


THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</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 Order Granting Variance 2021-0080</p>
	<p>Date Issued: February 15, 2023</p>
<p>In the Matter of the Application of</p> <p>JENNIFER CAMPBELL DAVID CAMPBELL</p> <p>for a variance pursuant to Executive Law § 806</p>	<p>To the County Clerk: Please index this Order in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Jennifer Campbell2. David Campbell

SUMMARY AND AUTHORIZATION

Jennifer Campbell and David Campbell are granted a variance, as conditioned herein, from the applicable 50-foot shoreline structure 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 270 square feet of deck and stairs attached to a pre-existing single family dwelling located within the 50-foot shoreline setback from Fourth Lake, in an area classified Moderate Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Webb, Herkimer County.

Nothing contained in this 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

Section 806(1)(a)(2) of the APA Act establishes a minimum shoreline setback of 50 feet from the mean high-water mark of Fourth Lake for all principal buildings greater than 100 square feet in size. The applicants requested a variance from this structure setback requirement pursuant to § 806(3)(a) of the APA Act.

RELEVANT FACTS AND BACKGROUND

Variance Site

The variance site is a 2.26±-acre parcel of land identified on Town of Webb, Tax Map Section 39.56, Block 1, as Parcel 12.1, and described in a deed from Sunnadin, LLC to David Campbell and Jennifer Campbell, dated October 3, 2019, and recorded in the Herkimer County Clerk's Office under Instrument Number 2019-4439.

The variance site is located in a residential neighborhood accessed from South Shore Drive by Sunnadin Trail, a gravel drive that winds across the property and also provides access via easement to other parcels not associated with the variance request. The site contains 187 feet of shoreline on Fourth Lake, and is improved by an approximately 1,880-square-foot single family dwelling constructed circa 1940 and a detached garage constructed circa 1990, as well as docks, decks, and retaining walls along the shoreline.

The majority of the existing dwelling extends to and establishes the mean high water mark of Fourth Lake, except on the northern corner of the dwelling where a glacial erratic lies embedded between the dwelling and the lake; the dwelling in this location is approximately 26 feet from the mean high water mark. The dwelling is two stories in height, and is accessed from the non-shoreline side of the structure. A walk-out basement provides access to a deck and retaining wall that support the upper two stories, which extend over the deck to approximately the mean high water mark. The walk-out basement is located approximately 11 feet from the mean high water mark, and provides the only egress from the structure on the shoreline side.

Large rocks and cedar and other trees are located to the northeast, southeast, and southwest of the dwelling; this vegetation partially screens the structures on the site from adjoining properties. Except for the garage, the existing structures are entirely visible from Fourth Lake.

The variance site is subject to easements for the use of Sunnadin Trail and the use of a 10-foot-wide right-of-way extending approximately 126 feet in length along the northeastern property boundary and approximately 29 feet in length along the northern shoreline of the property.

Variance Request

The variance request involves the construction of 270 square feet of deck and stairs within the 50-foot setback from Fourth Lake. The proposed deck and stairs measure 18 feet in width and 15 feet in length, and will be attached to and provide an additional egress from the main level of the existing dwelling. The deck and stairs will be constructed over the existing glacial erratic located between the dwelling and Fourth Lake, and will align with the existing width of the dwelling and the existing edge of the basement approximately 11 feet from the mean high water mark. The deck and stairs will be no wider or taller than the existing single family dwelling and no closer to the mean high water mark of Fourth Lake.

Construction of the deck and stairs will require no vegetative cutting and minimal ground disturbance. The deck will be backdropped by the existing dwelling when viewed from Fourth Lake. The deck and stairs will not add any impermeable surface to the variance site; however, the proposal involves the implementation of stormwater management controls on the property.

The variance proposal is shown on the following maps and plans:

- A map titled "Survey Map Showing Lands to be Conveyed by David Campbell & Jennifer Campbell", prepared by LaFave, White & McGivern, L.S., P.C., dated August 21, 2017, and last revised July 13, 2021 (Site Plan); and
- 7 sheets titled "Stormwater Management Plan", prepared by Donald D. Ehre, P.E., and dated August 6, 2021 (Stormwater Plan).

