


**THIS PERMIT RENEWS PERMIT 2006-228RT ISSUED DECEMBER 20, 2011**  
**THIS IS A TWO-SIDED DOCUMENT**

<div style="display: flex; align-items: center;"><div><b>Adirondack Park Agency</b></div></div> <p style="text-align: center; margin-top: 20px;">P.O. Box 99 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 · Fax: (518)891-3938 <a href="http://www.apa.ny.gov">www.apa.ny.gov</a></p>	<div style="text-align: center; padding: 10px;"><b>APA Project Permit</b> <b>2006-228R2T</b></div> <div style="padding: 10px;">Date Issued: February 17, 2016</div>
<p>In the Matter of the Application of</p> <p><b>ANGELA GANNUCCI, JOAN CLARK, and DANIEL MITACCHIONE</b></p> <p>for a permit pursuant to 9 NYCRR Part 577 of the Agency's Rules and Regulations</p>	<p>To the County Clerk: This permit must be recorded on or before <b>April 18, 2016</b>. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Angela Gannucci</b></li><li><b>2. Joan Clark</b></li><li><b>3. Daniel Mitacchione</b></li></ol>

**SUMMARY AND AUTHORIZATION**

Angela Gannucci, Joan Clark, and Daniel Mitacchione are granted a second renewed permit, on conditions, authorizing the construction of one new single-family dwelling within 1/4 mile of the Sacandaga River, a designated Recreational River, in an area classified Low Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Wells, Hamilton County.

This project may not be undertaken, and no transfer deed shall be recorded, until this renewed permit is recorded in the Hamilton County Clerk's Office. This transferred and renewed permit shall expire unless so recorded on or before April 18, 2016 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This renewed permit is void if the project authorized herein is not in existence within four years from the date the permit is recorded. The Agency will consider the project in existence upon installation of the foundation and completion of the dwelling authorized herein.

Nothing contained in this permit 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.

**AGENCY JURISDICTION**

The project consists of the construction of one new single-family dwelling within 1/4 mile of the Sacandaga River, a rivers project requiring an Agency permit pursuant to 9 NYCRR 577.4 (a) and 577.5.(c)(1). The Sacandaga River in the vicinity of the project site is designated as "Recreational" in the New York State Wild, Scenic, and Recreational River System Act.

## **PROJECT SITE AND PROJECT DESCRIPTION**

The project site is a vacant 2.51±-acre parcel of land containing 199± feet of shoreline along the Sacanadaga River, contains frontage along Griffen Road (County Road 8), and is accessed by a 20 foot wide private right of way off County Road 8 in the Town of Wells, Hamilton County. The project site is in an area classified Low Intensity Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Wells Tax Map as Section 122, Block 2 as Parcel 12. The project site is described in a deed from Angela Gannucci to Angela Gannucci, Joan Clark, and Daniel Mitacchione dated August 27, 2010 which was recorded August 31, 2010 in the Hamilton County Clerk's Office in Liber 251 of Deeds at Page 198.

The project as originally proposed and authorized has not been undertaken to date. The applicant has requested that the Agency issue a renewed permit to allow the project to be undertaken and completed as originally proposed and authorized. No changes to the project are proposed.

The project as proposed, conditionally approved, and renewed herein is summarized as follows: The applicants are seeking approval for the construction of a one-story, three-bedroom, 30 foot by 40 foot single-family dwelling with on-site water supply and on-site wastewater treatment systems. There are currently no electrical utilities within one mile of the project site; therefore, the dwelling will be served by an individual on-site generator. The proposed dwelling is depicted on the site plan map 150 feet from the mean high water mark of the Sacandaga River. Pursuant to 9 NYCRR Part 577.6 (b)(3), the minimum required setback for structures is 150 feet; and the proposed dwelling complies with that minimum setback requirement. The project is shown on a half-scale, 1 inch = 60 feet map entitled "Gannucci/Mitacchione Properties - Site Map and Percolation Tests" prepared by Steven E. Smith, Engineers, Architects, and Surveyors. The plan is dated October 24, 2007. A reduced-scale copy of the site plan is attached as a part of this permit for easy reference. The original, full-scale maps and plans referenced in this permit are the official plans for the project.

