PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
181 MAIN STREET
EAST MILLINOCKET, MAINE 04430

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

BUILDING PERMIT BP 15293

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Robert and Jennifer Mitchell for Building Permit BP 15293, finds the following facts:

1. Applicant: Robert L. & Jennifer S. Mitchell
   29 Beech Hill Crossroad
   Mt. Desert, ME 04660

2. Date of Completed Application: November 12, 2014

3. Location of Proposal: T1 R9 WELS, Piscataquis County
   Tax Map PI010, Plan 05, Lot 3
   Formerly Katahdin Timberlands LLC Lease Lot #DC-191

4. Zoning: (D-RS) Residential Development Subdistrict

5. Lot Size: 0.88 Acres (owned)

6. Principal Building: Existing Single Family Dwelling (28 ft. by 30 ft.)
   with Attached Rear Deck (3 ft. by 16 ft.)
   Proposed Permanent Foundation (28 ft. by 30 ft.) under Single Family Dwelling and Conversion to Bunkhouse

7. Accessory Structures: Existing Shed (16 ft. by 20 ft.)
   Existing Bunkhouse (20 ft. by 30 ft)
   with Attached Rear Deck (12 ft by 8 ft)
   with Attached Lakeside Deck (16 ft. by 8 ft)
   Proposed Conversion of the 20 ft. by 30 ft. Bunkhouse to a Dwelling
   Existing 11 ft. by 8 ft. Privy

8. Sewage Disposal: Existing Combined Sewage Disposal System of Unknown Date or Design.

9. Affected Water body: Ambajejus Lake

Background

10. The lot was historically developed with a pre-Commission 28 ft. by 30 ft. seasonal dwelling with attached 3 ft. by 16 ft. rear deck located 22 feet from the normal high water mark of Ambajejus Lake

and an 11 ft. by 8 ft. privy. The lot is further developed with a 16 ft. by 20 ft. shed located 155 feet from the lake and a 20 ft. by 30 ft. bunkhouse with attached 12 ft. by 8 ft. roadside deck and 16 foot by 8 foot lakeside deck located 80 feet from the normal high water mark of the lake. All structures are setback a minimum of 50 feet from the road and 15 feet from property boundary lines.

Proposal

11. The applicant now proposes to construct a 28 ft. by 30 ft. permanent foundation under the existing 28 ft. by 30 ft. dwelling in the same location at 22 feet from the normal high water mark of Ambajejus Lake, remove all the plumbing fixtures from the building, and convert the dwelling into a bunkhouse.

12. The applicant further proposes to convert the existing 20 ft. by 30 ft. bunkhouse, located 80 feet from the normal high water mark of the lake, into a dwelling unit. The bunkhouse currently contains plumbing which was reinstalled by a prior owner in violation of the Commission's rules and definition of a bunkhouse which states bunkhouses consist of detached sleeping quarters having no plumbing [Reference: Enforcement Case EC 97-68, Resolved]. The existing sewage disposal system was inspected by the local plumbing inspector and found to meet the requirements of the Maine Subsurface Wastewater Disposal Rules for the proposed conversion of the bunkhouse into a dwelling.

13. The facts are otherwise as represented in Building Permit application BP 15293 and supporting documents.

Review Criteria

14. Pursuant to Section 10.11, B, 1 of the Commission's Land Use Districts and Standards, permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S.A. §685-B(4) and demonstrate that:

    a. the project will not adversely affect surrounding uses and resources; and
    b. there is no increase in the extent of nonconformance, except as provided in Section10.11,B,9 or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback.

15. Pursuant to Section 10.02, (166) of the Commission's Land Use Districts and Standard ,unless otherwise provided, reconstruction is defined as the addition of a permanent foundation or the rebuilding of a structure after more than 50 percent by area of its structural components, including walls, roof, or foundation, has been destroyed, damaged, demolished or removed. Leaving one or two walls or the floor of a structure in place, while rebuilding the remaining structure, is considered reconstruction, not normal maintenance and repair or renovation.

16. Pursuant to Section 10.11, C, 2,a of the Commission's Land Use Districts and Standard , reconstruction or replacement must comply with current minimum setback requirements to the maximum possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the maximum possible extent, the Commission may consider the following factors:
    - size of lot,
    - slope of the land,
    - potential for soil erosion and phosphorus export to a water body,
    - location of other legally existing structures on the property at the time of the damage,

destruction or removal,

- location of the septic system and other on-site soils suitable for septic systems at the time of the damage, destruction or removal,
- type and amount of vegetation to be removed to accomplish the relocation, and
- physical condition and type of existing foundation, if any.

