

Town of Hampden

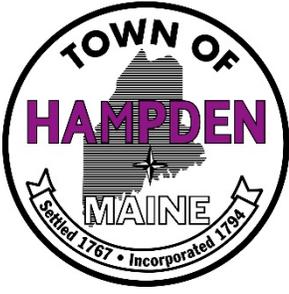
Planning Board

Wednesday December 14, 2016, 7:00 pm

Municipal Building Council Chambers

## Agenda

1. Administrative
  - a. Minutes – November 9, 2016
2. Old Business – None
3. New Business
  - a. Public Hearing: Site Plan Review. Tyler McIntosh proposes to construct a shed and a barn/garage to house materials and equipment for the existing agriculture and forestry operation at his site located at 5 Pond Road, Tax Map 11, Lot 4. This parcel is in the Rural district and the Shoreland Resource Protection district.
  - b. Stormwater Management Training: Annual training session for Planning Board in compliance with the MS4 Permit. Town Planner will present.
4. Planning Board Comments
5. Adjournment



Town of Hampden

Planning Board

Wednesday November 9, 2016, 7:00 pm

Municipal Building Council Chambers

## Minutes

### In Attendance:

#### Planning Board

Peter Weatherbee, Chairman  
 Kelley Wiltbank  
 Joan Reilly  
 Michael Avery  
 Andrew Scott, Alternate

#### Staff & Others

Karen Cullen, AICP, Town Planner

Scott Small

Chairman Weatherbee called the meeting to order at 7:04 pm.

1. Administrative – minutes of October 12, 2016 meeting: Motion by Member Wiltbank to approve as submitted, seconded by Member Scott, so voted 5/0/0.
2. Old Business: none.
3. a. Public Hearing: Site plan review application for a Home Occupation permit submitted by Scott Small to open his art studio to the public for sales at 104 Shaw Hill Road, in the Rural district.

Chairman Weatherbee read the hearing notice into the record and confirmed with Planner Cullen that the proper notice for the hearing had been given. He then opened the public hearing at 7:06 pm.

Scott Small gave a brief history of his tenure in Hampden; he has lived here for 25 years after earning a Master's degree in metal smithing and painting. Mr. Small has managed to make a living from his artwork but the recession of 2007/08 hit him hard as sales through art galleries fell off significantly. He recently inherited some money and used it to build a new studio on his property, and now he would like to open it to the public since he knows there is an opportunity to sell artwork to tourists as well as others. Mr. Small described the studio and site improvements, including a driveway with parking for at least 2 cars.

There being no other speakers on the application, Chairman Weatherbee closed the hearing at 7:10 pm.

Member Avery noted that the setbacks in the Rural district are 30 feet and the studio has a 32 foot setback. He also noted the word “proposed” on the plot plan should be deleted since the studio building now exists. Planner Cullen noted the plot plan is from the one submitted for the building permit and agreed with the suggested edit.

There was discussion regarding signage; Mr. Small said it will be 2 feet by 2 feet and will comply with the requirements of the zoning ordinance.

There was discussion on non-resident employees; finding 1 of the draft Order was modified to indicate that this decision does not prohibit future non-resident employees.

**Motion** by Member Scott to approve the application and Planning Board Order as amended and the plot plan as amended (remove the word “proposed”); seconded by Member Wiltbank.

Mr. Small asked the Board if he could teach at the studio. Discussion ensued on this idea and the Board agreed that teaching a few students at a time would not be a significant deviation from the application and would not have any detrimental impact on the neighborhood. The Board decided to amend the Order to add language regarding teaching to the summary description of the application and to set a condition that there be a maximum of three students at the site at any given time.

**Motion** by Member Avery that the application and the Planning Board Order as amended tonight be approved; including removal of the word “proposed” from the plot plan, deleting “one day a week from 9 am to 5 pm” from the summary description of the application (in the Order), adding “for sales of artwork, and to offer lessons in artwork to the public at the site” to the end of the summary description, and to add “but the option exists to have a non-resident employee at the site” to the end of Finding 1, and to add a condition to read: “There shall be a maximum of three students at any given time at the site.” The motion was seconded by Member Scott; passed by unanimous vote (5/0/0).

Planner Cullen noted to Mr. Small that the final decision will be prepared next week.

