

**TOWN OF BOWDOINHAM  
PLANNING BOARD MEETING MINUTES  
In Kendall Rm at the Town Office  
June 23, 2022 – 6:00 P.M.**

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**APPROVED – September 22, 2022**

MEMBERS PRESENT: Nate Drummond (Chair)  
Tracy Krueger (Vice Chair)  
Allen Acker  
Reeve Wood  
Richard Joyce (Recused for this meeting)  
Justin Schlawin \*\*joined at 7PM

MEMBERS ABSENT: William Shippen

STAFF PRESENT: Jennifer Curtis, Town Planner and Economic Development  
Coordinator

**1. REGULAR MEETING CALL TO ORDER and DETERMINE QUORUM AND VOTING**

Chair Drummond called the meeting to order at 6:00 p.m.

It was determined that a quorum was present.

**2. APPROVAL OF MINUTES FROM May 26, 2022 Regular Meeting**

Minutes from May needed to reflect the correct spelling of Tracy Krueger's last name.

Mr. Acker made a motion to accept the minutes from the May 26 Planning Board meeting.

Ms. Krueger 2<sup>nd</sup>

AIF

**3. Site Plan Review – Tier II Application**

*\*\*Public Hearing at 6:15 PM\*\**

Applicant - Scott Gallant

Property - 17 School St (U01-017)

Project - Applicant is proposing to develop a marijuana establishment and apartment.

Travis Nadeau spoke about the project on behalf of Mr. Gallant. He stated that the project would be a small marijuana retail facility at the rear. Upstairs would be a grow facility, and an apartment at the top. The permit expired over the course of applying for the project. They are here to establish the provenance. He feels the project is low-impact as it will be a small store with limited hours. He said he understood there was concern about the traffic situation, but where the town hall can handle it, he didn't think it would be. They're proposing connection to future sidewalk system.

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Terry Gravey lives on Backhill Street spoke and was interested to know if any of the existing code violations have been addressed and rectified and if they have adequate sewer for the proposed use.

Shirley Oakes – there is a limit of 35 feet for any structure in Bowdoinham.

Richard Joyce spoke and said Darren said the 39.5' that it was approved was not adhered to. Chair Drummond clarified the information was draft findings that Staff produced in conjunction with himself.

Dan Joyce spoke and said that the survey showed that the survey was incorrect with regards to the border with his property and that it should be considered with respect to where things are located on the site.

Howard Solomon spoke concerning how the numbers and facts are determined. Chair Drummond explained how the board is getting information and reviewing it.

Calvin Temple spoke and asked why the project is being reviewed if it doesn't meet the code.

Shirley Oakes asked if other parts of the roof could be higher, such as the chimney.

Someone spoke? Stating that in addition to height there have been other code issues and wanted to know what they were.

Chair Drummond explained that there were setback issues.

Someone else spoke, stating that they were concerned about the erosion issues during high rain events and concern that it is visible from the water.

Dan Joyce spoke again to say he didn't know why a business like this was being allowed in a residential area. He doesn't understand how it's gotten to this point when it disturbs the neighbors. It's ridiculous to allow it to go on. The site has had a number of issues as a neighbor that will not get better when it gets developed.

Kate Cutko spoke and asked if it was true that at the last meeting the Board said they would meet one more time and vote at that time. She also asked if there was discrepancies in the survey information.

Chair Drummond responded that it is the intent to vote.

Jen Foley spoke and said she was concerned about the smell and the noise of anything that would try to get rid of the smell. Extremely concerned about the fire hazard it proposes. She doesn't understand why it is appropriate next to the library, where children come to read.

Ludger Tremel spoke and asked if the proposal would be for a multi-use.

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Town resident spoke saying the “green monster” is an affront to the Town. The building is inappropriate and the businesses going inside are inappropriate. She understands it’s a complicated situation and she appreciates the people who have put in a lot of time.

Someone spoke saying the building is replacing what was the Derrels house and knitting shop, which was going to be a small shop. The front of the Derrell’s house hasn’t been demolished, she assumes so that it gets grandfathered. She said it detracts from the effort to restore the historic buildings in town.

Chair Drummond spoke and said this development is a challenge to the Planning Board because it is a building constructed under other permits, not fully completed, and is now coming for approval for a new use and finishing of the construction. The Board has struggled with that not being a normal course.

