



New York State
Adirondack
Park Agency

KATHY HOCHUL
Governor

BARBARA RICE
Executive Director

MEMORANDUM

TO: Regulatory Programs Committee

FROM: David J. Plante, AICP CEP
Deputy Director – Regulatory Programs

DATE: March 8, 2023

RE: Variance Request P2022-0194, Andrew P. Hawkins and Lisa A. Walsh

OVERVIEW OF VARIANCE REQUEST

Andrew P. Hawkins and Lisa A. Walsh (applicants) are the current owners of shoreline property in the Adirondack Park and are seeking a variance for a proposed 277±-square-foot expansion of a lawfully existing non-conforming boathouse on Spitfire Lake. The applicants' objective is to expand their shoreline structure in order to house an additional boat in an enclosed structure for both summer usage and winter storage.

Variance Site

The variance site is located on Spitfire Lake in the Town of Brighton, Franklin County, on a 7.02±-acre parcel of land classified Resource Management by the Adirondack Park Land Use and Development Plan Map. The tax map number for the property is: Section 395, Block 1, Parcel 4.100. Spitfire Lake is a navigable water body that has approximately 3.3 miles of shoreline. The variance site is one of approximately 36 parcels with shoreline frontage on Spitfire Lake. These shoreline parcels range in size from 1 acre to 442 acres, with shoreline frontage varying between 200 feet and 2,800 feet. The entire lakefront is classified as Resource Management, with the exception of one 2.2±-acre lot comprised of state land. The majority of privately owned shoreline lots on Spitfire Lake are developed with a mix of pre-existing and post-1973 single family dwellings, as well as other shoreline structures, including docks and boathouses. The shoreline parcels within the vicinity of the variance site are developed with single family dwellings and associated upland structures. The shoreline to the east of the variance site is developed with boathouses and docks, while the shoreline to the west of the variance site is primarily undeveloped, except for docks.

The applicants have owned the variance site since 2016. The applicants' property is similar to other developed lots on the lake and is improved by a single family dwelling constructed circa 2003, a cabin constructed circa 2002, a woodshed, and a lawfully existing non-conforming boathouse constructed circa 2002-2003. The single family

dwelling and cabin are replacement structures for buildings that pre-dated the August 1, 1973 effective date of the Adirondack Park Agency Act.¹

The variance site is accessible by boat and contains approximately 275 feet of shoreline frontage on Spitfire Lake on the southern portion of the property. The lot is primarily wooded, except for the areas occupied by the buildings on the lot. The single family dwelling is located approximately 75 feet from the mean high water mark of Spitfire Lake at its closest point and is partially screened by vegetation. The shoreline consists of coniferous and deciduous trees, as well as fringe wetlands along the shore.

The non-conforming boathouse is 1,029±-square-feet and 25 feet 4 inches in height. Attached to the western side of the non-conforming boathouse is a non-conforming uncovered boat slip, and along the eastern side of the non-conforming boathouse is a dock approximately 35 feet in length. The structure is considered a lawfully existing non-conforming boathouse by the Agency because it is a lawful replacement of a covered structure with direct access to a navigable body of water used for the storage of boats and associated equipment that pre-dated the August 1, 1973, effective date of the Adirondack Park Agency Act, but does not meet the Agency's current definition of a boathouse due to its height. The existing non-conforming boathouse is green and brown in color and contains two covered boat slips. The non-conforming boathouse and uncovered slip and docks are visible from Spitfire Lake and can accommodate four to five boats in covered and uncovered boat slips.

Property History

On April 6, 2021, the Agency issued jurisdictional determination J2021-0117 finding that the proposed expansion of the existing non-conforming boathouse on the variance site requires an Agency variance. On October 19, 2021, the applicants submitted an application to the Agency for Project 2021-0249 seeking a variance from the shoreline restrictions for the expansion of the existing non-conforming boathouse. On June 14, 2022, the Adirondack Park Agency board denied this request. On August 8, 2022, the applicants submitted the current application seeking a smaller variance than the request previously denied.

Requested Variance

The requested variance involves an addition 13 feet 6 inches wide (parallel to the shoreline) and 20 feet 6 inches long (perpendicular to the shoreline) on the eastern side of the existing non-conforming boathouse, resulting in an expansion in overall width by

¹ On June 20, 2001, the Agency issued jurisdictional determination J2001-0298 finding that the conveyance of the property did not require an Agency permit, and the single family dwelling and associated accessory structures in existence as of August 1, 1973, including the non-conforming boathouse, could be replaced in kind in the same locations without an Agency permit or variance.

13 feet 6 inches. The expansion will increase the footprint of the existing non-conforming boathouse by 277± square feet. The height of the expanded portion of the shoreline structure will be 13 feet 4 inches.

The requested expansion will be approximately five to ten feet from the nearest property line and approximately 250 feet from the nearest dock/boathouse, located on adjoining property. The expanded structure will not extend further into the lake than the existing shoreline structure and will be consistent with the existing design of the non-conforming boathouse.

The applicants have proposed to add a deed restriction to their property prohibiting the construction of additional boathouses on the site as part of their variance request.

PUBLIC HEARING

Following receipt of the variance application, the Agency notified all parties as required by Agency regulations. On March 1, 2023, the Agency held a public hearing regarding the variance request. The hearing was attended by Agency staff, the applicants, the applicants' representatives, and four members of the public. Four members of the public made comments in support of the variance during the hearing. The Agency has received ten written comments, nine in support of the project and one letter expressing concerns about the project.

