. Gauthier said the circumstances of the process have not been fair nor equitable.

Paul Amatucci of 12 Perry Way said his property has a view to the proposed building. Mr. Amatucci said there are too many outstanding issues for the Board to move forward.

Mr. Amatucci asked if it is permissible to build a road over an easement without the permission of the easement holder. Mr. Amatucci said every single facility in the country gives off odor and carbon filtration is not enough, what is needed is reverse pressure environments. Mr. Amatucci said this is an issue particularly because of the neighborhood with small children and DEP needs to weigh in because of the wetlands associated with the property. Mr. Amatucci said property values will be adversely impacted and the neighborhood would lose equity in their homes.

Heidi Leveille, co-owner of 13 Pond Road, said she opposes the project for the reasons said by her neighbors. Ms. Leveille said she has hired an attorney to investigate the

legality of the issues with the easement and if the applicant has the right to build a road over the pipe and that the attorney objects to the meeting behind held due to FOAA.

Alyson Graybill requested a peer review be done of the proposal for the 1,000-foot setback from Kind Farms, the 250' wetland buffer and concerns with the drinking water. Ms. Graybill asked that the hearing be continued and kept open. Ms. Graybill asked that all documents be made public.

- Site Plan Amendment. Commercial Storage. 387 School Street (R54-4) R2 Zone. PK Storage, LLC.

The Public Hearing was closed.

Old Business

- Site Plan Review. Adult Use Marijuana Cultivation Facility. 11 Pond Road (R70-16) RC/I Zone. CAF Realty of Maine.

Dave Andreesen spoke to the concern of FOAA. Mr. Andreesen reference an order by Governor Janet Mills that the types of meeting the Town are operating in are allowed by the State of Maine. James Bellissimo said he agreed with Mr. Andreesen.

Mr. Bellissimo said there are a lot of issues to sort through. One of the issues with the septic easement is more of a civil issue. Mr. Bellissimo addressed the following issues.

- Legal Access – The legal access for the project comes from Pond Road. Frontage refers to a dimensional requirement, which comes from Pond Road.
- Property Values – Mr. Bellissimo said there is no way to distinguish the impact on property values a marijuana building would have compared to any other proposed use.

Mr. Bellissimo said performance standard #16 in the Findings of Fact which deals with the project having an adverse effect on scenic or natural beauty would be a Planning Board determination. Performance standard #1 deals with conforming to the Town's Comprehensive Plan.

- Odor Control – Carbon filtration and reverse pressure environments are the gold standard.
- 1,000-foot setback – A stamped survey was provided for the setback from the School and the engineer used a setback from the lot line from Kind Farms, which is a conservative measure, the ordinance prescribes setbacks from building to building.
- Wellhead Protection – This is an issue that will be researched for the next meeting.

- Fencing – The proposed fence could be looked at to increase in height to increase the security of the project, efforts should also go into the aesthetics to fit into the neighborhood.
- Driving over the septic pipe – Mr. Bellissimo said this could be a good issue to consult with a third-party engineer to ensure the road and access to the pipe is built in a way that protects the neighbor.
- Basin within the 250' wetland buffer
- Public Safety – The Berwick Fire Chief has submitted a memo to the Board.

Mike Sievert of MJS Engineering introduced himself as the engineer of the project. Mr. Sievert said the site has been redesigned due to the 250' wetland buffer. Mr. Sievert said you can drive over septic pipes and roads can go over easements and there is no language that says otherwise. Mr. Sievert said a sleeve will be installed and that if there were issues it could be taken care of without tearing up the road.

Mr. Sievert said a clear designation for the building could be easily done and a Knox Box would be available for the gate. Mr. Sievert said the easement is incorrectly recorded and the septic infrastructure is outside of the easement and applicant is willing to record the easement change. Mr. Sievert said because of the size of the project and treatment that it did not appear to need DEP approval and that the water issue is 200 gallons per day.

Nichole Fecteau said she has been taken aback hearing that the public thinks the applicant has any advantage. Ms. Fecteau said the public has participated in the project more than just about any other project she has been part of.

Ms. Fecteau read a provision in the Comprehensive Plan projects shall not have a town wide adverse impact and in her interpretation, based on the feedback it would have a town wide negative impact.

Michael LaRue said the odor from the horse farm could cover the smell from the marijuana facility. Mr. LaRue said the water issues would be addressed because the water is being captured and stored.

Dave Andreesen said as of now he is not in favor of the application because it could adversely affect the health, safety and welfare of the Town however he does want to give the applicant due process and see what the third-party review comes up with.

- Site Plan Review. Solar Array (Essential Services & Construction over 3,000 ft²). 193 Route 236 (R66 6-A) R3 Zone. Berwick Solar, LLC.

Mr. Bellissimo said since the last meeting, the applicants have submitted a new decommissioning plan and with the conditions of approval, that takes care of the issues raised about ensuring the array is taken care of after the farm has reached the end of its

lifecycle. The applicants submitted a new landscaping plan and narrative and the landscaping plan shows the plantings offset with different types of plantings. The solar panel certifications were submitted showing the materials were not hazardous.

Zac Gordon summarized the changes to date and that he felt the project met the State goals of energy production.

Nichole Fecteau read a couple provision in the Berwick Comprehensive Plan that she said she believes have been met by the applicant. Frank Underwood asked via e-mail have the frontage issues off of Route 236 been resolved. Mr. Underwood suggested two conditions including one about access off of Route 236 and that the applicant pay the Tree Growth penalty before receiving a permit.

Zac Gordon said the lot line of 6A will be moved into lot 6. Mr. Bodwell said the entire solar farm will be on lot 6.

Motion: Nichole Fecteau motioned to approve the Findings of Fact.

Second: David Ross-Lyons

VOTED – 4-0 in favor

Motion Passed

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

Opposed: None

Abstain: None

Motion: Nichole Fecteau motioned to approve the Conditions of Approval as amended.

Second: Michael LaRue

VOTED – 4-0 in favor

Motion Passed

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

Opposed: None

Abstain: None

Motion: Nichole Fecteau motioned to approve the application.

Second: David Ross-Lyons

VOTED – 4-0 in favor

Motion Passed

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

Opposed: None

Abstain: None

- Site Plan Amendment. Commercial Storage. 387 School Street (R54-4) R2 Zone. PK Storage, LLC.

James Bellissimo said a site walk was held and that it was fairly straight forward. The back part of the lot is mostly grass area and the previous use was a saw mill years ago. The one question from the previous meeting regarding the wetland and the DEP wrote a letter to the Town stating the wetland is not impacted by the project and the ruling from the previous approval still applies.

Neil Rapoza said one of the remaining issues is to address the lighting in the front of the buildings and that will be done as soon as possible.

Motion: Nichole Fecteau motioned to approve the Findings of Fact.

Second: David Ross-Lyons

**VOTED – 4-0 in favor
Motion Passed**

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

Opposed: None

Abstain: None

Motion: Nichole Fecteau motioned to approve the application.

Second: Michael LaRue

**VOTED – 4-0 in favor
Motion Passed**

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

Opposed: None

Abstain: None

Findings of Fact Review

- Wright Homesteading

Public Comment

Informational Items

Heidi Leveille pointed out how tough the Land Use Ordinance is to understand and that the room is full of folks with Master's Degrees and still it is difficult to understand. Ms. Leveille asked that the Ordinance be simplified for the general public.

Adjournment

Motion: David Ross-Lyons motioned to adjourn.

Second: Nichole Fecteau

VOTED – 4-0 in favor

Motion Passed

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

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:



PLANNING BOARD MEETING MINUTES

Thursday June 18, 2020

Burgess Meeting Room, Berwick Town Hall

6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Dave Andreesen; Sean Winston; Frank Underwood;

Regular Member Absent: Michael LaRue; Nichole Fecteau

Alternate Member Absent: David Ross-Lyons

Staff Members Present: James Bellissimo, Planner; Jenifer McCabe, Code Enforcement Officer

Public Comment

Approval of Minutes

1. May 21, 2020

Motion: Frank Underwood motioned to approve the minutes as amended

Second: Sean Winston

VOTED – 3-0 in favor

Motion Passed

In favor: Dave Andreesen; Sean Winston; Frank Underwood

Opposed: None

Abstain: None

June 4, 2020

No action taken.

Presentation

- Kristie Rabasca – MS4 Permit and Land Use Ordinance Amendments

Kristie Rabasca introduced herself as a consultant helping the Town to meet Municipal Separate Storm Sewer System (MS4) permit requirements. Ms. Rabasca said the Town has been subject to the permit since 2003. Frank Underwood asked if Rochester, Somersworth and Rollinsford New Hampshire are MS4 communities. Ms. Rabasca said yes and there are 29 other towns and cities regulated by the Stormwater Permit.

Ms. Rabasca said the permit was supposed to be renewed in 2018 and there have been 11 different drafts, with the most recent draft becoming active in 2021. Ordinance changes have been part of all iterations and will be part of the final permit and will need to be complete by June 2022.

Change 1: Require the use of erosion control at construction sites.

Amendment Required: The Land Use Ordinance needs to be consistent with DEP Appendix C and that can be done by embedding the appendix. This amendment will need to also go into the Subdivision Regulations – Section 11.5 and Land Use Ordinance (several references) 7.17. One reference “in accordance with Maine DEP.. (2003)” will need to be updated to the more current iteration. Mineral Industry, Campground are additional references to the 2003 document.

An Ordinance Committee composed of SMPDC, Integrated Environmental and Cumberland County Soil and Water Conservation District is considering either creating a stand-alone ordinance, regional standards, or a check list if the Town wanted to embed the language in the ordinance.

Change 2: Post Construction

Amendment Required: If an issue is found, the owner is required to address deficiencies within 60 days. Unless there is a big capital project requirement. At that point the CEO and owner will establish an “expeditious schedule.” Currently in the Town’s Land Use Ordinance there is no defined timeline.

