

TOWN OF CUMBERLAND PLANNING BOARD MEETING MINUTES
Tuesday, January 19, 2021 at 7:00 pm– Virtual Meeting via Zoom

A. Call to Order: The meeting was called to order at 7:07 pm. Chairman Auclair thanked former Planning Board members Steve Moriarty and Lee Buffinton for their helpful service. Chairman Auclair welcomed new Board members Lorraine Rardin and Amanda Billing. Chairman Auclair noted that Ms. Billing could not be present tonight.

B. Roll Call: Present: Paul Auclair, Bill Kenny, Lorraine Rardin, Jason Record, Joshua Saunders & Ann Sawchuck, **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant & Bill Shane - Town Manager. **Absent:** Amanda Billing

C. Election of Officers - Chairman and Vice Chairman:

Mr. Kenny nominated Paul Auclair as Chairman for the following year, seconded by Mr. Record. There were no other nominations. The election of Paul Auclair as Chairman was then **VOTED, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, 6 yeas - motion carries, unanimous.**

Bill Kenny nominated Jason Record as Vice Chairman for the following year, seconded by Joshua Saunders. There were no other nominations. The election of Jason Record as Vice Chairman was then **VOTED, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, 6 yeas - motion carries, unanimous.**

Approval of the Minutes of the October 20, 2020 Meeting: Corrections to the prepared minutes were noted. Mr. Saunders moved to approve the minutes as amended, seconded by Mr. Record and **VOTED, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, 5 yeas, 1 abstained (Rardin) - motion carries.**

D. Staff Site Plan Approvals: Note: Ms. Nixon reported on the below item after Hearings and Presentations item 1.

1. Minor Staff Site Plan Approval for Eileen Quinn, d/b/a Maplewood, LLC, for a seasonal farm stand to operate out of the home at 99 Woody Creek Ln, Tax Assessor Map R03, Lot 10. Ms. Nixon noted that this minor staff review is a good example of what the Town is trying to accomplish in modifying the site plan ordinance to allow for agriculture related uses to get a careful but quick review and approval so the Town can continue to comply with the Comprehensive Plan that states that agricultural uses are to be supported. This project has been approved for someone to have a farm stand in her home.

F. Minor Change Approvals: None.

G. Hearings and Presentations:

1. Public Hearing: Site Plan Review for issuance of an Annual Renewable Special Permit for operation of the Storey Brothers Gravel Pit located at 48 Goose Pond

Road as shown on Tax Assessor Map R07, Lot 48. Applicant/Owner; RJT Properties, Inc., Representative; Doug Reynold, P.E., Gorrill Palmer.

Chairman Auclair introduced the item.

Doug Reynolds, P.E., Gorrill Palmer, represents RJT Properties/Storey Brothers Excavating for this item. Mr. Reynolds reported that this is an existing pit on Goose Pond Rd. that was previously owned by the Town of Cumberland. The pit was sold to Storey Brothers in October 2019. The application is for a renewable special permit to operate the gravel pit. Mr. Reynolds shared a plan of the site and described the location. The standards require a 200' setback from Goose Pond Rd. Mr. Reynolds indicated that the excavated area is five acres and if the applicant wants to go above five acres, they will have to come back for approval. The application package shows how they meet the standards of Chapter 315-49. The Planner's report indicates that the application has met the requirements.

Chairman Auclair confirmed that the applicants are not asking for an enlargement to 7.9. Mr. Shane said that the Town sold the gravel pit and the applicants are looking to do the same thing that the Town did. Mr. Reynolds said that they are not applying to expand to 7.9 acres.

Mr. Saunders inquired about abutting properties and buffers. Mr. Reynolds explained that the buffer only applies to Goose Pond Rd. because the abutting properties are also gravel pit operations and the buffers are not required. Mr. Shane added that there are mutual agreements in place to allow gravel pits to go to the abutting property line of another pit.

Mr. Record inquired about the following: the aquifer area, the date of the last permit, if operations there have continued, if there is an issue if operations have continued and abutter requests for a buffer.

Mr. Reynolds deferred to Town staff regarding the lapse in the permit and explained that the only buffer is on Goose Pond Rd. The west end of the site is completely excavated and currently being worked and there is no opportunity for a buffer or plantings there. Mr. Reynolds said he is not aware of any study for the aquifer.

Mr. Shane said that back in the 90s the aquifer was contaminated. There were approximately 60 monitoring and filtration systems put in due to this. The DEP has removed all of the restrictions for what they refer to as the "well protection advisory zone". Mr. Shane said that they are confident that we won't see this again.

Mr. Shane referred to the permit lapse and said this was due to a misunderstanding with staff that the Town's permit was good for five years. Mr. Shane said that this was wrong and the permit should have been issued annually for five years. This lapse is on the Town.

Mr. Shane noted that the site is about 30' below most of the property lines.