Doug Tourtelotte spoke and said that we are wasting time and wondering why. The Board stated that it had to do with due process.

Mr. Dan Joyce spoke again, and said he was concerned about safety, because of drug use, and that marijuana is still illegal at a federal level and banks don’t want to deal with the marijuana businesses so they keep a lot of cash on hand.

There was a question about the locations of parking. The Board noted that parking is not allowed in the easement.

Doug Tourtelotte spoke again saying that if it doesn’t meet the ordinance, than it shouldn’t be proposed or else we may as well throw out the whole ordinance.

Richard Joyce noted that what the applicant reported about the property line is just hearsay.

Chair Drummond noted that the Town submitted a letter noting discrepancies with survey information produced for the town.

Chair Drummond read a letter from Sara Stapler, objecting to the project, particularly with regard to the height, specifically regarding the pre-development grade.

Chair Drummond read a letter from Beverly Acker concerned about the business in proximity to the library, and about the Gallants as neighbors.

Chair Drummond read a letter from a member of the public concerned with the parking and compliance with erosion, visual impact, construction concerns, survey concerns, odor concerns, and capacity of the applicant.

Chair Drummond read a letter from Kevin Twine concerned with the scenic impacts.

Chair Drummond noted that the letters would be entered into public process.

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The applicant's agent, Travis Nadeau spoke that he understood the consternation with the process, as it's a blurring of the line between a zoning application to the planning board and a building permit application.

He said that the building design and engineering work would happen after the use would be approved. The survey was blurred by a survey discrepancy. The new septic system is designed to be driven on. The work is based on existing conditions. If there are additional items they could do that the Board would consider for approval, they would be interested to hear them.

Chair Drummond asked the location of the new septic. The applicant said it was near the existing septic. Ms. Krueger asked what the maintenance would be of the septic tank. Mr. Nadeau explained that the BOD was checked to verify that the septic load was appropriate.

Chair Drummond asked Mr. Nadeau how building heights were determined and why they were put where they are. Mr. Nadeau stated the conditions represent what is out there today. He stated that when the project was originally conceived, and the height restriction would be based on the entrance to the store. There was a negotiated process. He stated that in the packet was a building height analysis. The average elevation was determined by using these ground elevations. Based on a question from Ms. Krueger, he clarified that the difference with the maximum height of the roof is not given. He said there should be a ridge elevation on the C100 drawing. 132.6' was identified as the elevation above sea level.

Chair Drummond stated that subtracting one from the other nets 45 feet.

Ms. Krueger noted stormwater drainage swale was identified in the narrative. Mr. Nadeau said the swale would be on Town property within the easement, along the rock wall. It would be a negotiated improvement, that would need to be agreed to by the Town. Ms. Krueger asked if there were any other areas that were intended to be used as stormwater management. Mr. Nadeau said there were areas of grass and rooftop rainwater collection.

Chair Drummond closed the public hearing at 7:32 PM.

The Board agreed to review draft findings and discuss or ask specific questions.

Ms. Krueger asked if it mattered whether they were comparing the height to 39.5' or 35', if they're looking at a height in excess of 45.

Chair Drummond discussed that it's unclear that it should be treated as an existing nonconforming building, as it was never completed as approved at 39.5'.

Mr. Acker asked about how the building would be approved with the height over 39.5', and if that would have to be approved by the Board of Appeals. Chair Drummond stated that yes it would.

Chair Drummond noted concerns about vehicles parking along the road and vehicles backing out onto the road, given the site constraints.

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The Board noted that the existing town parking lot creates concerning conditions for traffic safety on School Street and should not be used as a good example.

Ms. Krueger noted that there are three different property lines. The Board discussed the discrepancy in the property lines and its effect on the easement.

Chair Drummond noted there are a number of things in the narrative that are not depicted on the site plan such as bike racks and where snow storage areas will be. He noted that it's challenging not to have them all on the plan in order to prove that it's workable.

Mr. Acker noted that the March 14 plan shows a new septic location, whereas the most recent plan shows the old septic location.

Mr. Wood noted access to the dumpster enclosure would conflict with employee parking. Mr. Nadeau responded that it would be low volume low frequency event.

Ms. Krueger noted that the ADA space is too small.

Ms. Kruger noted that there wasn't a sign-off on the fire safety from the Fire Chief.

