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December 16, 2019

TO: Lake Rescue Association
FR: Terrence DeWan FASLA PLA

RE: REVIEW OF PROPOSED LAKE RESCUE ADA BOARDING DOCK

LENGTH OF PROPOSED DOCK

As noted in testimony by the Lake Rescue Association (LRA), the dock proposed by the Applicant is considerably longer than the typical dock structure found in the northern part of Lake Rescue. The presence of this newer, longer structure extending close to fifty feet into the lake will change the circulation pattern for boats and watercraft of all types that use the facility.

As shown in the map provided by the LRA (see Appendix, p.1), property owners on either side of the boat launch can (and very often do) place floats and temporary docks within 50 feet of the shoreline. While these property owners do not "own" the waters of Lake Rescue, they have the right to use these waters under the Lake Encroachment permitting process. As seen in the photographs provided in the Appendix (p.2), this area already is well used for motor boating, canoeing and kayaking, and swimming. By extending the boarding dock this distance into the lake, it will force boaters to navigate very close to the private docks and floats, causing congestion and heightening the potential for accidents on the waterfront, and impeding navigation and boating – thus requiring a Public Trust review.

Universal access for the general public should be part of every facility maintained and developed by the Department. The U.S. Access Board has very specific accessibility requirements for Boarding Piers and Boat Launch Ramps. However, as noted in the Access Board's requirements (provided below), **there is no minimum length for accessible docks in this situation, since there is no other boarding pier provided at this facility or any other public facility on Lake Rescue.**

> ***1003.3.2 Boarding Pier Clearances****. Boarding piers at boat launch ramps shall provide clear pier space 60 inches (1525 mm) wide minimum and shall extend the full length of the boarding pier. Every 10 feet (3050 mm) maximum of linear pier edge shall contain at least one continuous clear opening 60 inches (1525 mm) wide minimum.*

> ***Advisory 1003.3.2 Boarding Pier Clearances.*** *These requirements do not establish a minimum length for accessible boarding piers at boat launch ramps. The accessible boarding pier should have a length at least equal to that of other boarding piers provided at the facility. If no other boarding pier is provided, the pier would have a length equal to what would have been provided if no access requirements applied. The entire length of accessible boarding piers would be required to comply with the same technical provisions that apply to accessible boat slips. For example, at a launch ramp, if a 20 foot (6100 mm) long accessible boarding pier is provided, the entire 20 feet (6100 mm) must comply with the pier clearance requirements in 1003.3. Likewise, if a 60 foot (18 m) long accessible boarding pier is*

> *provided, the pier clearance requirements in 1003.3 would apply to the entire 60 feet (18 m).*[1]

As noted above, the ADA does not require a minimum length for accessible boating piers. A shorter pier (e.g., one that was half the length being proposed) or one of a different configuration could be used to achieve the same level of accessibility required by 1003.3.2.

The photographs provided by LRA shows that the typical boats that are now launching at the site have ample water depth immediately offshore (see Appendix p. 2). A much shorter boarding dock should be sufficient for a person in a wheelchair or someone who needs assistance in boarding a boat. If a person needed additional time, the boat could be moved to the other (west) side of the boat launch where it would be out of the way of others in queue to launch.

ADA CONSIDERATIONS AND ACCESSIBLE ROUTES

Compliance with the ADA must consider more than just the ability to gain access to a boat in the water. As a professional landscape architect, I know from experience that no recreational facility – be it a baseball field, tennis court, or boat launch – should ever be designed in isolation. It is imperative that site planning for any facility must be done with full knowledge of its surroundings. In this case, the design of the ramp must also consider abutting land and water uses, topography and drainage, the location and design of accessible toilet facilities, accessible parking space(s), accessible routes that links the various facilities, as well as the design of the ramp and dock itself. The ADA Standards for Accessible Design stress the need for relating all facilities that provide accessible recreational opportunities:

> *Advisory 1005.1 Accessible Routes. Accessible routes serving fishing piers and platforms, including gangways and floating piers, shall comply with Chapter 4 (Accessible Routes).*[2]

> *An accessible route must connect the boarding pier with other accessible buildings, facilities, elements and spaces on the site.*[3]

SAFETY CONSIDERATIONS

Safety must be of paramount consideration in the design of any public recreational facility, especially those involving pedestrian and vehicular activity. The concern for safety is exacerbated by not having a clear understanding of the back-up and launching patterns of boat trailers that will use the proposed facility. In its current condition, there is no indication of how boat trailers should maneuver when launching a boat, where they should park, where they should wait, etc. Adding an accessible dock will undoubtedly make the facility more inviting for boaters as well as for people who want to fish off the dock. It would be irresponsible to install a dock of any length for the purpose of providing accessible access to the water, knowing that

[1] https://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/boating-facilities/boarding-piers-at-boat-launch-ramps
[2] U.S. Department of Justice. 2010 ADA Standards for Accessible Design. September 15, 2010.
[3] https://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/boating-facilities/boarding-piers-at-boat-launch-ramps

there are unresolved issues with accessible parking, access to the restroom, and accessible routes down to the dock itself. By not addressing these existing conditions and foreseeable problems, the Department leaves unanswered how the location of the dock would not adversely affect the public good.