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

PROCEDURAL HISTORY

Following receipt of the variance application, the Agency notified all parties as required by Agency regulations. On January 26, 2023, the Agency held a public hearing on the variance request by teleconference. The hearing was attended by Agency staff and applicant Jennifer Campbell. No public comments were received.

DISCUSSION

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 purposes served by the Agency's structure setback requirements include protection of the water quality and aesthetic quality of Fourth Lake.

The variance involves construction of 270 square feet of deck/stairs attached to the main level of the northern side of the existing single family dwelling and located entirely within the 50 foot setback of Fourth Lake. The proposed structure will not increase the height or width of the single family dwelling and will not extend closer towards Fourth Lake. Construction of the deck/stairs will not add any impermeable surface to the variance site, and will require no vegetative cutting and minimal ground disturbance. The deck/stairs will be backdropped by the existing dwelling when viewed from Fourth Lake.

If the variance request were denied, the applicants would not be able to construct a deck/stairs providing shoreline access and egress from the main level of the existing single family dwelling.

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

The deck/stairs will be constructed over the existing glacial erratic located between the dwelling and Fourth Lake, and will align with the existing width of the dwelling and the existing edge of the basement approximately 11 feet from the mean high water mark. The request is the minimum size to conform to the design and layout of the existing dwelling. The deck and stairs will be no wider or taller than the existing dwelling and no closer to the mean high water mark of Fourth Lake.

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

The applicants have designed the deck/stairs to retain the width, height, and distance from the shoreline of the existing dwelling. Although the deck/stairs will be visible from the lake, they

will be backdropped by the existing dwelling when viewed from Fourth Lake and will partially screened from adjoining properties by the existing dwelling and vegetation. In addition, the deck and stairs will not add any new impervious surface to the variance site. No public comments were received in relation to the variance request.

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

Construction of a deck/stairs attached to the south or east sides of the dwelling outside of the 50-foot shoreline setback area or a detached deck less than 100 square feet in size within 50 feet of Fourth Lake could be undertaken without a variance, but would involve the removal of trees and other ground disturbance. In addition, options for locating a deck and/or stairs outside of the setback area or within the setback area but less than 100 square feet in size and detached from the dwelling are limited by the configuration of the lot and by the existing easements for use of Sunnadin Trail and the land along the northern property line and northern portion of the shoreline.

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

The applicants purchased the property in 2019 with knowledge of the size of the pre-existing dwelling and its location within the 50 foot shoreline setback.

§ 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 deck and stairs will require no vegetative cutting and minimal ground disturbance. The deck will be backdropped by the existing dwelling when viewed from Fourth Lake. The deck and stairs will not add any impermeable surface to the variance site; however, the proposal involves the implementation of stormwater management controls on the property.

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

The potential for adverse effects to Fourth Lake and adjoining landowners will be ameliorated by compliance with the following conditions:

1. This authorization shall expire unless recorded in the Herkimer County Clerk's Office within 60 days of the date of issuance.
2. This Order is binding on the applicants, all present and future owners of the project site, and all persons undertaking all or a portion of the project.
3. The authorization to undertake construction of the 270 square foot deck/stairs shall expire five years from the date this Order is recorded in the Herkimer County Clerk's office, unless construction of the structure has been completed in accordance with the Site Plan and Stormwater Plan by that date or written authorization has been obtained from the Agency extending the deadline for construction.

4. The project shall be undertaken as depicted on the Site Plan referenced herein. Any changes to the location, size, dimensions, or other aspects of the deck/stairs shall require a new or amended Agency Order or a letter of compliance.
5. Any new free-standing or building-mounted outdoor lights associated with the deck/stairs shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky, Fourth Lake, or adjoining property.
6. All building materials of the authorized deck/stairs shall be a dark shade of green, grey, or brown.
7. The project shall be undertaken in compliance with the Stormwater Plan.

CONCLUSION

The Agency has considered all of the standards and factors for issuance of a variance as set forth in 9 NYCRR Parts 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

ORDER issued this 15th day of February, 2023.


ADIRONDACK PARK AGENCY

BY: 
Barbara A. Rice, Executive Director

STATE OF NEW YORK
COUNTY OF ESSEX

On the 15th day of February 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.

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


Notary Public

ADDITIONAL: It is a condition of contract that the Surveyor shall not be held responsible for any errors or omissions in this map, and shall not be held responsible for any errors or omissions in any previous map or plan.

