

**Town of Calais
Development Review Board**

**Re: Steve and Deena Smead,
Camp at 256 Dailey Road
On Nelson Pond**

FINDINGS OF FACT, CONCLUSIONS OF LAW, ANR ORDER

Introduction

Steve and Deena Smith wish to take down their existing one-storey camp on Nelson Pond and replace it with a new two-storey camp, increasing the height from 13'5" to 27' at the Cape-style center roof line. The Applicants also wish to rotate the camp 3' so it is parallel with the shoreline. They also wish to install an aluminum removable dock with dimensions of 4' by 12' with an L-shaped 8' by 12' attachment. The Applicants originally proposed to cut into the steep bank behind the camp four or five feet to make additional parking area, but later decided to not proceed with that aspect in this application. However, they do propose to cut certain trees from the bank that is situated behind and above their camp and which extends approximately 60 feet from the northerly edge of the proposed structure to the Applicants' northerly boundary with the Verlander lot.

The proposed project requires a variance as discussed in the Conclusions of Law. The Board held a duly warned hearing on 21 June 2012, which was continued to 11 July 2012 and 19 July 2012, at which the Board announced a second site visit which was held on 23 July 2012 and at which the Board adjourned the hearing.

Findings of Fact

1. The Smead family camp is located at 256 Dailey Road along the south-westerly shore of Nelson Pond. Its current dimensions are 29 feet by 30 feet, while the proposed camp is 30' by 30', which makes a footprint difference of 30 square feet (870 square feet vs. 900 square feet).
2. The proposed rotation of the replacement camp is such that the northwesterly back corner of the existing structure and of the proposed structure are in the same location, while the southeasterly front corner of the replacement structure will be closer to Nelson Pond, and running northerly from same would coincide with the northeasterly corner of the existing structure. The effect is that the front of the proposed replacement camp will be slightly closer to Nelson Pond.
3. The distance from the shoreline to the front of the proposed rotated replacement structure is 27 feet. The distance from the shoreline to the back wall of the proposed rotated replacement

structure is 57 feet. The area from the top of the shoreline bank to the back of the existing and proposed structure is generally level.

4. The Board had the Applicants run a red tape limiting the area of tree cutting behind the length of their lot, which area was viewed by the Board at its site visit on 23 July 2012. Based on the location and conditions of the trees within the demarcated area, including those which lean toward the camp and lot, the Board finds that those trees may pose a risk to the structure and the existing parking and recreation area which extends approximately 60 feet from the northerly edge of the proposed structure to the Applicants' northerly boundary with the Verlander lot.

*Board

5. The proposed replacement structure will have two bedrooms, which is the same number of bedrooms as the existing camp. Based on the letter from consulting engineer Craig Chase, there is no sign of failure of the existing septic system, and under §1-304(a)(21) the replacement structure does not require a new wastewater system since the use of the existing system will not be changed by the replacement structure.

Conclusions of Law

The lot is located within the Shoreland district. The existing camp is a pre-existing structure on a pre-existing lot. The proposed 27 foot height is 8 feet lower than the maximum building height of 35 feet in the Shoreland District. The proposed removable dock is also permitted. A seasonal dwelling is a permitted use within the Shoreland District, but the minimum setback from the mean water line is 150 feet. The fact that the proposed structure is slightly larger and slightly closer to the shoreline triggers the criteria pertaining to the enlargement of a non-complying structure under §3.8(B) of the Land Use Development Regulations and pertaining to a variance under §1.8. The proposed tree cutting the steep wooded bank raises the issue of the special protection of water quality in the Shoreland under Table 2.4.

The Board notes that the provisions in §3.8 pertaining to enlargement of a non-complying structure in the current Regulations as adopted 6 March 2012 are different than the language in the previous §3.8(B). The Board concludes that the proposed one-foot extension of the existing footprint and the vertical expansion, which does not increase the number of bedrooms, complies with the current §3.8(B) and the conditional use criteria under §5.3. The Board concludes that the proposed slight rotation of the replacement structure to align it with the Shoreline is de minimus to the point of being non-discernible to the average person once completed.

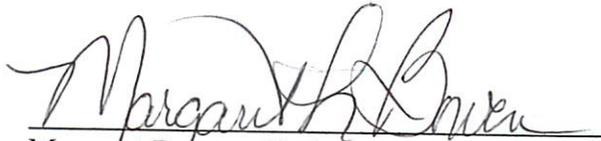
With regard to the proposed tree-removal within the demarcated area, the Board emphasizes what it stated to the Applicant during the hearings, that the bank is serving as an important vegetated buffer which helps protect water quality in Nelson Pond, and that protection is central to the distinctive provisions in the Shoreland District portion of the Regulations. The Applicant assured the Board, based on information from his contractor that would be the case. The Applicant's contractor must exercise extreme care to avoid soil erosion resulting from the tree-cutting and not remove any vegetation except as necessary for the tree cutting. By way of example only, the dragging of a tree trunk down the bank could create a gully down which water would flow, picking up sediment. The Applicant is on notice that the Board expects extreme

care in the tree-cutting and removal consistent with the provisions and values of the Shoreland District under Table 2.4.

Order

Based on the foregoing, Application 2012-20 of Steve and Deena Smead is approved, subject to the Condition that the Applicant cuts no tree outside the demarcated area, removes no vegetation in the demarcated area except as necessary for the tree-cutting, and exercises extreme care to avoid soil erosion, sedimentation or other risk to protection of water quality.

Date: 4 September 2012


Margaret Bowen, Chair

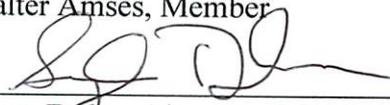
Stephen Reynes, Vice-Chair

Barbara Weedon

Ruth Porter, Member

Nedene Martin, Member

Walter Ameses, Member



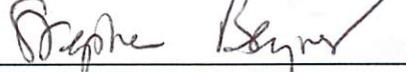
Steve Duke, Alternate Member

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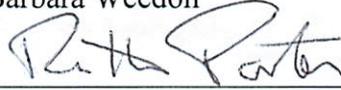
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9/4/2012

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