POTENTIAL AFFECT ON THE PUBLIC GOOD: CONSISTENCY WITH THE NATURAL SURROUNDINGS

The Department has determined that the project as proposed will not adversely affect the public good. However, there is little in the record that indicates that an effort has been made to thoroughly assess how the project would be consistent with the natural surroundings. State statue requires*: (b) In determining whether the encroachment will adversely affect the public good, the department shall consider the effect of the proposed encroachment as well as the potential cumulative effect of existing encroachments on water quality, fish and wildlife habitat, aquatic and shoreline vegetation, navigation and other recreational and public uses, including fishing and swimming,* ***consistency with the natural surroundings*** *and consistency with municipal shoreland zoning ordinances or any applicable state plans. (Emphasis added.)*

One of the greatest appeals of this site is the natural environment that surrounds the boat launch. The towering pines and steep slopes at the edges of the site are fragile components of the waterfront ecosystem and must be considered as part of a holistic planning process if the Department is to make a positive finding of "consistency with the natural surroundings". By improving the facility, it is logical to assume that there will be greater use pressure on the natural surroundings. It is evident from the photographic record created by the Association that additional and/or better-organized parking and boat trailer circulation is required to meet current use levels. If the area were to be redesigned to accommodate additional traffic, with ADA compliant facilities and accessible routes, there are few options that would not have negative affects on the slopes or the trees due to the tightness of the site and the limitations imposed by the topography and existing vegetation.

The project is an existing, functioning public boat launch facility. The dock installation will continue to provide the public with the opportunity to launch boats. The new dock system will also pro- vide an ADA accessible launch dock for the Lake Rescue boating community.

The Applicant's narrative and responses to questions posed by the public focuses on existing conditions found at the boat launch itself, and does not reflect an understanding of the immediate surroundings. "Surroundings" are those objects that are proximate to an object or a place, NOT the object or place itself. The statute's requirement that a project must show "consistency with the natural surroundings" is a strong indication that the proposal must not be evaluated in isolation, but rather it must show that the design– and how it will be used – is consistent with land uses, development patterns, and natural systems found in the immediate area (i.e., its natural surroundings).

After-the-fact planning is not an acceptable option. If the character of the site, its natural surroundings, and the quality of the water are to be protected, then the planning process must evaluate the potential effects of the project to assure *consistency with the natural surroundings*. There must an evaluation of what additional work would be required to make the project truly

compliant with the Americans with Disabilities Act, and what effect those actions may have on the topography, vegetation, and drainage patterns that comprise the natural surroundings.

RELATIONSHIP OF ALL THE PARTS TO THE WHOLE

If a boat launching facility is designed from scratch, professional practice dictates that the designer consider a wide range of factors to assure that proper attention is paid to public safety, environmental concerns, community land use patterns, security, accessibility, and aesthetics, just to name a few. These factors would include (but not be limited to): topography, existing vegetation, runoff patterns, soil stability, visibility, abutting land use, environmental hazards, wildlife habitat, bathymetry and shore side gradient, wind and wave patterns, invasive species (i.e., Eurasian milfoil), bottom conditions, and others.

The proper design of a boat launch facility must consider all these factors if it is to be successful and not place an unnecessary burden on neighboring roads and properties or result in unsafe boating and traffic movement patterns. LRA has provided evidence of congestion and overcrowding caused by the configuration and limited area of the existing facility.

While the Department has acknowledged the need to provide a plan for the upland portion of the site, it would be done after the dock is installed. There has been no commitment to a design process that would address the critical needs expressed by the Lake Rescue community. Likewise, there has been no discussion about the timing of any future planning, the criteria that would be used to start the process, or how the public would be involved.

The current approach to installing the dock runs counter to proper planning principles, which require a thorough evaluation of all physical, environmental, legal, and institutional issues before deciding on a course of action. The final decision regarding the facility should result from a robust and informed public process, utilizing the input from those who would use and be affected by any improvements made to the site.

Once a plan for improvements to the existing facility has been developed, then the Department should determine the best course of action to meet the stated goal of providing ADA accessibility. As part of the planning process, the Department should determine if the proposed facility exceeds the physical carrying capacity of the site, given both current and anticipated future use patterns.