## **CONDITIONS**

### **BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE PROJECT FILE, THE RENEWED PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. All conditions in Permit 2006-228RT remain in full force and effect.
2. This renewed permit is binding on the applicant(s), all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan map(s) referred to herein shall be furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant and/or any subsequent owner or lessee to all contractor(s) undertaking any construction activities pursuant to the permitted project. 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 2006-228 issued January 10, 2008, Permit 2006-228RT issued December 20, 2011, and Permit

2006-228R2T issued February 17, 2016, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees.”

3. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension, or revocation of the permit.
4. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

#### **Legal Interests of Others**

5. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

#### **Projected Remaining Building Density**

6. This permit only authorizes the construction of one new single-family dwelling with on-site water supply and on-site wastewater treatment systems.
7. After the construction of the dwelling authorized herein, no additional principal building shall be allowed on the project site (Town of Wells tax map parcel 122-2-12). This restriction shall apply unless the overall intensity guidelines of the Adirondack Park Agency Act or the Park Plan Map are amended or, pursuant to the adoption of an Agency-approved local land use program, refined so as to permit additional principal building(s).

#### **Building Location and Size**

8. This permit authorizes the construction of one new single-family dwelling in the location shown on the project plans. No part of the dwelling including attached decks, porches, or stairs shall be located closer than 150 feet from the mean high water mark of the Sacandaga River. The authorized single-family dwelling shall not exceed one single story or a footprint of 1200 square feet including all covered and uncovered attached porches, decks, exterior stairs and accessory structures (such as an attached garage). The dwelling shall not exceed 22 feet in height. The height shall be measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade, whichever is lower.
9. The single-family dwelling authorized herein may contain no more than three bedrooms. Any expansion of the dwelling authorized herein involving construction or conversion of existing living space into additional bedrooms will require prior Agency review and approval in the form of a new or amended permit.



10. The dwelling authorized herein shall not contain a basement, and the first floor elevation shall be a minimum of 36 inches above existing grade so as to minimize damage to the structure in the event of flooding.

#### **Accessory Uses and Structures**

11. No accessory structures [except guest cottages and boathouses] are permitted without prior Agency review and approval in the form of a new or amended permit.

#### **Building Color**

12. All exterior building materials, including roof, siding, and trim, used to surface the exterior of the dwelling authorized herein and all accessory use structures on the project site shall be of a color which blends with the existing vegetation. The Agency will, upon request, advise whether any particular proposal complies with this condition.

#### **Outdoor Lighting**

13. Any new free-standing and building-mounted outdoor lights shall employ full cut-off fixtures; that is, they shall be fully shielded to direct light downward and not into the sky. The fixtures shall be oriented so as to not cast light toward the Sacandaga River, New York State Route 8, County Road 8, nearby or adjoining properties. The intent is to reduce nighttime light pollution (glare, light trespass, and sky glow).

#### **Wetlands**

14. Beyond that authorized herein, no "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, new land use or development in, subdivision of, clear-cutting more than three acres within, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits, or values.
15. No new land use or development within 50 feet of the jurisdictional wetland shall occur on the project without prior Agency review and approval in the form of a new or amended permit.

#### **Wastewater Treatment**

16. The wastewater treatment system for the project site shall be a conventional absorption trench system and shall be installed on the project site in the location shown on the site plan referenced herein. The system shall comply with New York State Department of Health's "Wastewater Treatment Standards for Individual Household Systems", the Agency's "Guidelines for On-site Sewage Disposal Systems (10 NYCRR Appendix 75-A), and with Agency standards in 9 NYCRR Appendix Q-4.

