

**GENERAL GUIDANCE REGARDING VARIANCES  
TO THE ADIRONDACK PARK AGENCY ACT AND WILD, SCENIC AND  
RECREATIONAL RIVERS ACT  
SHORELINE RESTRICTIONS**

The Adirondack Park Agency Act (Section 806) imposes shoreline restrictions to protect the quality of water bodies and shorelines in the Adirondack Park. The shoreline restrictions apply whether or not an Agency permit is otherwise required under the APA Act, the Freshwater Wetlands Act or the New York State Wild, Scenic and Recreational Rivers Act. The shoreline restrictions apply as a matter of law to all lots created and/or structures built after August 1, 1973. The Adirondack Park Agency is charged with implementing the New York State Wild, Scenic and Recreational Rivers Act (Section 577 of the Adirondack Park Agency Act) and applies to all lots created and/or structures built after April 19, 1976. Proceeding without a variance is a violation of the Adirondack Park Agency Act.

**All requests for a variance from the shoreline restrictions require the submission of three (3) copies of a complete application to the Agency.** The application must contain a detailed, to-scale Site Plan Map or Subdivision Plat prepared by an appropriately qualified person licensed in the State of New York. The map must accurately depict the area of proposed activity and clearly show and label the requested variance relative to the mean high water mark of the adjoining water body.

The Agency will conduct a public hearing within the village or town in which the property is located. The Agency will provide notice of the hearing to all landowners within 500 feet of the property on which the variance has been requested, the planning board chairman, the town supervisor or village mayor and the Adirondack Park Local Government Review Board. The Agency will consider any valid comments received at the public hearing. All variance applications will be decided by the Agency Members at a public meeting.

Where there are practical difficulties in carrying out the strict letter of the shoreline restrictions, the Agency may, after public hearing, vary or modify the application of the restrictions so that the spirit of the restrictions is observed, public safety and welfare secured and substantial justice done. A variance will only be granted when the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.

In determining whether to grant a variance, the Agency will consider, among other relevant factors:

- whether the application requests the minimum relief necessary,
- whether granting the variance will create a substantial detriment to adjoining or nearby landowners,
- whether the difficulty can be obviated by a feasible method other than a variance,
- the manner in which the difficulty arose,

- whether granting the variance will adversely affect the natural and scenic resources of the shoreline and adjoining water body, and
- whether the imposition of conditions upon the granting of the variance will ameliorate any of the adverse effects.

**Note that in a designated river area both APA Section 806 and NYS Wild, Scenic and Recreational Rivers Act restrictions apply and the most restrictive requirements must be followed.** A summary of the two sets of regulations, the APA Section 806 Shoreline Restrictions and the NYS Wild, Scenic and Recreational Rivers Act, is presented below.

Adirondack Park Agency Act Section 806 – Shoreline Restrictions

The shoreline restrictions apply to:

- all lakes and ponds,
- any river designated to be studied as a wild, scenic and recreational river in accordance with the environmental conservation law, and
- rivers and streams navigable by boat, including canoe.

The shoreline restrictions include:

- minimum lot widths for residential property,
- minimum setbacks of all principal buildings and accessory structures larger than 100 square feet (except docks and boathouses),
- limits on removal of shoreline vegetation within 35 feet of the mean high water mark,
- minimum shoreline frontages for deeded or contractual access to lakes, ponds, rivers or streams for five or more lots or multiple family dwellings not having separate and distinct ownership of shoreline frontage; and
- 100 foot minimum setback for wastewater treatment systems and drainage fields from any water body, including intermittent streams.

Shoreline is defined as that line at which land adjoins the water of lakes, ponds, rivers and streams within the Adirondack Park at mean high water. Upon request, Agency staff will determine the mean high water mark of any water body and the navigability of any stream or river. As an alternative, the Agency will generally accept the written and certified determination of a professional land surveyor licensed by the State of New York of the mean high water mark on any particular lot.

The shoreline restrictions vary with the land use area classification of the property where the proposed activity is to occur as shown on the Adirondack Park Land Use and Development Plan Map. The following are the minimum lot widths and structure setbacks:

Land Use Area	Minimum Lot Width (ft.)	Minimum Structure Setback (ft.)
Hamlet	50	50
Moderate Intensity Use	100	50
Low Intensity Use	125	75
Rural Use	150	75
Resource Management	200	100
Industrial	N/A	N/A

If proposed land use and development cannot meet the minimum shoreline restrictions, then a variance from the restrictions must be obtained from the Agency. The proposed land use and development may not be undertaken unless and until a variance has been granted by the Agency.

The Section 806 shoreline restrictions are implemented by the following parts of the Adirondack Park Agency Rules and Regulations (copies attached):

- Section 571.4 Determination of navigability of river or stream
- Section 572 Procedures for the Review of Projects and Variances
- Section 575 Shoreline Restrictions of the APA Act
- Section 576 Standards for the Review of Variances Pursuant to the APA Act

Section 577 of the Agency's Rules and Regulations – Special Provisions Relating to Wild, Scenic and Recreational Rivers

The rivers restrictions apply to land use and development and subdivision of land on privately-owned lands with wild, scenic and recreational river areas located in the Adirondack Park. Such areas are set forth in Appendix Q-6 of the Adirondack Park Agency Rules and Regulations. Generally, the “river area” is the entire area within ¼ mile of the bank of the river.

With respect to designated rivers, the law and Agency regulations:

- require an Agency permit for subdivisions, single family dwellings and most new uses and structures in river areas,
- prescribe minimum lot widths and building setbacks,
- regulate the cutting of trees in the entire river area, including a prohibition on cutting within 100 feet of the river,
- restrict motor boating and other motorized activities,
- regulate bridge and road building,
- regulate structures (such as dams) and activities (such as dredging and filling) that alter a river's natural flow,
- allow continuation of lawfully existing, non-conforming uses, but require permits or variances for expansion or change in use,

- prohibit certain “non-compatible” uses, and
- prohibit new structures in Wild River areas.

The rivers restrictions vary with the designation of the river where the proposed activity is to occur. The following are the minimum shoreline lot widths and setbacks for designated river areas.

Land Use Classification	Scenic River Areas		Recreational River Areas	
	Minimum Lot Width Feet	Minimum Structure Setback Feet	Minimum Lot Width Feet	Minimum Structure Setback Feet
Hamlet	50*	50*	50*	50*
Moderate Intensity	100*	50*	100*	50*
Low Intensity	150	250	150	150
Rural	200	250	200	150
Resource Management	750	250	300	150
Industrial	No minimum	250	No minimum	150

\*These are the minimum shoreline lot width and setback

If proposed land use and development cannot meet the minimum shoreline lot widths and setbacks, then a variance from the restrictions must be obtained from the Agency. The proposed land use and development may not be undertaken unless and until a variance has been granted by the Agency.

9 NYCRR Section 577 rivers area restrictions are implemented by the following parts of the Adirondack Park Agency Rules and Regulations (copies attached):

- Section 572.10 Projects which require variances
- Section 577 Special Provisions Relating to Wild, Scenic and Recreational Rivers