



## State of Vermont

# LAND USE PERMIT

CASE NO.: Land Use Permit #7R0639-EB  
(Reconsideration)

LAWS/REGULATIONS INVOLVED:  
10 V.S.A. §§ 6001-6092 (Act 250)

APPLICANT: Bernard and Suzanne Carrier

ADDRESS: by David A. Lawes, P.E.  
David A. Lawes Engineering, Inc.  
P.O. Box 440  
Derby, VT 05829

The Vermont Environmental Board ("Board") hereby issues Land Use Permit #7R0639-EB (Reconsideration) as amended pursuant to the authority vested in it by 10 V.S.A. Chapter 151. This permit applies to the lands identified in Book 81, Pages 24-25 of the land record of the City of Newport, Vermont, as the subject of a deed to Bernard and Suzanne Carrier, the permittees ("Permittees"), as grantees. This permit modifies certain conditions in Land Use Permit #7R0639-Reconsideration, which are herein specified, and adds other conditions. Land Use Permit #7R0639-Reconsideration authorizes the Permittees to develop a 10.58 acre tract of land ("Tract") on Lake Memphremagog ("Lake") in the following specific ways, collectively described as Revised Project, Phase I: the Permittees are authorized to create a 3-lot subdivision with the balance of the Tract to be retained as an undeveloped remainder parcel; they are authorized to construct single family homes on the 3 approved lots and related utilities to serve those 3 lots; and they are authorized to construct approximately 1,100 feet of improvements to Bigelow Bluff Road and to construct 700 feet of internal access road and cul-de-sac. The 3 lots approved under this permit are Lots 7, 8, and 9 of an original 9-lot subdivision proposed by the Permittees and denied by the Board in Re: Bernard and Suzanne Carrier, #7R0639-EB, Findings of Fact, Conclusions of Law, and Order (Oct. 5, 1990).

The Permittees, and their assigns and successors in interest, are obliged by this permit to comply with the following conditions:

1. Condition 1 of Land Use Permit #7R0639-Reconsideration is amended to read:

The project shall be completed, operated and maintained in accordance with: (a) the terms and conditions of Land Use Permit #7R0639-Reconsideration, except as amended hereby; (b) the plans, exhibits, and testimony submitted by the Permittees to the Environmental Board; (c) the Findings of Fact, Conclusions of Law, and Order in #7R0639-EB (Reconsideration) issued August 14, 1997; and (d) the conditions of this permit. No substantial or material changes shall be made in the project without the prior issuance of a permit amendment.

(continued)

Docket #666

2. Condition 3 of Land Use Permit #7R0639-Reconsideration is amended to read:

The District Commission maintains continuing jurisdiction during the lifetime of this permit and may periodically require that the permit holder file an **affidavit** certifying that the project is being completed in accordance with the terms of the permit. Further subdivision or development of the so-called "remainder" parcel (Lots 1-6) is expressly prohibited, except as provided herein, unless a permit amendment is obtained prior to the commencement of such subdivision or development. In the event that the Permittees elect to file a permit amendment application for Phase II of the Revised Project or any permit amendment application with respect to subdivision or development of the so-called "remainder" parcel (Lots 1-6), not only will such development be reviewed under the ten Act 250 criteria but as a preliminary matter it will be reviewed in accordance with the analysis set forth in the Vermont Supreme Court's decision in In re Stowe Club Highlands, No. 95-341, slip op. at 5 (Vt. Nov. 8, 1996), and, if applicable, any Board rule which may be adopted to implement the holding in that case.

3. Condition 9 of Land Use Permit #7R0639-Reconsideration is amended to read as follows:

A 50 foot minimum buffer shall be established by the Applicants and maintained by them and their assigns and successors in interest between the wetland's delineated edge and any path, easement, or right-of-way to the proposed common shore access area. No future development may occur within this buffer zone, including improvements to the common shore access, unless a permit amendment is obtained prior to the commencement of such development or a jurisdictional opinion is obtained that such development is not material or substantial.

4. Condition 12 of Land Use Permit #7R0639-Reconsideration is amended to read as follows:

Prior to the sale of the first lot, the Permittees shall submit a revegetation plan for the entire Tract, prepared with the assistance of the District Coordinator and County Forester, for approval by the District Commission. This plan shall achieve the following performance standards:

- (a) The Tract shall be planted with essentially the same evergreen and deciduous species as were removed from the Tract in 1985;
- (b) Existing vegetation shall be supplemented with the planting of trees and shrubs at a density so as to return the shoreline to its natural condition and

(continued)

achieve the requisite screening of any proposed houses and related amenities **from** the Lake; and

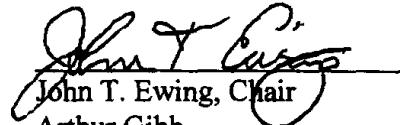
- (c) The selection and placement of individual trees and shrubs shall be done so as to achieve compatibility with the vegetative cover on surrounding parcels.

Prior to the sale of the first lot, the Permittees shall plant the trees and shrubs specified in the approved revegetation plan.

The Permittees shall take all necessary measures to ensure that all vegetation, existing or proposed to be planted under the approved revegetation plan, shall be maintained by them and their assigns and successors in interest. In order to assure that such vegetation shall thrive, the revegetation plan may require the Permittees to: (1) replace stripped topsoil; (2) ensure that new plantings are regularly watered, fertilized and mulched; and (3) prune, remove and replace dead or diseased plants as necessary.

Dated at Montpelier, Vermont, this 14 day of August, 1997,

ENVIRONMENTAL BOARD



John T. Ewing, Chair

Arthur Gibb

Samuel Lloyd

William Martinez

Rebecca M. Nawrath

Robert G. Page, M.D.