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NEW YORK
STATE OF
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**Adirondack
Park Agency**

P.O. Box 99, 1133 NYS Route 86
Ray Brook, New York 12977
Tel: (518) 891-4050
www.apa.ny.gov

APA Permit and Order Granting
Variance
2021-0012

Date Issued: March 21, 2023

In the Matter of the Application of

BLACKPOINT, LLC
Permittee

for a permit pursuant to § 809 of the Adirondack Park
Agency Act and for a variance pursuant to Executive
Law § 806

To the County Clerk: Please
index this Permit & Order in the
grantor index under the
following names:

1. Blackpoint, LLC

SUMMARY AND AUTHORIZATION

Blackpoint, LLC (applicant) is granted a permit, as conditioned herein, authorizing the construction of a single family dwelling, and an order, as conditioned herein, authorizing a variance from the applicable 100-foot minimum shoreline setback required by Section 806(1)(a)(2) of the Executive Law (Adirondack Park Agency Act or APA Act), to allow for the construction of a single family dwelling within 100 feet from the mean high mark of Lake George in an area classified Resource Management by the Official Adirondack Park Land Use and Development Plan Map in the Town of Putnam, Washington County.

This authorization shall expire unless recorded in the Washington County Clerk's Office within 60 days of issuance of a signed and notarized permit and order. The signed and notarized Permit and Order 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 and variance site on the recordation date.

The project and variance shall not be undertaken or continued unless the project and variance authorized herein are in existence within five years from the date the permit and order is recorded. The Agency will consider the project and variance in existence when this permit and order is recorded.

The project and variance shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit and order is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit and order 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 and variance, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit and order shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

APPLICABLE LAWS

Pursuant to Section 809(2)(a) of the Adirondack Park 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.

Section 806(1)(a)(2) of the Adirondack Park Act establishes a minimum shoreline setback of 100 feet from the mean high water mark of Lake George for all accessory structures and principal buildings greater than 100 square feet in size in a Resource Management land use area. The applicants requested a variance from this structure setback requirement pursuant to § 806(3)(a) of the Adirondack Park Act.

PROJECT AND VARIANCE SITE

The project and variance site is a 0.72±-acre parcel of land located on Black Point Way in the Town of Putnam, Washington County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. The site is identified as Tax Map Section 4., Block 1, Parcel 38, and is described in a deed from George R. Martens and Margaret L. Martens to Blackpoint, LLC, dated June 14, 1999, and recorded in the Washington County Clerk's Office under Book 830, Page 264. An easement from Blackpoint, LLC to Town of Putnam Black Point Sewer District No. 1 is granted for the sanitary sewer easement and right-of-way as described in a document recorded under Book 2557, Page 338. An access easement across the project site for 2421 Black Point Way is described in deeds recorded under Book 640, Page 137 and Book 431, Page 173.

The project and variance site is located west and east of Black Point Way and contains 90± feet of shoreline on Lake George, west of Black Point Way. The project and variance site is vacant. Within 50 feet of the mean high water mark of Lake George, slopes are approximately 40%. Between 50 feet of the mean high water mark of Lake George and the eastern bounds of the project and variance site, slopes are generally between 15% and 28%.

West of the centerline of Black Point Way and north and south of the project and variance site, adjoining and nearby properties are developed with docks and accessory structures. East of the centerline of Black Point Way and north and south of the project and variance site, adjoining and nearby properties are developed by residential and accessory structures within a Resource Management land use area. Rogers Rock Campground and Lake George Wild Forest are located on the western shore of Lake George. The project site is approximately 160 feet north of Lake George Wild Forest lands along the eastern shore of Lake George that is accessible to the public by water and to landowners with an easement on Black Point Way.

The project and variance site is a pre-existing vacant lot of record.

