

<p>ADIRONDACK PARK AGENCY Division of Regulatory Programs PO Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Telephone (518) 891-4050 www.apa.ny.gov</p>		<p>APPLICATION FOR VARIANCE FROM SHORELINE RESTRICTIONS</p>
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The Adirondack Park Agency Act and Agency regulations implementing the NYS Wild, Scenic and Recreational Rivers System Act establish shoreline restrictions on lands associated with lakes, ponds, rivers, and streams. A variance must be obtained from the Agency before undertaking any development activity that does not comply with these restrictions.

Variances are not automatically granted. In order to determine whether a variance request can be approved, the Agency must conduct a thorough analysis of the specific proposal, viable alternatives, and the potential for impacts. Specifically, Agency regulations require consideration of the following for each proposal:

- Potential adverse consequences to the applicant resulting from denial of the variance;
- 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 lands and waters of NYS due to erosion, surface runoff, subsurface sewage effluent; and
- Whether the inclusion of conditions in a variance order would ameliorate any adverse impacts.

The burden is on the applicant to demonstrate that a variance is warranted. Agency staff's role is to assist the applicant in creating a record that will allow for a final decision based on analysis of the criteria listed above.

The first step in the variance process should always be a site visit or a pre-application meeting with Agency staff. This site visit or meeting should occur even before submission of the attached application, as it will provide an opportunity for an initial analysis of the proposal and potential alternatives that may eliminate the need for a variance. The site visit will also aid in determining which contents of the site plan and other documents will need to be submitted, should a variance be required. Please contact the Agency's Regulatory Programs division at the address/telephone number listed above to schedule a site visit.

Instructions: The variance application consists of the following questions related to the site, history, and ownership, as well as one or more appendices specific to the variance type. Submit **three** copies of the completed application to the Agency to 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.**

Please note that a permit application will also be required for any proposal that involves both a shoreline restriction variance and an Agency permit.

Variance Description: Please submit a narrative description of the proposal, including proposed dimensions. To determine which appendices must be included as part of the application, please check which of the following activities apply to the proposal:

- A. Expansion of an existing single family dwelling within the shoreline setback

TO BE DEVELOPED....

- B. Expansion of an existing structure other than a single family dwelling within the shoreline setback
- C. Construction of a new structure within the shoreline setback
- D. Construction of a retaining wall or other structure for shoreline stabilization
- E. Construction of a dwelling without the minimum required shoreline lot width
- F. Construction of a wastewater absorption field within 100 feet of a water body
- G. Removal of shoreline vegetation in excess of Agency standards

1. Applicant:

2. Current Variance Site¹ Landowner(s):
(if different from Applicant)

Name(s): _____

Name(s): _____

Mailing Address: _____

Mailing Address: _____

Telephone (Daytime): _____

Telephone (Daytime): _____

Fax/E-mail: _____

Fax/E-mail: _____

¹ The variance site is usually the deeded parcel on which the activity requiring a variance is proposed to occur.

3. Applicant's Legal Interest in Variance Site (check the one that applies):

- owner
- lessee
- signed purchase agreement holder
- option holder
- other. Specify: _____

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

4. Applicant's Authorized Representative:

By filling in the name and address below and signing this application, the applicant is authorizing the designated representative 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. Please note that the applicant is ultimately responsible for the accuracy of the information provided in this application.

Name: _____

Mailing Address: _____

Telephone Number (daytime): (____) _____

FAX/E-mail: _____

5. Recorded Deed:

Provide a copy of the current deed, including the recording information, for the variance site. Copies of deeds are available from the County Clerk's Office.

6. Variance Site Information:

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: _____

Local Setbacks (feet): Shoreline: _____ Front: _____ Back: _____ Side: _____

(a) On May 22, 1973, did the owner of the variance site also own any adjoining property?

No

Yes

Provide the Tax Map Numbers:

Section: _____ Block: _____ Parcel: _____

Section: _____ Block: _____ Parcel: _____

(b) Has any portion of the total contiguous landholding described above been sold, given away or otherwise subdivided since May 22, 1973?

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.

