


THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>DRAFT APA Project Permit 2007-11R3</p>
<p>In the Matter of the Application of</p> <p>DAVID J. NENNI Permittee</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: XXXX</p> <p>To the County Clerk: This permit must be recorded on or before XXXX. Please index this permit in the grantor index under the following name: 1. David J. Nenni</p>

SUMMARY AND AUTHORIZATION

This renewed permit authorizes construction of a single-family dwelling and related development in an area classified Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map in the Town of Broadalbin, Fulton County.

This permit shall expire unless recorded in the Fulton County Clerk's Office on or before **XXXX**, in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when the foundation for the single-family dwelling is installed.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

PROJECT SITE

The project site is a 4.4± acre parcel of land located on James Drive, in the Town of Broadalbin, Fulton County, in an area classified Moderate Intensity Use and Rural Use on the Adirondack Park Land Use and Development Plan Map. The site is identified as Town of Broadalbin Tax Map Section 138.01, Block 1, Parcel 32.11, and is described in a deed from Kathleen F. Repko to David J. Nenni dated December 30, 2005, and recorded March 30, 2006 in the Fulton County Clerk's Office at Book 1034, Page 48.

The project site is authorized as lawful for purposes of Agency jurisdiction pursuant to Settlement Agreement E2006-260, executed October 13, 2006.

PROJECT DESCRIPTION

The project as conditionally approved herein involves construction of a three-bedroom single-family dwelling on the Moderate Intensity Use portion of the project site with an attached deck, attached garage, and a footprint of 2,668± square feet. The dwelling will be served by an on-site wastewater treatment system and individual well. The project is shown on the following maps and plans:

- “Plot Plan of Lot No. 8, Deerhaven Estates, Prepared for David J. Nenni,” prepared by Northeast Land Survey & Land Development Consultants, P.C., dated May 24, 2007 and last revised June 28, 2007 (Site Plan); and
- “Standard Details Shallow Absorption System,” prepared by Northeast Land Survey & Land Development Consultants, P.C., dated May 24, 2007 (Septic Plan).

A reduced-scale copy of the Site Plan for the project is attached as a part of this permit for easy reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

AGENCY JURISDICTION

Pursuant to Term 1 of Agency Settlement Agreement E2006-260, a permit is required from the Agency prior to undertaking any new land use and development on the project site.

CONDITIONS

THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project shall not be undertaken until this permit has been recorded in the Fulton County Clerk's Office.
2. This renewed permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project. Copies of this permit, Site Plan and Septic Plan shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.

3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This Permit amends and supersedes Permits 2007-11, 2007-11R, 2007-11R2 and Settlement Agreement E2006-260. The terms and conditions of Permits 2007-11, 2007-11R, 2007-11R2 and Settlement Agreement E2006-260 shall no longer apply to the project site.

Deeds

Recordation

5. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2007-11R3, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Development

Construction Location and Size

6. Subject to the conditions stated herein, this permit authorizes the construction of one single-family dwelling and attached garage in the location and footprint depicted on the Site Plan. The dwelling shall not exceed 40 feet in height, as measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade, whichever is lower. Any change to the location or expansion of the footprint of the dwelling shall require prior written Agency authorization.
7. The construction of any additional dwelling or other principal building on the Moderate Intensity Use portion of the project site shall require prior written Agency authorization. The construction of any accessory structure on the project site shall require prior written Agency authorization.

Outdoor Lighting

8. Any new free-standing or building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward James Drive or adjoining property.

Tree Cutting/Vegetation Removal

9. Within 50 feet of the "Edge of Clearing" depicted on the Site Plan, no trees, may be cut or otherwise removed on the project site without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

Wetlands

10. The undertaking of any activity involving wetlands shall require a new or amended permit.

Invasive Species Control/Sanitizing Equipment

11. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites.

Density

12. There shall be no principal buildings located on the Rural Use portion of the project site.
13. There shall be no more than two principal buildings located on the Moderate Intensity Use portion of the project site. The single-family dwelling authorized herein constitutes a principal building. The Agency makes no assurances that the maximum development mathematically allowed can be approved.

Infrastructure

Wastewater

14. Any on-site wastewater treatment system on the project site installed within five years of the date of issuance of this permit shall be constructed in conformance with the location and design shown on the Site Plan and Septic Plan. Construction of the system shall be supervised by a New York State design professional (licensed engineer or registered architect). Within 30 days of complete system installation and prior to its utilization, the design professional shall provide written certification to the Agency that the system was built in compliance with the approved plans.