PROJECT AND VARIANCE REQUEST

The project and variance as conditionally approved herein involves the construction of a single family dwelling approximately 81.25 feet from the mean high water mark of Lake George. The project and variance is depicted and described on the following maps and plans:

- "Proposed Single Family Residence," in 13 sheets, dated November 10, 2022, and received by the Agency on November 25, 2022 (Site Plans); and "19021 221026 Rvvd SW Calcs," in 80 sheets, received by the Agency on November 14, 2022 (Stormwater Plans); prepared by Jarrett Engineers, PLLC; and

- “New Residence,” in four sheets, dated February 24, 2022, and received by the Agency on May 5, 2022 (Dwelling Plans) prepared by Vilardo Architecture.

A reduced-scale copy of Sheets 5-7 of the Site Plans for the project and variance is attached as a part of this permit and order for easy reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project and variance, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

PROCEDURAL HISTORY OF VARIANCE REQUEST

Following receipt of the variance application, the Agency notified all parties as required by the Agency regulations. On January 26, 2023, the Agency held a public hearing on the variance request. The hearing was attended by Agency staff and the applicant. One public comment was received by the Agency by telephone on January 25, 2023, and a follow-up letter commenting on Agency variance application documentation and requesting more publicly available information was received by the Agency on January 26, 2023. The Agency received no written public comments expressing objections to the variance request.

VARIANCE FACTORS

The Agency may grant a variance where there are practical difficulties in carrying out the restrictions set forth in Section 806(1)(a)(2) of the APA Act. The Agency has considered the standards and factors set forth in 9 NYCRR § 576.1(b)-(c).

§ 576.1(b): Whether the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.

The public purpose served by the Agency’s structure setback requirements include protection of the water quality and aesthetics of Lake George.

Denial of the variance request would impact the applicant’s ability to construct a single family dwelling on the site while using existing shared access and a shared groundwater well with the single family dwelling on the property known as 2421 Black Point Way.

As proposed, the variance request will protect the water quality of Lake George by the implementation of stormwater management and erosion and sediment control measures. The proposed single family dwelling will be located partially within existing limits of tree clearing and partially within existing access in an area outside of the steepest slopes on the project and variance site. The quality of the shoreline will be protected as the proposed single family dwelling will be located in close proximity to the single family dwelling located on 2421 Black Point Way in order to use existing limits of tree clearing and existing access to 2421 Black Point Way, which will minimize tree cutting, limits of disturbance, and visibility. The dwelling will be approximately 81.25 feet from the mean high water mark of Lake George, with Black Point Way, a private shared access road, located between the proposed dwelling and Lake George. The quality of the shoreline will be further protected by limiting the project disturbance area to 0.32 acres and requiring the planting and maintenance of trees and shrubs as depicted and described on the Site Plans.

§ 576.1(c)(1): Whether the application requests the minimum relief necessary.

As proposed, the single family dwelling is located 81.25 feet from the mean high water mark of Lake George, thereby minimizing the need for increased tree removal and limits of disturbance that would be required for any construction located at an increase in elevation, which may result in increased stormwater and erosion and sedimentation impacts on 2421 Black Point Way, Black Point Way and Lake George. Approximately 25% of the footprint of the proposed single family dwelling is existing access shared with 2421 Black Point Way. The proposed single family dwelling is located next to the single family dwelling on 2421 Black Point Way. Utilizing a portion of existing access minimizes tree removal and the limits of disturbance, which minimizes stormwater impacts and minimizes visual impacts from adjoining and nearby landowners, Lake George and Black Point Way by avoiding any development at a higher elevation and involving steeper slopes.

§ 576.1(c)(2): Whether granting the variance will create a substantial detriment to adjoining or nearby landowners.

As proposed, the location of the single family dwelling is oriented to share existing access from Black Point Way with the adjacent landowner at 2421 Black Point Way. The project and variance site has deeded private shared access across Black Point way. The proposed single family dwelling will be partially screened from nearby landowners by existing tree cover and existing residential and accessory structures located on adjoining and nearby lots. The construction of the proposed single family dwelling in the proposed location is consistent with existing structures located on the southern adjoining and nearby lots.

§ 576.1(c)(3): Whether the difficulty can be obviated by a feasible method other than a variance.

