

Memo

To: South Berwick Board of Assessors

From: Craig H. Skelton, Assessor's Agent

Craig H. Skelton

Date: May 24, 2010

Re: Assessor's Return document

Attached is the Assessors Return submitted by the York County Commissioners to the Town of South Berwick Assessors. Please sign the form so that I may return it to the County Treasurer as part of the commitment process.

ASSESSORS RETURN

PURSUANT TO A WARRANT to us directed, from the York County Commissioners for the County of York, dated the 19th day of May, AD, 2010 we have assessed the estates of the inhabitants, and the estates of the non-resident proprietors of the Town/City of **SOUTH BERWICK** in said County, the sum of **THREE HUNDRED SIXTY-SIX THOUSAND SEVEN HUNDRED EIGHTEEN DOLLARS AND SEVENTY-TWO CENTS (\$366,718.72)** and have committed lists thereof to the Tax Collector of said Town/City with Warrant in due form of law for collecting and paying same to the Treasurer of the Town/City of **SOUTH BERWICK** or his/her successor in said office to be paid by him/her to Frank D. Wood, Treasurer of the County of York, or his/her successor in said office the **FIRST DAY OF SEPTEMBER, 2010.**

Taxes not paid by the **THIRTY-FIRST DAY OF OCTOBER, 2010** will be considered **DELINQUENT** and will be assessed interest at the rate of **7%** compounded annually.

IN WITNESS, WHEREOF, we have hereunto set our hands the

_____ day of _____, 2010.

ASSESSORS OF SOUTH BERWICK

TO BE FILLED IN AND FORWARDED TO THE COUNTY TREASURER AS SOON AS THE ASSESSMENT IS COMPLETE TO:

**FRANK D. WOOD
TREASURER-COUNTY OF YORK
45 KENNEBUNK RD
ALFRED, ME 04002**

SOUTH BERWICK TOWN COUNCIL
MAY 25, 2010

The following was reported to the Clerk:

Chairman David Burke called the meeting to order at 5:31pm. 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 SESSIONS

1. On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to enter executive session at 5:31pm pursuant to 1MRSA §405.6E to discuss Comcast with legal counsel.

On a motion by Mr. MacPherson, seconded by Mr. Webster, it was unanimously voted to end the executive session at 6:00pm.

On a motion by Mr. MacPherson, seconded by Mr. Webster, it was unanimously voted to enter executive session at 6:01pm pursuant to 1MRSA §405.6A to conduct an interview with a prospective board member.

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to end the executive session at 6:22pm.

The regular meeting commenced at 6:30pm with the Clerk present.

APPROVAL OF MINUTES

1. Town Council 5-11-10: On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes as written. Mrs. Kareckas abstained.

SIGNING OF TREASURER'S WARRANT – May 11, 2010

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

PUBLIC COMMENT

1. Richard Clough, Academy St, (& Planning Board member) read a letter regarding the behavior and actions of the Planning Board. A copy of the letter is attached. Mr. Clough also commented that there are apparently Historic District Commission meeting minutes and Conservation Committee minutes not being submitted for the record.

2. Norma Tutelian, Butler St, stated that she has been attending Planning Board meetings and is embarrassed by the behavior of the Board. She added that they actually laughed and snickered at an applicant during a recent meeting.

3. Eric Pelchat, Front St, asked about the sign advertising Council meetings. He also asked if either of the proposed bond issues will have an effect on our LD1 limit. Mr. Schempf stated that there has been an issue with getting the sign out. The meeting day needs to be changed and the sign is very heavy. Mr. Schempf also explained that the bond article on the town meeting warrant would not have an effect on our LD1 limit because the payment would replace a current bond being paid off. Mr. Pelchat also commented that he had requested copies of minutes from Jan to May 2010 for the Library Advisory Board and Energy Efficiency Committee and was informed by the Town Clerk that there were none submitted for the record.

4. Nick Tsakiris, Emery's Bridge Rd, stated that his company is working with the Planning Board applicant that Mrs. Tutelian commented about. He added that he has attended board meetings in several area towns and this is the most unprofessional group he has had to deal with. He noted that the Board's comments and actions show that it does not care what the State requires.

5. David E. Webster, Tamarack Dr, stated that he felt it would be a good sign of solidarity with Kittery for the Council to send a letter to the State regarding the necessity of the Memorial Bridge.

Mr. Webster also stated that there is a sign ordinance violation at the ball field. He showed the Council a picture of a banner advertising the 99 Restaurant. Mr. Webster also questioned the advertising of space for non-profit groups at the Youth Center.

REPORTS & CORRESPONDENCE

1. Mr. Burke made note of the letter from the Planning Board seeking Council direction. A workshop is being scheduled.

TOWN MANAGER'S REPORT

-Mr. Schempf gave an overview of the revised proposed library project planning schedule. See attachment.

-Substantial improvement has been made on the 25 Witchtrot Road clean-up. The resident said that the clean-up will be completed this coming weekend.

-Locust Lane outdoor wood boiler: The DEP has checked the local and a new regulation states that any visible smoke across property lines for 12 minutes in a 1 hour period would be a violation.

-The issue of a blown-off foundation cap on Knight's Pond Road is being investigated and a violation letter is being sent to the owner.

NEW BUSINESS

1. The Council discussed the Public Works Director's recommendation to replace the 21 year old zero turn mower. Mrs. Demetracopoulos received confirmation from the Manager that there are no additional areas to be mowed. Mr. Webster stated that he did not believe a new mower was necessary considering the size of the areas mowed and asked why these areas weren't included in the mowing contracts.

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was voted 4-1 (Mr. Webster opposed) to authorize the purchase of a new lawn mower with the funds (\$5399.95) to come from CIP account #0861.

2. The Council reviewed the documentation provided by the Public Works Director and Asst. Town Manager (on behalf of Planning) regarding the request from Schoolhouse Meadow, LLC to accept Schoolhouse Lane as a Town road. Mr. MacPherson recused himself due to being related to one of the developers.

On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to accept Schoolhouse Lane as a Town road.

Mrs. Demetracopoulos did make note of the requirement to record the deed. She also asked that future requests for acceptance be accompanied by recommendations from the Planning Board and Public Works Director.

3. On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to authorize the grant application for a replacement of Fire Engine 2.

4. On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to appoint Albert Whitaker, Jr. to the Library Advisory Board with a term to expire June 30, 2011.

5. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to accept Smilie Roger's resignation from the Community Development Committee with regret and thanks.

6. Nomination to the Maine Municipal Association Legislative Policy Committee: On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to nominate David Burke to the MMA Legislative Policy Committee. Mr. Burke abstained.

COUNCIL MEMBER COMMENTS

1. Mr. Webster:

-Commented that it was nice to see progress made on several issues discussed at the last meeting.

2. Mrs. Kareckas:

-Made note of the Memorial Day Parade on Monday at 11:00am.

-Commented that she had not received account sheets for the regional maintenance facility for several months.

-Made note of the newest Eagle Scouts: Trevor Bergeron, Steve Shea, Billy Walker, and John Spezia. (Chairman Burke will be sending a congratulatory letter.)

3. Mr. MacPherson:

-Commented that the Route 236 Bridge construction is almost complete and on schedule.

4. Mr. Burke:

-Congratulated Central School on another successful Hike-thru-History Day.

-Thanked Wendy Pirsig and the Historical Society for their efforts in getting the gundalow to South Berwick again for another unique event.

-Commented that the upcoming workshop deals with boardmanship. Thanked the other Councilors for compromising and agreeing to the workshop.

ADJOURNMENT

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to adjourn the meeting at 7:23pm.

Attest:

Barbara Bennett, CCM

**SOUTH BERWICK TOWN COUNCIL
SPECIAL MEETING
JUNE 8, 2010**

The following was reported to the Clerk:

Chairman David Burke called the meeting to order at 7:00pm. Those present included 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. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to enter executive session at 7:00pm pursuant to 1MRSA §405.6A to discuss the Manager's performance evaluation.

On a motion by Mr. Webster, seconded by Mr. MacPherson, it was unanimously voted to end the executive session at 5:57pm.

ADJOURNMENT

On a motion by Mr. Webster, seconded by Mr. MacPherson, it was unanimously voted to adjourn the meeting at 7:55pm.

