



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
106 HOGAN ROAD, SUITE 8  
BANGOR, MAINE 04401

WALTER E. WHITCOMB  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

**DENIAL OF  
AMENDMENT A TO  
BUILDING PERMIT BP 15225  
(ENFORCEMENT CASE EC 14-34)**

The staff of the Maine Land Use Planning Commission (the LUPC or Commission), after reviewing the application and supporting documents submitted by Mark A. and Beth F. Ferretti (collectively the Applicant) for Amendment A to Building Permit BP 15225, finds the following facts:

1. Applicant: Mark A. and Beth F. Ferretti  
P.O. Box 338  
Rockwood, Maine 04478
2. Date of Completed Application: July 23, 2014
3. Location of Proposal: Rockwood Strip Township T1R1 NBKP, Somerset County, Maine  
Applicable Lot - Maine Revenue Service Map SO033, Plan 01, Lot 30
4. Zoning: (D-RS) Residential Development Subdistrict  
(M-GN) General Management Subdistrict
5. Lot Size: 56<sup>±</sup> Acres (owned)
6. Principal Structure(s): Existing Pre-Commission Dwelling (28 ft. by 36.5 ft. by 21 ft.) with  
Proposed Attached, Enclosed Porch (8 ft. by 34 ft.) and  
Proposed Deck (8 ft. by 34 ft.)
7. Accessory Structure(s): Existing Shed #1 (20 ft. by 24 ft. by 11 ft.)  
Existing Shed #2 (20 ft. by 25 ft. by 13 ft.)  
Existing Agricultural Barn (80 ft. by 30 ft. by 20 ft.)
8. Sewage Disposal: Unknown
9. Affected Waterbody: Moose River

**Administrative History:**

10. The Applicant's lot was historically developed with a 28 foot by 36.5 foot pre-Commission, single family residential dwelling unit, a 20 foot by 24 foot Shed#1 and a 20 foot by 25 foot Shed #2. The dwelling unit is set back 140 feet from Moose River, 52 feet from Jackman Road (a.k.a. State Route 15/6), and at least 15

feet from side and rear property boundary lines. The shed is set back at least 100 feet from Moose River, 50 feet from State Route 15/6, and 15 feet from side and rear property boundary lines. All structures are located in the D-RS subdistrict.

11. The Applicant purchased the property on February 06, 2008 with the intension of developing a working farm on the property.
12. On June 26, 2014, while conducting site visits in the area, staff noticed ongoing porch/deck construction which appeared to not meet the minimum setback requirements for accessory structures associated with residential dwellings. Staff spoke with the landowner about the setback and applicable standards. At that time, the Applicant stated that he did not realize a building permit was required for the ongoing construction. The Applicant stated that several years ago, he visited the field office and staff reviewed a map of his property with him and discussed planned construction of a barn. He stated that at that time he understood he would not need a permit to construct the barn in the proposed location. He believed this was because his property was located in unorganized territory and that he would not need a building permit unless it was for a principal structure.
13. Title 12, section 685-A(5) exempts, among other things, the construction of new accessory structures at operating farms that were in existence and use as of and since September 23, 1971 from requiring a permit, provided the accessory structures are necessary to the satisfactory and comfortable continuation of the farm use. This exemption applies to the need for a permit, but does not exempt the property owner from complying with the applicable land use standards. It appears the Applicant's property may have been in use as a farm since 1971 due, for example, to ongoing haying activity, and that construction of an accessory barn would be exempt from needing a permit. However, to resolve any doubt about the compliance of the barn constructed by the Applicant, the Applicant applied for and Commission staff issued Building Permit BP 15225 to the Mark A. and Beth F. Ferretti on July 24, 2014, authorizing construction of a 30 foot by 80 foot by 20 foot high barn in the D-RS subdistrict.
14. On July 24, 2014, staff completed a second site visit to confirm setback measurements of the porch and deck and explore alternatives for the resolving Enforcement Case EC-14-34 associated with construction of the porch and deck within the 50 foot setback areas from Route 15/6.

#### **Proposal:**

15. The Applicant now requests after-the-fact approval for a partially constructed 8 foot by 34 foot covered enclosed porch and an 8 foot by 34 foot deck onto the road side of the residential dwelling unit. The partially constructed porch is, and would continue to be, set back 132 feet, at the closest point, from Moose River, 44 feet from State Route 15/6 on the southwest end of the porch and 54 feet on the northeast end of the porch, and at least 15 feet from side and rear property boundary lines. The partially constructed deck is, and would continue to be, set back 124 feet from Moose River, 36 feet from State Route 15/6 on the southwest end of the deck and 46 feet on the northeast end of the deck, and at least 15 feet from side and rear property boundary lines.

#### **Commission Review Criteria and Analysis:**

16. According to Section 10.21,J,3,b,1 of the Commission's Standards, new and expanded accessory structures are allowed without a permit subject to standards in the D-RS subdistrict, provided, among other things, the accessory structures meet the standards of Section 10.27,P and the other applicable standards in Sub-Chapter III.

17. According to Section 10.27,P of the Commission’s Standards, which is part of Sub-Chapter III, accessory structures include new or expanded decks and porches. Section 10.27,P,6 establishes that all new or expanded accessory structures allowed without a permit subject to standards must meet all of the applicable dimensional requirements in Section 10.26,D through F. The dimensional requirements apply to the Applicant’s porch and deck.
18. According to Section 10.26,D of the Commission’s Standards, which is part of Sub-Chapter III, the applicable dimensional requirements for an accessory structure to a residential dwelling include the following setbacks: 100 feet from the normal high water mark of a flowing water draining 50 square miles or more, 50 feet from the traveled portion of roadways (except those identified as having a 75 foot setback), and 15 feet from side and rear property lines. This 100 foot water body setback applies to the Moose River and the 50 foot road setback applies to State Route 15/6 (a.k.a Jackman Road).
19. The facts are otherwise as represented in Building Permit application BP 15225, and supporting documents and Enforcement Case EC 14-34 and supporting documents.

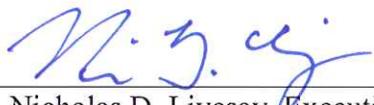
**Based upon the above findings, the Commission concludes:**

1. The proposal does not comply with the applicable dimensional requirements in Section 10.26. Specifically, the road-side porch is, and would remain, at the closest point 44 feet from the traveled portion of State Route 15/6 and the road-side deck is, and would remain, at the closest point 36 feet from the traveled portion of State Route 15/6 rather than a minimum of 50 feet required by Section 10.26,D,1,c of the Commission’s Land Use Districts and Standards.

**Therefore, the Commission, through its staff, DENIES the after-the-fact application for Amendment A to Building Permit BP 15225 submitted by Mark A. and Beth F. Ferretti for a 8 foot by 34 foot road-side porch and an 8 foot by 34 foot road-side deck.**

Any person aggrieved by this decision may, within 30 days, request that the Commission review the decision. All such requests must be made in writing.

DONE AND DATED AT AUGUSTA, MAINE, THIS 1<sup>ST</sup> DAY OF AUGUST, 2014.

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