

**Bowdoinham
Board of Appeals
AGENDA**



Date: September 15, 2022

Call the meeting to order.

Determine if the Board has a quorum.

Rules & Procedure for the meeting:

- This is a follow-up to our meeting last week on September 8, 2022. During that meeting, we:
 - Read a statement of the case and identified all correspondence and reports the Board members have received.
 - The Board determined we had jurisdiction to hear the case.
 - The appellant and his representative provided an extensive presentation of the appeal and responded to questions and requests for clarification from Members of the Board.
 - After the appellant completed his presentation, we opened a Public Hearing, during which Planning Board members and interested members of the public spoke.
 - After members of the public completed their remarks, the appellant was given an opportunity to respond.
 - Once all public comments were heard, the Public Hearing was closed with the understanding that no further comments from either the appellant or the Public would be allowed during the deliberations of the Board.
 - At that point, the Board took a five (5) minute break
 - When the Board returned, a discussion was held about continuing that night or because of the late hour, delaying the Board deliberations to another night. The appellant voiced support for delaying and a motion was made to continue the process at 6:30 on Thursday, September 15th. This motion was approved unanimously.
 - A motion was made to adjourn, which was approved unanimously.
- Tonight the Board will deliberate and decide if they have enough information and if so, will vote on the appeal. I will remind everyone that once we closed the Public Hearing last week, no further comments from the appellant or the public will be heard.
- As the Chair, I suggest we consider each of the Planning Board's findings and conclusions separately. If the board feels they have sufficient information, they will vote on whether to uphold the Planning Board's conclusion or to support the appeal. Is there any discussion on this proposal?

Planning Board Findings and Conclusions Appealed :

(from the Planning Board letter dated June 24, 2022 Re: Site Plan Review and Denial of U01-017 Marijuana Establishment and Apartment)

- 1) Vehicle Access - The proposed site layout will provide for safe access to and egress from public and private roads.

Finding: Sight lines identified do not meet the requirements of the performance standards

Conclusion: This standard has not been met.

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- 2) Internal Vehicular Circulation - The proposed site layout will provide for the safe movement of passenger, service, and emergency vehicles through the site.
Finding: Internal vehicular circulation has not been demonstrated to preclude the backing out of delivery vehicles and other large vehicles onto School St. Many conflicts are likely to exist between parking and delivery needs.
Conclusion: This standard has not been adequately met.
- 4) Municipal Services - The development will not have an unreasonable adverse impact on municipal services, including municipal road systems, fire department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
Finding: Applicant has not proven that the proposed project will not have undue adverse effects on fire safety and specifically concerns raised at public hearing that the town will have the ability for appropriate vehicles to be able to access the site in the case of a fire, due to the height of the building and layout of surrounding roads.
Conclusion: This standard has not been met.
- 5) Visual Impact - The proposed development will not have an adverse effect on the scenic or natural beauty of the area, including water views and scenic views.
Finding: The proposed development and the housing proposed within it exceed the height of 40' on average and blocks an identified view from a public street and facility without making any effort to minimize the encroachment or the effect on the view.
Conclusion: This standard has not been adequately met.
- 8) Buildings - The proposed structures will relate harmoniously to the terrain and to existing buildings in the vicinity, so as to have a minimally adverse effect on the environmental and aesthetic qualities of the neighboring areas.
Finding: The scale of the building is not in proportion to the surrounding neighborhood and the effect on abutting properties is significant. The applicant has shown no evidence that the building does not exceed the required 40'.
Conclusion: This standard has not been adequately met.
- 9) Landscaping: The proposed development will provide adequate landscaping in order to define, soften, and/or screen the appearance of parking and developed areas as well as to enhance the physical design of the buildings and the overall development.
Finding: While the proposal does offer some degree of landscaping on the south and along school street, there is none offered to the north of the property and does not appear to be within the reality of the lot to have space for landscaping on that site.
Conclusion: This standard has not been adequately met.
- 10) Buffering - The proposed development will provide for the buffering of adjacent uses where there is a transition from one type of use and for the screening of mechanical equipment and service and storage areas.

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Finding: The proposed development is surrounded by residential uses to the south, east, and west, and institutional uses to the north, and there's no landscaping or any proposed screening that provides year-round visual screening to minimize visual impacts to the surrounding properties.

Conclusion: This standard has not been adequately met.

- 12) Water Supply - The proposed development will be provided with an adequate supply of water.

Finding: The applicant has not provided the requested evidence showing that the public water supply system will not in any way be mixed with water provided by private well or cistern-based system as requested by the Water District.

Conclusion: This standard has not been adequately met.

- 14) Fire Protection - The proposed development will have adequate fire protection.

Finding: Applicant has not sufficiently provided written notification from the Fire Chief or Maine State Fire Marshall's Office stating that the project as proposed meets their requirements.

Conclusion: This standard has not been adequately met.

- 15) Capacity of Applicant - The applicant meets the following criteria:

Finding: Applicant has not provided adequate budget and evidence of financial capacity to meet that budget and applicant has had successive stop work orders which raises concerns about future ability to complete the project within the requirements of building permits that may be granted.

Conclusion: This standard has not been adequately met.

- 17) Environmental Impact - The landscape will be preserved in its natural state to the extent that is practical by minimizing tree removal, disturbance of soil and retaining vegetation.

e) Stormwater - The proposed development will provide for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other impervious surfaces, which must not have an adverse impact on abutting or downstream properties.

Finding: There is already reported concerns of existing stormwater runoff from the site on the ground and there is no proposed stormwater management plan to alleviate those existing issues.

Conclusion: This standard has not been adequately met.

f) Sedimentation & Erosion Control - The proposed development will take adequate measures to prevent soil erosion and the sedimentation of watercourses and waterbodies.

Finding: Given that stormwater issues and runoff on the site have not been resolved, they are likely to create sedimentation and erosion control issues.

Conclusion: This standard has not been adequately met.

- 19) Compliance with Ordinances - The proposed development conforms with the provisions of this Land Use Ordinance and other ordinances and regulations of the Town of Bowdoinham.

Finding: The building height does not conform with the land use ordinance, and it does not conform with building permits that were taken out for previous construction. Additionally, the

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plan has not proven that it will conform with the use-specific standards related to odor-mitigation, buffering, security, or signage.

Conclusion: This standard has not been adequately met.

A written decision letter identifying the decisions made tonight, will be prepared and sent to the appellant and the Planning Board.

Is there a motion to adjourn the meeting?