Change 3: Low Impact Development

Ms. Rabasca said the language is unclear in the permit, but there may be additional requirements to add Low Impact Development standards to the ordinance.

New Business

- Site Plan Review. Multifamily (adding 1 unit to make 3 total). 55 School Street (U3-1) C/I Zone and Village Overlay District. Andrea Burns.

Andrea Burns proposed to add one dwelling unit to an existing two-family dwelling. Because it is a third unit, it requires Site Plan approval. Because the two units have been in existence for longer than two years, it does not require Subdivision approval.

Ms. Burns has requested to move an existing Antique shop from a house barn into the garage, and use the house barn as the apartment.

Ms. Burns submitted a sketch of a drainage improvement on site to meet the Low Impact Design requirement of the application. Ms. Burns requested a waiver of a boundary survey (9.8.F.b.i-iv) and letters to Town Departments. Mr. Bellissimo said the rest of the Site Plan Review ordinance he felt were not applicable because they dealt with new construction.

Andrea Burns of 55 School Street introduced herself as the applicant. Ms. Burns said the building has been in existence since 1970. Ms. Burns said there has been existing drainage issues seasonally and to address that they would install a drainage ditch and perforated piping, which outlets to the backyard. Ms. Burns said the Fire Department visited the site.

Motion: Dave Andreesen motioned to waive 9.8.F.b.i-iv.

Second: Frank Underwood

**VOTED – 3-0 in favor
Motion Passed**

In favor: Dave Andreesen; Sean Winston; Frank Underwood

Opposed: None

Abstain: None

Motion: Sean Winston motioned to waive letter requirements to Town Departments

Second: Frank Underwood

**VOTED – 3-0 in favor
Motion Passed**

In favor: Dave Andreesen; Sean Winston; Frank Underwood

Opposed: None

Abstain: None

The Board discussed the Low Impact Design statement and that the applicant did not need a waiver because of the recent drainage submittal.

Motion: Frank Underwood motioned to find the application complete

Second: Sean Winston

**VOTED – 3-0 in favor
Motion Passed**

In favor: Dave Andreesen; Sean Winston; Frank Underwood

Opposed: None

Abstain: None

The Board determined a site walk was not necessary.
A Public Hearing was set for July 16th at 6:30PM.

- Conditional Use Application. Adult Use Marijuana Storefront and Adult Use Cultivation Facility. 468 Portland Street (R71-7) RC/I Zone. Herbal Pathways

James Bellissimo read his memo to the Board. The applicant completed a traffic study and the recommendation of the study, due to the 55 mph speeds, that a site line of 550' be unobstructed in each direction.

Brian Neilson of Attar Engineering introduced himself as the representative of Herbal Pathways. Mr. Neilson said the Low Impact Design proposed is a bioretention cell.

Frank Underwood asked to see the existing septic and if the septic will be able to handle the new proposed use. Mr. Underwood asked if the processed water should be captured as a standard for all cultivation facilities moving forward.

Ken Crowley of Herbal Pathways said his process using an aeroponic system where the water can be recycled. Mr. Crowley said the Maine State Conditional License has been received and they may not be fully process under August or September.

Motion: Frank Underwood motioned to find the application complete.

Second: Dave Andreesen

**VOTED – 3-0 in favor
Motion Passed**

In favor: Dave Andreesen; Sean Winston; Frank Underwood

Opposed: None

Abstain: None

Site walk (rescheduled to August 6) and Public Hearing set for August 6th at 6:30PM.

- ~~Land Use Ordinance Amendments~~

Public Hearing

Public Comment

Informational Items

Adjournment

Motion: Sean Winston

Second: Frank Underwood

VOTED – 3-0 in favor

Motion Passed

In favor: Dave Andreesen; Sean Winston; Frank Underwood

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:

June 24, 2020

Town of Berwick
Planning Board
11 Sullivan Street
Berwick, ME 03901

Re: 11 Pond Road Marijuana Production Proposal

To Whom It May Concern:

As a follow-up to the Public Hearing of June 4, 2020, we have additional comments pertaining to the document, ***Town of Berwick Planning Board Conditional Use Findings of Fact.***

Page 1: South Berwick Water District Superintendent Request:

The measures requested by the South Berwick Water District address some but not all of the concerns. Per the DEP regulation, ***Chapter 700: Wellhead Protection: Siting of Facilities That Pose A Significant Threat To Drinking Water***, a DEP review is required of the project to evaluate the impact on the ground water and wetlands in addition to evaluating the restriction that hazardous material cannot be located within 300' from a private well.

Page 2: Table of Findings in Facts Addressing Concerns of the Residents:

See Exhibit A.

Page 3-5: Findings in Fact:

See Exhibit A.

Lastly, we request that the Planning Board consider the following items when evaluating this project.

- A PEER review be conducted to evaluate the issues discussed above.
- The DEP to provide a review and decide if the project is permissible.
- A zero-tolerance policy be in place for odor control. If odor is emitted outside, the production is shut down until the odor issue is resolved. We request that the building be provided with a negative pressure system.
- The size and scope of the building(s) be limited or less than the current proposed building(s) plans. The applicant be restricted from building a multi-story building(s) since the number of buildings has been reduced.
- If water contamination occurs in neighboring residential wells that is caused by the marijuana growth facility, the applicant is to bear the costs of rectifying the problem within a specific period of time.
- The applicant to provide a more detail plan of the production operation. Limited information has been shared on the scope of the marijuana business except that they will be growing, harvesting, processing. Since this production is happening among residential homes, we (and we think the Town) would like to understand the scope of the business. There may be additional concerns that we are not aware.

Thank you in advance for your time in addressing our concerns. We respectfully request a copy of the PEER review, DEP findings, negative pressure system plans and other documents pertaining to the project to allow ample time to review with our attorneys prior to the next public hearing.

Respectfully,

Alyson and Jerry Graybill
10 Pond Road
Berwick, ME 03901
603-502-2467/ 603-520-2641

cc: David P. Silk, Attorney
Jason Theobald, Attorney
James Bellissimo, Berwick Town Planner

Exhibit A
Town of Berwick Planning Board Conditional Use Findings of Facts
Response from Residents

Concern	Staff Comments	Town Recommendation	Resident Response
Residency	The growers are from Lebanon as I understand it. This is a moot point unfortunately the State has recently suddenly dropped residency requirements due to legal issues with the mandate.	This concern is resolved.	We agree.
Frontage 8.25.3	The language only applies to R3 – amended November 2018. To clear up the question on whether folks were confused when voting for it. The Adult Use vote was in June of 2019.	This concern is resolved.	We do not agree on this item. We originally voted that these facilities would be located with frontage on Route 4 and 9. This property is not on either road. In addition, the access road is not owned by property owner. Northeast Credit Union owns and has a specific easement on usage which needs to be addressed.
Property Values	There is no direct language for property values. There is no way to make a distinction if it was a marijuana use or any other allowed commercial use that went in the exact location.	This concern is resolved.	We disagree on this item. Several of us have spoken with realtors who state our property values will be negatively impacted.
Legal Access	The legal access comes from Pond Road.	This concern is resolved.	As recommended by the Berwick Fire Dept, the width of the road needs to be 20 feet. Since the applicant does not own the entrance of the property, we ask that the Bank be notified to obtain their approval of widening the road. Per Town road access

Exhibit A
Town of Berwick Planning Board Conditional Use Findings of Facts
Response from Residents

			requirements, the width of the way and the improved portion of the way for roads used for commercial use must be a minimum of 20' in width.
Subdivision Review	The definition of a subdivision pertains to lots or dwelling units and not individual buildings. Also, now only two buildings are proposed.	This concern is resolved.	We partially agree. We question if other development regulations apply because the use of the property is changing from residential to residential /commercial involving the building of a road.
Wetland Buffer Zone	The buildings have been moved out of the buffer zone and project scaled back from 4 buildings to 2 to fit in all the setbacks and buffers.	This concern is resolved.	We do not agree that this item has been resolved per DEP regulations. We request that the DEP review the proposal to ensure all the rules for wetlands, runoff, drainage into streams/aquifer/wells have been addressed.
Negative Easement & Warranty Deed Easement	This relates to the neighboring credit union and not allowing competition. There is a separate hazardous waste agreement with the applicant's lender.	This concern is resolved.	The negative easement has never been the issue with this proposal. The warranty deed easement is the one in question. Please see attached warranty deed. This easement states that the road cannot be used by vehicles carrying potentially hazardous materials. Chemicals and waste from marijuana production facilities are considered potentially hazardous waste. The use of the "gravel driveway" will change from access for residential apartments to a road used by commercial vehicles and

Exhibit A
Town of Berwick Planning Board Conditional Use Findings of Facts
Response from Residents

			<p>additional vehicles of workers. Based on the above, the applicant is in violation of the easement.</p>
Odor Control	The applicant said air will be pulled through HVAC system and will be carbon filtered prior to exhausting.	Ensure the building is also equipped with negative pressure (vacuum).	<p>We agree with the recommendation of equipping the building with a negative pressure system.</p> <p>Odor control is a major concern of all the abutters and residents in the area. We feel this is a “zero tolerance “item and that no smell be allowed outside of the building. We understand a PEER review has been requested by the Town. We would like to receive a copy of the review prior to the next Public Hearing to allow ample time to review with attorney and other engineering firm.</p>
1,000-foot setback	The setback from the school has been provided with a stamped survey. The setback from Kind Farms is from the property line but is not surveyed.	The estimate seems OK considering there would be an additional 50’ to the building. Planning Board could consider requesting a survey to Kind Farms.	We agree the 1000’ setback for the School has been resolved but the 1000’ setback for the Kind Farm should be reviewed. Kind Farms has plans for building a production facility on their second lot and the 1000’ building to building setback for the buildings may be affected.
Septic easement	The easement is over two areas where neither the leech field nor pipe are.	This won’t be an issue for the first building but may be an issue for the expansion. If not resolved I would suggest a condition for the applicant to come back for the second building when the	This issue has not been resolved. One of the outstanding issues is whether or not the applicant can drive over pipes without 13 Pond Road resident’s approval. Per legal counsel, the applicant cannot

