

**SOUTH BERWICK TOWN COUNCIL  
SPECIAL MEETING  
DECEMBER 21, 2009**

The following was reported to the Clerk by the Manager:

Chairman David Burke called the meeting to order at 4:00pm. Those present included Councilors Michelle Kareckas, Jean Demetracopoulos, Gerald W. MacPherson, Sr., and David H. Webster. Town Manager John B. Schempf was also in attendance.

**EXECUTIVE SESSION**

1. On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to enter executive session at 4:01pm pursuant to 1MRSA §405.6E to discuss the Comcast franchise with legal counsel.

On a motion by Mrs. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to end the executive session at 4:28pm.

**ADJOURNMENT**

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to adjourn the meeting at 4:29pm.

Attest:

Barbara Bennett, CCM



**SOUTH BERWICK TOWN COUNCIL  
DECEMBER 22, 2009**

Chairman David Burke called the meeting to order at 6:30pm. Those present included Councilors Michelle Kareckas, Jean Demetracopoulos, Gerald W. MacPherson, Sr., and David H. Webster. Town Manager John B. Schempf was also in attendance.

**APPROVAL OF MINUTES**

1. Town Council 12-08-09: On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adopt the minutes as written.

**SIGNING OF TREASURER'S WARRANT** – December 22, 2009

On a motion by Mrs. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to sign the warrant.

**PUBLIC COMMENT**

1. Jon Cavallo, Field Farm Towne Home Assoc, expressed the Association's concerns with the lack of sidewalk plowing on Alder Drive. He stated that Alder is used by a significant number of walkers and now that it gets dark early there is a serious safety issue. Mr. Cavallo also asked if anything could be done about dog walkers that do not clean up after their pets.

**TOWN MANAGER'S REPORT**

-Recently attended the York County Advocacy meeting. Two major items: the group sent a strong letter to the DOT regarding the bridges in Kittery, and some success has been made with congressional and federal delegates to split the southern Maine economic development district into two; separating Portland from the rest of southern Maine.

-Attended a meeting with the South Berwick networking group.

-Participated in the dual flu shot clinic, seasonal flu & H1N1. The clinic was well attended by employees and seniors.

**UNFINISHED BUSINESS**

1A. Mr. Schempf explained that the grant if awarded would help cover a significant portion of the cost for asbestos & mold mitigation and correct drainage issues at the Young Street property. There is a 20% match required which can be covered with in-kind services such as town employee labor.

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to approve the York/Oxford Counties Brownfields Cleanup Subgrant Program application in the amount of \$200,000; 20% matching funds to come from in-kind services.

1B. The Council discussed scheduling a public hearing as the next step in the Comcast process. Concerns included the lack of monthly updates from Comcast and whether they would show up at the public hearing.

On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously ordered to hold a public hearing on February 9, 2010 at 6:30pm pursuant to Section 9.8 of the Cable Television Franchise Agreement dated September 8, 2008 between the Town of South Berwick, Maine and Comcast of Maine/New Hampshire, Inc. to determine whether Comcast has cured its default in failing to build-out certain local areas as required within Article 3 of said Franchise Agreement within twelve (12) months of the September 8, 2008 date and/or has taken reasonable steps to cure said default and is diligently continuing to do so, as stipulated by sub-section (b) of said Section 9.8 of said Franchise Agreement; and to ask Comcast to include the public hearing date in their letter to the 300 residents waiting for the build-out.

## **NEW BUSINESS**

1A. The Council discussed the operation of Powderhouse Ski Hill and the liability issues at the facility. Mr. Schempf explained that there are two types of insurances involved. Accident coverage would cover a volunteer that is hurt during the performance of their volunteer duties. The other would cover volunteer/town liability. Our carrier, Maine Municipal Assoc. requires that a paid employee be present when the ski hill is open. Therefore, it is recommended that the appointed Powderhouse crew chiefs be added to the Town's payroll at a minimum rate to satisfy the insurance requirement. It was agreed that there would be only one paid crew chief on duty at any one time.

On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to authorize the Town Manager to take over the operations at Powderhouse Ski Hill, to employ such staff as needed to run the hill in a safe, efficient manner and to direct the Recreation Director to maintain and operate the hill with best management practices. All monies received and all payables due will come from or be deposited into a designated special revenue account for this purpose.

1B. No action taken on this item.

1C. On a motion by Mrs. Kareckas, seconded by Mr. Webster, it was unanimously voted to accept the anonymous donation to the Library. (\$1000)

2A. The Council discussed the situation at 25 Academy Street; the building permit, the extension of the permit, the collapse of the existing structure and what if any action can be taken. A number of residents commented on the issue; concerns included enforcement of our codes, private property rights, historical value, the creation of a non-conforming use, and how to proceed.

Mr. Schempf explained that he believes this is a Code issue; and the Code Enforcement Officer can not enforce something that is not in the ordinance.

Mrs. Demetracopoulos made a motion to authorize the Manager to solicit a written legal opinion from the Town's Attorney regarding the status of the property at 25 Academy Street as a Code issue or a Planning Board issue based upon; 1-The Zoning Ordinance and site review criteria, 2-The site plan conditions, 3-The site plan approval documents and 4-Any other information which might be requested by the attorney or provided by the administration. If found to be a Code issue, it is requested that written guidance for the Planning Board regarding the limitations of the site review process to guide their actions on future site plan reviews be obtained. The motion was seconded by Mrs. Kareckas.

Mr. MacPherson stated that he cannot support the motion; the developer should be given the opportunity to present new documentation to the Planning Board. Mr. Burke stated that he did not feel this was a Council decision. Mrs. Demetracopoulos stated that she felt a legal review would help instill faith and confidence in our ordinances and process.

