

CONDITIONAL USE PERMIT APPLIC

*HRS 8:30-4:30 M.T.F-Th 10:30-6:30

map 6 lot #102

Applicants name

Phone 207-Herlings Properties LLC

property address

14 Mill Pond Rd

mailing address

129 Peter Vior Rdzoning district RRoverlay district Aquifer Prot.are you the property owner yes ☒ no ☐evidence of right, title, or interest, yes ☒ no ☐residential ☐ commercial ☒is this property in a subdivision yes ☐ no ☒is this property in a flood zone yes ☐ no ☒are there any wetlands on or near the property yes ☐ no ☒are there current or incomplete permits on this property yes ☐ no ☐

intended use of property, dwelling, or structure (be specific)

Landscaping Businesspresent use of land and buildings Rental unitwill this constitute a change of use yes ☒ no ☐

04/28/20 10:28 AM ID:RTC

#1383-1

TYPE-----

REF---

AMOUNT

**HERLINGS PROPERTIES, LLC.

Conditional Use P M6 L102

Conditional Use

50.00

Total: 50.00*

Paid By: RIVERBEND LANDSCAPING L.

COPY

Office Phone 353-2561

Check : 50.00

2384 - 50.00

OTHER PERMITS

Army Corps of Engineers yes ☐ no ☒Dept of Environmental Protection yes ☐ no ☒Environmental Protection Agency yes ☐ no ☒Maine Department of Transportation yes ☐ no ☒

other _____

FEE PAID \$ 50DATE 4/28/2020

Note; inspections are required at all phases of construction. Contact the CEO at 207-376-6558 to schedule inspections. No work shall continue until a notice to proceed has been issued by the CEO following each inspection.

No building hereafter erected shall be occupied or used, in whole or in part, without a **CERTIFICATE OF OCCUPANCY** or a temporary certificate of occupancy issued by the CEO of the TOWN of DURHAM ME. In accordance with the laws and ordinances of the town of Durham Me

I hereby acknowledge that I have read this application and state that my answers are correct and agree to comply with all town ordinances and State and Federal laws regarding building construction and land use.

I further agree that no work shall commence until all applicable permits are issued and in place.

I agree to keep my permit posted at the location indicated and visible to the public.

signature of applicant

date received

signature of CEO

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

DURHAM, ME 04222

Certified Mail Fee **\$3.55**
\$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$ **\$0.00**
☐ Return Receipt (electronic) \$ **\$0.00**
☐ Certified Mail Restricted Delivery \$ **\$0.00**
☐ Adult Signature Required \$ **\$0.00**
☐ Adult Signature Restricted Delivery \$ **\$0.00**

Postage **\$0.55**

Total Postage and Fees **\$4.10**

Sent To **NATE ANDREW**

Street and Apt. No., or PO Box No.

City, State, ZIP+4® **ME 04222**

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

DURHAM, ME 04222

Certified Mail Fee **\$3.55**
\$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$ **\$0.00**
☐ Return Receipt (electronic) \$ **\$0.00**
☐ Certified Mail Restricted Delivery \$ **\$0.00**
☐ Adult Signature Required \$ **\$0.00**
☐ Adult Signature Restricted Delivery \$ **\$0.00**

Postage **\$0.55**

Total Postage and Fees **\$4.10**

Sent To **PHIL LAFLAME**

Street and Apt. No., or PO Box No.

City, State, ZIP+4® **ME 04222**

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

DURHAM, ME 04222

Certified Mail Fee **\$3.55**
\$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$ **\$0.00**
☐ Return Receipt (electronic) \$ **\$0.00**
☐ Certified Mail Restricted Delivery \$ **\$0.00**
☐ Adult Signature Required \$ **\$0.00**
☐ Adult Signature Restricted Delivery \$ **\$0.00**

Postage **\$0.55**

Total Postage and Fees **\$4.10**

Sent To **EUGENE WENDLAND**

Street and Apt. No., or PO Box No.

