

Peter Benard: Permit #L-25260-L3-A-N & #L-25260-TC-B-N
// Mckearney Village Sub-division

- BEP Appeal Dismissal Letter



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Susan M. Lessard
Chair
Cynthia S. Bertocci
Executive Analyst

Terry Dawson
Office Specialist II

August 12, 2011

Mary Dowd
74 Cumberland Street
Yarmouth, Maine 04096

RE: Appeal of DEP Permits L-25260-L3-A-N and L-25260-TC-B-N
Issued to Peter Benard for McKearney Village, Yarmouth

Dear Ms. Dowd:

As Ms. Dawson acknowledged in her letter to you dated August 3, 2011, the Board of Environmental Protection received a timely appeal from you on July 29, 2011 of the Commissioner's licensing decision for the McKearney Village subdivision in Yarmouth. You submitted additional information on August 1, 2011 and via electronic mail on August 3rd and August 5th. Your August 3rd email included a request for public hearing.

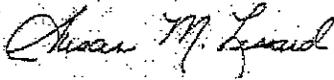
The requirements for filing an appeal of the Commissioner's licensing decision are set forth in the Department's Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters. A summary of these requirements is also attached to the licensing decision which you have appealed. Among these is a requirement that the notice of appeal must include "...evidence demonstrating an appellant's standing as an aggrieved person." An "aggrieved person" is defined in rule as "any person whom the Board determines may suffer particularized injury as a result of a licensing or other decision." Further, "if the Chair decides an appellant is not an aggrieved person, the Chair may dismiss the appeal." The rules provide that the Chair's decision regarding standing may be appealed to the full Board.

I have reviewed your appeal documents. While your appeal sets forth your objections to the Commissioner's licensing decision in some detail, it does not provide any evidence that would establish your standing to bring an appeal in this matter. In brief, you have not provided any information which would establish an injury particular to you, as opposed to any other person residing or recreating in the vicinity of the proposed project. Since the appeal lacks any demonstration of standing, I find that your appeal does not meet a basic requirement and, therefore, should be dismissed. My decision to dismiss your appeal in this matter for lack of standing is subject to appeal to the full Board. If you choose to file an appeal of my decision, please do so within 30 days of this decision, by Monday, September 12, 2011.

Letter to Mary Dowd – DEP Permit L-25260-L3-A-N (McKearney Village)
August 12, 2011 – page 2

If you have any questions on this decision, you may contact Cynthia Bertocci, the Board's Executive Analyst, at 287-2452 or Peggy Bensinger, Assistant Attorney General, at 626-8578.

Sincerely,



Susan M. Lessard, Chair
Board of Environmental Protection

cc: Service List