Any site outside of the shoreline setback requires longer access and increased tree removal and limits of disturbance that could result in an increase in stormwater impacts. There is no available alternative to the proposed dwelling location or design on the project and variance site that would avoid the need for a variance without increasing impacts associated with locating the limits of disturbance and the single family dwelling at a higher elevation and involving steeper slopes.

§ 576.1(c)(4): The manner in which the difficulty arose.

The project and variance site was created by subdivision prior to August 1, 1973.

§ 576.1(c)(5): 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.

Construction of the proposed single family dwelling in non-compliance with the approved plans, without environmental controls, grading, stormwater, and landscaping as depicted and as described on the Site Plans and without vegetation cutting and disturbance area limits could cause increased erosion and surface runoff, and lead to adverse changes to the water quality and aesthetic character of Lake George. In addition, construction of the proposed single family dwelling without restrictions on vegetation removal, exterior lighting, and building color could result in impacts to the aesthetic character of the shoreline of Lake George.

Adherence to the project and variance as depicted and as described on the Site Plans, Stormwater Plans and the Dwelling Plans and as conditioned herein will minimize vegetation cutting, stormwater impacts and visibility of the proposed dwelling to the greatest extent feasible and protect the resources of the Park and adjoining water bodies.

§ 576.1(c)(6): Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above.

The conditions included in this permit and order will ameliorate any potential adverse effects from the requested variance. Conditions regarding wastewater, stormwater, vegetation cutting, and erosion and sediment control, and adherence to the approved plans will ensure that there will be no adverse effects from the granting of the variance.

CONDITIONS

THE VARIANCE AND PROJECT ARE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. This authorization shall expire unless recorded in the Washington County Clerk's Office within 60 days of the date of issuance.
2. This permit and order is binding on the permittee, all present and future owners or lessees of the project and variance site, and all persons undertaking all or a portion of the project and variance. Copies of this permit and order, Sheets 4 through 6 of the Site Plans shall be furnished by the permittee to all subsequent owners or lessees of the project and variance 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. The authorization to undertake the construction of the single family dwelling on the project and variance site shall expire five years from the date this permit and order is recorded in the Washington County Clerk's office, unless the construction of the single family dwelling has been completed in compliance with the Site Plans, the Stormwater Plans and the Dwelling Plans by that date or written authorization has been obtained from the Agency extending the deadline for construction.
4. In addition to complying with all terms and conditions of this permit and order, all future activities on the project and variance 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].
5. All deeds conveying all or a portion of the lands subject to this permit and order shall contain references to this permit and order as follows: "The lands conveyed are subject to Adirondack Park Agency Permit and Order Granting Variance 2021-0012, issued March 21, 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 and order authorizes the construction of the "Proposed Residence" (single family dwelling) on the project and variance site in the location and footprint depicted on the Site Plans and the Dwelling Plans; and the

height depicted and described on the Dwelling Plans. Any change to the location or dimensions of the single family dwelling shall require prior written Agency authorization.

7. Construction of any additional structure on the project and variance site shall require prior written Agency authorization.
8. Prior to undertaking construction of any boathouse on the project and variance site, written authorization of plans for the boathouse, including all attached docks or walkways, shall be obtained from the Agency.
9. Prior to undertaking construction of any dock on the project site, written authorization of plans for the dock, including all attached upland structures, shall be obtained from the Agency.
10. No structures greater than 100 square feet in size, other than the single family dwelling authorized herein, shall be constructed within 100 feet, measured horizontally, of the mean high water mark of Lake George.
11. All wastewater treatment infrastructure on the project and variance site shall be connected to and served by the municipal wastewater treatment system.
12. The project and variance shall be undertaken in compliance with the grading and stormwater design depicted and described on the Site Plans.
13. Prior to undertaking any ground disturbance on the project and variance site, "Proposed Sediment Control Barrier" shall be installed as depicted on Sheet 7 of the Site Plans in compliance with Sheet 13 of the Site Plans.
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 and variance site shall be clean and free of soil, mud, or other similar material. If washed on the project and variance site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.
15. Any new free-standing or building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward Lake George, Black Point Way or adjoining properties.
16. All exterior building materials, including roof, siding, and trim, of any structure on the project and variance site shall be a dark shade of green, grey, or brown.
17. Outside the "Disturbance Limits" as depicted on Sheet 7 of the Site Plans, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

18. Between April 1 and October 31, no trees shall be removed or disturbed on the project and variance site without prior written Agency authorization.
19. All trees and shrubs described and depicted on the Site Plans 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.
21. There shall be no more than one principal building located on the project and variance site at any time. The single family dwelling authorized herein constitutes a principal building.