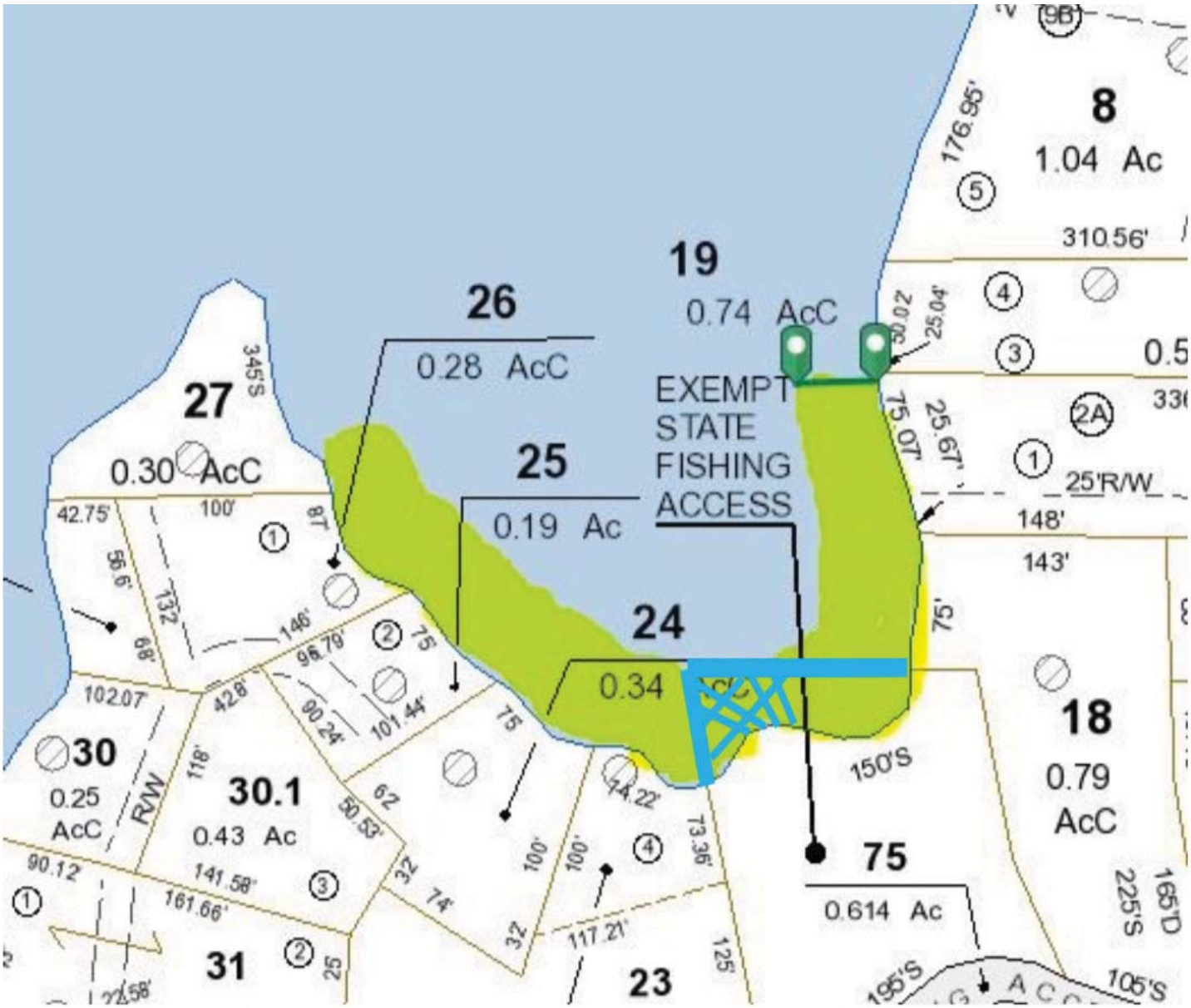
Since the dock would also offer a location for accessible fishing, the analysis should consider potential conflicts between people launching boats and people in wheelchairs fishing from the end of the dock.

An honest and professional planning process may well determine that the site is not suitable for the additional use that the dock may generate. Or it may determine that there are other more appropriate alternatives to a 50-foot long dock, such as providing an accessible facility for paddlers to use Lake Rescue.

