



LEILANI CRAFTS ULRICH
Chairwoman

TERRY MARTINO
Executive Director

MEMORANDUM

TO: Regulatory Programs Committee
FROM: Richard Weber, Deputy Director, Regulatory Programs
DATE: October 6, 2016
RE: Davidow Variance (2015-0204)

RELEVANT FACTS AND BACKGROUND

William Davidow, Cheryl Davidow and Kevin Davidow (“applicants”) are the owners of a 0.22±-acre parcel located in the Town of Dresden, Washington County, on the shoreline of Lake George. The site is located in Huletts Landing, on the eastern shoreline of Lake George. The property is located in an area classified Moderate Intensity Use by the Adirondack Park Land Use and Development Plan Map, and is subject to a 50-foot setback from Lake George for all new accessory structures and principal buildings greater than 100 square feet in size. Lawfully existing structures within the setback area may be replaced, provided they do not expand toward the shoreline or in footprint, width, or height, although a 2-foot increase in height is allowed.¹ Expansions outside the setback area do not require a variance.

The variance site is developed with a three-bedroom single family dwelling constructed in approximately 1956. This dwelling is 1,253.58± square feet in footprint, with 526± square feet of the footprint located within the 50-foot shoreline setback area. The dwelling has a width of 32 feet facing Lake George, and a height of approximately 20 feet 6 inches; this maximum width and height are located within the setback area. The dwelling is 30± feet from the mean high water mark of Lake George at its closest point, and is 2± feet from the southern property boundary along Albert Way. The dwelling is visible from Lake George, and there is little vegetation between the lake and the existing structures.

The applicants’ proposal involves replacing the existing single family dwelling with a larger dwelling while limiting infringement on neighbors’ views of Lake George. Specifically, the proposal involves replacing the existing dwelling with a two-story, five-bedroom single family dwelling also located 30 feet from the mean high water mark. The proposed dwelling would have a footprint of 779± square feet within the setback area, a width of ±43 feet within the setback area, and a height of approximately 30 feet 6 inches at the highest

¹ Under Agency regulations, lawfully existing structures may also be expanded up to 250 square feet in footprint to the non-shoreline side. Because of its configuration, there is no possibility for a non-shoreline expansion of the dwelling involved in this variance request.

roof ridgeline within the setback area. The total footprint of the proposed dwelling, including the areas outside of the setback area, would be 1,964± square feet. This proposal would result in a dwelling 253 square feet larger in footprint, 12 feet wider, and 8 feet taller than any lawful replacement dwelling within the setback area.

The variance site is located in a developed portion of Huletts Landing on the eastern shore of Lake George. The two dwellings closest to the variance site are both located across Albert Way, to the southwest and southeast of the applicants' structure. The dwelling located to the southwest has views of Lake George through an undeveloped and largely non-vegetated strip of property west of the variance site and owned by the applicants, and also across the applicants' property. Views of Lake George from the dwelling located across Albert Way to the southeast are between the applicants' existing shed and the tree line. The existing structures on the variance site directly block views of Lake George from both of these neighboring dwellings only in a diagonal direction. These neighbors, as well as the Huletts Landing Property Owners Civic Association, Inc., wrote letters to the Agency in support of the variance.

During the review process, the applicants considered alternative expansion designs for the dwelling that would not require a variance, including an alternative two-story dwelling that would not increase the footprint, width, or height within the setback area and could be constructed in compliance with the Agency's restrictions. These plans depict a dwelling within the existing footprint and no taller than the existing structure inside the setback area, but 12 feet wider than the existing structure and 8 feet wider than the proposed structure to the west, and 20 feet wider than the existing structure and 12 feet wider than the proposed structure to the east, outside the setback area, for a total width of 64 feet. The applicants determined and submitted documentation that this alternative option would not be feasible because it would infringe on the views of Lake George from the two neighboring properties across Albert Way to the southwest and southeast. The applicants also claim that the two-story alternative would be less aesthetically pleasing from Lake George.

The applicants also evaluated a three story alternative dwelling option. However, this alternative would not be feasible because the property is encumbered by deed covenants limiting any dwelling to two stories in height.

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. While staff encountered some difficulty in arriving at their recommendation, the application is considered approvable under the variance criteria.

Staff review indicates that although the proposed replacement dwelling will be larger and more visible from the lake than the existing dwelling, the water quality of Lake George and quality of the shoreline will be protected. Water quality will be protected by implementation of the stormwater management plan. The quality of the Lake George

shoreline will be protected because the expanded dwelling will be in a developed section of the shoreline and will generally be consistent with the overall character of the neighborhood. The design of the building will minimally affect the lake views of neighbors located to the rear of the applicants' dwelling. The portion of the dwelling located within the setback area will be back dropped by the taller portion of the dwelling located outside of the setback area, for which no Agency review is required.

The harm resulting from denial of the variance request would be that the applicants would be faced with having to build a dwelling that would adversely impact the lake views of their neighbors, and would arguably not be as aesthetically pleasing from Lake George. Under the circumstances, staff believes it would be reasonable for the Agency to find that the adverse consequences to the applicants resulting from denial of this variance request are greater than the public purpose sought to be served by the shoreline restrictions.

Based on its analysis of the applicants' proposal, staff recommends that the Agency approve the requested variance as described in the draft Order.