17. The on-site wastewater treatment system shall consist of an appropriately sized septic tank, pump station (if necessary), distribution box, and conventional trench absorption field. Prior to installing the new on-site wastewater treatment system, Agency approval in the form of a letter of permit compliance shall be obtained for plans prepared by a New York State Licensed Professional Engineer submitted to the Agency for its review. Installation of the system shall be under the supervision of a licensed design professional (licensed Professional Engineer, Registered Architect, or exempt Licensed Surveyor). Within 30 days of complete system installation and prior to utilization, the design professional must provide the Agency with written certification that the system was built in compliance with the approved plans.
18. No change in the type, size, or location of the on-site wastewater treatment system shall occur without prior Agency review and approval in the form of a new or amended permit.

#### **Visual/Open Space Protection**

19. Installation of a driveway to serve the project site is prohibited from County Road 8 (Griffen Road). Within 50 feet of the centerline of the 20-foot wide private right-of-way which provides access to the project site, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed except for an area not to exceed 25 feet in width for driveway construction and future utility installations. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.
20. No utility service of any kind except an on-site individual generator shall be allowed on the project site without prior Agency review and approval in the form of a new or amended permit or a letter of permit compliance.
21. Future utilities to serve the dwelling authorized herein shall be run underground along the edge of the driveway. No vegetative cutting for installation of utilities shall be permitted without prior Agency review and approval in the form of a new or amended permit or a letter of permit compliance.
22. Any generator used to serve the dwelling authorized herein shall be placed within a small structure that totally encloses the unit and utilizes the muffler installed on the unit that meets the manufacturer's original specifications (or equal) for that type of generator. Noise levels from the generator shall not exceed 60 dbA, as measured at the nearest existing road and nearest adjoining property line.
23. Other than that which is necessary for construction of the single-family dwelling, and installation of the driveway and on-site wastewater treatment system, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed without prior Agency review and approval in the form of a new or amended permit.

24. No trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on slopes greater than 15 percent without prior Agency review and approval in the form of a new or amended permit.

#### **Wild, Scenic and Recreational Rivers Special Provisions**

25. Inside and within 100 feet of the mean high water mark of the Sacandaga River, no trees, or other vegetation shall be harvested, cut, culled, removed, thinned, or otherwise disturbed without prior Agency review and approval except as authorized herein. Forest management activities between 100 feet from the mean high water mark of the river and one-quarter mile shall meet the standards and conditions of the Agency's river regulations (9 NYCRR Part 577.6).

#### **Shoreline Setbacks**

26. All structures, except docks and boathouses, in excess of 100 square feet, including attached decks, shall be set back a minimum of 150 feet, measured horizontally, from the closest point of the mean high water mark of the Sacandaga River.
27. All new buildings, decks and other structures (except for fences, poles, lean-tos, docks, boathouses, bridges, and stream improvement structures for fishery management purposes) shall be set back a minimum of 150 feet from the mean high water mark of the Sacandaga River.

#### **Boathouses and Docks**

28. There shall be no boathouses or docks without prior Agency review and approval in the form of a new or amended permit.

#### **Agency Review of Future Subdivision and Development**

29. There shall be no further subdivision or new land use and development without a new or amended Agency permit.

#### **FINDINGS OF FACT**

Permit 2006-228 was issued to Angela Gannucci. Permit 2006-228RT was issued to Angela Gannucci, Joan Clark, and Daniel Mitacchione. In a letter to the Agency received on December 5, 2011, Angela Gannucci requested a transfer and first renewal of Adirondack Park Agency Permit 2006-228 (which previously authorized the construction of one new single-family dwelling within 1/4 mile of the Sacandaga River). The transfer request was to include Joan Clark and Daniel Mitacchione since they now have a legal interest in the project site pursuant to the deed incorporated herein by reference.

Findings of Fact 1 through 25 are contained in Permit 2006-228RT, and are included herein. The permit was issued on December 11, 2011 and recorded on January 9, 2012 in the Hamilton County Clerk's Office as Instrument #2012-53. All terms and conditions contained in that permit remain in effect.

