



PAUL RICHARD LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
MAINE LAND USE PLANNING COMMISSION
133 FYFE ROAD
P.O. BOX 307
WEST FARMINGTON, MAINE
04992-0307

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

AMENDMENT A TO BUILDING PERMIT BP 15058

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Paul English for Amendment A to Building Permit BP 15058, finds the following facts:

1. Applicant: Paul English
2109 Broadway, Apt. 310
New York, NY 10023
2. Date of Completed Application: November 13, 2013
3. Location of Proposal: Dallas Plantation, Franklin County
Tax Map 4, Lot #3-A
4. Zoning: (D-RS3) Residential Recreation Development Subdistrict
(M-GN) General Management Subdistrict
(P-SL2) Shoreland Protection Subdistrict
(P-FP) Flood Prone Area Protection Subdistrict
(as identified by FEMA on FIRM dated 2/23/00)
5. Lot Size: 9.24 Acres (owned)
6. Principal Building: Proposed Single Family Dwelling (40 ft. by 42 ft.)
Proposed Porch (8 ft. by 28 ft.)
Proposed Deck (4 ft. by 10 ft.)
Proposed Foundation Drain (Approximately 70 ft. long)
with Stone Level Spreader at Outlet (4ft. by 4 ft.)
Original Single Family Dwelling to be Removed (27 ft. by 31 ft.)

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7. Accessory Structures: Proposed Garage (24 ft. by 24 ft.)
Proposed Gravel Parking Area (30 ft. by 50 ft.)
Proposed Gravel Paths (4 ft. by 85 ft. and 4 ft. by 115 ft.)
Existing Shed to be Removed (4 ft. by 10 ft.)
Existing Gravel Path to be Revegetated (6ft. to 10ft. by 77 ft.)
Existing Parking Area to be Revegetated (18 ft. by 80 ft.)
Existing Driveway to be Revegetated (12 ft. by 75 ft.)
8. Sewage Disposal: Proposed Combined Sewage Disposal System
9. Affected Waterbodies: Gull Pond & Unnamed Stream

Background

10. The applicant's lot along Gull Pond was originally developed with a single family dwelling constructed prior to 1971 and located approximately 4 feet from the normal high water mark of Gull Pond and 60 feet from the unnamed stream. There is also a driveway, parking area, and gravel path located on the lot. Slopes in the developed portion of the lot range from approximately 3 to 9 percent.
11. Building Permit BP 15058, issued to the applicant in September of 2013, authorized the replacement of the pre-Commission dwelling with a new dwelling to be relocated in conformance with the Commission's minimum required setbacks for residential structures under the provisions of Section 10.26 of the Commission's Land Use Districts and Standards. Building Permit BP 15058 also authorized the construction of a garage, parking area and driveway extension. The applicant is to revegetate an existing gravel path and parking area, and the end of the original driveway extending near the pond. The total area to be filled and/or graded within 250 feet of Gull Pond and the unnamed stream was to be approximately 4,220 square feet.

Proposal

12. The applicant now seeks approval to:
 - A. Install a foundation drain extending approximately 70 feet from the permitted reconstructed dwelling and terminating at a stone level spreader, approximately 40 feet from the normal high water mark of Gull Pond; and
 - B. Construct a 4 foot wide by 85 long gravel path from the previously permitted parking area, and a 4 foot wide by 115 foot long gravel path from the previously permitted dwelling to the shoreline of the pond. The paths would be constructed so as to shed surface water prior to reaching the pond. The purpose of the gravel paths is to provide wheelchair access for the applicant's partner who will be occupying the permitted dwelling.