Mr. Record said that he presumes issues with the water were unrelated to the gravel pit and asked if the Town has done everything they should to make sure the gravel pit is not affecting the aquifer. Mr. Shane said the requirement is to stay five feet above the

aquifer. If the applicant chooses to go below this into the water table then DEP permits are needed.

Mr. Record confirmed that the Town is within its authority to issue this permit even though there was a lapse. Mr. Shane said this is correct.

Mr. Saunders said that in 1995 the site was approved for five acres and it is now at 5.2 acres. Mr. Saunders asked if the 2016 approval allowed for the expansion and Mr. Shane confirmed that the last approval allowed for for 5.2 acres.

Mr. Saunders confirmed that the slope referred to in the documents of "3 to 1" is for horizontal feet to vertical feet. Mr. Reynolds concurred.

Ms. Sawchuck inquired about the following: if the use of chemicals is all the Board needs to be concerned about regarding the aquifer, if the Town has any legal concerns regarding the missteps procedurally, if there are suggestions for what can be done there to make abutters happy and if there is a closure plan.

Mr. Shane replied that the project complies with the Aquifer Protection Ordinance. The Code Enforcement Officer makes the decision whether something is a permitted use, if the proposed use follows Town ordinances and if it has the merits to move forward as an application. Code Enforcement Officer Bill Longley has done this. Mr. Shane described the closure plan process and said that the applicants are not there yet. Mr. Reynolds added that the applicant plans to run the pit for as long as they can.

Mr. Kenny asked if the Town has any control over hours of operation. Mr. Shane said that typical hours of operation are applied when a project is being constructed. This is an ongoing operation. There is not a noise ordinance. Mr. Shane said that the Town has asked the owners of the pits to be respectful. Mr. Longley confirmed that there are no restrictions on hours.

Chairman Auclair opened the Public Hearing and quoted the Site Plan Review Ordinance as follows: "The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of the standards". Chairman Auclair read the letters received from abutters Alfred Wolfe, Carol Lemieux and Janene Gorham for the public record.

Letter from Alfred (Fred) Wolff 17 Forest Lane, Cumberland, Me.: I am writing with regard to the site plan review for the annual special permit for the gravel pit owned by RJT Properties, Inc./Storey Bros. I urge the planning committee to deny granting the permit.

1. The site is located within the Town Aquifer Protection Area.

- The original permit was granted, despite the fact that the mining operation would take place within a Town Aquifer Protection Area, The rationale for this appears to be based on the understanding that the operation would not involve the storage of pollutants, such as petroleum products. Direct harm from pollutants is not the only cause for concern. * Other factors that are of potential harm to the aquifer are
 - a. lowering of local groundwater and surface-water levels from mining operations.
 - b. changes in turbidity levels in ground water due to quarry operations,
 - c. interruption of ground-water conduit flow paths by rock removal
 - d. temperature change (thermal impacts) in springs and surface-water streams.

These concerns are of particular concern as the aquifer impacts Forest Lake, a unique and fragile body of water which is an important part of the town's heritage.

2. Buffering of Adjacent Uses: The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

a. When combined with the pre-existing operation of mineral extraction, the increase in heavy equipment traffic and mining adds significantly to noise levels for adjacent property owners. Though I am a relative newcomer to Cumberland, my understanding is that noise complaints about the mining operations have been registered for many years. At a minimum, if the special permit is granted, it should be done so with the caveat that the concerns and needs of the proximate residential community are taken into account and some form of noise buffering be required.

Letter from Carol Lemieux, 26 Forest Ln.: My husband and I live at 26 Forest Lane, Cumberland. We do have questions and concerns regarding the Storey Brothers Gravel Pit on the agenda for December 15th. The pit has grown exponentially since building our home 43 years ago. The noise, dust, and view continue to adversely affect our home and life. I can only assume others in the area feel the same. I have asked some questions since the latest acquisition and received confusing and conflicting messages. Lot #48 is the parcel that the Storey Brothers bought from the Town of Cumberland. What was the purchase price and where is it recorded? Am I correct in assuming there has not yet been an "Annual Renewable Special Permit for operation" issued, for The Storey Brothers Gravel pit, Lot#48? In January of 2019, residents living near the pit expressed concern as to who might be purchasing Lot#48. An email was sent to the Town Manager, asking if "gravel extraction and mineral processing are approved activities in this zone? If this pit was used for only extraction what would a new owner have to do, if anything, to get mineral processing approved?" An email was sent back with industrial zone standards for review. The email stated that "Gravel Extraction can only occur by Contract Zone – so very long shot for extraction to occur." I am looking at the minutes from a Board of Adjustment and Appeals, (which I attended) from Thursday, December 9, 2010, when the Town sought a special permit for gravel extraction for Lot #48. Apparently, the town had missed the 2009 application for renewal. The Town Council had previously enacted a moratorium on new permits being issued. The Town of Cumberland argued at the December 9, 2010 meeting that this was not a new permit, but rather a renewal of an existing permit. However, the Town did NOT have a permit (having missed the 2009 application), therefore, Lot #48 was not then and should not currently be a working gravel pit. The residents in West Cumberland have put up with this for too long. The decision was made over ten years ago to place a moratorium. WHY are we still even having this discussion? I am asking the Cumberland Planning Board NOT to issue this Special Permit.

