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GOVERNOR

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

WALTER E. WHITCOMI  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

## PERMIT

### GREAT PONDS PERMIT 3442 And Water Quality Certification

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Edwin H. MacArthur and Judith M. MacArthur for Great Ponds Permit 3442, finds the following facts:

1. Applicant: Edwin and Judith MacArthur  
PO Box 302  
Patten, Maine 04765
2. Date of Completed Application: July 5, 2016
3. Location of Proposal: Mount Chase, Penobscot County  
Town of Mount Chase Taxation lot 13 on plan 13
4. Zoning: (P-WL) Wetland Protection Subdistrict  
(D-RS) Residential Development Subdistrict
5. Affected Waterbody: Lower Shin Pond

The Commission has identified Lower Shin Pond as a management class 5, resource class 2, accessible, developed lake with the following resource ratings: significant fisheries resources, significant scenic resources, significant cultural resources.

### Background

6. The subject parcel was originally developed with a pre-Commission 34 foot by 60.5 foot dwelling with an attached 20 foot by 22 foot garage, a 30 foot by 68 foot seasonal camp with an attached 6 foot by 40 foot deck, a 12 foot by 20 foot garage, a 17 foot by 17 foot shed, an 18 foot by 32 foot boat house, and two complete sewage disposal systems. The property was also developed with a stone and mortar retaining wall located at the approximate normal high water mark of the lake and measuring approximately 30 feet long by 4 feet tall. Extending from the retaining wall beyond the normal high water mark was stone and mortar walkway measuring approximately 15 feet in length and approximately 8 feet in width. The retaining wall and walkway were constructed prior to September 23, 1971.
7. On May 4, 1999 Building Permit BP 10312 was issued to Edwin and Judith MacArthur authorizing the reconstruction of a 28 foot by 38 foot section of the existing dwelling and to

reconstruct and expand a porch attached to the home, convert the garage into living space, construct a 5 foot by 6 foot entryway, and construct a 28 foot by 38 foot garage. The applicants also proposed to relocate the existing 12 foot by 20 foot garage and remove the existing boathouse.

8. The applicant now proposes to perform maintenance repair to the existing 15 foot by 8 foot walkway that is supported by stone and mortar wall sections. The proposed repair would consist of placing forms around the existing walkway support walls and pouring a concrete facing that would be 6 inches thick and would extend approximately 3 vertical feet to the original ground surface. Only approximately 2 linear feet of the walkway extends beyond the normal high water mark.
9. The applicant's proposed development is located in an area of special flood hazard identified as being within the 100 year flood zone based on the Federal Emergency Management Agency, Flood Insurance Rate Map for the Town of Mount Chase.

### **Review Criteria**

10. Under Section 10.21,J,3,c,(16) of the Commissions Land Use Districts and Standards, shoreland alterations may be allowed within a (D-RS) Residential Development Subdistrict upon the issuance of a permit from the Commission according to 12 M.R.S.A. subsection 685-B and subject to the applicable requirements set forth in Sub-Chapter III.
11. Under Section 10.23,N,3,c,(11) of the Commissions Land Use Districts and Standards, shoreland alterations may be allowed within a (P-WL) Wetland Protection Subdistrict upon the issuance of a permit from the Commission according to 12 M.R.S.A. subsection 685-B and subject to the applicable requirements set forth in Sub-Chapter III.
12. Under provisions of Section 10.25,P,2,a(2) of the Commission's Land Use Districts and Standards, projects altering any area of P-WL1 wetlands require a Tier 3 review. Alterations of P-WL1 wetlands may be eligible for Tier 2 review if the Commission determines, at the applicant's request, that the activity will not have an unreasonable negative affect on the freshwater wetlands or other protected resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.
13. Under provisions of Section 10.25,P,2,b of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must not cause a loss in wetland area, functions, and values if there is a practicable alternative to the project that would be less damaging to the environment. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project; must comply with applicable water quality standards; and use erosion control measures to prevent sedimentation of surface waters. Each Tier 2 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project

14. Under provisions of Section 10.25,P,2,e(2) of the Commission's Land Use Districts and Standards, the Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.
15. Under provisions of Section 10.25,T,2,a of the Commission's Land Use Districts and Standards, Development in flood prone areas, including areas of special flood hazard, shall:
  - (1) Be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) Use construction materials that are resistant to flood damage;
  - (3) Use construction methods and practices that will minimize flood damage; and
  - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

The facts are otherwise as represented in Great Ponds Permit Application GP 3442 and supporting documents.

