

Dave Silberman <[dave.silberman@gmail.com](mailto:dave.silberman@gmail.com)>

To: xxxxxxxxxx

Sun, Sep 17 at 3:30 PM

Dear xxxxxxxxxxxx,

Below please find confirmation from the Cannabis Control Board's General Counsel that the 500 foot "buffer zone" within which cannabis retailers cannot be established only applies where the proposed retail location abuts the school property. In your case, 4 South Main Street is separated from the Hardwick Elementary School by at least 7 parcels on one side of the street, and 7 parcels on the other side of the street. It is also worth noting that 4 South Main St. does not abut either the OSWSU offices or the NEKLS facilities, although it seems that neither of those facilities would be considered a "school" for purposes of construing the buffer zone law in any event.

I trust that this guidance from the CCB's general counsel will satisfy the Hardwick Zoning Administrator's concerns regarding the appropriateness of 4 South Main St. as a licensed retail location under the law. If they have any further questions regarding the matter, either they or their town counsel should feel free to call me at the number below to discuss further.

With thanks,

Dave

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*Dave Silberman*

*Silberman PLC*

*Middlebury, Vt.*

*(o) 802-349-1999*

[www.silbermanplc.com](http://www.silbermanplc.com)

----- Forwarded message -----

From: **Gilman, Gabriel** <[Gabriel.Gilman@vermont.gov](mailto:Gabriel.Gilman@vermont.gov)>

Date: Thu, Sep 14, 2023 at 2:43 PM

Subject: Fw: School Buffer Zones - Request for Confirmation

To: Dave Silberman <[dave.silberman@gmail.com](mailto:dave.silberman@gmail.com)>

Dave,

Thanks for your question. Board guidance [here](#) explains the origin of the 500' buffer zone requirement.

The selling or dispensing of a regulated drug to a person on property abutting school property is a violation under this section only if it occurs within 500 feet of the school property. Property shall be considered abutting school property if:

- (1) it shares a boundary with school property; or
- (2) it is adjacent to school property and is separated only by a river, stream, or public highway.

18 V.S.A. § 4237(b).

Our guidance recommends "that buffer zones be measured by measuring the distance from the nearest entrance or exit of the retail establishment to the nearest point on the school property line." See p. 2.

Because the Town has superior information about parcel ownership and boundaries, I'll resist armchair surveying. (But you don't have to: If you haven't already, check out VCGI's amazing mapping applications, [here](#), especially the [parcel viewer](#).) Instead, I hope the following clarifications help folks to move forward.

We understand the 500' rule set out in § 4237 to apply only if a retail cannabis establishment (a) shares a boundary with school property, or (b) would share a border with school property but for the presence of a river, stream, or highway.

You have offered that your client's proposed location at 4 South Main Street does not share any border with the elementary school at 135 South Main Street, OSSU's administrative offices at 156 Daniels Road (you have 157, but I doubt it changes anything), or NEKLS's property at 64 Main Street and would not share any border with those three parcels but for the presence of a river, stream, or highway. If the Town agrees, it is unnecessary to resolve questions about how the OSSU offices and NEKLS buildings should be categorized.

I can see that the [Planning Commission's page](#) prominently features a "[Hardwick Elem 500' Cannabis Exclusion Map](#)." As we understand § 4237(b), not every property within the nominal "500' Exclusion Line" on the map is excluded from use by a retail establishment; rather, a property within the line is excluded if it *also* abuts school-owned property, or would but for an intervening river, stream, or highway.

Thanks,  
Gabe

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Gabriel M. Gilman  
General Counsel

*Vermont Cannabis Control Board*  
89 Main Street, Montpelier, VT 05620-7001  
(m) 802.261.1510  
<https://ccb.vermont.gov/>

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**From:** Dave Silberman <[dave.silberman@gmail.com](mailto:dave.silberman@gmail.com)>  
**Sent:** Wednesday, September 13, 2023 4:42 PM  
**To:** Gilman, Gabriel <[Gabriel.Gilman@vermont.gov](mailto:Gabriel.Gilman@vermont.gov)>  
**Subject:** School Buffer Zones - Request for Confirmation

Dear Gabe,

One of my clients intends to apply for a license to open a dispensary at 4 South Main Street, Suite 2, Hardwick. In preparation for that application, my client spoke with the town's Zoning Administrator to confirm that the space is eligible for a zoning permit for retail sales.

The ZA informed my client that she will not issue a zoning permit for the space because she believes the location is too close to a school, and said that she would not further process a permit application without "something in writing from the CCB" confirming that the location does not violate the buffer zone rule.

Accordingly, I write to ask for your confirmation that 4 South Main Street, Hardwick, is an allowable location for a licensed cannabis retailer.

The proposed location appears to be slightly more than 500 feet from the nearest boundary of Hardwick Elementary School, at 135 South Main St. -- 538 feet according to my measurement on Google Maps, shown in the screenshot below. However, even if the proposed retail location were less than 500 feet away from the school, there are several intervening properties between the school and the proposed retail location, on both sides of South Main Street, such that the school and the retail location do not abut.

Additionally, the Orleans Southwest Supervisory Union maintains an office at 157 Daniels Road, which is across the Lamoille River from South Main Street. It appears that the OSWSU offices are, in fact, less than 500 feet from the proposed retail location on a straight line (see screenshot below); however, there are at least two intervening properties between them -- 65 Daniels Road and 22 South Main Street -- such that the offices and

the proposed retail location do not abut. Additionally, as 157 Perkins Road is used as administrative offices, it ought not be considered a "school" for purposes of the buffer zone rule, as it is not "used by elementary or secondary school students for educational or recreational activities"

Finally, Northeast Kingdom Learning Services is located at 64 Main Street, which sits about 300 feet from the proposed retail location, on the other side of the Lamoille River (see screenshot below). As with the other sites of potential concern described above, 64 Main Street and 4 South Main Street do not abut -- there are intervening properties on both sides of the road. Additionally, 64 Main Street ought not be considered a "school" for purposes of the buffer zone rule, as NEKLS is neither a public school nor an independent school approved, recognized, or accredited by the Agency of Education.

In summary, none of the three properties described above abut the proposed retail location. While two of the properties are within 500 feet of the proposed retail location, neither should be deemed "schools" for purposes of the buffer zone rule, and the third property (which certainly is a school), is more than 500 feet away.

I would greatly appreciate your confirmation that 4 South Main St., Hardwick, is compliant with the buffer zone rule.

With thanks,  
Dave

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*Dave Silberman*  
*Silberman PLC*  
*Middlebury, Vt.*  
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