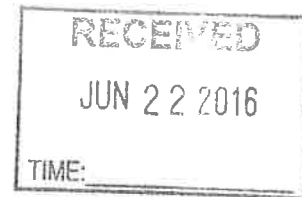


TOWN OF CALAIS
DEVELOPMENT REVIEW BOARD



**Re: Permit Application #2016-11
Steven C. Gomez
10 Moscow Woods Road
East Calais Village**

Conditional Use Permit Review

Reconstruction of Retaining Wall on Property Line within 50 feet of Stream & Pond
Removal of Tree and Existing Rocks within 50 foot buffer
Fill material added to level ground area from wall to upper lawn

Variance Permit Review

Wall construction within 10 feet of rear property line and
Installation of Best Fix Sewer System (designed and approved)

Introduction:

Steven C. Gomez submitted an application on May 10, 2016 with the Zoning Administrator for the Town of Calais to remove and replace a failed retention wall, extending the same toward the road and to build up the area for a new Leach Field installation and prevent further erosion at 10 Moscow Woods Road.

A site visit and hearing was held on June 2, 2016 at the Calais Town Clerk's Office.

The proposal is to remove a tree and some of the old stones located on the property line between the Gomez property and that of John Risse, owner of 34 Moscow Woods Road. The existing collapsed retaining wall at the north end is located within the 50 foot buffer of the Pond and runs along the stream bank from said pond within the 50 foot buffer zone.

The proposal is to rebuild the wall on the property line with concrete blocks or interlocking blocks to a height of approximately 4 feet or so. The wall will extend from the penstock concrete wall at the pond edge toward Moscow Woods Road approximately 102 feet ending at the road right of way as depicted by the town.

Then the owner wants to place fill material from the wall location towards the driveway elevation and level the same off to prevent erosion runoff in the future on the back/side lawn.

A new replacement septic leach field has been designed by Aaron Fuller of Northcountry Septic Design and has been submitted to the State of Vermont and Town of Calais. Location information for this septic replacement system was described on a site plan dated October 10, 2015. The site plan does not include a retention wall nor does it address the fill material to be placed under the new leach field. The site plan does include a surface water diversion swale to be installed and move surface water away from the leach field area

Findings of Fact:

This project is within the village district of East Calais.

Table 2.1 Village District (VIL)

(E) Dimensional standards

Minimum Setback/Side, Rear	10 feet	Stream buffer	50 feet
Minimum Setback (from CL)	40 feet	Lakes and ponds buffer	50 feet

Section 5.3 Conditional use Review:

(A) Applicability; (B) Application Requirements and (C) Review Procedures are met

(D) Requires Standards

1) The capacity of existing or planned community facilities and services – no adverse impact to the community facilities and services.

2) Character of the neighborhood – the proposal is consistent with the character of the neighborhood

3) Traffic on roads and highways in the vicinity – there is no impact on traffic

4) Bylaws in effect

a. The Village District requires projects to be set back 40 feet from the centerline of any roadway under the control of the town. Therefore, the wall needs to end a distance of 40 feet from the center line of Moscow Woods Road.

b. The onsite wastewater ordinance requires any modifications due to the approval of this retaining wall installation will need to be addressed by amendment and approval by the State, if it affects the proposed designed replacement permit.

c. The Village District requires projects to have a setback of 50 feet from a Stream or Pond for any excavation, cutting or structures

d. The Village District requires projects to be 10 feet from the rear/side property line set back for any new structures

e. A new structure on this property such as the retaining wall is in the mapped Calais Flood Hazard Overlay district and needs to be addressed.

5) The utilization of renewable energy resources – no energy impacts by this project.

(E) Discretionary Standards:

1. Health and Environmental Standards

a. No adverse public health or safety hazard issues

b. The DRB acknowledges that the proposed reconstructed wall and additional fill material has a positive impact on water quality if not constructed correctly as this project will be built within the water buffer zones.

2. Access & Circulation Standards - no adverse impacts on Access or vehicle circulation

3. Landscaping & Screening - the DRB is requesting that plantings be installed at the ends of each of the proposed surface water diversion swales (described in the septic plan submitted with the permit) so that water does not flow directly into the stream. At the end of the wall and fill towards Moscow Woods Road it will require to be graded in such a way as to blend with the existing ground to prevent a direct water runoff.

4. Required Buffers & Open Space – this project is to install a retaining wall and fill to eliminate water runoff from the back/side yard into the stream directly and there is no room for the creation of any set backs or buffers. The DRB is requesting the use of plants or bushes where possible to filter water flow before flowing down the hill into the stream identified.

