

LAKE GEORGE PARK COMMISSION

PROJECT SYNOPSIS

Meeting Date May 28, 2019

Applicant The Shirley Crisafulli Family Trust	Facility Huddle Bay Shared Lakefront	Parcel 186.18-1-31 Bolton
Application # 5220-43-18 EXW MINOR	Lakefront 200 feet 2 straight, T, L, U, F or 1 E docks & 2 moorings	Location Shallow Beach Rd Huddle Bay
Date Received 05/24/2018	SEQR type Type II, not subject to SEQRA	Comment period ends 01/11/2019

Project
Amend Existing Wharf Registration #338 to reflect that the dock was 100' in length on July 3, 1981, rather than 60' as originally registered.

Background
This project was originally scheduled to be reviewed at the January 2019 meeting, but removed from the agenda at the applicant's request. The Registration of Existing Wharf amendment request was distributed at that time, and a site inspection was made on January 17. Additional materials are attached.

Staff has found that the information provided to support the amendment request is insufficient to form the basis for a decision to amend Registration of Existing Wharf #338, and has found no objective evidence to corroborate the applicant's claim that the dock in question was incorrectly registered at 3' x 60' in 1981. The request is brought before the full Commission as an appeal of staff's findings.

Regulatory Determinations
REGULATORY FRAMEWORK
On July 3, 1981, the Department of Environmental Conservation promulgated the "Lake George Recreation Zone Regulations" which established permit requirements and standards and limits for the construction of wharfs, docks and moorings. The regulations stated that:

646.2(d)(4) All wharves legally existing on Lake George, whether or not they meet the requirements of this Part, may continue to be maintained provided the property owner or owner of such wharf registers the same with the Department on or before January 1, 1982.

Through this rule, wharfs which were both legally existing and registered with DEC (the Department) were exempted from size and spacing limits for wharfs which were established by the 1981 rulemaking. Notice of the registration requirements was sent to all lakefront owners.

A massive public campaign was conducted at the time to ensure that owners were made aware of the requirement to register wharfs. The deadline was extended once to August 1, 1982. Upwards of 3000 wharfs were registered by owners who provided records of the docks, plans and photographs. These exempt docks may be maintained and repaired but a permit is required prior to relocating, expanding or modifying them.

From time to time, following the August 1, 1982 cut-off, the NYS Department of Environmental Conservation and later its successor in the rules, the Lake George Park Commission, has identified a wharf or dock which exists and which clearly was existing on July 3, 1981 but which for some reason was not registered or for which the documentation contains errors.

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The Commission continued to accept existing wharf registration applications "without prejudice" to the fact that they are long past due for some time. However, the burden is upon the applicant to show that the wharf or dock is legally existing and was on July 3, 1981 and should have been registered. The Commission has also accepted and reviewed requests to amend original 1981 registrations. Again, the burden of proof is upon the applicant to show that an error was made in the submitted plans.

Molly

From: Molly
Sent: Friday, April 26, 2019 10:12 AM
To: 'nh@scm-law.net'
Cc: Dave Wick; Joe Johns; Joe Thouin (joe@lgpc.state.ny.us); Karla W. Buettner
Subject: RE: Crisafulli REW amendment request/Simonson Lakefront
Attachments: 1997-8-22 v 1981 Dock 5.pdf

To be precise, Scott told us that he knows there was a dock there, but could not attest to its length in 1981.

My review of the comments received reveals that there seems to be confusion as to what the Commission is reviewing, and why. The only determination under review is whether there was an error on the submitted Registration of Existing Wharf (REW) with respect to the dock's actual length on July 3, 1981, the date of adoption of the regulations on docks. When reviewing a REW amendment request the burden of proof is on the owner. The following summarizes staff's review.

REW #338 states that the dock was first constructed in 1950, consistent with the 1958 Shoreline Survey of docks on Lake George, which showed a 51' wooden dock, with the MLW at 13' and with Mr. Splonskowski, Sr's statement that he placed the dock "long before the existence of the Park Commission" (The Lake George Park Commission was established in 1961). The REW photo is of a wooden dock with 6 supporting posts along the side. All three parties utilizing the dock at that time signed individual REW forms which were submitted with the sketch on record (which labeled the dock as 3' wide and 60' long) and the photograph. The dock in question was measured at 4' wide and 100' long in 1997. There has never been a regulation limiting docks to 60' as suggested in Mr. Splonskowski's statement, and there were no limits placed on the registration of pre-existing docks. They simply needed to legally exist on the date of adoption of the regulations and be registered during the registration period.

