

Docks and Moorings – Chapter #45

Rich Eliaz handed out information on the proposed Perry Zoning Laws which could have a major impact on the docks in front of the lake properties located in Perry. There was a concern that if it was passed, the rest of the lake could be forced to conform. The directors from Prentice, Eberstein, Walt's tracts and parts of Shearman tract received this information. There would be a public hearing May 10, 2000 in the Perry Town Hall on this issue.

Rich reported that he and fellow Association members prevented the town of Perry from adopting excessively restrictive zoning laws for docks and moorings. The town agreed to work with the SLA to draft new regulations.

At the August 2000 meeting Rich Eliaz read a draft letter listing the revisions of the Dock and Mooring Regulations that members agreed upon at the annual meeting. These revisions would be presented to the town of Perry Planning Board at a special session August 29, 2000. In Rich's talks with the town of Perry, he learned that zoning officer Tim Bucknam was being replaced by Gary Thompson who was also the town of Castile's zoning officer. On the SLA's decision for zero setbacks, Bill Soules brought in similar laws from Rochester to show a precedent did exist. In section "D" where the text said "as it entered", board members recommended it should say "as it extends", so not to infringe.

An issue was brought up that was considered an adverse possession of property. Gabi Lischer introduced the Young's who briefed the SLA on an issue in their tract. The people who bought Matteson's put in a bid to buy a Right-of-way and it was accepted (by whom the SLA did not know). If they paid taxes on it for seven years they would own it. Others could prove their claim by using or building on it. Rich Eliaz said the planning board was not done with this issue. The planning board learned of this issue through the Benedict's who wanted to do something down there and learned their neighbors did this. Bayne Johnson told Rich it was a quit claim deed clause. Rich thought this should be challenged. The town of Castile Board was well aware of this and Rich wanted to talk to Supervisor Joe Gozelski. It was a town Right-of-Way that was now closed and that was not right. The Young's and the Gillett's had it in their deeds. If it was in their deeds it would add value to their property.

Town of Castile's attorney Mike Kelly told Nick Grover to make the right of way a taxable parcel. Rich said the town cannot sell an easement without a referendum. No one should get free property and ownership should be established. Club Road people should look at their deeds and copy the easement clause. Bill Soules explained that a quit claim deed said you get MY rights, not THE rights and was not worth the paper it was written on. Gabi would see if an attorney in her family would talk to the SLA. Francis Foulkrod had a similar issue down by his property. He was advised by Rich Eliaz to tell the neighbor effected to go to the zoning officer to get the fence posts removed from his Right-of-Way.

Rich Eliaz said the Planning Board was dealing with the Right-of-Way issues on Club Road. He talked to Mike Kelly and learned that anyone could file a quit claim deed on anything if the original subdivision granted rights to the town. The biggest concern came up in a conversation with Nick Grover as the Club Road parcel had a tax ID number even though the planning board never did a subdivision (attorney Kelly directed Grover to number it). He also said in the original subdivision of the neighborhood, people still had access to the property quit claim deed or not. Now, the Conable family was paying taxes on it.

Gabi said the lot next to Loretta Bausch just before the Country Club tennis courts would be built upon and Conable may sell her cottage which raised the question of the quit claim deed on the Right-of-way.

March 2001 the discussion of the Dock and Mooring law continued. The SLA board approved the purchase of a copy of the 134 page document after it was adopted; the cost was \$25-\$30. After it was in place, the SLA would poll the members to see if they were interested in making it uniformed for the whole lake. It had zero setbacks for docks, no

restrictions on configurations, determining boundaries by following lines into water, and enforce per complaint. It was adopted March 14th, 2001.

Mike Hanzly of Austin/Shearman Tract had a 25 foot easement and it was being encroached upon by key holing, whereby the community dock extended to their frontage. The Town of Castile had no law on mooring. SLA proposed them to combat key holing five years ago and only the Town of Perry adopted a local law. Rich suggested the SLA look into Perry's law and recommend the per home rule law to the Town of Castile only if the members were okay with addressing this issue. Mary Kay Barton suggested a petition. At the August meeting the discussion of this concern continued. Mary Hanzly said it was unsafe for her children to swim in front of their cottage. Waterfront use varied for the Town of Perry (which the SLA got to adopt regulations) and the Town of Castile. Austin/Shearman Tract Director Doug Klein said the community dock had been there for 65 years. Hanzly said it was on a slant and infringing. Rich said the municipalities needed to clarify legalities. When Hanzly's family got the cottage in 1968 there were only two boats and now it was a mini marina and dangerous.

The key holing issue was discussed. Ruth Lavin mentioned that the Marine and Recreation Vehicle Law had regulations of anchoring or mooring a vessel. The DEC said that there were no jurisdictions and that the state owned the water. The village and town owned the land under the water. Doug talked to Town of Castile attorney Mike Kelly who said that the state did not own the lake. Based on what Mike Kelly stated, there was a precedent stating ownership at the high water line. Several years ago Doug's wife wrote a letter to George Austin (whom the tract was named after) regarding the problem with the right of way. Mr. Austin explained that the right of way meant a way to get to the water only and if everyone agreed to have a dock, it was okay. Mike Hanzly would have liked to try and not to restrict, but the dock was excessive and he was asking for courtesy rather than involving a lawyer. Rich stated that the Town of Perry had Docking and Mooring Legislation, but the Town of Castile and Village of Perry did not. Key holing was when a dock spreads out as more boats tie onto it ultimately encroaches upon neighboring properties. Ruth reported at the October 2005 meeting that Steve Tarbell was willing to arbitrate the key holing matter on Austin/Shearman tract. He would meet with each party separately, then together to reach a settlement. This issue was located in the Town of Castile.

Bill Soules stated that the key holing issue was on file with the town. Steve Tarbell had worked on this issue four years ago. Rich Eliaz said the comprehensive plan committee would include key holing in the plan. Bill Maurer stated there was going to be a problem on Prentice Tract that was brewing for quite a while on dock usage. Bill stated that modeling from other lakes to the Town Board could produce a two-edged sword. A footage limit on property owner's docks and lakefront could also be detrimental to the landowner.

Sally Genco wrote a letter to the Village of Perry that needed to be approved by the SLA Board. The letter was read at the August 2010 meeting and was approved to send. The goal was to have one code for the Lake District to follow. Rich Eliaz proposed that the SLA committee and the planning boards for each of the 3 municipalities plus the zoning officers meet and discuss the problems and the possible solutions regarding the docking/mooring laws having one code for the Lake District. The board approved to proceed with Rich's proposal.

Rich Eliaz updated the board on the Docking & Mooring law. Rich would send a draft of the law to Julie Ciferni when it was completed. The draft was a work in progress and had not been adopted as a law. The final adoption of this law would be only after an advertised public hearing was held and the town's approval. Sally Genco noted that the Sherman Road docking issue would be in total compliance with this law because the right of way was not owned by anyone and no one paid taxes on it. The DEC granted a permit for this dock that was over 100' long. The Assessor said the town owned the right of way.