

## ADMINISTRATIVE APPEAL

### Findings of Fact:

The appellant is Philip M. Brown, 10700 NE Byron Drive, Bainbridge Island WA 98110. The property in question is located at 7 Carriage Barn Lane, York ME, identified as Map 51, Lot 37-A. and is in the Bus-1 Zone, Limited Residential Shoreland.

Copies of application for administrative appeal dated January 5, 2017, memorandum from Attorney Mary Costigan to York Planning Board dated August 26, 2016, York Planning Board Findings of Fact dated January 12, 2017, corrective quit claim deed from Philip Brown to Philip Brown dated June 12, 2015, agent authorization for Tim DeCoteau dated September 17, 2015, Planning Board application dated July 13, 2016, shoreland/building/use permit application dated July 22, 2016, subsurface wastewater disposal system application dated May 12, 2015, compilation of previous site plans for Philip Brown dated January 29, 2016, York Planning Board minutes dated August 1, 2016, York Board of Appeals minutes dated July 14, 2010, affidavit of Joseph Hoar dated May 21, 2001, authorization for attorney representation, historic USGS maps of York Maine-New Hampshire quadrangle 1893, 1920, 1956, Town of York wetland inventory March 2013, Town of York Assessor's records for 7 Carriage Barn Lane are all made part of the record.

The appellant requests an Administrative Appeal in regards to a decision by the Town of York Planning Board on December 8, 2016. The Appeal was filed on January 5, 2017 and was therefore timely. The appellant has standing as the owner of the property.

The relevant sections of the Zoning Ordinance are §8.3.8.2, §8.3.11, §17.1, §17.2 and §5.5.2.

The appeal was heard on February 8, 2017, with Board discussion and vote continued until April 12, 2017. Video recordings of the meetings were made as part of the official record.

Relevant facts are: 1) The Appellant appealed from a decision of the York Planning Board which concluded that the applicant's proposal requires a new driveway which does not meet the requirements of §8.3.8.2 of the zoning ordinance. 2.) The Planning Board concluded the ordinance does not permit the Board to reduce the setback as required by §8.3.11 from the shoreland zone sufficiently to meet the needs of the proposal and therefore they denied the application. 3.) The Board of Appeals determined that the Planning Board had jurisdiction over the application because of a note on the previously approved subdivision plan that required further construction to be approved by the Planning Board. 4.) The "track" existing on the property did not constitute a continuing non-conforming access road, right of way or structure or use as contemplated by §17.1 or 17.2. 5.) §8.3.8.2 allows the Planning Board to reduce the setback for the new access Road or driveway to not less than 50 feet from the



shoreland/wetland. 6) The plans indicate that even with the full setback reduction allowed, there is not an adequate gap in the shoreland/wetland areas on the lot to allow the construction of an access road or driveway to the buildable area. 7.) Construction of the driveway would require 18' of width and an additional 50' setback on either side. 8) The wetlands existing on the lot have been determined to be high-value wetlands. 9.) The lot contains 27 +/- acres.

**MOTION:** Motion by Mr. Swant, seconded by Mr. Manougian that the Administrative Appeal of a Planning Board decision for property owned by Philip M. Brown and located at 7 Carriage Barn Lane is hereby denied in that the appellant failed to establish that a portion of the way between the end of the existing Carriage Barn Lane and the proposed house site meets the nonconforming use standards of §17.1.2 and, as such, a new way cannot be created which will meet the setback standards of §8.3.8.2. The decision of the Planning Board is therefore affirmed as stated.

**VOTE:** Passed 5-0 (In Favor: Mr. Lascelles, Mr. Kraus, Mr. Swant, Mr. Carr and Mr. Manougian).

Opposed: None

Judgment on Findings of Fact: APPROVED by a vote of 4-0-1

Approved: 4/26/2017 (IN FAVOR: Michael Swant, Joseph Carr, John Kraus. and Robert Lascelles;

Opposed: NONE; ABSTAIN: Victor Manougian

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