13. The foundation drain, stone level spreader and gravel paths would be located within the (D-RS3) Residential Recreation Development Subdistrict and (P-FP) Flood Prone Area Protection Subdistrict.
14. An approximately 3 foot wide by 2 foot deep trench would be dug for the proposed foundation drain. Most of the proposed drain line would be located under the upper portion of the proposed gravel path to the lake in order to minimize the amount of ground disturbance within 100 feet of the pond and to avoid disturbing existing vegetation at the site. An approximately 4 foot by 4 foot stone level spreader would be constructed at the end of the foundation drain. The applicant states that the slope between the dwelling and the pond is relatively flat so that it is necessary to extend the drain to within 100 feet of the pond in order to reach grade at the end of the drain.
15. The applicant states that the proposed gravel paths within 100 feet of, and extending to, the shoreline of Gull Pond, are necessary to provide access to the shoreline for his partner who has a progressive neurologic condition, and is disabled. The applicant has submitted a letter from his partner's doctor attesting to his partner's disability and need for a wheelchair, and to the necessity for a hard surface on the paths for safe wheelchair access.
16. The proposed excavation and filling for the foundation drain, stone level spreader and gravel paths would create an approximately 800 square foot filled and graded area within 250 feet of Gull Pond and the unnamed stream. This area combined with the amount of filled and graded area permitted previously under Building Permit BP 15058 would result in a total of approximately 5,020 square feet of filled and graded area on the applicant's lot within 250 feet of the pond and stream.
17. The proposed paths, foundation drain and stone spreader would all be set back at least 75 feet from the stream and 15 feet from other property boundary lines. No additional clearing would be done for the proposed paths, foundation drain or stone level spreader.
18. The applicant's erosion and sedimentation control measures proposed under his original application for Building Permit BP 15058 specify that staked hay bales and/or silt fencing be installed downslope of all areas of disturbed soils and that all areas of disturbed soils be temporarily stabilized with mulch or erosion control mix during construction, and permanently stabilized by reseeding and mulching after construction.

Review Criteria

19. Section 10.27,F of the Commission's Land Use Districts and Standards establishes standards for filling and grading activities. Under this section, filling and grading activities not in conformance with the standards may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The filling and grading standards under Section 10.27,F include the following criteria:

- 1) Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity.
 - 2) Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistricts which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrict areas, the provisions of Section 10.27,F,4 and 6 shall apply.
 - 3) Clearing of areas to be filled or graded is subject to the clearing standards of Section 10.27,B.
 - 4) Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials.
 - 5) Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer than 100 feet from the normal high water mark of a flowing water or standing body of water where the average slope of land between the waterbody and the filled/graded area is 10 percent or less.
 - 6) All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation. Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of Chapter 10.
20. Under the provisions of 12 M.R.S.A. section 685-B,4(C) of the Commission's statutes, the Commission may not approve an application, unless the applicant has demonstrated by substantial evidence that adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely to be affected by the proposal.
21. Under the provisions of Section 10.21,L,3,c(7)of the Commission's Land Use Districts and Standards, filling and grading not in accordance with the Commission's standards is allowed within the (D-RS3) Residential Recreation Development Subdistrict upon issuance of a permit from the Commission.
22. Under the provisions of Section 10.23,C,3,c(7)of the Commission's Land Use Districts and Standards, filling and grading is allowed within the (P-FP) Flood Prone Area Protection Subdistrict only upon issuance of a permit from the Commission.
23. The facts are otherwise as represented in Building Permit Application BP 15058, Amendment Request A and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed foundation drain, stone level spreader and gravel paths would not meet all of the Commission's standards for filling and grading under Section 10.27,F of the Commission's Land Use Districts and Standards. Specifically, the proposed foundation drain, stone spreader and gravel paths would not comply with the minimum setback for filled and graded areas of 100 feet from the shoreline of Gull Pond under Section 10.27,F,5. The proposal would also cause the total filled and graded area on the applicant's lot to slightly exceed the maximum amount of 5,000 square feet within 250 feet of the pond and stream that is specified under Section 10.27,F,1.
2. The proposed foundation drain, stone level spreader and gravel paths meet the criteria for approval under the provisions of 12 M.R.S.A. section 685-B,4(C) of the Commission's statutes and Section 10.27,F of the Commission's rules in that the proposal would have no undue adverse effect on existing uses and resources in the surrounding area. Specifically, the proposed filling and grading would have minimal adverse effect on Gull Pond and the unnamed stream provided that erosion and sedimentation controls are implemented as proposed by the applicant; and the gravel paths are constructed to shed water so as to avoid direct surface water runoff over the paths to the pond and stream. Furthermore, any adverse effect would not be "undue" in that the encroachment of the filling and grading activities within 100 feet of the pond and stream is necessary to: a) allow the foundation drain to function properly; and b) to provide safe access to the shoreline for a disabled person who will be residing at the subject property.
3. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Paul English 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. The permitted foundation drain and stone level spreader must be set back a minimum of 40 feet from the normal high water mark of Gull Pond, 75 feet from the normal high water mark of the unnamed stream, and 15 feet from other property boundary lines. The permitted gravel paths must not extend beyond the normal high water mark of Gull Pond, and must be set back a minimum of 75 feet from the normal high water mark of the unnamed stream, and 15 feet from other property boundary lines.
3. All filling and grading activities on the lot must comply with the Commission's standards for Filling and Grading, Section 10.27, F, a copy of which is attached, except that:

- a. Filling and grading within 100 feet of Gull Pond and the unnamed stream is allowed for the permitted foundation drain, stone level spreader and gravel paths; and
 - b. Up to 5,020 square feet of filled and graded area within 250 feet of Gull Pond and the unnamed stream is allowed for the development permitted under Building Permit BP 15058 and this amendment.
4. The permitted construction activities shall not begin until staked hay bales and/or silt fences have been properly installed, as proposed by the permittee. Once in place, the staked hay bales and/or silt fencing shall be maintained to ensure proper functioning. All areas of disturbed soils shall be permanently stabilized by reseeding or mulching. If areas of disturbed soils cannot be reseeded by September 15 of the calendar year, they shall be temporarily stabilized for over-winter protection in accordance with Condition #4 above, and reseeded and mulched as soon as possible the following spring. The staked hay bales and/or silt fencing shall be removed after construction activity has ceased and a cover of healthy vegetation has been established. All areas of disturbed soils shall be effectively stabilized within one week of inactivity or completion of construction.
 5. The gravel paths must be constructed so that they will not erode and will divert runoff to a vegetated buffer strip so as to prevent runoff from directly entering Gull Pond or the unnamed stream.
 6. Once construction is complete, the permittee(s) 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.
 7. All conditions of Building Permit BP 15058 shall remain in effect.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT WEST FARMINGTON, MAINE, THIS 20th DAY OF NOVEMBER, 2013.

By: 

For Nicholas Livesay, Director

BP 15058-A

NOTES:

- * Property lines assumed from Franklin County Registry of Deeds Plan 850.
- * Erosion control devices shall be used where needed to insure no contamination of surface waters and lake; loam, seed and mulch immediately following final grading to prevent erosion. All exposed soils shall be stabilized with mulch or erosion control mix during construction, and silt fence and/or staked hay bales shall be installed directly downslope adjacent to soil disturbance.
- * Gravel path shall be constructed to shed surface water prior to abutting shore. Erosion control BMP's shall be employed.

Existing:

- 450' x 12' gravel driveway
- 80' x 18' gravel parking
- 31' x 27' x 25'H dwelling
- 6-10' x 77' gravel path
- 10'5" x 4' x 8'H shed

Proposed:

- Remove 31' x 27' x 25'H dwelling
- Remove 10'5" x 4' x 8'H shed
- Revegetate existing parking, 75' x 12' driveway and gravel path to lake
- 42' x 40' x 30'H dwelling
- 28' x 8' porch
- 9'9" x 3'9" deck
- 24' x 24' x 30'H garage
- 50' x 30' gravel parking
- 12' x 35' gravel driveway
- 115' x 4' path (no fill within 100' of lake)
- 85' x 4' path (no fill within 100' of lake)
- Drilled well
- Complete septic system
- Total new construction: 4216 SF

