



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

WALTER E. WHITCOMB  
COMMISSIONER

PAUL R. LEPAGE  
GOVERNOR

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

# PERMIT

## AMENDMENT G TO DEVELOPMENT PERMIT DP 3863

The staff of the Maine Land Use Planning Commission (LUPC or Commission), after reviewing the application and supporting documents submitted by the Monhegan Island Sustainable Community Association (Applicant or Permittee) for Amendment G to Development Permit DP 3863, finds the following facts:

1. Applicants: Monhegan Island Sustainable Community Association  
Attn: Richard Farrell  
PO Box 307  
Monhegan, Maine 04852
2. Date of Completed Application: May 20, 2015
3. Location of Proposal: Monhegan Plantation, Lincoln County, Maine  
Maine Revenue Service Map LIP01; Plan 08; Lot 33  
Lincoln County Registry of Deeds: Book 4664, Page 212
4. Zoning: Aquifer Protection Subdistrict (P-AR)  
Shoreland Protection Subdistrict (P-SL)  
Unusual Area Protection Subdistrict (P-UA)  
Wetland Protection Subdistrict (P-WL)
5. Development: Existing Permanent Residence (24 ft. by 28 ft.) with  
Two Existing Additions (8 ft. by 22 ft.) and (5 ft. by 9 ft.);  
Existing Deck (19 ft. by 16 ft.); and  
Existing Shed (8 ft. by 8 ft.)  
Existing "General Store" (20 ft. by 38 ft.) with  
Existing Front Ramp (7 ft. by 16 ft.);  
Existing Back Deck (8 ft. by 14 ft.) - *To Be Enclosed*; and  
Existing Back Storage Area (8 ft. by 6 ft.) - *To Be Enclosed*
6. The Applicant's lot was originally developed with a 24 foot by 28 foot permanent home with an 8 foot by 22 foot addition, a 5 foot by 9 foot addition, and a 6 foot by 8 foot bathroom addition; and a 20 foot by 38 foot art gallery/workshop with a 7 foot by 16 foot front entrance ramp/deck and an 8 foot by 20 foot back deck. All structures were constructed prior to the inception of the Commission.

7. Development Permit DP 3863, issued David and Kathleen Boegel on February 05, 1990, authorized a change in use of the art gallery/workshop to a commercial pizza shop, and the installation of a combined sewage disposal system to serve the residence and pizza shop.
8. Amendment A to Development Permit DP 3863, issued to David and Kathleen Boegel on November 29, 1991, authorized the installation of a holding tank with an overboard discharge line, in accordance with the Maine Department of Environmental Protection (MDEP) Waste Discharge License #7059-40-A-N, instead of the previously approved combined sewage disposal system.
9. Amendment B to Development Permit DP 3863, issued to David and Kathleen Boegel on July 23, 1992, authorized the replacement of the original 6 foot by 8 foot bathroom addition with an 8 foot by 16 foot deck onto the permanent residence.
10. Amendment C to Development Permit DP 3863, issued to David and Kathleen Boegel on July 12, 1996, authorized the construction of an 11 foot by 16 foot deck onto the permanent residence.
11. Amendment D to Development Permit DP 3863, issued to David and Kathleen Boegel on June 03, 1999, authorized the construction of a second story addition onto the commercial pizza shop.
12. Amendment E to Development Permit DP 3863, issued to David and Kathleen Boegel on June 12, 2000, granted after-the-fact approval for the reconstruction of the front entrance ramp/deck on the commercial pizza shop and approval to enclose a 6 foot by 8 foot portion of the back deck of the commercial pizza shop for storage space.
13. Amendment F to Development Permit DP 3863, issued to David and Kathleen Boegel on June 30, 2001, authorized a time extension for construction of the second story addition onto the commercial pizza shop as permitted under Amendment D to Development Permit DP 3863.
14. All development permitted under Development Permit DP 3863, and subsequent amendments, has been constructed except the second story addition over the commercial building and the enclosure of the 8 foot by 6 foot back storage area on the commercial building.
15. The Applicant purchased the entire property on May 15, 2013. At the time of purchase, the use of the commercial structure was considered a commercial, year round use. The structure is being operated as the islands only grocery store.
16. The Applicant now proposes to enclose the back deck and storage area of the “Grocery Store” resulting in an 8 foot by 20 foot enclosed area which will be utilized for product storage. No new footprint would be added to the structure and the setbacks would remain as previously permitted.
17. According to Section 10.11,B,1 of the Commission’s *Land Use Districts and Standards*, (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. According to Section 10.11,C,6 of the Commission's Standards a permit is required for the complete or partial enclosure of decks and porches. Enclosure of decks and porches is not an expansion of floor area. The enclosure of the structure which results in additional stories is considered an expansion and must meet the provisions of Section 10.11,C,1,b. If any portion of the structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, complete or partial enclosure of that portion of the structure is prohibited.
19. The facts are otherwise as represented in Development Permit application DP 3863, subsequent amendment requests, and supporting documents.

**Based upon the above FINDINGS, the Commission CONCLUDES that 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.**

**Therefore, the staff approves the request of Monhegan Island Sustainable Community Association with the following Conditions:**

1. The *Standard Conditions of Approval for All Development Permits* (ver. 04/04), a copy of which is attached.
2. The Permittees shall secure and comply with all other applicable licenses, permits, and authorizations of all federal, state and local agencies.
3. Except as provided for in this permit, all Conditions of Development Permit DP 3863 and subsequent Amendments A through F shall remain in effect.

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 BANGOR, MAINE, THIS 2<sup>ND</sup> DAY OF JUNE, 2015.

By:   
for Nicholas D. Livesay, Executive Director



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

**STANDARD CONDITIONS OF APPROVAL**  
**FOR ALL DEVELOPMENT PERMITS**

1. The permit certificate must be posted in a visible location on your property during development of the site and construction of all structures approved by this permit.
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 therefrom is subject to the 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. Construction activities authorized in this permit must be substantially started within two (2) years of the effective date of this permit and substantially completed within five (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.
4. The recipient of this permit ("permittee") shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, natural resources protection and air and water pollution control regulations and the Subsurface Wastewater Disposal Rules of the Maine Department of Environmental Protection and the Maine Department of Human Services.
5. Setbacks of all structures, including accessory structures, from waterbodies, roads and property boundary lines must be as specified in conditions of the permit approval.
6. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and advised of the conditions of approval. The new owner or lessee must contact the Land Use Planning Commission to have the permit transferred into his/her name and to reflect any changes proposed from the original application and permit approval.
7. 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.
8. The permittee shall not advertise Land Use Planning Commission approval without first obtaining Commission approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.
9. Once construction is complete, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.

*Administrative Policy Revised 04/04*