Attest:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00049619	022503 SHARON BRASSARD	06/15/2010	-10.27
00050414	141215 MAHIE ANTHOINE NEY	06/15/2010	-25.00
00050738	070385 WIB GOINS	06/15/2010	-33.49
00051903	140532 NCO FINANCIAL SYSTEMS INC	06/15/2010	43.04
00051904	189999 REFUNDS	06/15/2010	200.00
00051905	132500 SECRETARY OF STATE M/V	06/15/2010	12,633.57
00051906	189999 REFUNDS	06/15/2010	570.21
00051907	189999 REFUNDS	06/15/2010	30.00
00051908	140532 NCO FINANCIAL SYSTEMS INC	06/15/2010	22.57
00051909	132500 SECRETARY OF STATE M/V	06/15/2010	15,521.77
00051910	030725 CITIZENS BANK (CHG)	06/15/2010	390.51
00051911	140532 NCO FINANCIAL SYSTEMS INC	06/15/2010	10.49
00051912	240900 YORK COUNTY REGISTRY OF DEEDS	06/15/2010	1,417.00
00051913	132500 SECRETARY OF STATE M/V	06/15/2010	23,293.82
00051914	010285 ADMIRAL FIRE & SAFETY INC	06/15/2010	275.57
00051915	010336 AGGREGATE RECYCLING CORP	06/15/2010	2,679.76
00051916	010600 AMERICAN LIBRARY ASSOCIATION	06/15/2010	109.95
00051917	011100 LOUISE ANDERSON	06/15/2010	32.50
00051918	011250 TREASURER, STATE OF MAINE	06/15/2010	57.00
00051919	020225 BAKER & TAYLOR	06/15/2010	771.04
00051920	021580 BIT O'GREEN LANDSCAPING LLC	06/15/2010	65.00
00051921	022240 GARY BOUCHER	06/15/2010	25.00
00051922	022503 SHARON BRASSARD	06/15/2010	80.38
00051923	022736 WILLIAM D BUSHNELL	06/15/2010	100.00
00051924	030510 CENTRAL MAINE POWER	06/15/2010	4,817.05
00051925	030530 CENTRAL TIRE CO INC	06/15/2010	1,637.22
00051926	030552 CHASE & HAWLYN INC.	06/15/2010	420.00
00051927	030920 CLEAN-O-RAMA	06/15/2010	227.26
00051928	031355 TERRIE COLLINS	06/15/2010	100.00
00051929	031425 COLONIAL LIFE & ACCIDENT INS.	06/15/2010	1,750.13
00051930	031430 COMCAST	06/15/2010	95.00
00051931	031570 CONSOLIDATED ELECTRICAL	06/15/2010	242.08
00051932	031579 CONSTELLATION NEW ENERGY	06/15/2010	5,048.52
00051933	040105 DAYTON SAND & GRAVEL	06/15/2010	456.00
00051934	040300 DEMCO	06/15/2010	93.98
00051935	040446 JOHN DEMETRACOPOULOS	06/15/2010	42.00
00051936	041365 DUSTON'S BAKERY	06/15/2010	61.06
00051937	050785 ELIMINATOR INC	06/15/2010	7,840.00
00051938	050798 ELIOT SMALL ENGINE REPAIR INC	06/15/2010	493.92
00051939	050810 ANDREW ELWELL	06/15/2010	80.50
00051940	050815 EMPLOYEE HEALTH & BENEFITS	06/15/2010	589.40
00051941	060260 FASTENAL COMPANY	06/15/2010	44.79
00051942	060300 FAVORITE FOODS INC	06/15/2010	405.95
00051943	061500 FOSTER'S DAILY DEMOCRAT	06/15/2010	338.46
00051944	070385 WIB GOINS	06/15/2010	33.49
00051945	070912 GRANITE STATE ZOO	06/15/2010	805.00
00051946	071086 GREAT WORKS FAMILY PRACTICE	06/15/2010	50.00
00051947	071180 GROUP DYNAMIC INC	06/15/2010	165.00
00051948	080175 DONALD R HALL INC	06/15/2010	9,415.00
00051949	080239 SUNRISE PRINTING	06/15/2010	85.00
00051950	080248 HANSCOM'S TRUCK STOP INC	06/15/2010	13,640.14
00051951	080450 HARVARD PILGRIM HEALTH CARE	06/15/2010	21,241.42
00051952	080501 BRUCE HASTY'S PLUMB/HEATING	06/15/2010	260.47
00051953	080998 HOME DEPOT	06/15/2010	400.43
00051954	081055 FERN HOULIARES	06/15/2010	61.90
00051955	081305 HSE GOULD	06/15/2010	127.52

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00051956	081430 MICHAELA HUTCHINS-JERGENSEN	06/15/2010	700.00
00051957	090120 INLAND FISHERIES & WILDLIFE	06/15/2010	682.25
00051958	100150 JANETOS MARKET	06/15/2010	88.71
00051959	100162 JCJ ARCHITECTURE	06/15/2010	23,000.00
00051960	100185 JENSEN BAIRD GARDNER & HENRY	06/15/2010	439.15
00051961	100200 JEWETT/EASTMAN MEMORIAL COM	06/15/2010	239.00
00051962	100290 JOE'S REPAIR SHOP	06/15/2010	49.95
00051963	100380 JOHN DEERE LANDSCAPES	06/15/2010	256.70
00051964	100820 FRED KEEN	06/15/2010	75.00
00051965	110530 JOHN KLOSSNER	06/15/2010	60.00
00051966	120170 LACAL EQUIPMENT INC	06/15/2010	83.80
00051967	120510 LAWSON PRODUCTS INC.	06/15/2010	237.87
00051968	120950 LHS ASSOCIATES INC	06/15/2010	1,150.85
00051969	120970 LIBBY SCOTT INC.	06/15/2010	1,407.20
00051970	127000 CORRINE J MAHONY	06/15/2010	600.00
00051971	131700 MAINE CHIEFS OF POLICE ASSOC.	06/15/2010	43.00
00051972	132400 MAINE SAD #35	06/15/2010	513,819.92
00051973	133105 TREASURER OF STATE/C.WPNS	06/15/2010	85.00
00051974	133113 TREASURER OF STATE/ATV	06/15/2010	2,232.00
00051975	133150 TREAS:STATE OF ME:SAFETY	06/15/2010	47.50
00051976	133358 W.B.MASON	06/15/2010	1,399.50
00051977	133375 MAINE ENERGY RECOVERY CO.	06/15/2010	3,791.43
00051978	134400 MAINE MUNICIPAL ASSOCIATION	06/15/2010	41.50
00051979	140105 NAPA OF SOMERSWORTH	06/15/2010	108.27
00051980	140600 NEPTUNE INC	06/15/2010	432.90
00051981	141000 FAIR POINT COMM	06/15/2010	138.56
00051982	141080 NEXTEL	06/15/2010	146.28
00051983	141215 MAMIE ANTHOINE NEY	06/15/2010	25.00
00051984	141300 NO.BERWICK LUMBER & HARDWARE	06/15/2010	346.71
00051985	141367 KONE INC	06/15/2010	175.50
00051986	141386 NORTHEAST RESOURCE RECOVERY	06/15/2010	60.00
00051987	141450 NRPA	06/15/2010	140.00
00051988	150280 ORIENTAL TRADING CO	06/15/2010	391.57
00051989	160230 PERMA-LINE CORP	06/15/2010	459.91
00051990	160692 POLAND SPRING	06/15/2010	92.08
00051991	161015 PORTLAND STREET SERVICE CENTER	06/15/2010	15.00
00051992	161265 PORTSMOUTH FORD	06/15/2010	185.60
00051993	161280 THE PORTSMOUTH HERALD	06/15/2010	176.00
00051994	170000 QUILL CORPORATION	06/15/2010	189.68
00051995	180185 RCP LLC	06/15/2010	387.50
00051996	180400 RED'S SHOE BARN INC	06/15/2010	374.37
00051997	180478 RICHARD GENEST INC	06/15/2010	985.00
00051998	181060 PAT ROBINSON	06/15/2010	15.75
00051999	181510 ROSEN'S UNIFORMS	06/15/2010	1,836.00
00052000	190094 SANEL AUTO PARTS CO	06/15/2010	1,839.35
00052001	190220 KEN ST.HILAIRE	06/15/2010	11.04
00052002	190528 JOHN SCHEMPF	06/15/2010	27.50
00052003	190540 SEACOAST FIRST AID & SAFETY	06/15/2010	25.64
00052004	191060 SEXUAL ASSAULT SUPPORT SERVICE	06/15/2010	50.00
00052005	191330 HANNAFORD'S	06/15/2010	483.61
00052006	191875 TOWN OF SOUTH BERWICK	06/15/2010	300.00
00052007	191950 SO BERWICK HOUSE OF PIZZA	06/15/2010	93.06
00052008	192650 SO BERWICK SEWER DISTRICT	06/15/2010	83.84
00052009	193410 SO MAINE REGIONAL PLANNING CM	06/15/2010	1,799.78
00052010	193640 STAPLES	06/15/2010	1,123.84

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00052011	193660 STARKEY FORD INC	06/15/2010	311.50
00052012	200680 TIGER DIRECT	06/15/2010	116.98
00052013	200700 PIKE INDUSTRIES INC	06/15/2010	151.59
00052014	201238 TRI-CITY TOOL CRIB	06/15/2010	4.55
00052015	201300 TWO-WAY COMMUNICATION SERV INC	06/15/2010	10,470.75
00052016	210070 ULTRAMAX	06/15/2010	552.39
00052017	210242 TRI STATE FLAG	06/15/2010	457.32
00052018	210420 RESERVE ACCOUNT	06/15/2010	1,000.00
00052019	210500 UNITED STATES POST OFFICE	06/15/2010	185.00
00052020	210540 UNIVERSAL RECYCLING TECH, LLC	06/15/2010	8.90
00052021	211000 VAUGHAN WOODS STATE PARK	06/15/2010	1,325.00
00052022	211500 VERIZON WIRELESS	06/15/2010	567.11
00052023	230300 WALMART COMMUNITY BRC	06/15/2010	433.63
00052024	241255 XEROX CORPORATION	06/15/2010	55.01
Total Not Prepaid			653,954.29
Total Prepaid			54,064.22
Grand Total			708,018.51

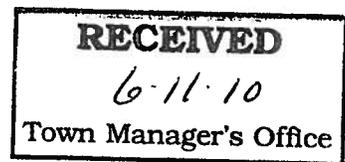
WARRANT NUMBER _____ \$ 708,018.51 DATE 06/11/2010

* * * TREASURER'S WARRANT * * *

THIS IS TO CERTIFY THAT THERE IS DUE AND CHARGEABLE TO THE APPROPRIATIONS LISTED
 ABOVE THE SUM SET AGAINST EACH NAME AND YOU ARE DIRECTED TO PAY UNTO THE PARTIES
 NAMED IN THIS SCHEDULE.

TOWN COUNCIL:

PUBLIC RECORD



June 10, 2010

Town Council
Town of South Berwick
180 Main Street
South Berwick, ME 03908

Gentlemen:

I am writing as an abutter (tax map 13 lot 42C) of the MDOT proposed replacement of the Great Hill Road Bridge (#1236) and with regard to the public hearing held Thursday, June 9th. I would like to address my areas of concern in hopes that our Town Council can intervene with the MDOT's process and possibly remedy the bridge's scale and proposed traffic speed.

My understanding of the project is that it is the "proposed" phase, though it does appear imminent. However, it is only weeks away from this project going out to formal bid, and to date, I have yet to receive any correspondence or notification from the State regarding a proposed easement and removal of timber from my property.

Having lived on Great Hill Road for over 22 years, I support the reconstruction of the bridge. However, the scope of this project seems out of scale for the neighborhood and connecting roads. It is important to maintain the natural beauty, rural feel and recreational use of the area by replacing this one lane, crooked span over the Great Works River with a structure appropriate to the neighborhood.

Since Great Hill Road is not currently posted, by default, the speed limit is 45 MPH. This faster speed limit is resulting in a larger bridge design to accommodate the higher speed. The speed limits for roads leading to the bridge are 35 MPH (Thurrell & Hooper) with no posting for Rodier. I see no reason to encourage drivers to travel any faster on Great Hill Road than they already do.

