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

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

BUILDING PERMIT BP 15305

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Jeffrey Albee for Building Permit BP 15305, finds the following facts:

1. Applicant: Jeffrey Albee
   PO Box 95
   Franklin, ME 04634

2. Date of Completed Application: November 3, 2014

3. Location: Township 10 SD, Hancock County, Maine
   Maine Revenue Service Map HA006; Plan 02; Lot 39
   Hancock County Registry of Deeds: Book 2012; Page 297

4. Zoning: (P-GP) Great Pond Protection Subdistrict

5. Lot Size: 0.39 Acres (owned)

6. Principal Building: Existing Seasonal Camp (20 ft. by 26 ft.)
   Proposed Permanent Foundation (20 ft. by 26 ft.)

7. Accessory Structures: Proposed Attached Deck (10 ft. by 26 ft.)

8. Sewage Disposal: Existing Pit Privy
   Proposed Primitive Wastewater Disposal (Graywater/Replacement Privy)

9. Soil Profile/Condition/Design: 3/C/1 per Maine Subsurface Wastewater Disposal Rules

10. Affected Waterbody: Spring River Lake

    The Commision has identified Spring River Lake as a management class 4, resource class 1A, accessible, developed lake with outstanding scenic and shoreline characteristic resources, and significant fisheries resources.

Background

11. The applicant's lot is developed with an approximately 20 foot by 26 foot pre-Commission seasonal camp on a post foundation and an 8 foot wide residential driveway, which provides access to the camp. The seasonal camp is set back 55 feet from the normal high water mark of Spring River Lake, greater than 50 feet from the access road, and approximately 8 feet from the nearest property boundary line.

12. The applicant's lot has approximately 100 feet of water frontage on Spring River Lake and is 200 feet in depth. The combined footprint of all legally existing structures within 100 feet of Spring River Lake is 520 square feet.

13. The applicant's lot is located within a Native American archealogical site

Proposal

14. The applicant now proposes to install a 20 foot by 26 foot permanent foundation under the existing seasonal camp and to construct an attached 10 foot by 26 foot lakeside deck. The seasonal camp with proposed deck would be relocated and set back 55 feet from the normal high water mark of Spring River Lake, greater than 50 feet from the access road, and a minimum of 15 feet from property boundary lines. The applicant states that the seasonal camp cannot be reconstructed further back from the normal high water mark of Spring River Lake because of: the steep slope of the lot; the small lot size; and the location of an existing right-of-way across the property. The applicant further proposes to install a graywater system and replacement pit privy.

15. The combined footprint of all existing and proposed structures within 100 feet of Spring River Lake will be 780 square feet.

Commission Review Criteria

16. Pursuant to Section 10.23,E,3,c,(12) of the Commission's Land Use Districts and Standards, single family dwellings are an allowed use within P-GP 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 10.02, (166) of the Commission's Land Use Districts and Standards, unless otherwise provided, 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.

18. 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.

19. Pursuant to Section 10.11,C,1,b of the Commission's Land Use Districts and Standards, an expansion to a legally existing, nonconforming structure where the expansion is set back 55 feet from the normal high water mark of waterbodies such as Spring River Lake, shall not exceed the maximum combined footprint of 1,000 square feet for all structures not meeting the 100 foot waterbody setback; the maximum height of all structures within these areas shall be 25 feet, or existing structure height, whichever is greater.

20. Pursuant to Section 10.11,C,2 of the Commission's Land Use Districts and Standards, a legally existing, nonconforming structure may be reconstructed or replaced with a permit, provided that the permit application is completed and filed within two years of the date of damage, destruction or removal, and provided that the structure was in regular active use within a two year period immediately preceding the damage, destruction, or removal.

21. Pursuant to Section 10.11,C,2,a of the Commission's Land Use Districts and Standards, reconstruction or replacement must comply with current minimum setback requirements to the greatest possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the greatest 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,
    - location of the septic system and other on-site soils suitable for septic systems,
    - type and amount of vegetation to be removed to accomplish the relocation, and
    - physical condition and type of existing foundation, if any.

