



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

# Memorandum

**To:** Commission Members  
**From:** William Galbraith, LUPC  
**Date:** July 23, 2015  
**Re:** Draft Decision on Denial in Part/Approval in Part of Building Permit BP 13845 by Variance

---

## Background

This matter involves some unusual and unfortunate circumstances regarding the reconstruction of a pre-Commission camp resulting in the staff bringing you a draft decision to deny in part the applicants' request for a permit by variance to reconstruct the camp.

The applicants, Carl and Karol Gartley, own a pre-Commission 23,000 square foot lot with approximately 100 feet of shore frontage on Moosehead Lake. The lot is approximately 188 feet deep, with a road traversing the rear of the lot. The lot is bounded on two sides by existing developed substandard lots. The lot was historically developed with a pre-Commission single family dwelling and storage shed. In September of 2008, Commission staff issued Building Permit BP 13845 to the applicants, approving a proposed expansion of the camp, and the construction of a proposed garage on a permanent foundation to be setback 100 feet from Moosehead Lake, 27 feet from the Ross Farm Road, and 15 feet from the property boundary line. The approved activities were completed, with the garage being built to slightly different dimensions than authorized and located 36' from the road instead of 27 feet as approved. Additionally, a replacement combined subsurface wastewater disposal system was installed to serve the dwelling.

On August 4, 2012, the expanded seasonal camp with attached porch was destroyed by fire, leaving the 23,000 square foot lot developed with the detached garage and existing combined sewage disposal system.

On July 21, 2014, the applicants state they attempted to contact the LUPC's Greenville office by phone, but did not reach anyone. On August 18, 2014, the applicants again contacted the LUPC Greenville office and spoke with LUPC staff to discuss reconstructing their camp. On September

10, 2014, Commission staff inspected the subject property at the request of the applicants, and on September 12, 2014, the applicants submitted an application to reconstruct the previously existing 24 foot by 24 foot pre-Commission dwelling and attached 6 foot by 24 foot porch and replace them with a 24 foot by 34 foot dwelling unit with 10 foot by 24 foot attached enclosed porch on a permanent foundation, to be located 54 feet from Moosehead Lake, 58 feet from the Ross Farm Road, and 30 feet from the nearest property boundary line. The applicants also proposed to construct a new 5 foot by 5 foot generator shed on a non-permanent foundation to be setback 100 feet from Moosehead Lake, 44 feet from Ross Farm Road, and 20 feet from the property boundary line. After discussion with Commission staff about the likelihood that the proposed reconstruction could not be permitted under the applicable dimensional standards and standards governing reconstruction of nonconforming structures because more than two years had elapsed since the destruction of the camp, the applicants requested the application be put on hold pending their submission of a request for permit approval by variance. On May 4, 2015, the applicants submitted an amended application seeking permit approval for their September 12, 2014 proposal by variance.

## **Proposal**

The applicants now seek permit approval by variance to the Commission's minimum lot size, shoreline frontage, and minimum waterbody setback requirements to construct a proposed 24 foot by 34 foot residential dwelling with attached 10 foot by 24 foot enclosed porch on a permanent foundation, to be located 54 feet from the shoreline of Moosehead Lake, 58 feet from the Ross Farm Road, and 30 feet from the nearest property boundary line. The applicants also seek permit approval to construct a proposed 5 foot by 5 foot generator shed on a non-permanent foundation to be setback 100 feet from Moosehead Lake, 44 feet from the Ross Farm Road, and 20 feet from the property boundary line.

In support of their request for a variance, the applicants state that the property has a right of way associated with the road that bisects the lot, which effectively makes 50 feet of the property undevelopable, and that building any closer to the road would be a safety hazard because of log and chipper trucks that tend to exceed the speed limit on the road. The existing sewage disposal system and garage further limit the flexibility of cabin placement. The applicants state that the two year application window to replace property lost to a fire considered a residence might be looked at differently than that which is and can only be occupied seasonally, implying that more time should be allowed to file a permit application for reconstruction of a camp like theirs without losing grandfathered status than for a primary residence. They indicate that being required to be closer to the road will make the property value lower than it was prior to the fire because of the awkward positioning of the cabin and traffic. The applicants state that they left a message with the Greenville LUPC office on July 21, 2014 to inquire about proper procedures needed to rebuild. They called again and made contact on August 18, 2014 and it was then that they learned of the 2 year grandfather clause.

## **Variance Standards**

State law establishes that:

The commission may grant a variance when the commission finds that the proposed development is in keeping with the general spirit and intent of this chapter, that the public interest is otherwise protected and that strict compliance with the rules and standards adopted by

this commission would cause unusual hardship or extraordinary difficulties because of the following:

- A. Exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site:
- B. The access needs of a person with physical disability . . . who resides in or regularly uses a structures; or
- C. Unusual circumstances that were not anticipated by the commission at the time the rules and standards were adopted.

12 M.R.S. § 685-A(10). These statutory requirements are incorporated into the Commission's rules. (See Ch. 10.10(B).) Also in rule, the Commission has elaborated on what an applicant for a variance must demonstrate in order to obtain a variance due to an unusual hardship or extraordinary difficulty. Except in instances where a variance is needed to provide access for a person with a physical disability, the Commission has established that to show the type of hardship or difficulty justifying the granting of a variance, the applicant must demonstrate by substantial evidence that:

- a. The land in question cannot yield a reasonable return unless a variance is granted;
- b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c. The granting of a variance will not alter the essential character of the locality; and
- d. The hardship is not the result of action taken by the petitioner or prior owner or lessee.

Ch. 10.10(B)(4). This four prong test is the same test created by the Legislature in 30-A M.R.S. § 4353(4) and applied by many municipalities when evaluating requests for variances.

## **Discussion**

Staff find the circumstances surrounding this matter unfortunate and sympathize with the applicants' situation. After reviewing the variance request and supporting materials, however, and applying the controlling statutory and regulatory standards, staff do not believe the applicants have demonstrated that they meet all the requirements for a variance. For the Commission to grant a variance by finding unusual hardship or extraordinary difficulties result from (a) exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site (Section 10.10,B,2), or (b) unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted (Section 10.10,B,3), the Commission must find all four elements of Section 10.10,B,4 are satisfied.

In this instance, the applicants have not demonstrated that the land in question cannot yield a reasonable return unless a variance is granted (Section 10.10,B,4,a). For example, it is possible for the applicants to obtain a permit from the Commission to convert the existing garage into a camp under the provisions of Sections 10.11,B,1 and 10.11,C,4 of the Commission's standards. There also is an opportunity to expand the garage or potential seasonal camp by extending its length to

within 15 feet of the adjacent property line and no closer to the road than the existing structure (36 feet). To comply with the 100 foot setback from the lake and 15 foot setback from the property line, and expand no closer to the road, the applicants could construct an approximately 47 foot by 14 foot camp. They also likely could construct a side deck between the camp and existing leach field. The ability to obtain a permit for a single family dwelling on the property, although not the desired size, represents a reasonable return on the property.

In addition, the size and dimensions of the lot are not unique to the neighborhood, in that the surrounding lots are also substandard. As a result, the applicants have not demonstrated that the variance is needed due to the unique circumstances of their property, as opposed to the general conditions of the neighborhood (Section 10.10,B,4,b).

The Commission also received three letters from neighboring property owners generally in opposition of granting the variance to the applicants. Those letters stated a negative effect on the essential character of the locality and that the applicants should have known that the location of the garage would interfere with placing the proposed camp at or near 100 feet from the lake. Another comment was that the rules are in effect to protect the lake and surrounding environment and that the Commission should not grant special conditions to the applicants that are different from what other landowners are required to comply with.

The proposed 5 foot by 5 foot generator shed on a non-permanent foundation to be setback 100 feet from Moosehead Lake, 44 feet from the Ross Farm Road, and 20 feet from the property boundary line meets the requirements of Sections 10,11,C,5 and 10.11,B,6 of the Commission's Land Use Districts and Standards, and does not require a variance to the Commission's rules. The proposed shed is a new detached accessory structure associated with a legally existing structure (the authorized garage), which cannot be sited on the lot in full compliance with all setback requirements, but meets the setback requirements to the maximum extent possible, with a waived road setback pursuant to Section 10.11,B,6.