I believe I understood the MDOT representatives to say that if the Great Hill Road speed limit is posted at 25 MPH, the scope of the bridge could be scaled back accordingly resulting in less environmental impact which could maintain the rural character. Yet, a traffic count to establish a speed limit is not slated until AFTER the bridge is constructed.

I am asking the Town Councilors to further the dialog with MDOT to consider a more moderate approach to the bridge replacement. Area residents want a new bridge, not an oversized, high-speed modern span in the middle of the woods.

Respectfully,
Randi LaMarca DuBois
53 Great Hill Road
South Berwick, ME 03908
207-384-5730

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: June 15, 2010	Item # UF 1
Agenda Item: Shoreland Zoning	
Planning Board Recommendation:	
The Planning Board has unanimously forwarded the attached Shoreland Zoning Ordinance to the Town Council for adoption.	
Assistant Town Manager's Recommendation	
The Planning Board has thoroughly reviewed this ordinance and a public hearing has been held. In addition MDEP has also reviewed the ordinance for consistency. The ordinance is presented to the Town Council this evening for adoption. Once adopted the Ordinance will be forwarded to DEP for final approval. As stated in the text of the Ordinance, adoption of Chapter 110 automatically repeals Section 140.48 of the Zoning Ordinance.	
Requested Action	
Motion to adopt Chapter 110 Shoreland Zoning as presented.	
Vote	

TO: John B. Schempf, Town Manager.
FROM: Planning Board and Planning Department.
DATE: April 4, 2009, and updated April 14, 2009, April 17, 2009, April 27, 2009, May 8, 2009, May 15, 2009, May 26, 2009, June 26, 2009, July 10, 2009, August 7, 2009 and January 22, 2010.
(In response to March 2, 2010 and March 30, 2010 Workshops, and the May 4, 2010 and May 18, 2010 Meetings are in this color) April 29, 2010, May 14, 2010 and May 21, 2010.
RE: Shoreland Ordinance proposed.
DEP review was mailed 1/6/10 with hand written comments, my response to the comments are italic and in this color.

Code of Ordinances
Part II, General Legislation
Amendment to
Chapter 140. Zoning.

The Mandatory Shoreland Zoning Act, 38 M.R.S.A., sections 435-449 with guidelines and the Board of Environmental Protection (Board) require municipalities to adopt shoreland zoning ordinances consistent with, or no less stringent than, those minimum guidelines set forth in the Act and by the Board. This amendment to the Code incorporates the most current State Shoreland Zoning into the South Berwick Chapter 110, Shoreland Zoning.

The changes through Chapter 140 and Chapter 121 of the Code are in the following Articles and Sections. These amendments are to repeal Section 140-48, Shoreland Standards and Section 140-48.1, Minor Freshwater Wetlands in order to adopt Chapter 110, Shoreland Zoning.

At their most recent meeting on August 4, 2009, the Planning Board made minor edits to the proposed Chapter 110, Shoreland Zoning.

A revised Shoreland Zoning Map has been provided to the Planning Board for their August 18, 2009 meeting.

Chapter 110

SHORELAND ZONING

ARTICLE I General Provisions

- § 110-1. Purpose.
- § 110-2. Authority.
- § 110-3. Applicability.
- § 110-4. Effective Date.
- § 110-5. Availability.
- § 110-6. Severability.
- § 110-7. Conflicts with Other Ordinances.
- § 110-8. Amendments.
- § 110-9. Official Shoreland Zoning Map.
- § 110-10. Basic Requirements.
- § 110-11. Definitions.

ARTICLE II Nonconformance

- § 110-12. Requirements.
- § 110-13. Nonconforming Structures Within Areas Regulated by Shoreland Zoning.
- § 110-14. Reconstruction of Nonconforming buildings.
- § 110-15. Nonconforming uses.
- § 110-16. Nonconforming lots of record.

ARTICLE III Establishment of Zoning

- § 110-17. Overlay Zones.
- § 110-18. District Boundaries.

ARTICLE IV Land Use Standards

- § 110-19. Performance Standards for Specific Uses.

ARTICLE V Shoreland Standards

- § 110-20. Agriculture.
- § 110-21. Beach Construction.
- § 110-22. Campgrounds.
- § 110-23. Individual Private Campsites.
- § 110-24. Clearing or Removal of Vegetation for Activities Other than Timber Harvesting.
- § 110-25. Erosion and Sedimentation Control
- § 110-26. Mineral Exploration and Extraction
- § 110-27. Additional Shoreland Structures.
- § 110-28. Roads and Driveways.
- § 110-29. Septic Waste Disposal.
- § 110-30. Signs.
- § 110-31. Principal and Accessory Structures.
- § 110-32. Parking Areas.
- § 110-33. Timber Harvesting.
- § 110-34. Essential Services.
- § 110-35. Storm Water Runoff.
- § 110-36. Archeological Site.
- § 110-37. Minor Freshwater Wetlands.

ARTICLE VI Administration

- § 110-38. Administration.
- § 110-39. Appeals and Zoning Board of Appeals.
- § 110-40. Allowed Uses.
Table C, Shoreland Dimensional Requirements.

ARTICLE I
General Provisions

§110-1. Purpose.

The purpose of this Ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

§110-2. Authority.

This Ordinance has been prepared in accordance with the provisions of Title 38, Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

All provisions in Chapter 110, Shoreland Ordinance are in addition to Zoning, Chapter 140.

§110-3. Applicability.

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a major freshwater wetland,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- *Recognized features as listed in Section 110-18.A. (4),*
- Shoreland *and Slope District Zone* ~~within 100 feet, and~~
- all land areas within 100 feet of upland edge of a minor freshwater wetland. ~~and all land areas within 100 feet, horizontal distance, of the normal high water line of a stream.~~

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

§110-4. Effective Date.

- A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on _____, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

- B. Sections 140-48, *Shoreland Standards in Chapter 140 of Zoning* are repealed on the statutory date established under 38 M.R.S.A. section 438-A.(5), at which time Chapter 110 *for SHORELAND ZONING* shall become effective. Until Section 140-48 is repealed, Chapter 110, *SHORELAND ZONING*, is not in effect.

§110-5 Availability.

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

§110-6. Severability.

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

§110-7. Conflicts with Other Ordinances.

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

§110-8. Amendments.

- A. An amendment to this chapter may be initiated by:

- (1) Written petition of a number of voters equal to at least 10% of the registered voters of the Town and following the provisions of the Town Charter, Article VIII, Section 2.
- (2) The Town Council, provided that a majority of the Council so voted.
- (3) The Planning Board, provided that a majority of the Board has so voted.
- (4) An application by any individual to the Planning Board, as long as a majority of the Board so votes.

- B. An amendment to this chapter may be adopted by:

- (1) The Town Council following the provisions of the Town Charter, Article II, Section 3, Subsection VI, if the amendment is initiated by the Town Council, the Planning Board or an application approved by the Planning Board.
- (2) A Special Town Meeting following the provisions of the Town Charter, Article VII, Section 2, if the amendment was initiated by a written petition in accordance with Subsection A.(1), above.

- (3) In either case, the Town Council shall hold a public hearing on the proposed amendment as required by Article VII, Section 2, or by Article II, Section 11, of the Town Charter. The Planning Board shall report its recommendation regarding the proposed amendment at the public hearing.
- C. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

§110-9. Official Shoreland Zoning Map.

- A. Said districts are located as shown on the Official Shoreland Zoning Map, entitled "Shoreland Zoning Map of South Berwick, Maine," based upon the written descriptions contained in Article III, Section 110-18, District Boundaries of this chapter, dated and on file in the office of the Town Clerk. The Official Map shall be signed by the Town Clerk and Chairman of the Town Council at the time of adoption or amendment of this chapter, certifying the date of such adoption or amendment. Additional copies of the Shoreland Zoning Map may be seen in the municipal offices.
- B. In cases of disagreement between the Shoreland Zoning Map and the written descriptions in Article III, Section 110-18, District Boundaries, the written description shall prevail.
- C. The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

§110-10. Basic Requirements.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

§110-11. Definitions.

(AGRICULTURE, LIVESTOCK: See "Animal Husbandry". ANIMAL HUSBANDRY: The keeping of any domesticated animals other than household pets.)

(AGRICULTURE, NON-LIVESTOCK: The cultivation of soil and the producing or raising of crops, including gardening as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof; but those two (2) terms, when used alone, shall refer specifically to a place where flowers, plants, shrubs and/or trees are grown for sale.)

(BASAL AREA: The area of cross section of a tree stem at diameter breast height (4.5 feet above the ground) and includes bark.)

AGRICULTURE, LIVESTOCK – See Chapter 140-9. Definitions.

AGRICULTURE, NONLIVESTOCK – See Chapter 140-9. Definitions.

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

AREA OF SPECIAL FLOOD HAZARD - The land in the floodplain having a one-percent or greater chance of flood in any given year.

BASAL AREA - See Chapter 140-9. Definitions.

***BASAL AREA, RESIDUAL:** The total of the basal area of trees remaining on a harvest area.*

BASE FLOOD - The flood having a one-percent chance of being equaled or exceeded in any given year, alternately referred to as the "one-hundred-year flood."

BOATHOUSE - A nonresidential structure designed for the purpose of protecting or storing boats.

BOAT LANDING - A facility designed primarily for the launching and landing of watercraft and which may include an access ramp, docking area and parking spaces for vehicles and trailers.

BOAT LAUNCHING FACILITY - A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

BODY OF WATER - Any river, stream, brook, wetland, or pond as defined herein.

BUREAU – State of Maine Department of Conservation’s Bureau of Forestry. *(The Town has incorporated the State’s timber harvesting standards.)*

CHANNEL – A natural or artificial watercourse with definite beds and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

COASTAL WETLANDS – All tidal and sub tidal lands, including ~~all areas below any identifiable debris left by tidal action~~; all areas with vegetation that is tolerant of salt water and occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service.

CROSS-SECTIONAL AREA – The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight-line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

***DRIVEWAY** – In Shoreland Zoned areas only, the term “Driveway” means: A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.*

FLOOD - A temporary rise in stream flow or tidal surge that results in water overflowing its banks and inundating adjacent areas.