Motion passed 3-2 (Mr. Burke & Mr. MacPherson opposed).

## **COUNCIL MEMBER COMMENTS**

1. Mr. Burke thanked everyone for their community efforts.

2. Mrs. Kareckas asked if the Building Committee had by-laws. No

3. Mrs. Demetracopoulos:

-Recommended that representation from the Youth Center be included in the Recreation Committee workshop.

-Made note that the undesignated fund is currently at \$1.249 million. \$171,000 of that is from department savings and efficiencies.

4. Mr. MacPherson stated that the Christmas dinner served at the Senior Center was well attended and very enjoyable.

Merry Christmas to all.

**EXECUTIVE SESSION**

1. On a motion by Mr. Webster, seconded by Mrs. Kareckas, it was unanimously voted to enter executive session at 8:47pm pursuant to 1MRSA §405.6D to discuss Police Union negotiations.

The Manager reported the following to the Clerk:

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to end the executive session at 8:55pm.

2. On a motion by Mrs. Demetracopoulos, seconded by Mr. Burke, it was unanimously voted to enter executive session at 8:55pm pursuant to 1MRSA §405.6A to discuss a personnel issue.

On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to end the executive session at 9:03pm.

**ADJOURNMENT**

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adjourn the meeting at 9:04pm.

Attest:

Barbara Bennett, CCM

DRAFT



TOWN OF SO. BERWICK  
CHECK REGISTER

Check Number	-----Account-----	Date Paid	Amount
00051000	133050 TREAS, STATE OF MAINE/IV-D	01/12/2010	70.00
00051001	132500 SECRETARY OF STATE M/V	01/12/2010	9,363.55
00051002	133050 TREAS, STATE OF MAINE/IV-D	01/12/2010	43.50
00051003	132500 SECRETARY OF STATE M/V	01/12/2010	13,752.80
00051004	133050 TREAS, STATE OF MAINE/IV-D	01/12/2010	25.55
00051005	189999 REFUNDS	01/12/2010	123.00
00051006	010300 AETNA	01/12/2010	375.00
00051007	010301 AETNA	01/12/2010	14,828.00
00051008	010524 ALLIED 100 LLC	01/12/2010	243.00
00051009	010585 AMAZON	01/12/2010	170.85
00051010	010740 AMERIFLEX CLAIMS ACCOUNT	01/12/2010	275.54
00051011	011250 TREASURER, STATE OF MAINE	01/12/2010	735.00
00051012	020790 APPLIED INDUSTRIAL TECH	01/12/2010	26.82
00051013	011422 KERA ASHLINE	01/12/2010	33.91
00051014	020225 BAKER & TAYLOR	01/12/2010	6.71
00051015	021200 BERGERON PROTECTIVE CLOTHING	01/12/2010	164.90
00051016	021668 BLOW BROS	01/12/2010	53.15
00051017	022300 BOWS AND BALLOONS BY BRINA	01/12/2010	55.25
00051018	030028 CABELA'S RETAIL INC	01/12/2010	956.10
00051019	030510 CENTRAL MAINE POWER	01/12/2010	8,114.10
00051021	030565 CHEAPER THAN DIRT	01/12/2010	381.66
00051022	030725 CITIZENS BANK (CHG)	01/12/2010	571.21
00051023	030920 CLEAN-O-RAMA	01/12/2010	374.05
00051024	031350 COLLINS SHEET METAL INC.	01/12/2010	50.00
00051025	031425 COLONIAL LIFE & ACCIDENT INS.	01/12/2010	1,464.84
00051026	031430 COMCAST	01/12/2010	95.00
00051027	031500 COMMUNITY MUTUAL AID	01/12/2010	1,000.00
00051028	040500 VICTORIA DESILETS	01/12/2010	72.61
00051029	040800 DOUCETTE EXCAVATING	01/12/2010	522.50
00051030	041100 DOWLING CORPORATION	01/12/2010	1,630.43
00051031	041294 BILL DUBE INC	01/12/2010	48.51
00051032	050200 EASTERN BEARINGS INC	01/12/2010	126.44
00051033	050815 EMPLOYEE HEALTH & BENEFITS	01/12/2010	759.41
00051034	060790 JAMES FISK	01/12/2010	39.60
00051035	061203 FOGARTY'S RESTAURANT	01/12/2010	384.91
00051036	061500 FOSTER'S DAILY DEMOCRAT	01/12/2010	40.25
00051037	070200 P GAGNON & SON INC	01/12/2010	3,256.64
00051038	070208 GALETON GLOVES	01/12/2010	118.35
00051039	070274 GC/AAA FENCE COMPANY	01/12/2010	150.00
00051040	071086 GREAT WORKS FAMILY PRACTICE	01/12/2010	84.00
00051041	071050 GREAT FALLS CLEANERS	01/12/2010	179.70
00051042	191330 HANNAFORD'S	01/12/2010	50.28
00051043	080248 HANSCOM'S TRUCK STOP INC	01/12/2010	15,943.94
00051044	080650 HIGHSMITH	01/12/2010	34.84
00051045	022665 C.E. HOLMES CONSTRUCTION	01/12/2010	1,160.00
00051046	080998 HOME DEPOT	01/12/2010	214.63
00051047	081305 HSE GOULD	01/12/2010	325.00
00051048	081398 PAUL HUSSEY CORP INC	01/12/2010	350.00
00051049	090120 INLAND FISHERIES & WILDLIFE	01/12/2010	1,679.50
00051050	090450 INTERSTATE ALL BATTERY CENTER	01/12/2010	403.09
00051051	100150 JANETOS MARKET	01/12/2010	154.86
00051052	100200 JEWETT/EASTMAN MEMORIAL COM	01/12/2010	239.00
00051053	100600 JUSTICE PLANNING & MGMT	01/12/2010	800.00
00051054	110500 KITTERY TRADING POST	01/12/2010	149.95
00051055	120700 DOLORES LEONARD	01/12/2010	47.00
00051056	127000 CORRINE J MAHONY	01/12/2010	900.00

