

## GENERAL VARIANCE

### Findings of Fact:

The appellants are Nicholas and Sarah Haas of 118 Punkintown Road, Eliot ME 03903. The property in question is located at 1 Buffalo Lane, York ME 03909, identified as Map 85, Lot 19-1.

Copies of the warranty deed to Nicholas and Sarah Haas Book 16708, Pages 144-146, Application for General Variance, Letter of denial of the Town of York Code Enforcement Officer dated November 2, 2016, Letter from MDEP to Geoff Aleva dated November 8, 2016, Letter from Nicholas and Sarah Haas to Maine Historic Preservation Commission dated October 13, 2016, Shoreland/Building /Use Permit Application, Subsurface Wastewater Disposal System Application, Delorme Street Atlas of Buffalo Lane, Town of York Use Permit for the driveway, Town of York Building or Use Permit Application, Culvert Installation Permit, Town of York Building Permit 363-1002, Letter from the Maine Department of Conservation to Robert Letourneau dated August 7, 2006, Letter from Sarah Haas to MDEP dated October 13, 2016, Application for a Natural Resources Protection Act Permit, Memo from Civil Consultants to DEP dated October 7, 2016, Evaluation of Freshwater Wetlands Using the NH Method dated September 27, 2016, DEP Field Determination Form, photos of the subject property, floor plan of proposed dwelling by Engineering Graphics, Site Plan for 1 Buffalo Lane, proposed lot development of 1 Buffalo Lane, boundary survey for 1 Buffalo Lane, Town of York Zoning Ordinance §8.3.11.2 and §11.4.3 are all made part of the record.

The appellants request a General Variance regarding a denial of a building permit application by the Code Enforcement Officer for non-compliance with setback requirements. The appeal was timely filed on November 23, 2016. The appellants have standing as the owners of the property.

The relevant sections of the Zoning Ordinance are §8.3, §8.3.11.2, §11.4.3, §18.8.2.3 & §18.8.2.4.

The appeal was heard on January 11, 2017. A video recording of the meeting was made as part of the official record.

Relevant facts are: 1) The Code Enforcement Office issued a driveway permit to the previous owner of the property and the driveway was partially constructed before the appellants purchased the property. 2) The appellants worked with an engineer and MDEP and believed they were purchasing a buildable lot. 3) The appellants are seeking to build a 990 sq. ft. single family home if the variance is granted, which would be compliant with §18.8.2.4c & d. This is a small house and the only use that would provide a reasonable return on their investment. 4) The lot is unique because of its size, wetland area and irregular shape, development must be at



the rear of the property near wetlands. 5) MDEP has determined that the wetlands are “not significant.” 6) The subject property is located in a residential neighborhood and the construction of a single-family residence will not alter its character. 7) The hardship was not created by the owners’ actions. The appellants purchased the property in good faith and worked with the Town and other agencies to follow land use regulations. The previous owner also cooperated with the Town. 8.) If a building permit is issued in the future, the Code Enforcement Office will insure that all of the remaining standards of the Shoreland Overlay District are met.

**MOTION** by Ms. Garon, seconded by Mr. Swant, to approve the General Variance Request of Nicholas and Sarah Haas regarding the property located at 1 Buffalo Lane, York, ME 03909, Map 85, Lot 19-1, in that the Board of Appeals finds by unanimous vote that variance criteria A through D have been met; and further finds the requirements of 18.8.2.4 have been met, with the understanding that the applicant shall meet all of the remaining standards of the Shoreland Overlay District as would typically and customarily be determined to be met by the Town CEO. Additionally, the granting of this variance is conditioned on the Board’s determination that the granting of this variance shall lend no weight or resolution to the issue of access that are currently in question. This variance allows the side setbacks to be reduced to a minimum of 52.1 feet and 61.7 feet as shown in the plan submitted to the Board of Appeals. This variance is further conditioned that any improvements be limited to those identified on the variance application dated November 23, 2016 and that no further variances shall be allowed upon this initial 11.48 acre plot.

**VOTE: PASSED** 5-0 in favor (Mr. Lascelles, Ms. Garon, Mr. Swant, Mr. Moulton and Mr. Kraus)

Opposed: None

Judgment on Findings of Fact: February 8, 2017

Approved: 4-0-1

(IN FAVOR: Michael Swant, John Kraus, Leon Moulton & Robert Lascelles; OPPOSED: NONE; ABSTAINED: Britton Garon)