17. Pursuant to Section 10.02, (19) of the Commission's Land Use Districts and Standard, bunkhouses are defined as an accessory structure consisting of detached sleeping quarters having no plumbing, for the temporary accommodations of guests of the property owner or facility while the owner or facility operator is an occupant of the principal dwelling or at the facility.

18. Pursuant to Section 10.11, B, 7 of the Commission's Land Use Districts and Standard, all changes to legally existing nonconforming structures, structures for nonconforming uses or structures on nonconforming lots must comply with the Maine State Subsurface Waste Water Disposal Rules (144A CMR 241), including changes that do not require a permit under this rule.

Based upon the above Findings, the staff concludes that:

1. The proposal complies with Section 10.11, B, 1 of the Commission's Land Use Districts and Standards, in that the reconstruction of the existing dwelling unit and conversion to a bunkhouse will not adversely affect surrounding uses and resources and there is no increase in the extent of nonconformance. The conversion of the existing dwelling to a bunkhouse and installation of a permanent foundation will utilize the same footprint as the existing structure and will not be located any closer to the waterbody than the existing structure. The conversion of the dwelling to a bunkhouse is a residential use similar to those in the surrounding area and no more nonconforming than the existing use.

2. The proposal complies with Section 10.11, B, 1 of the Commission's Land Use Districts and Standards, in that the conversion of the existing bunkhouse into a dwelling unit will not adversely affect surrounding uses and resources and there is no increase in the extent of nonconformance. The conversion would utilize an existing structure located 80 feet from the normal high water mark of Ambajejus Lake for the use as a dwelling unit.

3. The proposal complies with Section 10.11, C, 2 of the Commission's Land Use Districts and Standards, in that the proposed permanent foundation would be set back to the maximum possible extent. The proposed foundation cannot be more conforming with respect to the waterbody setback due to the steep slope of land and existing mature trees directly behind the existing structure, which would require extensive excavation and tree removal.

4. The conversion of the existing dwelling to a bunkhouse complies with Section 10.02, 19 of the Commission's Land Use Districts and Standards, in that the plumbing and all fixtures will be removed from the structure.

5. The conversion of the existing bunkhouse to a dwelling unit complies with Section 10.11, B, 7 of the Commission's Land Use Districts and Standards, in that the existing sewage disposal system was inspected by the local plumbing inspector and found to have a working septic system which meets the requirements of the Maine Subsurface Wastewater Disposal Rules.

6. 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 Robert L. & Jennifer S. Mitchell 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 permitted structure with permanent foundation authorized under this permit, must be set back a minimum of 22 feet from the normal high water mark of Ambajejus Lake, 50 feet from the access road, and 15 feet from other property boundary lines.

4. The permitted structure with permanent foundation authorized under this permit shall not contain plumbing.

5. The total height of the permitted structure may not exceed 25 feet as measured from the peak of the structure (excluding chimneys or antennae) to the lowest point of the structure, including the foundation, at grade along the downhill side.

6. 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. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.

7. Cleared openings created as part of construction activities authorized under this permit must be effectively stabilized and revegetated.

8. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Air and Water Pollution Control Regulations; Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation, Driveway Entrance Permit, a physical E-911 address from your County Commissioner's Office.

9. 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.

10. To protect the scenic quality of Ambajejus Lake, all authorized structures must not be sited on a ridge or knoll such that they are visible above the tree line from the lake. All authorized structures must be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways or shorelines.

11. 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.

12. The lot may not be further divided without the prior review and approval of the Commission. In addition, certain restrictions, including subdivision, setback and minimum lot size requirements, and activities on the original parcel from which the lot was first divided, may limit or prohibit a redivision of the lot in the future. The permittee is hereby advised to consult applicable land use laws and rules and with the Commission prior to any future redivision of the lot.

13. 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.

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 permittees comply 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 EAST MILLINOCKET, MAINE, THIS 13th DAY OF NOVEMBER, 2014.

By: Debra A. Kaczowski
for Nicholas Livesay, Executive Director