City, State, ZIP+4® **ME 04222**

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Herlings Properties LLC

Property

Conditional Use Permit Request

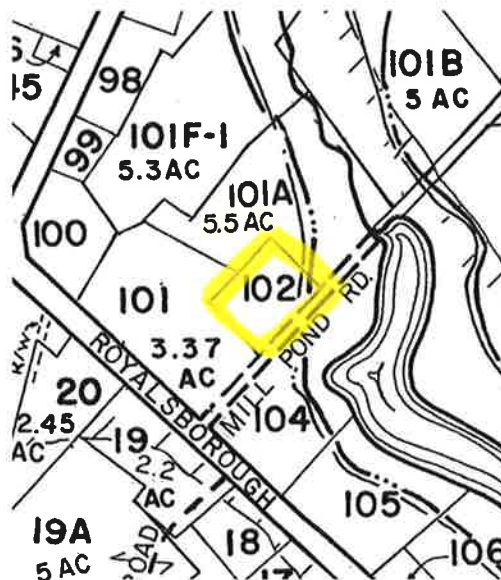
For Expansion

For Riverbend Landscaping LLC operating on
Property

14 Millpond Rd

Lot # 102

Page 6



Herlings Properties LLC is requesting a conditional use permit expansion for 14 Mill Pond road as follows for the current tenant operating on the property. Owner of company and applicant James Herling.

1. Looking to expand a material and storage area to help contain material on the Northwest of property along millpond and Laflame property. Containers will be created out of concrete blocks creating a wall to contain four bins to help prevent the material from erosion and exposure. A six foot privacy fence will go along the edge of the concrete containers to provide privacy from the look of concrete. We will also include newly plantings of arborvitae spaced properly apart in front on fence along the Laflame property (Lot 101) shrubs will help soften the fence look. Setbacks for the concrete wall is not needed as addressed in the ordinance its classification isn't a structure. The definition of structure in the ordinance is as reads "Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, excluding driveways, walkways, patios, and other paved surfaces, fences, and stone or brick walls used for area separation and not as part of a building". After looking at this it is seen that the use of brick walls for area separation falls into the blocks we are using to be used to separate the material we will be having to create bins for the materials to keep separated and contained on the property.

2. The corner of the material area will be a fenced in area to create a enclosed fenced in area to store equipment and possible material such as pavers or stones. An enclosed dumpster will be stored in this area so it will be out of site.

3. Near Future we would like to create a two bay garage that is 24x30 with a residential look to store equipment out of sight located in the middle northwest side of the property as shown on diagram.

4. Looking to expand parking areas. Biggest parking area expansion would be on the southwest side to extend off pavement creating a permeable pavement so water can flow through creating a pervious surface. Permeable pavement is a method of paving vehicle and pedestrian pathways to enable infiltration of stormwater runoff. Permeable pavement surfaces typically include pervious concrete, porous asphalt, paving stones and interlocking pavers. This will be created with aesthetic pavers installed.

5. A 6' height fence will be added along the south side of the property of lot 101A running along the property. Abutting neighbor and Herlings Properties LLC both came to agreement with fence on property line and adding shrubs along the fence on there land that include lilacs, rose of Sharon, dogwood, forsythia, and rhododendrons.

7. Sign added to building to mark the location of business at max size of three feet by 6 feet

Abutting neighbors:

Nate Andrews
22 Mill pond Rd Page 6 Lot#102

Phil Laflame
808 Royalsborough Rd Page 6 Lot#101

Eugene Wendland
824 Royalsborough Rd Page 6 Lot#104

Conditional use permit

1. For water pollution we will be keeping the new parking areas and landing for material to be pervious areas so water can drain through and material will be contained in areas so no erosion will occur. Looking to create a retention pond in the back of the property to contain water from coming off property in the back. Trucks and equipment will be washed on our new expanded permeable area so water can flow throw and down beneath the ground into the environment filtering through. Air pollution will not be increased on property. A trash bin will be stored in the fenced in area and kept locked to contain any trash and recycling for the current tenants.
2. For Fire protection down the road near the bridge within 250 feet is a dry hydrant located on Millpond rd already set up to be used in case of an emergency. Currently the shop has over 4 fire extinguishers on property as required and is located just 250 feet away from a dry hydrant. We also have 5 smoke detectors in building and carbon monoxide.
3. Materials on site will be contained on site in concrete blocks to keep erosion from accruing. Water on property will be directed from the northwest side to the northeast side of property for a retention pond to be created and contain any water runoff from material bins area. Water on right side of driveway will seep through the pavement. All water from existing pavement area will be running off pavement toward the culvert running under 22 millpond rd.
4. Traffic will only consist of morning hours as employees pick up material and equipment and are sent off for the day to a job. They will return at the end of the day to unload and park equipment. Other forms of transportation would be mail delivery or material delivered to the property during the day hrs.
5. Current septic system has been up to date with Purchase back to 2017. Septic system was upgraded to a three bedroom system in 1995. No known issues
6. Due to the equipment and material on site the aesthetics of the area will be affected and will be done by creating a fence to create a residential look with plantings around to

soften the fence. The area that is being used doesn't affect any wildlife or any access to wilderness areas. The area is an existing lawn area. The also addition to a two by garage will help store bigger equipment out of sight.

7. Lighting on property will be moved from the location of a pole on the south end of the property to the position of above garage pointing over the paved area. New lighting will be added above door entry on property that is for residential lighting
8. Construction will be done in phases as approved. Property owner plans to start with the bins first and fenced area once complete will construct the area of fence along the south end of property. We will follow with the permeable area. Two bay garage building is a long term plan and not looking to construct this year. The additional idea of garage was planned to help store equipment out of sight.
9. A three by six feet sign would be requested to be added above shop front garage doors on right side of building with business name of Riverbend Landscaping.
10. Hours of operation is 7:00am-6:30pm Monday through Friday. High noise will be traffic of employees starting the day arriving after 6:30 to shop and leaving with equipment before 8:00am. Once again in the evening when return from the end of the day at about 4:00pm-6:30pm. Employees may be

working at the shop for loading material and or fixing equipment inside shop. Operation may be affected on weekend due to high peak season only pick up equipment in morning hours of 7:00 am and arriving back at 5:00 pm this is a low occurrence due to rainy weekdays or high peak of fall or spring. Other hours maybe different due to winter storms we may operate at night in shop to fix equipment or pick up equipment or return equipment in the winter season only due to snowstorms.

11. This project will be funded and paid for by the tenant of Riverbend Landscaping who is also the owners of Herlings Properties LLC. Building expansion maybe financed from a lender and will only be built once approved. All other construction materials are bought as cost of goods sold to customers. Bins are already bought and on hand. Fencing will need to be purchased. Hardscape pavers will be bought by Riverbend Landscaping LLC and will be supplied from a vendor at a discount rate and or given for free for show use on location. All install and construction will be done by Riverbend Landscaping LLC beside building of new garage.

WARRANTY DEED
{Maine Statutory Short Form}

KNOW ALL PERSONS BY THESE PRESENTS, THAT CHRISTIANE R. EMERSON and TIMOTHY M. EMERSON, with a mailing address of 228 Wellington Road, Kingsbury, ME 04942, for consideration paid, GRANT to HERLINGS PROPERTIES, LLC, a Maine limited liability company with a principal place of business in Durham, Maine, with WARRANTY COVENANTS, the land in the Town of Durham, County of Androscoggin and State of Maine, described as follows:

See Attached Exhibit A.

WITNESS, my hand and seal this 30 day of November, 2017.