There was a discussion about the water supply, and what the Water District had requested. It was noted that the schematic they requested that showed there would not be cross-contamination between the water systems had not been provided.

Chair Drummond noted that it was difficult for the board to review post-development conditions as a new application. What is being proposed is a building that is still under construction and not pre-existing in a historical sense. He feels it therefore doesn't meet the scenic impact standards.

Mr. Reeve noted there seemed to be intent in the easement language as well, noting that the building not further obstruct the water view from the town facilities.

Chair Drummond stated that however the building could be dressed up, it is not historically pre-existing and it's hard to state that it meets the standard. He appreciates the architects effort to show that it meets the standard, the clear reality is otherwise – it dominates the neighborhood in a way that is appropriate. If it was all on paper, they could more easily have a conversation about what could be proposed that would be workable.

Chair Drummond noted that he appreciates the existing landscaping on the town property. He notes that the applicant doesn't have any agreement with the Town about improving it or keeping it and the applicant is left with no ability to buffer it. Any development of this size, and certainly a marijuana business that borders a library and a municipal complex can't meet the standards with no ability to buffer. The reality may be that everything can not be done with every property. That might be the reality here.

If it were to be approved, the Board would need more details with the plumbing schematic and rainwater cistern system.

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Ms. Krueger verified that the septic would be replaced, and what it would be for.

Mr. Gallant stated that the reverse osmosis system would flow into the grease trap.

Ms. Krueger stated that she feels a lot better about the plan being proposed to be new and proposed to be tested makes her feel comfortable, but she's not sure how the testing would be enforced.

Chair Drummond noted that they do not have signoff from the Fire Marshall's Office and Fire Chief, and have gotten significant comments concerning fire safety.

Chair Drummond noted that concerns with technical capacity, including the applicant not providing a comprehensive budget and documentation from a financial institution with funding available to meet the budget. It becomes all the more of a problem because the business has been unfinished for such a long period of time. The reality of the building not being completed, and numerous issues with the building permits.

Mr. Gallant stated that his permit had expired and that's why he stopped working and that every time he keeps building onto the building he gets another notice of violation.

Mr. Wood is concerned that all that was provided for right title and interest approval from the other owner of the property is just a letter and not a lease.

Mr. Acker stated that he would not be satisfied with evidence for financial capacity that includes that money can be used for marijuana.

Chair Drummond attempted to rein the meeting in and keep the discussion amongst the board.

Ms. Krueger stated that she has significant concerns about the stormwater system. It doesn't address the parking areas at all and no stormwater plan for the impervious surfaces on the ground. The Board noted that the site is mostly impervious and the runoff would be going onto the neighbors property or the road, and neither are allowed by the ordinance.

The Board noted that there hasn't been anything submitted for an odor mitigation plan. Given the location it's a significant concern because of the potential impacts.

Security plan would need to be provided to Darren, who would verify that it was received.

The Board began review of approval criteria.

Chair Drummond read the approval criteria, and made a motion based on the relevant findings. All votes were unanimous (AIF = All in Favor)

Site Plan Review:

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

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*The Chair moves that the approval criteria has not been met based on the following findings: Sight lines identified do not meet the requirements of the performance standards and that the internal vehicular circulation has not been demonstrated to preclude the backing out of delivery vehicles and other large vehicles onto School St.*

*Mr. Acker 2<sup>nd</sup>.*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 2) Internal Vehicular Circulation – The proposed site layout will provide for the safe movement of passenger, service, and emergency vehicles through the site.

*Chair motions that the approval criteria has not been met based on the following findings: The applicant has not shown that the traffic circulation would preclude large vehicles backing up onto School St. Numerous vehicular conflicts are likely to exist between customer and delivery needs.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 3) Pedestrian Circulation – The proposed site layout will provide for safe pedestrian circulation both on-site and off-site.

*The Chair moves that this has been met based on the following findings: Pathways shown around the parking area connecting to the roadway.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has 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.

*Chair motions this criterion has not been met, based on the following findings: Municipal Service impact concerns were solicited from department heads.*

*Applicant has not proven that the proposed project will not have undue adverse effects on fire safety and specifically the required access for emergency vehicles*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has not been adequately 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.

