

Ms. Susan Lessard, Chairperson  
Department of Environmental Protection  
Board of Appeals  
17 State House Station  
Augusta, Maine 04333-0017

September 5, 2009

Reference:

Appeal on the following Decision –

MICHAEL E. TRAPHAGEN )	NATURAL RESOURCES PROTECTION
DIANNE W. TRAPHAGEN )	COASTAL WETLAND ALTERATION
Southport, Lincoln County )	WATER QUALITY CERTIFICATION
PIER, RAMP, AND FLOAT SYSTEM )	
L-24420-4P-A-N (approval) )	FINDINGS OF FACT AND ORDER

Dear Ms. Lessard,

I am requesting an appeal of the Decision (sent by email on August 27) by the Division of Land Resource Regulation, Bureau of Land & Water Quality that would allow the above Applicants to install a pier, ramp and float system ("pier") on the referenced lot in Southport. This Decision is injurious to me and there are stated "facts" within, which are in error and are misleading. I have been relatively quiet in this entire process thinking the facts will speak for themselves but they have not.

This Decision harms me in several ways. First, I have a nearby dock in the cove that is used extensively by my young children, who swim with their friends, neighbors and relatives in this area. That was one of the primary reasons I put a dock in several years ago. The addition of another dock is a predecessor for greater boat traffic in this swimming area and this has safety implications and liabilities that have not been contemplated in the Decision. Second, I have a mooring that because of the shallowness of the cove, has to be located near where the proposed pier is to be built. The location of this pier will prevent me from any ability to put a larger boat on this mooring, and will likely force me to re-locate even further away from my dock should the Applicants proceed with another mooring. This might appear to be just an inconvenience but in reality, my use of the waterfront will be now be limited and the value of my property will be compromised. And third, as the Decision notes, the Applicants "had originally proposed to re-locate 50 linear feet of a intermittent stream in order to construct a 2,000 square foot home, a 1,000 square foot two-story garage, and a small extension of an existing driveway but withdrew this portion of the proposed project in order to re-consider alternative designs and locations." This Decision is really just one part of a package deal but the other part of the package remains in limbo because the Applicants have been told to follow the setback laws, which severely constrain the envelop of their proposed buildings. The abutters are harmed by a partial decision to allow a pier to be built with no consideration of the fact that there is no house in the plan to support it, and that there might never be one. Who will use the lot then? Some campers who set up on a lot in the middle of our private residences for access to the pier?

For the record, this Decision did not take into consideration a number of material comments submitted by the other abutter ("interested party") who was responding to the DEP's own solicitation, after the Decision was issued in draft form on August 18. It left a number of us in this community with the perception that this Decision was just "railroaded through". I file this Appeal because the law permits us to have a balanced hearing for those affected by this Decision.

The Decision is based on a number of "facts" that surely need to be challenged. First, the historic shell midden is not "located on an abutting property", it is located on the Applicant's lot and it is expansive to the point that it would be in everybody's interest to have a professional re-evaluate its limits so that access to the proposed pier would not threaten its existence. The Decision references a letter provided by the Applicant from the Tribal Historic Preservation Office of the Passamaquoddy Tribe and a similar statement from the Penobscot Indian Nation stating what might be characterized as indifference but does one really think that the Applicants had it in their best interests to tell the Passamaquoddy Tribe or Penobscot Indian Nation about the historic shell midden? Or for that matter, provide them with the "1964 Cameron Point Excavation by the Maine Archeological Society" to help them with their response?

Second, with regard to the alternative access, the Applicants mention the limitation of boat ramps, waiting list on moorings and expense of the Boothbay Region Boatyard on Southport. The Applicants are not new to the area. They know they can launch for free just a short distance away at the boat ramp next to the Southport Bridge in Townsend Gut, or pay a few dollars (voluntary) for non-members to put in at Cozy Harbor. There are other boat ramps in the nearby area as well that do not charge. That, "the applicants determined that these alternatives were not feasible" is not very credible.

Third, just the actions, over the past year, by the Applicants in this whole process will cause one to pause and think about their motives and how they treat the environment. To maximize their investment for a "spec" house with water views, they have claimed that they put in a tributary stream on the property, the same stream that has been providing seasonal drainage on the land for centuries. And they have ignored clearing laws within the 75-foot setback until authorities told them to stop. For these reasons and the fact that the Decision is largely based on their word, I respectfully ask the DEP to revisit their Decision.

Sincerely,



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CC: David P. Littell, Commissioner  
Maine Department of Environmental Protection

James Cassida, Acting Director  
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