Applicability: Section 806 of the Adirondack Park Agency Act (implemented by Parts 575 and 576 of the Adirondack Park Agency Rules and Regulations) establishes shoreline restrictions on all lakes and ponds and navigable rivers and streams. Also, Part 577 of the Agency’s Rules and Regulations establishes restrictions and standards for designated rivers included in the NYS Wild, Scenic and Recreational Rivers Act. Shoreline restrictions implemented by the Adirondack Park Agency include:

- limits on the removal of vegetation;
- minimum lot widths for shoreline subdivisions;
- minimum shoreline setbacks for new or expanded buildings and structures;
- minimum shoreline frontages for deeded or contractual access to all navigable water bodies for development of five or more non-shoreline lots or multiple family dwellings; and
- minimum shoreline setbacks for wastewater treatment systems.

If a development proposal cannot meet the applicable shoreline restrictions, a variance from these restrictions must be obtained from the Agency before the proposal can be undertaken. This application must be used in order to apply for a shoreline restriction variance. However, before completing this application, applicants need to consider the fact that Section 806(3)(a) of the Adirondack Park Agency Act provides that variances can be granted only “where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the restrictions…. “ The term “practical difficulty” has been defined by case law to mean those situations where the landowner cannot obtain reasonable use of the property in question without coming into conflict with the restriction. In other words, variances are not granted automatically; an analysis of viable alternatives not requiring a variance is required and the burden is on the applicant to demonstrate compliance with all legal requirements. Accordingly, all applicants are advised to consider redesigning any project to comply with all applicable shoreline restrictions wherever practicable.

If a development proposal requires both a shoreline restriction variance and an Agency permit for a subdivision or other new land use and development, an appropriate permit application must be submitted in addition to this variance application.

The shoreline restrictions apply as a matter of law regardless of whether an Agency permit is required. Also, 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 followed.
**Instructions:** Please answer all of the questions in each numbered section of this application and provide all required attachments. Type or print clearly in ink. Submit three completed copies of the application and all required attachments to the Agency at the address on Page 1. **All maps, plans, photographs and other graphics must also be provided in electronic format (Adobe Acrobat or PDF) unless otherwise agreed to by Agency staff.** A site visit by Agency staff is required. The Agency may also request additional information.

The application will be deemed incomplete if all the information required by this application is not provided. The Adirondack Park Agency Act provides that the time period for the review of the variance application will not begin until the Agency determines that the application is complete. If the application is not complete, a written request for information will be issued by the Agency within approximately 15 days of receipt of the application. The request will specify what information is required for a complete application. The proposed development requiring a variance must not be undertaken unless and until the Agency has granted a variance.

**Assistance:** For assistance in completing this application or to request a pre-application meeting, please contact the Agency’s Regulatory Programs division at the address/telephone number on Page 1 and/or refer to the Agency’s website. Please also refer to the enclosed “Variance Process Summary for Applicants.”

1. **Applicant** [person(s) having legal interest in the variance site¹ seeking a variance from the Agency]:
   - Name(s): ________________________________
   - Mailing Address: ________________________________
   - Telephone Number (daytime): ( ) __________________
   - FAX/E-mail: ________________________________

2. **Current Variance Site¹ Landowner(s):**
   - __ check if same as applicant and proceed to next question
   - Name(s): ________________________________
   - Mailing Address: ________________________________
   - Telephone Number (daytime): ( ) __________________
   - FAX/E-mail: ________________________________

3. **Applicant’s Authorized Representative:**

   By filling in the name and address below and signing this application, the applicant is authorizing the person named below to act as his/her agent in all matters relating to this variance application before the Adirondack Park Agency. The applicant acknowledges that all contact regarding the application will be through his/her Authorized Representative. The applicant further understands

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¹ The variance site is considered all land on which development requiring a variance is to be located, including all contiguous land under the same ownership.
that he/she is ultimately responsible for the accuracy of the information contained in this application and for compliance with all terms and conditions of any variance issued to him/her by the Agency.