AN ALTERNATIVE TO MEET THE SPIRIT AND INTENT OF ADA

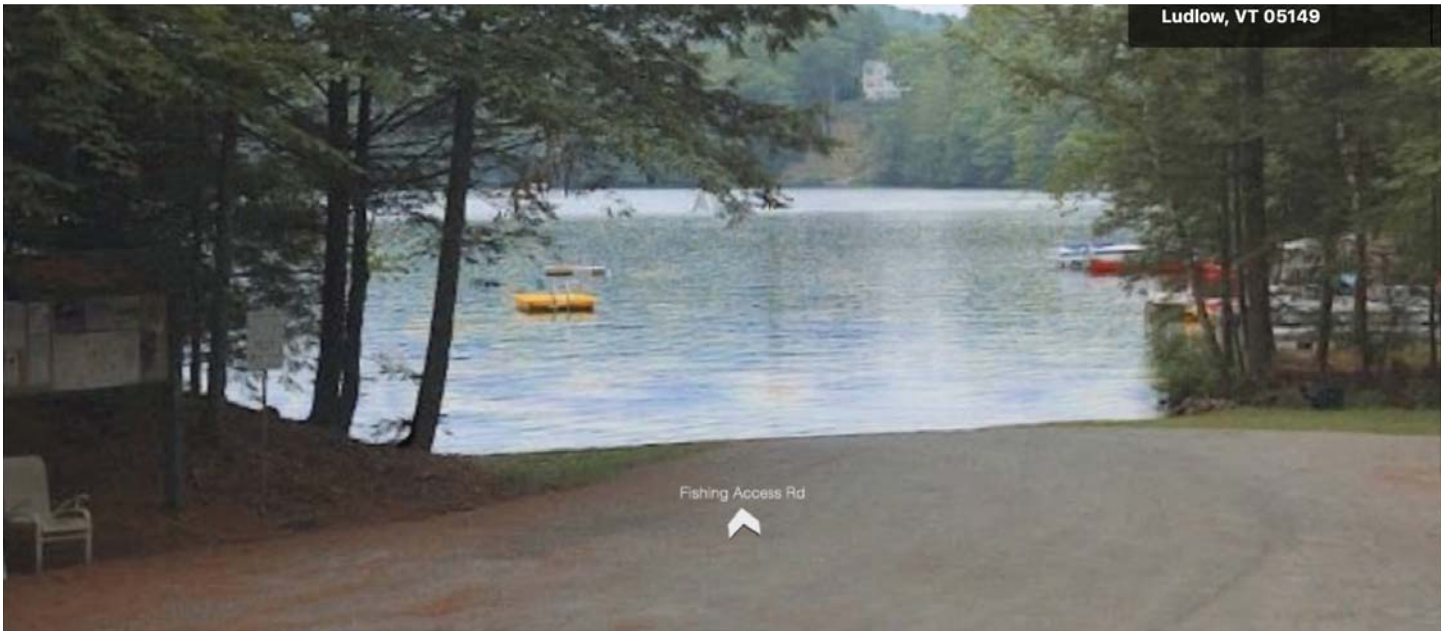
There has been an assumption throughout this process that the way to accommodate ADA accessibility is through a boarding dock, extending close to 50 feet into the northern end of Lake Rescue. While this would meet the mandate under the ADA, another less intrusive option should be explored to provide accessible water access. In reviewing the photographs and stills from the videos provided by the LRA, it is evident that motor boating is not the only type of activity that starts at the boat launch. The photographic record shows that there is a high number of non-motorized watercraft entering the lake at this point, including canoes, kayaks, paddleboards, and inflatable boats (see Appendix pp. 3-5).

As an alternative to the boarding dock, which may lead to greater use of the resource by motorboats, consideration should be given to the development of an ADA-compliant paddle access. This could take many forms and offer persons with disabilities the opportunity to experience the scale and beauty of Lake Rescue after safely entering their canoe or kayak. With proper planning and foresight, this type of facility could be coordinated with accessible parking, restrooms, and interconnected pathways to provide a unique opportunity for accessible boating very much in keeping with the limited area available.



The proposed location of the dock structure is on a small cove at the southern end of Round Pond at the northern end of Lake Rescue. This detail of the pond illustrates the residential properties that surround the site. The green area illustrates the 50-foot distance from the shoreline allowed for use by property owners for floating docks and rafts. Graphic from Lake Rescue Association.

View of the proposed dock site from the small cove at the southern end of Round Pond. Eight private residences are located on the cove near the existing boat launch. Photos by TJD&A.