All of the parcel's docks were measured in 1997 due to a new dock application being under review at that time. The photograph of Dock 5 clearly shows a walkway between the shore and the dock, a new section of decking after the walkway, and 8 supporting posts on the dock. Project plans showing the registered lengths of the docks were distributed at that time to all of the dock users. The violations were referred, but an enforcement case was not initiated at that time (it was winter and the docks were out of the water at that time). As none of the owners came forth to dispute the authorized lengths, despite commenting on the 1997 application, we assumed the docks would be replaced in conformance with their registrations the following season. When reviewing active cases we found that the 1997 enforcement case had never been closed, thereby resulting in the 2017 inspection.

One commenter (Demaio) simply talks about the need for the current length. The need is not pertinent to this review. That is information which would pertain to a variance application. Although she says she contacted an attorney prior to purchasing the property, they apparently never contacted our office, as we actively encourage both attorneys and realtors to do. We respond to attorney and realtor requests regularly, and are always available to inspect docks to ensure compliance.

Another (Pike) purchased in 1997 and claims that 3 boats could not be tied to a 60' dock. This would depend on the length of the boats and depth of the water, which has obviously changed over the years. The 51' long dock shown on the 1958 survey, minus 13' of fairly shallow water, would have 38' of usable length, a 60' dock would have 47', plenty of room for 4 boats at the time (based on 16'-20' boats which were more common) Although the MLW has moved farther out over time, it can be seen on the 1990 aerial photo that the boats were between 16' and 20', and one boat is berthed 15' from shore. A 2017 aerial photo shows 2 boats over 25' in length.

Mr. Lockwood, who utilizes the southernmost dock, attests that his dock and the Crisafullis have had the same size docks since the late 1970's. Mr. Lockwood's dock was registered in December of 1981 by Robert Meecham at the length of 61'. In 1990, the aerial photo shows Dock 5 at the 100' length already, while Dock 6 (the Lockwood dock) was closer to the 61' length.

We have scheduled the project for our May 28 meeting, a separate meeting notice will be sent. If the dock is installed prior to this date, it must be placed as authorized to avoid additional enforcement action.

Molly Gallagher
Deputy Permit Administrator

Lake George Park Commission
PO Box 749, 75 Fort George Rd, Lake George, NY 12845
(518) 668-9347 | fax (518) 668-5001 | molly@lgpc.state.ny.us www.lgpc.ny.gov

-----Original Message-----

From: nh@scm-law.net [mailto:nh@scm-law.net]
Sent: Tuesday, April 16, 2019 9:58 AM
To: Molly
Cc: Joe Johns; Dave Wick; Joe Thouin
Subject: RE: Crisafulli

Yes, he has made our client aware that he is not volunteering anything in writing to this effect. However, my understanding is that Mr. Anderson has told your office that the dock that is there now is what has always been there.

Please advise the date and time of the May meeting. Thank you.

Very Truly Yours,

Nathan Hall, Esq.
Stafford, Carr & McNally, P.C.
175 Ottawa Street
Lake George, New York 12845
Tel.: (518) 668-5412
Fax: (518) 668-3629
nh@scm-law.net

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PLEASE KNOW THAT OUR FIRM WILL NEVER ASK THAT YOU TRANSFER MONEY BY WIRE OR CHECK WITHOUT VERBAL CONFIRMATION. IF YOU RECEIVE AN E-MAIL FROM ANY THIRD PARTY OR FROM OUR OFFICE REQUESTING MONEY BE TRANSFERRED, PLEASE REPORT IT TO ME IMMEDIATELY. OUR OFFICE WILL ONLY TRANSFER MONEY WITH VERBAL CONFIRMATION.

-----Original Message-----

From: Molly <molly@lgpc.state.ny.us>
Sent: Tuesday, April 16, 2019 9:19 AM
To: nh@scm-law.net
Cc: Joe Johns <JJohns@lgpc.state.ny.us>; Dave Wick <Dave@lgpc.state.ny.us>; Joe Thouin <Joe@lgpc.state.ny.us>

Molly

From: Molly
Sent: Tuesday, April 16, 2019 9:19 AM
To: 'nh@scm-law.net'
Cc: Joe Johns; Dave Wick; Joe Thouin (joe@lgpc.state.ny.us)
Subject: RE: Crisafulli

We will need to place you on the May agenda. We should note that Mr. Anderson tells us that he advised your clients that he could not get involved in this matter.

