



Modern Building, Traditional Craftsmanship

April 18, 2018

Nicole Gage
Zoning Administrator
Town of New London, NH 03257
375 Main St
New London, NH 03257

Dear Nicole Gage:

We have received your email April 10, 2018 and the official letter April 13, 2018 issuing a stop work order as an appeal for the building Permit issued January 18, 2018 was received by your office. Although in our opinion this appeal is beyond a reasonable amount of time since the issuance of the permit we have complied with the stop work order and have secured the site. During this time, we will be maintaining the site for stability and safety daily.

This stop work order at this point of the project has a tremendous impact on the project schedule. Granite Roots has informed subcontractors, vendors of the delay and that at this point there is no set date for re-mobilization. The best-case scenario is that the hearing you have scheduled will resolve the appeal, but the schedule will be impacted far beyond that. Our staff, and subcontractors to avoid financial strains beyond what the delay will be causing need to move projects set to start after the Carlson's forward to keep staffing productive and have billable work to be able to stay in business. What this does mean for the Carlson project is that even with a resolution the schedule will be delayed further than what the stop work order will be.

Additional Correspondence

Office 603-746-2285
Cell 603-581-5375
Email: info@graniteroots.com
Web: www.graniteroots.com
132 New Hampshire Drive Webster, NH 03303



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Monetarily Granite Roots Construction will be impacted daily and as of right now our staff scheduled to be at the Carlson project starting Wednesday now has been redirected to a non-billable job keeping them busy to avoid from having to temporarily lay them off. Daily we need to have a supervisor or myself visit the project to be sure there has not been any vandalism, verify that all safety measures are in place and that all our temporary previsions are secure, which takes away from being able to effectively manage additional projects.

We expect this to Cost Granite Roots Construction Daily right now \$ 2,405.66

Daily Crew Cost	\$1,440.00
General Conditions impact	
Portable Toilet	\$ 5.50
Supervision	\$360.00
Project Management	\$ 15.00
Project Administration	\$ 6.13
Vehicles and Fuel	\$ 32.00
General Laborer	\$ 4.38
Daily Profits and Office Overhead	\$392.65
Daily Site Verification	\$150.00
Daily Repairs for site up keep	TBD





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The above costs do not include any material surcharges we most likely will incur, subcontractor impacts or price increases, re-mobilization fees etc. As you can see this has a far more reaching impact than just a stop work order for a dispute for a building permit that was issued January 18, 2018. The Building Permit Issued in error or not the lost revenue and schedule delay as a small company Granite Roots Construction and our subcontractors something we simply cannot afford.

Sincerely,

Peter Swislosky

Granite Roots Construction LLC
CEM

CC: Timothy Carlson, Owner
Jeremy Bonin, Architect
Roger Phillips, Esq.





TOWN OF
NEW LONDON, NEW HAMPSHIRE

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April 23, 2018

Christopher Swiniarski via email christopher.swiniarski@mclane.com

McLane Middleton
900 Elm Street
Manchester, NH 03105

RE: 293 Lamson Lane, New London NH

Dear Mr. Swiniarski:

In light of your representation in your letter dated 4/20/18, you are authorized to take such steps you deem necessary to address the safety issues you claimed in your letter. It should be understood, to the extent you choose to proceed with any construction, you do so at your own risk.

Sincerely,

Nicole Gage
Zoning Administrator

CC: Kimberly Hallquist, Town Administrator
Victor Manougian via email victor.manougian@mclane.com
Jeremy Walker Via Email jeremy.walker@mclane.com

Nicole Gage

From: Swiniarski, Christopher <Christopher.Swiniarski@MCLANE.com>
Sent: Thursday, April 19, 2018 10:59 PM
To: Nicole Gage; zoning@town.sunapee.nh.us; Town Administrator
Cc: Manougian, Victor; Walker, Jeremy
Subject: 293 Lamson Lane - Request to lift stop work order [MCLANE-DB.FID1707577]
Attachments: 4.20.18 Request to Lift Stop work Order.PDF

Hello Nicole,

I've attached the request to remove the stop work order we discussed earlier today. As you will see from reviewing its contents, it is very much in the town's interest to execute this promptly due to the potential liability on the town in the unfortunate event of an accident on the property. Conversely, I see no risk to the town signing the same. I have copied my colleagues Victor Manougian and Jeremy Walker on this correspondence, as I am leaving for vacation on April 20. Please feel free to contact either of them with any questions. I have set this document up for electronic signature, though a countersigned scan or simple acknowledgement via email stating that you agree would also suffice. Please feel free to call me with any questions regarding the same. You can reach me on my mobile at 617-515-4184, voice or text. Thank you Nicole.