TOWN OF SO. BERWICK  
CHECK REGISTER

Check Number	-----Account-----	Date Paid	Amount
00051057	131660 MAINE ASSN/ASSESSORS	01/12/2010	30.00
00051058	132400 MAINE SAD #35	01/12/2010	513,819.94
00051059	131700 MAINE CHIEFS OF POLICE ASSOC.	01/12/2010	50.00
00051060	133375 MAINE ENERGY RECOVERY CO.	01/12/2010	3,474.40
00051061	133376 LUKE MARTIN	01/12/2010	176.49
00051062	133358 W.B.MASON	01/12/2010	660.95
00051063	133378 MB HOUSING PARTNERSHIP	01/12/2010	700.00
00051064	133800 MICK CONSTRUCTION CORP	01/12/2010	15,000.00
00051065	134200 MAINE MUNICIPAL ASSO (INS)	01/12/2010	31,295.20
00051066	134300 MAINE MUNICIPAL EMPLOYEES	01/12/2010	4,009.67
00051067	134400 MAINE MUNICIPAL ASSOCIATION	01/12/2010	116.50
00051068	134450 MMTCTA	01/12/2010	30.00
00051069	134601 EXXON/MOBIL	01/12/2010	301.85
00051070	134665 MONTROSE-SANFORD HYDRAULICS	01/12/2010	18.40
00051071	134754 MORIN STEEL INC	01/12/2010	25.02
00051072	134900 MORTON SALT	01/12/2010	17,197.56
00051073	133194 MAINE TOWN/CITY MGMT ASSN	01/12/2010	40.00
00051074	140090 N.A.D.A. APPRAISAL GUIDES	01/12/2010	202.00
00051075	140105 NAPA OF SOMERSWORTH	01/12/2010	1,112.75
00051076	140809 NEW ENGLAND COACH	01/12/2010	1,300.00
00051077	141212 NEX CYCLE	01/12/2010	506.16
00051078	141300 NO.BERWICK LUMBER & HARDWARE	01/12/2010	1,780.62
00051079	141400 NORTHERN DATA SYSTEMS INC	01/12/2010	375.00
00051080	200700 PIKE INDUSTRIES INC	01/12/2010	36.50
00051081	160900 PORTLAND NORTH TRUCK CENTER	01/12/2010	30.68
00051082	161265 PORTSMOUTH FORD	01/12/2010	371.70
00051083	170000 QUILL CORPORATION	01/12/2010	260.81
00051084	180115 RAND LUMBER	01/12/2010	109.20
00051085	180185 RCP LLC	01/12/2010	387.50
00051086	180400 RED'S SHOE BARN INC	01/12/2010	404.09
00051087	181536 JOSEPH ROUSSELLE	01/12/2010	70.00
00051088	022749 STATE TREASURER/MAINE REV	01/12/2010	226.44
00051089	190094 SANEL AUTO PARTS CO	01/12/2010	2,602.24
00051090	191320 SHERWIN-WILLIAMS	01/12/2010	134.51
00051091	191751 SMITH AND ASSOCIATES	01/12/2010	6,950.00
00051092	191753 FOREST SMITH	01/12/2010	588.00
00051093	193605 SOUTHWORTH-MILTON, INC	01/12/2010	59.96
00051094	193639 STANTEC CONSULTING SERV INC	01/12/2010	2,190.00
00051095	194225 SULLIVAN TIRE INC	01/12/2010	731.76
00051096	180250 SYSCO:NORTHERN NEW ENGLAND	01/12/2010	636.70
00051097	132850 TREAS.STATE OF ME-LPI	01/12/2010	568.75
00051098	133105 TREASURER OF STATE/C.WPNS	01/12/2010	30.00
00051099	133113 TREASURER OF STATE/ATV	01/12/2010	1,821.90
00051100	201238 TRI-CITY TOOL CRIB	01/12/2010	14.35
00051101	201300 TWO-WAY COMMUNICATION SERV INC	01/12/2010	437.50
00051102	230300 WALMART COMMUNITY BRC	01/12/2010	338.14
00051103	230915 WHITED TRUCK CENTERS	01/12/2010	356.91
00051104	231345 WINTER EQUIPMENT CO	01/12/2010	8,419.39
00051105	240900 YORK COUNTY REGISTRY OF DEEDS	01/12/2010	59.57
Total Not Prepaid			679,899.64
Total Prepaid			23,378.40
Grand Total			703,278.04

**TOWN COUNCIL**  
***Agenda Information Sheet***

<b>Meeting Date: January 12, 2010</b>	<b>Item # UB 1A</b>
<b>Agenda Item: Discuss 25 Academy Street</b>	
<b>Town Manager's Recommendation</b>	
Attached please find the Chris Vaniotis' response to the Council's request for a legal opinion on the status of the project at 25 Academy Street.	
<b>Requested Action</b>	
Discussion	
<b>Vote</b>	

# BERNSTEIN SHUR

C O U N S E L O R S   A T   L A W

207 774-1200 main  
207 774-1127 facsimile  
bernsteinshur.com

100 Middle Street  
PO Box 9729  
Portland, ME 04104-5029

Christopher L. Vaniotis  
207 228-7205 direct  
cvaniotis@bernsteinshur.com

December 30, 2009

John B. Schempf, Town Manager  
Town of South Berwick  
180 Main Street  
South Berwick, Maine 03908-1535

Re: 25 Academy Street

Dear John:

I am writing in response to the request of the Council that you obtain legal advice regarding the status of the property at 25 Academy Street.