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*Chair motions that the criteria has not been met based on the following findings: The proposed development and the housing proposed within it exceed the height of 40' on average and blocks an identified view from a facility without making any effort to minimize the encroachment or the effect on the view.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 6) **Lighting** – All exterior lighting will be designed to avoid undue glare, adverse impact on neighboring properties and rights-of-ways, and the unnecessary lighting of the night sky.

*Chair motions that the approval criteria has been met based on the following finding: The lighting being proposed will be limited outside of operating areas to security and that lighting would be oriented in a downward direction.*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has been adequately met.**

- 7) **Signage** – The proposed signage will not detract from the design of the proposed development and the surrounding properties and will not constitute hazards to vehicles and pedestrians.

*Chair motions that the approval criteria has been met, based on the following finding: The proposed sign will be placed at a right angle to school street and placed low to the ground.*

*Mr. Acker 2<sup>nd</sup>*

*AIF.*

**Conclusion: This standard has 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.

*Chair makes a motion that the approval criteria has not been met based on the following 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'.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**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.



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*Chair makes a motion that the approval criteria has not been met based on the following finding: While the proposal does offer some degree of landscaping, 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.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**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 to another use and for the screening of mechanical equipment and service and storage areas.

*Chair Drummond made a motion that the approval criteria has not been met based on the following findings: The proposed building is surrounded by residential and institutional uses and doesn't propose adequate buffering.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 11) **Utilities** – The proposed development will not impose an unreasonable burden on existing utilities.

*Chair Drummond made a motion that the approval criteria has been met based on the following findings: The new underground electrical service is adequate to the project as proposed.*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has been adequately met.**

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

*Chair Drummond made a motion that the approval criteria has not been met based on the following findings: 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.**

- 13) **Sewage Disposal** – The proposed development will be provided with adequate sewage waste disposal.

*Ms. Krueger made a motion that the approval criteria has been met based on the following findings: The subsurface wastewater system has been designed for industrial and wastewater use with testing of BOD of the effluent and recommended pumpout scheduled.*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

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**Conclusion: This standard shall be adequately met.**

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

*Chair Drummond made a motion that the approval criteria has not been met based on the following findings: Applicant has not sufficiently provided written notification from Fire Chief or Maine State Fire Marshall's Office stating that the project as proposed meets their requirements.*

*Mr. Wood 2nd*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 15) Capacity of Applicant –

*Chair Drummond made a motion that the approval criteria has not been met based on the following findings: The applicant has not provided adequate evidence of a detailed budget and corresponding evidence of financial capacity to meet that budget. The applicant has had multiple stop work orders in regard to previous construction which raises concerns about the applicant's ability to meet the requirements of the ordinance.*

*Mr. Wood 2nd*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 16) Special Resources – Chair *Drummond* made a motion that the approval criteria have been met based on the following findings:

- a) Shoreland Finding: *The proposed project is located entirely outside of the shoreland zone.*
- b) Floodplain Finding: *There are no floodplains on site.*
- c) Wetlands & Waterbodies Finding: *There is no evidence that the proposed development will have an adverse impact on wetlands or waterbodies.*
- d) Historic & Archaeological Finding: *There are concerns about general visible effects on the view from historic properties of the proposed development, but there is no specific evidence that there will be an adverse effect on the historical nature of those sites and/or on any archeological sites.*
- e) Groundwater Finding: *Proposed development will not affect groundwater.*
- f) Wildlife Habitat Finding: *There is limited wildlife habitat on site and the proposed changes will have minimal impact on them. None on site*
- g) Natural Areas Finding: *No rare or irreplaceable natural areas have been identified on the property.*

*Ms. Krueger 2<sup>nd</sup>*

*AIF*

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**Conclusion: This standard has 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 existing vegetation.

*Vice Chair Krueger made a motion that the approval criteria has not been met based on the following finding finding: The site is mostly fully developed prior to the application and there is little soil or existing vegetation to disturb.*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has been adequately met.**

- a) Solid Waste Management – The proposed development will provide for adequate disposal of solid wastes.

*Chair Drummond made a motion that the approval criteria has been met based on the following findings: There is a workable solid waste management plan being proposed for a business of this scale.*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has been adequately met.**

- b) Hazardous, Special & Radioactive Materials – The proposed development will handle, store, and use all materials identified as hazardous, special or radioactive in accordance with the standards of Federal and State agencies.

