

**Isle au Haut Planning Board  
Minutes of the Meeting of June 16, 2015**

Regular Members Present: Bob Gerber, Dan MacDonald, Bill Clark, Steve Shaffer (by telephone)

Alternate Members Present: Jeff Burke

Applicants Present: Bob Leone (by phone); Bill Stevens (Agent for the Chamberlains); John DeWitt and Kendra Chubbuck; Grady Watts

Public Present: Meghan Cooper, William Stevens, Jim Wilson

The Meeting was called to order by the Chair, Bob Gerber, at 7:01 PM at the Town Offices. With Bill Calvert being absent, the Chair appointed Jeff Burke to act as a voting member at the meeting.

Old Business

It was moved by Bill Clark and seconded by Dan MacDonald that the minutes of the January 23, 2015, be approved as written. There was no discussion and the motion was approved unanimously.

The Chair reported on actions he has taken since the last meeting in January and he circulated around the table copies of correspondence he has issued to various parties that either answered questions on the interpretation of the Ordinances or addressed issues relating to pending permits or permit condition removal. The matters discussed are summarized below and copies of correspondence for items 1, 2, 3, 4, and 6 are attached. Item 7 may be viewed on the Town website in the "Planning Board" section.

1. Chamberlain lot site visits and responses to Stevens' questions
2. Chamberlain lot initial review and rejection of Building Permit Application
3. Van Doren application for 60 square foot addition to residence; CEO permit issued
4. Leone request for approval of sediment and erosion control measures for primary residence construction—site visit and correspondence re defects and the need for full Board approval
5. Discussions and emails with State Shoreland Zone coordinator about required revisions to IAH State-mandated Shoreland Zone Ordinance
6. Generic responses to Stevens' questions relating to the need for PB permits for wells and utility poles and lines
7. Write-up for new Town website on need for updates to Town Comprehensive plan and zoning ordinances and some generic issues like cutting trees in the Shoreland zone
8. Lapse of Board member terms due to delay in Annual Town Meeting; Selectmen re-appointments; re-election of Chair

The Chair reminded those present that Planning Board approval of a permit or subdivision could be appealed by parties with standing within 30 days of the Planning Board action. If there is a formal appeal, it must go first to the Town Board of Appeals. Any appeal of the Board of Appeals' decision would then go to Superior Court. This is to remind applicants that they proceed at their own risk with their site alterations until the 30-day appeal period to the Planning Board decision has expired.

New Business:

1. Leone—This is a request for approval of sediment and erosion control measures so construction on primary residence can start in State Shoreland Zone and Town Accessible Interior on east side of Long Pond. The Chair summarized the history and the request for the removal of the sediment and erosion control barrier installation and inspection condition on the Building Permit. The Chair had done a site inspection and issued a letter (Item 4 under Old Business above) concerning the defects. The Leones corrected the deficiencies and now ask for Board approval for the removal of the Condition. It was moved by Dan MacDonald and seconded by Jeff Burke to state that the condition requirements had been met and that construction could now commence and that the Chair was delegated to do any follow-up required on compliance. The Chair will send a letter documenting the removal of the permit condition to the Leones.

2. Chamberlain—Sue and Wendell Chamberlain, through their agent, William Stevens, requested a Building Permit on Lot 1 of the Arlena Tully Subdivision on the northeast side of Long Pond. The original application of 5/1/15 was rejected because it was incomplete (Item #2 in Old Business, above). The Chair met on the site with Bill Stevens to discuss the requirements for sediment and erosion control and a revised application was submitted on 6/6/15. The request is for a building permit for well, road, power, telephone, cable, septic system, and primary residence in State Shoreland Zone and Town Accessible Interior. There was a discussion of the possible need for extra measures to protect pond water quality in the case of a septic pump failure (pumping will be required from the septic tank to the leachfield), but it was concluded that none was needed and the risk to the Pond was minimal. It was moved by Bill Clark and seconded by Dan MacDonald to accept the Application and grant a Building Permit for the requested items, including limits of clearing, based on the narrative and plans submitted with the conditions that the standard cutting and sediment and erosion control standards are met and that the Chair is delegated the authority to provide any follow-up on compliance with the conditions. The Chair will send a letter approving the building permit application.

3. John DeWitt and Kendra Chubbuck—Application submitted for an extension of overhead power, telephone, and cable and the drilling of a new well in Head Harbor. The electric, telephone, and cable would begin at an existing pole on Blaisdell's property, then generally run south to the east of the Head Harbor private Right-of-way on the east side of the harbor, ending at the DeWitt and Chubbuck lot, just north of the Acadia National Park property. The purpose of the line is to supply electric and communication utilities to Head Harbor residences. A plan was provided with a tentative layout of the utilities, subject to changes that may be needed in the field by the installation crew that is being contracted to do the work by the Isle au Haut Electric Power Co. This utility application is required because the Town of Isle au Haut Zoning Ordinance requires Planning Board approval of "public utilities" and the State-imposed Shoreland Zoning Ordinance considers any man-made structure in the Shoreland Zone to require a permit. In order to provide documentation of "right, title, and interest", copies of signed easement agreements from each property owner whose land would be crossed by the project are required. There were three easement agreements outstanding as of this meeting, but those agreements were expected to be forthcoming shortly. The application for the electric and communication lines and the well drilling application were also lacking narratives and some other specifics needed to document the projects. It was moved by Dan MacDonald and seconded by Bill Clark to approve the installation of the utilities and well, subject to the condition of submittal of the narrative and other missing data (including a better site plan to scale), and to the standard conditions for sediment and erosion control, and that the Chair be delegated the authority to review the data submitted for completeness and deal with any follow-on

compliance issues. The Chair will send a letter approving the applications and will grant the permits once the applications are complete.

4. Grady Watts and Geraldine Wurzburg—Application for a new well to be located on their property at Sheep Thief's Gulch, south of Outlet Brook, southeast of Long Pond. The Applicant's current well is producing poor water quality and yield. The State-mandated Shoreland Zoning Ordinance defines a well as an "accessory structure" and requires that the Planning Board issue a permit for same. The well is located about 180' from the "normal high water mark" and is therefore in the Shoreland Zone. The Applicant provided all of the required information for the Application at the meeting. There was a question as to whether the proposed well would be located 100' from the current septic tank and it was not known, exactly, if that was the case, but it appeared to be close. It was moved by Bill Clark and seconded by Dan MacDonald that the Application be approved and a permit issued for the well with the condition that the well be located  $\geq 100'$  from the septic tank, and with the standard sediment and erosion control conditions and that the Chair be delegated the authority to deal with any follow-up compliance issues. The Chair will send a letter approving the permit for the new well.

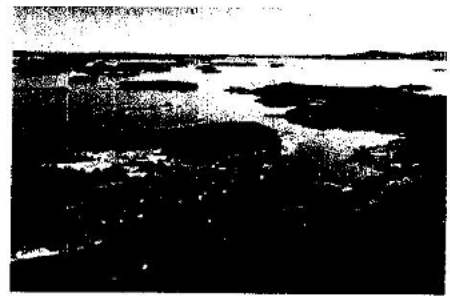
5. Discussion of revision of Town's two Zoning Ordinances to update them and provide more flexibility for marine and general business activities in a part of the Thoroughfare shoreline. The Chair described the need to revise the two zoning Ordinances in force in the Town. He described the need to deal with a doubling of the number of pages in the State Shoreland Zoning Guidelines. The Chair has annotated the January 2015 copy of the State Guidelines (see this on the Town website in the "Planning Board" section) to show what has been newly added and what has been changed from the current 1994/1995 version that is in legal effect in the Town. He stated that the Town has 2 years to adopt its own Shoreland Zoning Ordinance that had to be at least as strict or stricter than the State Guidelines or else the State would impose the new Guidelines upon the Town as is. He stated that in addition to the fact that the State Shoreland Zoning map is very restrictive (basically all shoreline areas are zoned either for Limited Residential or Resource Protection), that there are many new standards and criteria—particularly related to vegetation cutting in the Shoreland Zone—compared with the current Ordinance. He stated that negotiations are needed with the State DEP and given the large and comprehensive nature of the changes, this will take some time so that probably it would not be realistic to take this to the Annual Town Meeting until March 2017. Meanwhile, he suggested that the Town Ordinance be updated for a vote at the March 2016 Annual Meeting and include the new zone changes that we would ultimately want to bring into the Shoreland Zone Ordinance.

It was moved by Bill Clark and seconded by Dan MacDonald to adjourn the meeting. Motion passed unanimously and the meeting was adjourned at 8:45 PM.