CONCLUSIONS OF LAW

Class B Project

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act and 9 NYCRR Part 574. The Agency hereby finds that the project 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 Resource Management land use area;
- c. will be consistent with the overall intensity guidelines for the Resource Management land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act except as approved in the variance granted herein; and
- 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.

Variance

The Agency has considered all of the standards and factors for issuance of a variance as set forth in 9 NYCRR Part 576. The Agency hereby finds that the applicant's variance request meets the approval criteria, provided the authorized activities are undertaken as described herein and in compliance with the conditions set forth above.

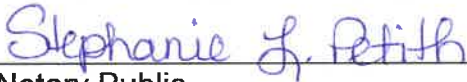
PERMIT & ORDER issued this 21st day
of March, 2023.

ADIRONDACK PARK AGENCY

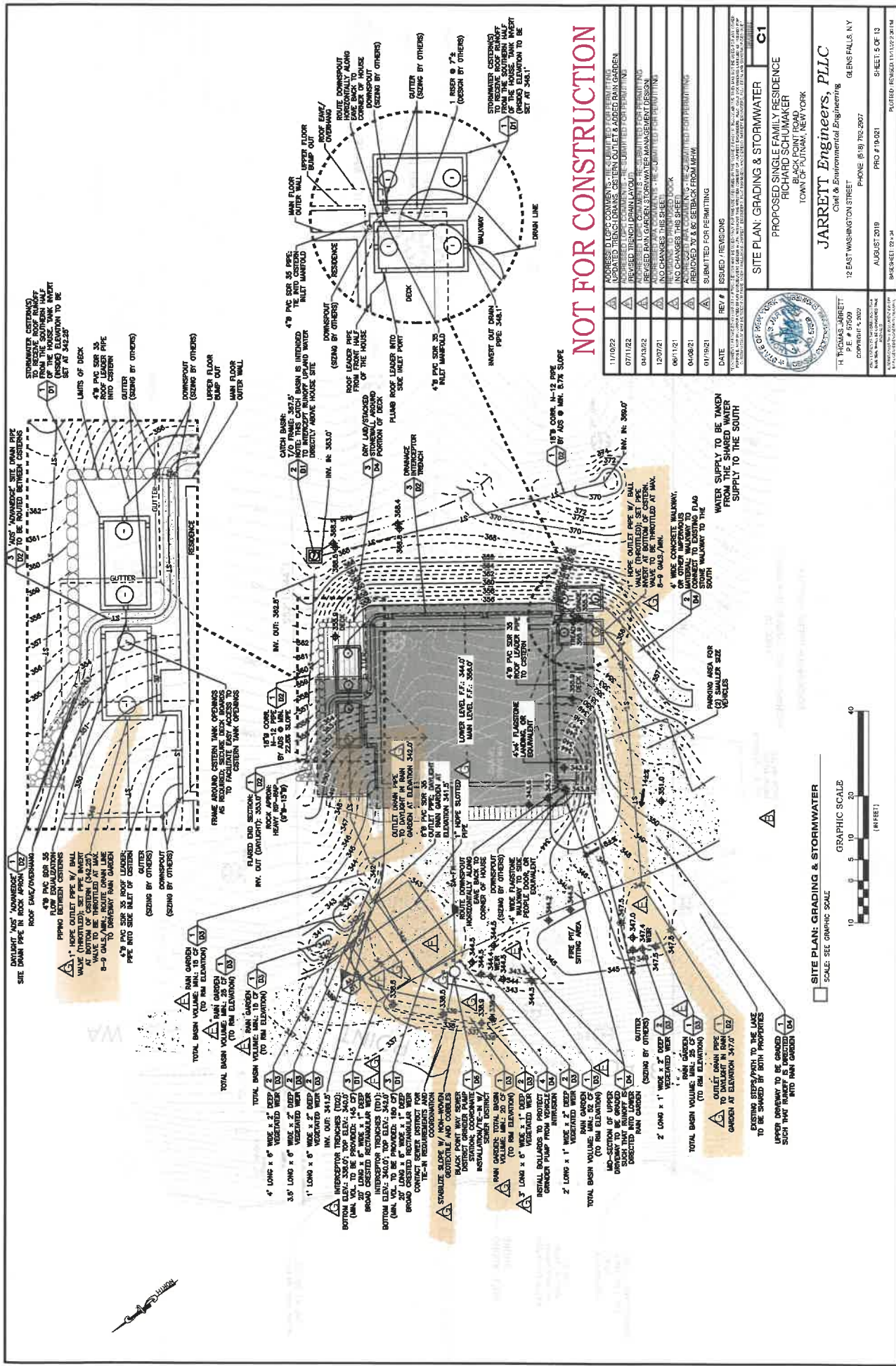
BY: 
Barbara A. Rice, Executive Director