10-20-13 revision: foundation drain

Notes in blue = S. Brusila, LUPC

Paul English, 99 Switzer Road
Dallas Plantation

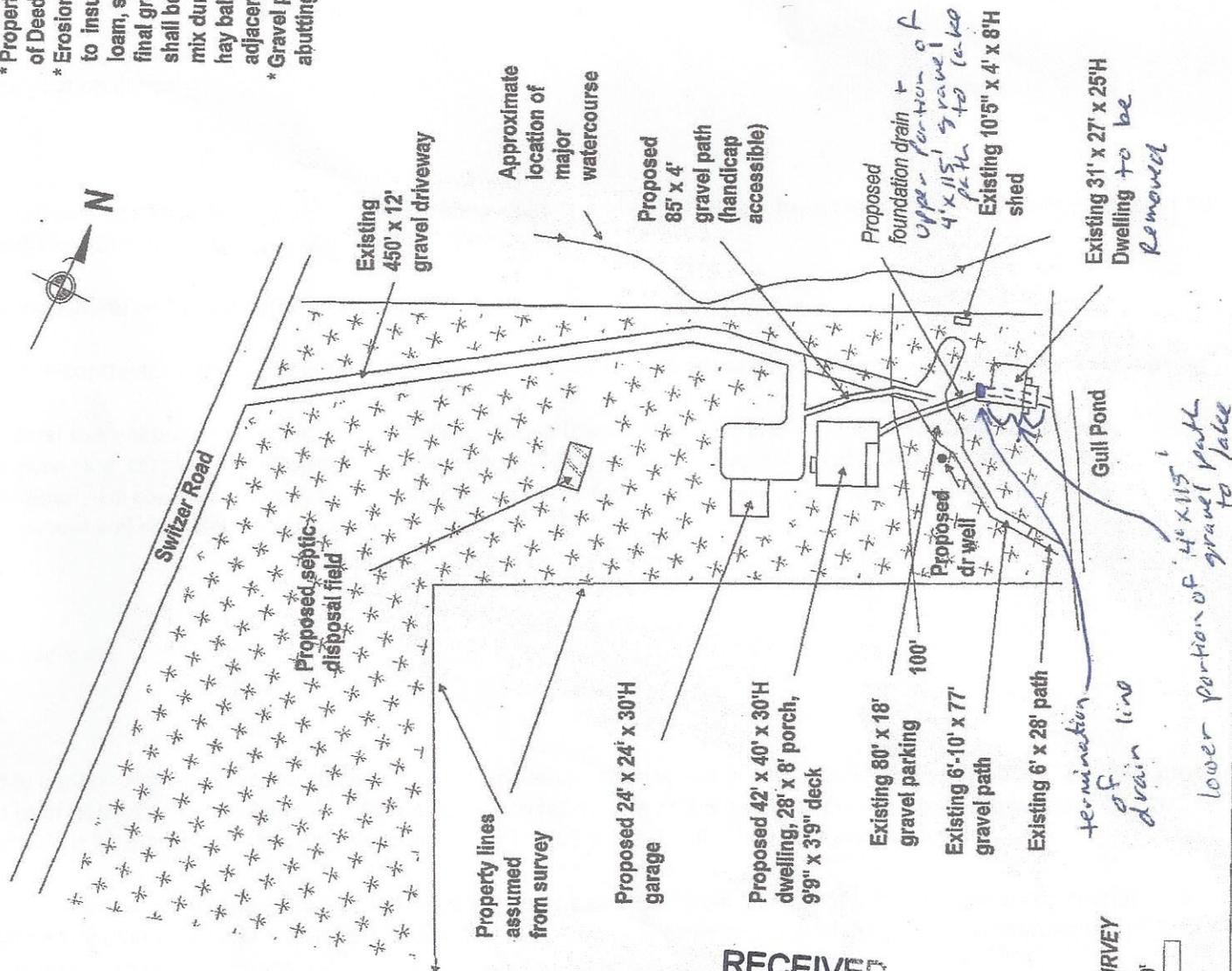
Site Plan - 1- Rev 2

Scale: 1" = 100'

North Country Soil Services
Rangely, Maine

Date: 10-20-13

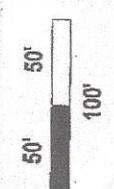
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RECEIVED
OCT 23 2013
LUPC - RANGELEY

RECEIVED
OCT 24 2013
LUPC - RANGELEY

MAP IS NOT A SURVEY



F. FILLING AND GRADING

The following requirements for filling and grading shall apply in all subdistricts except as otherwise provided herein.

Filling and grading activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

1. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
2. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistricts which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrict areas, the provisions of Section 10.27,F,4 and 6 shall apply; and
3. Clearing of areas to be filled or graded is subject to the clearing standards of Section 10.27,B; and
4. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and
5. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

6. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.