

Review of Relevant Regulations:

The most relevant sections of the regulations that apply to the USE proposed are:

- 8.23 **MIXED USE (COMMERCIAL AND INDUSTRIAL USES):** where each proposed commercial and/or industrial use is currently permitted in the underlying zone and developments are treated as one single development for purposes of signage, parking, setbacks, lot size, and buffering.
- 8.24 **MOTOR VEHICLE, RECREATIONAL VEHICLE, BOAT AND/OR EQUIPMENT REPAIR FACILITIES:** which includes provisions of 8.10 as it is considered a commercial service. This section prevents pick-up and drop-off areas and storage areas from being in front of the principal building and requires that any such area be screened to provide an all-season buffer.
- 8.10 **COMMERCIAL SERVICES:** The Commission must approve the location for any areas to be used for outdoor storage of material, vehicles, and equipment, and the area must be clearly designated on the approved Site Plan. Additionally, there shall be no additional outdoor storage of any kind other than what has been approved. The Commission may require additional landscape buffering around approved outdoor storage areas if located adjacent to residential properties and/or zoning districts.

For all applications that require a Site Plan, All of Chapter 9 – Site Development Standards – applies.

- 9.1 **Intent:** *The Site Design Requirements are intended to protect public health, safety, welfare, property values, and natural resources; to encourage site design and development that is efficient, effective and in keeping with the general architecture, rhythm, aesthetics, and existing development pattern/layout in the immediate neighborhood.*
- 9.2 **Sustainable Development:** Encourages energy-efficient site development and requires that the performance Standards be adhered to:
- 9.2C **Performance Standards:** *Uses shall be designed to minimize any injury or nuisance to nearby premises by reason of noise, vibration, radiation, fire and explosive hazard, electromagnetic interference, humidity, heat, glare, and other physical impacts that may be caused by the use.*

Since this is a Special Permit Application, the Commission may impose conditions to safeguard the health and safety of residents etc. Section 9.2C also states that the Commission can place additional restrictions **on the use** if it determines, after a hearing, that the physical impacts of the use are causing a nuisance to nearby properties.

The performance standards basically state that the use should not cause issues pertaining to dust, noise, odors, glare, toxic fumes or gases and vibration that would endanger the public health, safety or general welfare, or to decrease the value or enjoyment of other property or to constitute an objectionable source of air pollution.

The protection of wetlands is referenced in 9.2 E

9.3 LANDSCAPE DESIGN STANDARDS AND REQUIREMENTS

Purpose: *In addition to the purposes set forth in §§9.1 and 9.2 of these Regulations, these landscaping design standards are intended to reduce excessive heat, glare, and accumulation of dust; provide privacy from noise and visual intrusion; prevent the excessive runoff of storm water and erosion of soil; and preserve or improve the quality of the environment and attractiveness of the Town of Ledyard.*

Basically, the goal is to provide landscaping adequate to protect the environment and abutting property owners (primarily) from noise and visual intrusion and all the issues addressed in the Purpose sections for Sections 9.1, 9.2 and 9.3. The Commission needs to determine whether the proposed landscaping will provide an “aesthetically pleasing, year-round screening” given the existing and proposed mix and intensity of uses, existing landscaped buffering, stonewalls and/or type of fencing, and the presence of natural features within the surrounding neighborhood.

The idea is to keep as much of the natural topography and vegetation in the buffer areas BUT, if natural site conditions are not adequate to meet the purposes of the buffer requirement, then landscaping shall be required to comply with criteria set forth herein.

It is important to note that the Landscape Buffer Requirements are separate and distinct from the minimum Setback requirements. The required side and rear yard Setbacks in the Industrial Zone are 25ft and the front yard setback is 35ft. The requirements in Section 9.3 say that if the parcel where the non-residential use is proposed is located within, or abutted by any Residential Zoning District or abutted by a parcel containing an existing use that would be allowable as of right in a Residential District, a landscaped buffer **no less than twenty-five (25) feet in width shall be provided along all such abutting portions of the perimeter.**

So, if the rear of a parcel in a commercial or industrial zone were abutted by an existing house or a parcel in a residential zone, for example, the building setback would be 35ft, but at least 25ft of that 35ft would have to be a landscaped buffer that conforms to the requirements of 9.3. In some cases, the Commission could require much more than 25ft of a landscape buffer if they think it is necessary to protect abutting properties.

In this case the minimum required 25ft landscape buffer would be required along the northern property line of the Cashman property. This has nothing to do with the building setback requirement – they just happen to be the same distance. In residential districts, there are no landscaping requirements because there is no likely conflict between uses if it is one house next to another. But where there are two conflicting uses – i.e. residential and non-residential-abutting each other, that required setback area must be fully landscaped in such a way as to provide adequate screening “*to minimize any potential negative impacts of noise, light, dust, vibrations, hours of operation, and substantially dissimilar aesthetics.*”



So, the minimum side yard setback and the minimum landscape buffer are both 25ft – and the applicant has absolutely complied with the building setback requirements, but as no formal or specific landscaping has been proposed in the 25ft strip along the northern property line, it is up to the Commission to decide whether the undisturbed existing 100ft of existing vegetation that the applicant is proposing to satisfy the perimeter buffer requirement is sufficient to meet the intent of the landscaping requirements. If members feel it is not, then additional formal landscaping can be added in this area to provide “*aesthetically pleasing, year-round screening*” as required or the Commission can require more than the 100ft proposed. It is more about meeting the intent than an exact linear distance.

Additional requirements in the Landscaping section of the regulations pertain to *Outdoor storage areas associated with motor vehicle repair facilities and similar repair facilities*. These areas must be “*fully screened from view from any road or access way, and/or any neighboring building/structure including parking areas. Screening shall include a mixture of landscaping (including evergreens) and hardscape meeting the intent of §9.3. Fencing alone shall not be used for screening*” per Section 9.3E.

9.7 OUTDOOR STORAGE: This section also applies. The regulation permits the applicant to store materials and equipment outside of a building only if such storage is a customary accessory use of the principal use and only under certain conditions. One of the conditions is that the location of all structures to be utilized for outdoor storage must be designated on an approved Site Plan as outdoor storage and be approved by the Commission. This is typically referring to open bins for landscaping materials – but could apply to other “open structures” These “structures” cannot be within the building or buffer setback areas.

If the Outdoor storage area for equipment (including vehicles) or materials is in the Industrial or CIP zone, it shall be located *to the rear of the principal building and shall be screened so as not to be visible from any street or abutting properties.*

Again, it is up to the Commission to determine whether the applicant has proposed adequate screening for the outdoor storage areas. The Commission should have a clear idea of the type of activity and type of vehicles, equipment and material to be stored before making that determination.

The commission can restrict repair work on the pervious area where the future building is going. They may also want some sort of safeguard or condition about work that involves changing fluids on vehicles and/or machinery outdoors given the possibility of these fluids making their way to the stormwater system or elsewhere. At the very least, a spill control/containment plan is needed to demonstrate compliance with Special Permit standards pertaining to potential pollution.

There are other requirements in Chapter 9 that apply with respect to Parking, access, lighting, etc. that were discussed in my initial application review. The Applicant has provided a lighting and landscaping plan. The regulations about building type and material are only guidelines. They are not mandatory.

Finally, the most important Section that applies to this application is 11.3.4 Special Permit Criteria: The Applicant has provided some response to my comments pertaining to these criteria,

but it is up to the Commission to determine whether what has been submitted into the record and clarified during the Public Hearing is sufficient for you to determine whether the relevant Special Permit criteria have been met. It is not enough for the Applicant to simply state that the criteria have been met.