

OWNER(S): Lewis W. & Cathy L. Waters
LOCATION: 118 Northern Neck Road, Mount Desert
TAX MAP: 015 **Lot(S):** 006 **ZONE(S):** Shoreland Residential Two (SR2)
PURPOSE: Sections 3.4 & 6C.7 Marine and Freshwater Structure Performance Standards
SITE INSPECTION: 4:15PM

CHECKLIST

Land Use Zoning Ordinance of the Town of Mount Desert

**** Note:** All Conclusions of Law are to be read as if they are prefaced by the words “Based upon said Findings of Fact ...”

SECTION 6 STANDARDS FOR USES, PERMITS AND APPROVALS FOR REVIEW BY PLANNING BOARD

6A GENERAL PERFORMANCE STANDARDS

6A.1	Compatibility	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> N/A
6A.2	Erosion and Sedimentation Control	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.3	Highway Safety	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.4	Impact on Town Services	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.5	Land Suitability	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> N/A
6A.6	Lighting - Outdoor	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.7	Stormwater	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.8	Vegetation	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.9	Dust, Fumes, Vapors, Odors and Gases	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A

Findings of Fact(s): The findings of fact are as presented by the applicant (see attached application and/or notes below).

VOTE: Findings of Facts (Eaton/Hanley) 3-0

Conclusion of Law: The proposed use is in compliance with all standards of Section 6A.

VOTE: Conclusion of Law (Eaton/Hanley) 3-0

Notes: _____

6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES

6B.1	Agriculture	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.2	Air Landing Sites	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.7	Excavation or filling	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.8	Fences and Walls	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.12	Mineral Exploration and Extraction	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.15	Sign Regulations	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.17	Wireless Communication Facilities	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A

X N/A (Except for Section(s): 6B._____)

Findings of Fact(s): The proposed use will include none of the specific activities or land uses described in section 6B, except for Applicable Sections(s) noted above.

VOTE: Findings of Facts _____ (Hanley/Randolph) 3-0

Conclusion of Law: Section 6B is not applicable, except for Sections(s):6B._____

VOTE: Conclusion of Law _____ (Hanley/Randolph) 3-0

Notes: _____

6C SHORELAND ZONING STANDARDS FOR REVIEW BY PLANNING BOARD

Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

N/A: Findings of Fact: The proposed lot is entirely outside the Shoreland Zone.

VOTE: Findings of Facts _____ -

Conclusion of Law: Section 6C is not applicable.

VOTE: Conclusion of Law _____ -

(go to page 30)

6C.1	Agriculture and Animal Husbandry	X N/A	<input type="checkbox"/> Applicable, see page 24
6C.2	Archeological sites	<input type="checkbox"/> N/A	X Applicable, see page 24
6C.5	Essential Services	X N/A	<input type="checkbox"/> Applicable, see page 24
6C.6	Parking Areas	X N/A	<input type="checkbox"/> Applicable, see page 25
6C.7	Marine and Freshwater Structure Standards	<input type="checkbox"/> N/A	X Applicable, see page 25
6C.9	Roads and Driveways	X N/A	<input type="checkbox"/> Applicable, see page 28
6C.11	Timber Harvesting	X N/A	<input type="checkbox"/> Applicable, see page 30
6C.12	Water Quality	<input type="checkbox"/> N/A	X Applicable, see page 31

N/A (Except for Section(s): 6C._____ 6C7_____)

Findings of Fact(s): The proposed use will include none of the specific activities

or land uses described in section 6C, except for Applicable Sections(s) noted above.

Conclusion of Law: Section 6C is not applicable, except for
Sections(s): 6C. 2, 7, 12

VOTE: Findings of Facts and Conclusion of Law (Hanley/Eaton) 3-0

For all applicable subsections, please record findings of fact and conclusions of law on page 32 and/or page 33.