Town staff has provided me with the Town's records relevant to the current condition of the property and the history of the proposal to convert what had been a two-family dwelling to a three-unit multifamily dwelling. I have approached this request as would a court considering the matter – limiting my review to the written record. Based on that review, my analysis is that the Planning Board's August 21, 2007 site plan approval, as extended by the Planning Board on October 6, 2009, remains valid.

Because there was no appeal from the Planning Board's August 21, 2007 approval (or from the October 6, 2009 extension), those Planning Board decisions became final and cannot be revisited. Juliano v. Town of Poland, 1999 ME 42, 725 A.2d 545. Thus the applicant is entitled to proceed under those Planning Board approvals, as long as the applicant develops the property in compliance with the original site plan approval and any conditions imposed thereon.

To be enforceable, a condition of site plan approval must be express; it cannot be implied or inferred. City of Portland v. Grace Baptist Church, 552 A.2d 533 (Me.1988). See, also, Hamilton v. Town of Cumberland, 590 A.2d 532 (Me.1991). There is no express condition in the record of the Planning Board's approval of the site plan for 25 Academy Street that all or part of the existing building be retained, and there is no express prohibition against demolition and rebuilding of all or part of the building. As described several times in the memoranda to the Planning Board from the Director of Planning and Economic Development: "[t]he proposal is to renovate and rebuild the existing building to a similar style and character as existing with respect for the architectural heritage of Academy Street." (Emphasis added.) The application materials contain building elevations submitted

John B. Schempf, Town Manager

December 30, 2009

Page 2 of 2

by the applicant which do not distinguish between parts of the building that would be retained and parts that would be rebuilt.

I understand the logic which could lead to an inference that part of the building would be retained from the fact that the Planning Board considered the conversion not to be "new construction" under section 140-46(A) of the Zoning Ordinance. But to enforce that reasoning would require a court to infer a condition of approval. Under the holding of the Grace Baptist Church case, I do not believe the Town could succeed in asserting that removing the structure and then rebuilding it in substantial compliance with the elevations submitted by the applicant would be a violation of the site plan approval.

Because the Planning Board approval did not expressly require the property owner to retain the existing building, the circumstances under which the building was demolished do not have any effect on the continuing validity of the Planning Board approval. While it may well be the case that there was some expectation and mutual understanding that the building would be preserved, that is not spelled out in the record with sufficient specificity that a court would be likely to treat it as a legally binding requirement.

Enforcement of conditions of a Planning Board approval is the responsibility of the Code Enforcement Officer. The Planning Board does not have the authority to enforce the Zoning Ordinance or compliance with conditions. The Planning Board can, as it did in this case, bring concerns to the attention of the Code Enforcement Officer. But, in the end, it is up to the Code Enforcement Officer to determine whether or not a violation exists.

The Town Council has also requested "written guidance for the Planning Board regarding the limitations of the site review process to guide their actions on future site plan reviews." I think the best advice I can offer in that regard is that the Planning Board should always include specific, detailed conditions of approval whenever there are particular aspects of a site plan which the Planning Board wants to ensure are enforceable. For example, if in this case the Board had specifically stated in its written decision that the front portion of the existing building is not to be removed, that would have given clear guidance to the Code Enforcement Officer and would have been legally enforceable. The Planning Board and Council may also wish to consider amendments to section 140-46 of the Zoning Ordinance for the purpose of clarifying what the Ordinance means by "new construction" and "new two-family and multifamily dwellings," since it is clear from the record that the Planning Board struggled with interpretation of that section.

I hope this addresses the Council's questions. If you need anything further, just let me know.

Sincerely,



Christopher L. Vaniotis

**Roberta Orsini**

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**From:** John B. Schempf  
**Sent:** Thursday, December 31, 2009 10:23 AM  
**To:** Joe Rousselle  
**Cc:** Roberta Orsini; Jim Fisk  
**Subject:** FW: 25 Academy Street

FYI

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**From:** Chris Vaniotis [mailto:cvaniotis@bernsteinshur.com]  
**Sent:** Thursday, December 31, 2009 10:12 AM  
**To:** John B. Schempf  
**Subject:** 25 Academy Street

John,

I am writing with a brief follow-up to my letter of December 30<sup>th</sup>.

As I indicated in that letter, the Code Enforcement Officer has the responsibility to enforce compliance with the enforceable requirements of the site plan approval. I understand that the CEO has told the property owner to stop work until the CEO has reviewed and approved a building plan which demonstrates that the building will be rebuilt "to a similar style and character as existing with respect for the architectural heritage of Academy Street," as described in the Planning Board's minutes. That is an appropriate exercise of the CEO's enforcement authority.

---

**Chris Vaniotis**

**Bernstein Shur**  
100 Middle Street  
PO Box 9729  
Portland, ME 04104-5029  
207 774-1200 main  
207 774-1127 facsimile  
cvaniotis@bernsteinshur.com  
www.bernsteinshur.com

Portland, ME | Augusta, ME | Manchester, NH

**Confidentiality notice:** This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message including any contained in your reply. Thank you.