Parcel Number from current tax map	Date of Conveyance	Lot Size (sq. ft. or acres)	Conveyed by sale or gift?
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(d) Are there structures on the variance site?

No

Yes Provide the information below; attach additional sheets if necessary.

Date of Construction	Size (sq. ft. of footprint)	Height (feet)	Type/Use (e.g. store, garage)
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

(e) Describe any other structures that existed within the shoreline setback area on the variance site on August 1, 1973 that have since been removed or demolished. Include the date that the structure was removed or demolished, and note whether the structure was used for residential, commercial, or accessory purposes.

(f) Describe any exterior alterations or expansions (including changes to structure height) made to any structures located within the shoreline setback area since August 1, 1973.

7. Prior Agency Action:

(a) Have there been any previous discussions with Agency staff regarding the variance site, or has any Agency staff visited the property?

No

Yes Staff person's name: _____

Date of Contact: _____

(b) Has the variance site been the subject of any past Agency action, such as an Agency permit, variance, jurisdictional determination, enforcement case, or wetland flagging determination?

Unknown

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: _____
 Site Visit _____ date: _____

8. Nearby Landowners:

Please note that a current list of the names, mailing addresses, and tax map references for all landowners with property located within 500 feet of the boundaries of the variance site must be submitted by the applicant prior to the public notice and comment period required for the variance request.

9. Historic Resources:

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

No _____
 Yes _____ Describe: _____

10. Other Regulatory Permits and Approvals:

The Agency cannot approve a project that has been denied a permit or is a prohibited use under local laws or ordinances, unless authorized by a use variance or other means. The project should be designed to the regulatory requirements of all involved municipalities and agencies.

Local, State and Federal Agency Contacts: Complete the following and indicate whether any of the following agencies have been contacted. Please provide copies of any applications and other correspondence between the applicant and the agencies listed below. Your APA application will remain incomplete until applications have been submitted to all involved agencies. Please also provide a copy of the relevant minutes from any local meetings at which the project has been discussed.

Agency	No	Yes	Date	Contact Person and Phone Number
Local Zoning Authority				
NYS Dept. of Health				
NYS Dept. of Transportation				

Appendix A

Expansion of an existing single family dwelling within the shoreline setback

1. Please evaluate and describe whether the following alternatives (which do not require a variance) could meet the applicant's objectives:
 - Construction outside the shoreline setback area (including portions of existing structures);
 - Use of existing lawful footprints within the shoreline setback area (this may involve enclosing lawfully existing raised decks to create additional screened or interior space);
 - Construction of a "minor expansion" of the single family dwelling by undertaking any or all of the following:
 - An increase of up two feet in height measured from the highest ridgeline within the shoreline setback area;
 - An increase of up to 250 square feet of footprint to the rear (nonshoreline side); and/or
 - The addition of a stoop no larger than 25 square feet providing access to the rear or side of the dwelling.

2. Please check which of the following applies to the proposal within the shoreline setback area:
 - Closer: The dwelling will be located closer to the mean high water mark than closest point of the existing structure
 - Width: The dwelling will be wider than the widest point of existing structure, as viewed from the shoreline
 - Height: The dwelling will be taller than the highest point of the existing structure within the shoreline setback area
[Note that a minor increase in height may not require a variance, as described above]
 - Footprint: The dwelling will have a greater footprint, including in-fills, within the shoreline setback area

3. Does the proposal result in an increase in the number of bedrooms in the dwelling? If yes, please provide a detailed design report and plans prepared by a NYS licensed professional engineer for a new, expanded, or replacement on-site wastewater treatment system. Alternatively, provide an evaluation prepared by a NYS licensed professional engineer of the existing system that demonstrates compliance with applicable local and state standards. Refer to the Agency's

publication “Minimum Requirements for Engineering Plans for On-Site Wastewater Treatment Systems,” available at www.apa.ny.gov, for additional information.

4. Attach a building floor plan prepared by a qualified professional (NYS licensed surveyor, engineer, architect, etc.) and clearly labeled to scale, with the date of preparation and name of preparer. The building floor plan should depict the existing and expanded dwelling, including attached structures such as decks, stairs, and porches. If the proposal involves an increase in height of the dwelling within the shoreline setback area, provide to-scale elevation views of the existing and proposed dwelling.