APPLICABLE LAW

The Adirondack Park Agency may vary the restrictions of Executive Law § 806 if the applicant establishes that there are practical difficulties or unnecessary hardships in carrying out the strict letter of the restrictions. 9 NYCRR § 576.1(b) provides that an Agency variance will be granted when "the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction." The purpose of the shoreline restrictions is protection of water quality in the lake and the quality of the shoreline itself. Executive Law § 806(1).

In determining whether to grant a variance, the Agency considers the factors set forth in 9 NYCRR § 576.1(c):

Whether the application requests the minimum relief necessary.

Agency regulations specify the maximum size of a boathouse may be 1,200 square feet, with a height of 15 feet or less. The requested variance involves an increase in footprint of an existing non-conforming boathouse by 277± square feet, 13 feet 6 inches in width and 20 feet 6 inches in length, in order to house an additional boat. If authorized, the proposed expansion would result in an overall structure that is 1,306± square feet and 25 feet 4 inches in height entirely within the shoreline setback of Spitfire Lake, causing an increase in non-compliance with the Agency's shoreline restrictions.

The height of the existing non-conforming boathouse on the variance site is 25 feet 4 inches, which is 10 feet 4 inches taller than any boathouse currently allowed under Agency law, and the proposed expansion, while not increasing the height of the overall structure, would result in a shoreline structure that is 106± square feet in footprint larger than any lawful new or replacement boathouse on this parcel.

The expansion will not extend further into Spitfire Lake than the existing structure and has been designed to house the smallest antique wooden boat owned by the applicants. The expansion is also proposed to be 12 feet less in height than the existing structure, and 1 foot 8 inches lower than the maximum height of 15 feet allowed for boathouses under Agency regulations.

Whether granting the variance will create a substantial detriment to adjoining neighbors.

The shoreline of Spitfire Lake is comprised mainly of private lands and one State land parcel. The majority of privately owned shoreline lots on Spitfire Lake are developed. Boathouses, docks, and upland structures are visible from the shoreline on many of the developed shoreline parcels. The majority of the shoreline on Spitfire Lake is comprised of trees and vegetation. Adjacent to the project site are private residential lands. The three tax parcels to the west of the project site contain only docks along the shoreline. The three tax parcels to the east of the project site include one property containing a boathouse, another containing a boathouse, and the third being vacant.

The existing non-conforming boathouse is located approximately 15-20 feet from the nearest property line and approximately 270 feet from the nearest dock/boathouse, located on adjoining property. The proposed expansion will be visible from Spitfire Lake and screening is not possible due to the location of the existing structure below the mean high water mark.

The proposed expansion is consistent with the design of the existing structure and other similar structures along the developed portion of Spitfire Lake. The proposed expansion will not extend further into the lake than the existing non-conforming boathouse.

Whether the difficulty can be obviated by a feasible method other than a variance.

Under Agency regulations, the existing non-conforming boathouse cannot be expanded in any direction without an Agency variance. The applicants seek to expand the existing non-conforming boathouse by constructing a third covered boat slip attached to the current non-conforming boathouse in order to house an additional boat in an enclosed structure for both summer usage and winter storage.

Alternatives may exist that could meet the applicant's objectives and obviate the need for a variance, including replacing the existing non-conforming boathouse to the parameters allowed under Agency regulations, using off-site covered boat storage

facilities, or constructing a new boathouse on the property in compliance with Agency regulations.

The manner in which the difficulty arose.

The applicants purchased the property in 2016, after the Agency's adoption of its boathouse regulations in 2010.

Whether granting the variance will adversely affect the natural, scenic, and open space resources of the Park and any adjoining water body, due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur.

Section 806 of the Adirondack Park Agency Act establishes shoreline setback restrictions that apply regardless of whether an Agency permit is required for a new land use or development or subdivision in order to protect the Park's shorelines. The public purposes of these restrictions are to protect water quality and the qualities of Adirondack shorelines. The Act exempts boathouses, as defined in Agency regulations, from the setback requirements. The Agency adopted its definition of the term "boathouse" in 2010 to further the purposes of the Agency's shoreline restrictions, in effect preventing the construction of large new shoreline structures and the associated water quality and visual impacts. Agency regulations specify the maximum size of a boathouse may be 1,200 square feet, with a height of 15 feet or less.

Approving the applicants' request to expand an already non-conforming boathouse to a shoreline structure both taller in height and larger in footprint than allowed under Agency regulations would set a precedent contradicting the 2010 regulation. Further, the proposed shoreline structure would be visible from Spitfire Lake and screening of the structure is not possible. Under current Agency regulations, the applicants could build a second boathouse without an Agency variance. However, this may result in greater environmental impacts than the proposed expansion.

Construction of the requested expansion would not involve any upland earth disturbance, require any tree removal, or increase surface water runoff into Spitfire Lake. In addition, the expansion would be constructed in the style of the existing shoreline structure and consistent with the character of existing development along the shoreline. Conditions restricting the structure to earth tone colors, requiring that all exterior lights be fully shielded and directed downward, and other limitations would mitigate potential visual impacts of the expansion. In addition, the applicants have proposed to add a deed restriction to their property prohibiting any further boathouse construction on the variance site as part of their variance request.

CONCLUSION

After reviewing the variance factors, the Agency board must determine whether the “adverse consequences to the applicant from denial of the variance request are greater than the public purpose sought to be served by” the shoreline restrictions.

Denial of the requested variance would impact the applicants’ ability to house an additional boat in covered storage on their property.

Granting the requested variance may set a precedent for approving structures larger than allowed under Agency regulations along Adirondack shorelines, contradicting the Agency’s 2010 boathouse regulation.