



PAUL R. LePAGE
GOVERNOR

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

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

BUILDING PERMIT BP 15172

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by William and Sally McFadden for Building Permit BP 15172, finds the following facts:

1. Applicants: William and Sally McFadden
1430 East Alcove Way
Anaheim, CA, 92805
2. Date of Completed Application: July 18, 2014
3. Location: T1 R9 WELS, Piscataquis County
Lot #6 on Plan 07 of Maine Revenue Service Property Tax Maps, further described as Lot#SC109 depicted on a Plan entitled "Final Survey Plan Ambajejus Lake Lots, T1 R9 WELS, Piscataquis County, Maine" dated October 11, 2013, and recorded in Piscataquis Cuntly Registry of Deeds in Plan Book 2013, Pages 41 to 53
4. Zoning: (D-RS) Residential Development Subdistrict
5. Lot Size: 0.96 Acres (owned)
6. Waterbody: Ambajejus Lake

The Commission has identified Ambajejus Lake as a resource class 1A, management class 3, 5, relatively accessible, relatively developed lake of statewide significance with outstanding cultural and significant fisheries, scenic, shore character, and physical resources.

Background

7. The applicant's lot (Lot #SC109) is located on a peninsula within Stevens Cove on Ambajejus Lake in T1 R9 WELS. Fire Road #17B bisects the peninsula lots to provide access to 3 other lots developed with single family residences. The portion of Fire Road #17B that is located on the applicants' lot has a usable road surface of 8 feet wide by approximately 314 feet long and is located approximately 100 feet from the normal high water mark of Ambajejus Lake at its closest point. The McFaddens' lot is presently developed with a pre-Commission dwelling (34 foot by 27 foot) with attached 12 foot by 8 foot porch located 24 feet from the normal high water mark of Ambajejus Lake and a pre-Commission 20 foot by 12 foot garage/shed located 90 feet from the lake and less than 50 feet from Fire Road 17B.

Proposal

8. The applicants propose to relocate the portion of Fire #17B that is currently located solely on Lot#SC109, to allow for the development of a 44 foot by 26 foot garage in compliance with the Commission's minimum setback requirements for residential structures from the shoreline of Ambajejus Lake and from Fire Road #17B. The proposed 8 foot by 162 foot relocated road segment would begin and end on Lot #SC109, owned by the applicants, and reconnect to the existing roadway. The proposed road would contain one 10 foot by 20 foot turnout to allow for two vehicle passage.
9. The proposed relocated 8 foot by approximately 162 foot road bed would be set back approximately 100 feet from the normal high water mark of Ambajejus Lake at its closest point, and would be setback 0 feet along the abutting property boundary line of Lot #ST-07, owned by Great Lakes Hydro America, LLC. The applicant states that there is no practical alternative on his property that would allow the proposed garage to meet waterbody and road setbacks unless the road is relocated to the proposed location.
10. An area of approximately 2106 square feet would be cleared of vegetation to allow construction of the new road. All cleared areas would be located greater than 100 feet from the normal high mark of Ambajejus Lake. The applicant states that the first section of the old road bed and canopy opening would be utilized for access to the proposed garage and a portion of the structure itself. Any portions of the existing graveled road not developed for these purposes would be revegetated.
11. The proposed 44 foot by 26 foot garage would be setback 110 feet from the normal high mark of Ambajejus Lake, 50 feet from Fire Road #17B, and greater than 15 feet from the nearest property boundary line upon completion of the road relocation. The applicants also propose to install a sink and exterior hose bib to the garage and remove the existing 12 foot by 20 foot garage located 90 feet from the normal high water mark of the lake.
12. The applicants propose to install temporary sedimentation control devices, such as silt fence and/or staked hay bales prior to soil disturbance. The proposed road bed will be built to match existing topography and will be built according to Commission standards for a Class 2 roadway. The road bed sub-base layer would be constructed with coarse gravel, graded to a thickness of 12 inches. The traveled surface of the road bed would be constructed with fine gravel, graded to a thickness of 6 inches.
13. The applicants state that the road would not cross any streams or wetlands and the finished travel portion of the road bed would have a maximum sustained slope of no more than 9.8% . All road shoulders or ditches would be graded to a 2:1 slope, loamed and seeded.
14. The applicants state that the relocated road would have no adverse impacts to Ambajejus Lake because the new location would be no closer from the normal high water mark of Ambajejus Lake than the original road bed and only relocates the minimum section necessary to accomplish the required road setback for the proposed development. The applicants also state that there would be no adverse impacts to traffic circulation because Fire Road #17B only serves 3 seasonal residential lots beyond Lot #SC109, traveled speeds would not increase, and the existing right of way will remain passable until consruction of the new road is complete .

15. The applicants have obtained documentation from the Ambajejus Lake Lot Owners Association, which has deeded maintenance and repair responsibilities over the existing road pursuant to the Declaration of Covenants appurtenant to the affected land, that it has no objections to the proposed road relocation, provided the applicants ensure that all work is done in accordance with the Land Use Planning Commission's rules and regulations.
16. The applicants have obtained written permission from Great Lakes Hydro America, LLC to relocate the road closer than 15 feet to the northern property boundary line located on Lot ST07, owned by Great Lakes Hydro America, LLC.

