



STATE OF MAINE  
JOHN ELIAS BALDACCI  
GOVERNOR

DEPARTMENT OF CONSERVATION  
LAND USE REGULATION COMMISSION  
191 MAIN STREET  
EAST MILLINOCKET, MAINE 04430

PATRICK  
MCGOWAN  
COMMISSIONER

# PERMIT

## BUILDING PERMIT BP 14052

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Richard Tetreau for Building Permit BP 14052, finds the following facts:

1. Applicant: Richard Tetreau  
653 Gore Road  
Alfred, ME 04002
2. Date of Completed Application: September 7, 2008
3. Location of Proposal: Molunkus Twp., Aroostook County  
Lot # 1 on Plan 01 (part of)
4. Zoning: (D-RS) Residential Development Subdistrict
5. Lot Size: 2.34 Acres (owned)
6. Principal Building: Existing Single Family Dwelling (26 ft. by 26 ft.)  
with Proposed Permanent Foundation (26 ft. by ft.)
7. Accessory Building: Existing Privy/Shed (8 ft. by 8 ft.)
8. Affected Waterbody: Molunkus Lake  
The Commission has identified Molunkus Lake as a management class 7, resource class 2, accessible, developed lake with the following resource ratings: significant fisheries resources.
9. The applicant's lot is currently developed with a pre-Commission single-family seasonal dwelling (26 ft. by 26 ft.) on a pier-type foundation and located 20 feet from the normal high water mark of Molunkus Lake, and a privy/shed building (8 ft. by 8 ft.) located 66 feet from the normal high water mark of Molunkus Lake. The dwelling is served by an existing primitive wastewater disposal system. With the exception of the cleared area immediately surrounding the existing development, the applicant's lot is heavily stocked with mature coniferous and deciduous tree species.

## PROPOSAL

10. The applicant proposes to relocate the existing dwelling back from the water and place it on a proposed concrete slab foundation. The relocated dwelling would be located 56 feet from the normal high water mark and would be served by the existing primitive wastewater disposal system. Relocation of the structure to the proposed site will require the removal of only 3 to 6 mature coniferous trees.
11. Commission staff have recommended that the open area (former dwelling location) created as part of the relocation shall be vegetated with a mixture of grasses, shrubs, and trees, to which the applicant has agreed.

## REVIEW CRITERIA

12. Section 10.26,D,1 of the Commission's Land Use Districts and Standards, *Setbacks for Residential Structures*, states that the minimum setback for residential structures is 100 feet from waterbodies such as Molunkus Lake, 50 feet from the access road and 15 feet from the nearest property boundary line.
13. Section 10.02,136 of the Commission's Land Use Districts and Standards, *Definitions; Permanent Foundation*, states in relevant part that permanent foundations include full foundations, basements, slabs, and frost walls.
14. Under the provisions of Section 10.11,C,2,c of the Commission's Land Use Districts and Standards, the addition of a permanent foundation beneath a legally existing, nonconforming structure constitutes a reconstruction subject to the provision in Section 10,11,C,2,a.
15. Section 10.11,C,2,a *Reconstruction or Replacement*, states that reconstruction or replacement must comply with current minimum setback requirements to the greatest possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the greatest possible extent, the Commission may consider the following factors:
  - a. size of lot
  - b. slope of the land
  - c. potential for soil erosion and phosphorus export to a water body
  - d. location of other legally existing structures on the property
  - e. location of the septic system or other on-site soils suitable for septic systems
  - f. type and amount of vegetation to be removed to accomplish the relocation
  - g. physical condition and type of existing foundation, if any

16. Section 10.11,C,3, *Relocation*, states that in order to make it conforming or less nonconforming, a legally existing nonconforming structure may be relocated within the boundaries of the lot upon issuance of a permit. Cleared openings created as part of a relocation shall be stabilized and revegetated. Relocated structures that are altered such that they meet the definition of reconstruction shall meet the requirements of Section 10.11,C,2.

### CONCLUSIONS

17. Based on a site visit, Commission staff concludes that requiring the relocated structure to be placed beyond 100 feet from the normal high water mark of Molunkus Lake would cause the removal of an excessive amount of mature coniferous trees and would create an excessively large opening in the forest canopy within 100 feet of the normal high water mark of Molunkus Lake.

Based upon the above Findings, the staff concludes that:

1. The proposal does not comply with the minimum setback requirements for residential structures set forth under Section 10.26,D,1 of the Commission's Land Use Districts and Standards, in that the proposed foundation would not be set back at least 100 feet from the normal high water mark of Molunkus Lake.
2. The proposed addition of the permanent foundation to the seasonal camp would meet the criteria for a waiver of the Commission's minimum waterbody set back requirement under provisions of Section 10.11,C,2,a of the Commission's Land Use Districts and Standards. The proposed foundation cannot be more conforming with respect to the waterbody setback because the lot is densely forested and would require the removal of an excessive amount of mature trees. The proposed foundation will be set back to the greatest possible extent and meet the minimum setback requirement from the access road and property boundary lines. The minimum waterbody setback requirement may be waived from 100 feet to 56 feet.
3. The proposed relocation of the seasonal camp onto a permanent foundation would be in compliance with Section 10.11,C,3 of the Commission's Land Use Districts and Standards in that the camp would be relocated to a conforming location within the boundaries of the lot and the cleared opening created as part of a relocation would be stabilized and revegetated. .
4. 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 Richard Tetreau 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 and until a new permit has been granted by the Commission.

2. The standards for Vegetative Clearing, Section 10.27,B of the Commission's Land Use Districts and Standards, a copy of which is attached.
3. The standards for Filling and Grading, Section 10.27,F of the Commission's Land Use Districts and Standards, a copy of which is attached.
4. The seasonal dwelling shall be set back a minimum of 56 feet from Molunkus Lake, 50 feet from the access road, and 15 feet from other property boundary lines.
5. Cleared openings created as part of the relocation of the dwelling shall be stabilized and revegetated with a combination of native grasses, shrubs, and trees within 12 months of the date of permit issuance. Trees shall be of a native variety found growing naturally in the surrounding area and shall be a minimum of 6 ft. tall for deciduous species and a minimum of 3 feet tall for coniferous species. Trees shall be planted at a minimum density of one tree for each 80 square feet of affected area to be revegetated. Trees not surviving within a 5 year period of project completion shall be replaced with another tree of same or similar species.
6. This permit is limited to the relocation of the existing structure onto a newly constructed concrete slab foundation. If, at any time, the existing structure is rebuilt or reconstructed in excess of 50% by area of its structural components, including roof, walls, floor, or foundation, then the structure may be required to be relocated such that it meets the 100 foot setback from the normal high water mark of Molunkus Lake.
7. The newly constructed slab foundation shall not extend beyond the dimensions of the existing dwelling.
8. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to insure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
9. 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.

10. A 6 foot wide footpath to the lake is allowed, provided it is located and constructed so that it will not erode or create any undue restriction or disruption of existing surface water drainage ways and it will divert runoff to a vegetated buffer strip.
11. Once construction is complete, the permittee shall submit a self certification form, notifying the Commission that all conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

This permit is approved only 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 conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation 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 AUGUSTA, MAINE, THIS 19th DAY OF SEPTEMBER, 2008.

By:  \_\_\_\_\_  
for Catherine M. Carroll, Director