FLOOD INSURANCE MAP - The official map on which the Department of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk-premium zones applicable to the town.

FLOODPLAIN - The lands adjacent to a body of water, which have been or may be covered by the regional flood.

FLOOD PROOFING - A combination of structural provisions, changes or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings.

FLOOD, REGIONAL - The maximum known flood or a body of water; either the one-hundred-year-frequency flood, where calculated, or the flood of record or evidence of vegetative changes.

FLOODWAY - The channel of a natural stream or river and portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

***FLOOR AREA** - In Shoreland Zoned areas only, the term “Floor Area” means: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks as measured from exterior points.*

***FOUNDATION** - In Shoreland Zoned areas only, the term “Foundation” means: The supporting substructure of a building or other structure, excluding wooden sills and*

post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

FORESTED WETLAND - *A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty {20} feet) or taller.*

FRESHWATER WETLANDS, MAJOR - Freshwater swamps, marshes, bogs, and similar areas (other than forested wetlands) which are:

- A. Ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
- B. Inundated or saturated by surface or ground water at a frequency and for duration sufficient to support, and under which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

FRESHWATER WETLANDS, MINOR - A wetland of two or more contiguous acres, excluding Major Freshwater Wetlands, as identified on the Federal National Wetlands Inventory.

~~**FRONTAGE, SHORE** — The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high water elevation. (See Shore Frontage)~~

FUNCTIONALLY WATER-DEPENDENT USES - Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, *excluding recreational boat storage buildings*, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water - borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

GREAT POND – Any inland body of water which, in a natural state, has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

HEIGHT OF A STRUCTURE: See Chapter 140-9. Definitions.

LIMITED RESIDENTIAL SHORELAND DISTRICT – Any areas suitable for residential and recreational development which are used less intensively than those in the Business Districts and currently developed. This district shall include areas when they occur within the limits of the Resource Protection District.

LOT AREA - In Shoreland Zoned areas only, the term “Lot Area” means: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or the upland edge of a wetland and areas beneath roads serving more than two lots.

LOT, SHOREFRONT - Any lot abutting a body of water.

MARINA - A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

NORMAL HIGH WATER LINE - That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. ~~In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water.~~ *Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils, and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.*

NONCONFORMING LOTS OF RECORD: See Chapter 140-9. Definitions.

NONCONFORMING USE: See Chapter 140-9. Definitions.

PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND.

Temporary - Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent - Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

PRINCIPAL BUILDING: See Chapter 140-9. Definitions.

PRINCIPAL USE: See Chapter 140-9. Definitions.

RECENT FLOOD PLAIN SOILS - The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial
Charles
Cornish
Fryeburg
Hadley
Limerick
Lovewell
Medomak
Ondawa
Podunk
Rumney
Saco
Suncook
Sunday
Winooski

RESIDENTIAL DWELLING UNIT - In Shoreland Zoned areas only, the term “Residential Dwelling Unit” means: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

RIVER - A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

ROAD - In Shoreland Zoned areas only, the term “Road” means: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

SETBACK FROM WATER - The horizontal distance from the normal high-water elevation to the nearest part of a structure, road parking space, or other regulated object or area.

SHORE FRONTAGE - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

SHORELAND ZONE - The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within two hundred and fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within two hundred and fifty (250) feet of the normal high-water line of a stream.

~~RIVER, STREAM, OR BROOK~~ – A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial tributary streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the

body of water becomes a river or flows to another water body or wetland within the shoreland area. “River, Stream, or Brook” does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

STRUCTURE - See Chapter 140-9. Definitions.

(In Shoreland Zoned areas only, the term “Structure” means: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located), such as decks, patios, and satellite dishes. (DEP guidelines)

~~**STREAM** - A free flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. (See definition for Stream, above)~~

***TIDAL WATERS** - All waters affected by tidal action during the maximum spring tide.*

TRIBUTARY STREAM - A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. *Perennial tributary stream is defined as containing free-flowing water for a minimum of 6 months of the year.*

***UPLAND EDGE OF A WETLAND** - The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by forested wetlands.*

***VOLUME OF A STRUCTURE** - In Shoreland Zoned areas only, the term “Volume of a Structure” means: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.*

***WETLAND** - A freshwater or coastal wetland.*

WATER BODY - Any great pond, river, stream or tidal area or wetland.

WATER CROSSING - Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course, Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines and cables as well as maintenance work on these crossings.

WATER-ORIENTED BUSINESS - Commercial and industrial facilities which by the nature of their operations require a shorefront location, such as but not limited to boatyards, marinas, bathhouses and commercial fisheries facilities.

~~WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS~~ Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river except as noted herein.

ARTICLE II Nonconformance

§110-12. Requirements.

Purpose. It is the intent of this Ordinance to promote land use conformities in addition to the provisions in §140-5.

§110-13. Nonconforming Structures Within Areas Regulated by Shoreland Zoning.

- A. Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (1) and (2) below.
- (1) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 110-14 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
 - (2) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its

decision on the criteria specified in Section 110-13.B, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 110-13.A.(1), above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

- B.** Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required within one (1) year as follows:

- (1) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
- (2) Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (3) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation, which may consist of grasses, shrubs, trees, or a combination thereof.

§110-14. Reconstruction of nonconforming buildings.

A. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

B. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 110-13.A, above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 110-13.B, above.

C. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

D. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 110-13.B, above, the physical condition and type of foundation present, if any.

E. Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater

adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

§110-15. Nonconforming uses.

- A.** Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 110-13.A.(1) above.
- B.** Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- C.** Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 110-14.E, above.

§110-16. Nonconforming lots of record.

- A.** Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided

each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- B. Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.
- C. Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (1) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (2) Any lots that do not meet the frontage and lot size requirements of Section 110-16.C.(1) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

ARTICLE III Establishment of Shoreland Zoning

§110-17. Overlay Zones.

RP Resource Protection District.
SP Shoreland *and* Slope District.
FEMA 100-yr. Floodplain Zone.
LRS Limited Residential Shoreland District.
MFW Minor Freshwater Wetland District.

The purposes of the land use districts are as follows:

- A. Resource Protection District.** To control the use of shoreland and other areas to provide maximum protection to the land and water resources. Such areas include but are not limited to wetlands, swamps, marshes, bogs, poorly drained soils, one-hundred-year floodplains and significant wildlife habitats. [Amended 4-11-1988]

B. Shoreland *and* Slope District, and 100-yr. Floodplain Zone.

- (1) To protect from activities or alterations that would unreasonably cause or increase flooding of areas or adjacent properties.
- (2) To provide maximum protection to the land and water resources with controls of use and development of undeveloped shoreland areas.
- (3) To minimize expenditures of public monies for flood-control projects.
- (4) To minimize rescue and relief efforts undertaken at the expense of the general public.
- (5) To minimize flood damage to public facilities, such as water mains, sewer lines, streets, roads and bridges.
- (6) To protect the storage capacity of floodplains and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.
- (7) To encourage open space uses, such as agriculture and recreation.

C. Limited Residential Shoreland District. To allow for those areas suitable for residential and recreational development which are used less intensively than those in the Business Districts and are currently developed. This district shall include areas when they occur within the limits of the Resource Protection District.

D. Minor Freshwater Wetland District. To further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding; and accelerated erosion; to control building sites, placement of structures and land uses; and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in Shoreland and adjacent areas.

§110-18. District Boundaries.

A. Resource Protection District - RP.

- (1) All land within two hundred fifty (250) feet from the normal high-water line (as measured from the edge of the associated wetland) of the following water bodies:
 - (a) Round Pond.
 - (b) Warren Pond.
 - (c) Knights Pond and its outlet.
 - (d) Ogunquit Brook.

- (e) Chicks Brook, upstream of Emery's Bridge Road.
 - (f) White Marsh Brook.
 - (g) Cox Pond and its outlet to White Marsh Brook.
 - (h) Hoopers Swamp. [Added 3-13-1989]
 - (i) Leighs Mill Pond. [Added 3-13-1989]
 - (j) Salmon Falls River/Piscataqua River to its tidal limits.
 - ~~(k) Freshwater wetlands, salt marshes, salt meadows, and wetlands associated with great ponds and rivers, which are rated "high" or "moderate" value by the Department of Inland Fisheries and Wildlife (IFW) based on their most recent mapping.~~
- (2) The Great Works River in the R3 and R4 Districts (as measured from the edge of the river channel).
- (3) The following resources to their boundary limits:
- (a) Coastal wetlands. [Added 12-12-1988]
 - (b) All one-hundred-year floodplains. [Added 4-11-1988]
 - (c) Major Freshwater wetlands. [Added 12-12-1988]
 - (d) Minor Freshwater Wetlands.
 - (e) Areas of two or more contiguous acres with sustained slopes of twenty (20%) or greater when located within a Shoreland and Slope District (Section 110-18.B.)
 - (f) Land areas along rivers subject to severe erosion, undercutting, or riverbed movement and lands adjacent to tidal waters, which are subject to severe erosion or mass movement, such as a coastal bluff.
 - (g) For the purpose of this Section, the Resource Protection District shall be a (300) foot radius from the wellhead. However, the Protection District from the Junction Road wellhead shall be an area as described in the Caswell, Eichler, and Hill study "Hydro Geological Evaluation of Bedrock Well at Junction Road Site, South Berwick, Maine, and September, 1994." These zones will be established only after public notice and a public hearing in accordance with Section 140-6 of the Zoning Ordinance. For all new wellhead protection areas, Resource Protection Zones will be

based on hydro geological studies/recommendations and will be established according to Zoning, Section 140-6. [Adopted 5-28-96]

Wells representing the location of a public water supply in South Berwick, and portion of Berwick, Maine servicing the South Berwick Water District as recorded by the Maine Drinking Water Program, June 2003.

