Date: August 7, 2015

To: Applicant, Appeals Board Members, Code Enforcement Officer, Planning Board, and Abutters of Map I-01 Lot 065

From: Peter Rice, Chairman Board of Adjustment and Appeals

RE: Variance Setback for Map I-01, Lot 65
Located at: 18 Bennett’s Cove Road
Zoning District: Island Residential

The Board of Adjustment and Appeals will hold a public hearing for:

A request for a setback variance by, Whitney Neville Harvey, Map I-01, Lot 065, located at 18 Bennett’s Cove Road. The Public Hearing will be conducted on Wednesday, August 26, 2015 at 7:00 PM, at the Chebeague Island Recreation Center, 382 North Road, Chebeague Island, ME.

All Abutters who receive this notice are invited to attend. A copy of the Meeting materials may be viewed at townofchebeagueisland.org or at the Chebeague Island Town Office, Located at 192 North Road.

Respectfully Submitted,

Peter Rice
Chairman Board of Adjustment and Appeals
TOWN OF CHEBEAGUE ISLAND
BOARD OF ADJUSTMENT AND APPEALS
VARiANCE APPLICATION FORM
PRACTICAL DIFFICULTY

I. BACKGROUND INFORMATION
A. Applicant Name: WHITNEY HARVEY
B. Applicant Address: 18 DONALDSON RD, SOUTHBOROUGH, MA 01770
C. Applicant Phone Number: _________________________
D. Address of Property for which variance is sought: 18 BELLAVANA RD, CHEBEAGUE ISLAND
E. Tax Map and Lot Number of Subject Property: MAP 101, LOT 65
F. Zoning District in which Subject Property is located: ISLAND RESIDENTIAL
G. Zoning restriction(s) sought to be varied: 15’ REAR & SIDE SETBACK ALLOWANCES TO BE REDUCED FOR BUILDING OF 9’X12’ (NOTE: DIFFERENT THAN TYPICAL AP. OR A-T)

II. VARIANCES IN GENERAL

Pursuant to 30-A M.R.S.A. §4353(4-C), the Board of Adjustment and Appeals may grant a variance only when strict application of the ordinance to the Applicant and the applicant's property would cause "a practical difficulty" and when the following conditions exist. "Practical difficulty" shall mean that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Please document how "significant economic injury" would occur:

The only ordinance acceptable location on property is in front yard of house, thereby restricting view to water. This location for a shed would significantly impact the rental rate of the property. It would also present possible access issues to the house from driveway.

"Dimensional standards" means and is limited to Ordinance provisions relating to lot coverage, frontage, and setback requirements.

The Board must make a positive finding on each of the following criteria. Please describe in the space provided how your request meets the "practical difficulty" criteria listed below.

A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

Due to wetlands located in front yard area, the upland area on the NE. side of house presents the best soil conditions to support structure. Front yard area would also fall within 25’ wetland setback distance.

B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

Proposed shed is of "island" similar characteristics that are not unlike surrounding neighborhood sheds. Will not impact view of any neighbors or cause any adverse affects to abutting market values.
C. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Practical difficulty is primarily due to soil conditions within the ordinance setback defined areas.

D. No other feasible alternative to a variance is available to the petitioner;

Due to location of septic system on opposite of house, shed cannot be located there. Applicant is presently storing lawn mower, gas, bottles, yard implements in house and needs to remove items to an exterior location.

E. The granting of a variance will not unreasonable adversely affect the natural environment; and

No tree removal and minimal soil disturbance would occur at proposed site, this location for shed would have the minimal affects on natural environment.

F. The property is not located in whole or in part within the shoreland areas as described in Title 38, Section 435.

NOT APPLICABLE.

APPELLANT(S)

DECISION

Following a hearing and a vote of the Chebeague Island Board of Adjustment and Appeals
On __________________, you are hereby notified that your variance has been
(GRANTED subject to the following restrictions:)

(DENIED due to a finding by the Board that:)

SIGNED
Dear Nick,

Please be advised that Geoff Summa has permission and full authority to represent me with regard to my application to build a small shed on my property located at 18 Bennett Cove Road.

I have spoken with my neighbors about the shed and have encountered no objections. I look forward to attending the meeting on August 5th. Thank you.