Exhibit A
Town of Berwick Planning Board Conditional Use Findings of Facts
Response from Residents

		easement is resolved.	drive over these pipes.
Driveway & Basin within buffer zone	There are no identified issues with the driveway. The basin could be a question for DEP or 3 rd party review	Planning Board may consider a second opinion on the basin.	We request that DEP and Towns of Berwick and South Berwick review the plans and provide recommendations on what is permitted. Please note: Based on the revised plans, the well is also located within the 250' buffer zone.
Driving over the septic pipe	This issue is primarily a civil issue. I see nothing that would restrict the applicant from building a road over the pipe. The applicant said they would put a sleeve over the pipe to protect it, I assume this would require Ms. McDonald's permission to do so.	Planning Board may consider a second opinion on the pipe with or without the sleeving.	A PEER review has been requested to evaluate the engineered solution for the pipes. Per legal counsel, this is not permitted without consent from 13 Pond Rd resident.
Public Safety	Both Fire & Police for both Towns have been notified. South Berwick has been aware of this project since Feb. 19 th	Chief Plante's concerns are listed under Finding 10.	We request that the responses from the police and fire departments of the Towns of Berwick and South Berwick be provided to the Public.

Exhibit A, *continued*
**Town of Berwick Planning Board Conditional Use Findings of Fact
Response from Residents**

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 Berwick Comprehensive Plan states the purpose of the Rural Commercial/Industrial District is to “provide for more Town tax base and employment.” The project **conforms/does not conform to all pertinent codes, ordinances and regulations.**

Resident Response: Our review of the comprehensive plan leads us to believe this project **DOES NOT CONFORM TO all the pertinent codes, ordinances and regulations.**

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 trees are proposed to be removed during construction. The applicant has proposed a landscape buffer to screen the buildings from the neighboring property.

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 building is proposed to look like a large barn. This structure fits in with the neighborhood.

Resident Response: We do not agree. The possibility of two large buildings, a parking lot, a large water basin, a 20’ road that circles the buildings along with a security fence does not harmoniously fit in with the neighborhood.

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.*

Exhibit A, *continued*
**Town of Berwick Planning Board Conditional Use Findings of Fact
Response from Residents**

The site layout provides for safe access and egress to pond Road. Trucks will pick up products approximately two to four times per month. There will be five full time employees and eight during harvesting. This will be the extent of the traffic during operations.

Resident Response: The width of the way and the improved portion of the way for roads used by commercial vehicles must be a minimum of 20' in width. The proposed road does not meet that requirement. See Exhibit A for additional comments.

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.*

Two-way traffic is proposed for the interior of the site. Parking is proposed to go in front of the first building. Access is provided around the proposed building and access to the front and right side of the proposed expansion comes from the interior road.

Resident Request: We request that the police and fire departments of both towns review.

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 bioretention basin with a swale heading to the basin is proposed for surface water. A swale is proposed along the proposed new interior road.

Resident Response: We request DEP review to determine if permissible.

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

Concerns with South Berwick's water quality and water availability have been raised by the District Superintendent.

Resident Request: Please refer to letter from the Graybills dated June 24, 2020.

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.*

Exhibit A, continued
Town of Berwick Planning Board Conditional Use Findings of Fact
Response from Residents

No signage has been proposed for the project.

Resident Response: We request that the access road to the property be clearly marked to allow police, fire and medical vehicles to easily locate and access the facility when required.

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

Resident Response: We feel this is applicable and needs to be reviewed further.

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

Lighting is proposed to be mounted to the building and have a shield to direct the light downward.

Resident Response: Is this going to be enough to deter crime? We do not want a lot of light. However, if there is only one light, will this keep someone away and keep them from breaking into the facility?

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

The Berwick Fire Chief said the driveway from Pond Road needs to be widened at least to 20 feet to allow fire apparatus movement in and off the property.

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.*

Concerns with South Berwick's water quality and water availability have been raised by the District Superintendent.

Resident Response: DEP review requested.

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*

Exhibit A, *continued*
Town of Berwick Planning Board Conditional Use Findings of Fact
Response from Residents

resources regulations

A holding tank is proposed to capture wastewater.

Resident Response: DEP review requested.

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, the water supply comes from a well.

Resident Response: Applicant needs to provide proof that the DEP standards have been met and approved by the DEP. We request that the South Berwick Water District and abutters be assured that the water supply for the community and personal wells will not be negatively affected.

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.*

No soil erosion issues have been identified.

Resident Response: DEP review requested.

15. Will provide for adequate sewerage waste disposal.

A new septic system has been designed and included with the application.

Resident Response: Per a statement from the applicant's engineer at the Public Hearing (6/4), the proposed septic design is for 5 residential units and the proposed marijuana growth facility. Why has a design of this size been provided?

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

Resident Response: See previous comments.

Exhibit A, *continued*
**Town of Berwick Planning Board Conditional Use Findings of Fact
Response from Residents**

Planning Board Finding

17. 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.

The bioretention basin is proposed to be constructed within the 250' wetland buffer. Part of the interior driveway is also within the 250' buffer. No adverse effects have been identified.

Resident Response: Based on the revised plans, the driveway, the basin and the well are located within the 250' buffer zone. We disagree that there are no adverse effects. Please refer to the DEP regulation: Chapter 700: Wellhead Protection: Siting of Facilities That Pose A Significant Threat To Drinking Water.

18. 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.*

A bioretention basin and swales are proposed as part of the LID improvements on the project.

Resident Response: DEP review requested.

WARRANTY DEED

Maine Statutory Short Form

Roxanne M. Roberge of 11 Pond Road, South Berwick, ME 03908 for consideration paid, grant to **Northeast Credit Union** of 100 Borthwick Avenue, Portsmouth, New Hampshire with **WARRANTY COVENANTS**, the real estate in Berwick, County of York and State of Maine, described as follows:

A parcel of land located on the southeasterly sideline of State Route 4, also known as Portland Street in the Town of Berwick, County of York, and State of Maine, shown as Lot 1 on a survey labeled "Final Plan Roberge Subdivision for Roxanne Roberge" by Roaring Brook Consultants, Inc. dated 5/4/06 with final revision 4/25/08 and recorded at the York County Registry of Deeds in Plan Book 330, Page 11 and being more particularly bounded and described as follows:

Beginning at the intersection of the southeasterly sideline of Portland Street and northerly sideline of Pond Road; which point is at the southwesterly corner of the premises herein described; then running North $41^{\circ} 06' 56''$ East along Portland Street for a distance of 108.59 feet; then continuing North $52^{\circ} 16' 36''$ East for 66 feet to a stone bound; then running northeasterly still along Portland Street on a curve having a radius of 2939.79 feet for an arc length of 65.68 feet; then continuing northeasterly along Portland Street on a curve having a radius of 2,939.79 feet for an arc length of 521.87 feet to a rebar; then turning and running South $49^{\circ} 38' 35''$ East along land now or formerly of Christy and Diane Massios for a distance of 297.77 feet to a #5 rebar; then turning and running South $35^{\circ} 47' 21''$ West along land being retained by Roxanne M. Roberge for a distance of 245.73 feet to a #5 rebar; then turning and running North $85^{\circ} 47' 12''$ West still along land being retained by said Roberge for a distance of 305.19 feet to a #5 rebar; then turning and running South $14^{\circ} 23' 09''$ West still along land being retained by said Roberge for a distance of 193.18 feet to the northerly sideline of Pond Road; then turning and running westerly along Pond Road on a curve having a radius of 1,534.08 feet for an arc length of 44.95 feet to a #5 rebar; then turning and running North $02^{\circ} 52' 30''$ West still along Pond Road for a distance of 24.10 feet; then turning and running South $87^{\circ} 07' 50''$ West along Pond Road for a distance of 109.22 feet to a stone bound; then continuing westerly on a curve having a radius of 426.54 feet for an

Maine R.E. Transfer Tax Paid

easterly sideline of Portland Street and being the point of beginning. This parcel of land contains 3.69 acres.

Meaning to describe and conveying a portion of the premises described in the deed of R & D Properties, LLC to this grantor dated August 28, 2007 and recorded at the York County Registry of Deeds in Book 15243, Page 889.

Excepting and reserving a 20 foot wide easement to be used in common with others as a right of way to gain access to and exit from the northerly sideline of Pond Road and the westerly boundary of the above described 3.69 acre parcel. Said right of way to commence on the northerly sideline of said right of way and to be located on the area shown as "Secondary Gravel Access" on the "Final Site Plan Map 70, Lots 16 Berwick, Maine for Northeast Credit Union" by Roaring Brook Consultants, Inc. and approved by the Berwick Planning Board on 12/4/08. Said easement may be used on foot or for vehicles (excluding oil trucks or other vehicles carrying any potentially hazardous materials – except for oil trucks delivering residential heating oil to grantee's residence). The Grantor shall maintain liability insurance in favor of the Grantee in such amount as shall be reasonably acceptable to the Grantee, and shall provide a certificate of such insurance naming the Grantee as an additional insured. The Grantor shall construct, maintain, plow and repair the gravel access, being approximately 40 feet in length, from the "Secondary Gravel" roadway to her land.

