


**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 Order Granting Variance <b>2022-0212</b></p>
<p>In the Matter of the Application of</p> <p><b>RICHARD P. GANS and LYNNE G. GANS, CO-TRUSTEES OF THE RICHARD P. GANS LIVING TRUST</b></p> <p>for a variance pursuant to Executive Law §806</p>	<p>Date Issued: June 1, 2023</p>
	<p>To the County Clerk: Please index this Order in the grantor index under the following names applicant and all landowners' names:</p> <ol style="list-style-type: none"><li><b>1. Richard P. Gans</b></li><li><b>2. Lynne G. Gans</b></li><li><b>3. Richard P. Gans Living Trust</b></li></ol>

**SUMMARY AND AUTHORIZATION**

Richard P. Gans, Lynne G. Gans, and the Richard P. Gans Living Trust are granted a variance, as conditioned herein, from the applicable 100-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 expansion in footprint of a pre-existing single-family dwelling located 18± feet from the mean high water mark of Raquette Lake, in an area classified Resource Management by the Official Adirondack Park Land Use and Development Plan Map in the Town of Long Lake, Hamilton County.

Nothing contained in this Order shall be construed to satisfy any legal obligations of the applicants 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 100 feet from the mean high water mark of Raquette Lake for all accessory structures and 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 0.30±-acre island on Raquette Lake identified on Town of Long Lake Tax Map Section 44, Block 1, as Parcel 22, and described in a deed from Marjorie E. Kalfon and Boaz Kalfon, Trustees of the Marjorie E. Kalfon Living Trust, to Richard P. Gans and Lynne G. Gans, Co-Trustees of the Richard P. Gans Living Trust, dated July 12, 2022, and recorded August 5, 2022 in the Hamilton County Clerk's Office under Instrument Number #2022-1108.

The variance site is known as Strawberry Island, is accessible by boat only, is located 1,200± feet east of Antlers Road on the mainland and is 450± feet west of St. Hubert's Island on Raquette Lake. Strawberry Island is shaped like an oval – the width of the island at its widest point is 108± feet (north to south) and the island measures 251± feet in length (east to west). There is no portion of the variance site that meets the required 100-foot shoreline structure setback from the mean high water mark of Raquette Lake. The variance site contains 575± feet of shoreline along the perimeter of Strawberry Island.

The site is improved by a two story 929-square-foot pre-existing three-bedroom single family dwelling constructed in 1845, a 378±-square-foot bunkhouse constructed circa 1880, a 130±-square-foot boat storage shed, a 78±-square-foot pump house, a 20±-square-foot shed, a 16±-square-foot storage structure, and a 390±-square-foot floating dock. All of the structures are in lawful non-compliance with the Agency's shoreline restrictions. The single-family dwelling is served by a holding tank and does not contain a potable water supply. The dwelling and accessory structures are substantially screened by mature coniferous vegetation. The site does not contain wetlands and has numerous areas of exposed bedrock.

### **Variance Request**

The variance request involves a 341-square-foot expansion of the pre-existing single family dwelling and the construction of an attached 168-square-foot screened porch, for a total structure expansion of 509 square feet. A 78-square-foot storage structure within the shoreline setback and 217 square feet of existing dwelling footprint will be removed. The requested variance will result in an overall 214-square-foot increase in footprint within the shoreline structure setback. The expansion will not cause the dwelling to be any wider or taller than the existing dwelling, and the expanded dwelling will not be located closer to the mean high water mark of Raquette Lake than the existing dwelling. The expansion will be constructed in the same style as the existing dwelling.