All the Best,
Whitney Harvey
(207) 671-2360=
Date: June 27, 2014

Owner: Whitney Neville Harvey
28 Danforth Road
South Portland, Maine 04106

Parcel ID: Map I-01, Lot 65
Located at: 18 Bennett’s Cove Road
Zoning District: Island Residential

Dear Whitney,

You applied for a building a permit (14-B-12) to build an 8’ x 10’ gable roof shed. Included in your application was a plot plan showing the following proposed setbacks to the property lines:

**Front and Left Side Setbacks**—Not Shown, however they appear to be not relevant on this application.

**Right side Setback**—Eight Feet
(8’)

**Rear setback**—Eight to ten Feet.
(8’ – 10’)

Your property is located in the Island Residential Zoning District and has approximately .18 Acres (7,840.8 sq. ft.) and according to a 1969 assessing card the parcel appears to have been created before 1975. That being said, the proposed shed under Building Permit (14-B-12) fails to meet the required side and rear setbacks required in the Island Residential zoning district, so I regret to inform you that this office will have to deny your request based on the following chapters of the Town of Chebeague Island Zoning Ordinance:

**110.94 Lot Line**
Property line bounding a lot.
A. Lot line, front: The lot line separating a lot from a street or other right-of-way providing access to the lot.
B. Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten feet in length that is located entirely within the lot and is parallel to and at a maximum distance from the front lot line. On a lot that abuts more than one street, the rear lot line shall be that line opposite the shortest front lot line. Where all front lot lines are the same length, the rear lot line shall be designated by the owner as part of the first application for a building permit submitted for the lot after the effective date of this section.
C. Lot line, side: Any lot line other than a front or rear lot line.

**110.143b Setback**
The shortest horizontal distance between a lot line and any structure on a lot; except that for purposes of regulation of lots, buildings, structures and uses located within the shoreland area, setback shall also mean the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or the upland edge of a wetland including a coastal wetland adjacent to tidal waters, to the nearest part of a structure, road, parking space or other regulated object or area. A street or other right-of-way, other than a driveway that serves no more than two (2) residential lots, that is or may be utilized for motor vehicle access or a street shown on a subdivision plan recorded in the Registry of Deeds in which the Town of Cumberland (prior to July 1, 2007) or the Town of Chebeague Island (on or after July 1, 2007) has reserved its right under the provisions of 23 M.R.S. § 3032 shall not be included within a setback. Where a street or other right-of-way that is or may be used for motor vehicle access, other than a driveway that serves no more than two residential lots, is located within the boundaries of a property, the required setback shall be measured from the nearest edge of the street or right-of-way rather than the property line.

110.153 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, and poles, wiring and other aerial equipment normally associated with service drops as well as guyng and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

204.1.E. The following minimum setbacks are required for all lots in the IR district that are less than 1.5 acres and that were created on or before July 31, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:
1. Front: 25 feet;
2. Rear: 20 feet;
3. Side: 20 feet;
4. Shoreland setbacks shall be as required by Section 427.

This decision constitutes an administrative appeal, pursuant to Section 603.2.A of the Town of Chebeague Island Zoning Ordinance. You have the right to appeal this decision to the Board of Adjustment and Appeals within 30 days of the date of this letter. If you fail to appeal to the Board of Adjustment and Appeals, you will lose your right to contest this letter. You also have the right to apply for a variance per Section 603.2.B of the Town of Chebeague Island Zoning Ordinance. Please contact the Town Clerk for the necessary paperwork that is required to file an appeal and feel free to contact me if you wish to discuss the matter or have any questions.

Respectfully Submitted,

Nicholas L. Adams
Code Enforcement Officer
Town of Chebeague Island
192 North Road
Chebeague Island, ME 04017
(207) 846-3148

Building & Renovation Permit – Application

Date: 06-30-14
Permit #: 14-B12

*see additional information in attachments. * see Building Code 2009 IBC, IRC, and the 2009 Energy code.

Property Owner Information

Name: Whitney Harvey
Address: 23 Danforth RD
S. Portland, ME 04106
Contact Telephone:

Contractor Information

Name: Geoff Summit
Address: 105 High Hill Rd. Chebeague
Contact Telephone: 207 712-8413

Building Permit Location

Address: 18 Beavens Cove Rd. Map: 101 Lot: 65

Project Specifications (describe project i.e. new structure, addition, renovations)

8 x 10 Shed Garage Roof

Project Cost (estimated cost must include labor and materials involved for completion.)

$3500

Submission Requirements:

- Building Plans – Scaled drawings showing floor layout with dimension, elevations and structural elements.
- Plot Plan – (for new square footage) Plan showing existing and proposed structures with setback measurements from structures to property lines. See Attachment “A” for setbacks.
- Shoreland Zoning Permit – For activities within the Shoreland Zone (250’ deep)

Inspection Requirements:

- Foundation – Inspection of footings prior to placing concrete, inspection of walls prior to placing concrete. Inspection includes required reinforcement.
- Rough In – Inspection of Framing, Electrical, Plumbing prior to closing in
- Certificate of Occupancy – Approval required prior to occupancy.

