



SHERMAN CRAIG
Chairman

TERRY MARTINO
Executive Director

MEMORANDUM

TO: Regulatory Programs Committee

FROM: Richard Weber – Deputy Director, Regulatory Programs *REW*

DATE: September 29, 2017

RE: Variance Request P2017-0150, Camp Majano LLC

OVERVIEW OF VARIANCE REQUEST

Camp Majano LLC (the “applicant”) is the current owner of shoreline property and is seeking a variance to expand a pre-existing single family dwelling with boat slips (the “shoreline structure”) on Lake Placid. The variance request is for the addition of one 144-square-foot deck on the front/north side (lake side) of the shoreline structure.

The variance site is located on the northeast side of Buck Island on Lake Placid in the Town of North Elba, Essex County, on an 18.6±-acre property in an area designated as Rural Use on the Adirondack Park Land Use and Development Plan Map. The tax map numbers for the property are: Section 33.016, Block 1, Parcel 2 and Section 33.015, Block 2, Parcel 9. The property is improved by a 10-bedroom single family dwelling constructed 1917, a guest cottage constructed c. 1920, a single family dwelling with boat slips constructed c. 1920 (the “shoreline structure”), and a separate, lawfully-existing non-conforming dock.

The variance site includes approximately 1360 feet of shoreline on Lake Placid. The closest neighboring structure to the west is approximately 140 feet from the requested deck. The closest neighboring structure to the east is around the other side of a point of land owned by the applicant. The shoreline opposite the shoreline structure is Moose Island, 0.25± miles across Lake Placid (Shelter Strait) and predominantly forested.

The footprint of the shoreline structure is approximately 80 feet wide along the shoreline by 34 feet deep. The lower level includes four boat slips. The upper level includes a dwelling unit with two bedrooms.

The requested deck would be located at the water level of Lake Placid, beneath a 100-square-foot deck authorized by APA Order Granting Variance 2016-100, and would cover and be supported by two steel tiebacks authorized by APA Order

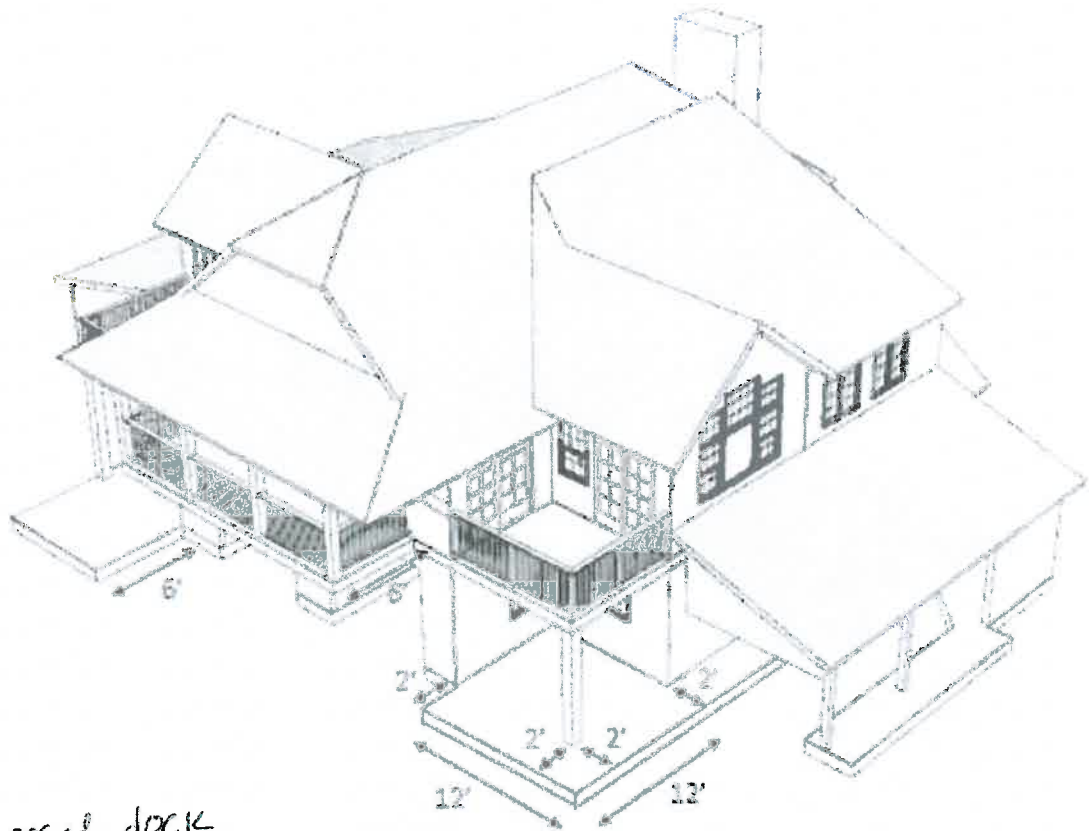
Granting Variance 2016-0100A. The applicant's objective is to cover the steel tiebacks for both safety and aesthetic reasons. The safety reasons described by the applicant in Exhibits A, F, and Applicant 1, include the potential for people or animals to fall into the water between the tiebacks, the temptation for kids to walk on the tiebacks as balance beams, and the complication added by the tiebacks to docking a boat in the nearest boatslip.

