

**OVERVIEW OF ADIRONDACK PARK AGENCY ACT AND  
NYS WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM ACT SHORELINE  
RESTRICTIONS AND VARIANCES**

Section 806 of the Adirondack Park Agency Act (implemented by Parts 575 and 576 of Adirondack Park Agency Rules and Regulations) establishes shoreline restrictions to protect water bodies and shorelines in the Adirondack Park. These restrictions apply to all privately-owned lands which are adjacent to water bodies and to all lots created and structures built after the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan. In addition, Part 577 of the APA Rules and Regulations implementing the NYS Wild, Scenic and Recreational Rivers System Act, contains additional shoreline restrictions. These restrictions also apply to privately-owned lands and to all lots created and structures built after April 19, 1976 which are located within designated river areas (i.e., generally within one-quarter mile of designated wild, scenic and recreational rivers). **Both the APA Act and New York State Wild, Scenic and Recreational Rivers System Shoreline restrictions which are intended to protect water quality, aesthetics and other associated resources, automatically apply as a matter of law regardless of whether or not an Agency permit is required.** Note that in a designated river area both APA Act Section 806 and NYS Wild, Scenic and Recreational Rivers Act restrictions apply and the more restrictive requirements must be met.

Shoreline is that line where land adjoins the water of lakes, ponds, rivers and streams within the Adirondack Park at the water body's mean (or average) high water mark . 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 NYS licensed land surveyor of the mean high water mark on any particular lot.

A summary of the two sets of regulations, the APA Act 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 new principal buildings and accessory structures larger than 100 square feet (except docks and boathouses),
- **[recodified: December 31, 2008]** limitations on expansions of buildings, including building heights, or on-site wastewater treatment systems lawfully located within the specified shoreline setback distance (see enclosed “Implementation Guidance Minor Non-conforming Shoreline Expansions 2008 Rule Making”),

- 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 projects involving five or more lots or multiple family dwellings not having separate and distinct ownership of shoreline frontage; and
- 100 foot minimum setback for new, replacement or expanded wastewater treatment systems and drainage fields from any water body, including intermittent streams.

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

APA Act Section 806 shoreline restrictions are implemented by the following parts of the Adirondack Park Agency Rules and Regulations [copy available on the Agency’s website ([www.apa.state.ny.us](http://www.apa.state.ny.us)) or upon request]:

- Part 571 Mean high water mark and navigability determinations
- Part 572 Procedures for the Review of Projects
- Part 575 Shoreline Restrictions of the APA Act
- Part 576 Standards for the Review of Variances Pursuant to the APA Act

**Part 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 within wild, scenic and recreational river areas located in the Adirondack Park. River areas are listed for each designated river in Appendix Q-6 of the Adirondack Park Agency Rules and Regulations. Generally, the “river area” is the area within one-quarter mile of the bank of the river.

With respect to designated rivers, 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 without an Agency permit,

- 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 change in use and for certain expansions,
- 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 same as the minimum shoreline lot width and setback set forth in §806 of the APA Act.

River area restrictions are implemented by the following parts of the APA Rules and Regulations [copy available on the Agency’s website ([www.apa.state.ny.us](http://www.apa.state.ny.us)) or upon request]:

- Part 572 Procedures for the Review of Projects
- Part 577 Special Provisions Relating to Wild, Scenic and Recreational Rivers

### **GENERAL GUIDANCE REGARDING VARIANCES TO THE SHORELINE RESTRICTIONS**

It is expected that there will be compliance with all shoreline restrictions. If a shoreline development proposal does not comply, every effort should be made to redesign the proposal to bring it into compliance. However, in certain cases where an applicant has clearly demonstrated that there are “practical difficulties or unnecessary hardships” in carrying out the strict letter of the shoreline restrictions, the Agency may, after public hearing, vary or modify the restrictions for a specific proposal so that the spirit of the restrictions is observed, public safety and welfare secured and substantial justice done. The term “practical difficulty” is defined by case law to

mean those situations often related to the size or shape of a lot whereby the landowner is unable to achieve reasonable use of the parcel without coming into conflict with the applicable shoreline restriction. A variance will be granted only when the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction. Proceeding without a variance is a violation of the Adirondack Park Agency Act and/or the New York State Wild, Scenic and Recreational Rivers System Act.

### Applying for a Variance

In order to consider a variance to the shoreline restrictions, an Application for Variance of Shoreline Restriction and all required attachments must be submitted to the Agency. The Agency must then determine whether the application is complete before formal review can commence. The application must include a detailed, to-scale site plan map or subdivision map prepared by an appropriately qualified NYS licensed design professional showing the property, area of the requested variance, and the requested variance relative to the mean high water mark of the adjoining water body. This mapping is the best way to accurately show what is being proposed on the variance site. These maps must accurately and clearly depict the property and the area of proposed activity.

### Variance Review Process

The Agency is required by law to conduct a public hearing for all variance applications. These hearings are held within the village or town in which the property is located. The Agency must provide notice of the hearing to all landowners within 500 feet of the property on which the variance has been requested, the local planning board chairman, the town supervisor or village mayor and the Adirondack Park Agency 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.

### Considerations in Granting Variances

In determining whether to grant a variance, the Agency will consider pursuant to NYCRR Part 576.1(c) of its regulations, 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, scenic and open space resources of the Park and shoreline and adjoining water body (e.g., due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur), and
- whether the imposition of conditions upon the granting of the variance will ameliorate any of the adverse effects.

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