Respectfully submitted,

Robert G. Gerber, Chair

**Isle au Haut Planning Board  
Town of Isle au Haut, ME 04645**



April 25, 2015

Response to questions from William Stevens sent to PB Chairman by email on 4/25/15

This letter is intended to provide guidance concerning tree cutting on and near the Town resource protection zone and the State-mandated Shoreland Zone near Long Pond. On Isle au Haut, there are two zoning ordinances in force and, within the zone covered by the State-imposed Shoreland Zoning, that Ordinance makes it clear that the more restrictive Ordinance requirements are what control.

It appears from the context of the questions that the questions revolve around what is permitted in terms of tree cutting within areas affected by both the State and Town Zoning Ordinances and in the vicinity of the Tully Long Pond Subdivision, in particular, of which Mr. Stevens is a valid agent. Therefore, my responses should only be interpreted as applying to this specific area and not generalized to other Shoreland areas such as those fronting on the ocean.

The questions are presented, along with my interpretations of the ordinance language and intent.

*The general question I have regards the PB position about clearing of trees in the shoreland zone and the RPZ. If there are a few trees in an otherwise naturally open area that may be approaching 12,000 sq. ft. (fern brake for instance) does cutting the few trees represent creating an opening over 12,000 sq. ft.? Or does the cutting of the one or two trees represent just the crown area of the trees involved? Are dead standing trees considered a part of clearing area?*

First, I presume the reference to the 12,000 square foot opening has to do with the condition the Planning Board put on the Tully subdivision that the maximum amount of clearing per lot was 12,000 square feet. That is just one limit on the amount of clearing. It cannot overrule the limits provided in the ordinances, particularly the State-imposed Shoreland Zoning Ordinances. For example, the State Ordinance sets out restrictions on cutting in Sections 15 P & O. In those sections there are restrictions on both selective cutting and on clearcutting. Within 250 feet of the pond, the total area of forest clearing is restricted to 10,000 square feet, but no single clearing can exceed 5000 square feet and there must be a minimum of 100 feet between that and the next clearcut. The Town Ordinance basically prohibits "timber harvesting" within 125 feet of the pond.

There are natural openings on these lots that have pre-existed for long periods of time. It is my opinion that these existing natural openings do not count in calculating the area of permitted cutting. The intent of the cutting restrictions is to minimize erosion, sedimentation, and water quality impacts on the pond, but the existing openings are stable and thus it is the new areas of cutting that poses the threat, not the existing naturally vegetated openings or areas of ledge outcrop. Therefore, cutting trees on the edge of existing naturally occurring openings is counted as only the amount of incremental openings in the crown that are created.

Dead trees may be cut, but within the State-mandated Shoreland zone, Section 15(P)2(e) of the State Ordinance states:

- e. *In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.*

This paragraph applies to groups of dead trees, which, when cut, create openings. These openings must be replanted. It would be my opinion that cutting of single scattered dead trees would not require replanting.

*In the RPZ, if there are dead or damaged trees with potential as safety hazards can they be removed? If not, who bears the burden of liability if someone is harmed by a fallen top, widowmaker, or such? Town, State, Owner, Planning Board? On Lot# 2, Tina has a small stand of dead Norway Pines, all as the result of a fungal disease that spreads through the root system. They present a significant threat, most are outside the RPZ, but there are some trees with large dead limbs and tops in areas of the RPZ that are a hazard. can these be removed? Is pruning of trees allowed in the RPZ?*

The most restrictive zone in the Tully subdivision area is the Town RPZ zone within 125' of the Pond. The Town Ordinance is silent on dead trees, but it would be my opinion that they should be treated in the same fashion as described in the State-mandated Ordinance. Dead trees are a fire hazard and are not serving the same function as live vegetation in the preservation of water quality<sup>1</sup> so removal of dead trees will allow live vegetation to grow in its place and do a better job of maintaining pond water quality.

On the question of liability, it is well established in Maine statute and common law that municipalities and their boards and officers engaged in such business as permit issuance performed in the normal course of their duties are not liable for their administrative actions, except within very limited circumstances that I would not see applying here. Beyond that, I cannot offer any opinion and you should consult your own attorney.

On the diseased Norway Pines, see the response above that cites Section 15(P)2(e) of the State-mandated Shoreland Zoning Ordinance. Cutting of large numbers of dead trees in a single area would require replanting of indigenous tree species (not necessarily Norway Pines).

Pruning is covered in the State Ordinance on the bottom 1/3<sup>rd</sup> of trees (Section 15(P)2(d) of the State Ordinance), except that pruning is not permitted within 75 feet of a resource protection zone?

<sup>1</sup> The major intent of both State and Town Ordinances as it applies to tree cutting appears to be protection of water quality. When trees die, their root systems also decay and die, reducing their ability to hold soil and prevent erosion and sedimentation. However, it should be noted that single dead trees serve important functions as food sources (e.g., insects that can be reached by woodpeckers) and habitat for birds, squirrels and other cavity-dwelling wildlife. Therefore, total removal of all dead trees in an area could have detrimental effects on wildlife. We therefore urge discretion in the selection of dead trees for removal.

<sup>2</sup> Although the State-mandated Shoreland zoning map does not show a resource protection zone around Long Pond, the Town Ordinance does zone it for resource protection within 125' of the Pond. Since the area around the Pond edge is a wildlife travel corridor and since the scenic value of the Pond is mentioned as a key attribute of the Pond in the Comprehensive Plan, not allowing pruning within 75' zone from the pond edge as stipulated in the State Ordinance with regard to resource protection zones around Great Ponds, can be inferred to apply here since the Town has designated this area as resource protection and the more restrictive condition of the two Ordinances governs.


on a Great Pond (based on my reading of Section 15(P)1 together with the wording of Section 15(P)2 of the State Ordinance). However, Section 15(P)1 does state that tree cutting is allowed for "safety purposes" within 75 feet of the Pond. I take this to mean that dead trees or live trees leaning dangerously close to a structure could be cut within this 75-foot zone. The Town Ordinance is silent on the issue of pruning, but I think the precedent of pruning as established in the State Ordinance is well established: pruning is allowed greater than 75 feet from Long Pond.

As a final note, I want to bring the focus of this discussion back around to the issue of sediment and erosion control. Both the State and Town Ordinances stress the importance of sediment and erosion control during timber harvesting and the special conditions added to the Tully subdivision approval include a particular provision that no clearing for roads, septic systems, or other development of the lots shall be done until the Planning Board is satisfied that erosion controls are in place prior to the clearing or construction work beginning. The Conditions of approval require Planning Board inspection of these erosion and sediment control measures prior to start of construction that disturbs soil. This may require incremental placement of erosion control measures as access roads are built progressively farther into the property from the Main Road, realizing that movement of large volumes of hay bales and placement of culverts and level spreaders are not easy without road access.

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Any appeal to any of the rulings or opinions in this letter can be taken to the full Planning Board and overruled or amended if the majority of the Board votes to do so.

Respectfully submitted,



Digitally signed by Robert G.  
Gerber  
Location: Cape Elizabeth, ME  
Date: 2015.04.25 09:58:44 -04'00'

Robert G. Gerber, Chair  
Isle au Haut Planning Board

**Isle au Haut Planning Board  
Town of Isle au Haut, ME 04645**



May 11, 2015

Mr. William Stevens, Agent  
For Sue & Wendell Chamberlain  
P.O. Box 74  
Isle au Haut, ME 04645

via email: [wmstevens@tds.net](mailto:wmstevens@tds.net)

Re: Building Permit Application for Sue & Wendell Chamberlain, Lot #1 Tully Long Pond Subdivision

Dear Mr. Stevens:

We received your application for the above-referenced matter on May 1, 2015. After my initial review of the application, I submitted it via email to the other Board members, asking for their opinions as to whether the application was complete. The majority of the Board responded that the application was not complete due to missing details on the plan you submitted.

The work is planned to take place in Zone B of the Town Zoning Ordinance and in the Limited Residential Zone of the State mandatory Shoreland Zoning Ordinance. The Planning Board has jurisdiction under Article V3, 8a, 10, 13, 15, and probably 16 of its ordinance and the Board is required to administer the requirements of the State Shoreland Zoning Ordinance. In addition, the Board must administer the conditions of approval that were attached to the subdivision of which this lot is a part. The major issue revolves around management of runoff and erosion and sediment control. We also need details on the management of cut timber and brush and on the maximum grade of the final driveway access to the dwelling so that we can check off safety issues that the Board is required to review. I have attached a copy of the Planning Board's checklist showing those issues for which we feel we do not have adequate information to consider the application complete.

On the sediment and erosion control issue, both the Town and State Ordinance require the application of Best Management Practices. The DEP website address for their BMPs is:

<http://www.maine.gov/dep/land/erosion/escbmps/>

I am attaching a portion of the DEP BMPs, called "Sediment and Erosion Control Plan" which includes a checklist of the items that must be submitted as part of your building permit application. You should also show the location of both the temporary construction road and the final driveway, any ditches and culverts along same, and where any riprap or other special materials might be required to stabilize steep side cuts and fills and any ditches due to high flow velocities. Also, the conditions of approval of the subdivision require that all concentrated flow be returned back to sheet flow, so the location and details of a level spreader to do this should be shown on the plan. I am attaching a copy of the 2-foot contour plan for the site to help you in your planning.