Therefore, staff has drafted for your consideration a Denial in Part and Approval in Part for Amendment A to Building Permit BP 13845 by Variance, denying the applicants' request for permit approval to reconstruct the proposed camp by variance, and approving the applicants' request for permit approval to construct a 5 foot by 5 foot generator shed accessory to the existing garage.

Attachments: Draft Denial in Part/Approval in Part of Building Permit BP 13845 by Variance  
Location Map  
Site Plan  
Copy of Application for BP 13845 by Variance  
Letters from public regarding variance application



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

## PERMIT

### COMMISSION DECISION IN THE MATTER OF

Carl G. and Karol M. Gartley

Findings of Fact and Decision

#### **DENIAL IN PART OF AMENDMENT A TO BUILDING PERMIT BP 13845 BY VARIANCE AND APPROVAL IN PART OF AMENDMENT A TO BUILDING PERMIT BP 13845**

The Maine Land Use Planning Commission, at a meeting of the Commission held August 12, 2015 in Brewer, Maine, after reviewing the application and supporting documents submitted by Carl G. and Karol M. Gartley for Amendment A to Building Permit BP 13845 by Variance, public comments, agency reviews, staff comments and other related materials on file, pursuant to 12 M.R.S.A. §§ 681 et seq. and the Commission's standards and rules, finds the following facts:

- Applicants:** Carl G. and Karol M. Gartley  
2228 Beach Drive Unit 1008  
Gulfport, Mississippi 39507
- Date of Completed Application:** May 4, 2015
- Location of Proposal:** Northeast Carry Township, Piscataquis County  
Lot 4 on Plan 03 of Maine Revenue Service's Property Tax Maps for  
Northeast Carry Township
- Zoning:** (D-RS) Residential Development Subdistrict
- Lot Size:** 23,000 square feet (owned)
- Sewage Disposal:** Existing Combined Subsurface Sewage Disposal System
- Affected Waterbody:** Moosehead Lake

The Commission has identified Moosehead Lake as a management class 7, resource class 1A, developed lake with the following resource ratings: outstanding fisheries resources, outstanding wildlife resources, outstanding scenic resources, outstanding shore character, outstanding physical resources.

## Background

8. The applicants own a pre-Commission 23,000 square foot lot with approximately 100 feet of shore frontage on Moosehead Lake. The lot is approximately 188 feet deep, with a road traversing the rear of the lot. The lot is bounded on two sides by existing developed substandard lots. The lot was historically developed with a pre-Commission single family dwelling and storage shed. The 24 foot by 24 foot single family dwelling unit with attached 6 foot by 24 foot porch was constructed on a post foundation and served by a primitive wastewater disposal system. The lot was also developed with a pre-Commission 8 foot by 12 foot shed on posts. The dwelling unit was setback 50 feet from Moosehead Lake, 65 feet from the Ross Farm Road, and 42 feet from the property boundary line. The attached porch was setback 50 feet from Moosehead Lake, 67 feet from the Ross Farm Road, and 31 feet from the property boundary line. The shed was setback more than 100 feet from Moosehead Lake, 27 feet from the Ross Farm Road, and 15 feet from the property boundary line.
9. In September of 2008, Commission staff issued Building Permit BP 13845 to the applicants, approving a proposed 12 foot by 20 foot expansion on posts to the residential dwelling to be setback 54 feet from Moosehead Lake, 67 feet from the Ross Farm Road, and 25 feet from the nearest property boundary line. The applicants also proposed to reconstruct, expand, and enclose the existing porch on posts to the new dimensions of 12 feet by 20 feet, to be setback 54 feet from Moosehead Lake, 60 feet from the Ross Farm Road, and 25 feet from the property boundary line. Building Permit BP 13845 also authorized the applicants to remove the pre-Commission shed and construct a new 12 foot by 20 foot detached garage on a permanent foundation to be setback 100 feet from Moosehead Lake, 27 feet from the Ross Farm Road, and 15 feet from the property boundary line. The approved activities were completed, and a replacement combined subsurface wastewater disposal system was installed to serve the dwelling.
10. On August 4, 2012, the expanded seasonal camp with attached porch was destroyed by fire, leaving the 23,000 square foot lot developed with the detached garage and existing combined sewage disposal system.
11. On July 21, 2014, the applicants state they attempted to contact the LUPC's Greenville office by phone, but did not reach anyone.
12. On August 18, 2014, the applicants spoke with LUPC staff in Greenville to discuss reconstructing their camp.
13. On September 10, 2014, Commission staff inspected the subject property at the request of the applicants and observed that the previously approved dwelling no longer existed at the property. The approved detached garage had been constructed to the dimensions of 14 feet by 26 feet instead of 12 feet by 20 feet as approved in Building Permit BP 13845. The garage was setback 100 feet from Moosehead Lake, 36 feet from the Ross Farm Road, and 36 feet from the nearest property line.
14. On September 12, 2014, the applicants submitted an application to reconstruct the previously existing 24 foot by 24 foot pre-Commission dwelling and attached 6 foot by 24 foot porch and replace them with a 24 foot by 34 foot dwelling unit with 10 foot by 24 foot attached enclosed porch on a permanent foundation, to be located 54 feet from Moosehead Lake, 58 feet from the Ross Farm Road, and 30 feet from the nearest property boundary line. The applicants also proposed to construct a new 5 foot by 5 foot generator shed on a non-permanent foundation to be setback 100 feet from Moosehead Lake, 44 feet from Ross Farm Road, and 20 feet from the property boundary line. After discussing with Commission staff the likelihood the proposed reconstruction could not be permitted under the applicable dimensional standards and standards governing reconstruction of nonconforming structures, the applicants requested the application be put on hold pending their submission of a request for permit approval by variance.

15. On May 4, 2015, the applicants submitted an amended application seeking permit approval for their September 12, 2014 proposal by variance.

### **Proposal**

16. The applicants now seek permit approval by variance to the Commission's minimum lot size, shoreline frontage and minimum waterbody setback requirements to construct a proposed 24 foot by 34 foot residential dwelling with attached 10 foot by 24 foot enclosed porch on a permanent foundation, to be located 54 feet from the shoreline of Moosehead Lake, 58 feet from the Ross Farm Road, and 30 feet from the nearest property boundary line. The applicants also seek permit approval to construct a proposed 5 foot by 5 foot generator shed on a non-permanent foundation to be setback 100 feet from Moosehead Lake, 44 feet from the Ross Farm Road, and 20 feet from the property boundary line.
17. In support of their request for a variance to the Commission's minimum lot size, shoreline frontage and waterbody setback requirements, the applicants submitted the following:
  - A. *With regard to the requirement that the unusual hardship or extraordinary difficulties be caused by the exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site;* the applicants state that the property has a right of way that provides road access to all of the other cabins on the northeast side of the lake with the exception of the first 3 lots. This makes 50 feet of the property undevelopable. They state building any closer to the road is hazardous since the road is used by log and chipper trucks contracted or owned by the owners of all land surrounding the property and the trucks have a tendency, along with other traffic, to exceed the 10 mile per hour speed limit. The property currently has a septic system and leach field using Elgin filters and a garage which limits the flexibility of cabin placement. The land that would be utilized is currently bare and not a single tree or shrub would need to be removed. Any other location would result in large White Birch trees and shrubs to be removed.
  - B. *With regard to the requirement that the unusual hardship or extraordinary difficulties be caused by unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted;* the applicants state that the two year time frame for obtaining a permit to replace property lost to a fire considered a residence might be looked at differently than that which is and can only be occupied seasonally. In making this statement, the applicants imply that more time should be allowed to file a permit application for reconstruction of a camp like theirs without losing grandfathered status than for a primary residence.
  - C. *With regard to the requirement that the applicant must demonstrate that the land in question cannot yield a reasonable return unless a variance is granted;* the applicants state that being closer to the road will make the property value lower than it was prior to the fire because of the awkward positioning of the cabin and traffic.
  - D. *With regard to the requirement that the applicant demonstrate that the need for a variance is due to the unique circumstances of the property and not due to the general conditions in the neighborhood;* the applicants did not expressly address this requirement.
  - E. *With regard to the requirement that the applicant demonstrate that the granting of a variance will not alter the essential character of the locality;* the applicants did not expressly address this requirement.

