

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:

Agency File E2019-0070

GEORGE H. CARROTHERS
AUSTIN L. CARROTHERS

Respondents.

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

Colleen C. Parker being duly sworn, deposes and says:

1. I am an Environmental Program Specialist 3 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. I have served in the position of Environmental Program Specialist (EPS) 3 since February 2012 and have worked for the APA since May 1989, in both the Legal Division (Jurisdictional Inquiry Office) and the Regulatory Programs Division.
2. As part of my duties, I am responsible for the initial review and assignment of permit and variance applications submitted to the Agency. I am also the lead EPS on various large-scale permit applications and certain applications for shoreline structure variances under the New York State Adirondack Park Agency Act, the Freshwater Wetlands Act, and the Wild, Scenic and Recreational River System Act.
3. I am familiar with the file in this case as I was the lead EPS assigned to review Respondents variance application. I make this affidavit in support of APA staff's request for a determination by the Enforcement Committee.

4. On May 2, 2018, the Agency received a request from Respondent G. Carrothers for a pre-application file regarding a proposal to expand an existing building located almost entirely within the 50-foot shoreline setbacks of Jennings Pond and Long Lake in the Town of Long Lake, Hamilton County in a Hamlet land use area. At that time, the Respondents were under contract to purchase the subject property. I had various telephone conversations with Respondent G. Carrothers explaining that his proposal would require an Agency variance, the variance review process, and the criteria that must be met for issuance of an Agency shoreline structure setback variance. Subsequently, Respondents purchased Lot 5 on May 30, 2018.
5. On June 13, 2018, Agency staff met with Respondent G. Carrothers at Agency Headquarters in Ray Brook, NY. Respondent G. Carrothers presented his plans to expand the footprint of the existing commercial structure on the project site (which housed a real estate office and a watersport retail/rental store) and convert it into a diner and watersport store. Respondent G. Carrothers' preliminary plans included the addition of a deck for outdoor restaurant seating on the eastern side of the building.
6. During the pre-application meeting, Agency Staff including myself, Agency Engineer Shaun LaLonde and Agency Attorney Jennifer Hubbard explained Agency Regulations pertaining to the expansion of a structure located within the shoreline setback. Agency staff repeatedly stated that any expansion within the shoreline setback would require an Agency variance, including any lateral expansion or expansion toward the shorelines. Staff further discussed the variance review process, explaining that as part of the variance application the applicant is required to evaluate alternatives which could avoid the need for a variance or minimize the variance being requested.
7. On June 27, 2018, Shaun LaLonde and I conducted a site inspection of the subject property and met with Respondent G. Carrothers. Respondent G. Carrothers showed us revised sketch plans which proposed a 16-foot-wide deck addition on the easterly side of the structure, located entirely within the shoreline setback, that would expand the structure closer to the mean high-water mark of Jennings Pond. During the site visit I discussed non-jurisdictional alternatives to the proposed 16-foot wide deck with Respondent G. Carrothers. I also explained that if he chose to pursue a variance for the eastern deck then he would be required to provide information documenting whether the request was for the minimum variance necessary.
8. On August 23, 2018, the Agency received a formal application from Respondent G. Carrothers. The application requested three variances from the shoreline setback requirements to expand a pre-existing commercial use structure within 50 feet of the mean high-water mark, including a 16-foot wide deck on the east side of the structure, a 12 by 30 inch roof overhang on the west side of the


structure, and an 11 by 12 foot deck on the back (south) side of the structure to fill-in the area between two existing decks.

9. On September 10, 2018 during a telephone conversation with Respondent G. Carrothers, I advised him that additional information would be required to complete his variance request and that a formal letter listing the required information was forthcoming. As a follow-up to this telephone conversation, I sent Respondent G. Carrothers an email with the same information.
10. On September 21, 2018 a formal Variance Information Request (VIR) was issued and sent by certified mail to Respondent G. Carrothers, advising that additional information was necessary in order to support the application and allow the Agency to make the determinations required for issuance of a variance. The VIR included a list of the requested information including information on the potential alternatives of not constructing a deck or constructing a smaller deck on the eastern side of the building, a request for an explanation of how the size of the proposed deck represents the minimum relief necessary, and additional information on the existing on-site wastewater treatment system so that staff could determine whether additional review of this system would be required. The VIR also stated that no part of the building expansion requiring an Agency variance could be undertaken until the Agency had issued an approval Order.
11. On October 10, 2018, I received an email message from Respondent G. Carrothers stating that he had hired an engineer and would be pursuing the request for a variance for the deck extension on the Jennings Pond side.
12. After October 2018, I had no contact with Respondent G. Carrothers, until I sent him an email on May 1, 2019, asking about the status of his proposal, whether he had any questions about the VIR issued on September 21, 2018, and requesting that he advise the Agency if he planned to proceed with the variance application. On May 18, 2019, I received an email response from Respondent G. Carrothers indicating he had been contacted by Agency Enforcement staff and would be meeting enforcement staff at the subject property.



Colleen C. Parker

Sworn to before me this
28th Day of October, 2019



Notary Public

MARY B. PALMER
Notary Public - State of New York
Qualified in Franklin County
No. 01PA6128439
Commission Expires, June 13, 2021