Name:__________________________________________
Mailing Address:__________________________________
Telephone Number (daytime): (____)_______________
FAX/E-mail: _____________________________________

4. **Variance Site\(^1\) Location/Description:**
   
   Road/Highway: __________________________ Water body/River/Stream:________________
   Size of the variance site: _________ acres
   Town(s): __________________________ County: ____________________________
   Tax Map Designation (from the tax bill for the property):
     Section:__________ Block:__________ Parcel:__________
     Section:__________ Block:__________ Parcel:__________
   Local Zoning District:________________
   Required Setbacks (feet): Shoreline:____ Front:_____ Back:_____ Side:_____

5. **Applicant’s Legal Interest in Variance Site\(^1\) (check the one that applies):**
   
   ___ owner
   ___ lessee
   ___ signed purchase agreement holder
   ___ option holder
   ___ other. Specify:____________________

   Provide, as **Attachment A**, a complete copy of the current recorded deed(s) for the variance site containing the recording information. Copies are available from the County Clerk’s Office.

   If the applicant has an executed contract or agreement to purchase or lease the property, provide a copy of it in order to establish the applicant’s legal interest in the variance site. (The purchase price and other confidential information may be blackened out.)

6. **Prior Agency Contact:**

   (a) Have there been any previous discussions with Agency staff regarding this property, or has any Agency staff visited the variance site with the applicant or their representative?
       No ____
       Yes __ Staff person’s name: ____________________________
       Date of Contact: __________________

   (b) Has any portion of the variance site as it existed on the May 22, 1973 enactment date of the Adirondack Park Agency Act been the subject of a past Agency action (i.e., project permit, variance, jurisdictional determination, enforcement case or wetland flagging)?
       No ____
Yes __ If known, provide the following number and date:
Past Permit or Variance Number: __________ date:________________
Jurisdictional Inquiry Number: ________________date:________________
Enforcement Case Number: ________________date:________________
Wetland Boundary Flagging: ________________date:________________

7. Variance Site Information:

(a) What is the acreage of the total contiguous landholding (all connected lands) owned by the present landowner? _______________ acres

(b) On May 22, 1973, did the owner at that time own any adjoining property, including parcels on the opposite sides of public roads?
No ____
Yes ___ Provide the Tax Map Numbers:
Section:_____Block:_____Parcel:_____
Section:_____Block:_____Parcel:_____

(c) Has any portion of the total contiguous landholding in Question (b) (above) as it existed on May 22, 1973 been sold, given away or otherwise subdivided or developed since that date?
No _____
Yes ___ If yes, please list the lots or parcels conveyed from the original parcel and the size of each in square feet or acres. (Use a separate 8-1/2"x11" paper if necessary.)

<table>
<thead>
<tr>
<th>Parcel Number from current tax map</th>
<th>Date of Conveyance</th>
<th>Lot Size (sq. ft. or acres)</th>
<th>Conveyed by sale or gift?</th>
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Provide, as Attachment B, a complete copy of all recorded deeds (not just abstracts) for the above conveyances back through May 22, 1973.

Provide, as Attachment C, a full scale copy of a survey map or the current real property tax map clearly showing the property boundaries of the variance site and any tax parcel or lot that the project site was part of on May 22, 1973.

(d) Are there structures on the total contiguous landholding now owned by the present landowner?
No ____
Yes ___ (Provide the information below. Attach additional sheets if necessary.)

<table>
<thead>
<tr>
<th>Date of Construction</th>
<th>Size (sq. ft. of footprint)</th>
<th>Height (feet)</th>
<th>Type/Use (e.g. store, garage)</th>
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<tbody>
<tr>
<td>1. __________</td>
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<td>2. __________</td>
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<tr>
<td>3. __________</td>
<td>___________________________</td>
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</tbody>
</table>
(e) Describe any other structures and the use of each structure which existed on the variance site as of August 1, 1973 which have since been removed or destroyed (e.g., residential, commercial). Include the date that the structure was removed or destroyed:

(f) Describe in detail any exterior alterations or expansions (including changes to structure height) made to any of the existing structures since August 1, 1973. Provide to-scale plans and details and photographs depicting these structural changes:

8. Variance Description:

(a) Describe the proposed activity and the type and dimension of variance requested:

(b) Provide a detailed description of what the “practical difficulties or unnecessary hardships” posed by the shoreline restrictions are in this situation and explain how the proposal involves a request for a minimum amount of relief from the restrictions:

9. Variance Justification:

Please note that since it is the applicant’s burden to fully justify the need for the Agency to grant a variance, it is important that responses to the following items be as detailed and self-explanatory as possible. On separate sheet(s) labeled Attachment D Variance Justification, provide a detailed response keyed to each of the following items. (Items c and g need not be completed by applicants for sewage setback variances):

(a) Describe any characteristics of the variance site (i.e., boulders, ravines, wetlands, etc., or the size or dimensions of the lot itself) which make compliance with the applicable shoreline restriction practically difficult or impossible. Provide photographs depicting these characteristics.

