

STATE OF NEW HAMPSHIRE

New Hampshire Wetlands Council

Appeal of Philip and Georgette Smith
In re: Wetlands Complaint File No. 2000-00914

RECEIVED

MAR 07 2006

Docket No. 05-04 WtC

**APPELLANTS' MOTION FOR RECONSIDERATION OF DECISION
ON MOTION TO CONTINUE**

Now Come Appellants Philip and Georgette Smith, by and through their counsel, Kacavas & Ramsdell, P.L.L.C., and move for reconsideration of the New Hampshire Wetlands Council's Decision & Order on Motion to Continue. In support of their motion, the Smiths represent the following:

1. The Wetlands Council (the "Council") denied the Smiths' appeal of the Bureau's decision in Wetlands Bureau Complaint File #2000-00914, 17 Nowell Court, Salem, by Decision & Order dated September 16, 2005 (the "Decision"). However, by Order dated December 15, 2005, the Council granted the Smiths' Motion for Reconsideration of the Decision (the "Motion").
2. On February 6, 2006, a second Pre-hearing Conference was convened. The Smiths and the Wetlands Bureau appeared through counsel. The Intervenors did not appear. By agreement of the parties, the Reconsideration Hearing was scheduled for May 9, 2006.
3. On February 17, 2006, the Intervenors moved to continue the Reconsideration Hearing. Over the Smiths' objection, the Council granted the motion to continue and rescheduled the Reconsideration Hearing for September 12, 2006.

4. A four month continuance of the Reconsideration Hearing is patently unreasonable. Having recognized that it erred in the Decision, the Council cannot find it reasonable to force the Smiths to wait *one year from the Decision and ten months from granting them reconsideration* before convening the Reconsideration Hearing.

5. Additionally, the unreasonableness of the length of the continuance is exacerbated by the fact that the hearing involves a temporary dock. The unreasonable length of the continuance ensures that the temporary dock will remain unaltered through an entire additional summer.

WHEREFORE, the Smiths respectfully request that the Wetlands Council:

- A. Reconsider its decision to continue the Reconsideration Hearing until September 2006;
- B. Convene the Reconsideration Hearing in May or June 2006; and
- C. Grant such further relief as justice requires.

Respectfully submitted,

PHILIP AND GEORGETTE SMITH

By Their Counsel,

KACAVAS & RAMSDELL, P.L.L.C.

Dated: 3/6/05


By: 

Michael D. Ramsdell, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that I have this date forwarded an original and 15 copies of Appellants' Motion for Reconsideration of Motion for Continuance to the New Hampshire Wetlands Council, and one copy each via first class mail to Biron Bedard, Esquire, and Kerry Duncan Barnsley, Esquire.

Dated: 3/6/06

By: 
Michael D. Ramsdell, Esq.