The variance proposal is shown on the following eleven sheets of plans (Variance Plans):

- two sheets titled "Rick Gans, Strawberry Island on Raquette Lake 44.000-1-22," prepared by SD Atelier Architecture, LLC, dated February 28, 2023 and received by the Agency on March 3, 2023:
  - "Existing Site Plan;"
  - "Proposed Site Plan;"
- two sheets titled "Strawberry Island," prepared by Studio A Landscape, Architecture, and Engineering, DPC, dated December 28, 2022 and received by the Agency on March 3, 2023:
  - "Stormwater Management Plan;"
  - "Layout and Dimensioning Plan;"
- seven sheets titled "Addition for Rick Gans, Strawberry Island on Raquette Lake," prepared by SD Atelier Architecture, LLC, and received by the Agency on January 30, 2023:
  - "First Floor Plan – Option B" dated January 26, 2023;
  - "Second Floor Plan" dated January 26, 2023;
  - "Proposed West Elevation" dated January 26, 2023;
  - "Proposed South Elevation" dated January 26, 2023;
  - "Proposed North Elevation" dated January 26, 2023;
  - "Southeast 3-D View" dated January 25, 2023; and
  - "Northeast 3-D View" dated January 25, 2023.

Reduced-scale copies of the “Proposed Site Plan” and the “Proposed First Floor Plan” of the Variance Plans are attached as 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 the Agency regulations. On April 17, 2023, the Agency held a public hearing on the variance request. The hearing was attended by Agency staff and the applicants’ authorized representative. No public comments were received.

### **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 Raquette Lake.

Denial of the variance request would impact the applicants’ ability to expand the existing single-family dwelling and meet their objective to increase the interior living area space of and provide an exterior porch on the pre-existing single-family dwelling.

As proposed, the project will protect the water quality of Raquette Lake. The increase in impervious surface area from the dwelling expansion will be mitigated by the stormwater measures implemented as part of the project. The quality of the shoreline will be protected as the expansion will be no wider or taller as viewed from Raquette Lake and will not be located closer to Raquette Lake than the existing dwelling. The quality of the shoreline will be further protected by retaining the existing trees on the variance site between the shoreline of Raquette Lake and the single-family dwelling.

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

The applicants reduced the footprint of the originally proposed screened porch resulting in a smaller footprint for the proposed dwelling expansion. The project will not increase the occupancy of the dwelling and will be constructed within the existing area of cleared vegetation associated with the pre-existing single-family dwelling. The expanded dwelling will be no wider or taller as viewed from Raquette Lake and will be no closer to the mean high water mark than the existing dwelling.

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

The single family dwelling is located on an island 1,200 feet to the west of the mainland. The closest landowner is located approximately 450 feet to the east of the dwelling on a

neighboring island. The applicants have designed the expansion in a manner that retains the character of the property by constructing the expansion in the same style as the existing dwelling and keeping the footprint expansion the same distance from the mean high water mark of Raquette Lake as the existing dwelling. The expanded single-family dwelling will be substantially screened by the existing trees on the island and will not impact views of the lake from neighboring properties.

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

The variance site is an island with no portion of the property able to meet the minimum 100-foot shoreline setback to the mean high water mark of Raquette Lake. As a result, any expansion of the dwelling footprint in any direction requires a variance from the Agency.

Alternatives to the applicants' proposal that were considered include re-allocation of the existing 103±-square-foot porch associated with the eastern main entrance to the dwelling and/or adding a second story addition to re-locate the main floor master bedroom.

The applicants determined that these were not feasible alternatives as re-allocating the existing eastern porch would remove the covered entry to the single-family dwelling and constructing an addition on the second story for re-locating the master bedroom would require multiple upgrades to the structure and present limitations for any elderly occupants/guests of the dwelling.

As part of the variance request, the applicants proposed to remove 78 square feet of an accessory structure on the variance site in order to minimize the amount of footprint within the shoreline setback on Strawberry Island.

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

The variance site is an island 0.30± acres in size, surrounded to the north, east, west, and south by Raquette Lake.

The pre-existing single family dwelling, bunk house, and accessory structures were constructed in the 1800s and owned by the applicants' family prior to the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan Map. The property has not substantially changed since construction of the dwelling. The applicants' objective is to expand the existing single-family dwelling and add a screened porch.

