


**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>2022-0167</b></p>
<p>In the Matter of the Application of</p> <p><b>JOSEPH GAGLIANO and DAWN GAGLIANO</b> Permittees</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 577</p>	<p>Date Issued: January 4, 2023</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names: <b>1. Joseph Gagliano</b> <b>2. Dawn Gagliano</b></p>

**SUMMARY AND AUTHORIZATION**

This permit authorizes the construction of a single family dwelling and a two-lot subdivision for a boundary line adjustment in an area classified Low Intensity Use on the Adirondack Park Land Use and Development Plan Map in the Town of Morehouse, Hamilton County.

This authorization shall expire unless recorded in the Hamilton 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 Agency will consider the project in existence when the permit has been recorded.

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 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 composed of two parcels of land located on the north side of NYS Route 8 in the Town of Morehouse, Hamilton County, in an area classified Low Intensity Use on the Adirondack Park Land Use and Development Plan Map:

- A 7.15±-acre parcel of land identified as Tax Map Section 124.000, Block 1, Parcel 50.200, and described in a deed from Laura Cestaro and Katharine Lynn Cestaro f/k/a Katharine Lynn Krol to Joseph and Dawn Gagliano, dated September 24, 2021, and recorded December 17, 2021 in the Hamilton County Clerk's Office under Instrument Number 2021-1885 (Parcel 50.200).
- A 11.05±-acre parcel of land identified as Tax Map Section 124.000, Block 1, Parcel 50.111, and described in a deed from Timothy, William and Richard Pomeroy to Joseph S. and Dawn L. Gagliano, dated September 24, 2021, and recorded December 17, 2021 in the Hamilton County Clerk's Office under Book 240/Page 29 (Parcel 50.111).

The project site contains shoreline on South Branch West Canada Creek and is located within the designated South Branch West Canada Creek Recreational River area.

The project site is improved by a garage on Parcel 50.200 (not shown on the Project Plans referenced below). The project site is improved by four structures on Parcel 50.111 (as shown on the Project Plans referenced below).

Parcel 50.111 was authorized by the Settlement Agreement for Agency enforcement file E2009-0072A.

## **PROJECT DESCRIPTION**

The project as conditionally approved herein involves the construction of a single family dwelling, an accessory structure (labeled "building with underground utilities" on the Site Plan), and associated on-site wastewater treatment system and water supply well on Parcel 50.200.

The project as conditionally approved herein also involves after-the-fact authorization of two-lot subdivision of Parcel 50.200, creating a 5.4±-acre lot for construction of the single family dwelling authorized herein and a vacant 1.75±-acre boundary line adjustment lot to be merged with adjoining Parcel 50.111.

The garage on Parcel 50.200 was constructed on the project site between 2011-2020. As the garage is located within one-quarter mile of the South Branch West Canada Creek, it appears that an Agency permit was required for its construction. A review of Agency records indicates that no permit was obtained. By issuance of this permit, the garage shall be recognized as lawful for Agency purposes.

The project is shown on the following maps, plans, and reports (Project Plans):

- An un-titled site plan depicting the single family dwelling and on-site wastewater treatment system, received by the Agency on November 17, 2022 (Site Plan);

- eight sheets titled “Waste Water Treatment System for Gagliano Property,” prepared by Rita Carlson, PE, and dated October 2022 (Septic Plan); and
- A “Map Showing Property Line Change, Joseph S. Gagliano, Dawn Gagliano,” prepared by Blanchard Land Surveying, and dated September 9, 2022 (Subdivision Plan).

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

### **AGENCY JURISDICTION**

Pursuant to Adirondack Park Agency regulations at 9 NYCRR Part 577, a permit is required from the Adirondack Park Agency prior to any subdivision of or construction of a single family dwelling on Low Intensity Use lands located within any designated recreational river 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 any subdivision of Low Intensity Use lands that results in the creation of a shoreline lot smaller than 50,000 square feet (1.15 acres) in size 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 Hamilton 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 the Site Plan, Septic Plan, and Subdivision 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, Wild, Scenic and Recreational Rivers System Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes Agency Permit 2014-0156 and Settlement Agreement 2009-0072A in relation to the project site. The terms and conditions of Permit 2014-0156 and Settlement Agreement 2009-0072A shall no longer apply to the project site.
5. 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 2022-0167, issued January 4, 2023, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees.”

6. Subject to the conditions stated herein, this permit authorizes a two-lot subdivision as depicted on the Subdivision Plan. Any subdivision not depicted on the Subdivision Plan shall require a new or amended permit.
7. Within 30 days of conveyance of the 1.75±-acre boundary line adjustment lot, a new deed shall be filed in the Hamilton County Clerk's office describing the 1.75±-acre lot and Parcel 50.111 as a single, un-divided lot. Any future subdivision of this undivided lot shall require a new or amended permit.
8. Subject to the conditions stated herein, this permit authorizes the construction of one single family dwelling on the remaining 5.4± acres of Parcel 50.200 in the location shown on the Site Plan and one accessory structure within 150 feet of the proposed single family dwelling.