- F. *With regard to the requirement that the applicant demonstrate that the hardship is not the result of action taken by the petitioner or a prior owner or lessee;* the applicants stated that they left a message with the Greenville LUPC (formerly LURC) office on July 21, 2014 to inquire about proper procedures needed to rebuild. They called again and made contact on August 18, 2014 and it was then that they learned of the 2 year grandfather clause.

### **Public Comments on Proposal**

18. Pursuant to Chapter 4, Section 4.04,(4),(b) of the Commission's rules, notice of the pending application was sent by regular mail to all persons owning or leasing land within 1000 feet of the proposed project. The Commission received three letters from neighboring property owners in opposition of granting the variance to the applicants. One of those letters stated that the proposed development would have a negative effect on the essential character of the locality and that the applicants should have known that the location of the garage would interfere with placing the proposed camp at or near 100 feet from the lake. One letter indicated that the garage should be moved to provide greater ability for the camp to be nearer 100 feet from the lake, and that the proposed location of the camp would reduce the valuation of that neighbor's property. Another letter commented that the rules are in effect to protect the lake and surrounding environment and that the Commission should not grant special conditions to the applicants that are different from what other landowners are required to comply with. The commenter also state he did not object to the applicants rebuilding a structure of the same size on the same footprint as the one destroyed by fire a few years ago, as long as other restrictions are met.

### **Review Criteria**

19. Title 12 M.R.S. § 685-B(7) provides that, with respect to applications to construct a damaged or destroyed non-conforming structure, the Commission shall require the new structure to comply with provisions of this Chapter to maximum extent possible.
20. Under provisions of Section 10.11,C,2, of the Commission's Land Use Districts and Standards a legally existing non-conforming structure may be reconstructed or replaced with a permit, provided that the permit application is completed and filed within two years of the date of damage, destruction, or removal and the structure was in regular active use within a two year period immediately preceding the damage, destruction, or removal.
21. Under the provisions of Section 10.21,J,3,c,(14) of the Commission's Land Use Districts and Standards, residential single family dwellings may be allowed within the (D-RS) Residential Development Subdistrict upon issuance of a permit from the Commission.
22. Under the provisions of Section 10.26,A,1 of the Commission's Land Use Districts and Standards, the minimum lot size for residential uses is 40,000 square feet per dwelling unit except where each dwelling unit is to use a common or community sewer and not on-site subsurface wastewater disposal, the minimum lot size shall be 20,000 square feet per dwelling unit.
23. Under the provisions of Section 10.26,B,2,a of the Commission's Land Use Districts and Standards, the minimum shoreline frontage for residential uses on a standing body of water 10 acres or greater in size is 200 feet per dwelling unit.
24. Under the provisions of Section 10.26,D,1,b of the Commission's Land Use Districts and Standards, the minimum waterbody setback for residential uses on a standing body of water 10 acres or greater in size is 100 feet from the shoreline.

25. Under the provisions of Section 10.26,D,1,c and f of the Commission's Land Use Districts and Standards, the minimum setback requirement for structures is 50 feet from the traveled portion of all roadways (except as provided for in Section 10.26,D,1,d and e or Section 10.26,D,5, which are not applicable here), and 15 feet from side and rear property lines.
26. Pursuant to 12 M.R.S. § 685-A(10) and Section 10.10,B of the Commission's Land Use Districts and Standards,<sup>1</sup> the Commission may grant a variance when the Commission finds that the proposed development is in keeping with the general spirit and intent of this chapter, that the public interest is otherwise protected and that strict compliance with the rules and standards adopted by this Commission would cause an unusual hardship or extraordinary difficulties because of the following:
  1. The access and use needs of a person with a physical disability as defined in 5 M.R.S.A. §4553 sub-§7-B who resides in or regularly uses a structure; or
  2. Exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site; or
  3. Unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted.
27. Section 10.10,B,4 of the Commission's Land Use Districts and Standards further requires that to be granted a variance under either Section 10.10.B,2 (12 M.R.S. § 685-A(10)(A)) or Section 10.10,B,3 (12 M.R.S. § 685-A(10)(C)) above, a petitioner must demonstrate, by substantial evidence, that:
  - a. The land in question cannot yield a reasonable return unless a variance is granted;
  - b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. The granting of a variance will not alter the essential character of the locality; and
  - d. The hardship is not the result of action taken by the petitioner or prior owner or lessee.

### **Analysis**

28. Pursuant to Section 10.11,C,2 of the Commission's Land Use Districts and Standards, an individual has a two-year window within which to complete and file a permit application for reconstruction of a legally existing, nonconforming structure without the need for seeking a variance. Beyond this two-year period an individual may seek to reconstruct a structure, but the structure must either be reconstructed in accordance with the dimensional standards in place at that time – including applicable water body and road setbacks, as well as minimum lot size and shoreline frontage requirements – or the individual must obtain a variance from the applicable dimensional standards. The applicants attempted to contact LUPC staff on July 21, 2014, approximately two weeks prior to the close of the two-year period on August 3, 2014. On August 18, 2014, the applicants again attempted to contact LUPC staff, and learned on this date that the two-year window for filing a reconstruction application had recently expired. The applicants coordinated a site visit with LUPC staff and filed an application for reconstruction and expansion of the previously existing camp on September 12, 2014, two days following the site visit and

---

<sup>1</sup> Section 10.10,B incorporates the text of 12 M.R.S. § 685-A(10) pertaining to variances and implements section 685-A(10) by articulating the showings an applicant must make to be granted a variance.

a little over a month after close of the two-year window for filing an application to reconstruct a previously existing nonconforming structure without the need for a variance. The applicants' lot does not satisfy the Commission's minimum lot size or minimum shoreline frontage requirements. Additionally, the proposed location of the reconstructed and expanded camp is less than 100 feet from the lake. Because the application was completed and filed outside of the two-year window, the applicants must obtain a variance from the applicable dimensional requirements that are not satisfied by their proposal.

29. Pursuant to 12 M.R.S. §685-A(10) and Section 10.10,B of the Commission's Land Use Districts and Standards, the Commission may grant a variance when the Commission finds that the proposed development is in keeping with the general spirit and intent of this chapter, that the public interest is otherwise protected, and that strict compliance with the rules and standards adopted by this Commission would cause an unusual hardship or extraordinary difficulties due to (1) the needs of a disabled individual; (2) the property's physical features; or (3) unanticipated, unusual circumstances. In this instance, the applicants have demonstrated that, given the size and configuration of the lot, the proposed dwelling cannot be constructed on the property in strict compliance with the Commission's standards for road and waterbody setbacks, and that the lot size and shoreline frontage cannot be expanded. However, the applicants have not adequately demonstrated that strict compliance with the rules and standards would cause an unusual hardship or extraordinary difficulties because of any of the three acceptable scenarios. The applicants' proposal does not involve accommodating a person with a disability, and to be granted a variance because of either of the other two factors (12 M.R.S. §685-A(10)(A) or (C), and Section 10.10,B,2 or 3) a petitioner must demonstrate by substantial evidence that all four of the elements in Section 10.10,B,4 are satisfied. The applicants have not satisfied this requirement:

A. The land in question cannot yield a reasonable return unless a variance is granted.

The applicants have not submitted any evidence that the land in question cannot yield a reasonable return unless a variance is granted. The applicants assert that locating the proposed dwelling elsewhere on the lot would make the property value lower than it was prior to the fire because of the awkward positioning of the cabin and traffic. However, this assertion does not constitute a demonstration that the property cannot yield a reasonable return. The property includes an existing cleared area, a garage and shoreline frontage on Moosehead Lake. As such, the property is amenable to temporary docking structures and primitive recreational uses, including fishing, picnicking, tent and shelter camping, etc., all of which may be conducted on the lot without a permit. In addition, it is possible for the applicants to obtain a permit from the Commission to convert the existing garage into a camp under the provisions of Sections 10.11,B,1 and 10.11,C,4 of the Commission's standards. There also is an opportunity to expand the garage or potential seasonal camp by extending its length to within 15 feet of the adjacent property line and no closer to the road than the existing structure (36 feet). To comply with the 100 foot setback from the lake and 15 foot setback from the property line, and expand no closer to the road, the applicants could construct an approximately 47 foot by 14 foot camp. The also likely could construct a side deck between the camp and existing leach field. The ability to obtain a permit for a single family dwelling on the property represents a reasonable return on the property.

B. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

The applicants have demonstrated that the proposed dwelling cannot be constructed in full compliance with the Commission's dimensional requirements, given the size and dimensions of the lot. The size and dimensions of the lot, however, are not unique to the neighborhood, in that the

surrounding lots are also substandard. As a result, the applicants have not demonstrated that the variance is needed due to the unique circumstances of their property, as opposed to the general conditions of the neighborhood.

C. The granting of a variance will not alter the essential character of the locality.

Although the applicants have not addressed the character of the locality in their submissions, nor have they discussed how the granting of a variance might affect that character of the area, the Commission is familiar with the area, which consists of a series of small, former lease lots, situated in a linear fashion along the shore of the lake. Many of the dwellings in this area are legally existing, nonconforming structures. The reconstruction proposed by the applicants generally is in keeping with the development in the area. Because the applicants have failed to satisfy other standards necessary for the granting of a variance, the Commission has not evaluated whether the proposed expansion would alter the essential character of the locality; reconstruction of a dwelling with the same dimensions as the camp that was destroyed by fire would not.

D. The hardship is not the result of action taken by the petitioner or a prior owner or lessee.

The applicants' hardship is that their proposed reconstructed and expanded camp cannot be built in compliance with the applicable dimensional requirements. This inability is not the result of actions taken by the applicants, who are the current owners of the property. Nor is the applicants' hardship the result of actions taken by prior owners. Although the small size of the lot influences the ways in which the applicants may use and develop the lot, the lot was effectively created by lease prior to establishment of the Commission. This pre-Commission establishment of a small lot does not constitute a prior owner created hardship that prevents the applicants from obtaining a variance.

### **Additional Findings**

29. The proposed 5 foot by 5 foot generator shed on a non-permanent foundation to be setback 100 feet from Moosehead Lake, 44 feet from the Ross Farm Road, and 20 feet from the property boundary line meets the requirements of Sections 10.11,C,5 and 10.11,B,6 of the Commission's Land Use Districts and Standards, and does not require a variance to the Commission's rules. The proposed shed is a new detached accessory structure associated with a legally existing structure (the authorized garage), which cannot be sited on the lot in full compliance with all setback requirements, but meets the setback requirements to the maximum extent possible, with a waived road setback pursuant to Section 10.11,B,6.
30. The facts are otherwise as represented in the application for Amendment A to Building Permit BP 13845 by Variance and supporting documents.

### **Based upon the Findings set forth above, the Commission concludes that:**

1. The applicants' lot does not meet the dimensional standards for residential development as required under Section 10.26,A,1 and Section 10.26,B,2,a of the Commission's Land Use Districts and Standards, in that the lot is less than the required 40,000 square feet in size and includes less than 200 feet of shoreline frontage.
2. The applicants' proposal to construct a single family dwelling with attached enclosed porch located 54 feet from Moosehead Lake and 58 feet from the Ross Farm Road does not comply with Section 10.26,D,1,b of the Commission's Land Use Districts and Standards in that the dwelling would not be set

back 100 feet from the lake. Although the applicants' lot was previously developed with a pre-Commission single family dwelling, that dwelling was destroyed by fire in August of 2012 and the applicant did not complete and submit an application to reconstruct the dwelling within two years of the date of destruction. Therefore, the proposal is also not eligible for approval under the provisions of Section 10.11,C,2 of the Commission's Land Use Districts and Standards and requires a variance in order to be approved.

3. The applicants' proposal does not comply with the requirements for issuance of a permit by variance, pursuant to 12 M.R.S. §685-A(10) and Section 10.10,B of the Commission's Land Use Districts and Standards because the applicants have not demonstrated that strict compliance with the rules and standards adopted by the Commission would cause unusual hardship or extraordinary difficulties. Specifically,
  - A. The applicants' proposal does not comply with the provisions of Section 10.10,B,1 of the Commission's Land Use Districts and Standards, in that the applicants have not submitted any evidence that strict compliance with the rules and standards adopted by the Commission would cause unusual hardship or extraordinary difficulties related to the access and use needs of a person with a physical disability.
  - B. For the Commission to grant a variance by finding unusual hardship or extraordinary difficulties result from (a) exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site (Section 10.10,B,2), or (b) unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted (Section 10.10,B,3), the Commission must find all four elements of Section 10.10,B,4 are satisfied. The applicants' have not demonstrated that the land in question cannot yield a reasonable return unless a variance is granted, or that the need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood (as is required by Sections 10.10,B,4,a and b of the Commission's Land Use Districts and Standards).
4. The proposed 5 foot by 5 foot generator shed, to be located 100 feet from the shoreline of Moosehead Lake, 44 feet from the Ross Farm Road, and 20 feet from the property boundary line, complies with Sections 10.11,C,5 and 10.11,B,6 of the Commission's Land Use Districts and Standards, and does not require a variance. The proposed shed is a new detached accessory structure associated with a legally existing structure (the authorized garage), which cannot be sited on the lot in full compliance with all setback requirements, but meets the setback requirements to the maximum extent possible, with a reduced road setback pursuant to Section 10.11,B,6.

**Therefore, the Commission DENIES the part of the application for Amendment A to Building Permit 13845 by Variance submitted by Carl and Karol Gartley for the proposed 24 foot by 34 foot single family dwelling with 10 foot by 24 foot porch, and APPROVES the part of the application for the proposed 5 foot by 5 foot accessory shed with the following conditions:**