- b. Zoning Ordinance Amendments, Home Occupations. Planner Cullen briefly discussed the draft language for home occupations, and noted that the Planning & Development Committee has also discussed this draft. They had several comments on it and staff will be redrafting parts of the amendment. Discussion on process regarding when the Planning Board's Ordinance Committee should discuss it; Planner Cullen suggested a joint meeting of the P&D Committee and the Ordinance Committee. The Planning Board agreed that made sense.

**Motion** by Member Wiltbank with a second by Member Scott to send the amendments regarding home occupations to the Ordinance Committee; so voted 5/0/0.

Planner Cullen said once the revisions regarding truck size and other issues discussed by the P&D Committee are made, she will contact the Ordinance Committee to set up a joint meeting with the P&D, if possible at one of the P&D meetings.

- c. Zoning Ordinance, discussion on format of permitted uses (use table). Planner Cullen led a discussion on the conversion of the paragraph form of the uses permitted by right and by conditional use permit into a table format where the uses are listed down one side and the 15 zoning districts across the top. She explained that by using a table format it becomes very easy for property owners and others (including town staff and officials) to see what is allowed in each district as well as which districts allow a particular use. The current format where each use is listed in paragraph form (really just a list of uses separated by commas) is more difficult to use and in some cases to interpret.

Planner Cullen said she has discussed this with the P&D Committee and they are very much in favor of making this change. She added that the first version is a straight conversion of the existing language, and she is working on a second version which will clean up the inconsistencies and combine uses which are essentially the same but which are currently worded slightly differently (probably because no one checked the zoning ordinance for similar uses in other districts when one district was being amended to add a particular use). She does not expect to make many (if any) significant changes to the uses allowed in the various districts.

The Board felt it would be premature to refer this to the Ordinance Committee at this time, but will take it up again at the appropriate time (once the next version of the table is completed).

4. Planning Board Comments:

Member Avery asked the status of the accessory apartment amendment to the zoning ordinance; Planner Cullen said it's on her list of amendments to work on but it is not a high priority since the person who had originally requested the Town consider it has found an alternative solution.

The meeting was adjourned at 8:32 pm by motion of Member Wiltbank with second by Member Scott; motion carried 5/0/0.

*Respectfully submitted by Karen Cullen, Town Planner*

Materials reviewed at the meeting:

- Application, Report from Planner Cullen, and draft Planning Board Order, Scott Small home occupation
- Memorandum and draft language from Planner Cullen – Amendment to Zoning, Home Occupation
- Memorandum and draft use table from Planner Cullen – Zoning Ordinance, Uses

Town of Hampden  
106 Western Avenue  
Hampden, Maine 04444



Phone: (207) 862-4500 ext.145  
Fax: (207) 862-5067  
email: danielle@hampdenmaine.gov

November 8, 2016

Dear Land Abutter,

Notice is hereby given that the Hampden Planning Board will conduct a public hearing Wednesday December 14, 2016, at 7:00 pm in the Town Council Chambers at the Town Office, 106 Western Ave, Hampden, Maine.

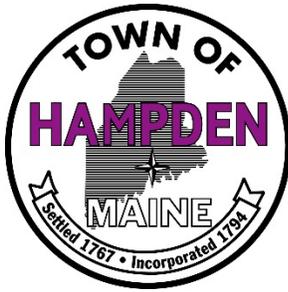
Under the provisions of Section 4.1, Site Plan Review, of the Hampden Zoning Ordinance, Tyler McIntosh proposes to construct a shed and a barn/garage to house materials and equipment for the existing agriculture and forestry operation at the site located at 5 Pond Road, Tax Map 11, Lot 4. This parcel is in the Rural district and the Shoreland Resource Protection district.

You have received this letter because you are an abutter to the above listed property. You are invited to attend the hearing to learn more about the application, ask questions, and comment on the proposal. You can view the application at the Land & Building Services department located at the Town Office.

Respectfully,

Karen Cullen  
Town Planner

Town of Hampden  
Land & Building Services



Report on Application  
Site Plan Modification

McIntosh – Wood Processing, Pond Rd

To: Planning Board  
From: Karen M. Cullen, AICP, Town Planner *KMC*  
Date: December 1, 2016  
RE: Report on Site Plan Application for Tyler McIntosh

Project Information

Applicant: Tyler McIntosh  
Site Location: 5 Pond Road  
Zoning District: Rural  
Proposal: Modify approved site plan to add a barn (up to 6,000 square feet) and shed (480 square feet, 24' x 20') for the purpose of storing equipment and materials associated with the approved forestry, wood processing, and agriculture uses at the site.