If you do not feel comfortable designing these measures or do not have the time to do so, you might consider retaining another professional to assist you in designing the plan. One way to locate your

roads on the plan is to stake them out in the field, and then do the required field measurements to locate them accurately on the plan. The leachfield is already staked in the field. The approximate location is shown on the attached plan, but you should verify that. Also, if time is critical in terms of providing access to the well driller, you might first apply only for the access road to drill the well. As you know, you have to obtain your septic field permit from the Stonington LPI.

Respectfully submitted,

**Isle au Haut Planning Board**



Digitally signed by Robert G.  
Gerber  
Location: Isle au Haut, ME  
Date: 2015.05.11 10:42:51 -04'00'

Robert G. Gerber, Chair

Attachments: Planning Board Application Checklist; portion of the DEP BMPs, called "Sediment and Erosion Control Plan", Base Plan (2-foot contour map of a portion of Lot 1 at scale 1"=40')



**Application Processing Documentation**

Applicant Name: Sve + Wendell Chamberlain Agent Name: William Stevens

Applicant or Agent Address: P.O. Box  
Isle au Haut, ME 04645

Applicant or Agent Phone & Email: 202-335-5571 win.stevens@tds.net

Tax Map No. \_\_\_\_\_ Tax Map Lot \_\_\_\_\_ ← ?

Town Ord. Zone Zone E / Zone B State Ord. Zone Limited Residential for 250' from Pond

Proposed Land Use: Clearing for road, utilities, house construction, well + septic

Subdivision: Yes \_\_\_\_\_ No X If yes, see other checklist

Date of First Written Application Submission: rec'd 5/1/15; Rev1 \_\_\_\_\_ Rev2 \_\_\_\_\_

Date of First Response on Completeness: \_\_\_\_\_; Rev1 \_\_\_\_\_ Rev2 \_\_\_\_\_

Submission Checklist for Town and State Ordinances

Item	Description	Check, if yes
1	Deed, lease, option (e.g., evidence of right, title & interest)	✓
2	Agent Authorization, if applicable	✓
3	Scaled Plan of lot lines, proposed clearing limits, existing & prop. structures, roads, docks, erosion & sediment control measures <u>No</u>	
4	Written Narrative of nature of proposed land use and construction	
5	Completed HHE-200 forms if onsite sewage disposal required	
6	Description of Water Supply and Estimated Daily Water Demand	✓
7	Description of Proposed Safety Measures for any Haz or Dangerous Mtl	✓
8	Plan and written description of access from public ROW, incl any easement description, if applicable	N/A
9	Dated, signed application cover sheet with certification statement that "information in the application is complete and correct."	✓

Application Approval Checklist for Town Ordinance

1	Water quality of the ocean, lake, brooks, or the water supply of an abutter or other landowner will NOT be adversely and materially affected, <sup>or</sup> that high probability of such adverse and material effect exists.	
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**EROSION AND SEDIMENT CONTROL PLAN****PURPOSE AND APPLICATION**

The erosion control plan must be prepared before construction begins, ideally during the project planning and design phases. The erosion control plan shall be submitted with the grading plan as required by the department and any local ordinances or be prepared as part of the general permit under MEPDES.

**CONSIDERATION**

A plan must be approved prior to the commencement of any work and include all necessary temporary and permanent erosion control measures, including those to be followed should the work stop at any time during the winter season. If the grading permit allows work to be done during and over winter (September 15 to April 15), the permit may require a **winter construction** operating and erosion control plan. If the site or portion of the site is planned to be idle for more than 30 days, then mulching or vegetative stabilization must be accomplished within seven days. The winter construction plan should include a plan for the immediate (within 24 hours of the first forecast of a storm front) installation of emergency erosion control measures.

**SPECIFICATIONS**

The Erosion control plan should consist of three parts:

**1. A narrative**

- a brief description of the proposed land-disturbing activities, existing site conditions (including soil and vegetation), and adjacent areas (such as streams, wetlands, property lines and buildings) that might be affected by the proposed clearing and grading;
- a description of critical areas on the site - areas that have a potential for serious erosion problems, including the name, location and aerial extent of moderate and highly erodible soils and slopes on the project site;
- the date grading will begin and the expected date of stabilization;
- a brief description of the measures that will be used to control erosion and sedimentation on the site; and when these measures will be implemented;
- a description of an inspection and maintenance program, with provisions for frequency of inspection, repair and reconstruction of damaged structures, cleanout and disposal of trapped sediment, duration of maintenance program, and final disposition of the measures when site work is complete;
- A brief description of any substantial timber harvesting and associated road construction or other earthwork in the past five years.

**2. A map showing**

- site contours at sufficient interval and scale to identify runoff patterns before and after disturbance;
- final contours;
- limits of clearing and grading;
- existing buffers and vegetated areas in a condition that will effectively reduce erosion or off-site sedimentation;
- all critical areas within or near the project site, such as streams, lakes, wetlands, or the aerial extent of erodible soils;
- the location and types of erosion and sediment control measures, including the aerial extent of vegetative treatments;
- location/extent of timber harvesting and associated road construction or other earthwork in the past five years.

**3. Plan details**

- detailed drawings of erosion and sediment control structures and measures, showing dimensions, materials, and other important details;
- design criteria and calculations such as design particle size for sediment basins and peak discharge for channel design and outlets;
- seeding or vegetative specifications;
- inspection and maintenance notes;
- a description and design information regarding how pre-existing conditions resulting from past land uses leading to erosion and/or sedimentation will be corrected as part of the overall design.

**The narrative and details should be placed on the Erosion Control Plan map if possible.**

#### **PLAN CHECKLIST**

It is not the responsibility of the plan reviewer to ensure that the plan is appropriate for the level of work suggested by the proposed project. The reviewer can only ensure that the plan meets the minimum standards set by the department and/or other authorizing ordinance.

Communications: Encourage informal communications between the plan reviewer and the plan preparer. This will enable the reviewer to make informal suggestions that may save money and time, and it may result in a better, more effective plan. It will also enable the preparer to explain and justify the plan.

Incomplete Plans: Seriously incomplete plans will not be reviewed but will be sent back with a request for the missing information.

Required Information: Make sure all the required information has been submitted. A checklist can be used; however, having everything checked off does not necessarily mean that everything is in order.

Plan Concept: The concept should be examined first, starting with the general and moving to the specific. Does the plan make sense?

Schedule: Examine the construction schedule. Will grading be completed before the winter weather season? When will storm drainage facilities, paving, and utilities be installed in reference to the wet weather season? If grading will take place during months when there is a high probability of heavy rains, what extra precautions will be taken to protect against erosion, sedimentation, and changing drainage patterns (Is a winter construction plan necessary)?

Minimize Disturbance: Does the plan show areas that are not to be disturbed? Native vegetation should be retained to the maximum degree possible and stream buffer areas should be designated on the plan and flagged in the field. A well-conceived erosion control plan will minimize erosion by attempting to minimize disturbance and retain natural vegetation. A phased approach to development can assure that the extent and timing of grading does not exceed the contractor's ability to perform erosion and sediment control.

Site Drainage: Make sure you understand where all drainage comes from on and above the site, where it goes, and how it traverses the site. For large sites, prepare a drainage area map.

Sediment Basins and Traps: Locate all sediment basins and traps and define their tributary areas.

Erosion Control: Check the method used to prevent erosion. Hydraulic seeding and mulching may adequately stabilize some areas, but other areas, because of their proximity to sensitive features such as watercourses, or their steepness and erosive soil, may need far more intensive revegetation efforts. On steep and critical slopes, a reliable backup system such as erosion control mix or erosion control blankets is strongly recommended.

Channels and Outlets: Examine all drainageways where concentrated flows will occur. Be sure adequate erosion protection is provided both along channels and at channel and pipe outlets. Check the sources of runoff to be sure that all the runoff comes from undisturbed or stabilized areas or has been desilted by sediment basins or other sediment retention devices.

Miscellaneous: Look for haul roads, stockpile areas, and borrow areas. They are often overlooked and can have a substantial effect on drainage patterns. Have construction or access roads been surfaced with rock, as a minimum treatment, before the rainy season? Look at all points of vehicle access to the site and be sure mud and soil will not be tracked onto paved streets and that sediment-laden runoff will not escape from the site at these points. Pay particular attention to watercourses and their protection.

Plan Details: Once the plan concept has been shown to be adequate, check the details to be sure the concept is adequately described in the plans.

Structural Details: Be sure that sufficiently detailed drawings of each structure (sediment basin, dike, ditch, silt fence, etc.) are included so there is no doubt about location, dimensions, or method of construction.