Creation of a Temporary Negative Easement

Roxanne M. Roberge is the owner of a parcel of land that adjoins the above-described 3.69-acre parcel (hereafter referred to as the NECU Parcel). This adjoining parcel consists of 17.97 acres and is shown as Lot 3 on the survey labeled "Final Plan Roberge Subdivision for Roxanne Roberge" and recorded at the York County Registry of Deeds in Plan Book 330, Page 11 (hereafter referred to as the Remaining Property). Roxanne M. Roberge for herself, her heirs, devisees and assigns subjects said Remaining Property to the following temporary negative easement:

1. There shall be no credit union, banking or lending institution of any type, whether commercial or mutual, allowed to be constructed or used on the Remaining Property or any portion thereof for so long as any retail credit union, banking or lending institution of any type, whether commercial is mutual is located and operating on the above described NECU Parcel.

...instrument which is a valid credit union, banking or remaining institution is no longer located and operating on the NECU Parcel.

3. This negative easement shall be deemed to benefit the NECU Parcel and be enforceable by the owner of said NECU Parcel, its successor, assigns and grantees and shall be deemed to burden and be binding upon the Remaining Property.

Witness my hand this 17th day of December 2008.

Bruce A Whitney
Witness

Roxanne M Roberge
Roxanne M. Roberge

STATE OF MAINE
COUNTY OF YORK, ss

December 17, 2008

Then personally appeared the above named Roxanne M. Roberge and acknowledged the foregoing instrument to be her free act and deed, before me:

Bruce A Whitney
Bruce A. Whitney
Attorney at Law

Roxanne Roberge to Credit Union revised deed

End of Document

**Town of Berwick Planning Board
Conditional Use Findings of Fact**

Applicant: CAF Realty
11 Pond Road (Tax Map R-070, Lot 16)
July 16, 2020

CAF Realty applied for a Site Plan & Conditional Use for an Adult Use Marijuana Productions Facility and first appeared on the Planning Board agenda for March 5th, 2020. A piece of the lot is in South Berwick, the Town was notified of the project on February 19, 2020 via e-mail.

A detailed odor control and security plan was submitted. The applicant does have standing to apply according to Section 8.25 the property is in the RC/I Zone.

The applicant initially indicated they would complete the project in multiple phases with four buildings at completion. Upon further review it was determined part of the proposal was in the Limited Residential District where the use is not allowed. As a result, the applicant submitted a new plan showing two buildings.

A landscape plan was submitted with a plant list as follows:

Plant List				
SHRUBS				
Symbol	Botanical Name	Common Name	Quantity	Size
Cs	<i>Cornus sericea</i> 'Cardinal'	Cardinal Red Osier Dogwood	28	5 gal.
IvS	<i>Ilex verticillata</i> 'Sparkleberry'	Sparkleberry Winterberry (female)	13	3-4'
IvSG	<i>Ilex verticillata</i> 'Southern Gentleman'	Southern Gentleman Winterberry (male)	1	3-4'
JcBP	<i>Juniperus chinensis</i> 'Blue Point'	Blue Point Juniper	12	6-7'
JcSG	<i>Juniperus chinensis</i> 'Seagreen'	Seagreen Juniper	26	2-2.5'
VdBM	<i>Viburnum dentatum</i> 'Blue Muffin'	Blue Muffin Arrowwood Viburnum	23	5 gal.

The South Berwick Water District Superintendent requested several conditions (See Conditions of Approval)

The follow concerns have been raised by the neighborhood:

- Residency requirements for the use, frontage (8.25.3), property values, legal access, subdivision review, wetland buffer zone, easement restrictions, odor control, setbacks, septic easement issues, infrastructure within the wetland buffer zone, driving over a septic pipe and issues with public safety.

At the June 4th Public Hearing, abutters additionally raised concerns about security, health and welfare of the neighborhood, fire safety issues, communication with the applicant and issues with setbacks from wells.

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

Concerns with South Berwick's water quality and water availability were raised by the District Superintendent. Conditions of Approval have been added to ensure this standard will be met.

8. 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 for the project.

9. 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

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

Lighting is proposed to be mounted to the building and have a shield to direct the light downward.

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

The driveway will be widened to 20' as requested by the Berwick Fire Department. The interior access road is also 20' wide.

12. 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.*

The third party review found _____ Concerns with South Berwick's water quality and water availability have been raised by the District Superintendent. Conditions of Approval have been added to ensure this standard will be met.

13. 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 third party review found _____ A holding tank is proposed to capture wastewater.

14. 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, the water supply comes from a well.

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

No soil erosion issues have been identified.

16. Will provide for adequate sewerage waste disposal.

A new septic system has been designed and included with the application.

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

Planning Board Finding

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.

The bioretention basin is proposed to be constructed within the 250' wetland buffer. Part of the interior driveway is also within the 250' buffer. Subject to third party review.

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.*

A bioretention basin and swales are proposed as part of the LID improvements on the project.

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 [REDACTED] by the Planning Board at its meeting of [REDACTED]

No waivers were requested

Findings of Fact [REDACTED]

Conditions of Approval

1. All wastewater from marijuana production shall be captured in a holding tank.
2. The South Berwick Water District shall be furnished with a detailed well drillers log for the new well.
3. A five-day pump test be performed on the well with well drawdown readings taken hourly until the well stabilizes. The Pump Test will be coordinated with the South Berwick Water District so the well drawdowns at Junction Road can be monitored to check for interference. The Facility may not irrigate their plants if the new well has an adverse effect on the Junction Road water source.
4. The applicant shall submit proof of purchase of carbon filtration and the equipment required to produce a negative pressure environment.
5. If an odor violation is determined by the Code Enforcement Officer, the applicant shall resolve the issue within five business days. The Code Enforcement Officer may revoke the Certificate of Occupancy if the odor issues are not resolved within five business days.
6. If well water is contaminated as a result of production, the cost to remediate the issue shall be at the applicant's expense.
7. The building height shall be restricted to one story.

Application [REDACTED]

David Andreesen, Planning Board Chair

Date

Town of Berwick Planning Board
Conditional Use Findings of Fact
Applicant: Route 4 Self Storage
565 Portland Street (Tax Map R-072, Lot 9-2)
July 16, 2020

Route 4 Self Storage proposed an expansion to their existing Site Plan. The proposed expansion included six buildings with footprints of 3,500 ft² each. Two additional buildings will be 5,360 ft² and one building 2,000 ft². The total building floor area for all buildings existing and proposed would be 60,220 ft² (33% lot coverage). All buildings will be pre-engineered metal structures. The facility will be accessible 24/7. There will be no employees on site. Temporary parking will be available in front of the units. The site will utilize an existing access from Portland Street. A 30' access way is provided for maintenance and management use. Chief Plante indicated there are no issues with the layout.

This project required a DEP Site Location permit. 2 proprietary StormFilter units, an underdrain grass filter, catch basins and culverts make up the key components of the stormwater management on site.

A waiver was granted for 9.8.F.2.b.vi – Landscaping. The application was found complete 3-0 at the June 18, 2020 Planning Board meeting. At the Public Hearing _____.

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 and meets all pertinent codes, ordinances and regulations.

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 trees are proposed to be removed. This standard is being met insofar as it can since the site is already built.

3. 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 buildings will relate to the already approved facilities.

4. 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 and will provide safe access and egress onto Portland Street.

5. 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.*

This standard has been met.

6. 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.*

The site is required to meet MDEP Chapter 500 standards and will also need to obtain a Site Location of Development permit.

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

Not Applicable.

8. 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.*

The existing signage will be utilized which currently meets the standards in the Berwick Land Use Ordinance.

9. 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.*

Any loading areas by the buildings will be located beyond the required setbacks.

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

All exterior lighting will be downward facing and shielded.

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

This standard has been met. The expansion has been reviewed by the Berwick Fire Department.

12. 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.*

The proposed development will not adversely impact municipal services for normal operation.

13. 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.*

Stormwater has been designed to meet MDEP Site Location of Development standards.

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

No well or water connection is proposed for this project.

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

No well or water connection is proposed for this project.

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

This standard has been met. Stormwater has been designed to meet MDEP Site Location of Development standards.

17. Will provide for adequate sewerage waste disposal.

No wastewater production is proposed for the project.

18. 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 existing buildings and will not have an adverse effect on the aesthetics of the area. The project will be reviewed by the Maine Natural Areas Program and the Maine Historic Preservation Commission and any comments will be incorporated into the final plan.

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

A statement of financial capacity has been provided with the application.

20. 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.

21. 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.*

As part of the DEP Site Location Development Permit, the applicant proposed DEP approved BMPs, including proprietary treatment systems.

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 July 16, 2020.

