# BORAD ORDER

IN THE MATTER OF

MUNICIPALITY OF STEUBEN ) MANDATORY SHORELAND ZONING ACT

WASHINGTON COUNTY, MAINE ) 38 M.R.S.A. SECTION 438-A(4)

STATE-IMPOSED ) AMENDMENT OF ZONING MAP

SHORELAND ZONING ORDINANCE

CHAPTER #1262

Pursuant to the provisions of 5 M.R.S.A. Sections 8051-8064, 38 M.R.S.A. Sections 435-449, and 06-096 CMR, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended May 1, 2006, the Board of Environmental Protection (“Board”) has reviewed the existing land use regulations relating to the shoreland zone in the municipality of Steuben, and FINDS THE FOLLOWING FACTS:

1. On October 4, 1993 the Board of Environmental Protection adopted the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* and a shoreland zoning map for the town of Steuben pursuant to 38 M.R.S.A. Section 438-A(4). Such action was necessary after the Town failed to adopt a suitable ordinance as required. The Ordinance was subsequently amended by the Board on December 14, 1994 (text amendment). A map amendment was approved by the Board with the effective date of October 24, 2007.
2. In August of 2007, Mark Richmond of Dyer Harbor, LLC, petitioned the Department of Environmental Protection to rezone an area on the north side of a small cove off Dyer Harbor in Steuben. The area is currently zoned as a Resource Protection district. The landowner, however, seeks to have the area zoned as a Limited Residential.
3. The area subject to the rezoning request includes portions of lots 5 through 9 in the “Tide Mill at Dyer Harbor” subdivision approved by the Town of Steuben. Dyer Harbor, LLC developed the subdivision.

4. The Resource Protection zoning was implemented on lots 5 through 9 due to the area’s inclusion in a “Special Flood Hazard Area” on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Map. The developer has obtained a Letter of Map Amendment from FEMA for the entire subdivision land, effectively removing the area from the Special Flood Hazard designation.

1. Department staff visited the site on November 29, 2006. On site, staff noted that all 9 lots of the “Tide Mill at Dyer Harbor” subdivision are currently undeveloped. All lots consist of low vegetation, primarily wild blueberry bushes, with a few scattered trees. The coastal wetland adjacent to lots 5 through 9 consists of mainly tidal mud flats. A tributary stream with associated wetland vegetation forms a boundary of the ninth lot. There is no mapped Significant Wildlife Habitat located on or adjacent to any of these subdivision lots.
2. A public comment period was provided in order for the abutters, town officials and other interested parties to comment on the proposed zoning change. A copy of the draft order was sent to the Town of Steuben and all abutting property owners. The public comment period extended until May 16, 2008 at 5:00 p.m. No comments were received during the comment period.

BASED on the above FINDINGS OF FACT, the Board concludes that the proposed zoning change is consistent with the Department’s *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*.

THEREFORE, THE BOARD HEREBY AMENDS the official shoreland zoning map, adopted as part of the State-imposed Shoreland Zoning Ordinance for the municipality of Steuben, by rezoning lots 5 through 9 of the “Tide Mill at Dyer Harbor” Subdivision on the north side of a small cove off Dyer Harbor in Steuben into Limited Residential zoning.

This ORDER shall remain in effect, and shall be binding upon the municipality of Steuben until amended or repealed by the “Board”, or until the municipality of Steuben adopts a shoreland zoning ordinance, consistent with the “Board’s Guidelines, and is approved by the Commissioner.

DONE AND DATED AT AUGUSTA, MAINE, THIS 3rd DAY OF July, 2008.

BOARD OF ENVIRONMENTAL PROTECTION

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Ernest W. Hilton, Chairman

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

17 STATE HOUSE STATION AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

MUNICIPALITY OF STEUBEN ) MANDATORY SHORELAND ZONING ACT

WASHINGTON COUNTY, MAINE ) 38 M.R.S.A. SECTION 438-A(4)

STATE-IMPOSED ) ADOPTION OF ZONING PROVISIONS

SHORELAND ZONING ORDINANCE

CHAPTER #1262

Pursuant to the provisions of 5 M.R.S.A. Section 8053, 38 M.R.S.A. Sections 435-449, and 06-096 CMR, Chapter 1000*, State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended July 14, 1992, the Board of Environmental Protection has reviewed the existing land use regulations relating to the shoreland zone in the municipality of Steuben, and FINDS THE FOLLOWING FACTS:

1. The Mandatory Shoreland Zoning Act (Act) requires all municipalities to establish zoning controls in areas within 250 feet of the normal high-water line of any great pond, river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; and within 75 feet of the normal highwater line of a stream. Such zoning standards must be consistent with or no less stringent than those in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines) as adopted by the Board of Environmental Protection (Board).