-Chris

VACATION ALERT – PLEASE BE ADVISED THAT I WILL BE ON VACATION SHORTLY,
FROM 4/20 THROUGH 4/30.

Christopher Swiniarski
Attorney

Email: christopher.swiniarski@mclane.com
Office: 603-628-1322

McLane Middleton, Professional Association
900 Elm Street, 10th Floor
Manchester, NH 03101

The information contained in this electronic message may be confidential, and the message is for the use of intended recipients only. If you are not an intended recipient, do not disseminate, copy, or disclose this communication or its contents. If you have received this communication in error, please immediately notify me by reply email or McLane Middleton at (603) 625-6464 and permanently delete this communication. If tax or other legal advice is contained in this email, please recognize that it may not reflect the level of analysis that would go into more formal advice or a formal legal opinion. [xdf]



CHRISTOPHER A. SWINIARSKI
Admitted in NH and MA

McLane Middleton, Professional Association
900 Elm Street
Manchester, NH 03105

Direct Dial: 603.628.1322
Email: christopher.swiniarski@mcclane.com

April 20, 2018

Via email to zoning@nl-nh.com and zoning@town.sunapee.nh.us

Nicole Gage, Zoning Administrator
Town of New London
375 Main Street
New London, NH 03257

Re: Request to Remove Stop Work Order – 293 Lamsom Lane, New London, NH (the “Property”)

Hello Ms. Gage,

The purpose of this correspondence is to request removal of the stop work order issued to Timothy and Lucinda Carlson on April 10, 2018 and pertaining to the Property (the “Stop Work Order”). Pursuant to Article XXI E of the Town of New London Zoning Ordinance, and as referenced in the Stop Work Order, “work may not continue during an appeal unless the administrative officer states that work stoppage will cause imminent peril to life and property.” We hereby advise you of the following facts to demonstrate the imminent (more accurately, currently present) peril to life and property, as set forth below.

Peril to Life.

On the day the Stop Work Order was issued, construction activities on the Property pursuant to a validly issued building permit were well under way, the building permit having issued four months prior. The current phase of construction activities was at the point where foundation excavation had occurred, and forms for the concrete foundation had been set. The forms had not been filled with concrete, and thus the post-foundation-pouring backfill of the excavation had not occurred. Accordingly, the current state of the Property, as a result of the Stop Work Order, is an open excavation with a depth of eight feet or greater.

Why is an open trench a peril to life? In August of 1999, four year-old Jackie Moore of Bridgewater, MA, died in an open excavation that collapsed on her when she was playing in it with two other children. Three years later, the MA legislature enacted “Jackie’s Law” ultimately codified as 520 CMR 7.00, prohibiting unattended open excavations, for reasons of the lethal threat they pose to children and the community.

Thankfully, the Town of New London has enacted broader and more comprehensive regulations to address the issue of open trenches, as applicable in this instance. The Stop Work Order shall be lifted in instances of peril to life, which an open trench most certainly is. The relevant provision of the Town of New London Ordinance allows the Zoning Administrator to protect the safety and welfare of the community and children like Jackie Moore in the town of New London by letting work continue, so as not to freeze a construction project in an unsafe state. In doing so, there is no harm or risk upon the town

McLane Middleton, Professional Association
McLane.com

or members of the community whatsoever. Conversely, halting the project in its current state exacerbates the risk of an open excavation that remains open for longer than necessary. While the owners of the Property have undertaken every possible measure to prevent the risks associated with an open excavation, continuing the construction to complete the work and close the excavation is the simple and logical step to mitigate public safety concerns. The owners of the Property therefore request that the Stop Work Order be removed for the safety and welfare of the community.