**IRS notice:** Unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (a) avoiding tax-related penalties under the Internal Revenue Code, or (b) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

TOWN COUNCIL

*Agenda Information Sheet*

<b>Meeting Date:</b> January 12, 2010	<b>Agenda Item #</b> NB 1A
<b>Subject:</b> Relish liquor license	
<b>Information:</b>	
Relish's current liquor license expires Feb 26th.	
<b>Staff Comments/Recommendation:</b>	
Lieutenant Burbank has stated that he is not aware of any issues at the Restaurant.	
<b>Requested Action:</b>	
Motion to approve the renewal of Relish's liquor license.	
<b>Vote:</b>	

**Department of Public Safety  
Division**



**Liquor Licensing & Inspection**

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

<b><u>BUREAU USE ONLY</u></b>	
License No. Assigned:	
Class:	
Deposit Date:	
Amt. Deposited:	

**PRESENT LICENSE EXPIRES** 2/26/10

**INDICATE TYPE OF PRIVILEGE:**  MALT  SPIRITUOUS  VINOUS

**INDICATE TYPE OF LICENSE:**

- RESTAURANT (Class I,II,III,IV)
- HOTEL-OPTINONAL FOOD (Class I-A)
- CLASS A LOUNGE (Class X)
- CLUB (Class V)
- TAVERN (Class IV)

- RESTAURANT/LOUNGE (Class XI)
- HOTEL (Class I,II,III,IV)
- CLUB-ON PREMISE CATERING (Class I)
- GOLF CLUB (Class I,II,III,IV)
- OTHER: \_\_\_\_\_

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

<b>1. APPLICANT(S)</b> –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <b>DOB:</b>	<b>2. Business Name (D/B/A)</b>
Big Night Productions Inc <b>DOB:</b>	Relish
<b>Address</b>	<b>Location (Street Address)</b>
404 Main St. <b>City/Town</b> South Berwick <b>State</b> Me <b>Zip Code</b> 03908	404 Main St <b>City/Town</b> South Berwick <b>State</b> Me <b>Zip Code</b> 03908
<b>Telephone Number</b> 207 384 8249 <b>Fax Number</b> Same	<b>Business Telephone Number</b> 207 384 8249 <b>Fax Number</b> Same
<b>Federal I.D. #</b> 020498902	<b>Seller Certificate #</b> 1094739

3. If premises are a hotel, indicate number of rooms available for transient guests: \_\_\_\_\_
4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO

complete Supplementary Questionnaire ,If YES

6. Do you permit dancing or entertainment on the licensed premises? YES  NO
7. If manager is to be employed, give name: Linda Robinson / Christine Pinner
8. If business is NEW or under new ownership, indicate starting date: \_\_\_\_\_  
Requested inspection date: \_\_\_\_\_ Business hours: Tues-Sat 5-9 Tues-Sat 11:30-2
9. Business records are located at: 404 Main St S Berwick Me 03908
10. Is/are applicants(s) citizens of the United States? YES  NO

11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Christine Prud'homme		
Linda Robinson		

Residence address on all of the above for previous 5 years (Limit answer to city & state)  
Dutton - South Berwick Me

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required)

18 seat bistrot, 2 rooms for dining with full bar.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES  NO  Applied for: \_\_\_\_\_

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1000 ft Which of the above is nearest? Church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO

If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: South Berwick Me on 11/5/10, 20