- (h) Vaughan Woods.
 - (i) All areas mapped as very poorly drained soils on the medium-intensity Soil Survey of York County, Maine. In the event that a soil classification boundary designating the limits of the Resource Protection District is challenged by a landowner or abutters, the landowner or abutters shall present evidence that the land in question does not contain soils, which are classified as being very poorly drained by the United States Soil Conservation Service. A high intensity soil survey performed by a registered soil scientist, licensed in the state of Maine may constitute such evidence.
- (4) The following resources as identified in the Town's Comprehensive Plan and land within two hundred and fifty feet (250) of those resources as shown on the official Shoreland Zoning Map of South Berwick.
- (a) The Balancing Rock.
 - (b) The Spring Hill Overlook.
 - (c) The Gorge.
- (5) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of ~~May 1, 2006~~ *December 31, 2008*. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
- (6) Limited Residential Shoreland District – LRS.

All land within two hundred fifty (250) feet from the normal high-water line (as measured from the edge of the associated wetland) of the following water bodies as mapped within the areas of:

- (a) Fife's Lane and Old South Road.
- (b) York Woods Road.

B. Shoreland and Slope District - SP [Amended 12-12-1988]

- (1) Unless previously classified as Resource Protection, all land within two hundred fifty (250) feet horizontally of the normal high-water line, as measured from the edge of the stream channel, of the following water bodies:
 - (a) Dennett Brook.
 - (b) Boyd Brook.
 - (c) Great Works River in the R1 and R2 Districts (the high water line shall be measured from the edge of any associated wetland.)
 - (d) Chicks Brook, downstream of Emery's Bridge Road.
 - (e) Lover's Brook.
 - (f) Shorey's Brook.
 - (g) Quamphegan Brook.
 - (h) Lord Brook.
 - (i) Hoopers Brook.
 - (j) Knights Brook.
 - (k) Warren Brook, south of Bickel Mountain.
 - (l) Hussey Brook, north of Great Hill.
 - (m) Bennett Brook.
 - (n) Hamilton Brook.
 - (o) Driscoll Brook.
 - (p) Salmon Falls River above Route 4 (high water line shall be measured from the edge of any associated wetland.)

- (q) Unnamed Stream 1.
 - (r) Unnamed Stream 2.
 - (s) Hilton Brook.
- (2) Land within two hundred fifty (250) feet of a major freshwater wetland boundary. [Added 12- 12-1988]
 - (3) Land within two hundred fifty (250) feet of a coastal wetland boundary. [Added 12-12-1988]
 - (4) Any other free-flowing body of water, not listed above, which flows from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minutes series topographic map, to the point where the body of water becomes a river.
- C. 100-yr. Floodplain Zone - FEMA. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- D. Minor Freshwater Wetland - MFW. A wetland of two or more contiguous acres, excluding Major Freshwater Wetlands, or forested wetlands as identified on the Federal National Wetlands Inventory.

ARTICLE IV
Land Use Standards

§110-19. Performance Standards for Specific Uses.

Two-Family and Multifamily Dwellings.

A. New construction. New two-family and multifamily dwellings shall meet the following minimum road and Shoreland frontage as indicated in Table C.

ARTICLE V
Shoreland Standards

The following standards shall apply to all land areas within two hundred fifty (250) feet of all water bodies protected by the Resource Protection District in Section 110-18.A.(1) and (2), the Shoreland and Slope District in Section 110-18.B.(1), (2) and (3) and Limited Residential Shoreland District in Section 110-18.A.(6), except that if any of these standards conflict with a stricter provision of this chapter, the more restrictive provision shall apply:

§110-20. Agriculture.

- A. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified ~~GPA~~ *in Great Ponds Act* or a river flowing to a great pond classified ~~GPA~~ *in Great Ponds Act*, or within one hundred (100) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- C. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the Shoreland Zone shall require a Conservation Plan, as approved by the Natural Resources Conservation Service, to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- D. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified ~~GPA~~ *in Great Ponds Act*; within one hundred (100) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- E. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified ~~GPA~~ *in Great Ponds Act*; within one hundred (100) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan, as approved by the appropriate reviewing agency.

§110-21. Beach Construction. Beach construction on any great pond or coastal wetland or on any river, stream or brook shall require a permit from the Department of Environmental Protection.

§110-22. Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- A. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- B. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified *GPA in Great Ponds Act* or a river flowing to a great pond classified *GPA in Great Ponds Act*, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

§110-23. Individual Private Campsites.

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- A. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.
- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified *GPA in Great Ponds Act* or river flowing to a great pond classified *GPA in Great Ponds Act*, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- C. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- E. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- F. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential

structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

§110-24. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

- A.** In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- B.** Except in areas as described in Section 110-24.A, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified *GPA in Great Ponds Act* or a river flowing to a great pond classified *GPA in Great Ponds Act*, and one hundred (100) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (1) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (2) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this Section a "well-distributed stand of trees" adjacent to a great pond classified *GPA in Great Ponds Act* or a river or stream flowing to a great pond classified *GPA in Great Ponds Act*, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4 1/2 feet above ground level (inches)	Points
2 - <4 "	1
4 - <8 "	2
8 - <12"	4
>12 "	8

Adjacent to areas zoned as Shoreland/*and* Slope a well-distributed stand of trees is defined as maintaining a minimum rating score of 8 per ~~25-foot square area~~ *25-foot by 50-foot plot area*.

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of ~~14~~ *16* per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (a) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
 - (b) Each successive plot must be adjacent to, but not overlap a previous plot;
 - (c) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
 - (d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by *this* Ordinance;
 - (e) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.
- (3) For the purposes of this Section "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (a) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 110-24, A and B.
 - (b) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
 - (c) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
 - (d) Section 110-24.B does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.
- C.** At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified *GPA in Great Ponds Act* or a river flowing to a great pond classified *GPA in Great Ponds Act*, and one hundred (100) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.
- In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the Shoreland Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the applicable business districts.
- D.** Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- E.** Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 110-24.

§110-25. Erosion and Sedimentation Control.

- A.** All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
- (1) Mulching and revegetation of disturbed soil.
 - (2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (3) Permanent stabilization structures such as retaining walls or rip rap.
- B.** In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- C.** Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D.** Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- (1) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- E.** Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip rap.

§110-26. Mineral Exploration and Extraction.

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- A. A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 110-26.D, below.
- B. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified *GPA in Great Ponds Act* or a river flowing to a great pond classified *GPA in Great Ponds Act*, and within one hundred (100) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- C. When gravel pits must be located within the Shoreland Zone, they shall be set back as far as practicable from the normal high-water line and no less than one hundred (100) feet and screened from the river by existing vegetation.
- D. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (1) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (2) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (3) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

- E. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

§110-27. Additional Shoreland Structures.

Piers, docks, wharves, breakwaters, causeways, marinas bridges, structures and uses extending over or beyond the normal high water line of a water body or within a wetland. In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with existing developed or natural beach areas.
- C. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.
- D. The facility shall be located so as to minimize adverse effects on fisheries.
- E. No new structure shall be built on, over, or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- F. No existing structures built on, over or abutting a pier, dock wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- G. Except in the applicable business districts, structures built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- H. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

§110-28. Roads and Driveways.

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- A. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified *GPA in Great Ponds Act* or a river that flows to a great pond classified *GPA in Great Ponds*

Act, and one-hundred (100) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent. Section 110-28.A does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Section except for that portion of the road or driveway necessary for direct access to the structure.

- B.** New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- C.** Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 110-25.
- D.** Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- E.** In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

F. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(1) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

(2) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(3) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(4) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

G. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

§110-29. Septic Waste Disposal.

A. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(1) Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than one hundred (100) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and;

(2) Holding tank is not allowed for a first-time residential use in the Shoreland zone.

§110-30. Signs.

The following provisions shall govern the use of signs in the Resource Protection and applicable Residential and Business Districts:

- A. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the applicable Business Districts, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- B. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- C. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- D. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- E. Signs relating to public safety shall be allowed without restriction.
- F. No sign shall extend higher than twenty (20) feet above the ground.
- G. Signs may be illuminated only by shielded, non-flashing lights.

§110-31. Principal and Accessory Structures.

- ~~A. All new principal and accessory structures shall be set back at least two hundred and fifty (250) feet, horizontal distance, from the normal high-water line of great ponds classified GPA *in Great Ponds Act* and rivers that flow to great ponds classified GPA *Great Ponds Act*, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the applicable Business Districts the setback from the normal high water line shall be at least twenty five (25) feet, horizontal distance, and Limited Residential Shoreland Districts the setback from the normal high water line shall be at least 100'. In the Resource Protection District the setback requirement shall be two hundred and fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.~~

See Table C, Shoreland Dimensional Requirements and Index.

In addition:

- (1) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or

wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- (2) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (3) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Shoreland Zone and applicable Residential and Business Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (4) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.
- (5) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the applicable Residential and Business Districts adjacent to tidal waters and rivers that do not flow to great ponds classified ~~GPA~~ *in Great Ponds Act*.
- (6) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring

vegetation, and which cannot be stabilized with vegetative plantings;

- (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100 year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - [1] The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - [2] Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - [3] Only native species may be used to establish the buffer area;
 - [4] A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland; A footpath not to exceed the standards in Section 110-24.B.(1), may traverse the buffer;
- (7) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural

Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

§110-32. Parking Areas.

- A. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the applicable Residential and Business Districts parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the applicable Business District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- C. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (2) Internal travel aisles: Approximately twenty (20) feet wide.

§110-33. Timber Harvesting.

- A. No accumulation of slash shall be left within fifty (50) feet of the normal high-water mark of any pond, river or salt water body as defined. At distances of greater than fifty (50) feet from the normal high-water mark of such waters and extending to the limits of the area covered by Zoning, Chapter 140, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground.
- B. Within a strip of land extending 250 feet inland from the normal high water line in a shoreland area zoned for Resource Protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.
- C. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an un-scarified strip of vegetation of at least seventy five (75) feet in width for slopes up to ten (10%) percent shall be retained between the exposed mineral soil and the normal high water line of a water body or wetland edge. For each ten (10%) percent increase in slope, the un-scarified strip shall be

increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high water line of a protected water body.