(b) Describe and document whether the specified practical difficulty in complying with the restrictions identified by the applicant can be avoided by any feasible method other than a variance. Discuss any alternatives in terms of size, location or design of the land use or development in question that would address the difficulty and allow compliance with the shoreline restrictions. Explain all measures considered to address the perceived practical difficulty.

(c) Describe the existing character of the shoreline in the area of the land involved on both the same and opposite sides of the water body, particularly in regard to existing shoreline development, including lot widths and setbacks. Provide photographs depicting the existing character of the shoreline.
(d) Describe and document the extent to which the variance, if granted, would produce a substantial change in the character of the shoreline in this area. Provide supporting facts and documentation, including photographs.

(e) Describe and document the extent to which the variance, if granted, would have a detrimental effect on adjoining and nearby properties. Provide supporting facts and documentation, including photographs.

(f) Describe and document how the variance as requested represents the minimum relief necessary from the restriction.

(g) Describe and document the extent to which the variance, if granted, would affect the water quality of the body of water involved.

(h) Describe and document the extent to which the variance, if granted, would affect the visual character of the shoreline involved. Provide supporting facts and documentation including photographs depicting existing conditions and photo-simulations or photographs altered to depict post-development conditions.

(i) Describe any other factors, including the manner in which the difficulties arose, that relate to this application or to the question of practical difficulties or unnecessary hardships, or otherwise justify the granting of the requested variance.

(j) Describe and document any viable alternatives other than a variance. Provide a description of each alternative considered and all reasons why each is not feasible.

(k) Describe and document any economic impact upon the value of the property involved if the variance is not granted. Provide supporting documentation such as invoices of purchase, realtor's appraisals, etc.

(l) [To be completed only for wastewater treatment system setback variance.] Describe the type and proposed location of the proposed wastewater treatment system and fully explain why it cannot meet the required shoreline setback requirement. If this system will replace an existing system, describe the type, location and adequacy of the existing system and document how the new system will provide for enhanced treatment as compared to the existing system. Provide full-scale copies of maps and/or plans that depict any existing wastewater treatment system.

10. Site Plan Map or Subdivision Map:

Attach, as Attachment E, a SITE PLAN MAP or SUBDIVISION MAP clearly labeled with the map scale, north arrow, date of preparation and name of preparer. The site plan map or subdivision map must be signed and sealed by a NYS licensed design professional (e.g., surveyor, engineer or architect). Draw the map to a scale of 1 inch equals fifty feet (1" = 50') to show the entire variance site. For larger sites, show the entire property at a smaller scale, such as 1" = 100' or 1" = 200' and then show the area of development on a separate map at a scale of 1" = 50'. Show and label on the 1" = 50' scale plan map the following, as applicable:

(a) property boundary lines and proposed lot lines, including dimensions of each line;
(b) APA land use areas and if in an Agency approved local land use program, the local zoning districts;
(c) water bodies, including the water body name, floodplain limits, and mean high water mark of any navigable stream, river, pond, lake or intermittent stream;
(d) wetlands as delineated in the field by Agency staff or a qualified wetlands biologist;
(e) topography (minimum 5-foot field-verified contour intervals);
(f) existing and proposed structures (e.g., single family dwellings, mobile homes, sheds, signs, fences, docks, decks, boathouses), including location, size, use,
and setbacks from all roads, water bodies, property lines and lot lines for each lot to be created;

(g) existing and proposed paved and unpaved roads, driveways and parking area, including locations, dimensions, and construction materials;
(h) existing and proposed public utilities denoting whether above or underground;
(i) existing on-site wastewater treatment systems and water supplies, including all components;
(j) existing vegetative cover types (e.g., fields, woodlands, shrub areas, lawns);
(k) existing areas of steep slopes (greater than 15%);
(l) existing areas of bedrock at or near the surface;
(m) temporary and permanent erosion control and stormwater management facilities, including ditches, swales, culverts, catch basins and sediment basins;
(n) proposed limits of planned vegetative clearing;
(o) proposed landscape plantings, including plant name and size; and
(p) proposed individual on-site water supply and/or individual wastewater treatment system locations (the plan must show all components of each proposed on-site individual wastewater treatment system and a 100% replacement area).