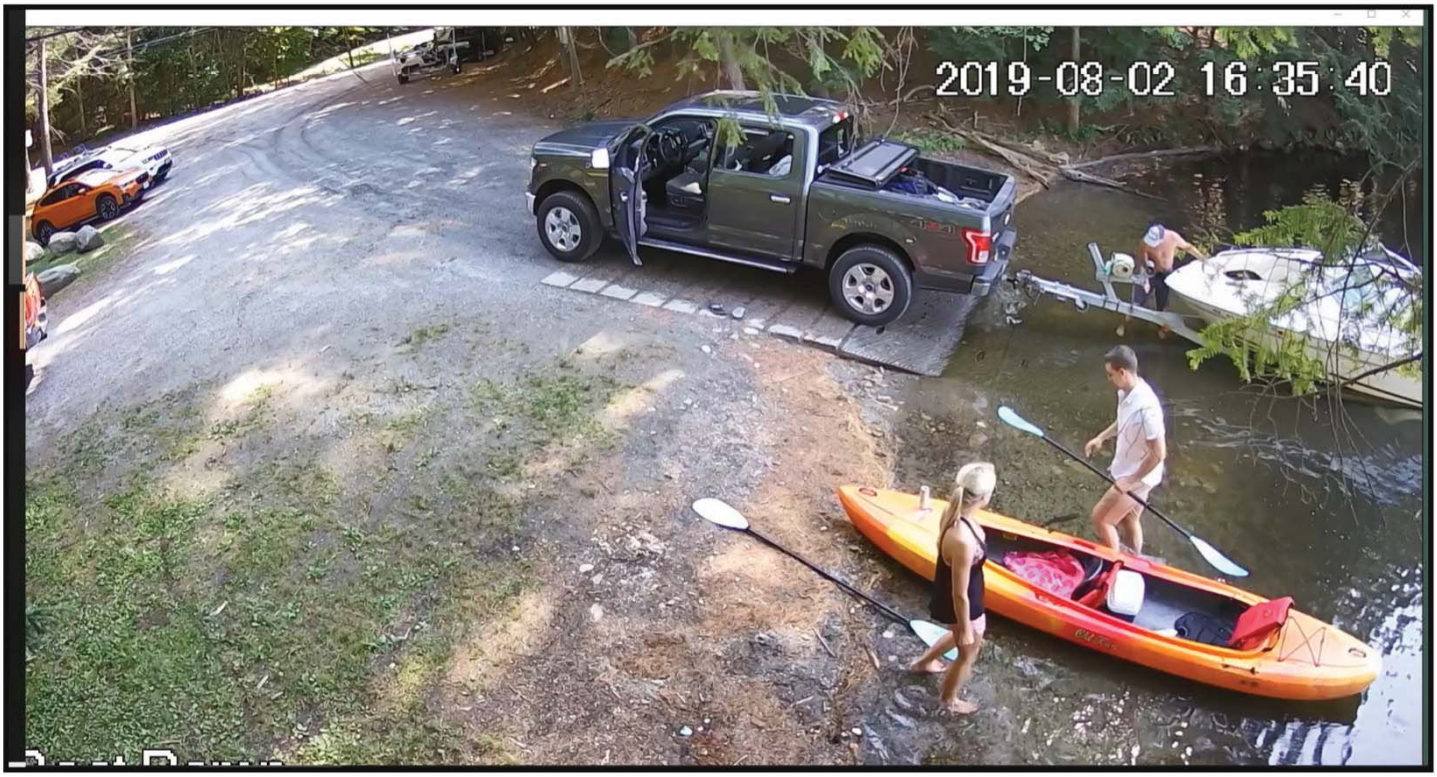


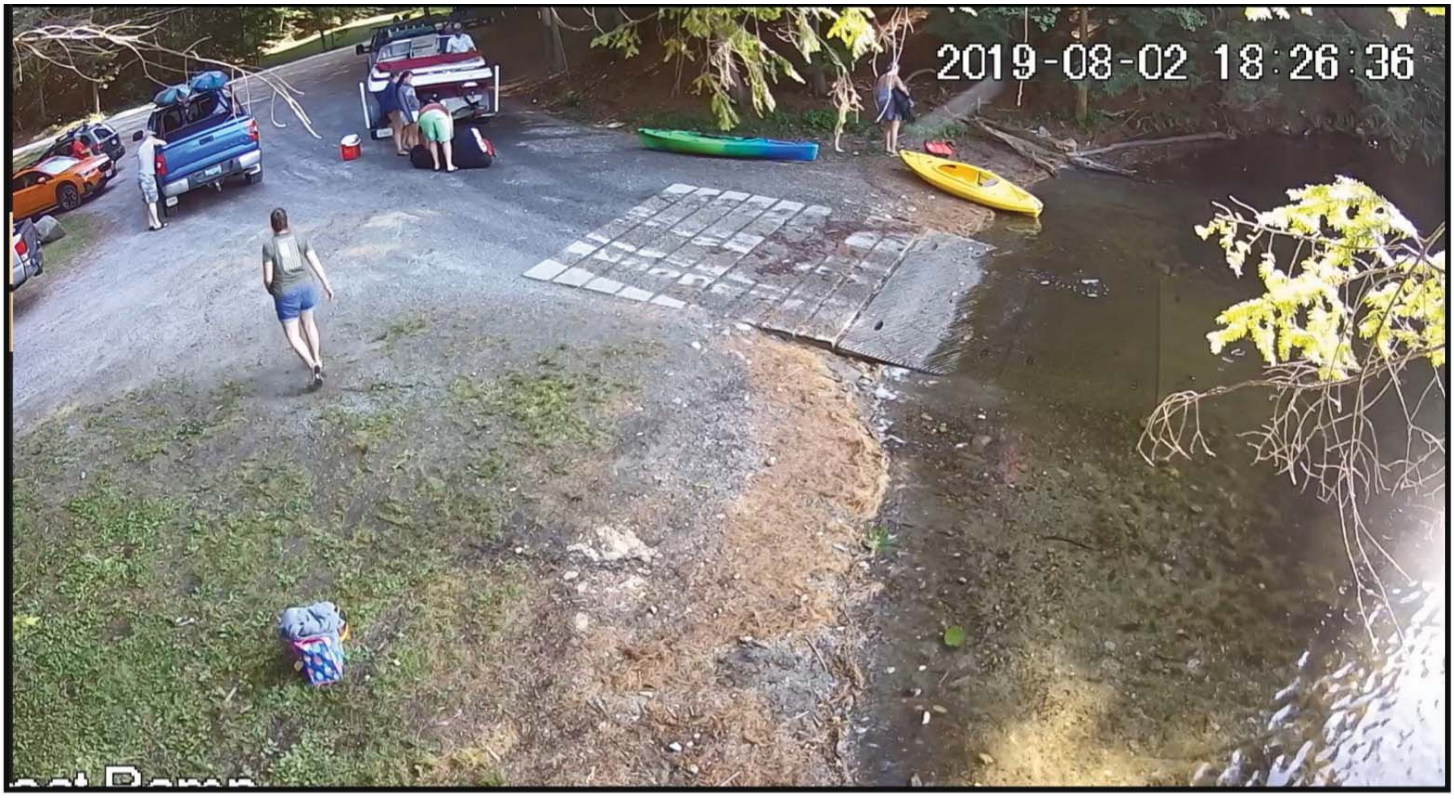
Top left: Aerial image showing existing waterfront homes, docks, and floats in the area surrounding the proposed dock (red pin).