- 6C.5 recording of applicability begins on page 24;
- 6C.6 recording of applicability begins on page 25;
- 6C.7 recording of applicability begins on page 25;
- 6C.9 recording of applicability begins on page 28;
- 6C.11 recording of applicability begins on page 30;
- 6C.12 recording of applicability begins on page 31

- **6C.1 Agriculture and Animal Husbandry**

1. **Manure spreading.** *All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).*
2. **Manure storage.** *Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands.*
3. **Conservation plan.** *Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board.*
4. **New tilling.** *There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands.*
5. **Livestock grazing areas.** *Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high- water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands.*

6C.2 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

6C.5 Essential Services

1. **Limited to public ways.** *Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.*

N/A Acceptable Not Acceptable
2. **Exclusion from RP, Stream Protection.** *The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District except to provide services to a permitted use within the Stream Protection District or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.*

N/A Acceptable Not Acceptable
3. **Damaged lines.** *Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.*

N/A Acceptable Not Acceptable

6C.6 Parking Areas

1. *Setback from water. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Shoreland Commercial District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the Shoreland Commercial District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.*

N/A Acceptable Not Acceptable
2. *Adequate size. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.*

N/A Acceptable Not Acceptable
3. *Determination of size. In determining the appropriate size of proposed parking facilities, the following shall apply:*
 1. *Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long. However, should the Planning Board find that there are special circumstances of topography, traffic access and safety, or environmental concerns, the Board may waive provisions of this section provided that such waiver does not have the effect of nullifying the purpose of this section.*
 2. *Internal travel aisles: Approximately twenty (20) feet wide.*

N/A Acceptable Not Acceptable

6C.7 Marine and Freshwater Structure Performance Standards

Marine Structure Definition. *Piers, docks, floats, wharves, bridges over ten (10) feet in length, and other marine structures extending over or below the normal high-water line of a water body or within a wetland.*

Requirement. *All marine structures shall require Conditional Use Approval of the Planning Board and compliance with the performance standards below before Conditional Use Approval will be granted.*

The Planning Board may require the submission of an environmental impact assessment on natural areas

and may require mitigation measures such as 1.) Changes in the design and/or location of the marine structure, and/or 2.) Changes in the magnitude of activities on the marine structure.

The performance standards are as follows:

Commercial and public marine structures are exempt from requirements 13 through 16.

1. **Access from shore.** Access from the shore shall be developed on soils appropriate for such use and measures shall be taken to minimize soil erosion both during and after construction. Whenever possible, access from the shore to the marine structure shall be placed on bedrock. The Planning Board may require consultation with the local Soil and Water Conservation District Office.

N/A Applicable, standard met Applicable, standard not met
2. **Interference with existing uses and beaches, etc.** The location of the marine structure shall not interfere with developed or natural beach areas, nor access to existing marine structures or points of public access, nor shall it unreasonably interfere with the use of other marine structures and landing places.

N/A Applicable, standard met Applicable, standard not met
3. **Effect on fisheries, wildlife, etc.** The marine structure shall be designed, sited, and constructed to minimize adverse impacts on fisheries, significant wildlife habitats or unique natural areas including, but not limited to: fin fish and shellfish fisheries, salt marshes, eel grass beds, shorebird and nesting habitats, critical fish spawning and nursery areas.

N/A Applicable, standard met Applicable, standard not met
4. **Size.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

N/A Applicable, standard met Applicable, standard not met
5. **No new structures.** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

N/A Applicable, standard met Applicable, standard not met
6. **New permanent piers and docks.** New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

N/A Applicable, standard met Applicable, standard not met
7. **Conversion to dwellings.** No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

N/A Applicable, standard met Applicable, standard not met
8. **Height limit.** Except in the Shoreland Commercial District, structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within

a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

N/A Applicable, standard met Applicable, standard not met

10. Interference with natural flow. *Interference with the natural flow of any surface or subsurface waters shall be minimized during the construction and subsequent use of the marine structure.*

N/A Applicable, standard met Applicable, standard not met

11. Encroachment on navigation. *The marine structure shall be designed, sited, and constructed so as not to encroach upon officially designated navigation channels.*

N/A Applicable, standard met Applicable, standard not met

12. Mooring area. *The Planning Board shall request comment from the Harbor Master in cases where the applicant proposes to build a marine structure in an officially designated mooring area.*