Waivers Approved

Landscape Plan (9.8.F.2.b.vii)

Findings of Fact Approved on July 16, 2020

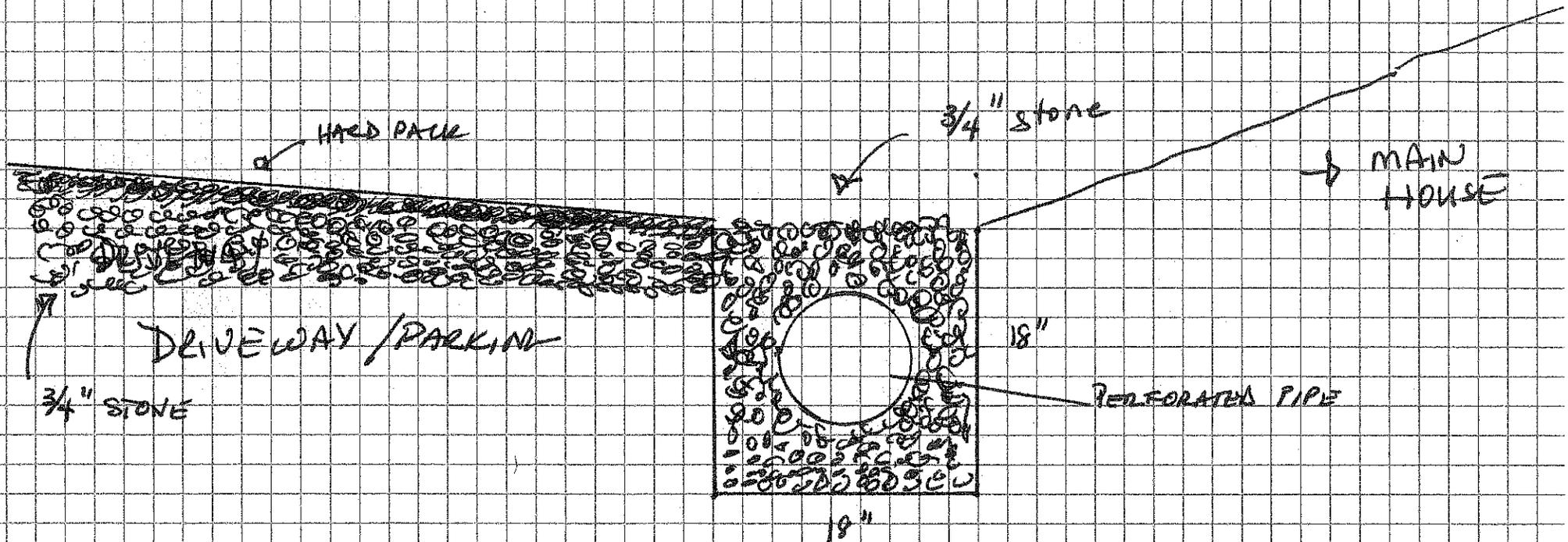
No Conditions of Approval Proposed

Application Approved ____

David Andreesen, Planning Board Chair

Date

PARKING DRAINAGE



Town of Berwick Planning Board
Findings of Fact
Applicant: Andrea Burns
55 School Street (Tax Map R-054, Lot 4)
July 16, 2020

Andrea Burns proposed to construct an 812 ft² two-bedroom apartment. Because this would be the third unit, this project is considered a multifamily dwelling. According to the Berwick Land Use Ordinance this would require Site Plan Review (9.8.E.5). Because two units have been in existence longer than five years, it does not require Subdivision approval. The unit is proposed to be located in an attached house barn that currently is permitted for an antique and collectable business, Ms. Burns has requested that business to be moved to an existing one car garage.

Ms. Burns requested a re-zone requested that was granted by Town Vote in June of 2018 for 55 School Street to become part of the Village Overlay District.

Ms. Burns requested a waiver for:

- A map or maps including a perimeter survey, existing and proposed infrastructure, landscaping and topography (9.8.F.2.b.i-vii).

There is no construction proposed and because of that, the rest of Site Plan review and Village Overlay District requirements are not applicable. Ms. Burns submitted a parking drainage plan which includes pitched stone toward 18"x18x basin with a perforated pipe.

The application was found complete by vote of 3-0 at the June 18 Planning Board meeting. At the Public Hearing _____.

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 use within the CI Zone and Village Overlay 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 trees are proposed to be taken down. The parking area is screened to the abutting property by a fence. Parking is already existing and can be seen from School Street.

3. 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.

This standard has been met. No new buildings are proposed to be constructed.

4. 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.*

No issues have been identified from the existing access to and from School Street.

5. 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.*

The parking area is expanded slightly to account for the added units and if needed, additional parking can be provided behind the garage.

6. 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.*

The parking area is existing gravel, the applicant proposed to add more gravel and compact the parking area. A drainage swale has been proposed to outlet to the backyard.

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

This standard has been met. No unreasonable burdens have been identified.

8. 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.

9. 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

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

No lighting has been proposed with the application.

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

This standard has been met.

12. 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 unreasonable adverse impacts on municipal services have been identified.

13. 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.*

This standard has been met.

14. 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. The unit will be

15. 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.

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

The applicant has proposed an improvement to an existing gravel driveway in the form of a basin and perforated pipe to outlet to the backyard.

17. Will provide for adequate sewerage waste disposal.

The Sewer District is aware of the proposal and a Condition of Approval that they complete the required permissions with them before receiving Certificate of Occupancy is sufficient for the District.

18. 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.

19. 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. The applicant will have adequate capacity to meet the above standards.

20. 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.

21. 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 has requested a waiver.

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 July 16, 2020

Waivers

9.8.F.2.b.i-iv – Map requirements

9.8.F.2.b.iv – Copies of letters to required Town Staff & Departments

Findings of Fact

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: VILLAGE OVERLAY DISTRICT AMENDMENTS
DATE: JULY 13, 2020
CC: JENIFER MCCABE, CODE ENFORCEMENT OFFICER

Summary of proposed Village Overlay District amendments:

1. Added “Hybrid” because the Village Overlay District is still subject to traditional zoning, it is truly more a hybrid than either/or.
2. Removed Figure 1, initially we had a map but since it can be amended at any time, a link is provided to ensure it is the most recent version.
3. Removing parallel parking requirement on Main Street. It is likely some angle parking would be appropriate along the Main Street to alleviate some of the need for off-street parking.
4. Removing the mandate to raise the crosswalks on Main Street, flat crossing may work better and it makes sense to allow Great Falls Construction to make that decision.
5. 6.4.2.6 is clarified and organized.
6. Amendment to building placement to allow for a drive through on streets with access on both Main and School Street. Great Falls Construction has indicated they are looking to place an anchor institution on School & Main and a drive through is essential especially due to COVID-19.
7. Lot Occupation removed to increase flexibility to how Great Falls Construction can re-subdivide the site.
8. Max building footprint removed. Station square is ~21,000 sf footprint.
9. Remove requirement for parking to be behind building or rear. Keeping in mind the parking lot will still be required to be screened if it is in front of the building. Most parking will be behind buildings but some spots like the drive through it may make more sense for it to be in front of the building.
10. Removing parking maximum requirement.

6.4 Village Overlay District – **Hybrid** Form-Based Code District

The purpose of **the Hybrid** Form-Based Code is to:

- Allow for a diversity of appropriate and compatible uses within a zoning district
- Provide a more concise process for design, review and approval of structures.
- Deliver a development outcome that is more consistent with a traditional pedestrian oriented street development pattern

Berwick’s Form-Based Code zoning district is the Village Overlay District which overlays portions of the R1, SC/I and C/I Zoning Districts.

FIGURE 1. — Map of Village Overlay District— See the Town of Berwick’s Zoning Map at berwickmaine.org/maps as the map may be amended from time to time.

6.4.1 General: Purpose and Intent

- A. The Village Overlay District is intended to promote the development of the former tannery site, which is bounded by Sullivan Street, Wilson Street and School Street. The establishment of the Village Overlay District is consistent with the vision presented in the Comprehensive Plan which includes the Berwick Downtown Vision Report and Implementation Plan.
- B. The Village Overlay District will utilize the former tannery site, transforming it into a new village center that repurposes older buildings and allows for new buildings that will offer economic and commercial opportunities while also recognizing the Town’s industrial past. The reuse of the industrial buildings along with new buildings, a new street, and new public and private spaces will become the foundation of a thriving downtown.
- C. The Form-Based Code establishes standards for use and design of new and existing buildings, including size, height and required features as well as criteria related to roads, sidewalks, parking areas and open space.

6.4.2 Village Overlay District

- A. Objectives
 1. The Village Overlay District will improve and expand Berwick’s downtown and provide connections to the open spaces and adjacent residential neighborhoods.
 2. The Village Overlay District will allow for repurposing of existing former industrial buildings for commercial and residential uses, thereby allowing for a core downtown area of higher density, mixed use, buildings including low-impact industry, offices, retail and other commercial businesses and multifamily housing.

3. Continuous open space (known as a greenway) will run through the former tannery site connecting the recreational river area and the downtown neighborhoods to the community open space near the former Estabrook School.
4. The Village Overlay District will have a tight network of streets, including a new main street, with wide sidewalks, street trees and buildings set close to the street or with frontage on pleasing outdoor public spaces. A greenway connects public open spaces and the downtown to adjacent neighborhoods.
5. A wide range of residential buildings; including single-family, two-family, town houses or row houses and apartment houses will be allowed in the district.

6.4.2.1 Design Standards

- A. Key Design Features of the Village Overlay District:
- 3 to 4 story mixed use buildings on Main Street with front façade detailing
 - Active interaction between public and private spaces
 - Increased density
 - Increased availability of on-street parking
 - Wide sidewalks
 - Street trees
 - Small off-street parking areas
 - Public commons, outdoor spaces for restaurants and open space for civic activities
 - Well defined corner buildings at the Main Street intersections with Wilson and Sullivan Streets.
 - Greenway connectivity between the downtown, the river and surrounding neighborhoods
 - Underground power and utilities

6.4.2.2 Main Street Design Standards

*Refer to Figure 2 and Figure 3

The new street to be designated Main Street shall run east to west through the former tannery site, connecting to School Street at its eastern end and to Sullivan Street, approximately opposite of Eleanor’s Street, at its western end.

Minimum Right-of-Way Width	60 feet
Curb face to curb face	40 feet
Minimum Traveled Way Width	24 feet total paved driving lanes (12-feet for each direction) Refer to Figures 2 and 3
Parking Lanes	Parallel, 8 feet wide, paved, total length of street except for pedestrian crossings and intersections
Minimum Sidewalk Width	8 feet
Minimum Grade	.5%
Minimum Angle of Street Intersections with School and Sullivan Streets	90 degrees
Pedestrian crossing	<ul style="list-style-type: none"> • Raised where feasible: approximately same height as the curb • Use pavers or material different in color and texture than the travel lanes but must be ADA-friendly. • Provide bump outs at pedestrian crossings to shorten length of travel from sidewalk to sidewalk. • Granite curbing
Landscaping	Provide street trees every 25 feet on center in tree grates or as necessary to allow for ample growth
Street Lighting	Lighting fixture types to be similar along Main Street, School Street and Sullivan Street See Figure 6.4.2.4 Street Lighting
Access	To minimize curb-cuts, access to parking areas and driveways servicing buildings both new and existing, shall be shared.
Utilities	All utilities, including power, shall be installed underground.