I have reviewed this application and have determined it to be in compliance with the requirements of Section 4.1, Site Plan Review, of the Zoning Ordinance. Several notes:

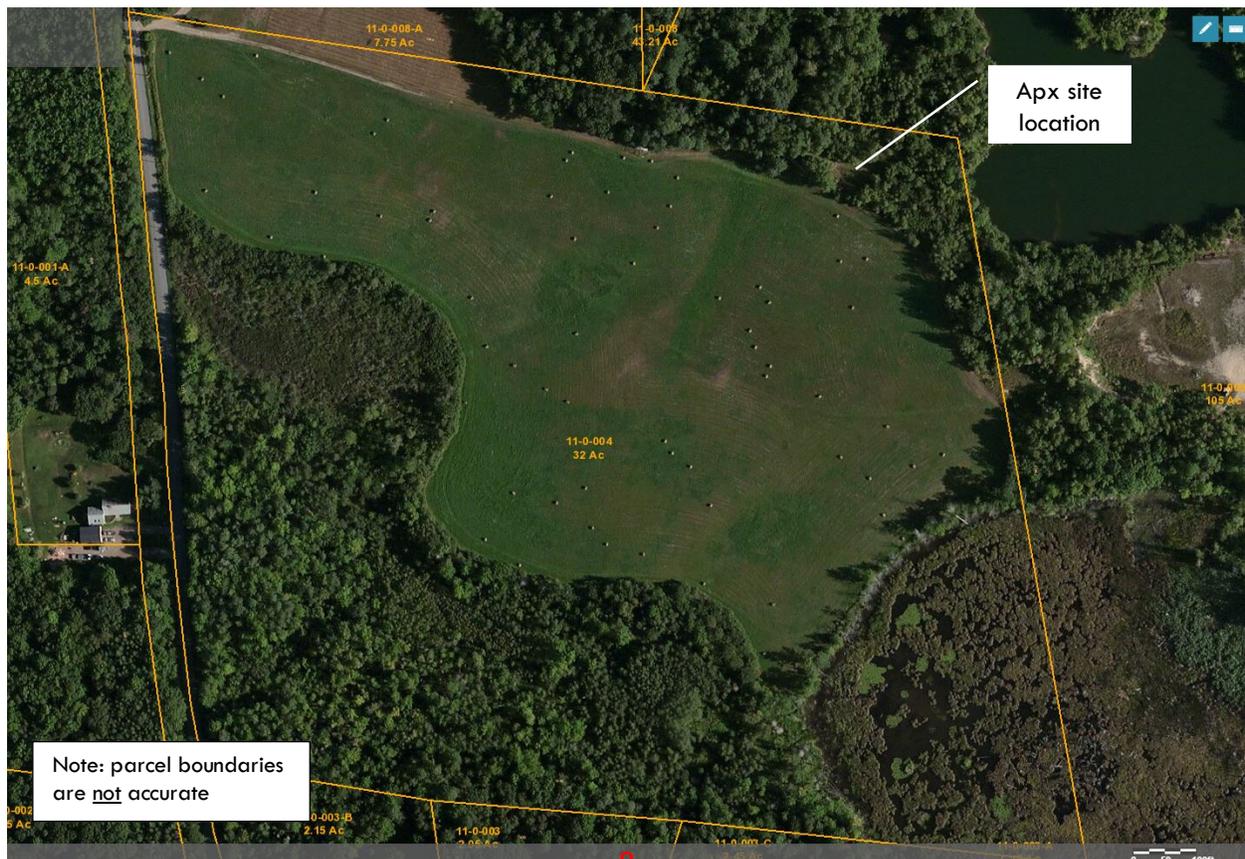
4.1.6, Required Information on Plans, has been complied with for the most part, but the following specific items need further clarification at the meeting:

8. *The location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.* These areas are implied but not specifically drawn out on the plan. Given the nature of the use (wood processing and Christmas tree farm) and the location of the building site (interior of large parcel in Rural District), in my opinion it is not necessary to require detail on the parking and loading areas.
11. *Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.* The proposed building site will not impact the roadside ditch on Pond Road. The building site will sheet flow and infiltrate, assuming the ground is pervious material remaining from previous gravel mining operations.