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation is subject to

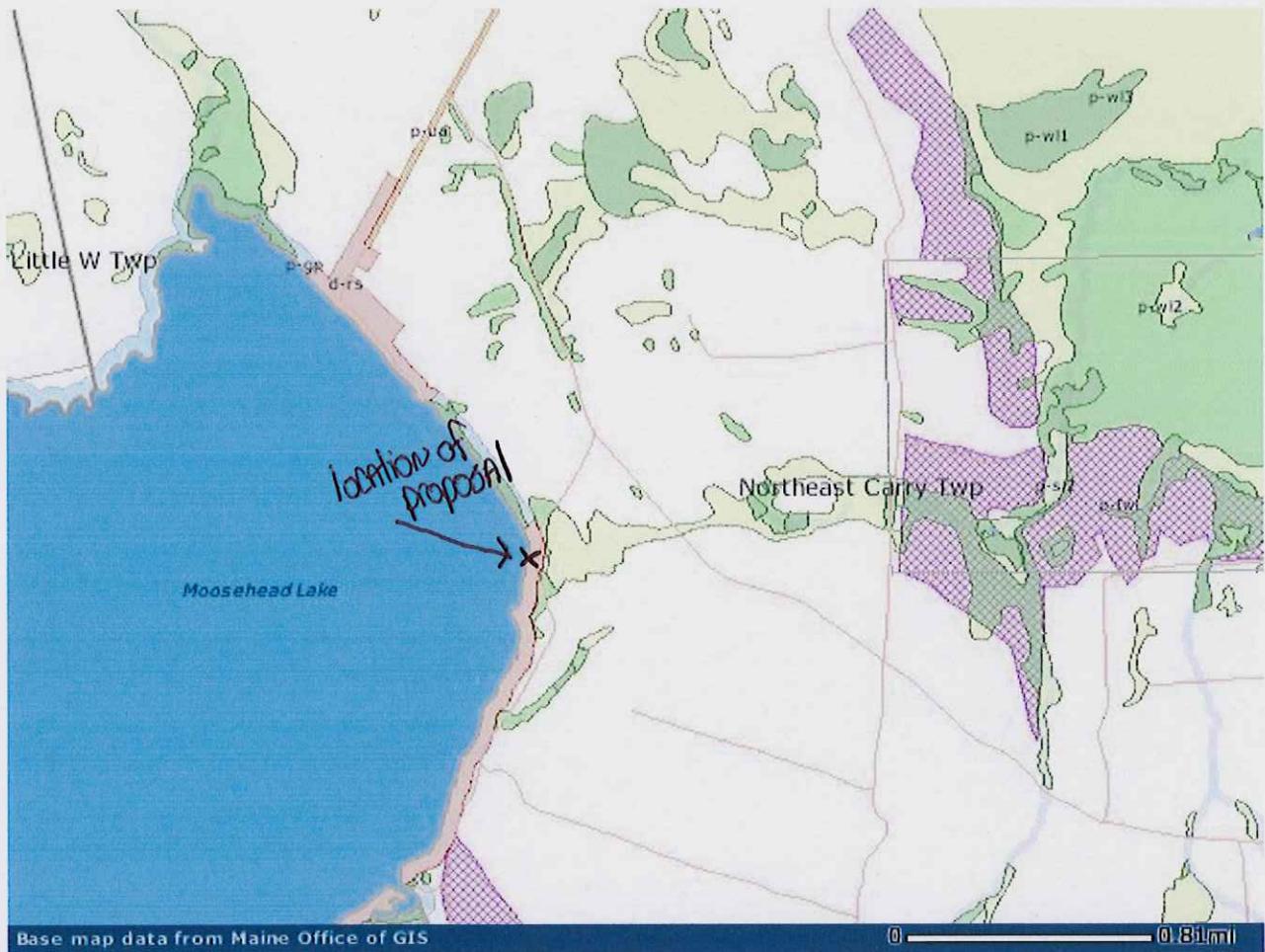
prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.

3. The shed authorized under this permit, as well as any filled and graded areas and cleared openings created as part of the construction activities authorized under this permit, must be located to meet the road, property line, water and wetland setback distances, exterior dimensions and building heights listed in the tables in Sections 4 and 5 of the application and approved by this permit.
4. Temporary and permanent sedimentation control measures must be implemented to effectively stabilize all areas of disturbed soil and to catch sediment from runoff water before it leaves the construction site so that sediment does not enter water bodies, drainage systems, water crossings, wetlands or adjacent properties. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning.
5. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and conditions of approval. The new owner or lessee should then contact the Land Use Planning Commission to have the permit transferred into his/her name. If there are no additional changes the transfer can be accomplished on a Minor Change Form.
6. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.
7. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
8. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

In accordance with 5 M.R.S.A. section 1102 and the Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.

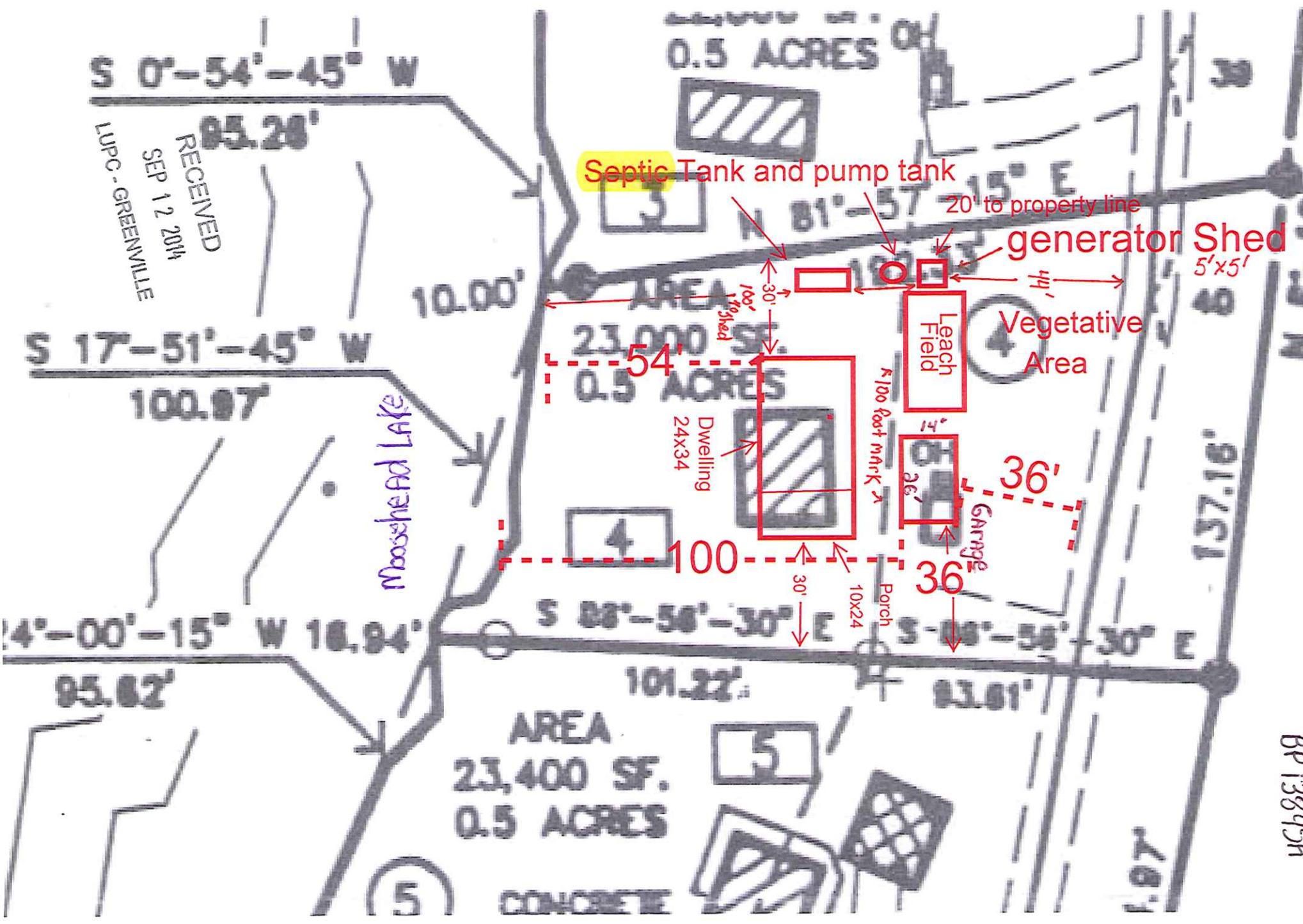
DONE AND DATED AT BREWER, MAINE, THIS 12<sup>TH</sup> DAY OF AUGUST, 2015

By: \_\_\_\_\_  
Nicholas D. Livesay, Executive Director



BP 13845





For office use:

Tracking No. **47797** BP Permit No. **13845A** Fee Received **\$ 266.20**

# Building Permit

## 1. APPLICANT INFORMATION

For All Residential Development

Applicant Name(s) <b>Carl G and Karol M Gartley</b>		Daytime Phone (207) 212-3330	FAX
Mailing Address <b>HC 85 Box 655, Rockwood, ME 04478 After Nov use</b>		Email <b>gartley@netzero.net</b>	
Town <b>2228 Beach Dr. Unit 1008 Gulfport</b>		State <b>MS</b>	Zip Code <b>39507</b>