Letter from Janene Gorham, 25 Forest Ln.: I live on Forest Lane across from the second Storey Brothers gravel extraction pit that the town of Cumberland sold to that company last year. The entrance to this pit is off Goosepond road. This is an extension to the existing pit off Blackstrap road. As if the existing pit was not noisy enough, this extension has increased the noise and dust. Residential property values have decreased. I have gone to the Council in the past asking for some way to cut down on the noise but the Storey Brothers have said tree planting or any barrier method would not work anyway. Obviously, this would require them to spend some money to do this. So I have read about train whistle noise that bothered residents near the tracts in Cumberland, noise and dust from the town garages that bothered residents who can afford half a million dollar plus homes, and possibly those wedding receptions on farmers property may potentially bother their neighbors. Yes, the council listened to these residents and made changes. Very expensive ones at that. Over here in West Cumberland we live with a huge pit,

enormous piles of gravel and dirt, constant noise and large dump trucks slamming tail gates starting at 7am, literally directly in our backyards. Although I know this is in an industrial zone, it seems that the town has no respect or thought for the quality of life of our little neighborhood on Forest Lane so they traded this land to the Storey Brothers. The only record of this is in the June 17, 2019 Town Council minutes with no notice to abutters. So when I heard about this, I assumed it would have to pass the planning board first and perhaps our concerns would be heard? I respectfully ask two things of you. One is for the Planning Board members to come observe the sites and see for yourselves I am not exaggerating. Two is that I ask the town to work with the Storey Brothers to erect dirt noise barriers as they have done along Goosepond road, and or plant trees on residents properties.

Janene Gorham, President of the Forest Lake Association, thanked Chairman Auclair for reading her letter and said the gravel pit is in the aquifer and some of it is in the Forest Lake zone. She is worried about contamination to the water shed. Ms. Gorham said she knows this is an industrial zone, but she wishes more attention is given to the noise and the dust. Tailgate slamming happens on a regular basis and it is so loud that it shakes her windows. Ms. Gorham said she would like some kind of sound abatement.

Carol Lemieux said a question that has bothered her is that when the two parcels were initially put on the market, they were listed for 180 and 210 with a broker. Risbara's bought the parcel for 180 and shortly after the other parcel was taken off the listing. The same parcel was later bought by Storey Brothers for 525 and she wondered why there was such a discrepancy from the listing amount and the amount the parcel was bought for. Mr. Shane replied that the Town parcel was not listed and was sold for \$525,000.00 to Storey Brothers.

Ms. Gorham said she found one blurb in the Council meeting records about selling the pit and there was no other discussion and no notice to abutters.

Ron Copp, Town Councilor, said that there was public notification to sell this land. Mr. Copp said that he is from the area and these have always been active pits. Mr. Copp noted that Storey Brothers does a phenomenal job and will bend over backwards to be good neighbors Mr. Copp hopes the Board approves this.

Mr. Reynolds referred to Mr. Wolfe's comment about buffering and changes in grade and explained that the difference in grade between a nearby house and the bottom of the pit is over 50 feet so any buffering done would not be effective because of the grade change. Mr. Reynolds added that the grade change itself is a buffer.

Mr. Record said that it is reasonable, within a certain cost, to try to accommodate abutter concerns. Mr. Record asked specifically what the abutters are asking for to make things better. Mr. Shane showed an aerial map of the area and pointed out the location of the pit. Ms. Gorham said that maybe some tree planting, with permission, on the property of the abutters and something to block the view. Ms. Gorham said she has no issue with Storey Brothers and they are a good company and try to be good neighbors. Ms. Gorham said maybe some money could be put over on the other property to help cut down on the noise. Mr. Gorham pointed out that a lot of things have been done in the Town for other neighborhoods that have been bothered by noise and this is her wish. Maybe in the spring the Board could come and look at the property. Mr. Record asked if Ms. Gorham is proposing trees on the abutters' property and Ms.

Gorham replied yes. Mr. Record asked how many lots are affected and Ms. Gorham replied ten to twelve.

Ms. Sawchuck wondered if the Town should be concerned that the gravel pit is dangerous and maybe some barriers should be erected for safety purposes. Chairman Auclair said he does not think this is within the Board's purview.

Mr. Record asked Mr. Reynolds to comment on the suggestions. Mr. Reynolds said that there is another property in between the pit and the homes that is owned by Storey Brothers and there are only two houses in the area and an existing stand of trees. Mr. Reynolds said that they are not proposing anything. Ms. Gorham said she was also referring to the first Storey pit near Blackstrap Rd. and other homes are more exposed.

Mr. Copp added that the Town of Cumberland does not have a noise ordinance. Mr. Copp said that he doesn't think tree planting would do one iota of good.

Chairman Auclair closed the Public Hearing.