- D.** Timber harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters. Timber harvesting equipment shall not use stream channels as travel routes except when:
- (1) Surface waters are frozen; and
 - (2) The activity will not result in any ground disturbance.
- E.** All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel rock or similar hard surface which would not be eroded or otherwise damaged.
- F.** Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
- G.** Except in areas as described in Section 110-33.B, above, timber harvesting shall conform to the following provisions:
- (1) Selective harvesting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period is permitted. In addition:
 - (a) Within one hundred (100) feet, horizontal distance of the normal high water of a water body zoned for Resource Protection and within one hundred (100) feet, horizontal distance of water bodies zoned for Shoreland/Slope and tributary streams, there shall be no clear-cut openings and a well distributed stand of trees shall be maintained.
 - (b) At distances greater than one hundred (100) feet, horizontal distance of any water resource zoned for Resource Protection and the Great Works and Salmon Falls rivers and greater than one hundred (100) feet, horizontal distance of the water resources zoned for Shoreland/Slope, timber harvesting operations shall not create single openings in the forest canopy greater than the height of the average tree in the stand. Such openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

- H.** Timber harvesting operations exceeding the (40%) percent limitation in paragraph G(1) above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.

§110-34. Essential Services.

- A.** Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- B.** The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- C.** Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

§110-35. Storm Water Runoff.

- A.** All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- B.** Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

§110-36. Archeological Site.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

§110-37. Minor Freshwater Wetlands.

This Section pertains to work to be carried out adjacent to, but not in, a minor freshwater wetland as defined. Adjacent work includes depositing of fill, excavating, bulldozing and scraping the land when located within one hundred (100) feet of the normal high-water line of a minor freshwater wetland.

- A.** In order to prevent surface water which may carry sediment from the disturbance activity from directly entering a minor freshwater wetland:
- (1) A twenty five (25) foot undisturbed strip of vegetation shall be maintained between the normal high-water line and the activity; and
 - (2) Where sustained slopes exceed 20% a one hundred (100) foot undisturbed strip of vegetation shall be maintained between the normal high-water line and the activity.
- B.** These undisturbed buffer strip requirements do not apply to:
- (1) Providing access to an approved use.
 - (2) Maintenance of existing roadways.
 - (3) Removal of underground storage tanks.
 - (4) Removal, replacement or maintenance of wastewater disposal systems.
 - (5) Placement and replacement of foundations and supports for legally existing or authorized structures.

**ARTICLE VI
Administration**

§110-38. Administration.

- A. Administering Bodies and Agents.**
- (1) Code Enforcement Officer. As defined in §140-73, Duties of enforcement officer.
 - (2) Board of Appeals. As defined in §140-76, Board of Appeals; appeal procedures.
 - (3) Planning Board. As defined in Chapter 3, Administrative Code; Article XII, Planning Board, and Chapter A148, Planning Board Bylaws; §A148-1, General.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than seventy five (75) feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application.

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Chapter 140, Zoning: Attachment 1, Table A, Land Use; Attachment 2, Table B, Dimensional Requirements; and Attachment 3, Table C, Shoreland Dimensional Requirements.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits. Within thirty five (35) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 110-38.B, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and

- (9) Is in conformance with the provisions of Article V, Shoreland Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 110-38.D, above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 100 feet, horizontal distance. In determining the greatest practical extent,

the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

- F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.
- G. Installation of Public Utility Service.** A public utility, water district, sewer district or any utility company of any kind may not install services to any new structure located in the Shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

§110-39. Appeals and Zoning Board of Appeals. See Zoning, Chapter 140, Section 76.

- A.** The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this chapter. Such hearing shall be held in accordance with Section 140-76.C. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this chapter by the concurring vote of a majority of the votes cast.
- B.** *Notwithstanding Section 110-39.A. above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.*
- C.** *A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals*

shall be made part of the record and shall be taken into consideration by the Board of Appeals.

§110-40. Allowed Uses. See Appendix I, Table A, Land Use.

Table of Land Uses. All land use activities, as indicated in Table A, Land Use in the Shoreland Zone, shall conform with all of the applicable Shoreland standards in Article V. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

DRAFT

TABLE C

SHORELAND DIMENSIONAL REQUIREMENTS INDEX

(NA means “Not Applicable”)

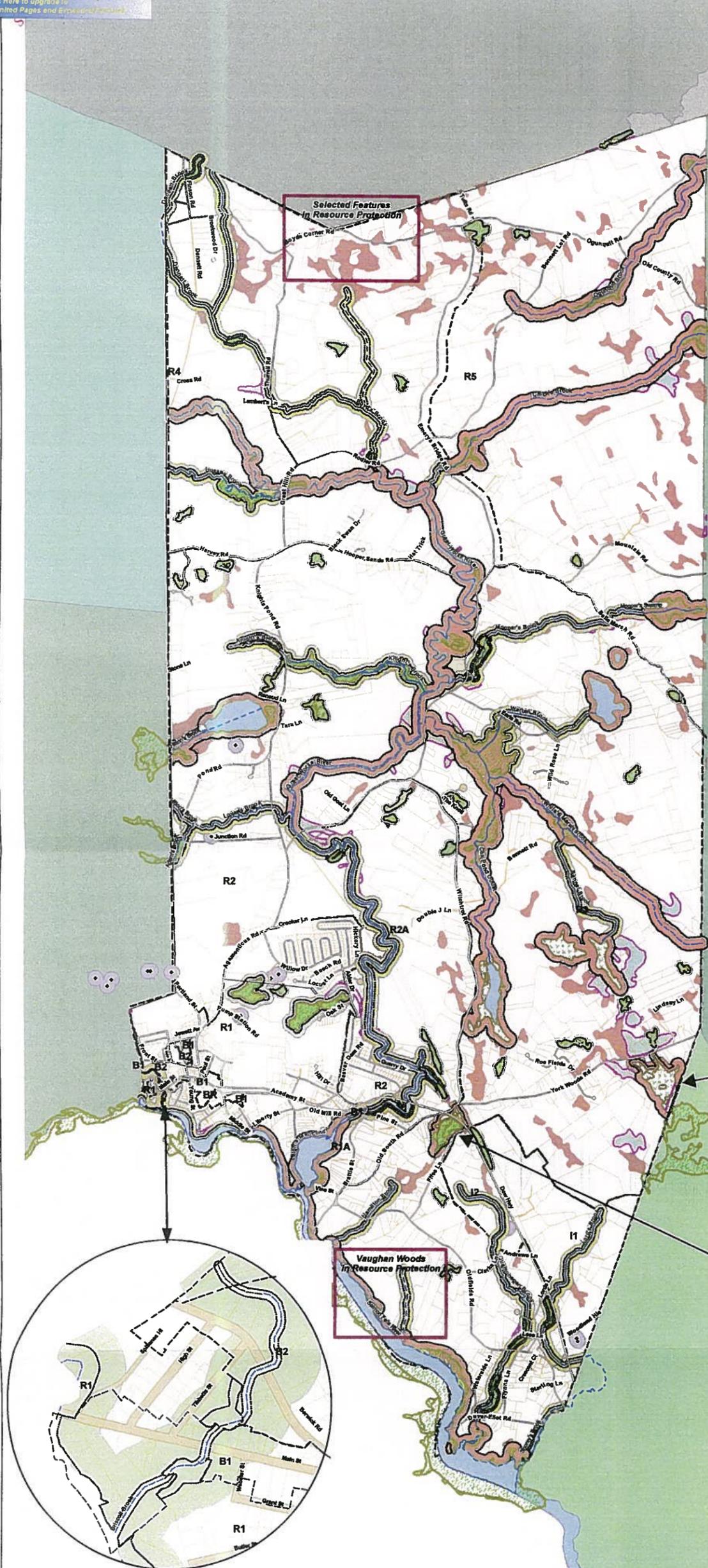
- (1) Minimum lot sizes for all other districts shall remain the same as shown in Table B, *Dimensional Requirements.*
- (2) If lot is served by on – site septic the minimum lot size shall be 40,000 square feet.
- (3) For permitted uses in the Resource Protection District, the setback for structures is 100 feet.
- (4) For areas of established development pattern, as defined by policy guidelines, at the time of adoption of this ordinance the setback from IWWH areas for structures allowed in the underlying zone is 100 feet. See Limited Residential Shoreland District.
- (5) Wellhead Protection shall be a 300-foot radius from a wellhead. See Section 110-18.A.(3)(g).
- (6) *The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots shall not be included towards calculating minimum lot area.*
- (7) *Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.*
- (8) *The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.*
- (9) *If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.*

TABLE C
SHORELAND DIMENSIONAL REQUIREMENTS

RESIDENTIAL & NON COMMERCIAL							
<u>B1, &B2 & BR residential uses same as Commercial Requirements</u>							
Minimum Lot Size Requirements (square feet)	R1 & R1A	R2 & R2A	R3	R4	R5	I1	I2
Tidal	30,000 (2)	30,000 (2) 40,000	30,000 (2)	NA	NA	NA	NA
Non - Tidal	40,000	40,000	40,000	40,000	40,000	40,000	40,000
Shore Frontage	R1 & R1A	R2 & R2A	R3	R4	R5	I1	I2
Tidal	150	150	200	NA	NA	NA	NA
Non - Tidal	200	200	200	200	200	200	200
Two-family and Multifamily Dwellings							
2 Units	400	400	400	400	400	NA	400
3 Units	600	600	600	600	600	NA	600
4 Units	800	800	800	800	800	NA	800
5 Units	1,000	1,000	1,000	1,000	1,000	NA	1,000
6 Units	1,200	1,200	1,200	1,200	1,200	NA	1,200
Two-family and Multifamily Dwellings	B1	B2	BR				
2 Units	200	400	200				
3 Units	300	600	300				
4 Units	400	800	400				

