

Transmittal to Town Manager, Nathan Poore

Date: April 21, 2009

From: Albert Farris

RE: **Rob McDaniel inquiry, HL03-018 & 029**

Summary:

The restrictions placed on this lot were the result of a settlement agreement between Citicorp Mortgage and the Town of Falmouth. Citicorp became titleholder pursuant to a foreclosure and discovered the violations.

- The Violations:
 - On lot HL3 – 018 decks, neither approved nor permitted were constructed in the Shoreland Zone within 100 feet of the water, after a valid permit was issued to tear-down a cottage and build a single family dwelling.
 - A dwelling unit, with a deck was built without permits above an existing garage on the lot across the road from the lake, HL3-029.
 - The ZBA did not grant/approve an after the fact Variance application in May 1997 to maintain the decks.
- The Agreement:
 - The property owner Citibank agreed to bind its successors and assigns to these stipulated conditions (Premises refers to both Lots HL03 – 018 & 029);
 - “that no portion of the Premises will be conveyed separately from the balance of the Premises.”
 - “no part of the garage located on the Premises will be converted to a single family dwelling unit...”
 - The property owner Citibank paid a Three Thousand Dollar fine, and removed the decks and dwelling unit above the garage.
 - The agreement is recorded in the Cumberland County Registry of Deeds, by agreement of the parties.
 - A “Deed Restrictions” document is recorded as a separate instrument.

Conclusion:

In early 2005 there was much research and discussion between Mr. McDaniel’s attorney Alan Wolf, Bill Plouffe, Town Attorney and myself. The resulting decision was reported via a phone call from Bill to me and copied to Doug Harris.

- Bill’s position is, and apparently agreed to by Alan Wolf, that the lots are forever linked. As of this date Bill’s position has not changed.
- Alan Wolf questioned the legitimacy of the Consent/Settlement Agreement because it was executed by Town Manager Doug Harris and not the Council Chairman. Bill assured attorney Wolf that this was not an agreement that needed council approval.

Robert McDaniel purchased the property on June 26, 1997, apparently aware of these negotiations which took place through May & mid June 1997; (his first closing was postponed until the issue was resolved).