SIGNED, SEALED AND DELIVERED in the presence of

Christiane R. Emerson
CHRISTIANE R. EMERSON

Timothy M. Emerson
TIMOTHY M. EMERSON

State of Maine
County of Cumberland

November 30, 2017

Then personally appeared the above named Christiane R. Emerson and Timothy M. Emerson and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Susan Descoleaux
Notary Public

Printed Name:

My commission expires:

Susan Descoleaux
NOTARY PUBLIC
State of Maine
My Commission Expires 6/02/2022

14 Mill Pond Road, Durham

Exhibit A

A certain lot or parcel of land, with the buildings thereon, located at Mill Pond Road in Durham, Androscoggin County, Maine, bounded and described as follows:

Beginning at a point three hundred (300) feet easterly from Route 136 at an iron pin in the ground on the northerly line of the Mill Pond Road, so-called; THEN easterly along the northerly line of the Mill Pond Road two hundred (200) feet to an iron pin and the point of beginning in the land conveyed to Mark R. Lacasse by deed dated March 14, 1989 and recorded in the Androscoggin County Registry of Deeds in Book 2382, Page 232; THEN northerly along the line of land now or formerly of Mark R. Lacasse two hundred twenty (220) feet to an iron stake in the ground; THEN westerly along the southerly line of said land of Mark R. Lacasse and land now or formerly of Roger A. and Georgette Lacasse two hundred (200) feet to an iron stake in the ground; THEN southerly through the said land of Roger A. Lacasse and Georgette L. Lacasse two hundred twenty (220) feet to the iron pin on the northerly line of the Mill Pond Road at the point of beginning.

For source of title, reference is made to a Warranty Deed from Christiane R. Emerson f/k/a Christiane R. Williams to Christiane R. Emerson and Timothy M. Emerson, dated December 20, 1994 and recorded in the Androscoggin County Registry of Deeds in Book 3366, Page 325.

Excepting from the above described parcel of land, the parcel conveyed to Mark R. Lacasse and Roberta L. Lacasse by Quitclaim Deed with Covenants from Christiane R. Emerson and Timothy M. Emerson dated July 25, 1997; and recorded in the Androscoggin County Registry of Deeds in Book 3866, Page 105.

Also another certain lot or parcel of land on the Mill Pond Road, so called, in the Town of Durham, County of Androscoggin and State of Maine, being further bounded and described as follows:

Beginning at a 5/8 inch diameter iron rod set on the northerly side of said Mill Pond Road, which iron rod is South eighty-two degrees, six minutes, fifty-five seconds East (S 82° 06' 55" E) of and two hundred eighteen and fifty-nine hundredths feet (218.59') from a 5/8 inch diameter iron rod set at the intersection of the northerly sideline of said Mill Pond Road, and the easterly sideline of the Royalsborough Road, so called.

Thence North eleven degrees, thirty-nine minutes, twenty-five seconds East (N 11° 39' 25" E) one hundred ninety-one and seventy-seven hundredths feet (191.77') to a 5/8 inch diameter iron rod set;

Thence South eighty-two degrees, thirty-two minutes, five seconds East (S 82° 32' 05" E) fifty feet (50') more or less, to land of Christiane R. Emerson and Timothy M. Emerson;

Thence southwesterly along said land of Emerson to aforesaid Mill Pond Road;

Thence North eighty-two degrees, six minutes, fifty-five seconds West (N 82° 06' 55" W) fifty feet (50'), more or less, along said Mill Pond Road, to the point of beginning.

For source of title, reference is made to a Quitclaim Deed from Georgette Lacasse to Christiane R. Emerson and Timothy M. Emerson, dated July 15, 1997 and recorded in the Androscoggin County Registry of Deeds in Book 3866, Page 109.

Reference is made to a plan entitled Standard Boundary Survey and Division of the Lacasse Homestead, dated July 24, 1997 and recorded in the Androscoggin Registry of Deeds in Plan Book 39, Page 167.