Molly Gallagher
Deputy Permit Administrator

Lake George Park Commission
PO Box 749, 75 Fort George Rd, Lake George, NY 12845
(518) 668-9347 | fax (518) 668-5001 | molly@lgpc.state.ny.us www.lgpc.ny.gov

-----Original Message-----

From: nh@scm-law.net [<mailto:nh@scm-law.net>]
Sent: Thursday, April 11, 2019 3:54 PM
To: Molly
Cc: mes@scm-law.net
Subject: Crisafulli

Molly,

My office received your March 28 email regarding the above project. Initially, we strongly dispute the Park Commission's position that there is no objective information supporting our application.

We have presented the sworn to statements of James M. Splonskowski with knowledge as to the history of the dock at the premises. There is also the plain fact that the contours of the lake bed would render a 60' dock unusable both now and in prior times. Most importantly, we have recently had our position corroborated by Scott Anderson in your office. It is my understanding that Mr. Anderson patrolled the waters of Lake George for several decades and is perhaps uniquely qualified to speak to what is and has been there historically. Mr. Anderson is familiar with the dock in question and has stated his knowledge as to the dock in question to your office.

I will also note that I believe the Park Commission first flagged this dock back in the 1990's - which is even more evidence that what's there now has always been there. However, nothing was done with this enforcement file until recently. This delay in enforcement has essentially robbed my clients and their families of the opportunity to present first-hand knowledge as to the specifics of the dock when first installed. The initial landowners and family members who owned the properties when the dock was installed have all since passed away (with the exception of one who has severe Alzheimers) in the interim while this has sat unresolved.

My clients are not willing to concede that the dock in question has had its length changed at any point since it was originally installed and registered with the Park Commission. We would reiterate our request to come before the Board to present our request for an amendment of the dock's registered, existing length and argue that what is there now has always been there. Understanding that your email provided only three business days for this important decision, I believe we are now past the April 2 deadline you imposed for a response. However, with the exception of the

corroboration of your own staff, I believe that you have had all the pertinent information in your file for several months now. Notwithstanding this fact, we are willing to reschedule this on to the May agenda, if necessary, to accommodate whatever must be done on your end in preparation.

Very Truly Yours,
Stafford Carr & McNally, P.C.
Nathan Hall, Esq.
175 Ottawa Street
Lake George, New York 12845
Phone: (518) 668-5412
Fax: (518) 668-3629

Molly

From: Joe Johns
Sent: Monday, April 15, 2019 8:01 AM
To: Molly; Joe Thouin; Dave Wick
Subject: FW: Letter
Attachments: scan0177.pdf

This is a follow up from my conversation with Scott on Friday.

Joe

From: scott@frsmithandsonsmarina.com [<mailto:scott@frsmithandsonsmarina.com>]
Sent: Saturday, April 13, 2019 7:37 AM
To: Joe Johns
Subject: Letter

Hi Joe,

This is the letter Jim Splonkowski wanted me to sign about 10 days ago. I told him my I had a great relationship with my superiors, and that I do not get in the middle of any enforcement cases. I told him this would create a conflict of interest for me. Note the letter was dated May 2018. Sorry if I created any issues for you.

Scott

May 18, 2018

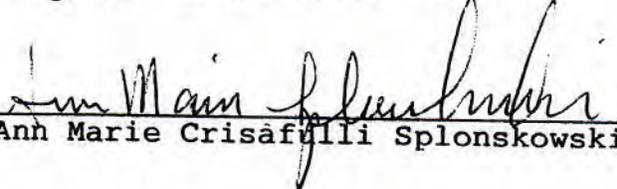
Lt. Joe Johns
Director of Law Enforcement
Lake George Park Commission

Re: 186.18-1-4
Dock #5

The above referenced dock was constructed and installed in the above location in the mid to late 70's. This dock was constructed and installed as you see it today. It has not changed in length or width. the only changes that were made was addition of mid post for each section due to sagging.

The length of 100' was due to three families owning and using the dock, the angle at which the dock leaves the shore and the average low water level. Because of the low water level the first 35' is not suitable for use.


James M. Splonskowski Sr.


Ann Marie Crisafulli Splonskowski

I find to the best of my knowledge the above statement to be true and accurate.

Molly

From: Molly
Sent: Thursday, March 28, 2019 11:05 AM
To: Anthony & Shirley Crisafulli
Cc: Michael Stafford (mes@scm-law.net); Joe Johns; Dave Wick
Subject: April meeting

Our April meeting has been scheduled for April 30, and the deadline for submission is April 2. Based on feedback from the Commission's project review committee, the request to amend your Existing Wharf Registration is insufficient in that there is no objective information that would allow the Commission to approve the amendment.