12. *Location, intensity, type, size, and direction of all outdoor lighting.* None is indicated on the plans, and the narrative states “Outdoor lighting would be limited on all buildings following all town ordinances.” I am unclear whether this proposal includes lighting on the exterior of the buildings or not. If it does, but the applicant is unsure what lighting fixtures will be used, then the Planning Board could include a condition stating that outdoor fixtures be install to prevent glare onto any abutting properties, as determined by the CEO during the building permit process.
14. *Location and type of existing and proposed fences, hedges, and trees of 12” diameter and over at a point 4.5’ above ground level.* Portions of the site are generally wooded and it is not appropriate to require all trees 12” and greater DBH be shown on the plan.
16. *Location and size of signs and all permanent outdoor fixtures.* The narrative indicates there will be a sign at the entrance “...following town sign ordinance of no more than two signs not to exceed 16 square feet.” In reading sections 4.8.4.3 and 4.8.5.1, I am unsure whether this use is permitted to have one sign or two signs. The question boils down to whether the uses on this site constitute “farm products (raised or produced on the premises)”. I think Christmas trees would, but am not so sure about firewood.

Note, items 9, 10, and 13 are not applicable to this proposal.

The application and plans are attached to this report for your review. In addition, a draft Order (decision) is also attached for your review.





**SITE PLAN - PERMITTED/CONDITIONAL USE APPLICATION**

Please note that this application must be submitted with plans in conformance with Section 4.1 and 4.2 of the Hampden Zoning Ordinance. *Incomplete applications will not be processed. All fees must be paid for application to be processed. Proper number of copies of application must be submitted in order to be processed.* All town ordinances are available at [www.hampdenmaine.gov](http://www.hampdenmaine.gov) for review.

Town of Hampden  
RECEIVED

NOV 03 2016

Planning & Zoning  
Office

Date: 11/3/2016

**APPLICANT:**

Name: Tyler McIntosh

Address: 23 victory Ln Carmel, ME 04419

Phone: \_\_\_\_\_ Cell: 479-3129 Email: Forester247@gmail.com

**AGENT:**

Name of agent or representative: Same

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Email: \_\_\_\_\_

**THE SITE:**

Location of site: pond Rd Hampden tax map and lot number: 111 lot 4

Zoning district: Rural Existing use of property: Forestry + Agriculture

Legal interest in the parcel: Owner

Owner of parcel if other than applicant: MFS Inc (Tyler McIntosh)

Owner's address: 23 victory Ln Carmel me 04419

**PROPOSED PROJECT:**

Proposed use of property: Forestry + Agriculture building  
(Please include floor area per use, seating if applicable, and land area).

Proposed starting date: 2017 Final completion date: 2018

**(APPLICATION CONTINUES ON REVERSE SIDE.)**

Town of Hampden  
RECEIVED

NOV 03 2016

Planning & Zoning  
Office

Will your project result in more than one acre of disturbed land area?  Yes  No.

If yes, you are required to obtain either a Construction General Permit or Stormwater Permit by Rule from the Maine Department of Environmental Protection. If you are in the Urbanized Area of Town and discharge stormwater to the Municipal Separate Storm Sewer System (MS4) a Post-construction Stormwater Management Application shall be submitted to the Town pursuant to the Town of Hampden Post-construction Stormwater Management Ordinance.

**FEES:** Application fee is: \$75.00 for structures under 3,000 sq. ft. and total site improvements under 5,000 sq. ft.; \$150.00 for structures between 3,000 and 20,000 sq. ft. and total site improvements under 50,000 sq. ft.; and \$500.00 for structures in excess of 20,000 sq. ft. and more than 50,000 sq. ft. of site improvements.

Application fee amount: 150.00

**Draw account contribution:** The Town of Hampden requires applicants to provide \$600.00 for the Town to hire an engineer to review their plans and, if necessary, \$1,000.00 for an engineer to review their traffic analysis. Draw account contribution is: 0 (Any unspent portion of the draw account will be returned to applicant, however, if additional funds are required, applicant agrees to cover all costs that the Town of Hampden may incur. **Complete and accurate submissions require less time to review.**)

**CERTIFICATION:** By signing this form I certify that the information provided on these plans, text, and associated testimony is true and correct. I certify that all site improvements will be constructed in strict conformance with Planning Board approved plans. Furthermore, I acknowledge that if the constructed site improvements are not built in accordance with the zoning ordinance and Planning Board approved plans that I am obliged to take corrective action that may include obtaining a revised Planning Board approval or the removal of non-conforming uses and structures and site improvements. (Agents that lack authority to certify said items should not sign this form.)

