



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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NOTICE OF DECISION
New London Zoning Board of Adjustment

RE: TIMOTHY & KAREN ANDERSON

OCTOBER 26, 2010

MAP 106, LOT 008-000

You are hereby notified that on this date the New London Zoning Board of Adjustment (ZBA) held a public hearing at the request of Timothy and Karen Anderson. The applicant requested an Appeal of an Administrative Decision made by New London Zoning Administrator Peter Stanley regarding a zoning violation that occurred on the property in 1996. More specifically, Mr. Stanley indicated to Mr. & Mrs. Anderson that the only possible remedy for this violation was the removal of the sections of structure that were the subject of the violation, as ordered by the ZBA upon denial of a variance request in July of 1996.

In principal, the ZBA accepts the finding of the Zoning Administrator that the current structure is in violation. However, the ZBA does not support the order of removal and therefore amends the finding of the Zoning Administrator to allow the structure to remain as it is for the following reasons.

- 1. The current owner may not seek a variance for the non-conforming structure since the exact same variance request had been heard in July of 1996, as presented by the previous owner. In addition, the previous owner was not forthcoming in the sale of the house to the Andersons regarding the legal status of the property. Indeed, since the former owner had what he thought was a legal Building Permit signed by the Board of Selectmen, he may not have been fully aware of the consequences of what had transpired.**
- 2. Because the Board of Selectmen had erroneously approved a building permit in August of 1996 that resulted in the demolition of a more non-conforming segment of the structure and allowed the continuation of the violation, on advice of legal counsel, the Town would be unlikely to prevail in an enforcement action against the current owner.**
- 3. Article XVI, Section A of the Town of New London Zoning Ordinance clearly states that the purpose of the Shoreland Overlay District regulations is to "Protect, maintain and enhance the water quality of the lakes".**
- 4. Removal of portions of the structure that are the source of the original violation and the likely rebuilding of a demolished, more non-conforming**

Board of Selectmen P: 603-526-4821 x 10 F: 603-526-9494	Town Administrator P: 603-526-4821 x 13 F: 603-526-9494	Town Clerk-Tax Collector P: 603-526-4821 x 11 F: 603-526-9494	Finance P: 603-526-4821 x 21 F: 603-526-9494	Assessing P: 603-526-4821 x 20 F: 603-526-9494
Planning/Zoning P: 603-526-4821 x 16 F: 603-526-9494	Fire Department P: 603-526-6073 F: 603-526-6079	Police Department P: 603-526-2626 F: 603-526-2782	Public Works P: 603-526-6337 F: 603-526-9662	Recreation P: 603-526-4821 x 14 F: 603-526-9494

section of the house will cause more degradation to the water quality of Messer Pond than leaving the current non-conforming structure in place.

Therefore, the current structure may remain, but may not be expanded or replaced. It can be maintained and repaired indefinitely.

After hearing testimony, and by unanimous vote, the Zoning Board of Adjustment APPROVED the Appeal on the grounds that there was ample evidence in the record to conclude that mistakes had been made by various parties and, all other remedies having been exhausted, allowing the building to remain in it's current form will ultimately be the decision that best serves the purpose and intent of the regulatory scheme.

Respectfully Submitted,

Doug Lyon, Acting Chairman

Jeff Horton

Laurie DiClerico

Courtland Cross

W. Michael Todd