22. Pursuant to Sub-Chapter III, Section 10.26,D of the Commission's Land Use Districts and Standards, the minimum setbacks for structures include: 100 feet from the nearest shoreline of a body of standing water 10 acres or greater in size; 50 feet from the traveled portion of all roadways; and 15 feet from the side and rear property lines.

Review Comments:

23. The Maine Historic Preservation Commission has reviewed this proposal and has concluded that there will be no historic properties affected by the proposed undertaking, as defined by Section 106 of the National Historic Preservation Act

24. The Penobscot Nation Tribal Historic Preservation Office has reviewed this proposal and states that this project appears to have no impact on a structure or site of historic, architectural or archaeological significance to the Penobscot Nation as defined by the National Historic Preservation Act of 1966, as amended, and recommends if Native American cultural materials are encountered during the course of the project that the Penobscot Nation is contacted.

25. The Houlton Band of Maliseets Historic Preservation Office has reviewed this proposal and states that they do not have any immediate concern with the project or project site but recommends that should

any human remains or items of historical importance be unearthed that the project be stopped and all findings should be reported to the appropriate authorities.

26. The Passamaquoddy Tribal Historic Preservation Office has reviewed this proposal and originally requested an archaeological survey be completed to assess the impact but has since recommended requiring that the project be stopped if any artifacts are found.

27. The facts are otherwise as represented in Building Permit application BP 15305 and supporting documents.

Based upon the above Findings, the staff Concludes that:

1. In accordance with the provisions of Section 10.21,J,3,c,(14) of the Commission's Land Use Districts and Standards, the proposed seasonal camp with permanent foundation would be allowed within a D-RS (Residential Development Subdistrict.

2. In accordance with Section Section 10.11, B, 1 of the Commission's Land Use Districts and Standards, the proposal would not have an adverse effect on the surrounding uses and resources in that the construction of the permanent foundation is under an existing structure, will be 25 feet or less in height, and would present no visible increase toward the lake. There would be no increase in the extent of non-conformance in that the camp with permanent foundation and attached deck will be no closer to the lake than the existing structure. The Maine Historic Preservation Commission has reviewed this proposal and has concluded that there will be no historic properties affected by the proposed undertaking.

3. In accordance with Section 10.11,C,1,b of the Commission's Land Use Districts and Standards, the maximum combined footprint of all existing and proposed structures not meeting the 100 foot waterbody setback is 780 square feet and the maximum height of all structures within this area is proposed to be 25 feet or less.

4. In accordance with Section 10.26,D of the Commission's Land Use Districts and Standards, the proposal would meet the reconstruction criteria in that the applicant would meet the current minimum setback requirements to the greatest possible extent when taking into account the slope of the lot, the embankment behind the existing camp, and the location of an existing right-of-way on the lot. The proposal would comply with Section 10.11,C of the Commission's Land Use Districts and Standards.

5. In accordance with Sub-Chapter III, Section 10.26,D of the Commission's Land Use Districts and Standards, the proposal would not meet the 100 foot waterbody setback. The proposal would meet the road and property line setback requirements in that the structure will be located a minimum of 50 feet from the road and 15 feet from property boundary lines.

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 Jeffrey Albee 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. **All operations must be immediately stopped should any Native American artifacts or human remains be unearthed during construction activities and the Maine State Historic Preservation Commission and Land Use Planning Commission shall be immediately notified.**

6. All authorized structures authorized under this permit must be set back a minimum of 55 feet from the normal high water mark of Spring River Lake, 50 feet from the access road, and 15 feet from other property boundary lines.

7. To protect the scenic quality of Spring River Lake, the permitted structure must not exceed 25 feet in height as measured from the peak of the roof to the lowest point of the structure (including the foundation) at the original grade along the downhill side.

8. 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.

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. Once construction is complete, the permittees 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 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 Regulation 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 9th DAY OF DECEMBER, 2014.

By: Debra A. Kaczowski

for Nicholas Livesay, Executive Director