STATE OF NEW YORK
COUNTY OF ESSEX

On the 21st day of March in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Barbara A. Rice, 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.


Notary Public

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



NOT FOR CONSTRUCTION

DATE	REV #	ISSUED REVISIONS
1/10/22		APPROVED DESIGN FOR PERMITTING
07/11/22		ADDED TECHNICAL COMMENTS TO SUBMIT FOR PERMITTING
04/13/22		REVISED TRENCH DRAIN LAYOUT - SUBMIT FOR PERMITTING
12/07/21		REVISED RAIN GARDEN STORMWATER MANAGEMENT DESIGN
06/11/21		NO CHANGES TO SHEET - RE-QUOTED FOR PERMITTING
04/08/21		NO CHANGES TO SHEET - RE-QUOTED FOR PERMITTING
01/19/21		REMOVED TO A.C. SETBACK FROM L.H.W.
		SUBMITTED FOR PERMITTING
		ISSUED REVISIONS



SITE PLAN: GRADING & STORMWATER
C1
 PROPOSED SINGLE FAMILY RESIDENCE
 RICHARD CHUMAKER
 BLACK POINT ROAD
 TOWN OF PUTNAM, NEW YORK

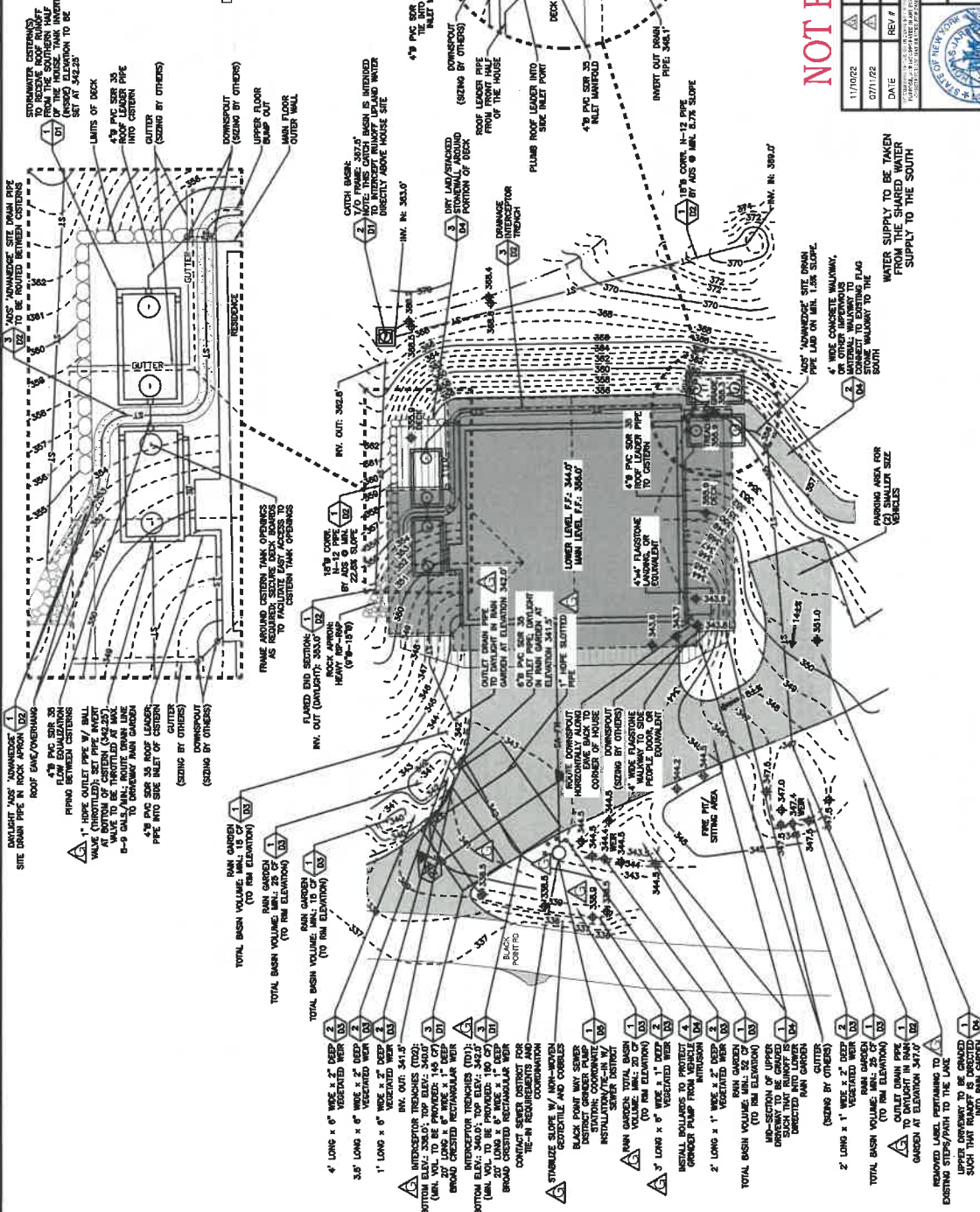
JARRETT Engineers, PLLC
 Civil & Environmental Engineering
 12 EAST WASHINGTON STREET