## 2. PROJECT LOCATION AND PROPERTY DETAILS

Township, Town or Plantation <b>T3R15 WELS</b> <i>Northeast CARY</i>		County <b>Piscataquis</b>													
Tax Information (check tax bill) Map: <b>P1073</b> Plan: <b>03</b> Lot: <b>4</b>		Deed or Lease Information (check deed or lease) Book: <b>1352</b> Page: <b>66</b> Lease #:													
Lot size (in acres, or in square feet if less than 1 acre) <b>23,000 Sq Ft</b>		Lot Coverage (in square feet) <b>364</b>													
All Zoning on Property (check the LUPC map) <b>D-RS</b>		Zoning at Development Site <b>D-RS</b>													
Road Frontage. List the name(s) and frontage(s) (in feet) for any public or private roads, or other rights-of-way adjacent to your lot: Road #1: <del>Norcross Brook Rd.</del> <b>ROSS FARM Rd.</b> Frontage <b>135</b> ft.		Water Frontage. List the name(s) and frontage(s) (in feet) for any lakes, ponds, rivers, streams, or other waters on or adjacent to your lot: Waterbody #1: <b>Moosehead Lake</b> Frontage <b>100.97</b> ft.													
Road #2: _____ Frontage _____ ft.		Waterbody #2: _____ Frontage _____ ft.													
LUPC Approved Subdivision. List the LUPC approved subdivision number: ..... SP _____ and SP Lot #: _____															
If your property is not part of subdivision previously approved the Commission, please continue to Land Division History below. (check your deed or contact the LUPC office that serves your area)															
Land Division History. Using your deed as a starting point, trace the ownership history and configuration changes of your property back 20 years from today. List any division of those lots from which your property originated (use additional sheet of paper if needed).		<table border="1"> <tr> <td>(example: Amy Adams to Rob Roberts</td> <td>1/12/1997</td> <td>10 acres)</td> </tr> <tr> <td>Great North Woods LLC to Carl &amp; Karol Gartley</td> <td>3/28/2002</td> <td>.5 Acres</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>		(example: Amy Adams to Rob Roberts	1/12/1997	10 acres)	Great North Woods LLC to Carl & Karol Gartley	3/28/2002	.5 Acres						
(example: Amy Adams to Rob Roberts	1/12/1997	10 acres)													
Great North Woods LLC to Carl & Karol Gartley	3/28/2002	.5 Acres													

## 3. EXISTING STRUCTURES OR USES (Fill in a line for each existing structure)

Previously issued Building Permit number (if applicable) \_\_\_\_\_

Type of structure (dwelling, garage, deck, porch, shed, driveway, parking area, etc.)	Year built	Exterior dimensions (in feet) (LxWxH)	Type of foundation (full basement, slab, post, etc.)	Horizontal Distance (in feet) of structure from nearest:					
				Road	Property line	Lake or pond	River or stream	Wetland	Ocean/Tidal waters
Garage	2011/12	26 x 14 x 16	Post	36	36	100			

**RECEIVED**  
**SEP 12 2014**  
**LUPC - GREENVILLE**

**4. PROPOSED STRUCTURES OR USES (INCLUDING DRIVEWAYS AND PARKING AREAS)** (Use additional sheet if needed)

4.1 What is the proposed use of your property?  Residential only     Residential with Home Occupation\*     Personal Campsite\*\*

Type of structure (dwelling, garage, deck, porch, shed, driveway****, camper, RVs, parking lots, etc.)	Proposal (check all that apply)								Exterior dimensions (in feet) (LxWxH)	Horizontal Distance (in feet) of structure from nearest:					
	New structure***	Reconstruct***	Expand	Relocate	Remove	Enclose deck/porch	Permanent foundation***	Change dimensions or setbacks		Road	Property line	Lake or pond	River or stream	Wetland	Ocean/Tidal waters
Dwelling	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	34 x 24 x 20	58	30	54	-	-	-				
Generator shed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5 x 5 x 10	44	20	100	-	-	-
Porch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10 x 24 x 20	58	30	54	-	-	-				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							

\* 4.2 HOME OCCUPATIONS: If use of your property includes expanding or starting a home occupation, you must complete Supplement S-1: Questions for Home Occupations. Contact the LUPC office serving your area or download at [www.maine.gov/dacf/lupc/](http://www.maine.gov/dacf/lupc/). Please note additional fees apply to home occupations, see instructions for the appropriate fees.

- \*\* 4.3 CAMPSITES: If use of your property includes a campsite for your personal use (e.g., will not be rented):
- a. Will the tents, tent trailer(s), pickup camper(s), recreational vehicle(s), trailer(s) or similar devices be located on the lot for less than 120 days in a calendar year? .....  YES  NO
  - b. Will the camper(s), trailer(s), and/or recreational vehicle(s) be registered and road ready? .....  YES  NO
  - c. Will the campsite have access to an on-site pressurized water supply (and not a self-contained water tank with pump)? .....  YES  NO
  - d. Will the campsite have access to permanent structures other than an outhouse, fireplace, picnic table, or lean-tos? .....  YES  NO

\*\*\* 4.4 RECONSTRUCTIONS OR NEW ACCESSORY STRUCTURES: If you are constructing a new accessory structure, reconstructing an existing structure, or adding a permanent foundation:

a. If the structure or foundation will not meet the LUPC's minimum setback distances from property lines, roads, water bodies or wetlands, explain what physical limitations (lot size, slope, location of septic system, etc.) prevent the structure or foundation from meeting setbacks:  
Road passes through property, Septic system location, Wetland on east side of road,

b. For reconstructions, has the existing structure been damaged, destroyed or removed from your property? .....  YES  NO  
 If YES, was the structure in regular active use within a 2-year period preceding the damage, destruction or removal? .....  YES  NO  
 If YES, provide the date the structure was damaged, destroyed or removed: 4 Aug 2012

\*\*\*\* 4.5 DRIVEWAYS: If you are located on a public road:

a. Are you constructing a new driveway or entrance or changing a current driveway in a way that will increase traffic volume, or create a safety or drainage concern regarding a State or State-Aid Highway? .....  YES  NO  
 If YES, you must submit Exhibit H: Driveway/Entrance Permit. Note: If your property is located along a County or Town/Plantation Road, you should check with that office before submitting this application to see what is required.

**5. SUBSURFACE WASTEWATER DISPOSAL (SEPTIC SYSTEM)** (Note: Exhibit may be required. See instructions)

- 5.1 Mark the existing type of system serving the property:     None     Combined Subsurface System (Tank, leach field)  
 Primitive Subsurface Disposal (Privy, graywater - non-pressurized);     Common Sewer (Connected to a sewer district)  
 Holding Tank     Self-Contained Camper or RV     Other \_\_\_\_\_

5.2 Will any expanded, reconstructed, or new structures include new bedrooms or bathrooms; add plumbing, water fixtures, pressurized water, or the ability for human habitation; or otherwise generate additional wastewater? .....  YES  NO  
 If YES, you may need to submit Exhibit E: Subsurface Wastewater Disposal. (see instructions on page iv)

**RECEIVED**  
SEP 12 2014  
LUPC - GREENVILLE

**6. DEVELOPMENT IN FLOOD PRONE AREAS** (Note: Supplement may be required. See instructions.)

- 6.1 Is your proposed activity located within a mapped P-FP (Flood Prone Area Protection) Subdistrict, a mapped FEMA (Federal Emergency Management Agency) flood zone, or an unmapped area prone to flooding?
- P-FP Subdistrict .....  YES  NO  
 FEMA Flood Zone .....  YES  NO  
 Unmapped Area Prone to Flooding .....  YES  NO

If you answer YES to any of these questions, you must complete Supplement S-4: *Development in Flood Prone Areas*. Contact the LUPC office serving your area or download at [www.maine.gov/dacf/lupc/application\\_forms/index.shtml](http://www.maine.gov/dacf/lupc/application_forms/index.shtml).