**§ 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 single family dwelling expansion and screened porch will involve 214 square feet of ground disturbance and result in 214 square feet of increased impervious surface area. Stormwater measures will be implemented to treat and mitigate the increased impervious surface area. The expansion will not increase the occupancy or change the use of the pre-existing single-family dwelling. The proposed expansion will be constructed in the style of the existing dwelling, will be a dark shade of green, grey, or brown, and will be substantially screened from Raquette Lake by existing vegetation.

Adverse impacts to water quality will be mitigated by the stormwater measures depicted on the Variance Plans and will not result in increased runoff into Raquette Lake.

Any future increase in occupancy of the dwelling may exceed the design capacity of the existing on-site wastewater treatment system and could lead to adverse changes in the water quality of Raquette Lake. In addition, construction of the dwelling expansion without restrictions on vegetative cutting, exterior lighting, and building color could result in impacts to the aesthetic character of the shoreline of Raquette Lake.

Changes to the variance site over time could alter the potential for adverse effects from construction of the expanded single-family dwelling. Imposition of a five-year time limit on the requested variance will mitigate these potential impacts.

**§ 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 Raquette Lake will be ameliorated by compliance with the following conditions:

1. This authorization shall expire unless recorded in the Hamilton 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 expansion of the single-family dwelling and construction of a screened porch shall expire five years from the date this order is recorded in the Hamilton County Clerk's office, unless construction of the structures has been completed in accordance with the Variance Plans 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 Variance Plans referenced herein. Any changes to the locations, sizes, dimensions, or other aspects of the structures shall require a new or amended Agency Order or a letter of compliance.
5. The existing 78-square-foot pump house shall be removed from the variance site upon completion of the structures authorized herein.
6. All exterior building materials, including roof, siding and trim, of the single-family dwelling and screened porch authorized herein shall be a dark shade of green, grey or brown.
7. Any new free-standing or building-mounted outdoor lights associated with the expanded single-family dwelling and screened porch authorized herein on the variance site shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward Raquette Lake or nearby properties.
8. Within the shoreline setback of Raquette Lake, no trees, shrubs or other woody-stemmed vegetation may be cut or otherwise removed or disturbed on the variance site 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.

- 9. Prior to any increase in occupancy of the single-family dwelling expansion authorized herein or replacement of the pre-existing on-site wastewater treatment system, 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(s) plans shall comply with the Agency's Project Guidelines for Residential On-Site Wastewater Treatment, and with Agency standards set forth in 9 NYCRR Appendix Q-4.

**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 applicants' 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 1<sup>st</sup> day  
of June, 2023.

ADIRONDACK PARK AGENCY

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

STATE OF NEW YORK  
COUNTY OF ESSEX

On the 1<sup>st</sup> day of June 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.

