

STATE OF NEW YORK: ADIRONDACK PARK AGENCY

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In the matter of the apparent
violation of Executive Law § 806
by:

Agency File #2019-0127

**JOSEPH COTAZINO, JR.
JOY COTAZINO**

Respondents.

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STATE OF NEW YORK)
) ss:
COUNTY OF ESSEX)


Trevor S. Fravor being duly sworn, deposes and says:

1. I am an Enforcement Officer for the Adirondack Park Agency (the APA or Agency), an executive agency of the State of New York created pursuant to Executive Law § 803, with offices located in the Town of North Elba, Essex County, New York, and have served in this position since 2004.
2. As part of my duties, I am responsible for investigating alleged violations of the New York State Adirondack Park Agency Act, the Freshwater Wetlands Act, and the Wild, Scenic and Recreational River System Act in an area that includes the Town of Wells, Hamilton County.
3. I am familiar with the file in this case and am the Enforcement Officer who undertook Agency staff's investigation into this matter. Prior to making this affidavit, I reviewed the enforcement file, which includes but is not limited to my notes, and other information discovered during my investigation into this matter, as well as official Agency documents. I make this affidavit in support of APA staff's request for a determination by the Enforcement Committee finding the alleged violation and ordering the relief described in the Notice of Apparent Violation and Request for Enforcement Committee Determination.
4. Tax Map Parcel 130.18-1-17.100 (Lot 17.100) is an approximately 0.24-acre parcel located on Hamlet Use lands in the Town of Wells, Hamilton County. Exhibit 1 and Exhibit 2. Respondents are the current owners of Lot 17.100, as described in deeds recorded in Book 208, Page 898 and in Book 234, Page 549 in the Hamilton County Clerk's Office. Exhibit 3.
5. On July 25, 2017, Agency staff issued Jurisdictional Determination J2017-0444 stating that the proposed construction of a single family dwelling on Lot 17.100,


as shown on a site plan titled "Survey Map of Joseph & Joy Cotazino," prepared by Ferguson & Foss PLSPC and dated August 9, 2012, did not require a permit or variance from the Agency. Exhibit 4.

6. On August 7, 2018, the Agency received an updated proposal from Respondents involving construction of a single family dwelling within 50 feet of the mean high water mark of Lake Algonquin. Respondents included a letter from the Town of Wells in their proposal indicating that the Town had concerns with the placement of the initially proposed single family dwelling in "such close proximity" to Kibler Point Road. Exhibit 5.
7. On August 20, 2018, I visited Lot 17.100 with Agency Engineer Shaun LaLonde to meet with Respondent Joseph Cotazino. Agency staff identified a potential footprint for the single family dwelling that would not require a variance from the Agency, and Respondent Joseph Cotazino indicated that he was satisfied with the location of the footprint outside the shoreline setback area. I informed Respondent Joseph Cotazino that if a deck was attached to the shoreline side of the single family dwelling it would be located within the shoreline setback area of Lake Algonquin and require a variance from the Agency.
8. On October 18, 2017, the Town of Wells issued a building permit to Respondents for a "one family dwelling" that included a 704-square-foot deck. This permit was renewed on October 16, 2018. Exhibit 6.
9. On May 30, 2019, Agency staff opened Enforcement File E2019-0072 in response to allegations that Respondents had constructed a single family dwelling within the shoreline setback area without first obtaining a variance from the Agency.
10. On June 11, 2019, I visited Lot 17.100 to inspect the site and meet with Respondent Joseph Cotazino to discuss the matter. At the time of the site inspection, the single family dwelling was under construction. I observed that the foundation of the dwelling was located approximately within the footprint identified on August 20, 2018, and approximately 50 feet from the mean high water mark of Lake Algonquin. I again informed Respondent Joseph Cotazino that if a deck were to be attached to the shoreline side of the single family dwelling on Lot 17.100 it would be located within the shoreline setback of Lake Algonquin and require a variance from the Agency.
11. Based on my June 11, 2019 site inspection, Agency staff closed Enforcement File E2019-0072 on June 12, 2019.
12. On August 13, 2019, after receiving a complaint that Respondents were in violation of the Agency's shoreline restrictions, I confirmed by field visit that Respondents had constructed a single family dwelling with an attached deck within 50 feet of the mean high water mark of Lake Algonquin without obtaining a variance from the Agency. I measured the deck to be approximately 12 feet by

- 28 feet (336 square feet) and observed that most, if not all, of the deck is located within the shoreline setback area on Lot 17.100. The deck is also visible from Lake Algonquin and neighboring properties. A photograph that I took of the deck is attached to this Affidavit as Exhibit 7.
13. Based on my August 13, 2019, site visit, Agency staff opened Enforcement File E2019-0127.
 14. On August 21, 2019, a cover letter and proposed settlement agreement intended to resolve the apparent shoreline structure setback violation on Lot 17.100 were forwarded by staff to Respondents. The proposed agreement required that the deck be removed by October 31, 2019, and payment of a civil penalty in the amount of \$1000.
 15. On September 5, 2019, the Agency received a letter from Respondents' attorney indicating that Respondents' "are not able to enter into the settlement agreement as currently proposed," and requesting that Agency staff contact Respondents' attorney to discuss resolution of the matter. Exhibit 8.
 16. Based on my file review, on October 1, 2019, Agency Enforcement Program Supervisor John Burth spoke with Respondents' attorney over the telephone.
 17. On October 16, 2019, Agency staff received another letter from Respondents' attorney confirming that Respondents "cannot consent to the terms of [the] proposed Settlement Agreement" and indicated their understanding that the "Agency will now issue a Notice of Apparent Violation." Exhibit 9.
 18. On November 8, 2019, Agency staff forwarded a letter to Respondents' attorney advising that the enforcement matter would be referred to the Agency's Enforcement Committee. Exhibit 10.
 19. On November 20, 2019, I viewed Lot 17.100 from off-site. I observed that additional construction had been undertaken on the deck, including the addition of posts and a stairway. Photographs that I took of the deck on this date are attached to this Affidavit as Exhibit 11 and Exhibit 12.
 20. On December 20, 2019, Agency staff forwarded a letter to Respondents' attorney. In this letter staff advised "that any further construction associated with the apparent shoreline structure setback violation on your clients' property may result in additional enforcement action and/or the assessment of civil penalties." Exhibit 13.
 21. On January 27, 2020, I observed Lot 17.100 from off-site. I observed that no additional construction had been undertaken on the deck since my last observation on November 20, 2019. A photograph that I took of the deck on this date is attached to this Affidavit as Exhibit 14.


Trevor S. Fravor

Sworn to before me this
31 Day of January, 2020


Notary Public

SUSAN A. STREIFF
Notary Public - State of New York
Qualified in Franklin County
No. 01ST6229306
Commission Expires Oct. 12, 2022