*Chair Drummond made a motion that the approval criteria has been met based on the following findings: Not applicable as there have been no materials identified as hazardous, special or radioactive associated with the project.*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has been adequately met.**

- c) Air Quality – The proposed development will not result in undue air pollution or odors.

*Chair moves that this approval criteria has not been met based on the following findings: The applicant has not provided an odor mitigation plan as required under use specific standards.*

*Mr. Wood 2<sup>nd</sup>*

*AIF*

**Conclusion: This standard has not been adequately met.**

- d) Water Quality – The proposed development will not result in water pollution.

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*Chair moves that this approval criteria has been adequately met based on the following findings: There is no discharge of liquids or materials proposed.*

*Mr. Wood 2nd*

*AIF*

**Conclusion: This standard has been adequately met.**

- 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.

*Chair moves that this approval criteria has not been met based on the following findings: 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.*

*Mr. Wood 2nd*

*AIF*

**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.

*Chair moves that this approval criteria has not been met based on the following findings: There are already reported concerns of existing issues with stormwater runoff on the site have not been resolved, there is no proposal to treat it, and they are likely to create sedimentation and erosion control issues.*

*Mr. Wood 2nd*

*AIF*

**Conclusion: This standard has not been adequately met.**

- 18) **Noise** – The proposed development will control noise levels so that it will not create a nuisance for neighboring properties.

*Chair moves that this approval criteria has not been met*

*Finding: The applicant has proposed to keep business operation within 8AM -9PM.*

**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.

*Chair moves that this approval criteria has not been adequately met based on the following findings: 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.*

*Mr. Wood 2<sup>nd</sup>*

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**Conclusion: This standard has not been adequately met.**

- 20) Town Plans & Vision Statements – The proposed development is consistent with the intent of the Town’s Plans, including but not limited to the Comprehensive Plan, Waterfront Plan, and Transportation Vision Statement.

*Chair moves that this approval criteria has been met based on the following findings: The proposed use of a marijuana business and location within the village are consistent with elements of the comprehensive plan, despite the other issues with it.*

Mr. Acker 2<sup>nd</sup>

AIF

**Conclusion: This standard has been adequately met.**

The Board reviewed the use-specific standards for Marijuana Establishments as follows:

**17.A Odor Mitigation** *Chair moves that this approval criteria has not been met Finding: applicant has not provided an adequate odor mitigation plan*

Mr. Acker 2<sup>nd</sup>

AIF

**17.B Buffers** *Chair moves that this approval criteria has not been met Finding: given the close proximity to other buildings including the library and town complex, additional buffering would be required. The applicant has not provided adequate landscaping or buffering plans.*

Mr. Acker 2<sup>nd</sup>

AIF

**17.C Security**

*Chair moves that this approval criteria has not been met Finding Planning board has received no notice from Town staff that an applicable security plan has been submitted for review.*

Mr. Acker 2<sup>nd</sup>

AIF

**17.D 500’ of a School**

*Chair moves that this approval criteria has been met Finding: is not within 500’ of a school.*

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*Mr. Acker 2<sup>nd</sup>*

*AIF*

**17.E Signs**

*Chair moves that this approval criteria has not been met Finding: applicant has not submitted necessary design details*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

**17.F No Drive Thru**

*Chair moves that this approval criteria has been met*

*Finding: No drive thru is proposed*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

*The Chair motioned that based on the Boards Findings and Decisions on Approval Criteria Site Plan Review for Stone Hill General does not meet approval criteria and will not be approved*

*Mr. Acker 2<sup>nd</sup>*

*AIF*

*Chair wished Mr. Gallant the best, knowing that he has put a lot of time and effort into the project. He hopes there is a resolution that he can pursue that allows for the building to be finished in a way that is in compliance with the town's requirements.*

*Mr. Gallant prompted Mr. Drummond to further expand that he thought there were some fundamental issues and that even if he were to change the use, there are a number of challenges based on the building as it currently exists and the limitations of the property that are probably going to make other uses challenging too.*

*There was an exchange.*

*Chair Drummond wished him the best in figuring out what he can do with the site.*

*Mr. Gallant said he would try to meet all the standards and come back.*

*Chair Drummond stated that the application had been denied, so any new proposal would be a new application.*

**ADJOURN MEETING**

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Motion was made, seconded, and it was unanimously

**VOTED**

The Chair adjourned the meeting at 9:13PM