Top right: Photograph from Lake Rescue Association showing typical boat launching activity (July 2018).

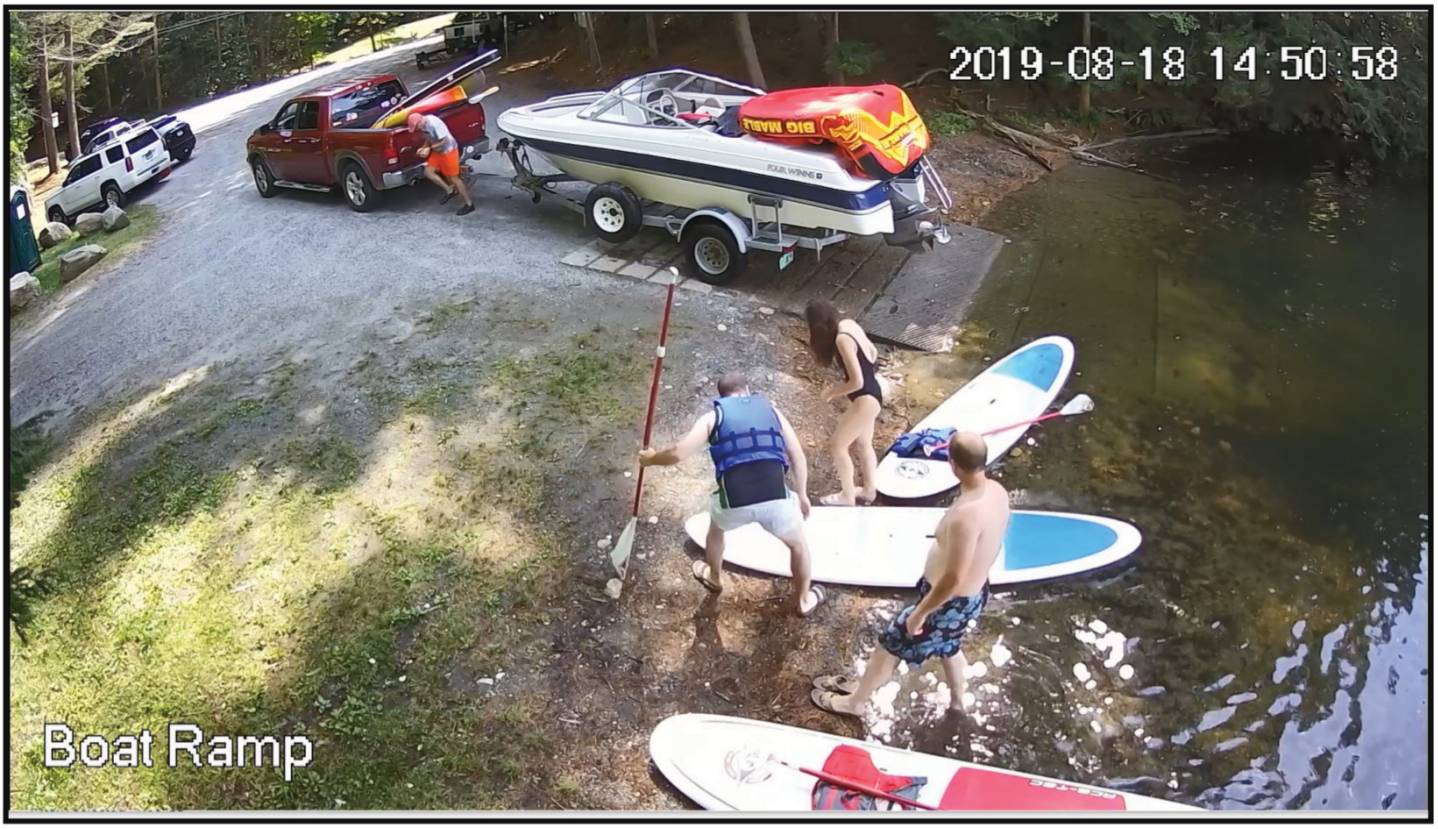
Middle: View of docks and floats in cove from existing parking lot above Round Pond. Streetside view, 2019.