5. Storm water, erosion control and/or buffer management plans – the DRB is requesting that strict use of erosion control methods be used during the complete construction of the entire project to prevent any sediment entering the stream. Reference is made to the Low Risk Site Handbook for Erosion Prevention and Sediment Control for overall storm water and erosion control strategy.

Section 1.8 Variances

(A) The DRB found the following facts and findings with respect to the issuance of a Variance on the proposed project submitted by Steven C. Gomez:

1. The physical condition, irregularity, narrowness of the lot size and shape is due to the land location and not created by the zoning regulations
2. There is no possibility that the wall location can be built any further from the property line and enable reasonable use of the property
3. The unnecessary hardship has not been created by the appellant
4. The variance will not alter the character of the neighborhood or district or reduce access to renewable energy resources
5. The variance will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulations

(B) The structure is a wall and not a structure so renewable energy is moot.

(C) The project is within the Flood Hazard Area in accordance with Section 5.4 (E).

The proposed project sits on a piece of land which is higher than the stream area and the pond has a concrete wall preventing water from the pond washing over the property unless it reaches a higher depth. The property elevation rises after the concrete wall up to Route 14. The site is not directly located within the direct floodway and should not affect the wall project as installed.

DRB Conditions on the Project:

In granting Conditional Use and Variance permits, the DRB may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of the Calais Land Use and Development Regulations and the Calais Town Plan. The members of the DRB have been very concerned with development on the ponds, lakes and streams in the town and each project is considered very carefully in conforming to the protection of the water prior, during and after construction.

After a complete review of the application, documentation submitted by Applicant, the land use and development regulations we are required to implement and in our review or decision of any project, **The DRB is setting forth herewith the following conditions on this project which are required to be completed:**


1. The DRB is also very concerned with any pollution of the water or any undue erosion into the stream during construction. The applicant and his contractor will adhere to putting all the required construction erosion controls in place prior to and during excavation for the entire project until completed.
2. The wall construction will need to end a distance of 40 feet from the center line of Moscow Woods Road as required under the Village District. Any deviation from this requirement shall require approval and written permission from the Calais Select Board be filed with the Zoning Administrator.
3. This project consists of a retaining wall and additional fill material be placed on the site under where the designed replacement permit for a leach field is located. This needs to be addressed with Aaron Fuller of Northcountry Septic Design and the State of Vermont. The DRB is requiring an amended state wastewater permit or a letter filed with the Town of Calais allowing the changes proposed with the retaining wall and fill. **No construction shall commence until all required approved permits have been submitted to the town.**
4. The DRB is requiring that plantings be installed at the end of each area where the surface water diversion swales are constructed and at the end of the wall and fill material close to Moscow Woods Road to prevent water flowing directly into the stream below. The finish grading of the project should also be done to eliminate water flow from the roadway and land into the stream directly.

DECISION AND ORDER:

The DRB hereby **GRANTS a Variance** for the retaining wall structure within ten feet of the side/rear property line, **a Conditional Use Permit** for a new structure in the mapped Calais Flood Hazard Overlay District and **a Conditional Use Permit** for the building of a retaining wall, excavation, fill material and cutting of vegetation with the Pond and Steam 50 foot buffer zones.

The Application and Contractor shall adhere to and complete ALL CONDITIONS noted and set forth above as #1 through #4 of this document


Members of the Calais Development Review Board:


Margaret L. Bowen, Member

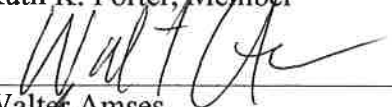
6/20/16
Dated

Barbara S. Weedon, Member


Dated


Ruth K. Porter, Member

6/22/16
Dated


Walter Amses

6/21/16
Dated


Steve Owens

6/22/16
Dated

Notice of Right to Appeal: In accordance with 24 VSA sections 4471 and 4472, this decision may be appealed within 30 days of the date to the Vermont Environmental Court. Notice of appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the Calais Zoning Administrator and to every interested person who appeared at the DRB hearings. Failure of any interested person to appeal within the specified 30 day period shall result in the interested person being bound by this decision. Thereafter, the interested person shall not contest, either directly or indirectly, the decision of the DRB in any subsequent proceeding, including any enforcement action brought under the provisions of 24 VSA Chapter 117. See also Town of Calais Land Use and Development Regulations, Section 1.7, Appeals.