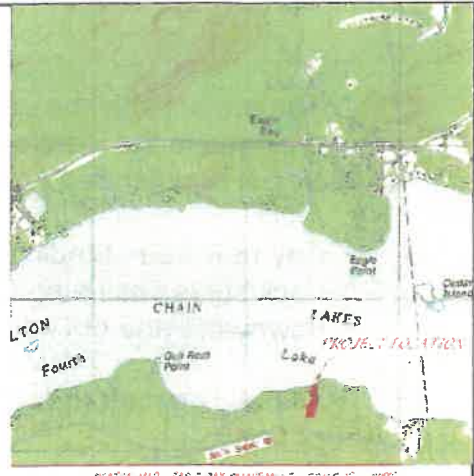
Each boundary survey map shall be accompanied by a copy of the original field notes and a copy of the original survey data.

Consent of the boundary survey map shall be given by the parties to the survey, and shall be given in the presence of the Surveyor, and shall be given in the presence of the Surveyor, and shall be given in the presence of the Surveyor.

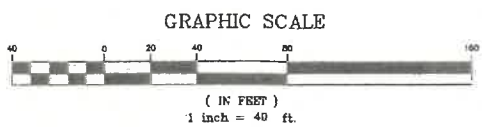
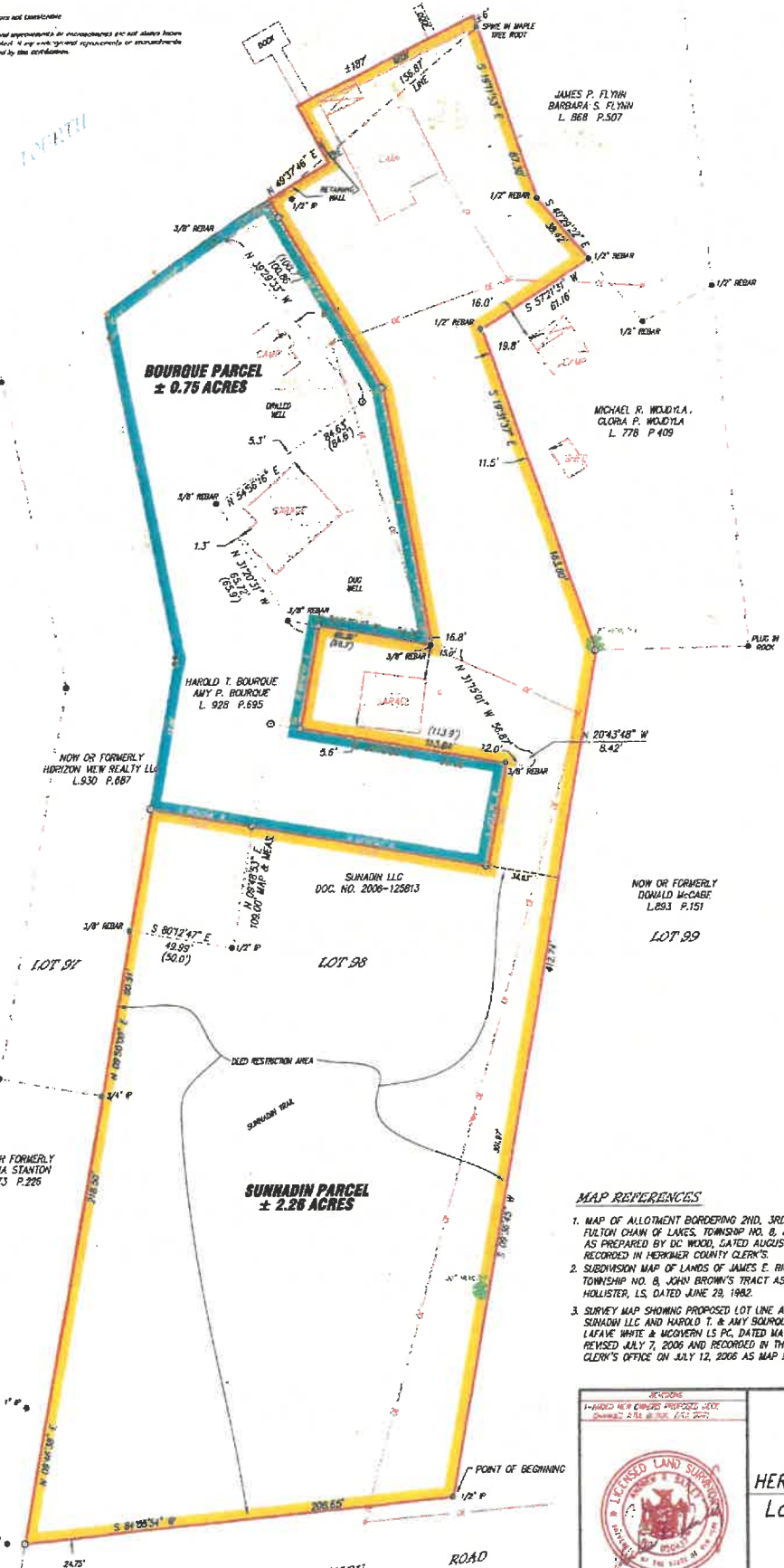
The Surveyor shall not be held responsible for any errors or omissions in this map, and shall not be held responsible for any errors or omissions in any previous map or plan.