Clearly differentiate between existing and proposed improvements/conditions on this map. The shoreline restrictions are measured from the mean high water mark (MHWM). The MHWM must be established and shown and labeled on the site plan map or subdivision map. At the applicant’s request, Agency staff will determine the MHWM or the determination can be made by a NYS licensed land surveyor experienced in making such determinations.

11. Detailed Plans and Elevations:

For Structure Setback Variances:

Provide, as Attachment F, detailed to-scale building plans and elevations of any proposed buildings or structures, including attached decks, stairs, and porches. Provide to-scale elevations depicting the shortest horizontal distance between the closest portion of the structure(s) to the navigable water body and the water body’s MHWM.

For Wastewater Treatment System Setback Variances:

Provide, as Attachment G, a detailed design report and plans for any proposed new, expanded or replacement on-site wastewater treatment system prepared by a NYS licensed professional engineer. Refer to Agency publication “Minimum Requirements for Engineering Plans for On-Site Wastewater Treatment Systems” [copy available on the Agency’s website (www.apa.ny.gov) or upon request].

12. Landowners Within 500 Feet:

Provide on enclosed Attachment H, a current list of the names and complete mailing addresses of all landowners whose property is located within 500 feet of the boundaries of the variance site, with the tax map references (tax map section, block, and parcel numbers) of all such parcels according to the latest computed tax rolls. This list will be used by the Agency to mail the required public notification to these landowners and other parties of the variance application status and of the variance hearing details.
13. **Historic Resources:**

Does the variance site contain any buildings that are more than 50 years old, or does the site or surrounding area contain any structures or districts which are listed or deemed eligible to be listed on the State or National Register of Historic Places or does the project site involve any known archeological resources?

No _____  
Yes___ (to any of the above criteria)

If Yes, provide a fourth copy of this application with all supporting information and recent photographs of all buildings which are over 50 years old and of the surrounding area. The Agency will forward these materials to the New York State Office of Parks, Recreation and Historic Preservation for its determination of impact on historic resources, its recommendations for studies and surveys and its recommendations for mitigation of any impact to historic resources. The application cannot be deemed complete until that Office has made a final impact determination.

14. **Local Government Notice:**

The Agency cannot approve a variance for a proposal which has been denied a variance or permit or which is a prohibited use under local zoning requirements and other local laws or ordinances. The proposal should be designed to meet the regulatory requirements of local governmental land use controls.

Provide the enclosed Local Government Notice Form after it has been completed and signed by an appropriate official (e.g., Zoning Administrator, Planning Board Chairman or, if there is no Zoning Administrator or Planning Board Chairman, the Town Supervisor or Village Mayor). Please read the form for instructions.

15. **Municipal Approval Documents:**

Provide, as Attachment I, as available, a copy of all municipal documents showing that the proposal has been approved by the municipality (e.g., permits, letters of approval, meeting minutes) if approval is required from the local government.

16. **State and Federal Agency Contacts:**

Complete the following and indicate whether any of the following agencies or departments has been contacted regarding the proposal. To allow for a coordinated review, the Agency variance application may remain incomplete until all state agency applications are complete.

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>NO</th>
<th>YES</th>
<th>DATE</th>
<th>CONTACT PERSON &amp; PHONE #</th>
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<tr>
<td>NYS DOH</td>
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<td>NYS OPRHP</td>
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<td>U.S. ACOE</td>
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<td>Other</td>
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Page 8 of 10
17. **State and Federal Permits, Approvals and Determinations:**

Provide, as Attachment J, copies of all permits, approvals and determinations received from the above agencies.

