

July 2, 2020

Spinney Permit # L-28397-4E-A-N

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Dear Jami and Jay:

You were helpful a month ago in clarifying that there were no issues associated with Jeff Spinney's purchase and assembly of his proposed dock system on the shore prior to receipt of a permit from the town of Alna's planning board.. Thank you.

Questions on which you may provide guidance have arisen as a result of actions over the last week.

- At the June 23 Alna planning board meeting, Mr. Spinney announced that no matter what decision on his application might be rendered, he would rely on the 2003 permit and install his dock system. Over the weekend, he did so, attaching the aluminum ramp to a large block of granite on the shore, not to the permanent pilings in the permits you issued.
- Over this last weekend, Mr. Spinney withdrew the proposed dock system from his application to the planning board, leaving only the proposed permanent boat launch for consideration by the planning board.
- At the planning board meeting of June 29, the board determined that the proposed boat launch was not a nonconforming structure and that, therefore, the application could not be considered, since the launch was a permanent structure extending below the HAT and not allowed by the SZO.
- Since that planning board meeting of June 29, Mr. Spinney has asked that the planning board at its July 7 meeting "reconsider" its vote. He also submitted a new application for an SZO permit to "regrade/resurface/stabilizing with earthwork above high tide line and road work within LR/RP."

A number of questions arise about the implications for your permits of these recent developments.

1. Do your permits still stand as approved, given a) that the local permit for a permanent boat ramp was denied and b) that a dock system other than that permitted was installed?
2. What has been the history of permits like yours that are rejected at the local level and/or withdrawn?
3. Will the abutters' appeal to the BEP proceed as originally filed? Or is it now moot?
4. Since the two pieces of the project were approved as a unit, with dock size contingent on a valid license to the Golden Ridge Sportsman's Club, how does withdrawal of the dock project – and rejection of the boat launch -- affect the permits you issued?
5. Since the proposed boat launch will not, banning some later reversal, now take place, must Mr. Spinney remediate the shoreline as specified in the permit and prevent future trailered launches from the site?
6. What requirements now apply with respect to the Golden Ridge Sportsman's Club, since the NRPA permit was predicated on its existence and validity? The applicant recently told the Alna planning board that the club was for the benefit of himself and a few friends.
7. Mr. Spinney filed for a notification to begin work based on your permits on March 4, 2020, with anticipated conclusion of April 8, prior to receipt of any permit from the planning board and, now, long in the past. Does he/did he need to file a new notification for installation of the dock system?
8. May Mr. Spinney rely upon the 2003 permit to install his seasonal dock system? If he is relying on the 2003 Alna permit, does he need a new permit from the Army Corps for the now-installed system? That 2003 permit was issued without an Army Corps permit; unpermitted shoreline excavation also has taken place since then. Moreover, no site plans or drawings of the 2003 permitted dock have been found. Where does that prior excavation stand with respect to both DEP and Army Corps

regulations? Does the Army Corps in its files have any drawings or plans from 2003?

9. Does the proposed work to the HAT require any further permitting from either of your agencies?

The issues obviously are complex, and you are in the best position now to answer them.

Thank you, once again.

Sincerely,

William A. Weary
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