 GLENS FALLS, N.Y.
 PHONE: (518) 752-2007

DATE: 01/19/21
 REV #
 ISSUED REVISIONS

PLUTED/REVISION 11/10/22 21.1M
 SHEET 5 OF 10
 BAKERSHEET 29.24

SITE PLAN: GRADING & STORMWATER
 SCALE: SEE GRAPHIC SCALE
 GRAPHIC SCALE
 0 5 10 20 40
 (1"=10')

THIS PLAN IS A DUPLICATE OF DRAWING "C1" "SITE PLAN: GRADING & STORMWATER", EXCEPT THAT EXISTING SURVEY SITE TOPOGRAPHY HAS BEEN HIDDEN

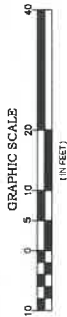


NOT FOR CONSTRUCTION

1/10/22	DATE	1/10/22	REVISED
07/1/22	DATE	07/1/22	REVISED
REV 7	ISSUED / REVISIONS	NEW DRAWINGS SHEET	
<p>PROPOSED SINGLE FAMILY RESIDENCE RICHARD SCHUMAKER BLACK POINT ROAD TOWN OF PUTNAM, NEW YORK</p>			
<p>SITE PLAN: GRADING & STORMWATER C1A</p>			
<p>JARRETT Engineers, PLLC Civil & Environmental Engineering 12 EAST WASHINGTON STREET GLENS FALLS, N.Y. PHONE: (518) 752-2987</p>			
<p>AUGUST 2019 PRD # 19-021 SHEET 6 OF 15</p>			



SITE PLAN: GRADING & STORMWATER
 SCALE: SEE GRAPHIC SCALE



(IN FEET)

NOTED/REVISED 11/15/22 BY PM