2. The Guidelines were revised by the Board, effective March 24, 1990, and again on July 14, 1992. The revised Guidelines include more stringent land use standards than the Board's earlier Guidelines. In addition, the revised Guidelines contain new zoning and land use provisions for activities in shoreland areas adjacent to streams and coastal and freshwater wetlands as required by the Act as amended in January of 1989. Following the Board's revisions to the Guidelines in 1990, the Maine legislature, and the Board as authorized in 38 M.R.S.A. Section 438-A(2), established July 1, 1992 as the deadline for local ordinances to be amended consistent with the Guidelines.

3. 38 M.R.S.A. Section 438-A(4) requires the Board to adopt suitable zoning ordinances for municipalities which fail to adopt shoreland zoning ordinances consistent with or no less restrictive than the Guidelines.

4. The Municipality of Steuben has failed to adopt a shoreland zoning ordinance consistent with the Board's Guidelines within the time frame established by the Board. As of August 25, 1993 the municipality of Steuben has not revised its shoreland zoning and land use standards, consistent with the Board's Guidelines.

5, The Board can ensure that the municipality of Steuben has adequate shoreland zoning and land use provisions for all shoreland areas within the municipality by adopting the Board's Guidelines ordinance and an appropriate zoning map based on the districting criteria contained in the Guidelines, for the municipality.

6. On April 21, 1993 copies of the Guidelines and draft zoning map were forwarded to the municipality of Steuben for public comment. The Board also advertised in newspapers of state-wide circulation, its intent to adopt the Guidelines and zoning map for the Municipality. Comments were received by the public and town officials relating primarily to flood plain issues and issues relating to existing development patterns. Department staff conducted two public meetings and made site visits to numerous locations to resolve the issues raised during the comment period. The town also requested that the planning board be designated as the sole permitting authority in the shoreland zone due to the part-time status of the code enforcement officer. The Department believes the town's permitting request is reasonable.

BASED on the above FINDINGS OF FACT, the Board makes the following CONCLUSIONS:

1. Whereas the deadline has past for municipalities to amend local shoreland zoning ordinances consistent with the Board's Guidelines, and whereas the municipality of Steuben has failed to do so, the Board has a responsibility to adopt a suitable ordinance for the Municipality.

2. The Board can adopt a suitable ordinance for the Municipality by adopting the provisions contained in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended July 14, 1992, with an appropriate zoning map based on the districting criteria contained in the Guidelines. It is reasonable, however, for the planning board to issue all permits in the shoreland zone as requested by the selectmen.

THEREFORE**,** THE BOARD HEREBY ORDERS AND ADOPTS for the municipality of Steuben, all of the provisions contained in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended July 14, 1992, for all areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of any coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of all streams, as defined in 38 M.R.S.A. Section 436, except that all required permits shall be issued by the planning board. The Board further Orders that the map entitled *Town of Steuben Shoreland Zoning Map, adopted by the Board of Environmenta1 Protection* is hereby incorporated into the Ordinance.

This ORDER shall remain in effect, and shall be binding upon the municipality of Steuben until amended or repealed by the Board, or until the municipality of Steuben adopts a shoreland zoning ordinance, consistent with the Board's Guidelines, and is approved by the Commissioner.

DONE AND DATED AT AUGUSTA, MAINE, THIS 25 DAY OF AUGUST 1993.

BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Owen R. Stevens, Chairman

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BASIS STATEMENT

The Mandatory Shoreland Zoning Act, Title 38 section 438-A, requires all municipalities to adopt shoreland zoning provisions for shoreland areas. Shoreland areas include areas within 250 feet of the normal high-water line of tidal waters, great ponds, and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of streams. Section 438-A also requires the Board of Environmental Protection to adopt minimum guidelines for shoreland zoning ordinances. Municipal ordinances must be consistent with or no less restrictive than the Board's guidelines.