FIGURE 2.- MAIN STREET SECTION A- without planting strip along road

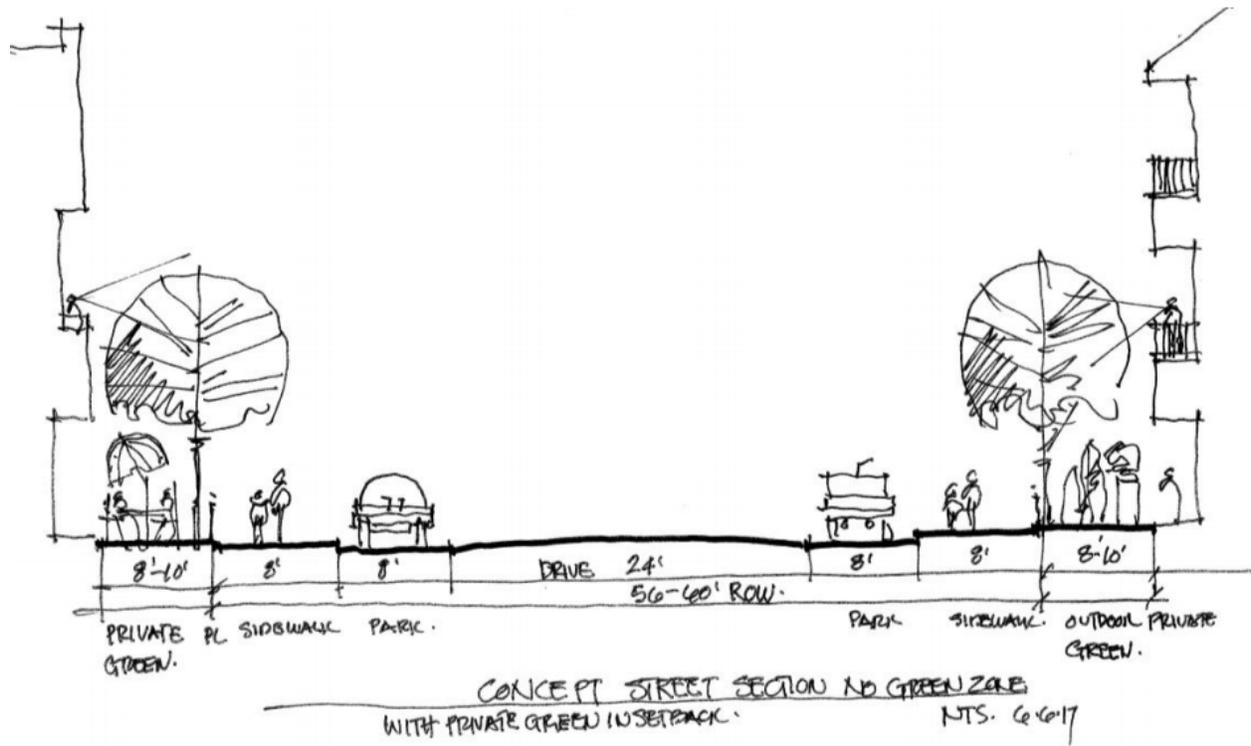
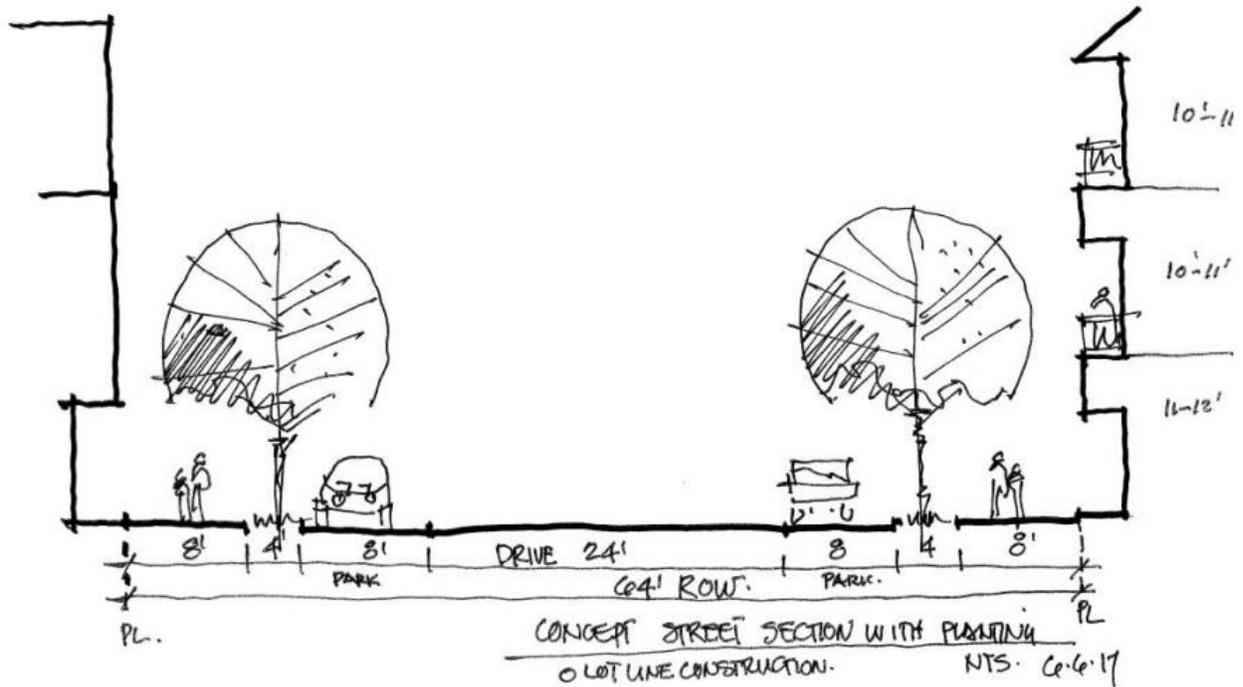


FIGURE 3. MAIN STREET SECTION B- with planting strip along road



6.4.2.3 Additional Streets

As redevelopment occurs within the former tannery site, portions of Sullivan Street, Wilson Street and School Street that abut the former tannery site shall be subject to new development and design standards. As parcels that abut the above-mentioned streets and others within the district are redeveloped, the following design standards shall apply

<u>Minimum Sidewalk Width</u>	<u>6 feet</u>
<u>Pedestrian crossings</u>	<ul style="list-style-type: none"> • Use materials different in color and texture than the travel lanes but must be ADA-friendly. • Granite curbing
<u>Access</u>	To minimize curb-cuts, access to parking areas and driveways servicing buildings both new and existing, shall be shared.
<u>Landscaping</u>	Provide street trees every 25 feet on center in tree grates or as necessary to allow for ample growth
<u>Street Lighting</u>	Lighting fixture types to be similar along Main Street, School Street and Sullivan Street See Figure 6.4.2.4 Street Lighting
<u>Utilities</u>	Utilities, including power, shall be located underground.

6.4.2.4 Street Lighting

All new street lighting added along Main Street, Sullivan Street, Wilson Street and School Street shall be in a style similar to Figure 4 below. Street lighting along Main Street must also include accessory arms for hanging banners and decorations.

FIGURE 4. - CONCEPT SITE LIGHTING-

Lighting Type	
 <p>Gooseneck</p>	Gooseneck Street Lamp LED Black post with candy cane arm *Approved light fixture for Main Street
	All other site and exterior building lighting are subject to Planning Board approval.
	All exterior lights shall have full cut off/fully shielded luminaries approved by the International Dark-Sky Association.

6.4.2.5 Open Space

- A. Redevelopment of the former tannery site requires 25% of the total site (comprised of the area bounded by Wilson Street, Sullivan Street, Saw Mill Hill and School Streets, excluding the area between Back Street, Sullivan Street and Saw Mill Hill) to be open space. This open space will be a combination of larger spaces suitable for public/civic events, greenways and smaller more intimate spaces. Refer to Section 6.4.4 Open Space/Greenways.