Town/City, State

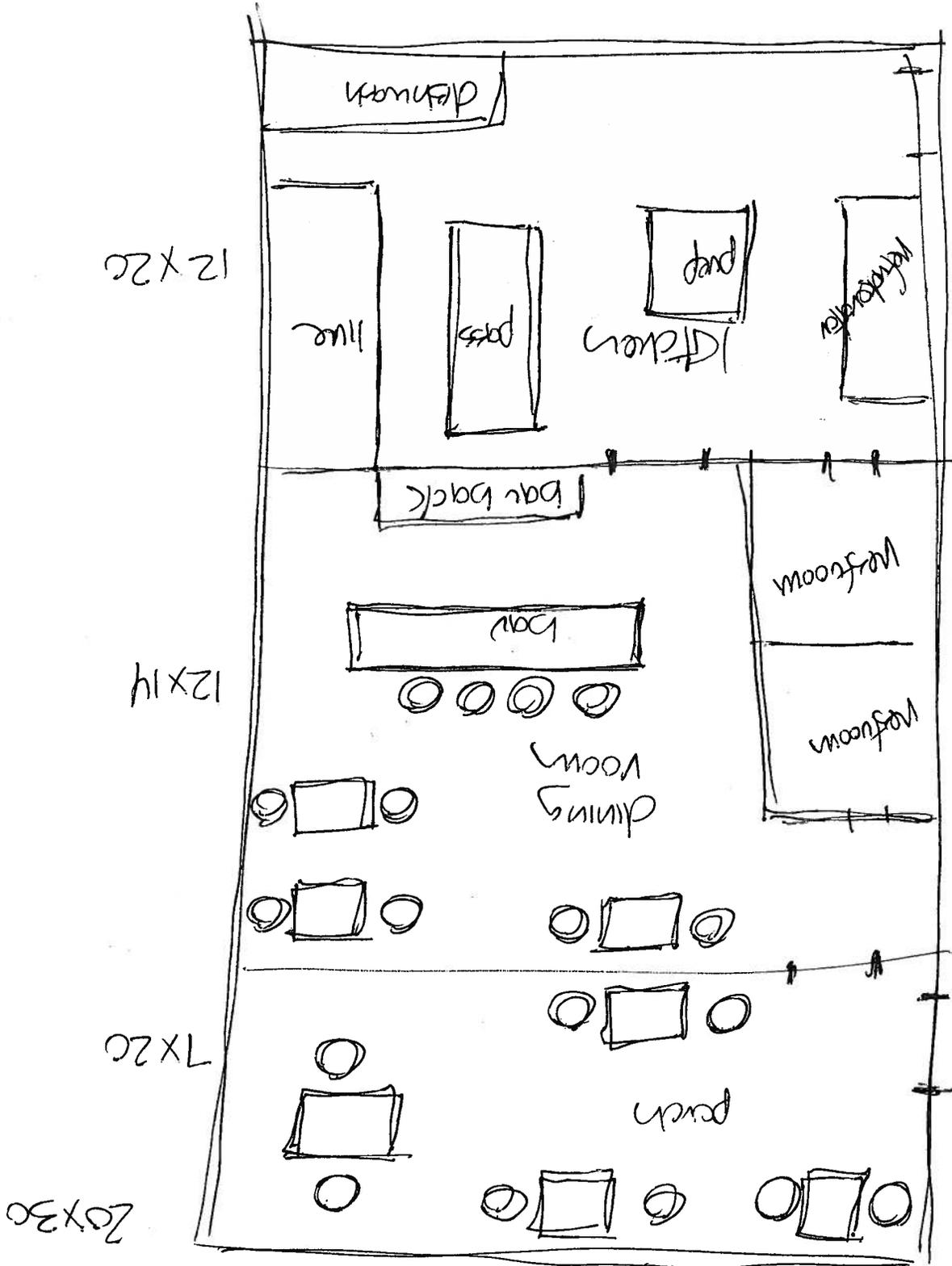
Date

Christine Prud'homme  
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)





**PREMISE DIAGRAM**

STATE OF MAINE

Dated at: South Berwick, Maine York ss
City/Town (County)

On: Date

The undersigned being: [X] Municipal Officers [ ] County Commissioners of the
[ ] City [X] Town [ ] Plantation [ ] Unincorporated Place of: South Berwick, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE - SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. Hearing. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

- A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

- A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]
B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]
E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c730, §27 (amd).]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. No license to person who moved to obtain a license. (REPEALED)

5. (TEXT EFFECTIVE 3/15/01) Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

TOWN COUNCIL

*Agenda Information Sheet*

<b>Meeting Date: January 12, 2010</b>	<b>Agenda Item # NB 1B</b>
<b>Subject: Spring Hill liquor license &amp; special amusement permit</b>	
<b>Information:</b>	
Spring Hill's current liquor license and special amusement permit expire Feb 1st.	
<b>Staff Comments/Recommendation:</b>	
Input from Chief or Lieutenant should be available Mon or Tues.	
<b>Requested Action:</b>	
Motion to approve the renewal of Spring Hill's liquor license & special amusement permit.	
<b>Vote:</b>	

**Department of Public Safety  
Division**



**Liquor Licensing & Inspection**

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

<b><u>BUREAU USE ONLY</u></b>	
License No. Assigned:	
Class:	
Deposit Date:	
Amt. Deposited:	

**PRESENT LICENSE EXPIRES** 2/1/10

**INDICATE TYPE OF PRIVILEGE:**  MALT  SPIRITUOUS  VINOUS

**INDICATE TYPE OF LICENSE:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)       |
| <input type="checkbox"/> HOTEL-OPTINONAL FOOD (Class I-A)          | <input type="checkbox"/> HOTEL (Class I,II,III,IV)          |
| <input type="checkbox"/> CLASS A LOUNGE (Class X)                  | <input type="checkbox"/> CLUB-ON PREMISE CATERING (Class I) |
| <input type="checkbox"/> CLUB (Class V)                            | <input type="checkbox"/> GOLF CLUB (Class I,II,III,IV)      |
| <input type="checkbox"/> TAVERN (Class IV)                         | <input type="checkbox"/> OTHER: _____                       |

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

<b>1. APPLICANT(S)</b> –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Spring Hill Incorporated</u> <b>DOB:</b>			<b>2. Business Name (D/B/A)</b> <u>Spring Hill Restaurant &amp; Banquet Hall</u>		
<b>DOB:</b>			<b>Location (Street Address)</b> <u>117 Pond Rd.</u>		
<b>DOB:</b>			<b>City/Town</b> <u>So. Berwick</u> <b>State</b> <u>Me</u> <b>Zip Code</b> <u>03908</u>		
<b>Address</b> <u>117 Pond Rd</u>			<b>Mailing Address</b> <u>117 Pond Rd</u>		
<b>City/Town</b> <u>South Berwick</u> <b>State</b> <u>Me</u> <b>Zip Code</b> <u>03908</u>			<b>City/Town</b> <u>So. Berwick</u> <b>State</b> <u>Me</u> <b>Zip Code</b> <u>03908</u>		
<b>Telephone Number</b> <u>(207) 384-2193</u>		<b>Fax Number</b> <u>(207) 384-8399</u>		<b>Business Telephone Number</b> <u>(207) 384-2193</u>	
<b>Federal I.D. #</b> <u>20-0622559</u>		<b>Fax Number</b> <u>207-384-8399</u>			
<b>Seller Certificate #</b> <u>1080464</u>					

3. If premises are a hotel, indicate number of rooms available for transient guests: -/-
4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO

complete Supplementary Questionnaire ,if YES

6. Do you permit dancing or entertainment on the licensed premises? YES  NO
7. If manager is to be employed, give name: \_\_\_\_\_
8. If business is NEW or under new ownership, indicate starting date: \_\_\_\_\_
- Requested inspection date: \_\_\_\_\_ Business hours: \_\_\_\_\_
9. Business records are located at: 117 Pond Rd. So. Berwick, Me
10. Is/are applicants(s) citizens of the United States? YES  NO

11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Harland Clark Goodwin Jr.		PORTSMOUTH, NH
Rosalie G. Scharf (Goodwin)		Dover, NH

Residence address on all of the above for previous 5 years (Limit answer to city & state)

South Berwick, ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?  
Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) one-story building w/ restaurant  
two function halls + attached decks - and summer room, an area under a 30x30 tent utilized

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? for corporate + group a  
YES  NO  Applied for: \_\_\_\_\_

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? ± 3 miles Which of the above is nearest? All in same downtown area.