Signature: [Handwritten Signature] Date: 11/3/2016

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**OFFICE USE ONLY**

Date received: 11/3/16 Date complete: \_\_\_\_\_

Fees paid: Amount/Date: 150 Draw paid: Amount/Date: \_\_\_\_\_

Conditional Use determination: \_\_\_\_\_

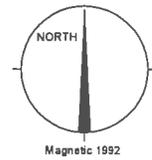
Planning Board action: \_\_\_\_\_ Date: \_\_\_\_\_

Conditions: \_\_\_\_\_

**NOTES.**

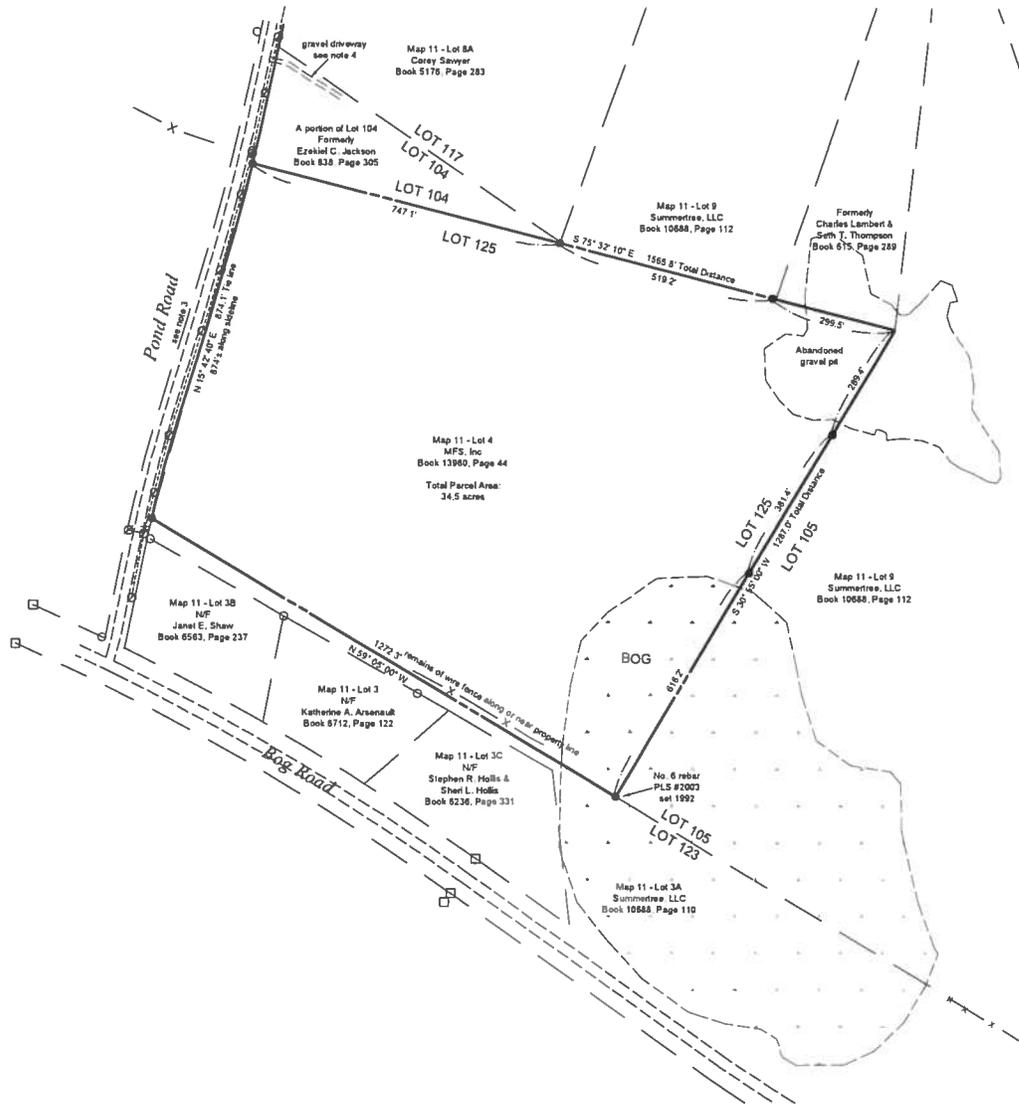
- (1) Documents referenced on this plan are recorded in penobscot county registry of deeds unless otherwise noted.
- (2) Lot numbers shown by this plan are as depicted on a plan of the Town of Hampden dated 1942, prepared by Rufus Gilmore recorded in Penobscot County Registry of Deeds in Plan Book 2, Page 2.
- (3) No record establishing the width or location of Pond Road has been identified. Road limits shown by this plan have been located  $1 \frac{1}{2}$  rod (24.75 feet), on each side of the center line of the existing travelled way in accordance with the so-called "Beaten Path" rule.
- (4) The portion of Lot 4 on the east side of the Pond Road has apparently long been considered to be part of the surveyed premises. No record of a conveyance of that portion of Lot 104 into the chain of title of the surveyed premises has been identified. Access to the surveyed premises is over the gravel driveway adjacent to the northerly line of Lot 104 and is shared with the northerly adjacent property.
- (5) Map/Lot designations shown hereon refer to the Town of Hampden Assessor's Maps.

