



**LEILANI CRAFTS ULRICH**  
Chairwoman

**TERRY MARTINO**  
Executive Director

## **MEMORANDUM**

**TO:** Regulatory Programs Committee

**FROM:** Richard Weber - Deputy Director, Regulatory Programs

**DATE:** June 2, 2016

**RE:** Variance Request P2015-62, Peter Day

## **SUMMARY**

Peter Day (“applicant”) is the owner of a 0.14±-acre parcel located in the Village of Lake Placid, Town of North Elba, Essex County, on Main Street and the shoreline of Mirror Lake. The property is located in an area classified Hamlet by the Adirondack Park Land Use and Development Plan Map.

The applicant has requested a variance of 28 feet from the 50-foot setback to the mean high water mark of Mirror Lake to allow for the construction of an 8-foot by 40-foot one-story covered porch attached to the first floor of a lawfully pre-existing commercial and residential building located 30± feet from the shoreline. The porch will extend 8 feet closer toward Mirror Lake than the existing building, and will be located approximately 22 feet from the mean high water mark. The porch will serve the existing Black Bear Restaurant, and the applicant’s objective is to provide approximately 20 outdoor seats for restaurant patrons.

The variance site is located on Main Street within the most densely developed portion of the highly developed shoreline of Mirror Lake. This section of shoreline is characterized by small lots with commercial and residential structures that either adjoin or are located within a few feet of each other. Directly to the south of the variance site is a 0.1± acre parcel with a commercial and residential building containing a retail store. The building to the south is adjacent to the building on the variance site. Directly to the north of the site is a 0.1± acre parcel with a mixed commercial and residential building that includes a restaurant and was the subject of Agency Permit and Order 2012-84. The building to the north is separated from the building on the variance site by a few feet. Other nearby and adjoining uses include restaurants, commercial office space, retail stores, tourist attractions, tourist accommodations, a public park, and residential uses characteristic of the business district of the Village of Lake Placid. The variance site is visible from public use areas, including Mirror Lake and Main Street.

### **STAFF ANALYSIS**

In arriving at its determination whether to grant a variance the Agency must consider the criteria set forth in 9 NYCRR § 576.1. It is staff's opinion that this application is approvable under these criteria.

Staff review indicates that construction of the porch will cause minimal aesthetic and other impacts to the quality of the shoreline of Mirror Lake, because the site is located in a Hamlet area along a densely developed section of shoreline and the covered porch will be backdropped by existing development. In addition, staff review indicates there will be minimal impacts to the water quality of Mirror Lake from construction of the porch, provided the applicant complies with the stormwater plans and the Erosion and Sediment Control condition included in the draft Order, and provided the existing vegetated buffer is maintained. The applicant testified that the ability for the restaurant to remain economically competitive is reduced without outdoor seating. Staff find that the adverse consequences to the applicant from denial of the variance request are greater than the potential for impacts to the public purposes served by the shoreline setback restriction.

Staff also reviewed the variance request in relation to the existing lot and building. Specifically, the configuration of the lot and building prevent the applicant from expanding in any direction except toward the shoreline, because of adjacent or nearly adjacent structures on properties to the north and south of the site, and Main Street directly to the west. Staff review also indicates that the request is the minimum necessary to accommodate a single line of tables on the porch, and would not create a substantial detriment to adjoining or nearby landowners.

Based on its analysis of the applicant's proposal, staff recommends that the Agency grant the requested variance as conditioned in the draft Order.