Applicants Signature

Code Enforcement Officer Approval

** Signing authorizes inspection necessary to issue permit and insure compliance with regulations.**
WARRANTY DEED
Joint Tenancy
Maine Statutory Short Form

Know all Persons by these Presents.

That Whitney Neville Harvey

of South Portland, County of Cumberland, State of Maine

for consideration paid, grant to Charles A. Harvey, Jr. and Whitney Neville Harvey

of South Portland, County of Cumberland, State of Maine

whose mailing address is

with warranty covenants, as joint tenants the land in Chebeague Island County of Cumberland, State of Maine, described as follows: or on the attached Schedule A

Witness my hand and seal this 30th day of the month of December, 1993.

Signed, Sealed and Delivered

in presence of

Whitney Neville Harvey

State of Maine, County of Cumberland

on December 30, 1993.

Then personally appeared the above named Whitney Neville Harvey

and acknowledged the foregoing instrument to be her free act and deed.

Before me

Attorney at Law

Notary Public

Printed Name
Schedule A

A certain lot or parcel of land with the buildings thereon situated on the south part of Great Chebeague Island in Cumberland, County of Cumberland and State of Maine being bounded and described as follows:

Beginning at a stake at the west corner of land deeded to Martha Mitchell and her sister, Susan, by Stephen Bennett, March 8, 1862, and running in a southeasterly direction four (4) rods to a stake; thence in a northeasterly direction on a line running through the center of the old Bennett house, so-called, eight (8) rods in a stake; thence in a northwesterly direction four (4) rods parallel to first line to a stake; thence in a southwesterly direction eight (8) rods to the starting point and containing thirty-two (32) square rods, the same.

Also hereby conveying an easement over a strip of land fifteen (15) feet in width for ingress and egress and for any present and future utilities along the northwesterly side of described premises to the southerly side of Bennett Cove Road as described in a deed from Carrie Morse, et al., to Leon L. Tellinghuisen, dated October 4, 1976, recorded in the Cumberland County Registry of Deeds in Book 3931, Page 132.

Being the same premises conveyed to Charles W. Harvey, Jr. and Whitney Neville Harvey by Charles W. Harvey, Jr. by deed to be recorded herewith.

Recorded

Cumberland County
Registrar of Deeds
12/30/93 04:00:33PM
John B. O'Brien
Registrar
### Property Data

- **Neighborhood**: 2 O water influenced 123
- **Tree Growth Year**: 0
- **Farm Space Year**: 
- **Open Space Year**: 0
- **Zone/Land Use**: Island
- **Secondary Use**: 
- **Topography**:  
  - Level 4: Below
  - Rolling 5: Low
  - Above St 6: Swampy

### Utilities

- **Public**: 4: Dr Well
- **Water**: 5: Dug Well
- **Sewer**: 6: Septic
- **Street**:  
  - Paved: 4: Proposed
  - Semi Imp: 5: Right Of W
  - Gravel: 6: ISLAND

### Sale Data

- **Sale Date**: 
- **Price**: 
- **Sale Type**:  
  - Land 4: Mobile
  - L & B 5: Other
  - Building 6: Commercial

### Financing

- **Convent**: 4: Seller
- **FHA/VA**: 5: Private
- **Assumed**: 6: Cash

### Validity

- **Valid**: 4: Split
- **Related**: 5: Partial
- **Distress**: 6: Exempt

### Notes:

- **INSPECTION WITNESSED BY**: 
- **X Date**: 
- **NO./DATE**: 

### Front Foot

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<th>Effective</th>
<th>Influence</th>
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<td>Depth</td>
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<td>19. Hardwood (Tree)</td>
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<td>25. Additional Acrs</td>
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<tr>
<td>26. Rear Land</td>
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<td>26%</td>
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</table>

### Square Foot

- **Type**: 
  - 1. Regular Lot
  - 2. Delta Triangle
  - 3. Nada Triangle
  - 4. Rear Land
  - 5. Miscellaneous

### Square Feet

- **Type**: 
  - 16. Regular Lot
  - 17. Special Lot
  - 18. Excess Land
  - 19. Road Frontage
  - 20. Miscellaneous

### Acreage/Sites

- **Type**: 
  - 16. Bass
  - 17. Base Lot
  - 18. Second Acre
  - 19. Additional Acres
  - 20. Rear Acres
  - 21. Rear Land

### Total Acreage

- 0.18