Bottom: Boat launching, parking, and maneuvering at the boat launch. Image from Lake Rescue Association.





Photographs supplied by the Lake Rescue Association illustrates the use of the existing boat launch by non-motorized watercraft (kayaks and paddleboards). As an alternative to the 50-foot dock, consideration should be given to the development of an ADA-compliant paddle access that would be coordinated with the installation of accessible restrooms, parking, and interconnected pathways.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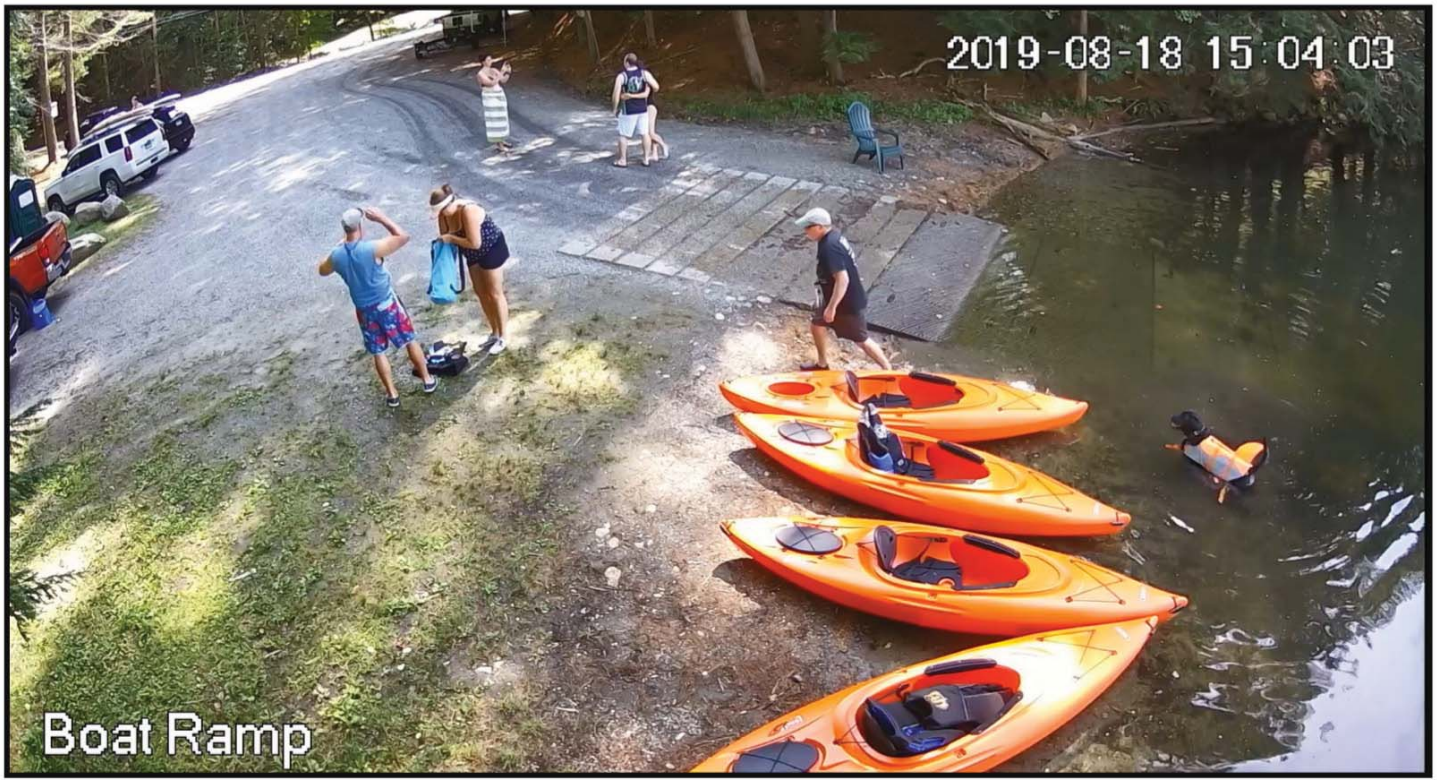
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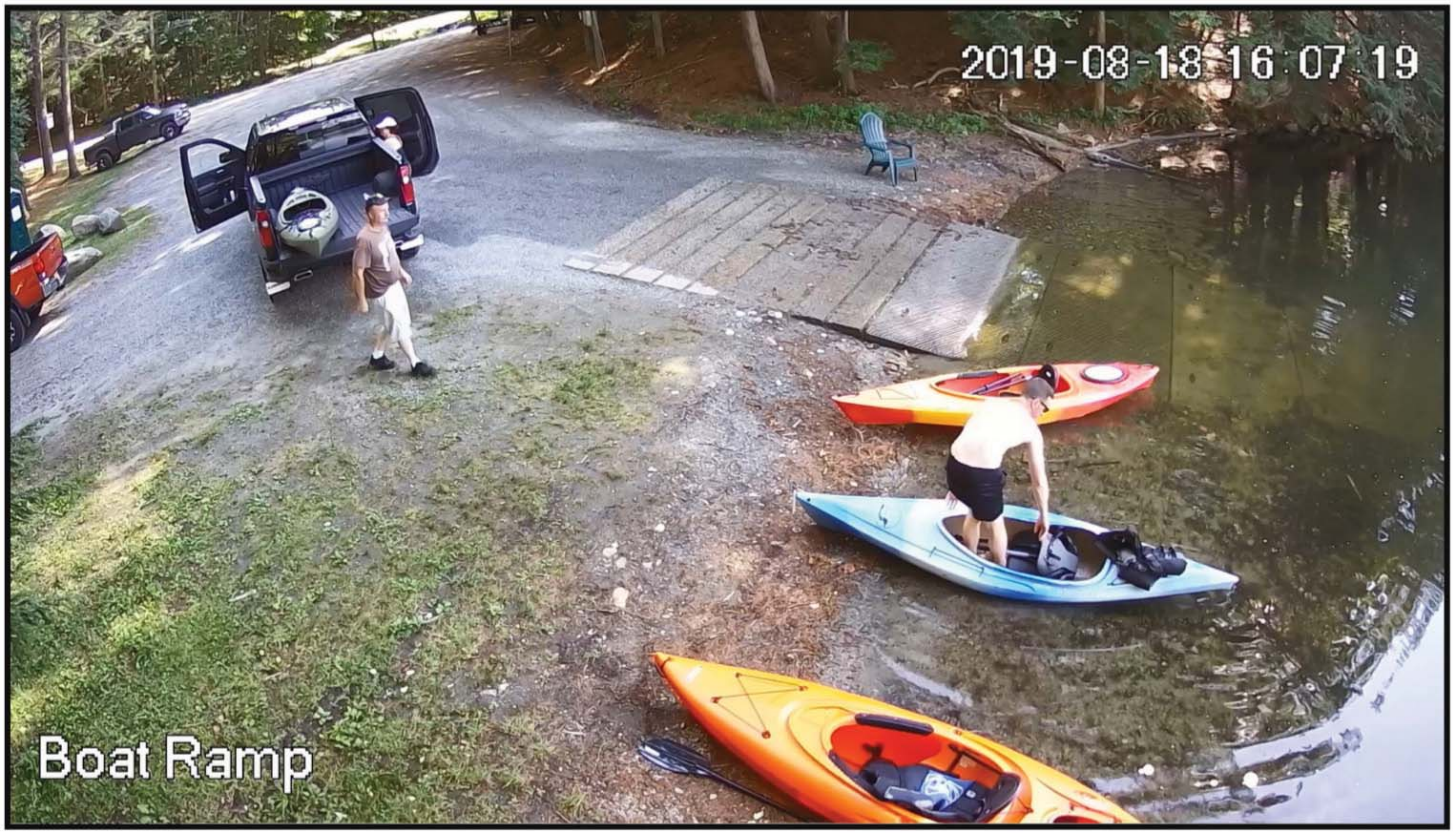
Boat Ramp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