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO

If YES, give details: mortgage held by Kennedunk Savings Bank

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: South Berwick, ME on January 8, 20 10  
Town/City, State Date

Rosalie Scharf  
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

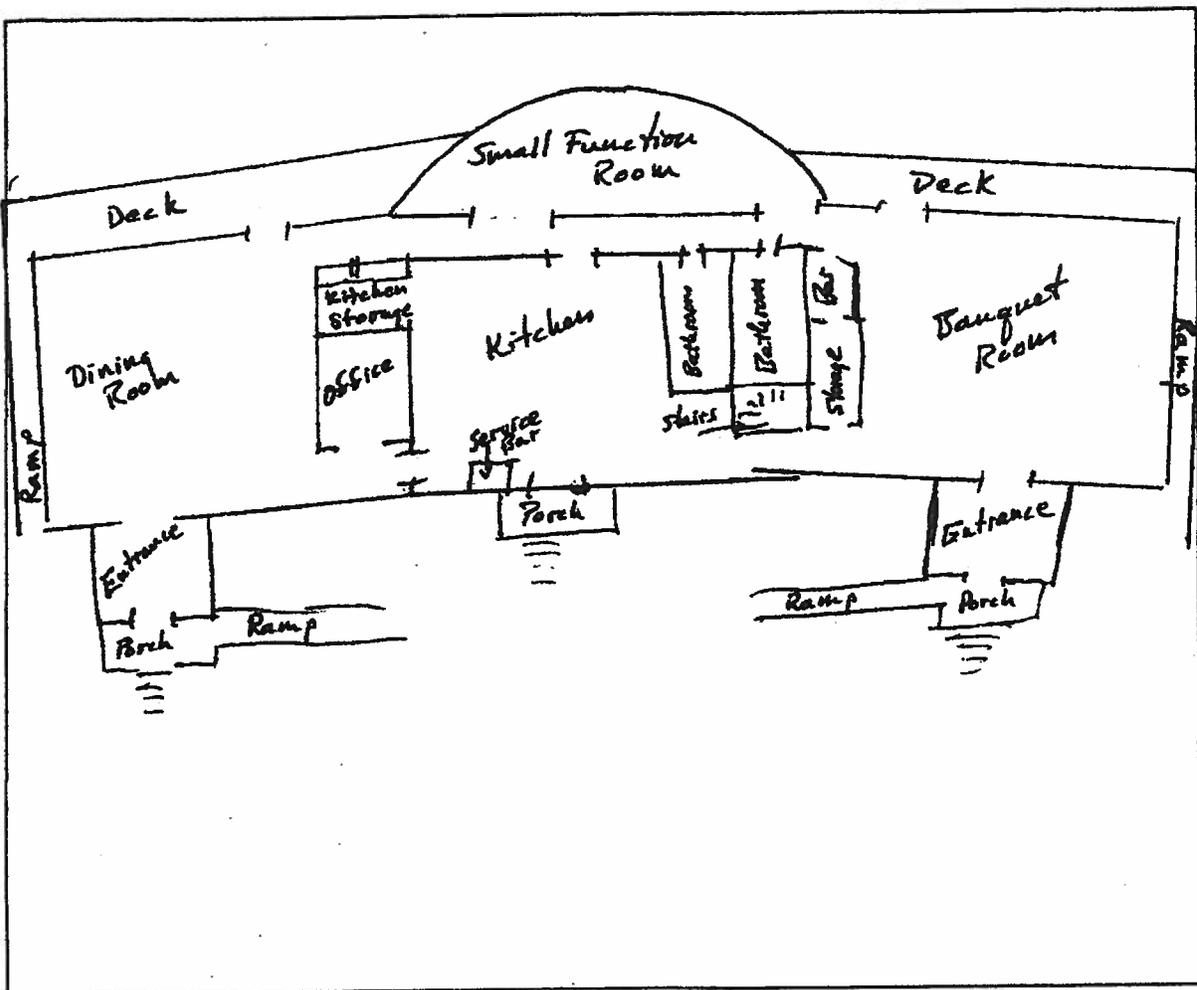




**SUPPLEMENTAL APPLICATION FORM  
ON-PREMISE DIAGRAM**

In an effort to clearly define your license premise and the areas that consumption and storage of liquor is allowed, The Liquor Licensing & Inspection Division is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Department for liquor consumption.