RECEIVED
Date: January 12, 2022

FINAL
P2021-0080



SECTION MAP - EAST BAY OVERLOOK - SCALE 1" = 200'



- LEGEND**
- - FOUND IRON PIPE OR REBAR (AS NOTED)
 - - 5/8" REBAR #/CAP TO BE SET
 - - UTILITY POLE
 - - OVERHEAD ELECTRIC
 - (165.2) - DIMENSION PREVIOUSLY PUBLISHED BY DEED OR MAP

DEED REFERENCES

RICCELLI FAMILY LIMITED LIABILITY COMPANY
TO
SUNNADIN LLC
DATED 4/17/2006
RECD. 4/25/2006
DOC. NO. 2006-125813

MARTIN B. PHILLIPS & MARTHA S. PHILLIPS
TO
HAROLD T. BOURQUE & AMY P. BOURQUE
DATED 10/3/2003
RECD. 10/6/2003
L.928 P.695

SUNNADIN LLC
TO
DAVID CAMPBELL & JENNIFER CAMPBELL
DATED 10/3/2017
RECD. 10/7/2017
DOC. NO. 2017-24463
P.216 P.695

- MAP REFERENCES**
1. MAP OF ALLOTMENT BORDERING 2ND, 3RD, AND 4TH LAKES FULTON CHAIN OF LAKES, TOWNSHIP NO. 8, JOHN BROWN TRACT AS PREPARED BY D.C. WOOD, DATED AUGUST 30TH, 1893 AND RECORDED IN HERKIMER COUNTY CLERK'S.
 2. SUBDIVISION MAP OF LANDS OF JAMES E. RICCELLI, LOTS 97-99 TOWNSHIP NO. 8, JOHN BROWN'S TRACT AS PREPARED BY D.C. HOLLISTER, L.S. DATED JUNE 29, 1982.
 3. SURVEY MAP SHOWING PROPOSED LOT LINE AMENDMENTS BETWEEN SUNNADIN LLC AND HAROLD T. & AMY BOURQUE, AS PREPARED BY LAFAVE WHITE & MCGIVERN L.S. PC, DATED MAY 4, 2006 AND LAST REVISED JULY 7, 2006 AND RECORDED IN THE HERKIMER COUNTY CLERK'S OFFICE ON JULY 12, 2006 AS MAP NO. 373.

SECTIONS
DRAWN NEW ENGINE PROPOSED 2022
DATE: 2/18/2022 (P. 1 OF 2)



SURVEY MAP SHOWING LANDS TO BE CONVEYED BY
DAVID CAMPBELL & JENNIFER CAMPBELL
TOWN OF WEBB

HERKIMER COUNTY NEW YORK
LaFAVE, WHITE & MCGIVERN, L.S., P.C.
LAND SURVEYORS PHOTOGRAMMETRISTS
THERESA BOONVILLE ROME
NEW YORK

DRAWN T.J.B.	CHECKED A.R.B.	DATE 8/21/2017	SCALE 1" = 40'	FILE 06-P01-B	SHEET 1 OF 1
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