


**THIS IS A TWO-SIDED DOCUMENT**

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Permit <b>2022-0150</b></p>
<p>In the Matter of the Application of</p> <p><b>KEITH B. DUBAY, KIMBERLY A. DUBAY, and KEITH CAMERON DUBAY</b> <b>Permittees</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: April 4, 2023</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Keith B. Dubay</b></li><li><b>2. Kimberly A. Dubay</b></li><li><b>3. Keith Cameron Dubay</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This permit authorizes a four-lot subdivision and the construction of one single family dwelling in an area classified Low Intensity Use and Resource Management on the Adirondack Park Land Use and Development Plan Map in the Town of Minerva, Essex County.

This authorization shall expire unless recorded in the Essex County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded 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 five years of the date the permit is recorded in the County Clerk's Office. The Agency will consider the project in existence when an authorized lot has been conveyed to an outside party, or when the authorized dwelling has been constructed.

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 39.22±-acre parcel of land located on Morse Memorial Highway in the Town of Minerva, Essex County, in an area classified Low Intensity Use and Resource Management on the Adirondack Park Land Use and Development Plan Map and is identified as follows:

- Tax Map Section 155.3, Block 1, Parcel 63.000, described in a deed from Fred T. Anameier to Keith B. Dubay & Kimberly A. Dubay, dated July 22, 2003, and recorded August 15, 2003 in the Essex County Clerk's Office at Book 1370, Page 0101; and
- Tax Map Section 154.4, Block 9, Parcel 8.000, described in a deed from Charles P. Jordan, Jr. to Keith Cameron Dubay dated July 16, 2014 and recorded July 18, 2014 in the Essex County Clerk's Office at Book 1772, Page 79.

The project site contains wetlands in the eastern corner of Tax Map Parcel 155.3-1-63.000 and additionally in the southern corner of the parcel extending north towards Morse Memorial Highway. Additional wetlands not described herein or depicted on the Site Plan may be located on or adjacent to the project site.

The project site is improved by one single family dwelling and associated on-site wastewater treatment system constructed in 2018 on Tax Map Parcel 155.3-1-63.000, and one single family dwelling and associated on-site wastewater treatment system constructed in 1985 on Tax Map Parcel 154.4-9-8.000.

### **PROJECT DESCRIPTION**

The project as conditionally approved herein involves a four-lot subdivision to create a 3.48±-acre lot to be improved by a new single family dwelling (Lot 1), a 13.66±-acre lot improved by an existing single family dwelling (Lot 2), a 19.76±-acre vacant lot being used as an overflow lot for a car repair business across the road (Lot 3), and a 2.32±-acre vacant lot (Lot 4) to be merged with adjoining tax map parcel 154.4-9-8.000. No new land use or development is proposed on Lot 3 or Lot 4.

The project is shown on the following maps and plans:

- A one-sheet plan titled "Map Of A Subdivision Of Land Made For Keith E. Dubay & Kimberly A. Dubay," prepared by Russell E. Howard Licensed Land Surveying, dated September 20, 2022, and last revised January 16, 2023 (Site Plan); and
- Six sheets of plans titled "Septic System Design," prepared by Joseph M. Moryl, P.E., dated February 3, 2023, and last revised February 25, 2023 (OSWTS Plans).

A reduced-scale copy of the Site Plan for the project is attached as a part of this permit for reference.

### **AGENCY JURISDICTION**

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act and Adirondack Park Agency regulations at 9 NYCRR Part 578, a permit is required from the Adirondack Park Agency prior to any subdivision involving wetlands in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to any subdivision in a Resource Management land use area in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to the construction of any single family dwelling on Resource Management lands in the Adirondack Park.

### **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 Essex County Clerk's Office.
2. This 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 and Site 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. 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 2022-0150, issued April 4, 2023, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
5. Subject to the conditions stated herein, this permit authorizes a four-lot subdivision as depicted on the Site Plan. Any subdivision of the project site not depicted on the Site Plan shall require a new or amended permit.
6. Within 30 days of conveyance of Lot 4, a new deed shall be filed in the Essex County Clerk's office describing Lot 4 and Tax Map Parcel 154.4-9-8.000 as a single, un-divided lot.
7. The Resource Management portions of Lot 2 and Lot 3 shall not be conveyed separately from the Low Intensity Use portions of Lot 2 and Lot 3.
8. Subject to the conditions stated herein, this permit authorizes the construction of one single family dwelling and one detached garage on Lot 1 within the building envelopes shown on the Site Plan.

