

THIS IS A TWO-SIDED DOCUMENT



**Adirondack
Park Agency**

P.O. Box 99, 1133 NYS Route 86
Ray Brook, New York 12977
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APA Order Granting
Variance
2024-0220

Date Issued: **June 25, 2025**

In the Matter of the Application of

JAMES F. MIRAGLIA AND SUZANNE ROBERTS

for a variance pursuant to Executive Law § 806

To the County Clerk: Please index
this Order in the grantor index
under the following name(s):

- 1. James F. Miraglia**
- 2. Suzanne Roberts**

SUMMARY AND AUTHORIZATION

James F. Miraglia and Suzanne Roberts ("applicants") are granted a variance, as conditioned herein, from the applicable 75-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 of a retaining wall 41.9 feet from the mean high water mark of Lake Luzerne, in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Lake Luzerne, Warren 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 75 feet from the mean high water mark of Lake Luzerne 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 0.43±-acre parcel of land identified on Town of Lake Luzerne Tax Map Section 298.8, Block 1, as Parcel 13, and described in a deed from Frank V. Miraglia and Ellen Miraglia to James F. Miraglia and Suzanne Roberts, dated April 5, 2016, and recorded July 6, 2016 in the Warren County Clerk's Office at Book 5385, Page 40.

The variance site is located at the end of Valeria Drive and is situated on a narrow sandy peninsula, with approximately 265 feet of shoreline on Lake Luzerne. The site is improved by a pre-existing single family dwelling and a retaining wall, stairs and dock. Nearby land uses include single family dwellings in a Rural Use land use area.

The existing shoreline stabilization structure consisting of a stone retaining wall structure is located approximately 41.9 feet from the mean high water mark of Lake Luzerne at its closest point, and wholly within the shoreline setback of Lake Luzerne. The existing retaining wall is approximately 374 square feet in size in face view area and is approximately 100.6 square feet in size in plan view area. There is a crack in the northwest corner of the dwelling foundation, at the retaining wall's closest point to the dwelling, that the applicants and their consultant attribute to the deteriorating condition of the existing retaining wall.

On the north end, the existing retaining wall is located approximately 16.7 feet from the northern property line and along a steep slope. On the southern end, the existing retaining wall is located near the existing dwelling, porches and adjacent steep slope.

The area between the shoreline and the existing retaining wall is forested, with white pine, hemlock, oak, maple and other native trees partially screening the existing retaining wall from adjoining properties and from Lake Luzerne.

Variance Request

The variance request involves expansion of the existing retaining wall shoreline structure by 91 square feet, for a total size of 465 square feet (in face view). The expanded retaining wall will be approximately 10 feet in height, as measured from base of grade to the top of the proposed handrail attachment. The expansion will not cause the retaining wall to be located closer to the mean high water mark of Lake Luzerne than the existing retaining wall. The existing retaining wall will be buried in place by soil and no longer visible. No trees are proposed for removal between the retaining wall expansion and the shoreline of Lake Luzerne. The expanded retaining wall will maintain existing stormwater drainage patterns, and erosion and sediment controls will be implemented during construction. The purpose of the retaining wall expansion is to stabilize the existing, deteriorating retaining wall, and therefore support the foundation of the existing single family dwelling.

The variance proposal is shown on a two-sheet set of Project Plans, titled "Retaining Wall Repair Project," prepared by SRA Engineers, dated last revised March 21, 2025 and received by the Agency on March 24, 2025.

A reduced-scale copy of Sheet C-101 of the Project Plans 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 May 19, 2025, the Agency held a remote public hearing on the variance request. The hearing was attended by Agency staff, landowner Jim Miraglia, engineer Erik Sandlbom, one member of the Lake Luzerne Zoning Board, and one member of the public. During the hearing, one member of the public expressed their support for the project.

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 purposes served by the Agency's shoreline restrictions include protection of water quality and aesthetics of Lake Luzerne.

Denial of the variance request would impact the applicant's ability to stabilize the existing retaining wall, which supports the foundation of the single family dwelling.

As proposed, the project will protect the water quality of Lake Luzerne as it maintains existing stormwater drainage patterns. The aesthetics of the shoreline will be protected, as only three trees will be removed as part of this project. The remaining trees on the forested site between the retaining wall expansion and the mean high water mark of Lake Luzerne will remain and will continue to provide partial vegetative screening.