**7. VEGETATIVE CLEARING** (Note: Exhibit may be required. See instructions.)

- 7.1 What is the total amount of proposed vegetative clearing not including the driveway and the footprint of proposed structures? .....  NA \_\_\_\_\_ sq. ft.  
 If you answer NA (not applicable) for 7.1 go to Section 8.
- 7.2 Will the total amount of existing and proposed vegetative clearing within 250 feet of any lakes or rivers be less than 10,000 square feet? .....  YES  NO  NA Total: \_\_\_\_\_ sq. ft.
- 7.3 Will the proposed clearing be located at least 50 feet from the right-of-way or similar boundary of all public roadways? .....  YES  NO  NA How Close? \_\_\_\_\_ feet
- 7.4 Will the proposed clearing be located at least 75 feet from the normal high water mark of any body of standing water less than 10 acres in size, any tidal water, or flowing water draining less than 50 square miles? .....  YES  NO  NA How Close? \_\_\_\_\_ feet
- 7.5 Will the proposed clearing be located at least 100 feet from the normal high water mark of the lake or river? .....  YES  NO  NA How Close? \_\_\_\_\_ feet
- 7.6 If you answer NO to any of these questions, please explain why your vegetative clearing proposal is necessary and how it will not create an undue adverse impact on the resources and uses in the area: \_\_\_\_\_

- 7.7 Buffering in Prospectively Zoned Areas. Is your property located in one of the following Prospectively Zoned Plantations or Townships? .....  YES  NO

Adamstown Twp. Dallas Plt. Lincoln Plt. Magalloway Plt.  
 Rangeley Plt. Richardsontown Twp. Sandy River Plt. Townships C, D, and E.

If YES, please complete the following table regarding the width of the vegetative buffers at the narrowest point between the existing and proposed structures and the nearest applicable road, property line, and subdistrict setbacks as applicable:

Standard Minimum Required:	Width of Vegetated Buffers			
	Road	Side Property Line	Rear Property Line	Subdistrict Boundary (If D-ES or D-CI)
25 feet in D-GN, D-GN2, D-GN3 50 feet in D-RS, D-RS2, D-RS3 75 feet in D-ES and D-CI		15 feet	15 feet	50 feet Buffer to other Subdistricts
This property:	36 feet	_____ feet	_____ feet	_____ feet

Note: You may be required to submit Exhibit F: Documentation for Exceptions to Buffering Requirements. (See instructions on page iv)

**8. SOIL DISTURBANCE, FILLING AND GRADING AND EROSION CONTROL** (Note: Exhibit may be required. See instructions.)

- 8.1 Will your project involve disturbing soil or filling and grading? .....  YES  NO  
 If YES, please answer the following questions. If NO, continue to Section 9.
- 8.2 What is the total area of proposed soil disturbance or filling and grading? ..... sq. ft.
- 8.3 Will the area of soil disturbance or filling and grading within 250 of a lake or river be less than 5,000 sq. ft.? .....  NA  YES  NO  
 a. If NO, what is the total square feet of soil disturbance or filling and grading within 250 feet? ..... sq. ft.
- 8.4 Will all soil disturbance or filling and grading be done when the ground is NOT frozen or saturated? .....  YES  NO  
 If NO, you will need to submit Exhibit G: Erosion and Sedimentation Control Plan
- 8.5 What will be the closest distance from the area to be disturbed to the nearest waterbody or wetland? ..... feet
- 8.6 Will any removed topsoil be stockpiled at least 100 feet from water and wetlands? .....  YES  NO
- 8.7 Will any fill used be free of hazardous or toxic materials, trash and rubbish? .....  YES  NO

RECEIVED  
 SEP 12 2014  
 LUPC - GREENVILLE

Question 8 continues onto the next page...

BP 13845A

**8. SOIL DISTURBANCE, FILLING AND GRADING AND EROSION CONTROL** (continued from previous page)

- 8.8 Will all disturbed or filled area (other than driveways or walkways) be properly seeded and mulched prior to September 15 OR be heavily mulched with hay that is tacked down and a minimum of 4 inches in depth to prevent sedimentation in the spring? .....  YES  NO
- 8.9 Will existing waterbodies, wetlands, and culverts in the area be protected by the use of hay bales, silt fence or other measures? .....  YES  NO
- 8.10 What is the average slope of land between the area to be disturbed and the nearest waterbody or wetland?   
 10% or Less (Requires minimum setback of 100')  20% (Requires minimum setback of 130')   
(Note: Between 10% and 20% average slope, an additional 3 foot setback is required for each additional 1% of slope (example: an average slope of 12% requires a minimum setback of 106 feet.))   
 30% (Requires minimum setback of 170')  40% (Requires minimum setback of 210')   
 50% (Requires minimum setback of 250')  60% (Requires minimum setback of 290')   
 70% (Requires minimum setback of 330')   
(Note: Between 21% and 70% average slope, an additional 4 foot setback is required for each additional 1% of slope (example: an average slope of 36% requires a minimum setback of 194 feet.))
- 8.11 If you answer NO to any of these questions, or your project will not meet the minimum setback for your slope in 8.10, please explain how your project will not create an undue adverse impact on the resources and uses in the area. Include information about erosion control devices and other plans to stabilize the site: \_\_\_\_\_

**9. LAND AND WETLAND ALTERATION** (Note: Exhibit or Supplement may be required. See instructions.)

- 9.1 Will your proposal alter a total of one acre or more of land area, whether upland or wetland? .....  YES  NO   
 If YES, you must also complete Exhibit G: Erosion and Sedimentation Control Plan and Supplement S-3: Requirements for Wetland Alterations.
- 9.2 Will your proposal alter any amount of land that is mapped P-WL Subdistrict, or any ground below the normal high water mark of any lake, pond, river, stream, or intertidal area? .....  YES  NO   
 If YES, you must also complete Supplement S-3: Requirements for Wetland Alterations.

**10. APPLICANT SIGNATURE (REQUIRED) AND AGENT AUTHORIZATION (OPTIONAL)**

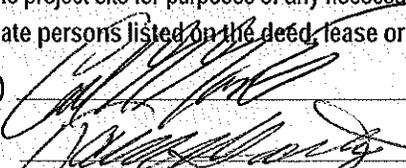
Agent Name	Daytime Phone	FAX	
Mailing Address		Email	
Town	State	Zip Code	

I have personally examined and am familiar with the information submitted in this application, including the accompanying exhibits and supplements, and to the best of my knowledge and belief, this application is complete with all necessary exhibits. I understand that if the application is incomplete or without any required exhibits that it will result in delays in processing my permit decision. The information in this application is a true and adequate narrative and depiction of what currently exists on and what is proposed at the property. I certify that I will give a copy of this permit and associated conditions to any contractors working on my project. I understand that I am ultimately responsible for complying with all applicable regulations and with all conditions and limitations of any permits issued to me by the LUPC. If there is an Agent listed above, I hereby authorize that individual or business to act as my legal agent in all matters relating to this permit application. I understand that while there is a required Statewide Maine Uniform Building and Energy Code (MUBEC) administered by the Maine Department of Public Safety, Bureau of Building Codes & Standards, the Commission's review is limited only to land use issues and the Commission does not make any findings related to the MUBEC, nor do the LUPC staff inspect buildings or enforce any provisions of that Code.

Please check one of the boxes below: (see "Accessing the Project Site for Site Evaluation and Inspection" just prior to the application form)

- I authorize staff of the Land Use Planning Commission to access the project site as necessary at any reasonable hour for the purpose of evaluating the site to verify the application materials I have submitted, and for the purpose of inspecting for compliance with statutory and regulatory requirements, and the terms and conditions of my permit.
- I request that staff of the Land Use Planning Commission make reasonable efforts to contact me in advance to obtain my permission to fully access the project site for purposes of any necessary site evaluation and compliance inspection.

All appropriate persons listed on the deed, lease or sales contract must sign below.

Signature(s)  **RECEIVED** Date 12 Sept 2014 **SEP 12 2014** **LUPC - GREENVILLE** Date 9-12-14

BP 13845

BK 1383 PG 146

002673

RECEIVED

JAN 17 2008

LURC-GREENVILLE

# QUITCLAIM DEED

**Great Northwoods, LLC**, a Delaware limited liability company with a place of business in Birmingham, Alabama, for consideration paid, grants to **Carl G. Gartley and Karol M. Gartley** of Gulf Breeze, Florida, as joint tenants, the land in Township 3, Range 15 WELS, Piscataquis County, Maine, more particularly described in Schedule A attached hereto. By acceptance of this deed, that certain lease from the Grantor hereto relating to the property described in Schedule A is hereby terminated.