Chairman Auclair said that, based on the ordinance, it seems to him that the Board needs to approve this. Ms. Sawchuck agreed and said it would be great if the Town could give some consideration to the persons who live next door. Ms. Sawchuck said that maybe the Board can request that the Town look to see if there is anything that makes sense. Mr. Record said he thinks that the Board has followed the path and asked the right questions.

Chairman Auclair reviewed the proposed findings of fact.

Mr. Saunders moved to adopt the findings of fact as amended, seconded by Mr. Kenny and **VOTED**, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, **6 yeas - motion carries, unanimous.**

SECTION 229 - SITE PLAN REVIEW

SECTION 10: APPROVAL STANDARDS AND CRITERIA: The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

10.A Utilization of the Site

A. Utilization of the Site: The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The site has been previously permitted for use as a gravel pit. 5.2 acres has been previously approved for extraction of material and will continue to be utilized. The Maine DEP must review extraction facilities that are greater than 5 acres. A Notice of Intent to Comply has been filed with the Maine DEP to register the site in the DEP gravel program under the Medium Borrow Pit Standards. The maximum side slope within the pit of 3:1 (three horizontal feet to one vertical foot) will reduce the potential for

erosion of the pit site. Based on the above findings of fact, the Board finds the standards of this section have been met.

B. Traffic, Circulation and Parking

(1) Traffic Access and Parking. Vehicular access to and from the development must be safe and convenient.

(a) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

(b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

(c) The grade of any proposed drive or street must be not more than + 3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

(d) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

(e) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

(f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

(g) Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

(h) The following criteria must be used to limit the number of driveways serving a proposed project:

(1) No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

(2) No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

(2) Access way Location and Spacing

Access ways must meet the following standards:

(a) Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

(b) Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

(3) Internal Vehicular Circulation. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

(a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.

(b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

(c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

(d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation

during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

(4) Parking Layout and Design. Off street parking must conform to the following standards:

(a) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

(b) All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

(c) Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Stall Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

(d) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(e) Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

(f) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

(5) Building and Parking Placement

(a) The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

(b) Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

(6) Pedestrian Circulation: The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

The continued use of the site as a gravel pit will not have an adverse effect on the existing traffic conditions and no change is proposed for the existing site access. Based on the above findings of fact, the Board finds the standards of this section have been met.

C. Stormwater Management and Erosion Control

(1) Stormwater Management. Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

(a) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
(b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

(c) The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.

(d) All-natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

(e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

(f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

(g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

(2) Erosion Control

(a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

(b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

The stormwater runoff from the existing site will not be altered due to the proposed continued use of the site. The maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site. Based on the above findings of fact, the Board finds the standards of this section have been met.

(D) Water, Sewer, and Fire Protection

(1) Water Supply Provisions: The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

(2) Sewage Disposal Provisions: The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

(3) Utilities: The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

(4) Fire Protection: The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance" once the applicant has met the design requirement of the Town's Fire Protection Ordinance.

The proposed continuation of the site as a gravel pit does not require water or sewer service. The access to the site is not proposed to change and will therefore not have an adverse effect on fire service

to the site. A "Certificate of Compliance" from the Fire Chief is not required as there are no changes to the site. Based on the above findings of fact, the Board finds the standards of this section have been met.

E. Water Protection

(1) Groundwater Protection: The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

There will be no septic systems needed for this project.

(2) Water Quality: All aspects of the project must be designed so that:

(a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

(b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

There will be no storage facilities for fuel, chemicals, chemical or industrial wastes or biodegradable raw materials. Nor will there be any discharge of liquid, gaseous or solid materials.

(3) Aquifer Protection: If the site is located within the Town Aquifer Protection Area, a positive finding by the Board that the proposed plan will not adversely affect the aquifer is required.

The site is located within the Town Aquifer Protection Area. The above findings demonstrate that the aquifer will not be adversely affected by the continued use of the pit. Based on the above findings of fact, the Board finds that the standards of this section have been met.

F. Floodplain Management: If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

Based on a review of the FEMA floodplain maps, the site is not located within a floodplain.

Based on the above finding of fact, the Board finds the standards of this section have been met.

G. Historic and Archaeological Resources: If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The site was permitted as a gravel pit in 1995. The proposed use will be in compliance with that permit and will not have an adverse effect on any historical or archaeological resources. Based on the above finding of fact, the Board finds the standards of this section have been met.

H. Exterior Lighting:

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

No exterior lighting is proposed. Based on the above finding of fact, the Board finds the standards of this section have been met.

I. Buffering and Landscaping

(1) Buffering of Adjacent Uses: The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical

equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

The application shows that there will be a minimum 200' buffer from the Goose Pond Road right of way. The remaining three sides of the property about existing contractor stockyards and therefore are not required to be buffered from the project site. Excavation machinery will be screened from the Goose Pond Road right of way by the minimum 200' buffer required by the ordinance.