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

The requested variance represents the minimum relief necessary to address the deteriorating condition of the existing retaining wall while avoiding further risk to the dwelling. Although replacing the existing retaining wall in-kind was considered, it was deemed infeasible due to site access limitations, cost, and risk of de-stabilizing the dwelling during removal. To minimize the variance request, the applicants revised their proposal in three key ways: (1) eliminating any encroachment closer to the mean high water mark than the existing wall; (2) reducing the separation between the proposed wall and the existing retaining wall structure from 7 feet to 6.13 feet; and (3) lowering the wall height by modifying the backfill design.

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

The variance site is located in a residentially developed shoreline area, and the proposed structure is consistent with the character of neighboring lots. Additionally, significant existing vegetative screening will be retained, and the applicants have limited tree removal to a small number of trees, while preserving the majority of shoreline vegetation. The retained vegetation will continue to provide visual screening of the structure from the lake, further minimizing any visual or aesthetic impacts. Conditions are also included to prevent further shoreline clearing without Agency review which will help maintain screening and preserve shoreline character.

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

Construction alternatives that would avoid the need for a variance were evaluated but determined to be infeasible. Replacing the existing retaining wall in kind was determined to be impractical due to the narrow peninsula, limited access for equipment, and the risk of

destabilizing the single family dwelling during removal. Use of a crane was not practical given terrain constraints and transporting heavy equipment by barge across Lake Luzerne was similarly dismissed due to logistical and environmental concerns. Reinforcing the existing retaining wall with vegetative methods or significant site grading was not preferred as it would require removal of most existing trees between the dwelling and the shoreline, leading to substantial visual and ecological impacts. The alternative of reinforcing the existing retaining wall with multiple structures less than 100 square feet in size was evaluated but not preferred because of the similar extent of tree cutting and grading required, which would result in more significant aesthetic impacts to Lake Luzerne.

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

The applicants became aware of the retaining wall deterioration and associated dwelling foundation crack after moving to the variance site full-time in 2020. The need for stabilization arose after the applicants observed that deterioration of the existing retaining wall threatened the structural integrity of the single family dwelling. The applicants have undertaken efforts to address the issue, culminating with the variance request.

§ 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.

Granting of the variance is not expected to result in undue adverse impacts to the Park's resources. The expanded retaining wall will not extend closer to the shoreline than the existing structure, and the design has been modified to reduce both height and footprint. The majority of existing shoreline vegetation will be retained, which will continue to provide visual screening and maintain shoreline character. Construction activities will occur in an already disturbed area. However, without appropriate controls, expansion of the retaining wall could result in erosion, stormwater runoff, or aesthetic impacts. To address these concerns, the project includes conditions to ensure erosion and sediment controls are implemented and that vegetation removal is limited to only that identified on the Project Plans.

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

1. This authorization shall expire unless recorded in the Warren 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 the retaining wall expansion shall expire five years from the date this order is recorded in the Warren County Clerk's office, unless construction of the structure has been completed in accordance with the plan sheets 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 Project Plans referenced herein. Any changes to the location, size, dimension, or other aspects of the retaining wall shall require a new or amended Agency Order or a letter of compliance.
5. The project shall be undertaken in compliance with the erosion and sediment controls depicted and described on the Project Plans.
6. Other than the three trees labeled for removal on the Project Plans, no trees, shrubs, or other woody stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed within the 75-foot shoreline setback of Lake Luzerne 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.

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 25th day
of June, 2025.

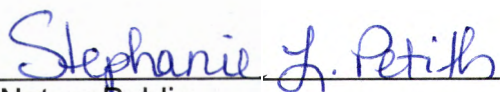
ADIRONDACK PARK AGENCY

BY: 
John M. Burth
Deputy Director, Regulatory Programs

STATE OF NEW YORK COUNTY OF ESSEX

On the 25th day of June in the year 2025, before me, the undersigned, a Notary Public in and for said State, personally appeared 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, 2029


Notary Public



ZONING / SITE INFORMATION

ZONING CLASSIFICATION: RESIDENTIAL RURAL (RU)
APA LAND CLASSIFICATION: RURAL USE
TAX MAP NO. 200.0-5-13
LOT SIZE: +46.42 ACRES (+4,1796 SQ. FT.)
TOTAL PROPOSED DISTURBED AREA: +6,300 SQ. FT.

[illegible]

GENERAL AND SURVEY NOTES

2. THESE DATA SHOULD HAVE BEEN REPORTED FOR THE PURPOSE OF DEVELOPING PLANS AND SPECIFICATIONS FOR A NEW RESEARCH FACILITY. THIS DATA SHOULD NOT BE USED AS A CEMENTED FACT.

EROSION AND SEDIMENT CONTROL NOTES

- [illegible]

SEGMENTAL MASONRY RETAINING WALL NOTES

- [illegible]