Based on the submitted information, and their site inspection, the Project Review committee highly recommended that you apply for a variance extend the dock, rather than pursue the current request.

If you want the request placed on the April agenda as is, please advise by April 2.

Molly Gallagher
Deputy Permit Administrator

Lake George Park Commission

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www.lgpc.ny.gov

Molly

From: Molly
Sent: Monday, February 04, 2019 10:18 AM
To: 'nh@scm-law.net'
Subject: RE: Crisafulli Family Trust - January 22 Meeting

We expect that the April meeting will be held on April 23. As discussed with Mr. Stafford, the request for REW amendment has been brought to the full Commission for a decision, as staff has found insufficient documentation to approve the request. If denied, a variance is required to increase the registered length.

Molly Gallagher
Deputy Permit Administrator

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www.lgpc.ny.gov

From: nh@scm-law.net [<mailto:nh@scm-law.net>]
Sent: Saturday, February 02, 2019 3:41 PM
To: Molly
Subject: RE: Crisafulli Family Trust - January 22 Meeting

Hi Molly,

Sorry for not getting back to you on this. Can we schedule for the April meeting. Please let me know the date/time that meeting will be held so I can calendar.

We appreciate your office's cooperation in dealing with Attorney Stafford's health treatment.

Very Truly Yours,

Nathan Hall, Esq.
Stafford, Carr & McNally, P.C.
175 Ottawa Street
Lake George, New York 12845
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Fax: (518) 668-3629
nh@scm-law.net

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From: Molly <molly@lgpc.state.ny.us>
Sent: Wednesday, January 16, 2019 8:28 AM
To: nh@scm-law.net
Subject: RE: Crisafulli Family Trust - January 22 Meeting

Of course, we will take the project off the agenda. Unfortunately the Commission doesn't usually hold a March meeting. Our Feb meeting will be February 26. I can schedule the project for that meeting or our April meeting.

Molly Gallagher
Deputy Permit Administrator

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From: nh@scm-law.net [<mailto:nh@scm-law.net>]
Sent: Tuesday, January 15, 2019 3:34 PM
To: Molly
Subject: Crisafulli Family Trust - January 22 Meeting

Hi Molly,

My office is in receipt of the Meeting Notice for the LGPC's upcoming monthly meeting on January 22nd. As you know, our office represents the applicant with regard to this matter – it has been handled to date by attorney Mike Stafford.

Attorney Stafford has requested that I reach out to you to request that this matter be adjourned. He is currently down in Florida undergoing radiation treatment for an illness and he will not be back to the office until the end of February. Accordingly, we would request that this matter be tabled until the LGPC's March meeting to accommodate Mr. Stafford's treatment schedule.

Please advise at your earliest convenience. Thank you.

Very Truly Yours,

Nathan Hall, Esq.
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Cc: mes@scm-law.net
Subject: Crisafulli

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Phone: (518) 668-5412
Fax: (518) 668-3629



To whom it may concern,

Re: The Docks at the Beach in Huddle Bay at the end of Shallow Beach Road

We would like to add to the Record our History.

Like many families who visit Lake George, we wanted to actually live here. In 1978, against the advisement of our Lawyer, we put our home in Staten on the market:

and, purchased a small cottage resort.

Shallow Beach had 15 units and a two bedroom home on an acre and a half. Included in the Deed was a 20ft easement to a 200ft shoreline on Lake George. There was a Dock to the far left of the Beach that was used by the resort guests.

Although our Lawyer was uncomfortable with the un-deeded Dock, the opportunity to raise our three and five year olds on or near Lake George was within our budget.

With a 15yr mortgage, held by the previous owners, we began our new life.

In 1980, we were thrilled that our Dock was at least recognized by an Agency. The property that owned the Deeded Beach with easement was put up for sale.

After there was a nuisance series of misdirected potential buyers, we realized that our Lawyer's cautious advice had been correct.

A previous owner of the motel next door was the first to approach the neighbors who share the easement and beach with the idea that we should buy the 55 acre property

as a group to create an association to safeguard our Docks.

It would probably cost us each \$10,000.

We joined his efforts; but, our neighbors either wouldn't or couldn't.

We decided to mortgage our cottage resort/home to purchase the acreage ourselves.

As the owners of the Deeded Beach area and the Easement, we feel that it is only fair

that all of the homeowners be held to the Agreements they made in 1980.

Richard and Vivian Simonson