5. Attach a site plan map prepared by a qualified professional and clearly labeled with the scale, north arrow, date of preparation, and name of preparer. Draw the map to an appropriate engineer’s scale between 1” = 10’ and 1” = 50’ to show the entire variance site. Depict and label the following on the plan, as applicable:
 - property boundary lines, including dimensions of each line, and any applicable local setbacks from roads, water bodies, property lines, etc.;
 - existing structures (single family dwellings, mobile homes, sheds, docks, decks, boathouses, etc.), including location and size;
 - proposed footprint of the dwelling expansion (clearly differentiate between existing and proposed footprints);
 - APA land use areas;
 - mean high water mark of any lake, pond, or navigable river or stream (to be determined or verified by Agency staff);
 - centerline of all non-navigable streams, including intermittent streams;
 - wetlands as delineated in the field by Agency staff or a qualified wetlands biologist;
 - topography within 100 feet of the dwelling (minimum 10-foot field-verified contour intervals);
 - existing areas of steep slopes (greater than 15%) within 100 feet of the dwelling;
 - existing and proposed paved and unpaved roads, driveways, and parking areas, including locations, dimensions, and construction materials;
 - existing and proposed on-site wastewater treatment systems and water supplies, including all components;
 - existing areas of vegetation and cover types (fields, woodlands, shrub areas, lawns, etc.);
 - proposed erosion and sediment control measures such as plantings, sediment basins, silt fence, and straw bales;
 - proposed stormwater management practices such as eave infiltration trenches, rain gardens, and infiltration basins;
 - proposed areas of vegetative clearing; and
 - proposed landscape plantings, including plant names and size.

6. Please provide a separate Stormwater Management Plan and Erosion and Sediment Control Plan prepared by a qualified professional. The Stormwater Management Plan must include treatment of the water quality volume associated with any new impervious area. To the extent practicable, the Plan should also treat existing impervious areas. For purposes of sizing, stormwater practices, and water quality treatment, 1.5 gallons of runoff per square foot of impervious area can be assumed. For additional information describing various practices, please refer to the 2015 *New York State Stormwater Management Design Manual*. For additional information regarding erosion and sediment control, please refer to the 2016 *New York State Standards & Specifications for Erosion and Sediment Control*.

7. Variance Justification:

Minimization:

- Describe and document how the requested variance represents the minimum relief necessary from the shoreline restrictions. As a part of this description, please describe and provide photographs and/or other documentation of any characteristics of the variance site that make additional compliance difficult or impossible. These characteristics may include the existence of slopes, boulders, ravines, wetlands, and other features, as well as the size or dimensions of the lot.
- Describe any efforts that were made prior to the current proposal to minimize the request. Include a description of any efforts to minimize the footprint, width, and height of the proposed expansion, and to maximize the distance from the mean high water mark.

Potential Impacts:

- Describe the extent to which the variance, if granted, would create impacts to the natural, scenic, open space, or other resources of the Park. Describe and provide photographs depicting the existing character of the shoreline near the variance site, on the same and opposite sides of the water body, and describe how the variance, if granted, would produce a change in the character of the shoreline in this area. Provide supporting facts and documentation. Please note that supplemental information may be requested as part of the application review, including photo-simulations or photographs altered to depict post-development conditions.
- Describe and document any potential impacts that the variance, if granted, would cause to water quality, including stormwater runoff, wastewater treatment, or other project components that may impact water quality. Include any justification for why the variance should be granted despite these potential impacts.
- Describe and document any other effects, such as grading, stormwater runoff,

and visual impacts that the variance, if granted, would have on adjoining and nearby properties. Provide supporting facts and documentation, including photographs, as appropriate.

Variance Site History:

- Describe how the need for a variance arose. This may involve the characteristics of the variance site, changes to the site that have occurred over time, and the laws that were in place when the applicant acquired the site.

Adverse Consequences:

- Describe and provide supporting documentation of any adverse consequences that would result from denial of the variance.

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