

## VARIANCE

### 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 Overlay.

Copies of application for general variance dated January 5, 2017, Variance schedule A Findings of Fact approved June 11, 2003, official record of the Town of York Board of Appeals dated May 28, 2003, 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, letter from realtor Nancy Ergmann dated March 21, 2017, Town of York Assessor's records for 7 Carriage Barn Lane, memo of Richard Broadbent dated April 11, 2017, historic USGS maps of York Maine-New Hampshire quadrangle 1893, 1920, 1956, Town of York wetland inventory March 2013 are all made part of the record.

The appellant requests a General Variance as a result of a decision by the Town of York Planning Board. The Variance Request 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 §5.5.1, § 8.3.8.2, §18.8.2.3, §18.2.6

The appeal was heard on April 12, 2017. A video recording of the meeting was made as part of the official record.

Relevant facts are: 1) The appellant is the owner of a 27 acre lot with significant wetland areas. 2.) A buildable area exists on the lot. 3.) In order to access the buildable area the appellant requires a variance from the minimum 50 ft. setbacks required by §8.3.8.2 for the driveway to be reduced to less than 50 ft. to allow the driveway to pass through the wetland. 4) The appellant paid \$100,000 for the property which is currently assessed at \$196,000. 5.) The neighborhood is substantially developed as residential. 6.) Wetlands exist on several nearby, but smaller lots. 7.) There are extensive wetlands throughout the neighborhood. 8.) The wetland on the appellant's property is a high-value wetland. 9.) The property can be used for recreation. 10.) As a prerequisite to granting a variance all four hardship criteria contained in

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§18.8.2.3 must be met by the Appellant. 11.) The Board determined unanimously that the property can yield a reasonable return and that the Appellant had not met criteria §18.8.2.3a (*The land in question cannot yield a reasonable return unless the variance is granted*) 12.) That a general conditions of the neighborhood is that it is wet, the Board determined by a vote of 3 to 2 that the Appellant had not met criteria §18.8.2.3b (*The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood*) 13.) The construction of a single family house in a residential neighborhood would not alter the character of the neighborhood, the Board determined unanimously that the Appellant had met criteria §18.8.2.3c (*The granting of a variance will not alter the essential character of the locality*) and 14) The wetlands existed before the appellant purchased the property and nothing the appellant had done affected this fact, the Board determined unanimously that the Appellant had met criteria §18.8.2.3d (*The hardship is not the result of action taken by the appellant or a prior owner*).

**MOTION:** Motion by Mr. Manougian, seconded by Mr. Carr, to deny the variance on the basis of not meeting the first two criteria.

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

Opposed: None

Judgment on Findings of Fact: APPROVED 4-0-1

Approved: 4/26/2017 (IN FAVOR: Michael Swant, Joseph Carr, John Kraus & Robert Lascelles;  
OPPOSED: NONE; ABSTAINED: Victor Manougian)

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