SCALE: 1" = 200'



**SYMBOLS LEGEND**

- No. 6 REBAR WITH CAP STAMPED "PLISGA & DAY - PLS 2169" SET
- IRON PIPE FOUND
- IRON ROVBOLT FOUND
- GRANITE/CONCRETE MONUMENT
- ▣ WOOD POST
- ⊗ UTILITY POLE
- + GUYANCHOR
- OVERHEAD WIRES
- EDGE OF PAVEMENT / GRAVEL
- PROPERTY LINE
- - - - - WIRE FENCE



**PLISGA & DAY  
LAND SURVEYORS**

72 MAIN STREET  
BANGOR, MAINE  
DATE Oct. 28 2015  
PROJ NO 15217  
Email: info@WeMapIt.com  
Phone (207) 947-0019  
Toll-Free 1-800-734-0019

DRAWING FILE:  
[www.WeMapIt.com](http://www.WeMapIt.com)



**SURVEY STANDARD**

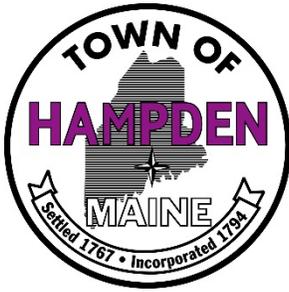
THIS PLAN WAS PREPARED FROM INFORMATION OBTAINED BY A SURVEY CONFORMING SUBSTANTIALLY TO THE REQUIREMENTS OF TECHNICAL STANDARDS CONTAINED IN CHAPTER 90, PART 2, OF THE RULES OF THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, EFFECTIVE APRIL 1, 2001.

BRIAN P. TAYLOR, MAINE LICENSED PROFESSIONAL LAND SURVEYOR NO. 2169

PLISGA & DAY, 72 MAIN STREET, BANGOR, ME 04401

**Property Boundary Survey Plan**

Land of  
**MFS, Inc**  
Pond Road - Hampden, Maine  
Penobscot County Registry of Deeds  
Book 13980, Page 44  
for  
**Tyler McIntosh**



Town of Hampden  
Land & Building Services

Planning Board Order  
Tyler McIntosh Site Plan

*Approval Date:* December 14, 2016

*Project Name:* McIntosh Forestry & Agricultural Buildings

*Location of Project:* 5 Pond Road

*Assessor's Reference:* 11-0-004

*Deed Reference:* B13980/P44

*Zoning District:* Rural

*Total Acreage:* 34.5 acres

*Type of Use:* Barn and shed for storage of materials and equipment

*Building Area:* Barn – maximum 6,000 square feet (footprint); shed – 480 square feet

*Applicant:* Tyler McIntosh  
32 Victory Lane  
Carmel, ME 04419

*Owner:* MFS Inc; Same as Applicant

*Plans Prepared by:* Applicant

*Plans Dated:* Not Dated

*Application Date:* November 3, 2016

*Public Hearing:* December 14, 2016

*PB Members:*<sup>1</sup> Peter Weatherbee, Michael Avery, Kelley Wiltbank, James Davitt,  
Andrew Scott, Eugene Weldon, and Joan Reilly

*PB Action:* Approved with conditions. This Site Plan is approved under Section 4.1  
of the Hampden Zoning Ordinance.

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<sup>1</sup> Planning Board Members who were appointed to vote on this case.