(2) Landscaping: Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. ***Due to the unique attributes of the site, no additional landscaping buffer is feasible. Based on the above findings of fact, the Board finds the standards of this section have been met.***

J. Noise: The development must control noise levels such that it will not create a nuisance for neighboring properties.

The continued use of the site as a gravel pit will not result in adverse noise to surrounding properties above existing levels. Based on the above findings of fact, the Board finds the standards of this section have been met.

K. Storage of Materials

(1) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

(2) All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

(3) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

There is no proposed storage of materials on site. Based on the above findings of fact, the Board finds the standards of this section have been met.

L. Capacity of the Applicant: The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

Technical Ability: The applicant has retained Gorrill Palmer engineers to prepare plans and site permit application and also utilized Boundary Points Land Surveyors for survey services.

Financial Capacity: No funding is required to continue to utilize the pit in accordance with the ordinances.

Based on the above findings of fact, the Board finds the standards of this section have been met.

M. Design and Performance Standards

(1) Route 100 Design Standards

(2) Route 1 Design Standards

(3) Town Center District Design and Performance Standards

(4) Village Mixed Use Performance Standards.

(5) Extraction of Earth Materials (Zoning Ordinance Section 315-49 Extraction of Earth Materials)

10.M Design and Performance Standards

The gravel pit use will comply with the Zoning Section 315-49 Extraction of Earth Materials standards as follows.

(1) The operation shall be shielded from surrounding property by an adequate buffer area of not less than 200 feet from the top of the final grade to the property line. If approved by the contract zone agreement, the Planning Board may reduce the buffer area from the minimum requirement of 200 feet to a minimum requirement of not less than 100 feet, provided that any excavated property remaining will be left in a

condition more useful for some future purpose conforming to the district requirements in which the excavation site is located.

A 200' buffer will be maintained on the southern boundary adjacent to Goose Pond Rd. Buffers will not be maintained on all other boundaries (see section 2 below).

(2) An applicant may specifically apply as a part of his application for the excavation and removal of lands for waiver of the requirement of the two-hundred-foot buffer strip when the protective barrier serves only to separate two existing gravel pits. If approved by the contract zone agreement, the Planning Board may only grant a waiver from this requirement if:

(a) The protective buffer zones exist only between two existing gravel pits;

(b) The owners of the respective properties mutually and voluntarily consent to the removal of the buffer zone; and

(c) The Planning Board finds that it shall not have a detrimental effect upon adjoining properties.

The Applicant is also the owner of the adjacent contractor stockyards; therefore the removal of the buffer zone is mutually and voluntarily consensual. The existing gravel pit on the parcel has no buffer on these boundaries.

(3) Specific plans shall be established to avoid hazards from excessive slopes and/or standing water. In no case may soils be removed or excavated to closer than within five feet of the seasonal high-water table as may be determined by a competent authority. Where an embankment must be left upon the completion of operations, it shall be at a slope of not steeper than one foot vertical to three feet horizontal, except that where the required buffer area has been reduced to 100 feet the slope of the edge of the excavation area shall not exceed one foot vertical to four feet horizontal.

The bottom most elevation of the pit will not be less than 5' above the existing seasonal water table. 3:1 slopes will be maintained on areas not currently being excavated.

(4) No standing water shall be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the contract zone agreement and the Planning Board as part of the site plan approval.

Standing water will not be allowed to remain for longer than two weeks.

(5) In the case of any excavation to a depth of more than 20 feet below the surface, there shall be constructed a substantial fence with suitable gates completely enclosing the property or area in which the excavation is located. No portion of such fence shall be located closer than forty feet to the edge of such excavation. However, this condition shall not apply in the case of an excavation or removal of lands adding a slope of one foot vertical to greater than three feet horizontal.

It is not anticipated that the gravel pit will have a depth of greater than 20 feet below the existing grade with a side slope equal to or less than 3:1.

(6) No excavation shall be extended below the grade of adjacent streets unless a two-hundred-foot buffer strip shall be provided from the edge of the right-of-way, except in cases where authorized by the contract zone agreement and the Planning Board as part of the site plan approval and through agreement with other involved parties, such as the Cumberland Public Services Department, Maine State Department of Transportation and other property owners for the reconstruction of the right-of-way and street at a different level.

A 200' buffer will remain from the edge of the right-of-way.

(7) Provision shall be made for the control of stormwater runoff to prevent on-site erosion and to ensure that stormwater runoff leaves the site at the same location and is not significantly increased.

The stormwater runoff from the existing site will not be altered due to the proposed continued use of the site. The maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site.

(8) Sufficient topsoil shall be retained on the site or otherwise provided sufficient to cover all disturbed areas with an average depth of not less than two inches. All disturbed areas resulting from the excavation and removal of lands or soils shall be graded and sloped to conform to the provisions of this chapter, reseeded and seeded with grasses indigenous to the area and such trees as the Planning Board as part of

the site plan review and the contract zone agreement may require and otherwise restored to a natural condition. In the case of topsoil removal, the upper six inches of topsoil shall be stockpiled and restored to a depth of six inches throughout the site.