April 27, 2020

Robert Forrest – Town of Durham Maine

Code Enforcement Officer

Durham, Maine

Dear Mr. Forrest

I write this letter reluctantly as I was hoping the concerns I have with Riverbend Landscaping and Its affiliates (LLC) would have been amicably resolved. However not to happen.

Very much to my surprise there was this 'bunker' being built facing my property at 808 Royalsborough Road – Ugly being an understatement. No courtesy neighborly visit to discuss their plans.

Just go ahead and do it – no permit – started off out of spec – and Riverbend totally ignored the stop Work order. They can do what ever they wish. Consider the eyesore I now look at everyday – any consideration for that? Eyesore does not begin to explain the pathetic look into my back yard.

When the Emerson's (previous owners) requested a permit to build their garage, they were told they needed more land to make it work. Land was arranged. How many buildings can be permitted on one and a quarter acre of land? Is it possible that another business is on the way?

There is certainly much heavier equipment using Mill Pond Road. How much of an expense is that to the town?

In my opinion and my opinion only, I would have concerns about children playing in the easterly driveway and running out to the road when vehicles are passing by – the easterly side is a blind spot.

Lots of equipment being stored in this lot – now bunkers to be used for holding mulch etc.

I would also be concerned about washing their vehicles – where is the water/chemical run off going?

You should be looking into it. I am sure the Dig Safe was contacted – right? Just like getting the permit from the town.?

Whatever the result of this fiasco and hopefully becomes a satisfied fiasco – whatever is ruled for Riverbend will also have to be ruled the same for any one else? What is good for one is good for another? Sincerely, Philip A. LaFlamme – 808 Royalsborough Road – Durham

cc: John Simoneau Chairperson Planning Boad

To The town of Durham Me

This letter is to address the property located at 41 MillPond rd.

My name is Scott Lacasse I live at 82 Millpond rd, my concern is that a structure was put up by Riverbend Landscaping to contain materials. First they had constructed it on the Town right of way and not met the setbacks., I notified both the road commissioner and the code enforcement to the issue.

Next Riverbend took the structure and moved it to the right of way line which again doesn't meet the setbacks. They were issued a stop work order by code enforcement but continued to erect the containment after being told they were to submit a plan to the planning board and send a certified letter to the abutting landowners with said plan to give the opportunity for the abutting neighbors to weigh in on their concerns.

Instead Riverbend Landscaping has completed the materials containment and filled it with mulch and currently conducting business as usual. With No permits, or letters to the neighbors.

I believe this to be a direct assault on both the tax payers who do follow the guidelines and the town for disobeying the direct order of the town officer. The fact that no permit was pulled or the town notified.

I Have spoken with Phillip LaFlamme my uncle who happens to be one of the abutting properties. He was not notified and has been also trying to get the town involved.

Further more to say is the fact that town property is being used for parking and to conduct business IE loading of equipment, trucks, and employee parking. All of which is taxing the dirt road that our tax dollars maintain. The equipment and plow trucks, mowers and tractors being power washed in the paved area of 41 Millpond by both the employees and owning officers and the run off is uninhibited to Dyer Brook which is a tributary to the Androscoggin river. A catch basin needs to be installed to control the contaminating of the water shed. Or at least an environmental impact study to determine the levels of contamination prior to permanent damage to the area, Prior to any further washing of equipment. If the DEP was to see I am sure they would have some concerns.

The other issue to look into is that the building was not permitted for a commercial rental property as the owners do not live on the property and rent the trailer as a commercial rental. Therefore I am well aware that the guidelines for a rental property are different than a residential. And I question of what does the town now of the use of this said warehouse that is attached to the trailer. As the riverbend official business is located at a different address on Peter Veir rd.

If the town find that none of this is a concern and permits are issued along with some kind of action for the erection of the bunker style containment then at least one tax paying citizen tried to be proactive. I Thank you for your time and hope that you will look into these issues. Scott R Lacasse