*Summary Description of Application:* This application is to build two buildings at the site, a barn up to 6,000 square foot footprint, and a shed with 480 square feet (24' x 20'). These buildings are set back from the public road and from the property lines and are to house materials and equipment for Mr. McIntosh's forestry, firewood, and Christmas tree operations. The Planning Board approved a site plan in September 2015 to allow the forestry and agricultural uses on the site.

*Findings:* After the public hearing duly noticed and held, the Hampden Planning Board made the following findings as required by Section 4.1.7 of the Hampden, ME Zoning Ordinance:

1. The proposed project meets the provisions of all applicable regulations and ordinances of the Town of Hampden and meets the intent of the comprehensive plan, given that it is the addition of buildings to support the approved uses and the proposed buildings meet all applicable regulations and ordinances. The plans submitted show the building area to be a minimum of 80 feet from the property line; compliance with the minimum setback of 30 feet will be verified at the time of building permit.
2. The proposed project is consistent with generally acceptable design practices and is properly integrated with the terrain and existing buildings in the vicinity, given that the buildings will be located in a former gravel pit with little disturbance of the natural terrain.
3. The proposed project provides for safe ingress and egress for vehicles, given that the existing driveway is appropriately located on Pond Road and will not interfere with other traffic on the road. The site will not create pedestrian traffic and will create minimal vehicular traffic.
4. The proposed project provides for safe on-site circulation for vehicles and pedestrians, given that there will be little traffic.
5. Any signage and exterior lighting for the proposed project will comply with the applicable regulations of the Zoning Ordinance and will not present a hazard due to location, glare, or other conditions that negatively impact abutting property or the travelling public.
6. The proposed buildings are properly integrated with the existing topography and natural features of the site, given the proposed location within a former gravel pit with little disturbance of the existing terrain.
7. The proposed project minimizes earthmoving, erosion, tree clearance, vegetation disturbance, and the destruction of natural amenities, given that the buildings will have little impact on the existing terrain.
8. The proposed project does not involve manufactured slopes and the existing slopes will remain vegetated.
9. The proposed project provides adequate stormwater management to prevent adverse impacts on neighboring properties, downstream water quality, or any public or private stormwater drainage system, and prevents soil erosion, given that the project adds very

little impervious surface and will have negligible impacts on the stormwater management system on the site, which is sheet flow and infiltration into the ground (gravel pit, assumed to be pervious material).

10. The proposed project will not have a negative impact on existing scenic or natural beauty, rare or irreplaceable historic sites, or other features of importance to the community, given that the area where the buildings are proposed is not visible to the public and is not, so far as has been identified, a historic site.
11. The proposed project will not create an undue burden on utilities (e.g. sanitary sewer, stormwater drainage system, water lines), nor on municipal services (e.g. public safety, schools, open spaces, recreational facilities or programs, roads, solid waste disposal), given that the project will not create any demand on utilities.
12. The proposed project is designed to ensure adequate setbacks and screening for all exposed storage areas, machinery installations, service areas, truck loading areas, utility buildings, and any accessory areas and structures to provide audio/visual buffers that will minimize adverse impacts on surrounding properties, given that there is at least 750 feet as the crow flies between the nearest residence and the building site.
13. The proposed project will not have any unreasonable adverse impact on surface water quality, ground water quality, ground water quantity, soil quality, or air quality, provided any equipment with hydraulic fluid or other potential pollutants is stored within the building on an impervious floor, with adequate provisions to clean up spills.

Based on these findings, the Hampden Planning Board voted \_\_\_\_\_ to approve the Site Plan for Tyler McIntosh to construct two buildings at his property at 5 Pond Road as previously described, subject to the following conditions:

1. That any outdoor lighting fixtures be installed to prevent glare or light trespass onto any abutting properties, as determined by the Code Enforcement Officer during the building permit review process.

*For the Hampden Planning Board:*

\_\_\_\_\_  
Peter Weatherbee, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael Avery

\_\_\_\_\_  
Kelley Wiltbank

\_\_\_\_\_  
James Davitt

\_\_\_\_\_  
Morton Syversen

\_\_\_\_\_  
Eugene Weldon

\_\_\_\_\_  
Joan Reilly

**Notes:**

1. *A copy of this decision is on file with the Land & Building Services Office at the Town Offices, 106 Western Avenue, Hampden, ME 04444.*
2. *This decision is subject to appeal in accordance with Article 6 of the Hampden Zoning Ordinance within 30 days after the date this decision is made by the Planning Board.*