Calculations: Determine if calculations have been submitted to support the capacity and structural integrity of all structures. Were the calculations made correctly? Non-engineered structures, such as straw bale barriers, do not generally need hydrologic calculations, however, supporting information such as drainage area and peak flow should be available if requested.

Vegetation: Review seed, fertilizer, and mulch specifications. Check quantities and methods of application to be sure they are appropriate and consistent with local guidelines. Are there stipulations so that ineffective revegetation and/or damage can be remedied immediately?

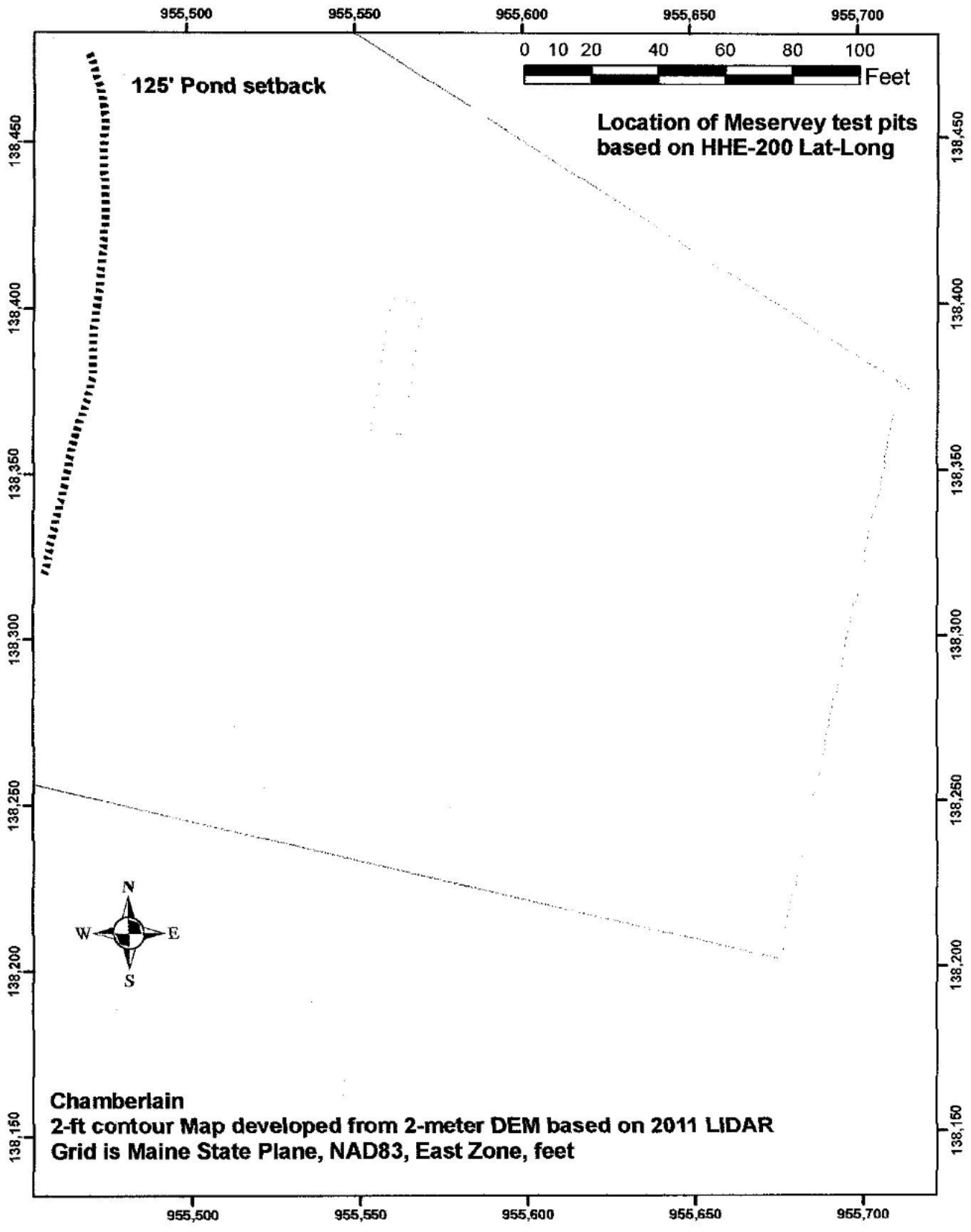
Maintenance: Be sure that general maintenance requirements and, where necessary, specific maintenance criteria, such as the frequency of sediment basin cleaning, are included. Are there stockpiles of spare materials (filter fabric, straw bales, stakes, gravel, etc.) to repair damaged control measures? Routine maintenance inspections should be part of the plans.

Contingencies: The plan must provide for unforeseen field conditions, scheduling delays, and other situations that may affect the assumed conditions. For example, straw mulch may need to be installed as an emergency measure during severe summer thunderstorms, or sediment basins may need to be cleaned more frequently.

Signature: Where applicable, the erosion and sediment control plan should be signed by the preparer who shall be a qualified professional.

Technical Review: Where applicable, the erosion and sediment control plan shall be reviewed by a certified professional in erosion and sediment control or the engineering consultant for the project.

Site assessment: Ensure that existing conditions on the site are adequately described or assessed, sufficient for the proposed measures to be evaluated.



**Isle au Haut Planning Board  
Town of Isle au Haut, ME 04645**



May 2, 2015

Mr. Harold S. van Doren  
69-1010 Keana Place B302  
Waikoloa, Hawaii 96738-5734

via email: [haroldvandoren@mac.com](mailto:haroldvandoren@mac.com)

Dear Mr. Van Doren:

The Planning Board received your application for an addition on your house via mail on April 25, 2015. The house is located in the Accessible Shoreland Zone as defined in the Town Ordinance. The house is outside of the State-imposed Shoreland Zone. According to the Town Ordinance the CEO is authorized to issue building permits for additions of less than 100 square feet to houses.

Your application consisted of the "Application Processing Documentation" form, a narrative description, site plan at scale 1"=100', intermediate scale plan at 1"=25', and detailed plan at 1" ≈ 4.4'. and certification statement. These documents are incorporated in and made a part of your official file on this matter.

The plans meet all existing Town Ordinances and I hereby approve them subject to the standard conditions relating to sedimentation and erosion control:

Q. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 

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  - a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - c. Permanent stabilization structures such as retaining walls or riprap.

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2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 

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3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 

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4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- 
- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- 

Do not make any significant deviations from your plans without first coming back to the Planning Board for an amendment to the application.

Sincerely,

Isle au Haut Planning Board



Digitally signed by Robert G. Gerber  
Location: Isle au Haut, ME  
Date: 2015.05.02 19:33:18 -04'00'

Robert G. Gerber, Chair and CEO ex officio





**Isle au Haut Planning Board  
Town of Isle au Haut, ME 04645**



May 26, 2015

Mr. & Mrs. Robert Leone  
POB 116  
Edgecomb, ME

Via email: [ezasabc@myfairpoint.net](mailto:ezasabc@myfairpoint.net)

Re: Inspection of Sediment and Erosion control measures on Long Pond Lot

Dear Bob and Carol:

Pursuant to your formal request to me of May 25<sup>th</sup>, at which time you provided me with plans and correspondence related to the subdivision and building permit for your Long Pond lot, I have gone to the site and inspected the silt fencing you erected to prevent sedimentation from leaving the site where you propose to build your principal dwelling. I note that the Planning Board condition of July 29, 2009, apparently applied to the subdivision, is that, "you must erect erosion barriers, and if the board finds that the barriers comply with state statutes and are otherwise adequate to protect Long Pond, the board must approve the beginning of construction within one week of notification."

There are several minor legal technicalities involved with the process here that I have to first describe. The first is that the Planning Board, as a whole Board, does not meet without 7 days' notice posted at the Town Hall bulletin Board. To gather a quorum of the Board within 7 days' notice is nearly impossible, so I can only assume that the approval contemplates that someone is acting on behalf of the Board. When someone acts on behalf of the Board, that is normally the Chairman. At the moment, the Board has no Chairman due to some legal technicalities relating to the delay in holding the Annual Town Meeting. That may be remedied soon, but I cannot say when. Therefore, we cannot technically meet the conditions of approval, which placed deadlines and responsibilities on the Board that are rather extraordinary. If a Board fails to act, such as in this instance, that does not mean approval is automatically granted. Only by a positive action of the Board can approvals be granted. I believe you do have a right to cut trees, however, as long as the soil is not disturbed, subject to the clearing limits specified in the State Shoreland Zoning Ordinance (which you are unlikely to exceed with the few trees you need to cut).