N/A Applicable, standard met Applicable, standard not met

13. Dimensional limits. *The marine structure shall comply with the dimensional limits listed below. The facility shall be no larger than necessary to accomplish the purposes for which it is designed. Its size and construction shall not change the intensity of the adjoining land use, and by no means shall exceed a total distance of more than one-third the width of the coastal wetland or water body, when proposed for coastal or inland waters. Notwithstanding the dimensional limits below, in areas where the horizontal distance from the normal high-water line to the mean lower low water is in excess of 160 feet, no permanent structure will be allowed seaward of the upland edge of a coastal wetland..*

<i>Marine Structure</i>	<i>Dimensional Requirement</i>	Proposed Dimensions
<i>Maximum length of entire marine structure (i.e. pier, ramp and float combined)</i>	<i>225 feet ¹</i>	
<i>Maximum length of all permanent structures</i>	<i>150 feet</i>	
<i>Maximum length of all non-permanent structures (i.e. ramp and float)</i>	<i>75 feet ²</i>	
<i>Maximum width of pier walkway</i>	<i>6 feet</i>	
<i>Maximum width of ramp</i>	<i>6 feet</i>	
<i>Maximum square footage of floats</i>	<i>400 square feet</i>	
<i>Maximum square footage of floats for communal marine structures (see 14 and 15 below)</i>	<i>800 square feet</i>	
¹ Or length needed to obtain six feet of depth of water at mean lower low water, whichever is less. ² In cases where no permanent structure is proposed the applicant will be permitted to install a ramp and float extending no further than 75 feet into the water body.		

Dimensional limits under 6C.7.13 are met

N/A Applicable, standard met Applicable, standard not met

14. Additional square footage for floats. *If two or more shorefront lot owners choose to bare a communal marine structure the applicant may request additional square footage of floats.*

N/A Applicable, standard met Applicable, standard not met

15. Communal dock. *When proposed by the applicant, new subdivisions may provide a communal dock in lieu of the development of docks on individual lots. The applicant may request additional square footage of floats provided a demonstrated need can be shown.*

N/A Applicable, standard met Applicable, standard not met

16. Limit on number. *There shall be no more than one marine structure on a lot.*

N/A Applicable, standard met Applicable, standard not met

6C.9 Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Setback. *Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.*

Steep slopes. *On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.*

Section 6C.9.1 neither applies to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 6C.10.1 except for that portion of the road or driveway necessary for direct access to the structure.

N/A Applicable, standard met Applicable, standard not met

2. Existing public roads. *Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.*

N/A Applicable, standard met Applicable, standard not met

3. New roads, driveways, prohibited in RP and SP. *New roads and driveways are prohibited in the Resource Protection and Stream Protection Districts except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the Resource Protection and Stream Protection Districts in accordance with Section 7.5.3. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.*

N/A Applicable, standard met Applicable, standard not met

4. Steepness. *Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 6C.*

N/A Applicable, standard met Applicable, standard not met

5. **Grades.** Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

N/A Applicable, standard met Applicable, standard not met

6. **Drainage to unscarified strip.** In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

N/A Applicable, standard met Applicable, standard not met

7. **Ditch relief.** Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

1. **Ditch relief culverts.** Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<i>Grade (Percent)</i>	<i>Spacing (Feet)</i>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21	40

2. **Drainage dips.** Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

2. **Slopes greater than 10%. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.**

3. **Culvert size.** Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

N/A Applicable, standard met Applicable, standard not met

8. **Maintenance.** Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

6C.11 Timber Harvesting

1. **Resource Protection and Stream Protection Districts.** In the Resource Protection and Stream Protection Districts, timber harvesting is prohibited.