Topsoil will be stockpiled from new areas of excavation. Sufficient topsoil to reclaim the site will be provided by the Applicant prior to cessation of excavation on-site.

(9) Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load.

The Applicant's trucks are equipped with tarp covers to prevent contents from spilling or blowing.

(10) All access roads leading from the extraction site to public ways shall be treated with stone, calcium or other suitable materials to reduce mud and dust.

The access road will be treated with stone, calcium or other suitable materials.

Mr. Saunders moved to approve site plan review for the issuance of an Annual Renewable Special Permit for operation of the Storey Brothers Gravel Pit located at 48 Goose Pond Road as shown on Tax Assessor Map R07, Lot 48 subject to the Limitation of Approval and the Standard Condition of Approval, seconded by Mr. Kenny and **VOTED**, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, **6 years - motion carries, unanimous.**

LIMITATION OF APPROVAL: Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

STANDARD CONDITION OF APPROVAL: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

2. TABLED Public Hearing: ~~Final Major Subdivision Review for OceanView at Cumberland, LLC (Phase 2) — 52 dwelling units plus 1 community building. Greely Rd., Tax Map R04, Lot 34A. Applicant: Ocean View at Cumberland, LLC / John Wasileski. Representative: Frederic Licht, P.E, LSE, Licht Environmental Design, LLC. This item was tabled prior to the meeting and was not heard.~~

3. Public Hearing: Recommendation to the Town Council on proposed amendments to Chapter 315 (Zoning), Section 2 (Purpose) and Section 4 (Word Usage and Definitions – Agriculture).

Chairman Auclair introduced the item. Ms. Nixon explained that the purpose of these changes is to have an easier, simplified process for residents conducting agriculture related businesses to get the necessary Town approvals. Mr. Shane said that this first section is about definitions.

Mr. Record said that one thing he sees as substantially different is that the changes seem to allow for marijuana to be grown in the Town. Mr. Shane said that this is not near the intention of the changes to the ordinance.

The Board further reviewed the proposed amendments and made recommendations for changes.

Mr. Saunders moved to make a recommendation to the Town Council on proposed amendments to Chapter 315, Section 2 and Section 4 as presented and amended tonight, seconded by Mr. Record and **VOTED**, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, **6 yeas - motion carries, unanimous.**

There were no members of the public participating at this time to open a public hearing for.

Chapter 315 - 2: Purpose

A. The purpose of this chapter, made as part of a comprehensive plan for the development of the Town, is to promote public health, safety, and general welfare; to encourage the most appropriate use of land throughout the Town; to protect and preserve land most suitable for agricultural uses, to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to provide a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; and to provide an allotment of land area in new developments sufficient for all public services.

Chapter 315 – 4: Word Usage and definitions

AGRICULTURE

The use of a tract of land for commercial purposes for ~~the cultivation and the production of crops, truck gardening, nurseries or greenhouses, or any allied industry, but exclusive of animal husbandry and exclusive of private gardens less than 1/2 acre. This shall not include registered dispensaries of medical marijuana, retail marijuana establishments, retail marijuana social clubs, or any other addiction treatment facility as defined in this chapter and by applicable state statutes. any of the following:~~

1. The cultivation of soil for production and harvesting of crops, including fruits, vegetables, sod, flowers, and ornamental plants, **not to include marijuana**;
2. The planting and production of timber;
3. Animal husbandry including dairying, breeding, raising, management, care, and training of livestock, including horses, llamas, goats, pigs, cattle, bees, poultry and other similar types of animals for individual and public use and consumption;
4. Aquaculture;
5. The operation, management, conservation, improvement and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation; and when performed on the farm, the marketing and selling of agricultural products; agri-tourism; the storage and use of materials for agricultural purposes; and packing, treating, processing, sorting, storage and other activities performed to add value to crops, livestock, and agricultural items produced on the farm.
6. Farm-based Retail;
7. Farm-based Specialty Events;
8. Slaughterhouse;
9. Farm Worker Housing;
10. Bed and Breakfast uses, as defined.

AQUACULTURE

The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

SLAUGHTERING ESTABLISHMENT

~~A building or other place where animals or poultry, raised elsewhere, are killed or dressed for the market.~~

SLAUGHTERHOUSE

~~A facility for the slaughtering and processing of animals that are either raised or transported to the facility and the processing and storage of animal products and waste that results from a slaughtering process.~~

FARM WORKER HOUSING

~~Single, Duplex or Multiplex dwelling units located on the farm and occupied by employees of the farm owner.~~

FARM-BASED RETAIL

~~The selling of agricultural produce or products, the majority of which is grown or raised by the landowner on property owned by the landowner within the Rural Residential 1 (RR1) and Rural Residential 2 (RR2) Districts. This shall not include retail marijuana establishments.~~

4. Public Hearing: Recommendation to the Town Council on proposed amendments to Chapter 229 (Site Plan Review) to add agriculture related language.