By letter dated November 3, 2015, Angela Gannucci requested a second renewal of Adirondack Park Agency Permit 2006-228RT authorizing the construction of one new single-family dwelling with related development within 1/4 mile of the Sacandaga River, a designated Recreational River.

### **Background/Prior History**

26. As of the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan Map, the project site was part of a larger parcel of land. The project site is first described in a deed from Joan Clark to Angela Gannucci dated May 25, 1973 which was recorded May 29, 1973 in the Hamilton County Clerk's Office in Liber 159 of Deeds at Page 618. At the time of the creation of the project site and its conveyance, the New York State Wild, Scenic, and Recreational Rivers Act (9 NYCRR Part 577) had not yet been enacted. Additionally, there were no other predicates of Agency jurisdiction over the creation of this lot; therefore, the project site identified as Town of Wells Tax Map Section 122, Block 2, as Parcel 12 has been determined to be a lawfully existing lot.
27. The project site has not been the subject of any previous Agency actions.

### **Existing Environmental Setting**

28. The proposed dwelling is located 150 feet from the mean high water mark of the Sacandaga River, and is 250± feet from County Road 8. The proposed development will not be visible from County Road 8 due to existing vegetation and intervening topography. Located on the north side of the Sacandaga River is New York State Route 30, a State public highway corridor which provides access to/from the southern portion of the Adirondack Park.
29. In a site visit conducted by the Agency's wetland biologist, a non-jurisdictional wetland is present along the westerly boundary of the project site. This wetland is a shallow depression which has no interchange with any other water resource on the project site and is located approximately 40± feet from the proposed dwelling. A jurisdictional fringe wetland, located along the base of the steep slope on the southern boundary of the lot, is present on the project site. The fringe wetland is 200± feet from the proposed on-site wastewater treatment system.
30. The project site is located within an area designated by the Federal Emergency Management Agency as a 100 year flood plain. There is no evidence on the site of recent flooding.
31. Soils on the project site in the vicinity of the proposed on-site wastewater treatment system are in the Adams soil series. These soils consist of a 10 inch dark brown loamy fine sand, a 14 inch yellow/brown loamy fine sand, a 6 inch yellow/brown coarse loamy sand, and a 42 inch yellow brown coarse loamy fine sand. There was no evidence of bedrock or seasonal high groundwater to a depth of 72 inches.

32. Slopes in the vicinity of the proposed development area range from 0 to 3 percent. Along the southern boundary of the lot, slopes exceed 25 percent, and are associated with County Road 8. No new land use or development is proposed within 150 feet of this slope.
33. Vegetation on the project site consists of a mix of mature coniferous and deciduous trees comprised of beech, paper birch, oak, hemlock, and white pine. Vegetation is predominantly deciduous, and the average height of the tree canopy is approximately 50± feet. There is some secondary understory growth of the vegetation on the project site. Based upon the existing vegetative cover on the project site and the location of the proposed dwelling to the Sacandaga River, the dwelling will be partially screened as seen from the river corridor.
34. Underground phone utilities are present along Griffin Road. No electrical utilities exist within one mile of the project site.
35. The area surrounding the project can be characterized as privately owned forestlands containing year-round residential dwellings, seasonal dwellings, and camps.

#### **Other Regulatory Permits and Approvals**

36. Pursuant to the Local Government Notice Form, the applicant will require municipal approval in the form of a building permit.

### **PROJECT IMPACTS**

#### **Wetlands**

37. The fringe wetland, located at the base of the steep slope along the southern boundary of the project site, is comprised of a palustrine forested deciduous wetland with a value rating of "2" pursuant to 9 NYCRR Part 578.5 and will not be impacted by any proposed development. Wetlands described herein are intended to alert landowners and others that wetlands are present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

#### **Water Resources**

38. Since the project site is located within the 100 year floodplain, the potential for adverse impacts to land and water resources are increased due to the potential for the Sacandaga River to flood. In order to avoid adverse impacts to land and water resources, the dwelling should not contain a basement, and the first floor should be elevated a few feet above the 100 year flood elevation.
39. The depth to seasonal high groundwater on the project site is greater than 72 inches and a conventional absorption trench on-site wastewater treatment system should be installed. Since the stabilized percolation rate is only one minute, design plans for the



system prepared by a licensed professional should be submitted to the Agency for prior Agency review and approval (in order to ensure proper siting and installation of the system.) This will help to protect the water quality of ground and surface waters.