In 1990 the Board of Environmental Protection amended its shoreland zoning guidelines and later established July 1, 1992 as the deadline for municipalities to update their local ordinances consistent with the guidelines. The Mandatory Shoreland Zoning Act requires the Board to adopt suitable ordinances for those municipalities which fail to adopt updated ordinances. This rule adopts a suitable ordinance for this municipality consistent with the Board's Guidelines.

The Department received numerous comments from the Steuben planning board and the public. Specific comments from the planning board included a request to allow home occupations in the Limited Residential district and the Limited Commercial district without a permit, and a request to allow residential uses in the Commercial Fisheries/Maritime Activities district. The Department can not incorporate these requests into the state-imposed ordinance since both are issues which would cause that ordinance to become less restrictive than the Board's Guidelines.

The town also requested that all permitting activities be conducted through the planning board rather than the code enforcement officer. The request is based on the fact that the town's code enforcement officer is not a full-time position and does not have the time to review all of the permit applications. The Department believes that that request is reasonable and has made that change in the state-imposed ordinance.

Several comments received related to areas shown on the Federal Emergency Management Agency's flood plain maps. Site visits were made to the areas in question and the zoning map was amended where it appeared that the land in question was not in the 100-year flood plain.

Another issue which arose in several comments was that certain areas which had been designated on the draft map as a Resource Protection district were already developed and should be placed in the district most related to the type of development which currently existed. Site visits were made to those sites and where development was present the map was amended accordingly.

Finally, several amendments were made to the draft zoning map when certain landowners argued that their sites were either suitable for or contained existing commercial activities. In those cases the land was removed from the Limited Residential or Resource Protection districts and placed into the Limited Commercial district.

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

AMENDMENT TO STATE-IMPOSED ) MANDATORY SHORELAND ZONING ACT

SHORELAND ZONING ORDINANCE ) 38 M.R.S.A., SECTION 438-A

FILE #BEP-B-94

Pursuant to the provisions of the Mandatory Shoreland Zoning Act, 38 M.R.S.A., Sections 435-449, and 06-096 CMR, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines), effective August 7, 1994, the Board of Environmental Protection (Board) has considered the shoreland zoning ordinances for the municipalities listed in Appendix A (attached) and FINDS THE FOLLOWING FACTS:

1. Since 1974, the Mandatory Shoreland Zoning Act (MSZA) has required all municipalities to establish zoning and land use controls in areas located within 250 feet of the normal high water line of any great pond, river or saltwater body. In 1989, that requirement was expanded to also include areas within 250 feet of the upland edge of freshwater and coastal wetlands, and within 75 feet of the normal high water line of streams.

2. The Board establishes minimum guidelines for the local land use control ordinances. The MSZA authorizes the Board to establish a deadline for municipalities to adopt local ordinances consistent with the Guidelines and the purposes of the MSZA. The MSZA also authorizes the Board to adopt shoreland zoning ordinances for those municipalities which fail to adopt a suitable local ordinance.

3. On March 24**,** 1990, the Board of Environmental Protection amended the Guidelines. The Board also established July 1, 1992 as the deadline for amending local ordinances consistent with the Guidelines. The municipalities listed in Appendix A did not meet the July 1 deadline, resulting in the Board adopting the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, including amendments which became effective on July 14, 1992**,** for those municipalities. Those state-imposed ordinances can only be amended by the Board.

4. Additional amendments were made to the Guidelines effective August 7, 1994. It is the responsibility of the Board to amend the state-imposed ordinances for the municipalities listed in Appendix A, in order to make those ordinances consistent with the current Guidelines.

5. The August 7, 1994 amendments as listed in Appendix B, and made part of this Order, include provisions which allow:

A. The issuance of a special exception permit by the planning board, for a single family residence in a resource protection district under certain limited conditions;

B. Conversion of seasonal residences in a Resource Protection District;

C.Subsurface sewage disposal systems in a Resource Protection District for uses allowed in that district;

D. Existing road culverts to be replaced without the need for a permit, regardless of the diameter of the replacement culvert; and

E. The applicability of the shoreland zoning ordinance to structures built in, on, or over a water body or wetland but not attached to the shoreline.