Second, again as a technicality, I am not satisfied with the silt fence as constructed. It needs to be extended about another 15' or so to the south (or hay bales could be used in lieu of the fence) to extend across a small swale filled with boulders, and tie in to the opposite side of the swale. I have shown where this extension is needed on the attached plan. On this plan, I have also re-located the southeast corner of your house as shown on your original plan to a location where I think it is staked in the field rather than on your original plan. You don't need to revise your plan, but my comments on where the extension is needed make more sense if I shift things as to where they actually are located in the field by GPS coordinates and conforming to the LiDAR-based 2'-contour map. Also, I think you need additional hay bales on hand as backup to shore up the silt fence where it may be needed. The lower edge of the filter fabric is not set into the ground 4" everywhere as

required by the DEP BMPs (see attached), which the Board uses as a guideline. Also, supporting posts should not be separated by more than 6' and yours are more than that. So, in order to satisfy me (remember, I currently have no official status other than being a member of the Board), you need to add more supporting posts, extend the silt barrier another 15' to the south, and have some hay bales on hand to close gaps between the bottom of the silt barrier and the ground should a gap be opened during construction. Once construction is complete and the ground is stabilized with grass or other suitable erosion-resistant vegetation, you can then remove the silt barriers

One other question I have is whether you obtained a permit for an "accessory structure" for the wooden deck, as shown on the Google Earth photo:



I did not see this deck included in the original building permit application and was wondering if you made a separate later application that I do not have a copy of. Although this deck is outside of the Town 125' Resource Protection Zone, it does lie within the State Shoreland Zone. The State Ordinance describes a "structure" as follows:

**Structure** - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

The deck would fall within the definition of an accessory structure, which is just any structure that is not the principal structure. According to the State Ordinance, a permit for this can be granted by the "CEO". Because this is within the State mandatory 250' Shoreland zone, I cannot act as CEO because the state requires the CEO for Shoreland Zone purposes to be certified as a CEO by the State, which then allows them to take compliance issues into Court, when necessary. The Town uses the following CEO for Shoreland Zone permitting that can be done by the CEO and for compliance actions:

Douglas Stover, Kingdom Road, Blue Hill, 207-374-2032

This is the first case since I have been on the Board where this State-certified CEO might be needed, so I don't know what the full procedure is to engage him, should that be necessary. If you haven't permitted the structure yet, I suggest you call Douglas and discuss it and he can tell you what has been done in the past. I know the Planning Board has a budget to pay the CEO when he acts on the Town's behalf.

I just wanted to make sure you get yourself legal because in these times, there isn't much you can hide from Google Earth and all the other sets of orthophotographs that are available to compare one year to another to detect land use changes on private property. I, myself, have aerial photographs of Isle au Haut from 1998, 2003, 2006, 2007, 2008, 2011, 2012, and 2014 so you can see how I can narrow down when visible structures are built, land is cleared, and roads built.

In summary, my best advice to you is to fix the deficiencies in the silt barrier, as I have noted, and focus on cutting trees for now. Once the Board has a new Chair and can get the approval of the other Board members to act on behalf of the Board, you can receive your condition compliance. Also, check on the deck permit issue. There is not rush on that but it is something you should take care of if you never obtained a permit.

Respectfully submitted,

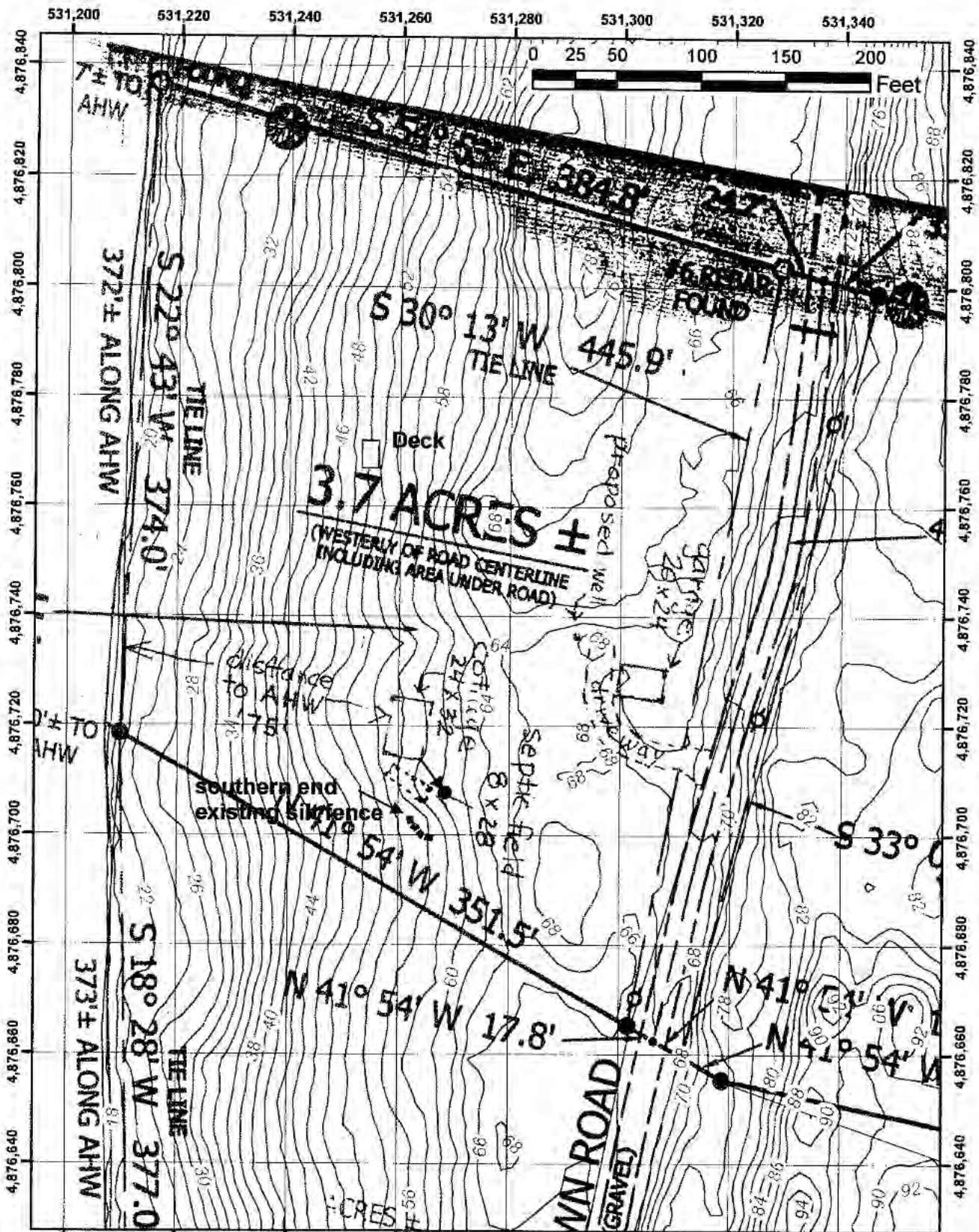
Isle au Haut Planning Board



Digitally signed by Robert G.  
Gerber  
Location: Isle au Haut, ME  
Date: 2015.05.26 15:38:10  
-04'00'

Robert G. Gerber, Member

Attachments: Leone plot plan showing where silt barrier extension is needed; DEP BMPs for silt barriers;



2-ft contour Map taken from MEGIS website, based on LIDAR 2-m DEM, NAVD88, ft.  
 Base map is a digital scan of Leone Lot. Plan on Long Pond  
 Grid is UTM, 19N, meters  
 Georeferenced by RGG 5/26/14

**B-1 SEDIMENT BARRIERS****PURPOSE & APPLICATIONS**

A sediment barrier is a temporary barrier installed across or at the toe of a slope. Sediment barriers may consist of filter fence, straw or hay bales, a berm of erosion control mix, or other filter materials. Its purpose is to intercept and retain small amounts of sediment from disturbed or unprotected areas.

The sediment barrier is used where:

- Sedimentation can pollute or degrade adjacent wetland and/or watercourses.
- Sedimentation will reduce the capacity of storm drainage systems or adversely affect adjacent areas.
- The contributing drainage area is less than 1/4 acre per 100 ft of barrier length, the maximum length of slope above the barrier is 100 feet, and the maximum gradient behind the barrier is 50 percent (2:1). If the slope length is greater, other measures such as diversions may be necessary to reduce the slope length.
- Sediment barriers shall not be used in areas of concentrated flows. Under no circumstances should hay bale or erosion control mix barriers be constructed in live streams or in swales where there is the possibility of a washout.

**CONSIDERATIONS**

- Sediment barriers are effective only if installed and maintained properly.
- Silt fencing generally is a better filter than hay bale barriers.
- If there is evidence of end flow on properly installed barriers, extend barriers uphill or consider replacing them with temporary check dams.
- Straw or hay bales should only be used as a temporary barrier for no longer than 60 days.
- Silt fences (synthetic filter) can be used for 60 days or longer depending on ultraviolet stability and manufacturer's recommendations.
- Sediment barriers should be installed prior to any soil disturbance of the contributing drainage area above them.