TABLE C
SHORELAND DIMENSIONAL REQUIREMENTS

Two-family and Multifamily Dwellings	B1	B2	<i>BR</i>				
5 Units	500	1,000	500				
6 Units	600	1,200	600				
Setbacks For Structures	R1 & R1A	R2 & R2A	R3	R4	R5	<i>I1</i>	<i>I2</i>
For Water Bodies and Recognized Features Listed Under Section 110-18.A.(1), (2), (3.a), (4) and (5).	250 feet (3) (4) (5)	<i>250 feet</i> (3) (4) (5)	<i>250 feet</i> (3) (4) (5)				
For Water Bodies and Recognized Features Listed Under Section 110-18.B.(1 - 4), Shoreland and Slope.	100 feet	<i>100 feet</i>	<i>100 feet</i>				
Setbacks vary for Activities; See specific activities in Article V.							
110-20. Agriculture. 110-22. Campgrounds. 110-23. Individual Private Campsites. 110-24. Clearing of Vegetation for Development. 110-28. Road and Driveways. 110-32. Parking Areas. 110-33. Timber Harvesting. 110-37. Minor Freshwater Wetlands.	R1 & R1A	R2 & R2A	R3	R4	R5	<i>I1</i>	<i>I2</i>
For resources listed under Section 110-18.A. (3), (d) Minor freshwater wetlands and (f) River banks.	25 feet	<i>25 feet</i>	<i>25 feet</i>				
For resources listed under Section 110-18.A.	100 feet	<i>100 feet</i>	<i>100 feet</i>				
Maximum Lot Coverage	R1 & R1A	R2 & R2A	R3	R4	R5	<i>I1</i>	<i>I2</i>
As Defined	20%	20%	20%	20%	20%	<i>60%</i>	<i>60%</i>



Legend

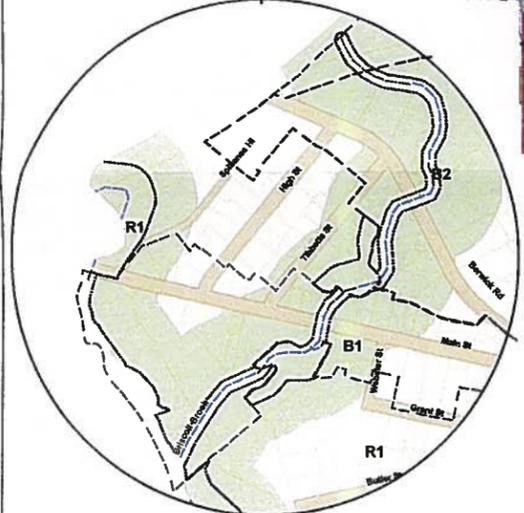
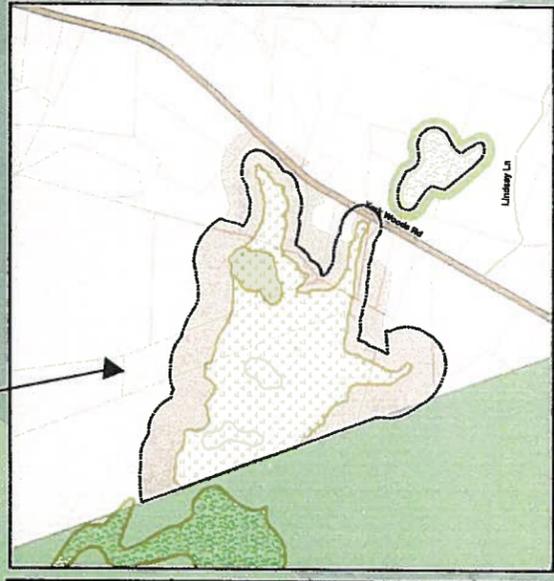
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- Waterbodies
- Minor_Freshwater_Wetlands
- IWWH
- NWM wetlands

Zones

TYPE

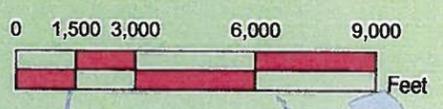
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- Freshwater Wetland, Minor
- Major Freshwater Wetland
- Resource Protection
- Shoreland
- FEMA_FloodZones_100_Year_Trimmed
- Very_Poorly_Drained_Soils_Trimmed
- Well_Heads
- Well_Head_Protection_Areas_SOBO
- metwp24 selection

Shoreland Data Disclaimer
 The data contained on this map, or any accompanying document is a resource of general information provided on the World Wide Web for public convenience, State and public agencies, or graphic representation of surveys and reports. The Town of South Berwick makes no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. The Town of South Berwick expressly disclaims any representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. The Town of South Berwick shall assume no liability for:
 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused; or
 2. Any decision made or action taken or not taken by reader in reliance upon any information or data furnished herein.
 Official copies of these documents can be viewed in person at the Town of South Berwick Clerk's Office."



South Berwick draft unofficial Shoreland Zoning Map

May 13, 2010
 Based on 2009 parcel map
 2008 Dept. of IF&W IWWH maps
 existing zoning, shoreland & wetlands definitions, OGIS data,
 and South Berwick Planning Department



TOWN COUNCIL
Agenda Information Sheet

Meeting Date: June 15, 2010	Item # NB 1
Agenda Item: Overruns	
Department Head Recommendation:	
Please see attached recommendation from Fern Houliares.	
Assistant Town Manager's Recommendation	
<p>We have not received legal invoices for May. According to a staff member at Bernstein, Shur, the May invoices total \$4,859. Upon review of the legal file, average monthly billing has been approximately \$4,900 for f/y 2010. These 2 amounts added to Fern's overage estimate of \$9,800 (see June 8th memo attached) bring us to \$19,559. I recommend the Council sign the attached warrant for a Special Town Meeting on June 29th to request an appropriation from undesignated in the amount of \$20,000.</p> <p>Council transfers will be scheduled for the regular Council meeting on June 29th.</p>	
Requested Action	
Motion to schedule a Special Town Meeting for June 29 th at 6:30 pm.	
Vote	

WARRANT
TOWN OF SOUTH BERWICK, MAINE
SPECIAL TOWN MEETING

State of Maine

County of York, ss.

TO: JOSEPH ROUSSELLE, a Resident of South Berwick in the County of York,
State of Maine.

GREETINGS: In the name of the Town of South Berwick, you are required to notify the inhabitants of said Town, qualified to vote in Town affairs, to assemble in the Town Council Chambers in the Town Hall at 180 Main Street in said Town on Tuesday June 29, 2009 at 6:30 p.m., then and there to act on the following articles:

ARTICLE 1. To elect a moderator to preside at said meeting.

ARTICLE 2. To see what sum the Town will vote to appropriate and expend from the Undesignated General Fund Balance to cover the unexpected overdraft in the Administration budget for 2009/10.

TOWN COUNCIL RECOMMENDS: \$20,000 from Undesignated General Fund.

ARTICLE 3. To see if the Town will vote to adjourn the Special Town Meeting.

Given under our hands this 15th day of June 2010.

David Burke

Michelle Kareckas

Jean Demetracopoulos

Gerald W MacPherson Sr.

David H. Webster

Date: June 8, 2010
To: John
Roberta
From: Fern 
Re: Department Overruns

With the completion of the May treasurer warrants, estimates can be given for individual department overruns. At this time, Council transfers will be necessary for the following departments:

4220: Fire	\$ 6,000	Vehicle repair
4410: Recreation	\$ 500	Camp Subsidy
4510: Social Services	\$ 9,900	General Assistance Grants
Total	\$16,400	

Although General Assistance is one of the "allowable" overages, Council should still acknowledge the expenditures by appropriating the additional money.

At this time, I believe Administration will require a Special Town meeting. Overages exist in Professional Services (legal fees) and in Contracts (printing of Code book updates). Per the direction of Chris Vaniotis, the full \$8,000 legal fee transfer approved by the Council in April is being used to offset the current budget year. Pending expenditures (excluding legal fees for May and June) would cause an over expenditure of approximately \$9,800. The legal bills for May should be received shortly and should be used to estimate a more definite amount.

Ideally, the Special Town meeting should be held on June 29. The warrant for that meeting would have to be signed by the Council at their meeting of June 15. The transfers for amounts less than \$10,000 can be done at either meeting.

If you have any other questions, please let me know.

TOWN COUNCIL

Agenda Information Sheet

Meeting Date: June 15, 2010	Agenda Item # UB NB
Subject: Links at Outlook Golf Club liquor license & special amusement permit	
Information: Application attached. Chief Lajoie has informed me that there have been no issues.	
Staff Comments/Recommendation:	
Requested Action: Motion to approve the renewal of the Link's liquor license & special amusement permit.	
Vote:	

**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.

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

PRESENT LICENSE EXPIRES 1-16-10

INDICATE TYPE OF PRIVILEGE: MALT SPIRITUOUS VINOUS

INDICATE TYPE OF LICENSE:

- | | |
|---|---|
| <input 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 checked="" 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

1. APPLICANT(S) --(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Great Works Properties</u> DOB:			2. Business Name (D/B/A) <u>The Links at Outlook G.C.</u>		
<u>Outlook Farm Golf Club</u> DOB:					
Address <u>310 Route 4</u>			Location (Street Address) <u>310 Route 4</u>		
City/Town <u>So. Berwick</u>		State <u>ME</u>	Zip Code <u>03908</u>		
Mailing Address <u>P.O. Box 385</u>					
City/Town <u>So. Berwick</u>	State <u>ME</u>	Zip Code <u>03908</u>	City/Town <u>South Berwick</u>	State <u>ME</u>	Zip Code <u>03908</u>
Telephone Number <u>207-384-2109</u>	Fax Number <u>207-384-8263</u>		Business Telephone Number		Fax Number
Federal I.D. # <u>01-0477433</u>			Seller Certificate #		

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: John Flynn / Jeff Maldonis
8. If business is NEW or under new ownership, indicate starting date: _____
- Requested inspection date: _____ Business hours: _____
9. Business records are located at: One Site / Location
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
John Flynn		
Timothy Flynn III		
Jeff Maldonis		

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

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) Function Facility
Grill Room Patio Tent Pavillion

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? 3 miles Which of the above is nearest? School

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 Maine on _____, 20____
Town/City, State Date

Please sign in blue ink

[Signature]
Signature of Applicant or Corporate Officer(s)
John Flynn

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	
FILING FEE	\$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: **TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164.** Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

STATE OF MAINE

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

On: June 15, 2010
Date

The undersigned being: Municipal Officers County Commissioners of the
 City 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, c.589, §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, c.45, 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, c.730, §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.