Review Criteria

17. Pursuant to Section 10.02 (100) of the Commission's Land Use Districts and Standards, a Level B Road Project is defined as minor relocations, and reconstructions, involving limited work outside of the existing right-of-way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right-of-way of such roads' "Minor relocations" as used herein may not exceed 300 feet in horizontal displacement of centerline. "Reconstruction" as used herein may involve widening of existing rights-of-way not to exceed 50 feet on either side.
18. Pursuant to Section 10.21,J,3,c(15) of the Commission's Land Use Districts and Standards, Level B road projects, such as the proposed relocation of Fire Road #17B, are allowed uses with a permit from the Commission within a (D-RS) Residential Development Subdistrict.
19. Pursuant to Section 10.25,D,4,a(2) and e of the Commission's Land Use Districts and Standards, a Class 2 roadway is generally appropriate for residential subdivisions with fewer than 15 lots surrounded by a relatively sparse development patterns. Class 2 roadways shall have a minimum roadway surface of 8 feet with turnouts every 500 feet on average, a minimum of 12" of coarse gravel for the road base, a minimum of 3" of fine gravel for the wearing surface, and maximum sustained slope of 15%.
20. Pursuant to Section 10.26 D, 1(b), (c) and (f) and 10.26,D, 3 of the Commission's Land Use Districts and Standards the minimum setbacks for residential structures is 100 feet from the normal high water mark of Ambajejus Lake, 50 feet from roadways, and 15 feet from side and rear property lines. These requirements apply to any privately or publicly owned road that is used for public access, including roads used by the public for which a toll is paid.
21. Pursuant to Section 10.26,G,4,13 of the Commission's Land Use Districts and Standards, the Commission may reduce the property line setback where there is no practical alternative and upon prior written agreement of the adjoining property owner.
22. The facts are otherwise as represented in Building Permit Application BP 15172 and supporting documents.

Based upon the above Findings, the staff 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.A. and the applicable requirements set forth in Sub-Chapter III of the Commission's Land Use Districts and Standards.

Therefore, the staff approves the application of William and Sally McFadden 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 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. The roadway must be constructed and maintained in conformance with the applicable requirements outlined in Section 10.25, D, Section 10.27,D and Section 10.27,H of the Commission's Land Use Districts and Standards, revised September 01, 2013 (*copies attached*), with the exception of the 0 foot property line setback of the relocated road between Lot#SC109, owned by the permittee, and Lot#ST-07, owned by Great Lakes Hydro America, LLC., and approved by this permit.
3. Prior to construction, erosion control devices must be in place prior to commencement of construction. All disturbed soil, other than the traveled surface of the road, must be permanently stabilized with mulch and seeded. All soil stabilization measures must be completed during or immediately following construction to minimize the potential for soil erosion sedimentation.
3. During construction, the permittee shall take reasonable precautions to avoid siltation and overland storm water flows. Methods used may include, but are not limited to, the use of mulch to temporarily stabilize exposed soil, cessation of construction activities during inclement weather and installation of water turnouts, waterbars, and any other measures which may prove necessary.
4. All operations must be stopped where the continuation of such operations will cause or contribute to the occurrence of accelerated erosion or concentrated overland storm water flows, or the sedimentation of surface waters, whether such occurrence is precipitated by wet weather, the failure of water control measures, or other factors. Adequate steps must immediately be taken to stop any accelerated erosion or sedimentation of surface waters and to correct the situation which led to such occurrence.
5. The roadway shall not be located closer than 100 feet from Ambajejus Lake, shall not be located closer than 50 feet to any existing or approved structures, and shall be relocated within the property boundaries of the permittees lot as depicted on Exhibit D-2 and the plan entitled "Supplement to Site Plan" dated July 1, 2014, submitted as part of Building Permit BP 15172.
6. Portions of the discontinued road bed not being utilized as an accessway to the garage or for the structure itself shall be revegetated to recreate a well-distributed stand of trees and other natural vegetation by planting a combination of native trees and shrubs in a staggered pattern no greater

apart than 8-10 feet on center, and allowing the native forest understory vegetation to become established.

7. The permittees shall maintain the existing portion of the roadway across their lots in a passable condition, allowing use and access by the other lot owners, their guests and visitors, to the other properties accessed via Fire Road #17B, until such time as the permitted section of road has been completed.
8. Once the road construction is complete, the permittees shall submit a self-certification form notifying the Commission that the new road is in compliance with the terms and conditions of this permit. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.
9. The 44 foot by 26 foot garage approved by this permit shall not be constructed until the road relocation has been completed and the Commission has been notified of the completion.
10. Prior to installation of the sink and exterior hose bib to the garage, the permittees must obtain a plumbing permit from the Local Plumbing Inspector or the Maine Division of Health Engineering. The permittees must submit a copy of the permit for the Commission's records.

This permit is approved only upon the above stated conditions and remains valid only if the permittees comply with all of these conditions. 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 22nd DAY OF JULY, 2014.

By: 
for Nicholas D. Livesay, Executive Director