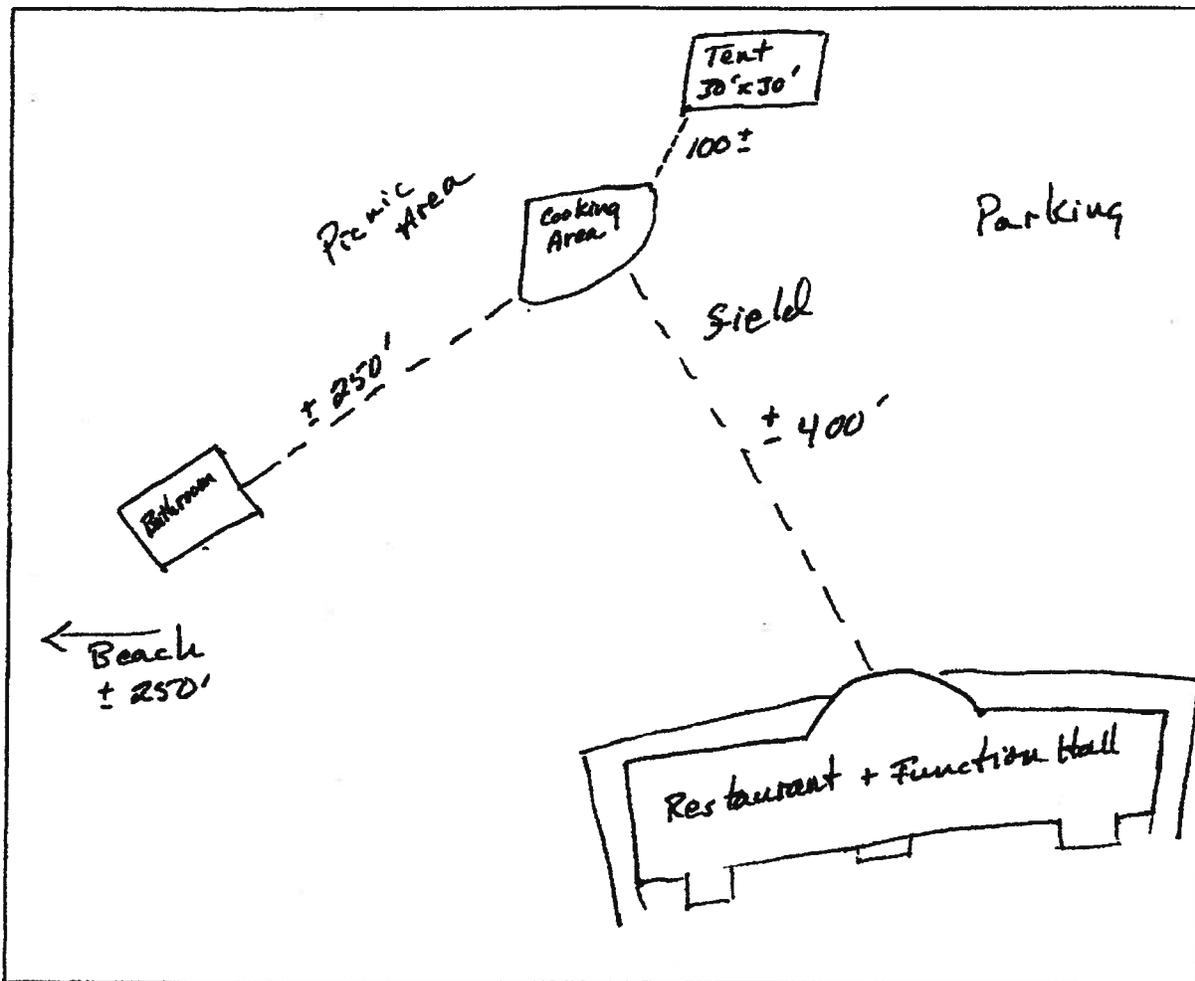




**SUPPLEMENTAL APPLICATION FORM  
ON-PREMISE DIAGRAM**

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SPECIAL AMUSEMENT PERMIT APPLICATION

AS DEFINED IN SECTION 201 OF THE TOWN OF SOUTH BERWICK SPECIAL AMUSEMENT ORDINANCE, NO LICENSEE FOR THE SALE OF LIQUOR TO BE CONSUMED ON HIS LICENSED PREMISES SHALL PERMIT, ON HIS LICENSED PREMISES, ANY MUSIC, EXCEPT RADIO OR OTHER MECHANICAL DEVICE, ANY DANCING OR ENTERTAINMENT OF ANY SORT UNLESS THE LICENSEE SHALL HAVE FIRST OBTAINED FROM THE MUNICIPALITY IN WHICH THE LICENSED PREMISES ARE SITUATED A SPECIAL AMUSEMENT PERMIT SIGNED BY AT LEAST A MAJORITY OF THE MUNICIPAL OFFICERS.

YOUR APPLICATION FOR A SPECIAL AMUSEMENT PERMIT SHOULD BE FILED ON THIS FORM WITH THE TOWN COUNCIL OR ITS DESIGNATED AGENT. PAYMENT OF A \$35 FEE IS REQUIRED AT THE TIME THE APPLICATION IS FILED. A COPY OF THE SPECIAL AMUSEMENT PERMIT ORDINANCE IS AVAILABLE UPON REQUEST FROM THE SOUTH BERWICK TOWN CLERK.

THE TOWN COUNCIL SHALL, PRIOR TO GRANTING A PERMIT, HOLD A PUBLIC HEARING WITHIN 30 DAYS OF THE DATE YOU FILE YOUR COMPLETED APPLICATION AT WHICH TIME TESTIMONY WILL BE RECEIVED FROM YOU OR YOUR DESIGNATED AGENT AND/OR ANY INTERESTED MEMBER OF THE PUBLIC. FAILURE TO ATTEND THE PUBLIC HEARING MAY RESULT IN A DELAY IN ISSUING THE PERMIT.

\*\*\*\*\*

Name of Applicant for Permit: Spring Hill Inc

Address of Applicant: 117 Pond Rd

Telephone # of Applicant: 384-2693

Name of Business to be Conducted: Spring Hill Restaurant & Banquet Hall

Address of Business: 117 Pond Rd

Telephone # of Business: 384-2693

Nature of Business: Restaurant & Banquet/Function Hall

Is Business a Corporation, Partnership or Proprietorship? (Circle One)

Type of Entertainment Planned: Live background music for restaurant & occasional dance band and/or background music for weddings, banquets and outings.

Has Applicant ever had a license to conduct the Business described herein denied or revoked or has Applicant or any partner or corporate officer ever been convicted of a felony? No

If yes, please provide full details on reverse side of this Application.

Current Liquor License #: 5307

Signature Rosalie J. Scharf Date 1-8-2010



**TOWN COUNCIL**  
***Agenda Information Sheet***

<b>Meeting Date: January 12, 2010</b>	<b>Item # NB 1C</b>
<b>Agenda Item: Discuss sidewalk plowing on Alder Drive</b>	
<b>Town Manager's Recommendation</b>	
The chairman requested we place this on the agenda for discussion and clarification in response to the comments made by a resident at the last meeting.	
<b>Requested Action</b>	
Discussion	
<b>Vote</b>	