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: Great Works Properties

Address of Applicant: 310 Portland Street

Telephone # of Applicant: 207-384-2109

Name of Business to be Conducted: Music / Dancing

Address of Business: 310 Portland Street

Telephone # of Business: 207-384-2109

Nature of Business: Functions and Weddings

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

Type of Entertainment Planned: Music Dancing

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 #: 5885

Signature J. J. [Signature] Date 5-21-10

TOWN COUNCIL

Agenda Information Sheet

Meeting Date: June 15, 2010	Agenda Item # NB 3
Subject: Pepperland Café liquor license & special amusement permit	
Information:	
Attached is the liquor license application.	
Staff Comments/Recommendation:	
Requested Action:	
Motion to approve the renewal of Pepperland Café's liquor license & special amusement permit.	
Vote:	

**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.

BUREAU USE ONLY	
License No. Assigned:	
Class:	
Deposit Date:	
Amt. Deposited:	

PRESENT LICENSE EXPIRES 6/20/10

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

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Pepperland Cafe LLC</u> DOB: _____			2. Business Name (D/B/A) <u>Pepperland Cafe</u>		
DOB: _____					
DOB: _____			Location (Street Address) <u>279 Main Street</u>		
Address <u>279 Main Street</u>			City/Town <u>South Berwick</u>	State <u>ME</u>	Zip Code <u>03908</u>
			Mailing Address <u>279 Main Street</u>		
City/Town <u>South Berwick</u>	State <u>ME</u>	Zip Code <u>03908</u>	City/Town <u>South Berwick</u>	State <u>ME</u>	Zip Code <u>03908</u>
Telephone Number <u>207.384.5535</u>		Fax Number <u>207.384.5535</u>		Business Telephone Number <u>207.384.5535</u>	
Federal I.D. # <u>41-2176040</u>		Fax Number <u>207.384.5535</u>			
			Seller Certificate # <u>1083317</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: 279 Main Street South 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
Kevin Paul Hahn		
Lindsey Grant Altshul		

Residence address on all of the above for previous 5 years (Limit answer to city & state)
Kevin Hahn - South Berwick, ME; Lindsey Altshul - Rye, NH

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: Mill Pond Group Realty Trust; 2417 Rosalind Avenue; Roanoke, VA 24014

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Restaurant w/ 32 seats in dining room and 18 seats in lounge. See attached diagram

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? 480' Which of the above is nearest? school

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-June, 20 10

KPH
Signature of Applicant or Corporate Officer(s)
Kevin Hahn

Please sign in blue ink
Lindsey Altshul
Signature of Applicant or Corporate Officer(s)
Lindsey Altshul

STATE OF MAINE

Dated at: South Berwick, Maine York ss
On: June 15, 2010
City/Town (County)
Date

The undersigned being: Municipal Officers County Commissioners of the
City 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.
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.
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. 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.
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.

STATE OF MAINE
Liquor Licensing & Inspection Unit
 164 State House Station
 Augusta, Maine 04333-0164
 Tel: (207) 624-7220 Fax: (207) 287-3424

SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS

1. Exact Corporate Name: Pepperland Cafe LLC

Business D/B/A Name: _____

2. Date of Incorporation: 5/17/05

3. State in which you are incorporated: Maine

4. If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list percent of stock owned:

Name	Address Previous 5 Years	Birth Date	% of Stock	Title
Kevin P. Hahn	<u>Pepperland Cafe</u>			Member
Lindsay G. Altschul	<u>Pepperland Cafe</u>			Member

6. What is the amount of authorized stock? none Outstanding Stock? _____

7. Is any principal officer of the corporation a law enforcement official? () YES () NO

Dated at: South Berwick ME On: 10 June 2010
City/Town Date

Lindsay Altschul Date: 6/10/10
 Signature of Duly Authorized Officer

Lindsay Altschul
 Print Name of Duly Authorized Officer

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: Pepperland Cafe LLC

Address of Applicant: 279 Main St. South Berwick, ME

Telephone # of Applicant: 384.5535

Name of Business to be Conducted: Pepperland Cafe

Address of Business: 279 Main St. South Berwick, ME

Telephone # of Business: 384.5535

Nature of Business: Restaurant

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

Type of Entertainment Planned: live music

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 #: 5244

Signature [Signature] Date 6/10/10

TOWN COUNCIL
Agenda Information Sheet

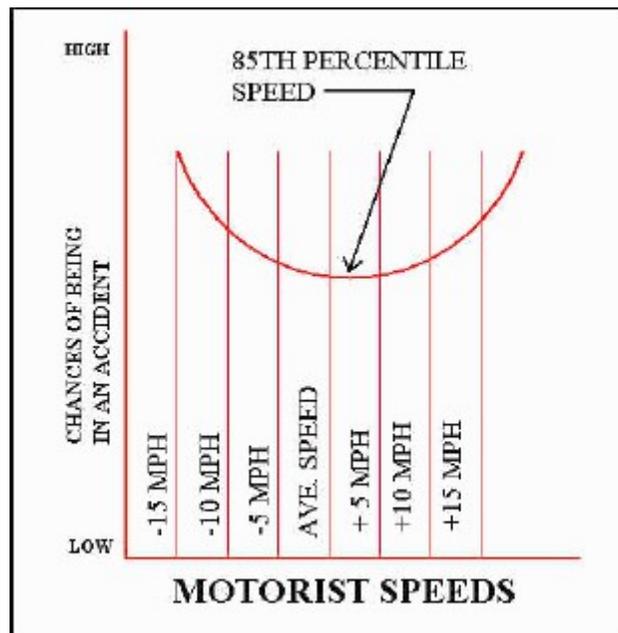
Meeting Date: June 15, 2010	Item # NB 4
Agenda Item: Great Hill Road posting	
Information:	
<p>This item has been added at the Council's request.</p> <p>Great Hill Road is currently an unposted road. According to Maine State Law the maximum speed on an unposted road is 45 mph. In response to concerns raised by residents at the MDOT Bridge Meeting, if the Council so chooses the Town may send an official request to MDOT to consider a change in the speed limit.</p> <p>I have attached background information obtained from the Maine Local Roads Center. This is an official resource provided to Municipalities and administered by MDOT.</p>	
Requested Action	
Council wishes	
Vote	

This information is presented from the Maine Local Roads Center, a resource for municipalities in Maine.

HOW ARE SPEED LIMITS SET?

When establishing a speed limit, the main premise is that most drivers are prudent and will voluntarily comply with a reasonable speed limit. To determine what is reasonable, engineers measure drivers' speed on a section of roadway, the speed at which 85% of drivers are at or below is the standard for determining a speed limit. A properly set speed limit will be within 3 miles per hour (\pm) of this observed speed. The posted speed limit will then be rounded to the nearest 5 miles per hour.

Research has shown that the [85th percentile speed](#) is the speed where accident involvement is the lowest. Reducing the speed limit below what is warranted can actually be detrimental to safety.



Measurements to determine the 85th percentile value are made under free flowing and ideal traffic conditions. This means that if speeds are measured on any section of road, 85% of the motorists will be driving at or below the 85th percentile speed.

Speed zoning is based upon several fundamental concepts deeply rooted in our American system of government and law:

. Driving behavior is an extension of social attitude, and the majority of drivers respond in a safe and reasonable manner as demonstrated by their consistently favorable driving records.

. The normally careful and competent actions of a reasonable person should be considered legal.

. Laws are established for the protection of the public and the regulation of unreasonable behavior on the part of individuals.

. Laws cannot be effectively enforced without the consent and voluntary compliance of the public majority.

In Maine, State law (29-A § 2073 §-1 and 2075, §-3) authorizes the MaineDOT, with the approval of the Chief of the State Police, as the only legal entity to create or change a speed limit on a public way which includes, State and State Aid Highways and townways. On September 21, 2001, the law changed to allow certain “qualifying municipalities” to have the full responsibility and authority for setting speed limits on local roads..... if they choose that option. A “qualifying municipality” is one that (1) has a population over 2,500 as measured by the last US Census, or (2) employs a Professional Engineer (PE) licensed in Maine. Qualifying roads are ONLY townways which are federally classified as “local” roads.

If a town creates or changes a speed limit or simply erects speed limit signs without going through the proper process, there is no legal authority to the change and it is unenforceable.

Except when conditions or other regulations require a lower speed, the following are maximum rates of speed, especially if signs are not posted:

- 15 m.p.h. in a school zone at specific times of the day,
- 25 m.p.h. in a business or residential area or built up portion,
- 45 m.p.h. on all other public ways.

However, the noted 25 and 45 mph limits are usually unenforceable if they do not have MaineDot approval

A “school zone” was also redefined in 2001 through LD 843 which became Public Law 2001, Chapter 145 and became effective on May 14, 2001. A “School zone” “means the portion of the public highway abutting improved school property or 300 feet on either side of a school entrance, whichever is greater.”

“ Improved school property” now is defined as “the developed portion of school property including driveways, parking lots, playgrounds, athletic fields or school buildings.”

If there are roads in your town under MaineDOT jurisdiction and you feel the need to create or change a speed limit, a municipal official must request the change in writing to your local MaineDOT Regional Traffic Engineer. A field study will be made and then a recommended speed will be forwarded to the MaineDOT Commissioner and the State

Police. Then the town will be notified of the speed limit and be responsible for erecting the standard and minimum 24" x 30" black-on-white signs in the proper locations if the change is on a town way. If the change is on a State road, then the MaineDOT will make the signing changes.

Why the “85th percentile” Speed??

A study conducted by the American Association of State Highway and Transportation Officials (AASHTO) Subcommittee on Traffic Engineering and based on a survey of traffic officials from all states and 44 city and county agencies, reviewed the principles and practices used to set speed limits.

The study indicated that based on the best available evidence, the speed limit should be set at the speed driven by 85 to 90 % of the free-moving vehicles rounded up to the next 5 mph increment. The method results in speed limits that are not only acceptable to a large majority of the motorists, but also fall within the speed range where the accident risk is the lowest. Allowing a 5 mph tolerance, enforcement would be targeted at drivers who are clearly at risk.

Traffic officials generally agree speed limits should reflect the speed of most drivers. All states and most local agencies use the 85th percentile speed of free-flowing traffic as the basic factor used to set speed limits. However, it is fairly common to reduce the speed limit based on a subjective consideration of other factors. If there are unusual hazards not readily apparent to drivers, then a warning sign could be installed giving the nature of the hazard, and if necessary, supplemented with a realistic advisory speed.

Excerpted from “Synthesis of Speed Zoning Practice”, Technical Summary, FHWA/RD-85/096