18. **Required Signatures:**

I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THIS APPLICATION, INCLUDING ALL ATTACHMENTS, AND I BELIEVE THIS INFORMATION TO BE TRUE, ACCURATE AND COMPLETE.

I HEREBY AUTHORIZE THE ADIRONDACK PARK AGENCY AND MEMBERS OF ITS STAFF TO ENTER ON THE PROPERTY DESCRIBED HEREIN FOR THE PURPOSES OF CONDUCTING SUCH INVESTIGATIONS, EXAMINATIONS, TESTS AND SITE EVALUATIONS AS IT DEEMS NECESSARY, AT REASONABLE TIMES AND WITH ADVANCE NOTICE WHERE POSSIBLE, TO VERIFY INFORMATION CONTAINED IN OR RELATED TO THIS APPLICATION FOR A VARIANCE.

**Landowner(s):**

______________________     _________________________       _____________

______________________     _________________________       _____________

signature    print name   date

**Applicant(s) (if not landowners):**

______________________     _________________________       _________

______________________     _________________________       _________

signature    print name   date

**Authorized Representative:**

______________________    _________________________       _________

signature    print name   Date

Enclosures:   Local Government Notice Form
              Variance Process Summary for Applicants
Variance Application – Attachment H

Please provide landowners names, addresses and Tax Map numbers for all properties within 500 feet of the boundaries of the variance site, including those across public roads and rights-of-way.

<table>
<thead>
<tr>
<th>Example: 155-1-27</th>
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<tbody>
<tr>
<td>Mr. John Doe</td>
</tr>
<tr>
<td>Main Street</td>
</tr>
<tr>
<td>Jay, New York 12941</td>
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LOCAL GOVERNMENT NOTICE FORM
for Project/Variance Application to the Adirondack Park Agency

The Adirondack Park Agency will not deem an application complete until the appropriate municipal official in the Town/Village where a project is located has completed, signed and returned this form to the Agency.

If the Town/Village where the project site is located has zoning or other regulations which apply to the proposal, the Adirondack Park Agency will be unable to issue a permit if: (a) the town or village has either refused to grant a necessary permit or variance, or (b) the proposal is a prohibited use in that jurisdiction.

To be completed by the Applicant:
APA Project Number (if available): ______________
Applicant Name:  ___________________ Landowner Name:  ____________________________
Project site location:  Town/Village: ___________________ Tax Map Number: __________________
Project type/description: ______________________________________________________________

If the project involves a subdivision, please provide the appropriate local official a copy of the proposed plat as part of the project description with the plan title and date recorded in the space provided above.

To be completed by the Town/Village:
Does the Town/Village have land use controls?                    ____Yes  ____No
If the Town/Village has zoning, provide Zoning District Name(s)________________________________
Is the “use” allowed in the zoning district(s)                     ____Yes  ____No
Is the project prohibited by any local law or ordinance?          ____Yes  ____No
Does this project require a municipal permit?                    ____Yes  ____No
    If yes, is the required permit a building permit only?       ____Yes  ____No
    If no, identify the type of permit required:____________________
Does this project require a municipal variance?                    ____Yes  ____No
    If yes, identify the type of variance required (e.g., area, setback, etc.)____________________
Does the project require any other municipal approval?            ____Yes  ____No
    If yes, identify the approval required:________________________
Has the municipality received an application for this project?    ____Yes  ____No
    If yes, has the municipality issued any decision on this project?    ____Yes  ____No

Provide explanation for any decisions on this project or inconsistencies the project may have with local laws or any comments you wish to provide to the Agency about the project:________________________

Please provide a daytime contact telephone number with the best days/times to be reached, and/or an email address for the official signing this form, should Agency staff have further questions regarding municipal review of this project: (___)__________________ e-mail____________________________

Signature of Zoning Official or Planning Board Chair (or Supervisor/Mayor if no such official exists)
___________________________________________  _______________________
Name and Title (Print)             Date

Please return this completed & signed form to the address or fax number below.

P.O. Box 99 • 1133 NYS Route 86 • Ray Brook, NY 12977 • Tel: 518 891-4050 • Fax: 518 891-3938 • www.apa.ny.gov

LGNF, rev: 10/30/15