

# Ossipee Lake Alliance

December 18, 2005

Board of Selectmen  
Town of Freedom  
Freedom, NH 03836

Dear Board Members:

On July 9, 2002 the Zoning Board of Adjustment (ZBA) granted two 'after the fact' special exceptions to Ossipee Lake Marina for commercial uses that the marina had established on residential Lot 42 without required town approvals. Those rulings specify the only uses that are permitted on Lot 42.

One of the 2002 special exceptions authorizes the use of a bathroom building that was constructed without a building permit or a required special exception. The second authorizes the use of a parking lot constructed without a required special exception. The ZBA attached conditions to its approval of both of these special exception uses, and its rulings were subsequently upheld by State Superior Court.

On July 20 and on August 22 of this year we wrote to you to report that lake residents are concerned the Marina is violating the rulings. While you did not respond to our letters, the minutes of the Board's meetings of July 25 and October 17 show that the allegations were discussed and decisions rendered. The following summarizes the allegations and your response to them:

## **1. Use of Lot 42 for Boat Storage**

The Marina is using Lot 42 to store boats, which is not an approved use. In the minutes of the October 17, 2005 Selectmen's meeting the Board declined to enforce this violation by stating that boat storage on Lot 42 is permissible "for boats owned by the marina that are for sale or rent." We submit that the Board's ruling has no basis in law and the violation must be addressed.

## **2. Use of the Lot 42 Shoreline to Berth Boats**

The Marina is using the shoreline of Lot 42 to berth boats, which is not an approved use. At the July 25, 2005 Selectmen's meeting the Board declined to enforce this violation by citing RSA 42A2-8b, a law that does not exist. We submit that the Board's ruling has no basis in law and the violation must be addressed. We have filed a separate complaint with the state in this matter.

## **3. Use of Alvino Road**

The Marina is using Alvino Road for general business purposes. The 2002 ZBA ruling specifies that the exit from Lot 42 to Alvino Road "shall be accessible for emergency vehicles only." At the October 17, 2005 Selectmen's meeting the Board declined to enforce this violation by stating Alvino Road was "used during a bass fishing tournament for traffic flow," a use the Board warranted as a "safety issue." We submit that the Board's ruling has no basis in law and the violation must be addressed.

#### **4. Outdoor Boat Storage**

In an October, 1997 ruling the ZBA limited outdoor boat storage to 23 boats, a decision upheld by the ZBA in July, 2002 and sustained by State Superior Court in 2003. In November, 2002 the Board established that the 23 boat limit would be enforced annually starting on November 12. We submit that the Marina is in violation of the outdoor boat storage limit and the violation must be addressed.

The limits and restrictions on the Marina's operations and growth were established by the town over a six-year period through a series of public meetings and rulings by town boards that were upheld by State Superior Court. While this body of law was established at great cost in time and expense to the people of Freedom, the current Board of Selectmen has been unresponsive in seeking enforcement of violations.

We urge you to take immediate steps to address these violations and to provide written public confirmation that you have done so.

Sincerely,



David L. Smith  
Executive Director

cc:

Ned Hatfield, Code Enforcement Officer

P.O. Box 173 · Freedom, NH 03836  
Phone (203.-273-0795) Fax (509.271.3838)  
[www.ossipeelake.org](http://www.ossipeelake.org)