**SPECIFICATIONS****Filter Fences**

This sediment barrier utilizes synthetic filter fabrics. It is designed for situations in which only sheet or overland flows are expected. Generally pre-manufactured synthetic silt fencing with posts attached is used. See the detail drawing located at the back of this section for the proper installation of silt fences.

- The filter fabric shall be a pervious sheet of propylene, nylon, polyester or ethylene yarn and shall be certified by the manufacturer or supplier.
- The filter fabric shall contain ultraviolet ray inhibitors and stabilizers to provide a minimum of 6 months of expected usable construction life at a temperature range of 0 degrees F to 120 degrees F.
- Posts for silt fences shall be either 4-inch diameter wood or 1.33 pounds per linear foot steel with a minimum length of 5 feet. Steel posts shall have projections for fastening wire to them.
- The height of a silt fence should not exceed 36 inches as higher fences may impound volumes of water sufficient to cause failure of the structure.
- The filter fabric shall be purchased in a continuous roll cut to the length of the barrier to avoid the use of joints. When joints are necessary, filter cloth shall be spliced together only at support post, with a minimum 6-inch overlap, and securely sealed.
- Post spacing shall not exceed 6 feet.

- A trench shall be excavated approximately 4 inches wide and 4 inches deep along the line of posts and upgradient from the barrier.
- The standard strength of filter fabric shall be stapled or wired to the post, and 8 inches of the fabric shall be extended into the trench. The fabric shall not extend more than 36 inches above the original ground surface. Filter fabric shall not be stapled to existing trees.
- The trench shall be backfilled and the soil compacted over the filter fabric.
- Silt fences shall be removed when they have served their useful purpose, but not before the upslope areas have been permanently stabilized.

### **Straw/Hay Bales**

See the detail drawing located at the back of this section for the proper installation of hay bales.

- Bales shall be placed in a single row, lengthwise on the contour, with ends of adjacent bales tightly abutting one another.
- All bales shall be either wire-bound or string-tied. Bales shall be installed so that bindings are oriented around the sides, parallel to the ground surface to prevent deterioration of the bindings.
- The barrier shall be entrenched and backfilled. A trench shall be excavated the width of a bale and the length of the proposed barrier to a minimum depth of 4 inches.
- After the bales are staked and chinked, the excavated soil shall be backfilled against the barrier. Backfill soil shall conform to the ground level on the downhill side and shall be build up to 4 inches against the uphill side of the barrier. Ideally, bales should be placed 10 feet away from the toe of slope.
- At least two stakes or rebars driven through the bale shall securely anchor each bale. The first stake in each bale shall be driven toward the previously laid bale to force the bales together. Stakes or re-bars shall be driven deep enough into the ground to securely anchor the bales.
- The gaps between bales shall be chinked (filled by wedging) with hay to prevent water from escaping between the bales.

### **Problems with Straw or Hay Bale Barriers**

There are three major reasons why straw bale barriers are not as effective as hoped they would be:

- When improperly placed and installed (such as staking the bales directly to the ground with no soil seal or entrenchment), hay bales allow undercutting and end flow.
- Inadequate maintenance.
- Inspection shall be frequent and repair or replacement shall be made promptly as needed. Bale barriers shall be removed when they have served their usefulness, but not before the up-slope areas have been permanently stabilized.

### **Erosion Control Mix Berms**

Erosion control mix can be manufactured on or off the project site. It must consist primarily of organic material, separated at the point of generation, and may include: shredded bark, stump grindings, or acceptable manufactured products. Wood and bark chips, ground construction debris or reprocessed wood products will not be acceptable as the organic component of the mix.

#### **Composition**

Erosion control mix shall contain a well-graded mixture of particle sizes and may contain rocks less than 4" in diameter. Erosion control mix must be free of refuse, physical contaminants, and material toxic to plant growth. The mix composition shall meet the following standards:

- The organic matter content shall be between 50 and 100%, dry weight basis.
- Particle size by weight shall be 100 % passing a 6" screen and a minimum of 70 %, maximum of 85%, passing a 0.75" screen.
- The organic portion needs to be fibrous and elongated.
- Large portions of silts, clays or fine sands are not acceptable in the mix.
- Soluble salts content shall be < 4.0 mmhos/cm.
- The pH should fall between 5.0 and 8.0.

### **Installation**

- The barrier must be placed along a relatively level contour. It may be necessary to cut tall grasses or woody vegetation to avoid creating voids and bridges that would enable fines to wash under the barrier through the grass blades or plant stems.
- On slopes less than 5 % or at the bottom of steeper slopes (<2:1) up to 20 feet long, the barrier must be a *minimum of 12" high*, as measured on the uphill side of the barrier, and a *minimum of two feet wide*. On longer or steeper slopes, the barrier should be wider to accommodate the additional runoff.
- Frozen ground, outcrops of bedrock and very rooted forested areas are locations where berms of erosion control mix are most practical and effective.
- Other BMPs should be used at low points of concentrated runoff, below culvert outlet aprons, around catch basins and closed storm systems, and at the bottom of steep perimeter slopes that are more than 50 feet from top to bottom (i.e., a large up gradient contributing watershed).

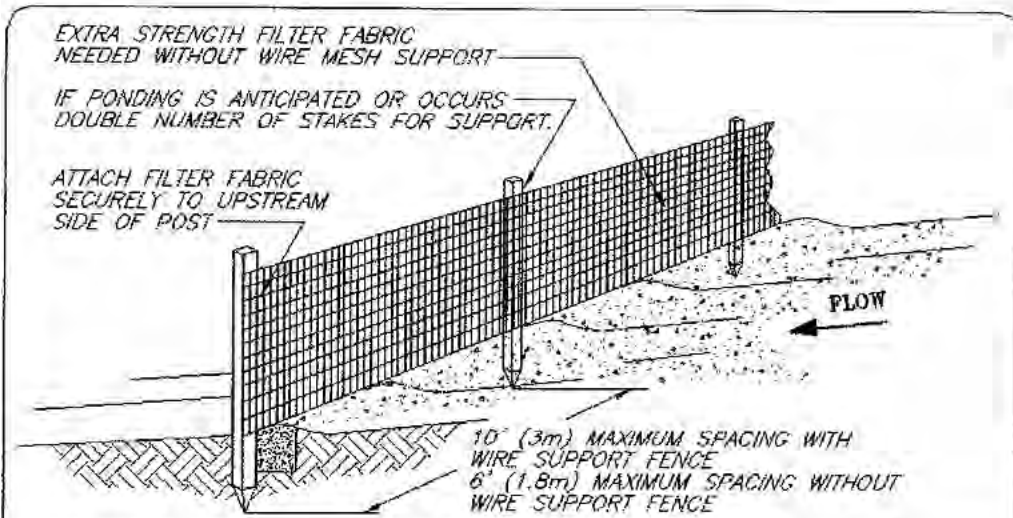
### **Continuous Contained Berms**

A new product, the filter sock can be an effective sediment barrier as it adds containment and stability to a berm of erosion control mix. The organic mix is placed in the synthetic tubular netting and performs as a sturdy sediment barrier (a vehicle may drive over it without ill effect). It works well in areas where trenching is not feasible such as over frozen ground or over pavement. A continuous contained berm of erosion control mix may be effective when placed in waterways such as ditches and swales or in area of concentrated water flow as the netting prevents the movement and displacement of the organic material. See the detail drawing located at the back of this section for the proper installation of continuous contained berms.

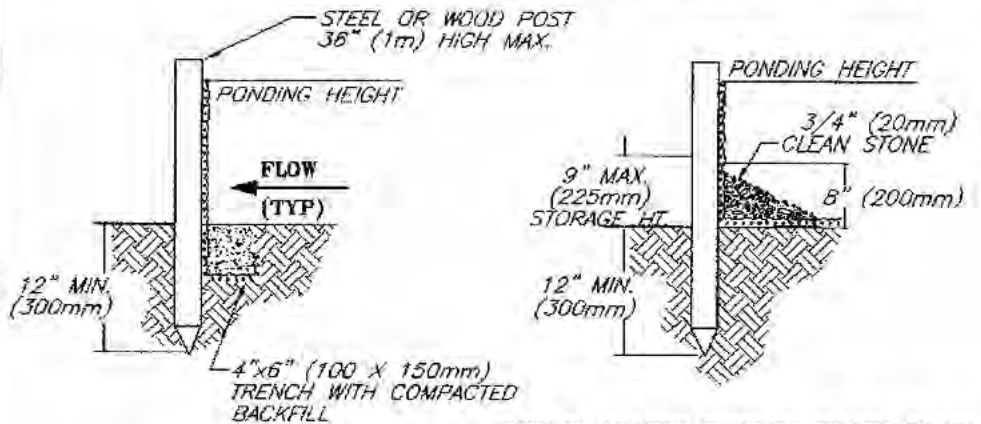
Seeds may be added to the organic filler material and can permanently stabilize a shallow slope. The containment will provide stability while vegetation is rooting through the netting.