**Based upon the above Findings, the staff concludes that:**

1. The proposed shoreland alteration would be in conformance with the provisions of Sections 10.21,J,3,c(16) and 10.23,N,3,c(11), of the Commission's Land Use Districts and Standards.
2. In accordance with the provisions of Section 10.25,P, 2,a(2)(c) of the Commission's Land Use Districts and Standards, the proposed shoreland alteration meets the requirements for reduction from a Tier 3 to a Tier 2 wetland review. Specifically, the project will not unreasonably interfere with the character of the area, the existing scenic, aesthetic, recreational or navigational use or negatively affect the lake in that the retaining wall currently exists and portions of the existing wall will be utilized, along with the rock base which is still intact. Several other retaining walls are also present along the shoreline at this location. The project is impacting zero (0) additional P-WL1 wetlands and is limited to the previously altered area of 588 square feet of P-WL1 wetland.
3. The proposal would meet the provisions of Section 10.25,P,2,b of the Commission's Land Use Districts and Standards. Specifically, the retaining wall cannot practicably be located elsewhere as it serves to protect the shoreline and is currently a safety hazard due to deterioration of portions of the retaining wall and cap. No disturbance to the lake bottom is proposed and is limited to the existing altered area, thereby, minimizing water quality impacts. The water quality classification of South Twin Lake is not likely to be affected by the project, the project would be completed when the water level is below the work area, and the concrete forms would not be removed prior to the concrete being properly cured for at least one week.

4. Under provisions of Section 10.25,P,2,e(2) of the Commission's Land Use Districts and Standards, neither a functional assessment nor compensation is required because the area of P-WL1 Subdistrict disturbance is utilizing and limited to an existing altered area and no additional area of P-WL1 will be impacted. No additional adverse impact to the lake, fisheries habitat, or other wetland functions and values has been identified
5. The proposed development would meet the provisions of Section 10.25,T,2,a of the Commission's Land Use Districts and Standards in that the development would be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; would use construction materials that are resistant to flood damage; and would use construction methods and practices that will minimize flood damage.
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.

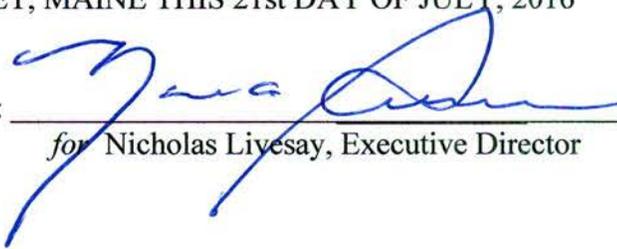
**Therefore, the staff approves the application of Edwin and Judith MacArthur with the following conditions:**

1. The Standard Conditions for Shoreland Alterations (ver. 4/04), a copy of which is attached.
2. Any excavation or construction must be done when the lake water level is lower than the project area.
3. Any debris or fill material must be stored away from the waterbody and stockpiled above the normal high water mark. Tarps and silt fence must be used to prevent sedimentation from stockpiled materials, where necessary.
4. All areas of disturbed mineral soil must be promptly reseeded and stabilized with mulch, and maintained in a vegetated state to prevent soil erosion. In areas where revegetation is not initially successful, additional measures to control erosion and sedimentation must be undertaken as often as necessary to be effective.
5. No dredging may take place, except rocks and material that are part of the original shoreline retaining wall structure may be moved and/or reused.
6. Staked hay bales or silt fencing anchored with rock must be placed between the work area and the water prior to undertaking construction activities. Once implemented or put in place, erosion control devices and measures must be maintained to ensure proper functioning. Should any erosion or sedimentation occur during construction, the permittee shall cease construction and contact the Commission immediately, notifying it of the problem and describing all proposed corrective measures.
7. Wheeled or tracked equipment may not be operated below the normal high water mark of Lower Shin Pond.

8. Uncured concrete must not be placed directly into the water. Concrete must be placed in forms and cured at least one week before the forms are removed. No washing of tools, forms, etc. may occur in or adjacent to the waterbody or wetland.
9. Existing vegetation should be maintained as much as practicable. Trees and/or shrubs should be replanted to re-establish a vegetative buffer.
10. Upon completion of the project within the terms of this permit, any debris remaining must be disposed of in a proper manner, in compliance with all applicable state and federal solid waste laws and rules.
11. The permittee shall secure and comply with all applicable licenses, permits, authorizations and requirements of all federal, state and local agencies, including but not limited to the U.S. Army Corps of Engineers.

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 21st DAY OF JULY, 2016

By:   
for Nicholas 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 SHORELAND ALTERATION PERMITS**

1. The permit certificate must be posted in a visible location on your property during performance of the activities 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, permits required under the Natural Resources Protection Act administered by the Maine Department of Environmental Protection.
5. 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.
6. All areas of exposed mineral soil above the normal high water line or wetland boundary shall be promptly seeded and mulched so as to avoid soil erosion and lake sedimentation. Rocks and trees which are holding the shoreline and preventing erosion shall not be removed.
7. Unless otherwise specified in this permit, all work must be conducted at periods of low water when the water level is lower than the work area.
8. Unless otherwise specified in this permit, no mechanical equipment, machinery or vehicles shall be operated below the normal high water line or wetland boundary.
9. If pressure treated wood is to be used, such wood must be allowed to cure, away from the waterbody or wetland, for a minimum of three weeks prior to installation.
10. Once the activity is completed, 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*