The two existing tiebacks are 10 feet in length. The requested deck would be 12 feet by 12 feet in size to cover the 10-foot by 10-foot square created by the tiebacks, plus 2 feet of overhang beyond the tiebacks on the lake (north) side and on the boatslip (west) side, resulting in an expansion of the shoreline structure by 144 square feet. The deck would not increase the width or height of the overall shoreline structure, and would not extend further into the lake than the most lakeward part of the shoreline structure, a covered porch on the northern side.

A variance from the Adirondack Park Agency is required for the deck pursuant to Executive Law § 806. Executive Law § 806 requires that all principal buildings and accessory structures (except boathouses and docks) in excess of one hundred square feet in a Rural Use land use area be set back at least 75 feet from the shoreline. Pursuant to 9 NYCRR § 575.5, a variance is required for the expansion within the shoreline setback of any existing single family dwelling, except for minor rearward and height expansions. A variance is required even when the new structure will be located wholly or partially beneath the footprint of a structure already authorized by an Agency variance.

The purpose of this memorandum is to summarize the facts from the record that are relevant to the Agency's consideration of the requested variance.

On August 17, 2017, the applicant provided the following schematic drawing with a handwritten note (Exhibit A) depicting the location of the proposed deck (Lower Deck Plan):



proposed deck
extends 2' past structure.
Above ^{pre-existing} center deck extends 6' past
structure. Existing East deck
extends 6' past structure.

On August 17, 2017, the applicant provided this photograph labeled "boat docking hazard" (Exhibit A), showing the steel tiebacks that would be covered by and support the proposed deck:



PUBLIC HEARING

Following receipt of the variance application, the Agency notified all parties as required by Agency regulations. On Thursday, September 28, 2017 at the NYS Adirondack Park Agency, Administrative Law Judge Molly McBride conducted a hearing pursuant to APA Act § 806 and 9 NYCRR § 576.5. In attendance for the applicant were Katrina Kroes (authorized representative) and Arthur Lussi. In attendance for Agency staff were Paul Van Cott (Associate Attorney) and Ariel Lynch (Environment Program Specialist 2). There were no members of the public in attendance and no public comment was given. Ms. Kroes submitted a written copy of her opening statement as Exhibit Applicant 1.

REVIEW BY OTHERS

The shoreline structure is eligible for listing in the State and National Registers of Historic Places as a contributing resource to the Buck Island Camps Historic District. The NYS Office of Parks, Recreation and Historic Preservation issued a letter dated September 2, 2017 (#A17PR05859) finding that “the proposed work would have No Adverse Impact on the eligible historic resource.”

On September 6, 2017, the Town of North Elba issued a building permit for “addition of a 12’ x 12’ deck to existing boathouse” (Exhibit I).