No on-site wastewater treatment system shall be installed on the project site more than five years after the date of issuance of this permit except pursuant to written authorization from the Agency.

Erosion and Sediment Control

15. Prior to undertaking any earth disturbance on the project site, silt fence shall be installed between the area of disturbance and wetlands. The silt fence shall be embedded into the earth a minimum of six inches and shall be a minimum of 50 feet from the wetland. The silt fence shall be maintained throughout construction and shall not be removed until after all disturbed soils are stabilized with growing vegetation. The applicants, their agents, or their successors in interest shall inspect the fabric at least once a week and after every major storm event to ensure the fabric and supports are intact and to remove accumulated sediments to maintain the fence in a functional manner. Any areas of disturbed soils that are not subject to active construction for a period of seven days shall be temporarily stabilized with ryegrass and mulch.

FINDINGS OF FACT

Request for Renewal

1. By letter received on January 16, 2019, a request was made to renew Adirondack Park Agency Permit 2007-11R2; constituting the third renewal of original Permit 2007-11. Agency Permit 2007-11R2 was recorded May 18, 2015 in the Fulton County Clerk's Office under Instrument Number 2015-31676.
2. The project as originally proposed and authorized has not been undertaken to date. The applicant has requested that the Agency issue a renewed permit to allow the project to be undertaken and completed as originally proposed and authorized. No changes to the project are proposed.

Background/Prior History

3. The 2006 subdivision creating the project site required Agency approval due to the presence of wetlands. Agency Settlement Agreement E2006-260 authorized the project site as lawful for purposes of Agency jurisdiction and required a permit prior to any new land use and development.

Project Site

Wetlands

4. A shrub swamp/emergent marsh complex with a value rating of "2" is located south of the development authorized herein. Additional wetlands not described herein or depicted on the Site Plan may be located on or adjacent to the project site.

Vegetation

5. The property is vacant and mostly wooded with a mixture of coniferous species such as white cedar, spruce and hemlock.

Soils/Slopes

6. Based on deep hole test pit data, the depth to the seasonal high groundwater table is 36 inches and depth to bedrock is greater than 72 inches in the location of the on-site wastewater treatment system authorized herein. The percolation rate of the soils is 1 inch in 15 minutes.
7. Slopes in the vicinity of the on-site wastewater treatment system, driveway and single-family dwelling are 5-7%.

Historic Sites or Structures

8. There are no structures greater than 50 years old on or visible from the project site, and the site is not within an archeologically sensitive area as mapped by the Office of Parks, Recreation, and Historic Preservation.

Nearby Land Uses

9. The existing character of the area is primarily residential development.

Access

10. Existing access to the project site is from James Drive.

Infrastructure

Wastewater

11. The Septic Plan includes a shallow absorption trench system with trenches installed at existing grade and is designed for a dwelling that includes no more than three bedrooms.

PROJECT IMPACTS

Visual

12. Requiring downward-directed, fully-shielded exterior lighting will reduce nighttime light pollution (glare, light trespass, sky glow) and reduce potential visibility from neighboring properties. Limiting the maximum footprint size and height of the dwelling and limiting the removal of vegetation will minimize potential visual impacts from the development.

Habitat/Wetlands

13. Provided the development authorized herein is undertaken in the location depicted on the Site Plan and in accordance with the conditions of the permit, the entire wetland will be preserved.

14. Requiring written authorization prior to any change in the authorized location of development and future construction on the project site will allow the Agency to ensure that the location and manner of construction will not adversely impact wetlands. A new or amended permit will be required for any future activity that involves wetlands pursuant to 9 NYCRR § 578.

Soils/Surface Waters/Groundwater

15. An on-site wastewater treatment system constructed as located and depicted on the Site Plan and Septic Plan will comply with all applicable New York State Department of Health and Agency standards, adequately protecting ground and surface water resources.
16. Requiring installation of silt fence will protect against sedimentation of wetlands and waterbodies.

Invasive Species

17. Requiring inspection and cleaning of construction vehicles and tools prior to use on the project site or after use in an area with invasive plant species will reduce the likelihood of spreading invasive plants to the project site and adjoining properties.

Historic Sites or Structures

18. The project will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR § 426.2 for the purposes of implementing § 14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 574. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Moderate Intensity Use land use area;
- c. will be consistent with the overall intensity guidelines for the Moderate Intensity Use land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act;
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project;
- f. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state; and
- g. will result in minimal degradation or destruction of the wetland or its associated values, and is the only alternative which reasonably can accomplish the applicant's objectives.

