

ZONING BOARD OF ADJUSTMENT
PO BOX 227
TOWN OF FREEDOM, NH 03836

Kevin Price
Ossipee Realty Corp.
via fax only: 894-4384

August 29, 2001

Re: Ossipee Lake Marina Tax Map 31, Lots 41, 41-1, 41-2, and
41-3 (formerly three lots described as 41-3, 4 & 5). Also, Lot 42

Dear Kevin:

The following is a summary of the issues now before the board, with citations to the relevant portions of the zoning ordinance:

1. Ossipee Lake Marina, which existed on portions of the 41-series lots prior to the enactment of the Freedom Zoning Ordinance (October 1987), is located in the general residential zone; the area within 300 feet of the lake is further restricted by the Shorefront Overlay District, Sec. 304.5 and .6.
2. Under the Freedom Zoning Ordinance, a marina is a special exception use in the Shore Front Zone.
3. An expansion of a marina in the Shorefront District involves:
 - A. Shorefront Special Exception Standards, Sec. 304.6 (attached)
 - B. General Special Exception Standards, Sec. 306 (attached)
4. The portion of the Marina property between Alvino and Marina Roads has historically been used for boat storage; in 1997, the Zoning Board found a valid pre-existing nonconforming boat storage use on lots 31-41, 31-41-2, and what is now 31-41-3. The Board approved buildings now labeled A, B, and C, with the further notation that the Marina store no more than 225 boats inside, and an additional 23 boats outside.

5. An expansion of a nonconforming use is governed by state law, see RSA 674:19; and cases cited thereunder. Enlargement or expansion of the nonconforming use may not be substantial and may not render the property proportionally less adequate.

6. When a lot is split by a zoning line (here the Shorefront District line) see Sec. 401: "a use allowed in the less restricted part of such lot shall be allowed provided that such use does not extend more than 30 feet into the more restricted part."

7. The selectmen have cited the marina for three zoning violations:

(A.) Shoreline tree cutting; filling of wetlands without a ZBA permit under Sec. 304.6.5.

(B.) Erecting a boat storage building (now removed) without ZBA approval.

(C.) Storing more than the number of boats allowed under a 1998 ZBA permit.

8. Abutters have further alleged that the Marina use has expanded onto a neighboring residential lot, that a parking area and bathhouse have been improperly located on that lot, and that food sales and increased lighting have impermissibly expanded the Marina operation. Note that in 1998, the ZBA rejected the Marina's request to add a 20-seat "snack shop" to serve sandwiches and ice cream

9. The application filed by the Marina on August 10, 2001, addresses only the issue of boat storage buildings on lots 31-41, 31-41-2, and 31-41-3 (formerly three separate lots).

10. The undated, unsigned survey map submitted with the August 10, 2001, application does not show the following information, as required by the ZBA application form:

- A. Boundary distances
- B. Dimensions of all present and proposed buildings
- C. Wells
- D. Septic tanks
- E. Leach fields
- F. Distances from buildings to boundaries
- G. Yard setbacks (30 feet from sidelines, 50 feet from roads, 75 feet from the water)
- H. Abutters

11. The Board will also need the applicant to locate on the plan:

- I. The Shorefront District line which bisects the Marina lots
- J. All proposed parking areas
- K. Proposed outside boat storage areas
- L. Proposed traffic patterns within the Marina.
- M. The approximate location of the trees removed in the 75 foot set back from the lake (on Lot 31-42).

12. The Board will also need a written document that (A) describes the Marina in terms of the number of slips, services provided, and hours of operation; and (B) addresses the Special Exception criteria set out in Sec. 304.6.2, 304.6.5, and 306.1

Page 4
August 29, 2001

Feel free to call me if you have any questions about the nature of the information required. 539-6971. I am also forwarding a copy of this letter, and a copy of the August 10, 2001, map to our town attorney. If he has any particular suggestions about necessary information, I will let you know prior to the next hearing.

Sincerely yours,

Deborah A. Fauver
Chairperson

cc: Selectmen
Town Counsel
Board Members
Les Babb, Zoning Officer