40. Adverse impacts to the water quality of the Sacandaga River will be avoided since the location of the proposed on-site wastewater treatment system is greater than 200 feet from the mean high water mark of the river.

#### **Navigable Shorelines**

41. The proposed dwelling depicted on the site plan map is 150 feet from the mean high water mark of the Sacandaga River. Pursuant to 9 NYCRR Part 577.6 (b)(3), the minimum required setback for structures is 150 feet; and the proposed dwelling complies with that minimum setback requirement.
42. The project site contains 199± feet of shoreline on the Sacandaga River. In order to avoid adverse open space impacts to the vegetated shoreline, any vegetative cutting for installation of a footpath to or views of the river should require prior Agency review and approval.
43. Since the character of the shoreline along the Sacandaga River is undeveloped, construction of a dock or boathouse along the shoreline of the river should require prior Agency review and approval.

#### **Land Resources**

44. The southern portion of the project site contains slopes that are greater than 25 percent, and are vegetated and stable. Any new land use or development on slopes greater than 15 percent should receive prior Agency review and approval. This will minimize the potential for erosion, slope failure, and adverse open space impacts.

#### **Open Space/Aesthetics**

45. Adverse impacts to the open space character of the river corridor and area surrounding the project site will be avoided provided the dwelling utilizes earth-tone colors on its exterior to blend with the existing surrounding vegetation.
46. The proposed development will not be visible from County Road 8 due to existing vegetation and topography. In addition, the proposed development will be partially screened from the Sacandaga River and New York State Route 30 provided the existing intervening vegetation is retained.
47. Open space and visual impacts within the river area, to the nighttime sky, and surrounding properties will be avoided if all exterior lighting for the dwelling authorized herein is placed on motion detector switches to temporarily light areas, and be fully shielded.

48. Adverse open space impacts to the Sacandaga River, New York State Route 30, and County Road 8 as a result of new land use or development on the project site will be avoided provided vegetative cutting associated with the dwelling authorized herein is only that which is necessary to construct the driveway, dwelling, and on-site wastewater treatment system. Additional vegetative cutting should receive prior Agency review and approval to evaluate the potential for adverse impacts.

#### **Operational Issues Affecting Nearby Land Uses**

49. Since overhead utilities are greater than 1± miles from the project site, the applicant will likely require an on-site generator as the primary source to provide electrical service to the dwelling authorized herein. In order to avoid adverse impacts such as noise to adjoining and adjacent landowners surrounding the project site, the generator should be enclosed in a small type of soundproofed structure which minimizes the amount of noise while the generator is running.

#### **Historic Sites or Structures**

50. The project site is vacant, and does not contain any structures or sites as shown on the New York State Archeological Sensitivity Map. Therefore, the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Section 426.2 for the purposes of implementing § 14.09 of the New York State Historic Preservation Act of 1980.

#### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval as set forth in § 15-2709 of the NYS Wild, Scenic and Recreational Rivers System Act (ECL, Article 15, Title 27) and 9 NYCRR Section 577.8. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this 17<sup>th</sup> day  
of February, 2016.

ADIRONDACK PARK AGENCY

BY: 

Richard E. Weber III  
Deputy Director, Regulatory Programs

STATE OF NEW YORK)

) ss.:

COUNTY OF ESSEX)

On the 17<sup>th</sup> day of February in the year 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber III, 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

REW:VY:MJG:mlr:slp

STEPHANIE L. PETITH  
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