

**Findings of Fact, Conclusions of Law, & Decisions
Planning Board, Town of York, Maine
March 28, 2019**

**Regarding an application by
VBAF Group, LLC
Tax Map 0022 Lot 0005
1171 US Route 1**

FINDINGS OF FACT

Street address

1171 US Route 1

Property ownership

VBAF Group, LLC

Other parties to the application

Not Applicable

Description of the existing use(s) of the property

Single family dwelling

Description of the proposed use(s) of the property, and the nature of the application

Re-develop the site to accommodate a compounding pharmacy including a new septic system, parking area and stormwater management system.

Base zoning district

Route 1-5

Overlay zoning district(s)

None

Other relevant regulatory districts

None

Comprehensive list of materials submitted by the applicant as part of the application

Planning Board Application Form
Sketch Plan Application Fee
Project Narrative
Deed
LLC Certificate of Formation
GIS Location Map
Sketch Plan

Preliminary Plan Submission – February 28, 2019
Cover Letter

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Application Form

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Architectural Plans & Product Sheets
Financial Capacity Letter

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- C1: Cover Sheet
- C2: Boundary & Existing Conditions Plan
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- C5: Erosion & Sediment Control Plan
- C6: Construction Details
- L1: Landscape Plan (by Woodburn & Company)
- A1: Building Elevation Plan

Date(s) on which the Board met to consider the application

Sketch Plan – December 13, 2018
Preliminary Plan – February 28, 2019
Final Plan – March 28, 2019

Date(s) on which the Board conducted a public hearing on the application

Sketch Plan – December 13, 2018
Preliminary Plan – February 28, 2019
Final Plan – March 28, 2019

Brief description of the substantive materials and testimony received at the public hearing

- **Clayton Camire** (5 Martin Lane) asked for the public-school bus drop and mail box location not to be moved. They are most likely located on pharmacy property.
- **Seth Legere** (8 Martin Lane) said that the pharmacy cannot be in contact with any form of medical marijuana. This is a zoning district where the dispensary production of marijuana is prohibited. He lives on a road with no road association. The road goes through the pharmacy property. Will the new pharmacy help with the upkeep of the road? Getting out on Rte. 1 from that location is difficult. He asked for traffic assessment.

Preliminary Plan – February 28, 2019: No public comment.

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CONCLUSIONS OF LAW

Planning Board Jurisdiction

Zoning Article 4 of the Zoning Ordinance, a Route One Use permit from the Planning Board is required.

Zoning Article 18.1.4.2, permits issued by the Planning Board are required to be reviewed under the Site Plan and Subdivision Regulations.

1. Zoning Ordinance, Town of York, Maine (Amended Nov. 6, 2018)
2. Site Plan and Subdivision Regulations (Amended January 12, 2012)

1. Route One Use Permit

Pollution

The development will not result in undue water or air pollution. A replacement subsurface wastewater disposal system to be approved by the Town of York LPI to be installed on the site. Proper erosion and sediment control measures will be required to be installed on-site until the site is fully stabilized:

Sufficient Water

The development has sufficient water available for the reasonably foreseeable needs of the development as it will be connected to the York Water District's water supply;

Municipal Water Supply

The development will not cause an unreasonable burden of an existing water supply, as documented by the letter issued by the York Water District;

Erosion

The development will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition results. An erosion and sediment control plan has been included in the submission to provide guidance to the Contractor;

Traffic

The development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed, and if the proposed development requires driveways or entrances onto a state or state-aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23 §754, the Maine Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23 §704 and any rules adopted under that section. The proposed driveway is located within the urban compact area of the Town and has been reviewed and approved by the Town of York Public Works Director. An initial traffic assessment has also been reviewed and approved by the Town of York Public Works Director;

Sewage Disposal

The development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized. The proposed development will be serviced by a replacement subsurface wastewater disposal system to be approved by the Town of York LPI.

Municipal Solid Waste Disposal

The development will not cause an unreasonable burden on the Town's ability to dispose of solid waste if municipal services are to be utilized. Municipal solid waste collection services are not intended to be used by the applicant;

Aesthetic, Cultural and Natural Values

The development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fishers and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or

visual access to the shoreline;

Conformity with Local Ordinances and Plans

The development is in conformance with these Regulations, Zoning and other Town land use codes, and the Comprehensive Plan, which the exception of the waivers granted by the Planning Board. In making this determination, the Planning Board is authorized to interpret these Ordinances and Plans.

Technical and Financial Capacity

The developer has adequate financial and technical capacity to meet the required standards;

Surface Waters

The proposed development is not located within the watershed of any pond or lake or within 250 feet of wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter 1, Article 2-B, therefore the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Ground Water

The development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

Flood Areas

The proposed development is not located within a FEMA designated Special Flood Hazard Area.

Freshwater Wetlands

All freshwater wetlands within the proposed development have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

River, Stream or Brook

Any river, stream or brook within or abutting the proposed development has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38 §480-B.9.

Stormwater

The proposed development will provide for adequate stormwater management as documented within the submitted stormwater management report and supporting calculations.

Spaghetti Lots Prohibited

Not Applicable.

Lake Phosphorous Concentration

Not applicable. The proposed development is not located within the watershed of a great pond.

Impact on Adjoining Municipality

DECISIONS

Application Acceptance Date

February 28, 2019

Waiver(s) Granted

March 28, 2019 – The following waiver were approved by the Planning Board:

Site and Subdivision Regulations

Section 6.3.32: High Intensity Soil Survey. The National Resources Conservation Service classifies of the type of soil within the limits of the existing wetland as Chocorua Peat and the uplands as Lyman Loam. Test pits completed on the site have found that the soils are consistent with this NRCS soil survey. Further investigation into the types of soils present on-site within the development area is not expected to yield different results nor result in changes to the design.

Section 6.4.25: Performance Guarantee. No public improvements are required by this project; therefore a waiver is requested.

Zoning Ordinance Waiver Requests

6.3.13: Buildings and Site Design Requirements. The building design was determined to be New England style and the following alternative building materials were approved to be used on the proposed building.

- Certainteed Mainstreet Siding
- Certainteed Architectural Shingles
- Certainteed Cedar Impressions Polymer Shakes
- Tandostone Stacked Stone

6.3.21: Performance Guarantee for Required Improvements. No public improvements are required by this project; therefore, a waiver is requested.

Decision(s) voted on by Planning Board

February 28, 2019 – The Planning Board voted to accept the preliminary application as complete.

Preliminary Plan Approval Date

February 28, 2019

Final Plan Approval Date

March 28, 2019

Conditions of Final Approval

None.

Expiration Date (if conditions are not satisfied)

Not applicable.

Date

Chair, Planning Board