6. Amendments referred to in paragraphs A., B., C., D. above, result in a relaxation of the Guideline standards. Paragraph E. requires additional permitting activities, whereas that paragraph establishes a greater area of jurisdiction.

7. No written comments were received during a written comment period which ended on December 1, 1994.

BASED on the above Findings of Fact, the Board makes the following CONCLUSIONS:

1. The municipalities listed in Appendix A (attached) are subject to a state-imposed shoreland zoning ordinance consisting of the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, effective July 14, 1992. It is the Board's responsibility to amend the existing state-imposed ordinances, consistent with the August 7, 1994 amended Guidelines. However, the Guideline amendment which broadens the scope of the shoreland zone to include structures located beyond the normal highwater line, is not a mandatory requirement and should not be imposed upon the municipalities listed in Appendix A.

THEREFORE, the Board hereby AMENDS the State-imposed Shoreland Zoning Ordinances for the municipalities listed in Appendix A (attached), by adopting as the text of the ordinance, the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, effective August 7, 1994, except that the ordinance shall not apply to those structures located beyond (waterward) the normal high water line or upland edge of a wetland.

DONE AND DATED AT AUGUSTA, MAINE, THIS 14 DAY OF December, 1994.

BOARD OF ENVIRONMENTAL PROTECTION

 BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Owen R. Stevens, Chairman

APPENDIX A TO BOARD ORDER #BEP-B-94

|  |  |  |  |
| --- | --- | --- | --- |
| AMITY | (1267) | LIMINGTON | (1299) |
| ATHENS | (1245) | LOVELL | (1276) |
| AURORA | (1288) | LUDLOW | (1277) |
| BANCROFT | (1268) | MECHANIC FALLS | (1300) |
| BOWDOINHAM | (1246) | MEDFORD | (1279) |
| BOWERBANK | (1289) | MERRILL | (1281) |
| BRADFORD | (1247) | MILO | (1301) |
| BRIDGTON | (1290) | MOOSE RIVER | (1257) |
| BROWNVILLE | (1291) | NEWCASTLE | (1302) |
| CARTHAGE | (1292) | NORTH HAVEN | (1304) |
| CENTERVILLE | (1235) | ORIENT | (1282) |
| CHARLOTTE | (1249) | PARIS | (1260) |
| CHESTER | (1250) | PARSONSFIELD | (1306) |
| COLUMBIA | (1251) | PASSADUMKEAG | (1264) |
| COOPER | (1270) | PENOBSCOT | (1307) |
| CORINTH | (1271) | PLYMOUTH | (1308) |
| CRYSTAL | (1320) | ROCKLAND | (1325) |
| DURHAM | (1321) | SEDGWICK | (1241) |
| EDINBURG | (1253) | SHIRLEY | (1309) |
| ETNA | (1322) | SPRINGFIELD | (1261) |
| EXETER | (1293) | STACYVILLE | (1283) |
| FARMINGDALE | (1294) | STEUBEN | (1262) |
| FRANKFORT | (1295) | STOCKTON SPRINGS | (1310) |
| FREEDOM | (321.1) | STONINGTON | (1311) |
| GREENE | (1237) | STOW | (1326) |
| GUILFORD | (1296) | TALMADGE | (1263) |
| HANOVER | (1254) | TROY | (1243) |
| HARRINGTON | (1327) | VANCEBORO | (1285) |
| HERSEY | (1272) | WADE | (1286) |
| HIRAM | (1273) | WAITE | (1265) |
| ISLE AU HAUT | (1323) | WALDO | (1312) |
| KNOX | (1255) | WHITEFIELD | (1244) |
| LAGRANGE | (1275) | WOODVILLE | (1266) |
| LIMERICK | (1256) |  |  |
|  |  | TOTAL:67 |  |

APPENDIX B TO BOARD ORDER #BEP-B-94

CHAPTER 1000: AMENDMENTS TO THE *STATE OF MAINE GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES*

1. Change Section 3. **Applicability,** to read:

This ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within **250** feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over, or abutting a dock, wharf or pier,, or other structure extending or located beyond the normal high-water line of a water body or within a wetland.