### **MAINTENANCE**

- Hay bale barriers, silt fences and filter berms shall be inspected immediately after each rainfall and at least daily during prolonged rainfall. They shall be repaired immediately if there are any signs of erosion or sedimentation below them. If there are signs of undercutting at the center or the edges of the barrier, or impounding of large volumes of water behind them, sediment barriers shall be replaced with a temporary check dam.
- Should the fabric on a silt fence or filter barrier decompose or become ineffective prior to the end of the expected usable life and the barrier still is necessary, the fabric shall be replaced promptly.
- Sediment deposits should be removed after each storm event. They must be removed when deposits reach approximately one-half the height of the barrier.
- Filter berms should be reshaped as needed.
- Any sediment deposits remaining in place after the silt fence or filter barrier is no longer required should be dressed to conform to the existing grade, prepared and seeded.



NOTE: PRE-FABRICATED SILT FENCE IS ACCEPTABLE IF INSTALLED PER MANUFACTURER.



**TRENCH DETAIL**

**LEDGE, FROZEN GROUND, HEAVY ROOTS  
INSTALLATION WITHOUT TRENCHING**

**NOTES:**

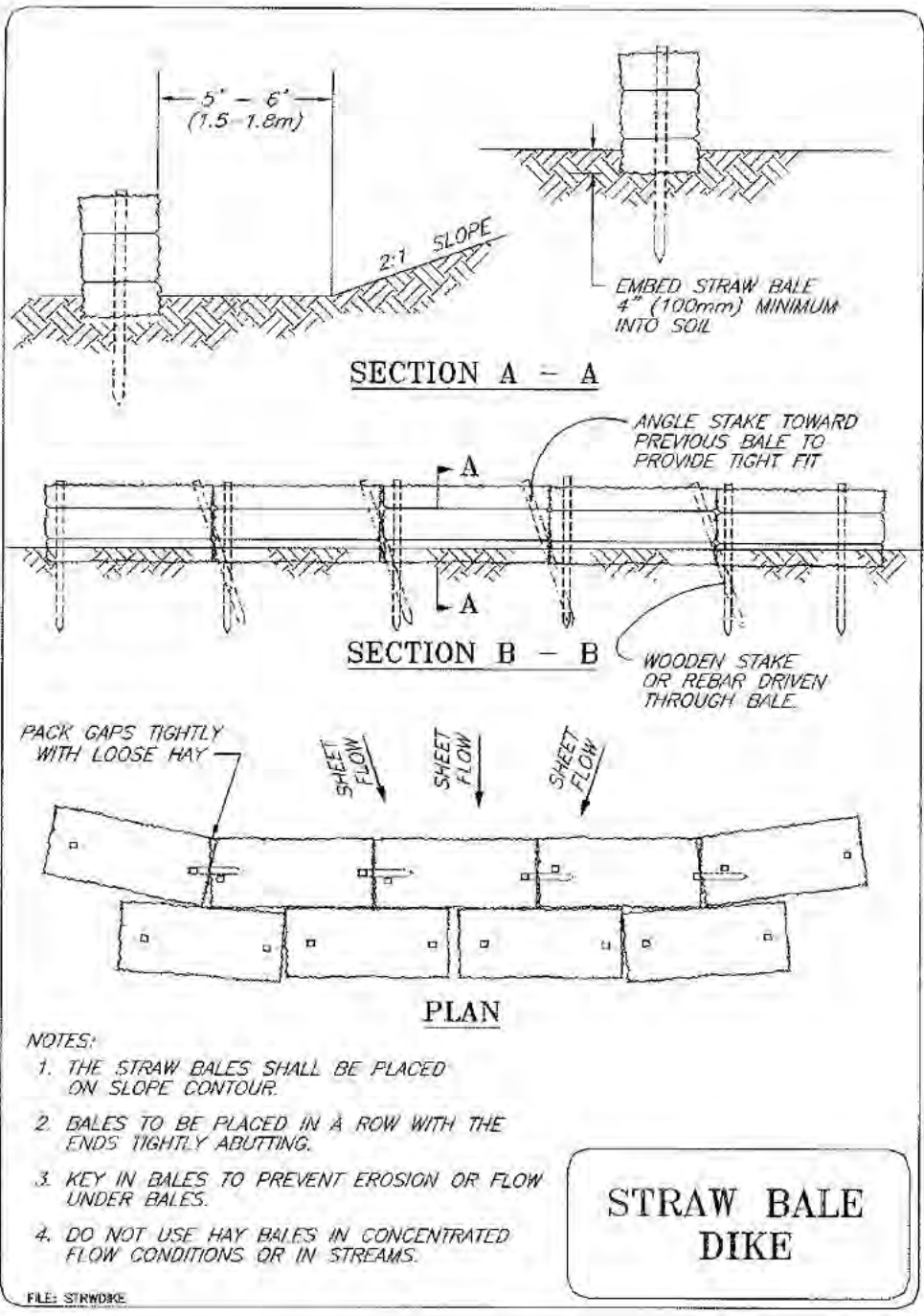
1. SILT FENCE SHALL BE PLACED ON SLOPE CONTOURS TO MAXIMIZE PONDING EFFICIENCY.
2. INSPECT AND REPAIR FENCE AFTER EACH STORM EVENT AND REMOVE SEDIMENT WHEN NECESSARY. 9" (225mm) MAXIMUM RECOMMENDED STORAGE HEIGHT.
3. REMOVED SEDIMENT SHALL BE DEPOSITED TO AN AREA THAT WILL NOT CONTRIBUTE SEDIMENT OFF-SITE AND CAN BE PERMANENTLY STABILIZED.
4. DO NOT PLACE SILT FENCE IN STREAMS OR CONCENTRATED FLOW CONDITIONS.