Peril to Property.

Thankfully, the “peril to property” analysis in the matter at hand is much less morbid and fraught with the potential for guilt than the “peril to life” analysis set forth above. It is also much more simple. The cost incurred by the owners for preventing continuance of construction pursuant to the building permit, while under appeal, is \$2,405.66 per day (see communication of Granite Roots Construction LLC to the Town of new London dated April 18, 2018). This equates to a peril to property in the amount of \$45,707.54 from the day of the Stop Work Order to the anticipated hearing on the administrative appeal that is the subject of this correspondence.

Summary.

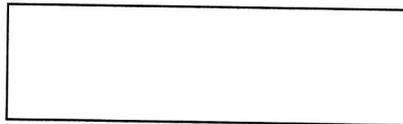
The Zoning Administrator is justified and well advised to remove the Stop Worker Order in the case at hand. The peril to life of the Stop Work Order is the safety of the community, and specifically children like four year old Jackie Moore. The peril to property of the Stop Work Order is the \$45,707.54 of damages to date, which sum continues to accrue at a rate of \$2,405.66 per day. When combined with the fact that a removal of the Stop Work Order poses no risk or threat to the Town of New London or any member of the community therein, there is no morally responsible decision to be made in the matter at hand other than to remove the Stop Work Order.

Sincerely,



Christopher Swiniarski, Attorney for Timothy and Lucinda Carlson

In light of the foregoing, the Zoning Administrator of the Town of New London, New Hampshire hereby states that the Stop Work Order referenced above will cause imminent peril to life and property as set forth above, and such order is hereby removed.



Nicole Gage, Zoning Administrator, Town of New London

Nicole Gage

Note to File re
Construction Haulted

From: Nicole Gage
Sent: Friday, April 13, 2018 3:35 PM
To: Nicole Gage
Cc: Town Administrator
Subject: Note to file - Carlson's

NOTE TO FILE:

I spoke to Pete, general contractor of Granite Roots Construction on 4/13/18, and he verbally confirmed that as of 4/12 they de-mobilized and moved on out, barricaded the property, posted no trespassing signs He may periodically on a daily basis do a site visit, or someone from his firm, because he is responsible for safety & erosion control while the project is haulted.

CC: Town Administrator

Nicole Gage
Zoning Administrator
Town of New London, NH
Email zoning@nl-nh.com / Web www.nl-nh.com
Direct (603) 526-1246 / Town Office (603) 526-4821

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Nicole Gage

From: Nicole Gage
Sent: Wednesday, April 11, 2018 12:12 PM
To: 'smanchester@shaheen.com'
Subject: 293 Lamson Lane, New London NH
Attachments: 062-008-000-Letter-ResponseToSheehanPhinney-4-10-2018.pdf

Ms. Manchester:

Please see attached, in regards to John Ryan and 293 Lamson Lane. I also mailed this to you yesterday via US Post Office.

Nicole Gage
Zoning Administrator
Town of New London, NH
Email zoning@nl-nh.com / Web www.nl-nh.com
Direct (603) 526-1246 / Town Office (603) 526-4821

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TOWN OF
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April 10, 2018

Susan A. Manchester, Esq.
Sheehan Phinney
1000 Elm St.
PO Box 3701
Manchester, NH 03101-3701

RE: 293 Lamson Lane, New London, New Hampshire

Dear Ms. Manchester:

I acknowledge that your letter regarding an appeal/objection dated April 6th was received by the Town on April 9th and must be supplemented with an application. I have enclosed the application and instructions form for your use, which is also readily available on our website our website, www.nl-nh.com, under Boards & Committees – Zoning Board of Adjustment – Permits & Applications.

The application should be submitted to the Town within one week. It will then be processed, and you will be advised of a hearing date.

Sincerely,

Nicole Gage
Zoning Administrator

CC: Timothy & Lucinda Carlson
Kimberly Hallquist, Town Administrator



TOWN OF
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April 10, 2018

Timothy & Lucinda Carlson
6 Ironwood Road
Sandy Hook, Ct 06482

RE: 293 Lamson Lane, New London, New Hampshire

Dear Mr. & Mrs. Carlson:

On April 9th we received an appeal/objection concerning the construction at 293 Lamson Lane. Enclosed is a copy of that letter and our response.