The single family dwelling and accessory structure shall be no more than 35 feet in height, as measured from the highest point on the structure, to the lower of either existing or finished grade. The single family dwelling shall be less than 2500 square feet in footprint, including all attached porches, decks, exterior stairs, garages, and other attached structures. The accessory structure shall be less than 1000 square feet in footprint. Any expansion beyond these dimensions shall require prior written Agency authorization.

9. The undertaking of any new land use or development not authorized herein on the project site shall require a new or amended permit. The undertaking of any activity involving wetlands shall also require a new or amended permit.
10. Pursuant to the Adirondack Park Agency Act and Agency regulations implementing the Wild, Scenic and Recreational Rivers System Act, new structures are prohibited within 150 feet, measured horizontally, of the mean high water mark of the South Branch West Canada Creek.
11. There shall be no boathouses on the project site.
12. There shall be no docks on the project site.
13. Any on-site wastewater treatment system on the remaining 5.4± acres of Parcel 50.200 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 Septic Plan. 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.

14. 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.
15. Any new free-standing or building-mounted outdoor lights on the remaining 5.4± acres of Parcel 50.200 shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky, towards the South Branch West Canada Creek, or adjoining property.
16. All exterior building materials, including roof, siding and trim, of the dwelling and shed authorized herein shall be a dark shade of green, grey, or brown.
17. Within 200 feet of the centerline of State Route 8 or within 150 feet of the mean high water mark of the South Branch West Canada Creek, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed on the remaining 5.4± acres of Parcel 50.200 without prior written Agency authorization, except for a) within an area up to 25 feet in width for driveway construction and utility installations, b) within an area up to 6 feet in width for establishment of a footpath providing access from the single family dwelling to South Branch West Canada Creek, and c) the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
18. All trees depicted on the Site Plan 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 remaining 5.4± acres of Parcel 50.200 and shall be native trees 4-6 feet high at planting. Trees that do not survive shall be replaced annually until established in a healthy growing condition.
19. There shall be no more than two principal buildings located on the remaining 5.4± acres of Parcel 50.200 at any time. The single family dwelling authorized herein constitutes a principal building. The Agency makes no assurances that the maximum development mathematically allowed can be approved.
20. There shall be no more than three principal buildings located on the merged property comprised of the 1.75±-acre lot and Parcel 50.111. 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 Wild, Scenic and Recreational Rivers System Act and 9 NYCRR Part 577, and 9 NYCRR Part 574. The Agency hereby finds that the subdivision and single family dwelling 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 land use area;
- c. will be consistent with the overall intensity guidelines for the Low Intensity Use land use area;
- 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 be consistent with the purposes and policies of the Wild, Scenic and Recreational Rivers System Act;
- g. will comply with the restrictions and standards of 9 NYCRR § 577.6; and
- h. will not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom.

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

ADIRONDACK PARK AGENCY

BY: [Signature]  
John M. Burth  
Environmental Program Specialist 3 (EPS3)