2. Change Section 14. Table 1, **Land Uses in the Shoreland Zone** to read:

 **Land Uses** **District**

 **RP**

15. Principal structures and uses

 A. One and two family residential ~~no~~ PB9

18. Conversion of seasonal residences ~~no~~ LPI

 to year-round residences

20. Private sewage disposal systems for ~~no~~ LPI

 allowed uses

Add footnote 9: Single family residential structures may be allowed by Special Exception only according to the provisions of Section 16.E, Special Exceptions. Two-family residential structures are not permitted.

3. Amend Section 16. **Administration**, subsection B., to read:

 B. Permits Required

After the effective date of this ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

A permit is not required for the replacement of an existing road culvert as long as:

~~1. The replacement culvert is not more than one standard culvert size wider in diameter than the culvert being replaced;~~

~~2.~~1. The replacement culvert is not more than 25% longer than the culvert being replaced

~~3~~ 2. The replacement culvert is not longer than 75 feet; and

~~4~~ 3. Adequate erosion Control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course

4. Add new Section 16, E., **Special Exceptions**, as follows:

In addition to the criteria specified in Section 16.D. above, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

3. The proposed location of all buildings, sewage disposal systems and other improvements are:

a. Located on natural ground slopes of less than 20%; and

b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.

4. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-valued and high-value wetlands.

And change existing Sections 16 E., 16 F., and 16 G. to Sections 16 F., 16 G., and 16 H. respectively.

5. Add the following definitions to Section 17:

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Velocity Zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

**BASIS STATEMENT**

The Mandatory Shoreland Zoning Act, Title 38 section 438-A, requires all municipalities to adopt shoreland zoning provisions for shoreland areas. Shoreland areas include areas within 250 feet of the normal high-water line of tidal waters, great ponds, and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of streams. Section 438-A also requires the Board of Environmental Protection to adopt minimum guidelines for shoreland zoning ordinances. Municipal ordinances must be consistent with or no less restrictive that the Board’s guidelines.

When a municipality fails to adopt a shoreland zoning ordinance consistent with, or more restrictive that the Guidelines the Board of Environmental Protection may adopt a suitable ordinance for the municipality. This rule amends the previously adopted state-imposed ordinances by the Board of Environmental Protection.

The amendments, however, do not incorporate the provision to regulate structures located over a water body or wetland, that provision would result in an unfunded mandate.

No comment were received during the written comment period which ended December 1, 1994.

IN THE MATTER OF

MUNICIPALITY OF STEUBEN ) MANDATORY SHORELAND ZONING ACT

WASHINGTON COUNTY, MAINE ) 38 M.R.S.A. SECTION 438-A(4)

STATE-IMPOSED ) AMENDMENT OF ZONING MAP

SHORELAND ZONING ORDINANCE

CHAPTER 1262

Pursuant to the provisions of 5 M.R.S.A. Sections 8051-8064, 38 M.R.S.A. Sections 435-449, and 06-096 CMR, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended May 1, 2006, the Board of Environmental Protection (“Board”) has reviewed the existing land use regulations relating to the shoreland zone in the municipality of Steuben, and FINDS THE FOLLOWING FACTS:

1. On October 4, 1993 the Board of Environmental Protection adopted the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* and a shoreland zoning map for the town of Steuben pursuant to 38 M.R.S.A. Section 438-A(4). Such action was necessary after the Town failed to adopt a suitable ordinance as required. The Ordinance was subsequently amended by the Board on December 14, 1994 (text amendment).
2. In November of 2006, Eric Reinholdt of Elliot Elliot Norelius Architecture, agent for landowners John Bowman and Sandra Robishaw of Steuben (“landowners”), petitioned the Department of Environmental Protection to rezone an area on the north side of Carrying Place Cove, a tidal cove adjacent to Dyer Bay, between Petit Manan Point and Pigeon Hill. The area is currently zoned as a Resource Protection district. The landowners, however, seek to have the area zoned as a split district in which the first 150 feet of the shoreland zone (from the upland edge of the coastal wetland) would be Resource Protection, and the remaining 100 feet of shoreland zone be Limited Residential.
3. The area subject to the rezoning request includes portions of lots 4 through 10 in the “Carrying Place Cove South” subdivision approved by the Town of Steuben. The landowners own lot 10.
4. Department staff visited the site on November 29, 2006. On site, staff noted that all 10 lots of the “Carrying Place Cove South” subdivision are currently undeveloped. Lots 1 through 3 have flat topography, while lots 4 through 9 have steep slopes (greater than 20%) in the immediate upland. Lot 10 is distinctive in topography; the slope extends further into the property on the easterly portion of the parcel. According to the Town approved subdivision plans and the Town of Steuben Shoreland Zoning Map, lots 1-3 are zoned Limited Residential. Lots 4 through 9 have steep slopes which extend approximately 90 feet horizontal distance from the coastal wetland. The slope on Lot 10 is estimated at 130 feet, horizontal distance, from the coastal wetland at the maximum.
5. The proposed split district would serve to protect the slope from erosion potential of development while allowing landowners to build residential structures 150 feet from the coastal wetland.
6. A public comment period was provided in order for the abutters, town officials and other interested parties to comment on the proposed zoning change. A copy of the draft order was sent to the Town of Steuben and all abutting property owners. The public comment period extended until June 22, 2007 at 5:00 p.m.

BASED on the above FINDINGS OF FACT, the Board concludes that the proposed zoning change is consistent with the Department’s Guidelines for Municipal Shoreland Zoning Ordinances. The split district will provide protection for steep slopes adjacent to the natural resource.

THEREFORE, THE BOARD HEREBY AMENDS the official shoreland zoning map, adopted as part of the State-imposed Shoreland Zoning Ordinance for the municipality of Steuben, by rezoning lots 4 through 10 of the “Carrying Place Cove South” Subdivision on the north side of Carrying Place Cove such that the first 150 feet of shoreland zone (from the upland edge of the coastal wetland) is in the Resource Protection district and the remaining 100 feet of shoreland zone is in the Limited Residential district.

This ORDER shall remain in effect, and shall be binding upon the municipality of Steuben until amended or repealed by the “Board”, or until the municipality of Steuben adopts a shoreland zoning ordinance, consistent with the “Board”'s Guidelines, and is approved by the Commissioner.

DONE AND DATED AT AUGUSTA, MAINE, THIS 6th DAY OF September 2007.

BOARD OF ENVIRONMENTAL PROTECTION



BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Virginia Plummer, Chairwoman

**Basis Statement**

 for Amendment to Chapter 1262

State-imposed Shoreland Zoning Ordinance for the Town of Steuben

The Rule amends the Official Shoreland Zoning Map for the Town of Steuben. Organized municipalities are required by law (Title 38 MRSA section 438-A(2)) to adopt ordinances that regulate land areas within the shoreland zone. Municipal ordinances must be consistent with or no less restrictive than the Guidelines adopted by the Board of Environmental Protection (BEP). When a municipality fails to adopt a suitable ordinance the BEP is required to adopt a suitable ordinance for that municipality. The ordinance adopted by the BEP includes an official shoreland zoning map.

The town of Steuben has not adopted a suitable shoreland zoning ordinance. Therefore, the BEP adopted the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* and an official shoreland zoning map for the Town on October 4, 1993 (Chapter 1262). Only the BEP can amend the state-imposed shoreland zoning ordinance.

In early 2007 an owner of a lot in a locally approved subdivision (Carrying Place Cove Subdivision) petitioned the BEP to amend the shoreland zoning map because the petitioner’s land did not meet the criteria for Resource Protection zoning. Staff reviewed the districting as it pertains to the entire subdivision and determined that the request to remove a portion of the shoreland zone from the Resource Protection district was appropriate. The Department concluded that only the first 150 feet from the upland edge of the coastal wetland on lots 4 through 10 needed to remain in the Resource Protection District. The remaining 100 feet, consistent with the Department’s Guidelines, can be zoned as a Limited Residential district. The BEP concurred with the Department staff and approved the proposed map amendment.

**Response to Comments**

The Department received no comments during the public comment period.

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 16, 2025