FILE: SILTFENC

**SILT FENCE**

© 1994 JOHN McCULLAH ME DEP 2003



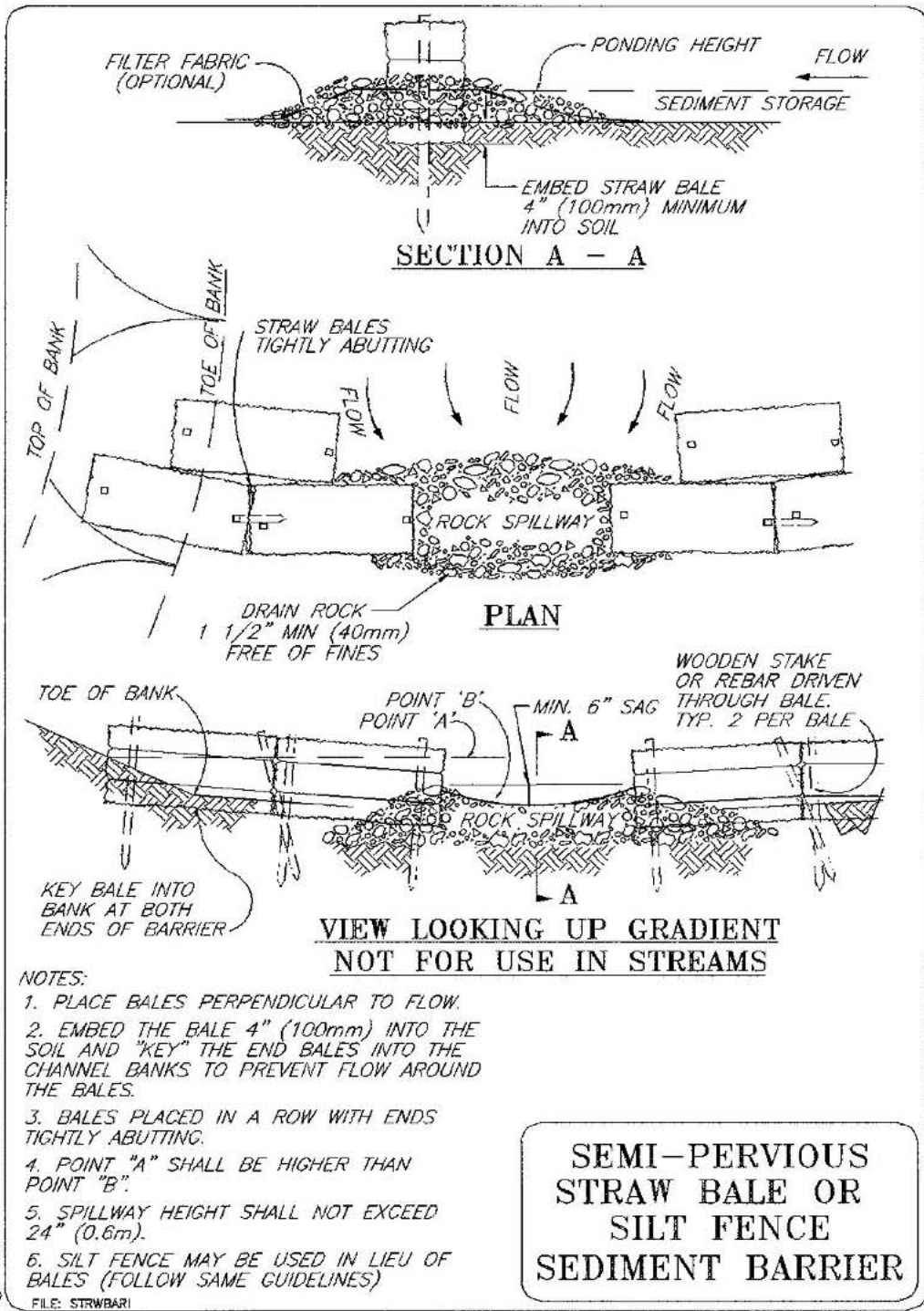


**NOTES:**

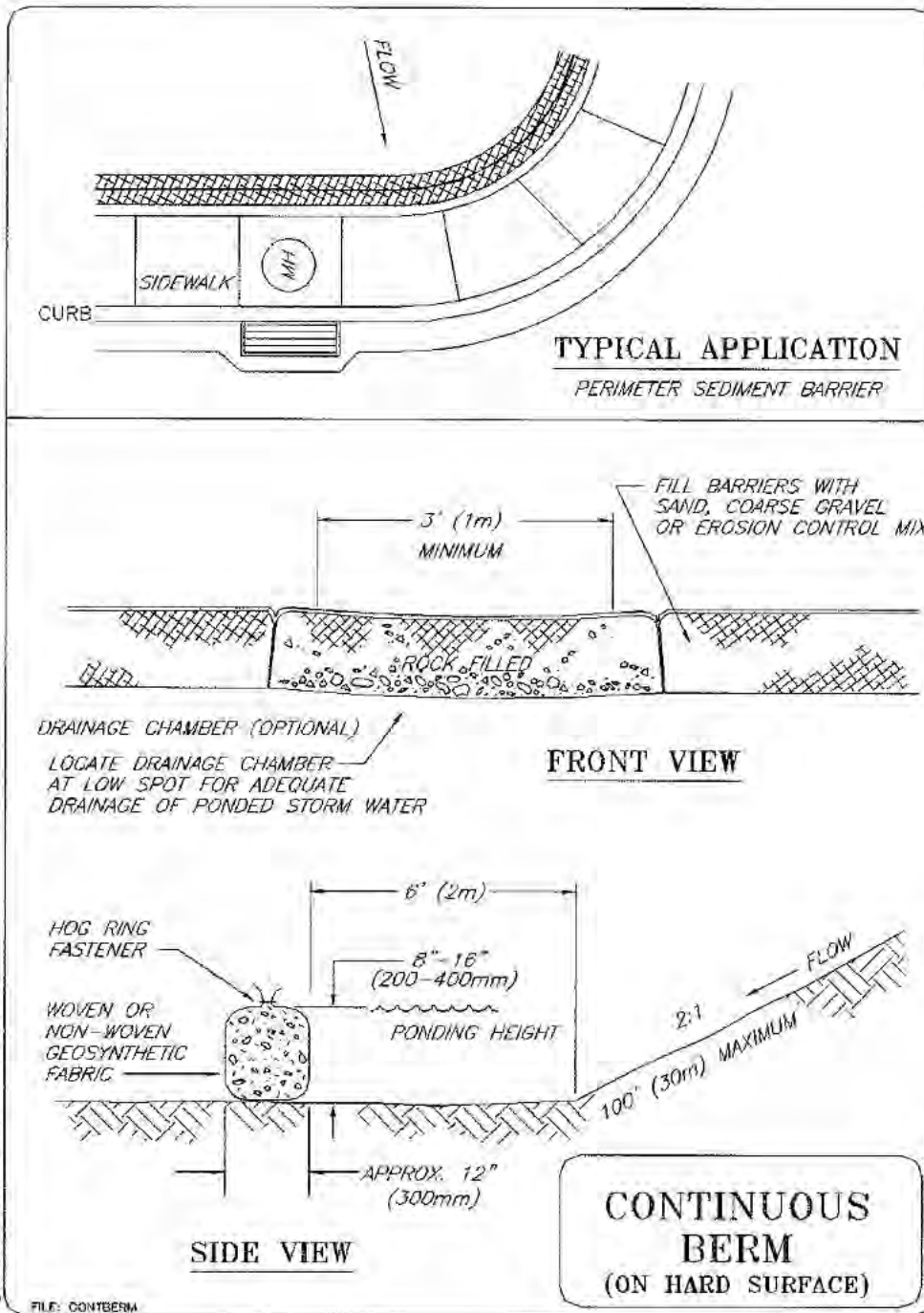
1. THE STRAW BALES SHALL BE PLACED ON SLOPE CONTOUR.
2. BALES TO BE PLACED IN A ROW WITH THE ENDS TIGHTLY ABUTTING.
3. KEY IN BALES TO PREVENT EROSION OR FLOW UNDER BALES.
4. DO NOT USE HAY BALES IN CONCENTRATED FLOW CONDITIONS OR IN STREAMS.

**STRAW BALE  
DIKE**

© 1994 JOHN McCULLAN ME DEP 2003  
FILE: STRWBKE



© 1994 JOHN McCULLAH ME DEP 2003



6



Robert Gerber &lt;aframe73@gmail.com&gt;

**Scheduled Planning Board Mtg**

Bob Gerber &lt;aframe73@gmail.com&gt;

Wed, Jun 3, 2015 at 8:46 PM

To: William Stevens &lt;wmstevens@tds.net&gt;

I will be back to the island tomorrow (Thursday) through next Tuesday, then need to come back for knee surgery.

Please take the Vallilees off the well drilling list. There has been a delay on the land sale and that, combined with some other complications, will make it impossible to get permits, etc., by mid-July. So the Vallilees told me to cancel for this year.

On the wells to be drilled and permitting: I would say that if there is an existing dwelling and an old well is being rejuvenated or fracked, then no permit (considered maintenance); If a new well on land that previously had no well, as long as a permanent new road not built and any damage to the ground is contained by silt fencing and the ground is replanted then no permit; If a new dwelling is being built and they have a building permit from the PB and a well is shown on the plan, then the well is considered to have been approved as part of the BP. If no building permit has been issued for a lot and a road has to be constructed to get to the well drilling site, then the Ordinance says the Planning Board has to approve the road construction (in any zone). In the Town Ordinance a well is not considered a structure, so the only thing triggering a permit requirement would be road construction. In the Shoreland Zone, however, the definition of structure would include a well (which would be an "accessory structure") and the State Shoreland Ordinance says that the CEO approves those. The CEO for Shoreland Zone permitting is Douglas Stover of Blue Hill, 374-2032. I can't act as CEO for permitting required by the Shoreland Zone Ordinance because I don't have the CEO certification. There is one other condition under both the town and state ordinance that would trigger a permit and that is if there is over 10 CY of filling or excavation required to prepare the well drilling site. Also, for the State Ordinance, there is a limit of the amount of clearing that can be done in the Shoreland Zone and that is 10,000 square feet of forest canopy opening so creating a path and opening for the well of over 10,000 square feet in a virgin Shoreland Zone site would not be allowed. I don't know if DeWitt, Watts, etc. have permits for wells. I presume that if they got a building permit they are covered, but you should ask them. I am not going to follow the well driller around to see if all the landowners have permits. It is their responsibility to get a permit if they need one and the Town would only do a compliance check if someone complains.

As for utility poles: Under the Town Ordinance, a Planning Board permit is required for "public utilities" although a pole is not considered a "structure" under the Town Ordinance and there is no definition of a "public utility". I would be puzzled as to how to interpret this in the case of a buried utility (a buried cable would not be considered a structure under the town ordinance.) Since at the time the ordinance was developed, the only "public utility" on the island was the electric power company, I would have to conclude that they meant to include power poles and power lines since that is basically, by logic all that they could have included. In most ordinances, utility installations in public rights-of-way would be exempted, so I should put that on my list of changes to make to the ordinance. As with the well, if the extension of power and telephone was listed in the building permit, then no additional permits would be required. Replacement or maintenance of existing lines do not need a permit. In all other cases it looks like a permit is required. I guess the PB would primarily be concerned with the clearing required as part of the installation, and, if any soil is disturbed, then that proper sediment and erosion control is applied.

Yes, you can leave the Chamberlain application at my house, but I have to leave the island again for my knee surgery from June 10-14.

Bob

[Quoted text hidden]