

STATE OF NEW YORK: ADIRONDACK PARK AGENCY

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In the matter of the apparent
violation of Executive Law § 806
and Section 575 of Title 9 of the Official
Compilation of Codes, Rules and Regulations
of the State of New York (9 NYCRR)
by:

**GEORGE H. CARROTHERS
AUSTIN L. CARROTHERS**

**NOTICE OF APPARENT VIOLATION
AND REQUEST FOR ENFORCEMENT
COMMITTEE DETERMINATION**

Agency File #E2019-0070

Respondents, on lands situated in
the Town of Long Lake, Hamilton County
Tax Map Parcel 25.016-1-5
Adirondack Park Agency Land Use Area: Hamlet
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PLEASE TAKE NOTICE THAT pursuant to 9 NYCRR Part 581, the Enforcement Committee shall be convened at the offices of the Adirondack Park Agency (hereinafter Agency) on Route 86 in Ray Brook, Essex County, State of New York, on December 12, 2019, to consider the apparent violation by you of Executive Law § 806 and 9 NYCRR § 575.5 as more specifically described in the allegations of fact and law set forth below.

PLEASE ALSO TAKE NOTICE THAT you have 30 days from the date of this Notice of Apparent Violation and Request for Enforcement Committee Determination (hereinafter NAV) to provide a written response to each of the numbered allegations and the requested relief set forth in this NAV. Any affirmative defenses, including exemptions from variance requirements, must be raised in your response. Affidavits and exhibits, as well as written legal argument, should be provided in support of your response.

PLEASE ALSO TAKE NOTICE THAT the Enforcement Committee will consider this matter based on a record consisting of relevant testimony, exhibits, and legal argument. If there are no material facts in dispute, the Committee may issue a determination pursuant to 9 NYCRR § 581-2.6(d) based on the NAV, your response, affidavits, exhibits, and argument in support thereof. A hearing may be scheduled concerning any disputed material facts and will follow the relevant procedural requirements provided by 9 NYCRR Subpart 581-4.

PLEASE ALSO TAKE NOTICE THAT you are invited to appear and make a statement before the Enforcement Committee either in person, by authorized representative so

long as you also appear, or by legal counsel. Any statements made before the Committee must be based only on the record consisting of the Notice of Apparent Violation and supporting documents and any responses. All Enforcement Committee meetings, except for Enforcement Committee deliberations, are open to the public.

PLEASE ALSO TAKE NOTICE THAT, whether or not you appear, the Enforcement Committee will convene at the designated time and place, and that your non-attendance shall not prevent the Enforcement Committee from finding the apparent violations alleged herein or from deciding upon an appropriate disposition of this matter.

Factual Allegations

1. Tax Map Parcel 25.016-1-5 (Lot 5) is an approximately 2.80-acre parcel, having shoreline on Long Lake and Jennings Pond and located on Hamlet lands in the Town of Long Lake, Hamilton County.
2. Lot 5 is improved by a pre-existing commercial use structure.
3. Respondents are the current owners of Lot 5, as described in a deed recorded on May 30, 2018 as Instrument Number 2018-0645 in the Hamilton County Clerk's Office.
4. Agency investigation reveals that, in 2019, Respondent G. Carrothers constructed a deck approximately 12 feet in width and 41 feet in length, including the stairs, within the shoreline setback area on Lot 5. The deck is attached to the eastern side of the commercial use structure, expanding the structure 12 feet closer to the mean high-water mark of Jennings Pond. As constructed, the deck is approximately 27 feet from the mean high-water mark of Jennings Pond and is located entirely within the 50-foot shoreline setback area.
5. Agency staff confirmed the violation by field visit on June 3, 2019.
6. No variance was obtained from the Agency prior to construction of the deck.

Apparent Violation

7. Pursuant to Executive Law § 806, a variance is required prior to the construction of a principal building or accessory structure greater than 100 square feet in size within 50 feet of the mean high-water mark of any lake or navigable river on Hamlet lands in the Adirondack Park.
8. Pursuant to Adirondack Park Agency regulations at 9 NYCRR Part 575, a variance is required from the Adirondack Park Agency prior to the expansion of an existing structure within the shoreline setback area, including through any increase in the structure's footprint, width, or height.

9. Agency investigation reveals that Respondents violated Executive Law § 806 and 9 NYCRR § 575 by expanding a pre-existing commercial building on Lot 5 through the construction of an attached deck within 50 feet of the mean high-water mark of Jennings Pond without an Agency variance.

Relief Sought

Agency staff respectfully request that the Enforcement Committee issue a determination finding the alleged violation and order the following relief:

- (1) Require that, by June 1, 2020, Respondents shall remove the deck constructed in 2019 that is attached to the eastern side of the pre-existing commercial use building on Lot 5; and

Respondents shall notify Agency Environmental Program Specialist Trevor Fravor when this work is complete so that a compliance inspection may be undertaken.

- (2) Pursuant to Executive Law § 813, Respondents may be assessed a civil penalty of up to the statutory maximum of \$500 per day for each day the violation has continued in an amount to be determined by the Enforcement Committee; and
- (3) Such other and further relief as the Enforcement Committee may deem just and proper.

DATED: Ray Brook, New York
October 28, 2019

ADIRONDACK PARK AGENCY

BY:



Terry Martino
Executive Director