RECENT STRUCTURE MODIFICATIONS

Additional interior space was added to the east and west side of the upper level of the shoreline structure in 2016 with the addition of roof gables, which did not require an Agency permit or variance.

APA Order Granting Variance 2016-0100 (Exhibit V), issued June 14, 2017, authorized the addition of two 10-foot by 10-foot decks on the front/north side (lake side) of the shoreline structure, each supported by one post/caisson, resulting in an increase in footprint of 200 square feet within the mean high water mark of Lake Placid.

APA Order Granting Variance 2016-0100A (Exhibit Z), issued July 24, 2017, authorized the addition of three additional caissons and two steel tiebacks beneath the upper west deck as an amendment to the original Order. In Order 2016-0100A, the Agency also determined that a deck in the same location as now proposed would require a new variance.

On August 17, 2017, the applicant provided the following photograph of the shoreline structure (Exhibit A), labeled "existing view from lake," with construction of the upper decks in progress and the uncovered steel tiebacks in place:



Existing view from lake

APPLICABLE LAW

The Adirondack Park Agency may vary the restrictions of Executive Law § 806 if the applicant establishes that there are practical difficulties or unnecessary hardships in carrying out the strict letter of the restrictions. 9 NYCRR § 576.1(b) provides that an Agency variance will 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." The purpose of the shoreline restrictions is protection of water quality in the lake and the quality of the shoreline itself. Executive Law § 806(1).

In determining whether to grant a variance, the Agency considers the factors set forth in 9 NYCRR § 576.1(c):

Whether the application requests the minimum relief necessary.

The applicant could minimize the size of the requested deck by not extending the deck two feet further into the lake beyond the existing steel tiebacks. The resulting deck would be 10 feet by 12 feet in size rather than 12 feet by 12 feet, a reduction of 24 square feet. This smaller deck would address the applicant's safety concerns by covering the tiebacks and aligning the west edge of the deck with the boatslip. Facing the steel tiebacks and caissons with wood would also address the applicant's aesthetic concerns.

Whether granting the variance will create a substantial detriment to adjoining neighbors.

The deck for which a variance is requested would be back-dropped by the existing shoreline structure, and would be approximately 140 feet from the closest neighbor's structure, which is located to the west along the shoreline of Buck Island. Other similar structures already exist along the shoreline.

Whether the difficulty can be obviated by a feasible method other than a variance.

Alternatives that would not require a variance include facing the steel tiebacks with wood and/or bumpers, and placing a dock no wider than 8 feet over the steel tiebacks. However, with either alternative, uncovered or partially uncovered steel tiebacks would remain, and the applicant's safety concerns would not be addressed.

The manner in which the difficulty arose.

The applicant became the owner of the variance site in 2015, when the Agency's current shoreline regulations were in effect. The steel tiebacks that have created the safety and aesthetic concerns were recently installed in accordance with APA Order Granting Variance 2016-0100A (July 2017) to support an upper west deck granted by APA Order Granting Variance 2016-0100 (June 2017). The need for the additional caissons and steel tiebacks, and any related safety and aesthetic concerns, could have been proposed and considered as part of the original variance request.

Whether granting the variance will adversely affect the natural, scenic, and open space resources of the Park and any adjoining water body, due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur.

The deck for which a variance is requested would be back-dropped by the existing shoreline structure, would complement the architecture of the dwellings and cottage on the site and is consistent with the character of existing development along the shoreline. Construction of the deck will not involve any upland earth disturbance or increase surface water runoff into Lake Placid.

CONCLUSION

After reviewing the variance factors, the Agency board must determine whether the “adverse consequences to the applicant from denial of the variance request are greater than the public purpose sought to be served by” the shoreline restrictions. Denial of the requested variance would require the applicant to consider other means of addressing safety or aesthetic concerns with respect to the steel tiebacks.

Granting the requested variance may set a precedent for approving functionally integrated parts of a proposal without considering the planned development in its entirety. Staff encourage applicants to fully plan their proposals in advance in order to avoid the need for multiple variances and the potential for greater adverse consequences to the shorelines of the Park.