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

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

BUILDING PERMIT BP 15303
ENFORCEMENT CASE EC 14-49

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Ronald Kilby for Building Permit BP 15303, finds the following facts:

1. Applicant: Ronald Kilby
   225 Belyea Road
   Edmunds Twp., ME 04628

2. Date of Completed Application: October 27, 2014

3. Location of Proposal: Edmunds Twp., Washington County
   Tax Map 01, Lot 68

4. Zoning: (P-SL2) Shoreland Protection Subdistrict
   (M-GN) General Management Subdistrict
   (P-WL2) Wetlands Protection Subdistrict
   (P-WL3) Wetlands Protection Subdistrict

5. Lot Size: 40 Acres (owned)

6. Principal Building: Existing Two-Story Single Family Residence (22 ft. by 30 ft.)
   with Two-Story Addition (22 ft. by 17 ft.)
   and Enclosed Porch (22 ft. by 8 ft.)

7. Accessory Structures: Existing Garage (20 ft. by 20 ft.
   Existing Barn (45 ft. by 26ft.)
   Proposed Barn Expansion (25 ft. by 45 ft.) and (26 ft. by 12 ft)
   Proposed Barn Access Driveway
   Proposed Filling & Grading within 75 ft of Unnamed Stream

9. Affected Water body: Unnamed Stream

Background

10. The lot is developed with a 22 ft. by 30 ft. pre-Commission two-story dwelling, a 22 ft. by 17 ft. two-story addition, and 22 ft. by 8 ft. porch located 50 feet from Belyea Road and greater than 100 feet

from the unnamed stream. The lot is further developed with a 20 ft. by 20 ft. pre-Commission garage located greater than 100 feet from both the road and unnamed stream, and a 45 ft. by 26 ft. pre-Commission barn located 75 feet from the road and 55 feet from the unnamed stream.

11. On September 15, 2014, Commission staff conducted a site inspection of the subject property and observed a 36 foot by 50 foot filled and graded area located 15 feet from an unmapped wetland associated with an unnamed stream (P-SL2) and a 10 foot by 24 foot filled and graded area located 35 feet from an unnamed stream all without prior authorization from the Commission and in excess of standards. [REF: Enforcement Case EC 14-49]

Proposal

12. The applicant now proposes to remove the unauthorized 36 foot by 50 foot filled and graded area located 15 feet from an unmapped wetland associated with the unnamed stream and the 10 foot by 24 foot filled and graded area located 35 feet from the unnamed stream, to construct a barn access driveway to be located a minimum of 45 feet from the stream, and to fill and grade a 12 foot by 26 foot and a 35 foot by 45 foot historically filled area associated with the existing barn located 45 feet from the unnamed stream. The applicant proposes to be no closer to the unnamed stream than the historically filled area associated with the existing barn, to utilize the historically filled area, and to install geotextile fabric and riprap on the stream side of the fill to prevent soil erosion into the stream or wetland. The riprap will be placed in a manner as to form a slope not steeper than 2 feet horizontal for every 1 foot vertical. The applicant proposes to install hay bales between the unnamed stream, associated wetlands, and the filling and grading activities.

13. The applicant also proposes to construct a 25 foot by 45 foot and a 26 foot by 12 foot expansion with proposed permanent slab foundations onto the existing barn located 55 feet from the unnamed stream. The barn expansions would be located a minimum of 55 feet from the unnamed stream, greater than 50 feet from the road, and greater than 15 feet from property boundary lines. The proposed barn expansions would not increase the extent of nonconformance of the existing barn to the unnamed stream.

14. The facts are otherwise as represented in Building Permit application BP 15303, Enforcement Case EC 14-49, and supporting documents.

Review Criteria

15. Pursuant to Section 10.23, L, 3,c, (6) of the Commission's Land Use Districts and Standards, driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H may be allowed within P-SL subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.

16. Pursuant to Section 10.23, L, 3,c, (7) of the Commission's Land Use Districts and Standards, filling and grading which is not in conformance with the standards in Section 10.27,F may be allowed within P-SL subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.

17. 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 Section 10.11,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.

18. Pursuant to Section 10.11, B, 2 of the Commission's Land Use Districts and Standards, where legally existing, nonconforming structures do not meet the minimum setbacks from waterbodies, roads, and property boundaries, an existing setback line will be established. The existing setback line will run parallel to the waterbody, road, or property boundary at a distance equal to the closest point of the existing structure to the feature from which the setback is established. Subject to the other requirements in this section, a nonconforming structure may be expanded up to the existing setback line without being considered to be more nonconforming than the original structure.

Based upon the above Findings, the staff concludes that:

1. The proposal complies with Section 10.23, L, 3,c (6) and Section 10.23, L, 3,c (7) of the Commission's Land Use Districts and Standards, in that driveway and filling and grading activities which are not in conformance with the standards of Section 10.27, H and Section 10.27, F may be allowed within P-SL subdistricts pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III. Specifically, the applicant has shown that the driveway and the filling and grading associated with the existing barn, which is not in conformance with the standards, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area and erosion control measures would be implemented.

2. The proposal complies with Section 10.11, B, 1 and B, 2 of the Commission's Land Use Districts and Standards, in that the proposed barn expansion would not increase the extent of nonconformance of the structure to the unnamed stream and would not produce an undue an adverse impact upon the resources and uses in the area.

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 Ronald Kilby 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. 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.

4. Effective, temporary stabilization of all disturbed and stockpiled soil must be completed at the end of each work day. 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.

5. Structures authorized under this permit must be set back a minimum of 55 feet from the normal high water mark of the unnamed stream, 50 feet from Belyea Road, and 15 feet from other property boundary lines.

6. Filled and graded areas created as part of construction activities authorized under this permit must be set back a minimum of 45 feet from the normal high water mark of the unnamed stream.

7. All imported fill material must be free of hazardous or toxic materials and must not contain debris, trash, or rubbish.

8. 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.

9. 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.

10. The driveway must be located and constructed so that (a) it will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) it will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland or roadway.

11. 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.

12. Nothing in this permit shall be construed to release the permittee from any liability or responsibility arising from any violation, including Enforcement Case EC 14-49, or to be considered a waiver of the authority of the Commission or the state to fully pursue or prosecute such violations.

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 EAST MILLINOCKET, MAINE, THIS 27th DAY OF OCTOBER, 2014.

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