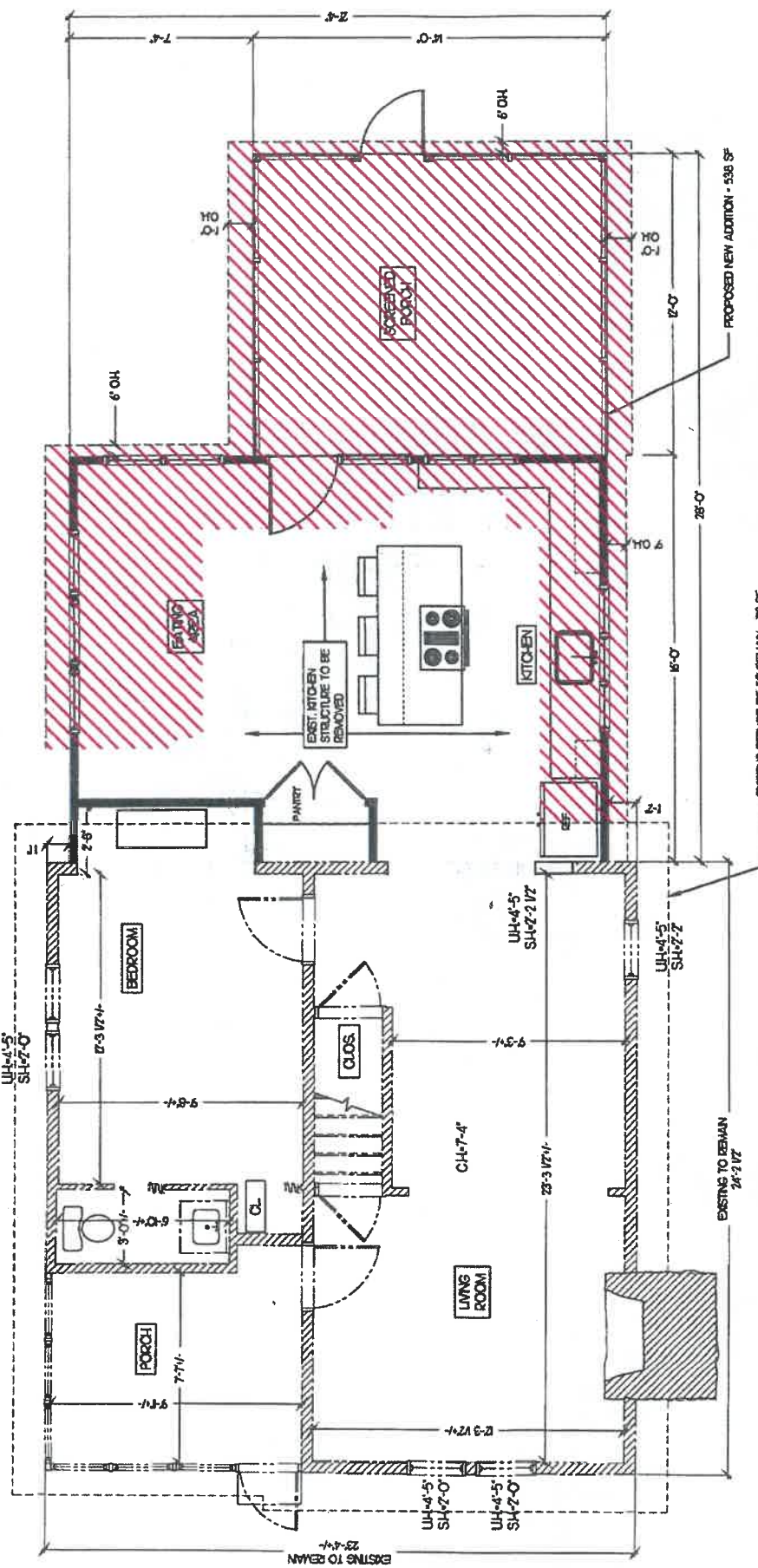
Stephanie L. Petith  
Notary Public, State of New York  
Reg. No. 01PE6279890  
Qualified in Franklin County  
Commission Expires April 15, 2025

  
Notary Public



NEW YORK STATE OF OPPORTUNITY  
**Adirondack Park Agency**  
**RECEIVED**  
 Date: January 30, 2023

NEW YORK STATE OF OPPORTUNITY  
**Adirondack Park Agency**  
**FINAL**  
 P2022-0212



EXISTING STRUCTURE TO REMAIN - 70 SF  
 PROPOSED NEW ADDITION - 538 SF  
 -AREA OF PROPOSED NEW STRUCTURE OVER EXISTING  
 OH - OVERHANGS

**1** PROPOSED FIRST FLOOR PLAN  
 (D-B) SCALE: 1/4" = 1'-0"

DATE  
 JANUARY 26, 2023  
**DD-1B**  
 2021-11



WARNING: THE ATTENTION OF THE USER IS DRAWN TO THE FACT THAT THE USE OF THIS SET OF DRAWINGS IS A VIOLATION OF THE NEW YORK STATE PROFESSIONAL SEAL AND/OR REGULATIONS MADE BY A CLASS A ARCHITECT

**FIRST FLOOR PLAN - OPTION B**

DESIGN DEVELOPMENT SET - NOT TO BE USED FOR CONSTRUCTION

ADDITION FOR  
**RICK GANS**  
 STRAWBERRY ISLAND  
 ON RAQUETTE LAKE

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