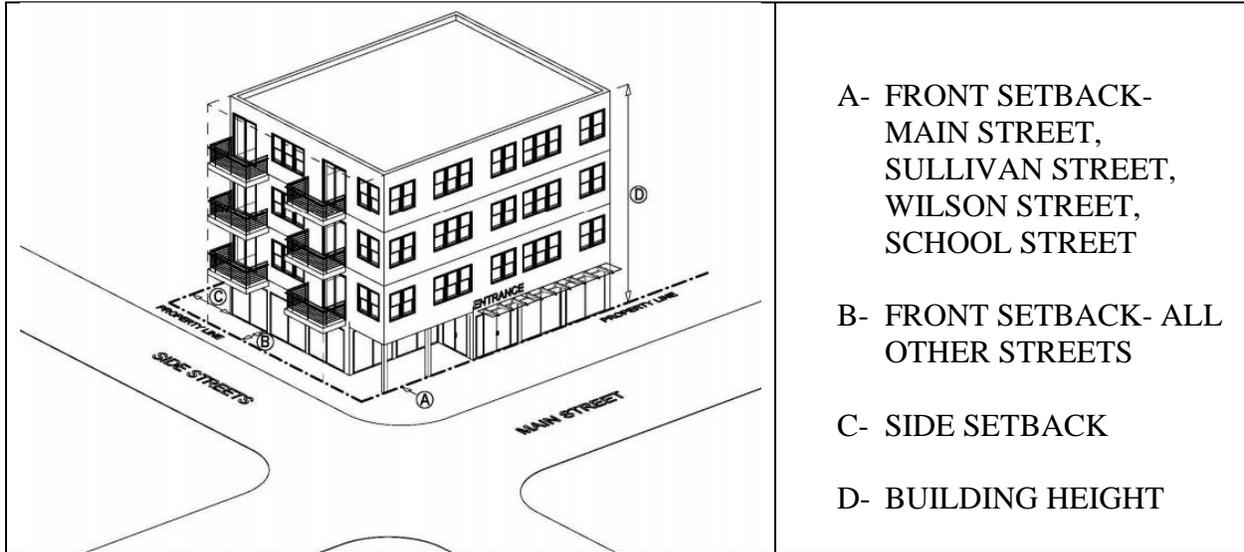
6.4.2.6 Building Standards and Features

- A. New buildings shall be oriented to the street on which they have frontage, with large windows, covered entries, easy pedestrian access, and little to no setback from the street for business/commercial uses. Buildings with first floor residential units shall be set back with small yards and/or porches and primary entrances facing the street. While not required, garages are encouraged for residential structures but shall be located in back of or to the side of the buildings.
- B. Building designs and construction shall meet all current energy codes and strive for near net zero. See Section 6.4.6 Energy and Sustainability.
- C. Best practices for storm water management and low-impact design are required. See Section 6.4.7 Storm water.
- D. Building materials, including siding and trim, shall be reviewed and approved by the Planning Board and shall be found consistent with the Design Guidelines as adopted by the Town.
- E. Residential uses on the first floor of a building shall be allowed in nonconforming structures in existence prior to May 12, 2015. However, first floor residential uses of nonconforming structures shall not be allowed if the building's footprint is expanded by 10% or more.
- F. All first-floor residential uses in new buildings with frontage on the new main street shall be reviewed by the Planning Board as a conditional use; and be Consistent with the terms of the Comprehensive Plan, which includes the Berwick Downtown Vision Report and Implementation Plan.
- G. **New residential construction shall** not exceed a 4:1 ratio of residential to non-residential use measured by constructed floor space. This statistic is tracked by the Planning Department and updated as new permits are issued. This ratio pertains to the 7.7-acre parcel formerly known as Prime Tanning and structures contained with frontage on Wilson Street, School Street, and Sullivan Street.

6.4.3 Dimensional Requirements

The following Figures and Tables set forth the dimensional requirements and design standards for structures, parking and external elements within the Village Overlay District.

Figure 5: VILLAGE OVERLAY DISTRICT BUILDING PLACEMENT



- A- FRONT SETBACK- MAIN STREET, SULLIVAN STREET, WILSON STREET, SCHOOL STREET
- B- FRONT SETBACK- ALL OTHER STREETS
- C- SIDE SETBACK
- D- BUILDING HEIGHT

BUILDING PLACEMENT (PRINCIPAL BUILDING)		
Front Setback: Main Street, Sullivan Street, Wilson Street and School Street	0 feet to 5 feet setback for non-residential uses except for restaurants which propose outdoor dining which shall have a front setback of between 10 and 15 feet. 5 feet to 15 feet setback for residential uses depending on whether porches or front yards or both are proposed. Buildings with access off of both School Street & Main Street may be set back further as needed to accommodate a drive through.	A
Front Setback: All other streets	Equal to the average setback for existing buildings within the same block.	B
Front Setback, Secondary Street: (Corner Lot)	0 feet to 10 feet setback for non-residential uses except for restaurants which propose outdoor dining which shall have a setback between 10 and 15 feet. 5 to 10 feet for residential uses	B
Side Setback:	0 to 5 feet (2)	C
Rear Setback:	10 feet minimum (2)	
Frontage Build out:	75% minimum at front setback	

Notes:

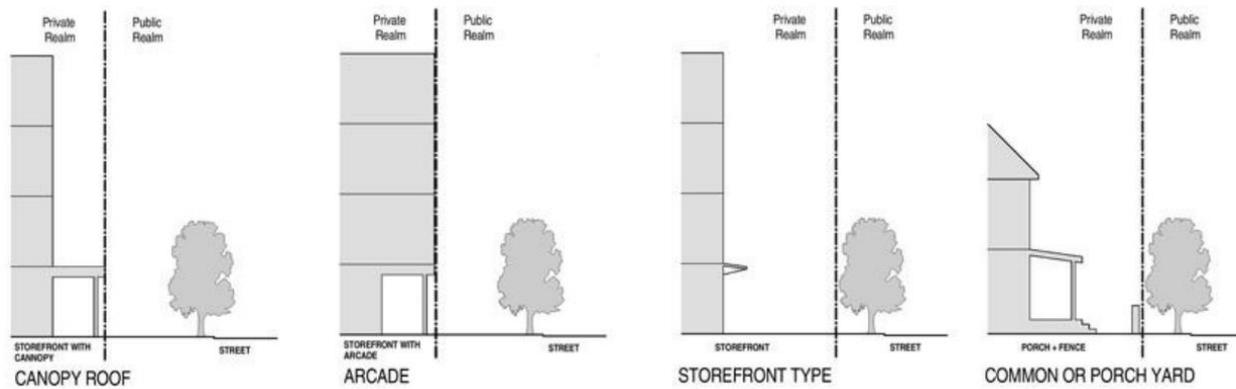
- (1) Building height shall not exceed immediately adjacent existing residential buildings by more than one story unless the existing building will be separated from the proposed building by more than 50 feet.
- (2) When a building is constructed adjacent to an existing single-family residence, the applicable side or rear setbacks shall not be less than 10 feet.

LOT OCCUPATION		
Maximum lot coverage	95%	
Lot Width	18 feet minimum, 150 feet maximum	

BUILDING FORM (PRINCIPAL BUILDING)		
Maximum building footprint	15,000 square feet	
Building Height:	2 story minimum, maximum of 4 stories/45 feet excluding unlivable attic space or as approved by Berwick Fire Department (see Note (1) above)	D
Entries	Primary entry door is encouraged along ground story facade facing the street on which the building has frontage.	
Façade Windows	20%-70% - first floor commercial uses must have 70% except for professional offices or financial or insurance services offices	
Front Façade Wall	Blank lengths of wall exceeding 12 linear feet are prohibited.	
Roof type	Gable, hip, flat	

BUILDING PLACEMENT (ACCESSORY)	
Front setback:	Principal building setback + 20 feet at minimum
Side setback:	0 feet minimum
Rear setback:	5 feet minimum

FIGURE 6: BUILDING SECTION- FRONTAGE TYPES



EXTERNAL ELEMENTS	
Fencing (residential):	A front yard fence, a minimum of 2 feet and a maximum of 4 feet in height is encouraged to maintain spatial edge of street. No chain link, vinyl, split rail, wire, or barbed wire is allowed.
Access:	A vehicle entry way to a parking or loading area shall be a maximum width of 18 feet. Pedestrian access from parking areas, garages or parking structures shall exit directly to a frontage line except for underground parking accommodations.
Building Projections:	No part of any building, except overhanging eaves, awnings, balconies, bay windows, and other architectural features shall encroach beyond the minimum front setback line.
Landscaping:	Landscaping is encouraged but shall not be an impediment on streets, sidewalks or travel ways. Street trees are encouraged. See Section 6.4.5

PARKING	
Residential	Vehicle parking areas shall be located only on driveways, in garages or designated parking areas and shall not extend into the street right of way or sidewalk. Residential parking areas and/or garages shall be located to the rear of the building whenever possible or to the side if rear location isn't achievable. Screening and/or fencing is required for parking areas along a street. Parking areas larger than 10

	spaces require additional landscaping. See Section 6.4.3
Commercial	No on-site or off-street parking (see Section 6.4.3.2 below) is required for certain commercial uses, see Section 6.4.3. However, if on-site or offstreet parking is required or is to be provided, such parking shall be located to rear of the property to the greatest extent possible. Parking to the side is limited to no more than 40% of the lot width. Screening and/or fencing is required for parking areas along a street. Parking areas larger than 10 spaces require additional landscaping. See Section 6.4.3.
Low-Impact Industrial	Parking shall be located to rear of the property to the greatest extent possible. Parking to the side is limited to no more than 40% of the lot width. Screening and/or fencing is required for parking areas along a street. Parking areas larger than 10 spaces require additional landscaping. See Section 6.4.3.

6.4.4 Parking

Article 7.7 for parking requirements shall apply except as noted below.

6.4.4.1 Parking Waivers

The Planning Board may waive or adjust all requirements for parking within the Village Overlay District when it is not possible or in the best interest of the Town to meet the requirements.

6.4.4.2 Definitions

For the purposes of the Village Overlay District, the following definitions apply:

Off-street parking means parking located in a parking area or lot which is shared with other buildings and is not located on the lot for which the use is proposed

On-site parking means parking provided on the same lot as the building for which the proposed use is located.

On-street parking means parking along either a proposed or existing street.

6.4.4.3 General Parking Standards for Commercial, Office, Mixed-Use or Multi-family Structures in the Village Overlay District

- ~~A. On street parking along the new main street shall be parallel parking only.~~
- ~~B. All off street or on site surface parking areas shall be located to the rear of the building. If this is not possible, as determined by the Planning Board, the parking area shall be to the side of the building.~~
- ~~C. No off street or on site surface parking area may contain greater than 30 parking spaces.~~
- D. All off-street and on-site surface parking areas which are not located behind a building or are located along a street must be screened from the street (see Section 6.4.6 Landscaping).
- E. Any off-street or on-site parking area which contains greater than 10 spaces is required to have additional landscaping (see Section 6.4.5 Landscaping)
- F. Shared parking is encouraged. A plan describing how shared parking would work is required as part of application that proposes such parking.

