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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 J. Galbraith, LUPC Permitting & Compliance
Date: August 3, 2015
Re: Additional information submitted by Gartleys regarding their Application for Amendment A to BP 13845 by Variance

Attached to this memo is additional information provided by Mr. and Mrs. Gartley regarding their application to amend Building Permit BP 13845 by Variance. The Gartleys provided this information at the end of the day on Friday, July 24th after reviewing the packet of materials prepared by staff in conjunction with their application for the August meeting, including the draft decision document. The Gartleys requested that this additional information be provided to the Commission.

On Tuesday, July 28th, the attached materials were provided to the Commission through the ftp site with an accompanying email notification. The materials also were posted to the Commission's website. This memo is to clarify the purpose and timing of the Gartleys' submission for the administrative record.

The draft decision document previously provided to the Commission was based on the completed application submitted by the Gartleys as of May 4, 2015, and does not include an analysis of the additional information submitted by the Gartleys on July 27th. However, staff have examined the supplemental information submitted by the Gartleys on July 27th and do not think that it materially changes the analysis or conclusions of the draft decision document contained in the packet of materials prepared for the August 12 meeting.

Request for Variance

Per Chapter 10.10 Variances, We believe we should be granted a variance for the following reasons:

B.2. & B.4.b

The property has a right of way that was given to the road that is the only access for approximately 80 cabins beyond us on the northeast side of the lake. The 20' wide road cuts off an additional 30' of our lot making 50' (75' including set back) unavailable to us for building. In addition, the curvature of the shoreline as well as the road into our lot creates a unique shape and size, even further decreasing usable land for development.

In order to comply with the 100' set back from the shoreline, we would have to remove all vegetation and trees that block the dirt road traffic dust from reaching the lake. We live on a curve, and building that close to the road is hazardous. This road is used by log and chipper trucks contracted or owned by the owners of all the land surrounding the property. They, along with other traffic regularly exceed the 25mph posted speed.

B.3.

We contacted the LURC office on July 21st, 2014 to discuss submitting our permit request. For whatever reason, our message was not returned. We did continue to call until we finally reached Keith Smith on August 18, 2014. We were shocked to find out that we had missed a two year grandfather clause by just two weeks. After a year of grieving and dealing with the pain of having lost everything associated with 5 generations of Gartley's, we were finally able to overcome the burden just enough to purchase a temporary camper in which to live while rebuilding. 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. This was a cabin my Mom, Dad and I, and even with the help of my Grandmothers, built in the early 60's, commuting on weekends from Lisbon, ME. It has since been enjoyed by my son and grandson since they were infants. After the devastation of losing so much family heritage, it is difficult for us to accept that unreturned phone messages have brought us to the painful place we are now.

B.4.a.

To meet the 100' setback requirement, we would have a cabin 14' wide, the length of which would result in either an extremely small or abnormally shaped structure, right on the road, which could not yield a reasonable return. The property currently has a septic system and leach field using Elgin filters. The placement of which was specified as the only suitable location by George Bakalza, the site evaluator for the State of Maine Subsurface Water Disposal. The septic tank location would now be over 30' away from

the closest corner of the dwelling versus the 5' and same elevation as it was before. That combined with the \$13K (installation cost in 2008) and the environmental hazard associated with relocating a leach-field makes it impossible to relocate. Building 100' from the lake would certainly result in significant loss in value to the property.

B.4.c.

The granting of a variance is the best way to ensure no environmental damage is done as abiding by the setback would result in significant vegetation and large tree removal, which currently buffers the flow of road dust into the lake. Removal of which would also result in unnecessary runoff into the lake, whereas building on the original footprint would result in none of the above.

We are Lot #4. Lots 1, 2 & 3 are older cabins 25'-30' from the shoreline. There is no place on our lot in which we could build something and have it obstruct any of their views. Lot #5's 3 story building has a height and location whose view we could not possibly obstruct.

B.4.d.

After completing years of remodeling on our 50 year old cabin, it burned down. We were told the most likely reason for the fire, based on where it started, was a rodent shorting out the batteries. The fire and the fact that the road removes 50' of our lot was out of our control, therefore, the hardship is not a result of any action taken by us.

After several requests, we were still waiting on our insurance company to send an inspector to reevaluate our insurance needs post remodeling. Unfortunately, this had not happened at the time of the fire, resulting in our being under insured, adding to our hardship.

In closing, if we cannot build a reasonable cabin, all of our land and family heritage at Moosehead Lake, as well as the value associated with it will be lost. However, we are more than willing to be flexible, including a smaller cabin and/or building it closer to the garage.

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