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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE 04732-3600

WALTER E. WHITCOMB
COMMISSIONER

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EXECUTIVE DIRECTOR

PERMIT

AMENDMENT A TO DEVELOPMENT PERMIT DP 4704

The staff of the Maine Land Use Regulation Commission after reviewing the application and supporting documents submitted by Clark Family, LLC for Amendment A to Development Permit DP 4704, finds the following facts:

1. Applicant: Clark Family, LLC
76 Hacker Farm Road
Garfield, Maine 04732
2. Date of Completed Application: April 11, 2016
3. Location of Proposal: Garfield Plt., Aroostook County
Taxation Lot #28A and #33 on Map 5
4. Zoning: (M-GN) General Management Subdistrict
5. Lot Size: 180 Acres (owned)
6. Principal Buildings: Proposed Reconstruction of Garage (60 ft. by 91 ft.)
7. Accessory Structures: Existing Storage Building (30 ft. by 40 ft.)
Existing Storage Building (50 ft. by 80 ft.)
Existing Potato House (50 ft. by 250 ft.)
Existing Pole Storage Building (60 ft. by 60 ft.)
8. Sewage Disposal: Existing Combined System

Background Information:

9. The applicant's lot was originally developed with a pre-Commission 60 foot by 91 foot garage (originally reported as a 61 foot by 93 foot garage) and a 50 foot by 250 foot potato house, original used for commercial potato farming. The garage was set back 42 feet from Hacker Farm Road and the potato house is set back 48 feet from Hacker Farm Road. The applicant's lot was later developed with a 30 foot by 40 foot storage building and 50 foot by 80 foot storage building, both associated with commercial potato farming. Both storage buildings are set back at least 100 feet from all roads.



10. In September of 2002, the applicant purchased the property and began to use the garage, the 30 foot by 40 foot storage building, and the parking area for truck and equipment storage associated with his land management related trucking business, MTK Inc. without prior permit approval [Reference: Enforcement Case: EC 04-045]. Vehicle maintenance and office work is also done out of the garage. The potato house and 50 foot by 80 foot storage building are utilized by a local farmer for storage of farm equipment and produce.
11. In November 2004, Development Permit DP 4704 was issued to Guy Clark granting after-the-fact approval for truck and vehicle storage and other associated use of the existing garage, 30 foot by 40 foot storage building, and surrounding parking area and permit approval to construct a 60 foot by 60 foot pole building for truck storage. The pole building was to be located in the existing parking area and would be used to store the applicant's trucks.

Proposal:

12. The March of 2016, the 60 foot by 91 foot garage was destroyed by fire and the applicants now seek amendment approval to reconstruct the garage on the existing slab and stubwall foundation, which is in good condition. The garage would be set back 42 feet from the Hacker Farm Road and at least 1000 feet from the nearest property line. The applicant proposed to install two employee bathrooms in the garage and continue to use the existing combined sewage disposal system installed in 1990. The Local Plumbing Inspector has inspected the existing system and finds that it is of the correct size and in the correct located as designed. The system does not appear to be malfunctioning and is adequate for the proposed use.
13. The applicant has submitted information demonstrating sufficient technical and financial capacity. All rubbish and other solid wastes would be disposed of by at the Aroostook Valley Solid Waste Disposal District Facility in Ashland. Waste oil would be burned by the applicant in a furnace. Fire protection would be provided by the Ashland Fire Department.

Relevant Review Criteria:

14. Under provisions of Section 10.26,D,2 of the Commission's Land Use Districts and Standards the minimum setback for nonresidential structures is 75 feet from roadways such as Hacker Farm Road.
15. Under provisions of 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; the structure was in regular active use within a two year period immediately preceding the damage, destruction, or removal; and if the reconstruction or replacement involves expansion, the structure meets the requirements of Section 10.11,C,1. 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.
16. Under provisions of 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 this section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in

12 M.R.S.A. Section 685-B(4) and demonstrate that the project will not adversely affect surrounding uses and resources and that there is no increase in the extent of nonconformance, except in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a waterbody setback.

17. Under the provisions of Section 10.22,A,3,c(22) of the Commission's Land Use Districts and Standards, truck and equipment storage are allowed within (M-GN) General Management Subdistricts upon issuance of a permit.
18. Under the provisions of Section 10.22,A,3,c(26) of the Commission's Land Use Districts and Standards, other structures, uses, or services that are essential to the truck and equipment storage are allowed within (M-GN) General Management Subdistricts upon issuance of a permit.
19. The facts are otherwise as represented in Development Permit Application DP 4704, amendment request A and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed garage would be in compliance with Sections 10.11,C,2 of the Commission's Land Use Districts and Standards in that the proposed garage would be constructed on the existing permanent foundation and would therefore meet the setback requirements to the greatest extent possible. The road setback requirement may be waived from 75 feet to 42 feet.
2. The proposed garage would be in compliance with Sections 10.11,B of the Commission's Land Use Districts and Standards in that the proposed garage would not adversely affect surrounding uses and resources and would not increase in the extent of nonconformance.
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 amendment request of Clark Family, LLC with the following Conditions:

1. **At least one week prior to commencing the permitted activities**, the permittee must contact the Commission staff and notify them of the date construction will start. **If these activities include a permanent foundation**, the permittee must notify staff **of the date the forms will be set**. This will allow staff time to arrange a pre-construction site visit to review the applicable standards and requirements of the permit with the permittee. (**If you leave a telephone message**, please include your full name, telephone number, permit number, and the date/s the work will start.)
2. The enclosed permit certificate must be posted in a visible location on your property immediately after receipt and during development of the site and construction of the structures and activities approved by this permit.
3. 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.
4. The permitted garage must be set back a minimum of 42 feet from the traveled portion (edge) of Hacker Farm Road and at least 25 feet from side and rear property boundary lines.

5. The permitted garage must be used for storage and maintenance of the owner's own vehicles only and as a land management office. The garage must not be used for repair or maintenance of vehicles owned by others.
6. 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.
7. The permittee shall secure and comply with all other applicable licenses, permits, authorizations and monitoring requirements of all federal, state and local agencies including, but not limited to, the Maine Department of Health and Human Services' Division of Environmental Health's, Subsurface Wastewater Unit and Health Inspection Program.
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 conditions of Development Permit DP 4704 shall remain in effect except as specifically modified by 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 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 ASHLAND, MAINE, THIS 14TH DAY OF APRIL, 2016.

By: Billie J. Magleam
for Nicholas Livesay, Executive Director