STATE OF NEW YORK  
COUNTY OF ESSEX

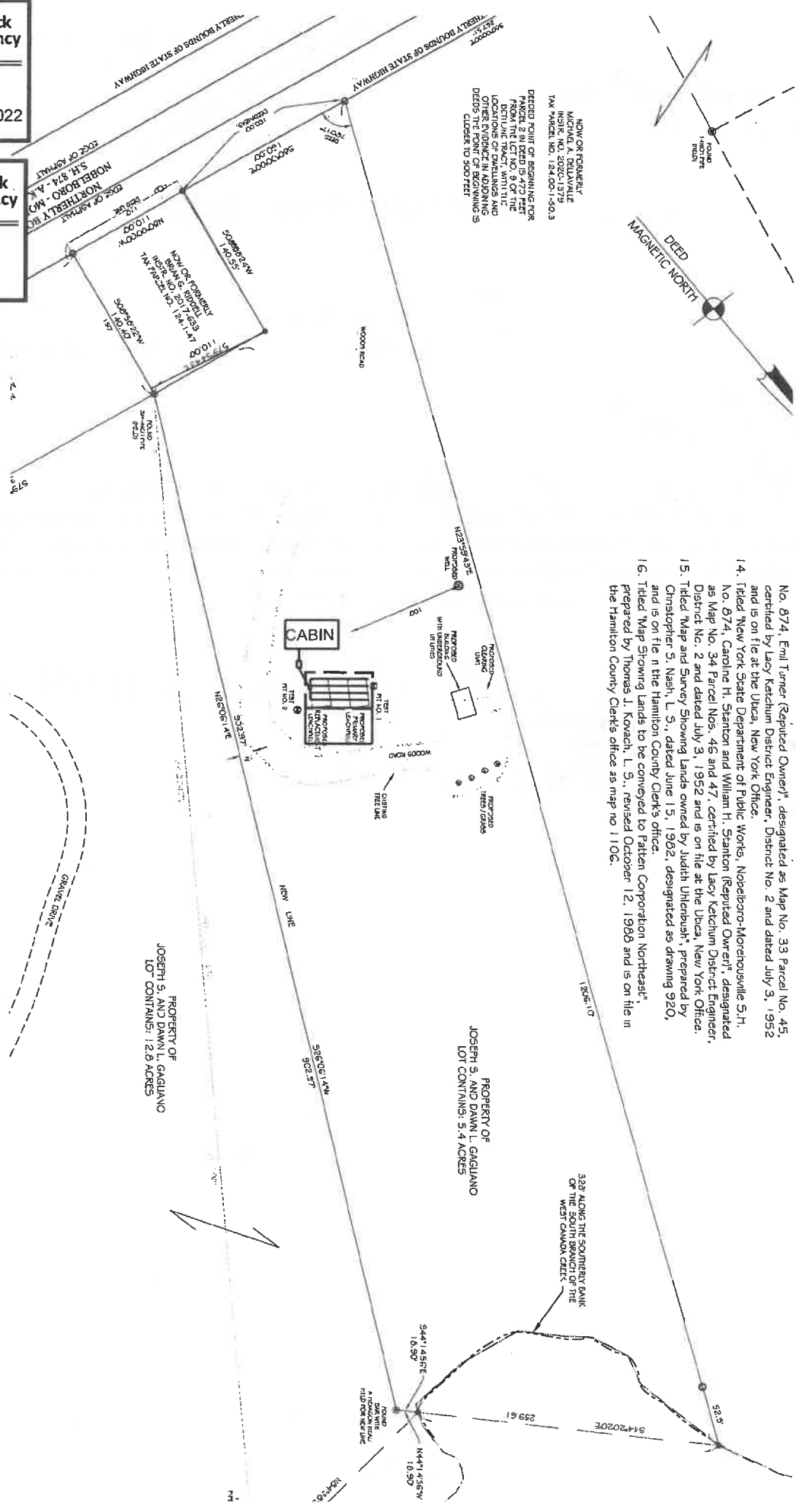
On the 4<sup>th</sup> day of January in the year 2023, John M. Burth, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their 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

[Signature]  
Notary Public

NEW YORK STATE OF OPPORTUNITY  
**Adirondack Park Agency**  
**RECEIVED**  
 Date: November 17, 2022

NEW YORK STATE OF OPPORTUNITY  
**Adirondack Park Agency**  
**FINAL**  
 P2022-0167



NON-CONFORMING  
 MAP NO. 124-001-50.3  
 TAX PARCEL NO. 124-001-50.3  
 DEEDS SOLE OF ASSIGNS FOR  
 FROM THE LOT NO. 9 OF THE  
 DEEDLINE TRACT, WITH THE  
 OTHERS OF THE LOTS AND  
 DEFIES THE POINT OF BEGINNING IS  
 CLOSER TO 500 FEET

14. Titled "New York State Department of Public Works, Nobelesboro-Morehousesville 5.11, No. 874, Caroline H. Stanton and William H. Stanton (Reputed Owner)", designated as Map No. 34 Parcel Nos. 45 and 47, certified by Lucy Ketchum District Engineer, District No. 2 and dated July 3, 1952 and is on file at the Ulster, New York Office.
15. Titled "Map and Survey Showing Lands owned by Judith Uhlenhuth", prepared by Christopher S. Nash, L.S., dated June 15, 1982, designated as drawing 920, and is on file in the Hamilton County Clerk's office.
16. Titled "Map Showing Lands to be conveyed to Fatten Corporation Northeast", prepared by Thomas J. Kovach, L.S., revised October 12, 1988 and is on file in the Hamilton County Clerk's office as map no 1106.

PROPERTY OF  
 JOSEPH S. AND DAWN L. GAGLIANO  
 LOT CONTAINS: 1.25 ACRES

PROPERTY OF  
 JOSEPH S. AND DAWN L. GAGLIANO  
 LOT CONTAINS: 5.4 ACRES

328' ALONG THE SOUTHERLY BANK  
 OF THE SOUTH BRANCH OF THE  
 WEST CANADA CREEK

544°14.55' E  
 0.39'  
 N44°14.93' W  
 18.50'  
 A POINT ON THE  
 BANK OF THE  
 WEST CANADA CREEK