Chairman Auclair introduced the item and shared a comment from Steve Moriarty asking if the word “non-residential” was left out. Ms. Nixon responded that site plan review does not apply to residential development.

Mr. Saunders asked why the proposal strikes “the Planning Board is authorized to review all other projects” under section C.

The Board further discussed the proposed changes. Mr. Saunders was not comfortable with having all agricultural uses going through as staff review and questioned whether the chart in the ordinance should be modified for this change. Ms. Nixon recommended that the Town consult with the Town Attorney on some revised language.

Mr. Kenny voted to table action on providing a recommendation to the Town Council on proposed amendments to Chapter 229 to add agriculture related language, seconded by Mr. Record and **VOTED**, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, **6 yeas - motion carries, unanimous.**

There were no members of the public participating at this time to open a public hearing for.

5. Public Hearing: Recommendation to the Town Council on proposed amendments to Chapter 229 (Site Plan Review) Section 5 (Minor Staff Review Procedure), Section 6 (Major Staff Review Procedure), Section 7 (Planning Board Review Procedure), to change the abutter notice radius from 200 to 500 feet, and Chapter 315 (Zoning), Section 53 (Home Occupations and Home Based Occupations) and Section 77-C (Board of Adjustments & Appeals - Hearings) to change the abutter notice radius from 300 to 500 feet.

Chairman Auclair introduced the item. Ms. Nixon said that this is to make the number of 500 feet (for notification radius) consistent throughout the Town’s ordinance.

Chairman Auclair opened the Public Hearing. There were no attendees. Chairman Auclair closed the Public Hearing.

Mr. Saunders moved to make a recommendation to the Town Council on proposed amendments to Chapter 229 Sections 5, 6 and 7 to change the abutter notice radius from 200 to 500 feet, and to Chapter 315, Section 53 and 77-C to change the abutter notice radius from 300 to 500 feet, seconded by Mr. Kenny and **VOTED**, Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, **6 yeas - motion carries, unanimous.**

§ 229-5 Minor staff review procedure.

- A. The applicant shall provide two copies of a complete application packet.
- B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process described below.
- C. Within 10 days of the receipt of a completed application, the Town Planner will approve or deny the application in accordance with the provisions of this chapter.
- D. The Planning Department will mail notices of the action taken to all abutters within ~~200~~ 500 feet of the site within 10 days of the decision.
- E. Submission requirements are listed in Appendix A.

§ 229-6 Major staff review procedure.

- A. The applicant shall provide nine copies of a complete application packet.
- B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process as described below.
- C. A copy of the application shall be provided by the Planning Department to the following members of the Staff Review Committee: the Public Services Director, Police Chief, Fire/EMS Chief, Code Enforcement Officer, Economic Development Director, Town Manager and Chair of the Planning Board. Comments shall be made on the application, in writing, to the Town Planner within seven days of the date of the application.
- D. The Town shall mail a notice, within three days of the application submission, to all property owners within ~~200~~ 500 feet of the site under review.
- E. Within 10 days following the submission of the completed application, the Town Planner shall review all submitted comments from the Staff Review Committee and residents and, in writing, approve, approve conditionally, or deny the application in accordance with the provisions of this chapter. The written decision of the Town Planner shall be mailed to the applicant and property owners within ~~200~~ 500 feet of the site within 10 days of the decision. A copy of the decision shall also be provided to the Town Manager and other members of the Staff Review Committee. Notice of the staff approval will be given to the Planning Board at its next meeting.
- F. Submission requirements are listed in Appendix B.

§ 229-7 Planning Board review procedure.

The Planning Board shall use the following procedures in reviewing applications for site plan review:

- A. Preapplication.
 - (1) Prior to submitting a formal application, the applicant or his/her representative may request a preapplication conference with the Planning Board. The purpose of the preapplication conference is to:
 - (a) Allow the Board to understand the nature of the proposed use and the issues involved in the proposal;
 - (b) Allow the Board to understand the location, size, natural resources and general characteristics of the proposed site;
 - (c) Allow the applicant to understand the development review process and required submissions;

- (d) Discuss the need for any waivers from the submission requirements;
 - (e) Identify issues that need to be addressed in future submissions; and
 - (f) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
- (2) The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S.A. § 302. No decisions on the substance of the plan shall be made at the preapplication conference.
- (3) Submission requirements are listed in Appendix C.
- B. Application procedure. All applications must be received by the Town Planner at least 21 days prior to the date of the next Planning Board meeting. The Town Planner will determine if the application is complete. If the application is not complete, the application will not be placed on the Planning Board agenda. For this reason, it is strongly encouraged that applicants meet with the Town Planner prior to the deadline date to review the application materials.
- C. Public notice procedure.
- (1) The Town Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be reviewed until the additional information is submitted. The applicant shall provide all information prior to the deadline date for a subsequent Planning Board meeting. Failure to submit the additional information within six months shall be deemed an abandonment of the application.
- (2) Once the application is deemed complete, a notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven days prior to the hearing.
- (3) The Town Planning Department shall mail a written notice of the date, time, and place of the public hearing at which the application will be considered to the applicant and to all property owners within 200 500 feet of the parcel on which the proposed development is located.
- (4) Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.
- D. Site walk. The Board may schedule a site walk if deemed necessary. A written notice for such site inspection shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven days prior to the site inspection. Notice shall also be sent by first-class mail to all property owners of record within 200 500 feet of the parcel on which the proposed development is located.
- E. Public hearing procedure.
- (1) The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this chapter or other municipal ordinances.
- (2) The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and the applicant to answer those questions. Following Board questions, the Chair shall open the public

hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

F. Procedures for final action on an application.

- (1) At the meeting at which final action is requested by the applicant, the Planning Board shall approve, approve with conditions, deny, or table the application. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this chapter.
- (2) In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, design standards, performance standards, and other requirements of this chapter.
- (3) The Board shall notify the applicant of the action of the Board, including the findings of fact and any conditions of approval.

§ 315-53 Home occupations and home-based occupations.

- A. Home occupations and home-based occupations are permitted in any single- or two-family structure or any structure that is accessory to a single- or two-family structure.
- (1) Notwithstanding any provision of this chapter to the contrary, the Code Enforcement Officer will approve and issue a change of use permit for home occupation and home-based occupation applications that meet the criteria listed below:
 - (a) The occupation is owned or operated by a member of the family residing within the dwelling unit;
 - (b) In the case of a home occupation, no more than two employees who are not members of the family are employed in the occupation;
 - (c) In the case of a home-based occupation, no more than two employees who are not members of the family are present at the dwelling at any one time;
 - (d) Objectionable or unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond the property limits;
 - (e) No traffic in substantially greater volumes than would be normally expected in the neighborhood will be generated;
 - (f) Off-street parking spaces are provided in an amount to be determined by the Code Enforcement Officer to avoid street congestion;
 - (g) Exterior displays, exterior storage of materials, and exterior indications of the home occupation or home-based occupation, including signs, are inconspicuous;
 - (h) The existence of the home occupation or home-based occupation does not pose any potential threat to public health, safety, or welfare; and
 - (i) There will be no violation of any private deed restrictions affecting the use of the lot.
 - (2) A home occupation that does not meet all of the above-listed standards shall require special exception approval from the Board of Adjustment and Appeals.
- B. The granting of a special exception approval or change of use for a home occupation or home-based occupation shall apply to the applicant only while the applicant resides at the property.
- C. Applications for home occupations and home-based occupations under Subsection A shall be approved in writing by the Code Enforcement Officer. The decision of the Code Enforcement Officer shall be mailed to property owners within ~~300~~ 500 feet from the property boundary line. Notice will be mailed to property owners within two business days of the permit being issued.

- D. Any appeal of the Code Enforcement Officer's decision as to whether a home occupation or home-based business meets the standards in Subsection **A** must comply with § **315-77C** through **F** of this chapter. Notice of the hearing on the appeal shall be mailed to property owners within ~~300~~ **500** feet from the property line.

§ 315-77. Board of Adjustment and Appeals.

C. Hearings. For all appeals from decisions of the Code Enforcement Officer, and for the consideration of all applications for variances, special exceptions, or other permits requiring approval of the Board, the Board shall hold a public hearing as prescribed herein. At least seven days before the hearing, the Clerk of the Board of Adjustment and Appeals shall notify by mail the owners of properties located within ~~300~~ **500** feet of the lot line of the property for which the appeal or application shall be made. In addition to the notice by mail, the Clerk to the Board of Adjustment and Appeals shall also cause to be published, at least seven days before the hearing, in a newspaper of general circulation in the Town, a notice summarizing the nature of the appeal and the time and place of the hearing.

H. Administrative Matters/New Business: Ms. Nixon said that for the February meeting, Natalie Burns had been scheduled to provide training on Planning Board procedures for a 6 pm workshop. Ms. Nixon noted that the preapplication workshop tonight has been bumped and asked how the Board feels about having Natalie come the following month.

Mr. Record said he is fine with this and asked if Natalie can provide tools or options available for being able to get further information on projects ahead of time that is legal.

Mr. Saunders asked if driving by a project site to look at it is legal. Mr. Shane said that, as a Planning Board member, you shouldn't do that.

Mr. Shane referred to the OceanView item slated for the next Planning Board meeting and said that some of the trails have been removed due to conflicts with the golf course.

Chairman Auclair noted that in February they are planning for an in-person meeting and asked if, for the workshop, Board members will be at their seats with the partitions. Mr. Shane answered yes.

I. Adjournment: Mr. Kenny moved to adjourn the meeting at 9:32 pm, seconded by Mr. Record and **VOTED** - Auclair-yea, Kenny-yea, Rardin-yea, Record-yea, Saunders-yea & Sawchuck-yea, **6 yeas - motion carries, unanimous.**

A TRUE COPY ATTEST:

Paul Auclair, Board Chair

Christina Silberman, Admin. Asst.