6.4.4.4 Parking Standards for Certain Uses

- A. Retail uses located on the first floors of mixed-use buildings are not required to have on-site parking. If on-site parking is proposed for a retail use, the standards in 6.4 shall apply.
- B. Restaurants are not required to have on-site parking if they will seat 40 or fewer people. If on-site parking is proposed for such a restaurant use, the standards in 6.4 shall apply.

6.4.5 Open Space/Greenways

A. Objectives

The Village Overlay District shall include open spaces both public and private. Open space means landscaped green areas designed for a purpose such as civic gatherings, outdoor performances, playgrounds, or sitting. These open spaces may or may not also contain hardscaped or paved walkways, seating areas, performing areas or sidewalks. Open space which may include a walkway and primarily exists to connect from one place to another is a greenway. A continuous greenway shall connect the former tannery site to the Salmon Falls River to the south and to the open space adjacent to the former Estabrook School to the north. Such greenway may connect along the way to other open space.

Redevelopment of the former tannery site within the Village Overlay District requires 25% of the total site (comprised of the area bounded by Wilson Street, Sullivan Street, Saw Mill Hill and School Streets, excluding the area between Back Street, Sullivan Street and Saw Mill Hill) to be open space.

Developers shall coordinate with the Town on locations of open space, greenways and connections to adjacent community spaces, seating areas, residential housing and playgrounds.

B. Key Design Features

1. Sustainably landscaped, using drought-tolerant and when possible, native plantings
2. Shade trees
3. Benches
4. Continuous greenway through former tannery site
5. Green infrastructure and best practices storm water management, such as rain gardens to manage and filter storm water
6. Places to sit, play and gather for all ages
7. Public art

6.4.5.1 Design Standards

- A. Greenways or paved/hardscaped walkways must be a minimum of 8 feet wide.
- B. The required continuous greenway shall connect the public park at the intersection of Saw Mill Hill and School Streets to the Town owned land on Wilson Street adjacent to the former Estabrook School.
- C. Open space shall comprise 25% of the former tannery site comprised of the area bounded by Wilson Street, Sullivan Street, Saw Mill Hill and School Streets, excluding the area between Back Street, Sullivan Street and Saw Mill Hill.
- D. All open space which includes seating shall have either trees or shrubs to provide shade and/or a sense of enclosure.
- E. Shade trees shall be installed along greenways whenever feasible, as determined by the Planning Board.
- F. Greenways and open space shall be included on site plans and landscape plans submitted for consideration by the Planning Board.

6.4.6 Landscaping

A. Objectives

This section consists of landscaping and screening standards for use throughout the Village Overlay District. The Town of Berwick recognizes the aesthetic, ecological, and economic value of landscaping and requires its use to:

- Promote the reestablishment of vegetation in more densely settled areas for aesthetic, health, and urban wildlife reasons;
- Reduce storm water runoff pollution, temperature, and rate and volume of flow;
- Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses;
- Unify development, and enhance and define public and private spaces;

- Promote the retention and use of existing non-invasive vegetation;
- Aid in energy conservation by providing shade from the sun and shelter from the wind.

B. Key Design Features

- Diversity of street trees
- Shade trees within the open spaces and along the continuous greenway
- Purpose-driven landscaped open spaces
- Landscaped parking areas
- Fencing • Hardscaped or paved walkways

6.4.6.1 Design Standards

Landscape plans shall be submitted for all projects for the Planning Board's review and approval.

A. Screening for Parking Lots

All parking lots not located behind a building or located along a street shall be screened as follows:

1. By trees and/or shrubs at least six feet tall, composed of at least 50% evergreen plantings, in numbers as determined by the Planning Board or;
2. By a fence between five and six feet tall, constructed of a material matching the finishes of surrounding buildings or;
3. By a combination of a fence four feet tall, constructed of a material matching the finishes of surrounding buildings, and deciduous trees and shrubs

B. Screening for Service and Loading Areas

1. All service areas for dumpsters, compressors, generators and similar items shall be screened as follows:
 - a. By a fence six feet tall, constructed of a material matching the finishes of surrounding buildings, surrounding the service area except for the necessary ingress/egress.
2. All areas to be used for loading that are not located within a parking area or that are not located behind a building shall be screened as follows:
 - a. By a fence six feet tall, constructed of a material matching the finishes of surrounding buildings, screening it from the street.

C. Landscaping for Parking Lots

All parking lots with more than ten parking spaces must:

1. Plant shade trees within planting strips at least four feet wide around the perimeters of the parking area at 15-20 foot intervals or

2. Provide a four foot wide interior planting strip within the parking area and plant shade trees at 15-20 foot intervals.
3. Shade trees shall have at minimum 1.5 inch caliper as measured six inches from the ground

D. Street Trees

1. Street trees shall be of a diversity of deciduous species to avoid decimation in the event of a disease or a pest and shall be non-fruit bearing
2. Street tree species shall be native when possible but shall be tolerant of salt and drought. Tree gators are required for the first several years after a tree is installed.
3. Street tree species chosen shall not be known for weak branching structure or a propensity for shallow roots that may cause sidewalk/walkway heaving.
4. Street trees shall have at minimum two inches caliper as measured six inches from the ground.

E. Types of Plantings (Trees, Shrubs, Perennials, Ornamental Grasses)

1. Native plants are preferred
2. Invasive species as defined by the State of Maine are prohibited
3. Herbaceous perennials and ornamental grasses are encouraged
4. Low maintenance, drought-tolerant plants are encouraged

F. Installation and Maintenance

1. All planting beds and strips shall be mulched either with compost or with a natural-colored bark mulch. No dyed mulches such as orange or red are permitted.
2. All trees shall have tree gators installed to provide moisture during their first years of being planted.
3. Any tree, including a street tree, shrub or plantings that are part of a plan, reviewed and approved by the Planning Board which does not survive for one full year after installation shall be replaced by the applicant at the applicant's cost.
4. Even if drought-tolerant, all plantings will require water at least occasionally the first year or two after planting in order to survive.
5. While plantings should be drought-tolerant, drip irrigation may be used if regulated by a timer and conditions. Irrigation may not be run indiscriminately.

6.4.7 Energy and Sustainability

- A. Site design and building placement shall be attentive to the surrounding environment including sun, wind and shade patterns related to existing buildings.

- B. Buildings must be built to meet IEEEC2015 standards. Building designs and construction shall meet all current energy codes. Energy efficiency with a goal of near net zero is strongly encouraged.
- C. Use of solar power, geothermal, and other alternative and sustainable power sources are encouraged.

6.4.8 Storm water

- A. All applications in the Village Overlay District shall be required to comply with the Town of Berwick's storm water regulations as found in Berwick's Zoning Ordinance.
- B. Green roofs, rain gardens, bioretention cells and other such low impact development is both strongly encouraged and preferred.

6.4.9 Application and Process

6.4.9.1 Application

- A. All applications must include:
 - 1. Village Overlay District application form.
 - 2. Site plans which meet the requirements of Article 9.8 and in addition must show:
 - a. All greenways, open space and sidewalks, both proposed and existing
 - b. The footprint of all existing abutting buildings
 - c. All existing or proposed utilities
 - d. All on-site parking, loading and service areas
 - 3. Building elevation drawings showing all four sides of the building including details such as windows, doors, trim, etc.
 - 4. A materials list to include the type of siding, roofing and trim.
 - 5. Landscape plan as a separate plan if a parking area and/or open space area, either public or private is proposed. Such plan shall include a planting list and hardscaping and/or fencing details.
 - 6. A storm water management plan prepared in accordance with Article 7.17 if required.
- B. The Planning Board may request additional plans or reports as they deem necessary at any time during the approval process.

6.4.9.2 Process

A. Prior to submitting the application, the Applicant shall meet with the Code Enforcement Officer and the Town Planner/Planning Consultant to discuss the application.

B. The process as described in Article 9.8 Conditional Use Permits and Site Plan Review shall be followed unless otherwise noted.

C. The Planning Board may, at the Applicant's expense, hire an engineer, consultant or other professional to review the plans. The Applicant shall be given an estimate of the cost of such services and shall submit that sum to the Town before being placed on the agenda for further discussion with the Planning Board. Any funds remaining after the Town has paid the review bill in full shall be remitted to the Applicant. If the Planning Board requires additional review or the funds are not sufficient to complete the review, the Applicant shall submit the necessary funds before being placed on the Planning Board agenda. No building permit may be issued until all review costs have been submitted in full by the Applicant to the Town.

6.4.9.3 Waivers

A. Submission Requirements.

1. The Planning Board may waive a submission requirement when it is shown by the Applicant that the circumstances of the site proposed for development are such that the requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect abutting landowners or the general health, safety and welfare of the Town and where the waiver would not have the effect of nullifying the intent and purpose of the official zoning map, any ordinance, or the Comprehensive Plan.

2. The Applicant shall submit a written request and the reason for the waiver at the time of application submission.

3. The Board shall consider and accept or reject each waiver request separately. Each approved waiver request and the special circumstances which the Board considered before granting the waiver shall be included in written Findings of Fact.

B. Dimensional Requirements

1. Any request for variance of any dimensional requirements under this Ordinance shall be subject to the requirements for applications for variance under the Town's Zoning Ordinance and as required by 30-A M.R.S. § 4353(4) or any successor statute and shall be decided by the Town's Zoning Board of Appeals.

Personal Sawmill: A machine for sawing logs into lumber able to be moved from lot to lot, similar to a trailer, not to exceed ~~30~~ **50** horsepower.

Sawmill: A mill or machine for sawing logs into lumber, may be located in a structure and used as a commercial operation, or is greater than ~~30~~ **50** horsepower.

8.25.3. Location: Marijuana Establishments are allowed in the **RC/I** & R3 Zone only on properties which have frontage on Route 9 or 4