In witness whereof, Great Northwoods, LLC has caused the foregoing instrument to be signed and sealed by Daniel P. Smith, its duly authorized agent as evidenced by the Certificate of Authority dated November 28, 2001 and recorded in the Piscataquis County Registry of Deeds at Book 1352, Page 66, this 28 day of March, 2002.

Witness:

Kenda J. [Signature]

Great Northwoods, LLC

By: [Signature]

Daniel P. Smith  
Its authorized agent

ME TA ESTATE TRANSFER TAX PAID

STATE OF MAINE

Penobscot County

March 28, 2002

Personally appeared the above named Daniel P. Smith, in his capacity as authorized agent for Great Northwoods, LLC, and acknowledged before me the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Great Northwoods, LLC.

Christine M Hodgman  
Notary Public

N.P. SEAL

Christine M Hodgman  
Print or type name as signed

copy

- Catherine [Signature]

BP 13845

BK 1383 PG 147

RECEIVED

JAN 17 2008

SCHEDULE A

Lot 4 more particularly bounded and described on the plans entitled Final Survey Plan of Lots on Norcross Brook Road, dated December 12, 2001, and recorded in the Piscataquis County Registry of Deeds in Cabinet M, Pages 190 through 199. The above described lot is conveyed subject to the following:

- a. Terms and conditions of the Advisory Ruling issued by the State of Maine Department of Conservation, Land Use Regulation Commission dated November 27, 2001, and recorded at Book 1359, Page 185 of the Piscataquis County Registry of Deeds.
- b. Any and all encumbrances and easements of record and any governmentally imposed or required zoning, subdivision, environmental, and other land use restrictions.
- c. Any condition which a physical examination or adequate survey of the lot might reveal.
- d. Rights-of-way over existing roadways, driveways and easements hereby reserved by the Grantor for access to remaining lands of the Grantor and/or for the benefit of other lots and lot owners within the development.
- e. Any notes, conditions, and restrictions set forth on the above plan of the development.
- f. Terms and conditions of the Bylaws and Covenants of the North Bay Road Association, the terms of which are incorporated herein. The Covenants are recorded at Book 1360, Page 221 of the Piscataquis County Registry of Deeds. By acceptance of this deed, Grantee hereby acknowledges and agrees to comply with the terms and conditions of the same.

PISCATAQUIS, SS. REC'D

2008 APR 25 AM 9:46

*Linda M. Smith*  
REGISTER OF DEEDS

# Request for Variance

We believe we should be granted a variance for the following reasons:

1. Ref 10.10 B 2, 3 and 4.

1. The property has a right of way that was given to the road that accesses all of the other cabins on the northeast side of the lake with exception of the first 3 lots. This makes 50' of our property undevelopable.
2. Building any closer to the road is hazardous since this road is used by log and chipper trucks contracted or owned by the owners of all the land surrounding the property. They have a tendency, along with other traffic, to exceed the 10mph posted speed.
3. The two year time-frame for obtaining a permit to replace property lost to a fire considered a residence might be looked at differently then that which is and can only be occupied seasonally.
4. The property currently has a septic system and leach field using Elgin filters and a garage which limits the flexibility of cabin placement.
5. The land that would be utilized is currently bare and not a single tree or shrub would need to be removed. Any other location results in large White Birch trees and shrubs having to be removed.
6. Being closer to the road will make the property value lower than it was prior to the fire because of awkward positioning of cabin and traffic.
7. We left a message with the LURC office on July 21 of 2014 to inquire about proper procedures needed to rebuild. We called again and made contact on 18 August when we learned of the two year grandfather clause.

RECEIVED  
MAY 04 2015  
LUPC - GREENVILLE

Alger Yanush  
311 Main Rd.  
Milford, Maine 04461

June 5, 2015

Maine Land Use Planning Commission  
43 Lakeview St.  
Greenville, Me 04441

Dear Sirs:

I would like to go on the record opposing Carl & Karol Gartley's request for a variance. The reasons being:

**1. The granting of a variance will alter the essential character of the locality;**

The neighbors have all adhered to the setbacks, and if the Gartleys are granted a variance the neighbors will have their view of the lake and shore obstructed by the location of the Gartley's camp.

**2. The need for a variance is the result of actions taken by the Gartleys.**

The Gartleys should have known that the location of the garage they built would interfere with the setback rules.

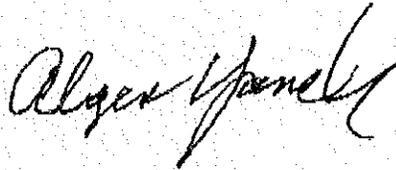
Checking the rules after the fact is not a reason for a variance. They had ample opportunity to request guidance from the Land

RECEIVED  
JUN 11 2015  
LUPC - GREENVILLE

Use Commission before construction began. The granting of a variance would be for convenience, not a demonstrated need.

There is no undue hardship in this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alger Yanush".

Alger Yanush

Att. Keith Smith

43 Lakeview Street

Greenville, Maine 04441

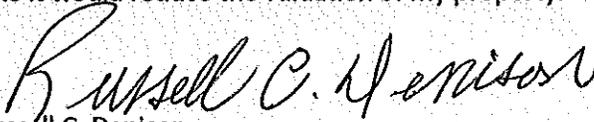
Carl & Karol Building Permit Application for Maine Revenue Services on Lot 4 on plan 03 of the MRS Property Tax Maps for Northeast Carry Township.

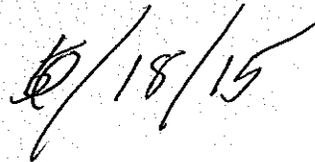
In 2014 their son built a one stall garage approximately 90 feet from the lake.

This request for the new residence is looking to be built within 54 feet of the lake. If the garage had not been built at the present location there would be a greater ability the single family dwelling would be nearer the 100 foot distance from the lake. The garage should be moved and allow the dwelling to be closer to the 100 ft. specification.

When I built my camp on Lot 5 I had a representative from your office that laid out the location of my camp and it was built as per his location.

I believe that with the location of the present garage and the location of the dwelling att 54 ft. from the lake it would reduce the valuation of my property.

  
Russell C. Denison



Lot 5 on plan 03 Ross Farm Rd.

Northeast Carry, Maine

5076 Jacksonville Stage Rd, Guilford, Vt. 05301-4446 802-368-7770

1148 S. Winterhawk DR. St. Augustine, Fl. 32086 904-794-4368

russelldenison@msn.com

RECEIVED  
JUN 24 2015  
LUPC - GREENVILLE

SUE & GEOGE ALLEN  
15 YOUNG STREET  
ROCHESTER, NH, 03867

June 22, 2015

Keith Smith  
Land Use Planning Commission  
43 Lake View Street  
Greenville, Maine, 04441

Mr. Smith:

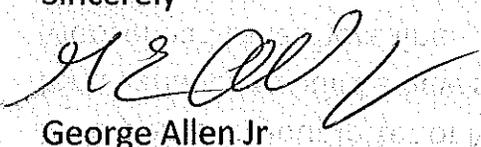
In response to your letter of May 19, 2015 regarding the request by the Gartley's for a variance to build a new structure within the 100 foot setback from the Moosehead Lake shore line.

I am **not** in favor of granting this variance.

The 100 foot setback along with other restrictions were put into effect to protect the lake and the surrounding environment. These restrictions prevent many camp owners from making changes to their properties that they would like. There are no special conditions that make the Gartley's case different from those that other land owners are required to meet.

I would not object to allowing a rebuild of a structure of the **same** size on the **same** foot print as the one that was destroyed by fire a few year ago, as long as **all** other restrictions are met.

Sincerely



George Allen Jr

RECEIVED  
JUL 02 2015  
LUPC - GREENVILLE