

Section – 4.3.4 – Non-conforming Structures – Foundation Replacement

OWNER(S) NAME: Kathryn Milair
AGENT(S): Danny Dunbar, Dunbar & Sons Excavating
LOCATION: 223 Kimball Camp Road, Mount Desert
TAX MAP: 018 **LOT(S):** 006 **ZONE(S):** Shoreland Residential Two (SR2)
PURPOSE: Non-Conforming Structure – Foundation Replacement.
SITE VISIT: 3:00PM

**Non-Conforming Structures
Foundations
(New, enlarged, or replacement foundations)**

4.3 Non-conforming Structures:

4. **Foundation.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or Code Enforcement Officer, basing its decision on the criteria specified in Section 4.3.5 Relocation.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board; The site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules (rules), or that a new system can be installed in compliance with the law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and amount of vegetation to be removed to accomplish the relocation.

Size of the Lot: *The Board finds:*

Findings of Fact: _____ The lot is .7 acres. _____

Conclusion of Law:

_____ Single Conclusion of Law and vote at the end. _____

Soil Erosion: *The Board finds:*

Findings of Fact: _____ Slope of land fairly level, except for slightly lower wetland area along the north property line. Potential for soil erosion with absence of extreme grade is negligible. _____

Conclusion of Law:

_____ Single Conclusion of Law and vote at the end. _____

Topography of Land: *The Board finds:*

Findings of Fact: _____ See soil erosion. _____

Conclusion of Law:

_____ Single Conclusion of Law and vote at the end. _____

Other Structures on the Lot and on adjacent properties: *The Board finds:*

Findings of Fact: _____ No other structures are on the property. _____

Conclusion of Law:

_____ Single Conclusion of Law and vote at the end. _____

Location of Septic System: *The Board finds:*

Findings of Fact: _____ Septic tank and lift station are immediately behind house. If the house were moved, the tank and station would have to be relocated. Other on-site soils Not Applicable. Septic system is near the road and would not be in the vicinity of a potential relocation. _____

Conclusion of Law:

Single Conclusion of Law and vote at the end.

Clearing of vegetation:

Within the shoreland zone only: When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

1. *Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.*
2. *Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area.*

The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

3. *Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.*

The Board finds:

Findings of Fact: Any new location would require tree removal. There is some established, large tree growth on the property.

Conclusion of Law:

Based on the Findings of Fact, relocation of the house for the purposes of replacing the foundation would be impractical.

(Randolph/Andrews) 3-0

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

APPLICATION APPROVED 1/13/2016 **DENIED** _____
(Date) (Date)

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

SIGNATURES OF ALL VOTING BOARD MEMBERS:

William Hanley
William Hanley, Chair

Lili Andrews
Lili Andrews, Vice Chair

Meredith Randolph
Meredith Randolph

David Ashmore

Dennis Kiley
