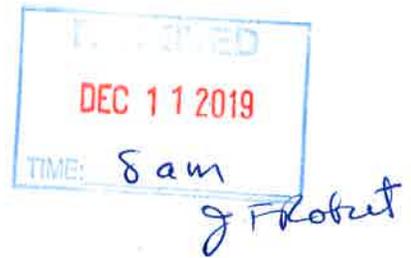


Town of Calais
Development Review Board

Susan Grimaldi
Notice of Violation by Zoning Administrator
Dated September 11, 2019



Decision Regarding appeal of Notice of Violation

Zoning Administrator, John McCullough mailed a Notice of Violation for a dock on Nelson Pond on September 11, 2019 to Susan Grimaldi. Ms. Grimaldi appealed the NOV on September 20, 2019.

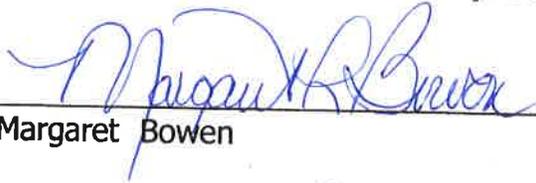
The DRB held a hearing on November 7, 2019. Present were seven members of the DRB: Margaret Bowen, Barbara Weedon, Ruth Porter, Ryan Edwards, Anne Winchester, Art Edelstein and Walt Ames. Also attending: John McCullough, Dorothy Naylor, Susan Grimaldi, Daniel Richardson representing Ms. Grimaldi, Annie Christopher, Erick Titrud representing Ms. Christopher, and Coleman Porter.

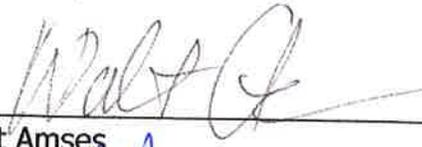
Under 24 V.S.A §4414(1)(D), a municipality is authorized to adopt bylaws to regulate shorelands as defined in 10 V.S.A. §1422. Subdivision (8) of section 1422 defines a shoreland as "the lands between the normal mean water level of a lake, pond, or impoundment exceeding 20 acres and a line not less than 500 feet nor more than 1000 feet from such mean water level."

Ms. Grimaldi testified that her dock is below the normal mean water level of Nelson Pond and not connected to the land above the normal mean water level. The Vermont Watershed division, in a document designed to help lay people determine mean water level, states that it is "typically the extent of the terrestrial plant growth along the shoreland during the summer season..." Pictures of the dock taken in 2018 and 2019 indicate that Ms. Grimaldi's dock is probably below normal mean water level.

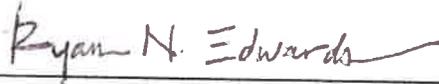
Decision. While many issues were raised by the parties in this proceeding, our decision turns first on the question of whether the Town has jurisdiction over the Grimaldi dock. It appears that we do not. The Vermont Lake Encroachment Permit Program in the Department of Environmental Conservation has examined this site in the past, and we conclude that the best way to answer the jurisdictional question is to ask the state experts to review whether the Grimaldi dock is above or below the mean water level of Nelson Pond. Therefore the DRB finds that, contingent upon Ms. Grimaldi submitting by June 15, 2020, documentation indicating that a qualified staff member of the Vermont Department of Environmental Conservation has officially determined that the structure is located below the mean water level, the town of Calais has no jurisdiction in this matter and therefore there is no violation of the Town of Calais Zoning regulations.

Members of the Calais Development Review Board

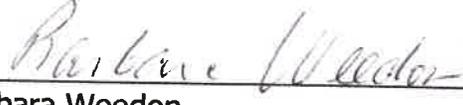

Margaret Bowen Date 11/27/19

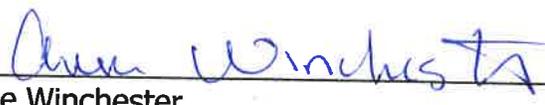

Walt Amse Date 11/29/19


Art Edelstein Date 12/10/19


Ryan Edwards Date 11/27/19


Ruth Porter Date 11/28/2019


Barbara Weedon Date 12-2-19


Anne Winchester Date 11-27-2019

Notice of Right to Appeal: In accordance with 24 V.S.A. §§ 4471 and 4472, this decision may be appealed within 30 days to the Environmental Court. Notice of appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the Calais Zoning Administrator and to every interested person who appeared at the DRB hearings. Failure of any interested person to appeal within the specified 30 day period shall result in the interested person being bound by this decision. Thereafter the interested person shall not contest either directly or indirectly the decision of the DRB in any subsequent proceeding, including any enforcement action brought under the provisions of 24 V.S.A. Chapter 117. See also Town of Calais Land Use Development Regulations, Section 1.7, Appeals.