The single family dwelling and detached garage shall be no more than 40 feet in height, as measured from the highest point on the structure, to the lower of either existing or finished grade. Any expansion beyond these dimensions shall require prior written Agency authorization.

9. The construction of any dwelling or other principal building on the project site shall require prior written Agency authorization.
10. Construction of any guest cottage on Lot 1 shall require prior written Agency authorization.
11. Any on-site wastewater treatment system on Lot 1 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 OSWTS Plans. 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.

12. The replacement of any on-site wastewater treatment system on Lot 1 shall require prior written Agency approval.
13. Prior to construction of any on-site wastewater treatment system on Lot 2 or Lot 3, written authorization shall be obtained from the Agency for plans prepared by a New York State design professional (licensed engineer or registered architect). The on-site wastewater treatment system plans shall include shallow absorption trenches with a minimum of 2 vertical feet from seasonal high ground water and 4 feet to bedrock, and shall comply with New York State Department of Health's "Wastewater Treatment Standards for Individual Household Systems" (10 NYCRR Appendix 75 A) the Agency's Project Guidelines for Residential On-Site Wastewater Treatment, and with Agency standards in 9 NYCRR Appendix Q-4.

Installation of the approved plans shall be under the supervision of a licensed design professional. Within 30 days of complete system installation and prior to utilization, the design professional shall provide the Agency with written certification that the system was built in compliance with the approved plans.

14. Installation of any on-site wastewater treatment system on Lot 4 shall require prior written Agency approval.
15. 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.

16. Any new free-standing or building-mounted outdoor lights on Lot 1 shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward Morse Memorial Highway or adjoining property.
17. All exterior building materials, including roof, siding and trim, of any structure on Lot 1 shall be a dark shade of green, grey, or brown.
18. Between Morse Memorial Highway and the limits of clearing shown on the Site Plan on Lot 1, no trees, shrubs, or other woody-stemmed vegetation may be cut, culled, trimmed, pruned, or otherwise removed or disturbed on the project site without prior written Agency authorization, except for any dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
19. All trees and shrubs depicted on Lot 1 on the Site Plan shall be species native to the region and shall be planted no later than the first spring or fall planting season after final grading related to the construction of the single family dwelling on the project site. Trees and shrubs that do not survive shall be replaced annually until established in a healthy growing condition.
20. The undertaking of any activity involving wetlands shall require a new or amended permit. Any soil disturbance or vegetation removal within 100 feet of wetland boundaries shall require prior written Agency authorization.
21. There shall be no principal buildings located on Lot 1 other than the dwelling authorized herein.
22. There shall be no more than two principal buildings located on the Low Intensity Use portion of Lot 2 at any time. The single family dwelling constructed on the property in 2018 constitutes a principal building. The Agency makes no assurances that the maximum development mathematically allowed can be approved.
23. There shall be no more than five principal buildings located on the Low Intensity Use portion of Lot 3 at any time. The Agency makes no assurances that the maximum development mathematically allowed can be approved.
24. There shall be no more than one principal building located on Lot 4 at any time. The Agency makes no assurances that the maximum development mathematically allowed can be approved.

**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 578, and 9 NYCRR Part 574. The Agency hereby finds that the subdivision 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 Low Intensity Use and Resource Management land use areas;
- c. will be consistent with the overall intensity guidelines for the Low Intensity Use and Resource Management land use areas;
- 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 be compatible with preservation of the entire wetland and will not result in degradation or loss of any part of the wetland or its associated values.

PERMIT issued this 4<sup>th</sup> day of April, 2023.

ADIRONDACK PARK AGENCY

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

STATE OF NEW YORK  
COUNTY OF ESSEX

On the 4<sup>th</sup> day of April in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared David J. Plante, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Stephanie L. Petith  
Notary Public, State of New York  
Reg. No. 01PE6279890  
Qualified in Franklin County  
Commission Expires April 15, 2025

  
Notary Public