N/A Applicable, standard met Applicable, standard not met

2. Areas other than Resource Protection or Stream Protection. Except in areas as described in Section 6C.13.1 above, timber harvesting shall conform with the following provisions:

1. 40% limit. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

1. **No clearcuts within shoreline setback.** Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover shall be maintained.
2. **Cleared openings farther than shoreline setback.** At distances greater than one-hundred (100) feet, horizontal distance, of a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

1. Harvesting in excess of 40%. Timber harvesting operations exceeding the 40% limitation in Section 6C.13.2.1 above may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

N/A Applicable, standard met Applicable, standard not met

3. Accumulation of slash. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

N/A Applicable, standard met Applicable, standard not met

4. Stream channel travel prohibited. Timber harvesting equipment shall not use stream channels as travel routes except when:

1. Surface waters are frozen; and
2. The activity will not result in any ground disturbance.

N/A Applicable, standard met Applicable, standard not met

5. Crossing of flowing water. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

N/A Applicable, standard met Applicable, standard not met

6. Skid trail runoff. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber

harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.

- N/A
- Applicable, standard met
- Applicable, standard not met

7. Soil exposure setback. *Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.*

- N/A
- Applicable, standard met
- Applicable, standard not met

6C.12 Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

- N/A
- Applicable, standard met
- Applicable, standard not met

Section 6 _____ **Findings of Fact(s):** _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

Section 6 _____ **Findings of Fact(s):** _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

Section 6 _____ **Findings of Fact(s):** _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

Section 6 _____ Findings of Fact(s): _____

VOTE: Findings of Facts -

Conclusion of Law: _____

VOTE: Conclusion of Law -

SECTION 5 CONDITIONAL USE APPROVAL

5.9 Standards

The application for Conditional Use Approval shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of the standards of Section 6A and/or one or more of the applicable standards of Section 6B or 6C. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable standards have been met.

In addition, **in all shoreland areas**, after the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- | | | | | |
|-------|---|------------------------------|--|---|
| 5.9.1 | Will maintain safe and healthful conditions | <input type="checkbox"/> N/A | X See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.2 | Will not result in water pollution, erosion, or sedimentation to surface waters | <input type="checkbox"/> N/A | X See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.3 | Will adequately provide for the disposal of all wastewater | X N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.4 | Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat | X N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.5 | Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters | <input type="checkbox"/> N/A | X See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.6 | Will protect archaeological and historic resources as designated in the comprehensive plan | <input type="checkbox"/> N/A | X See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.7 | Will not adversely affect existing commercial fishing or maritime activities in a Shoreland Commercial district | X N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.8 | Will avoid problems associated with floodplain development and use; (In compliance with Floodplain Management Ordinance of the Town of Mount Desert – Amended March 7, 2006.) | <input type="checkbox"/> N/A | X See Application | <input type="checkbox"/> Standard Not Met |

5.9.9 Is in conformance with the provisions of N/A Standard Met Standard Not Met
Sections 6A, 6B and 6C

Findings of Fact(s): The Findings of Fact are as presented by the Applicant.

(Hanley/Eaton) 3-0

Conclusion of Law: All requirements for Section 5.9 ~~have~~ / ~~have not~~ been met.

VOTE: Conclusion of Law (Hanley/Eaton) 3-0

FOR BOARD USE

CONDITIONAL USE PERMIT/APPROVAL

APPLICATION: #001-2016

PERMIT CONDITIONS: *In addition to having all applicable federal, state, and town permits be in place prior to any construction, the following conditions apply:*

(Eaton/Randolph) 3-0

APPLICATION

APPROVED: 3/23/2016
(Date)

DENIED: _____
(Date)

NOTE: *The holder of a Conditional Use Permit/Approval must construct and operate the approved conditional use as applied for and as represented during the permitting process to the Planning Board.*

NOTE: *The Land Use Zoning Ordinance requires that a Conditional Use Permit/Approval must be undertaken within one year from the date of approval, or a new permit must be obtained.*

THE MINUTES OF THIS PUBLIC HEARING CONSTITUTE A PART OF THE RECORD FOR THIS MATTER

SIGNATURES OF ALL VOTING BOARD MEMBERS:

William Hanley
William Hanley, Chairman

Lili Andrews, Secretary

David Ashmore

Meredith Randolph
Meredith Randolph

Dennis Kiley

Joanne Eaton
Joanne Eaton