



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 C TO BUILDING PERMIT BP 3216

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Ralph & Deborah Tinker for Amendment C to Building Permit BP 3216, finds the following facts:

1. Applicant: Ralph & Deborah Tinker  
1507 Weld Road  
Wilton, ME 04294
2. Date of Completed Application: January 2, 2014
3. Location of Proposal: Washington Twp., Franklin County  
Lot #32 on Tax Plan 01
4. Zoning: (M-GN) General Management Subdistrict
5. Lot Size: 1.0 Acre (owned)
6. Principal Building: Existing Single Family Residence (12 ft. by 56 ft.)  
Existing Addition to Residence (15 ft. by 15 ft.)  
Existing Addition to Residence (12 ft. by 14ft.)  
Existing Enclosed Porch (8 ft. by 44 ft.)  
Existing Deck (6.5 ft. by 9 ft.)
7. Accessory Structures: Existing Shed (10 ft. by 12 ft.)  
Existing Tool Shed (16 ft. by 19 ft.)  
Existing Garage (28 ft. by 30 ft.)  
Existing Outdoor Furnace (4 ft. by 5.5 ft.)
8. Sewage Disposal: Existing Combined Sewage Disposal System

NICHOLAS LIVESAY, DIRECTOR

[www.maine.gov/acf/lupc](http://www.maine.gov/acf/lupc)  
PHONE: (207) 287-2631  
FAX: (207) 287-7439  
TTY: (888) 577-6690

## Background

9. The applicants' lot is developed with single family residence authorized under Building Permit BP 3216 issued to the applicants in August of 1977, a garage authorized under Amendment A issued in August of 1998, and a 16 foot by 19 foot tool shed authorized under Amendment B, issued in November of 2002.
10. Commission staff visited the site in September of 2002, and observed that the permitted home and garage had been constructed. Staff also observed that a second shed had been constructed on the property, two additions and an enclosed porch had been constructed onto the home, and that the sewage disposal system may be failing [reference: Enforcement Case EC 02-124, resolved].
11. Commission staff visited the site again in December of 2013. Staff observed that all of the structures described under Finding of Fact #10 above remain in place. Staff also observed that an outdoor furnace had been installed on the lot behind the home, and that a deck had been constructed on the back side of the home, between the two additions. Staff observed that all of the applicants' structures conform to the Commission's current minimum required setbacks from the road and property boundary lines as described under Finding of Fact #14 below, except for the garage which is located 27 feet from State Route #156. At the time the garage was permitted in 1998, the minimum required road setback for garages was 20 feet. Staff found no evidence that the sewage disposal system is failing.
12. After the December, 2013 site visit, Commission staff researched the file for Building Permit BP 3216 and amendments, and concluded that the applicants had sought approval for construction of the enclosed porch and additions onto the home, and the second shed, although these structures were not specifically referenced under the original permit or subsequent amendments issued by the Commission for the subject property. Commission staff did not find any prior documentation regarding the decks or the outside furnace in the permit file.

## Proposal

13. The applicants now seek amendment approval to clarify the dimensions and status of all existing structures on their lot as of the Commission staff's site visit on December 6, 2013.

## Review Criteria

14. Under the provisions of Section 10.26 of the Commission's Land Use Districts and Standards, the minimum required road and property line setbacks for residential structures are 50 feet and 15 feet, respectively.
15. Under the provisions of Chapter 1 of the Commission's rules, General Provisions, a "minor change," means a revision or amendment to a previously issued permit including expansions or changes affecting less than ten percent of a structure or project.
16. The facts are otherwise as represented in Building Permit application BP 3216, Amendment Requests A through C, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. Based up research of the file for Building Permit BP 3216 and subsequent amendments, prior approval was granted by the Commission for all structures on the applicants' lot as of December 6, 2013 except for the two decks and the outside furnace.
2. The two decks and outside furnace represent less than 10 percent of the footprint of the previously permitted development on the subject lot and thus constitute a "minor change."
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 Ralph & Deborah Tinker with the following conditions:**

1. Structures authorized under this permit must be set back a minimum of 50 feet from State Route #156 and 15 feet from other property boundary lines, except for the garage. The garage may remain at 27 feet from State Route #156 as a legally existing nonconforming structure so long as it is used as a garage.
2. All clearing of vegetation on the lot must comply with the Commission's standards for Vegetative Clearing, Section 10.27, B, a copy of which is attached.
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.
4. 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.
5. The permittees shall comply with all other applicable federal, state and local regulations, including the state's wastewater disposal rules.
6. All conditions of Building Permit BP 3216 and Amendments A and B are superseded by the conditions of this amendment.

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 WEST FARMINGTON, MAINE, THIS 13<sup>th</sup> DAY OF JANUARY, 2014.

By:   
For Nicholas Livesay, Director

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## B. VEGETATION CLEARING

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Vegetation clearing 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.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
  - a. 50 feet of the right-of-way or similar boundary of any public roadway,
  - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and
  - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
  - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

<b>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</b>	<b>Points</b>
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, “other natural vegetation” is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
  - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
  - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
  4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing water, body of standing water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

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**F. FILLING AND GRADING**


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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:

<b>Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)</b>	<b>Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)</b>
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.