In accordance with the New London Zoning Ordinance, Article XXI – Board of Adjustment, Section E – Appeals to the Zoning Board of Adjustment:

Work may not continue during an appeal unless the administrative officer states that work stoppage will cause imminent peril to life and property.

As such, all construction work pertaining to the structure at 293 Lamson Lane must stop immediately until the appeal is heard by the New London Zoning Board of Adjustment.

Once we receive the completed application form, it will be processed and you will be advised of a hearing date.

Sincerely,

Nicole Gage
Zoning Administrator

CC: Kimberly Hallquist, Town Administrator
Jeremy Bonin, Architect
Peter Swislosky, Granite Roots Construction

Nicole Gage

From: Nicole Gage
Sent: Tuesday, April 10, 2018 10:36 AM
To: Tim Carlson
Cc: Peter Swislosky; Jeremy Bonin; Town Administrator
Subject: RE: Complaint received regarding 293 Lamson Lane
Attachments: 062-008-000-Letter-ToCarlsons-4-10-2018.pdf; 062-008-000-Letter-SheehanPhinney-4-09-2018.pdf

Dear Mr. Carlson:

The Town of New London has received an appeal/objection from Attorney Susan Manchester of Sheehan Phinney on behalf of her client John Ryan. As such, all construction must now stop on the structure at 293 Lamson Lane until the New London Zoning Board of Adjustment hears the appeal. Please see the attached correspondence, which I am also sending to you today via US Post Office, 1st Class Mail.

I have spoken with your architect and general contractor this morning, and they are aware of the situation. Peter Swislosky of Granite Roots Construction has agreed verbally with me over the phone to secure the site today for safety and to stop any further construction.

Please feel free to give me a call at (603) 526-1246 with any questions.

CC: Jeremy Bonin, Bonin Architects / Peter Swislosky, Granite Roots Construction / Kimberly Hallquist, Town Administrator

Nicole Gage
Zoning Administrator
Town of New London, NH
Email zoning@nl-nh.com / Web www.nl-nh.com
Direct (603) 526-1246 / Town Office (603) 526-4821

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From: Tim Carlson <tcc1056@gmail.com>
Sent: Tuesday, April 3, 2018 6:47 PM
To: Nicole Gage <zoning@nl-nh.com>
Cc: Peter Swislosky <Pete@graniteroots.com>
Subject: Re: Complaint received regarding 293 Lamson Lane

Nicole - Thank you for letting us know. I am sorry that you are in the middle of this. Best Regards, Tim

On Apr 3, 2018, at 4:08 PM, Nicole Gage <zoning@nl-nh.com> wrote:

Dear Mr. Carlson & Mr. Swislosky:

I am writing to inform you that we received a complaint yesterday from John Ryan that the foundation is too close to his property line. I met with Mr. Ryan this morning so he could review the paperwork and records of the building permit issued. While he is deciding what if anything he will pursue, I am putting you on notice that although we have not received at this time an appeal of the building permit, we have received this complaint. Should you have any questions, I recommend you consult your legal counsel.

CC: Kimberly Hallquist, Town Administrator

Nicole Gage
Zoning Administrator
Town of New London, NH
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Nicole Gage

From: Nicole Gage
Sent: Tuesday, April 3, 2018 4:09 PM
To: tcc1056@gmail.com; Peter Swislosky
Subject: Complaint received regarding 293 Lamson Lane

Dear Mr. Carlson & Mr. Swislosky:

I am writing to inform you that we received a complaint yesterday from John Ryan that the foundation is too close to his property line. I met with Mr. Ryan this morning so he could review the paperwork and records of the building permit issued. While he is deciding what if anything he will pursue, I am putting you on notice that although we have not received at this time an appeal of the building permit, we have received this complaint. Should you have any questions, I recommend you consult your legal counsel.

CC: Kimberly Hallquist, Town Administrator

Nicole Gage
Zoning Administrator
Town of New London, NH
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