



## Adirondack Park Agency

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Ray Brook, New York 12977  
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APA Order Granting  
Variance and Permit  
**2016-17**

Date Issued: **DATE**

In the Matter of the Application of

**TOWN OF WARRENSBURG,  
WARRENSBURG HYDRO POWER L.P.  
AND ADIRONDACK HYDRO  
DEVELOPMENT CORPORATION**

for a variance pursuant to Executive Law §806  
9 NYCRR Part 577 and a permit pursuant to §809 of the  
Adirondack Park Agency Act and 9 NYCRR Part 577

To the County Clerk: This order  
must be recorded on or before  
**DATE**. Please index this Order in the  
grantor index under the following  
names:

- 1. Town of Warrensburg**
- 2. Warrensburg Hydro Power,  
L.P.**
- 3. Adirondack Hydro Development  
Corporation**

### **SUMMARY AND AUTHORIZATION**

The Town of Warrensburg ("Town"), Warrensburg Hydro Power, L.P. and Adirondack Hydro Development Corporation (collectively "applicants") are granted a variance, as conditioned herein, from the shoreline structure setbacks required by Section 806(1)(a)(2) of the Executive Law ("Adirondack Park Agency Act" or "APA Act") and from Agency regulations implementing Article 15, Title 27 of the Environmental Conservation Law ("New York State Wild, Scenic and Recreational Rivers System Act" or "Rivers Act"), and a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 577, as conditioned herein, to allow for the construction of a municipal park and associated structures in an area classified Low Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Warrensburg, Warren 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.

This permit 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, nor does it authorize the impairment of any easement, right, title or interest in real or personal property. Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

## **AGENCY JURISDICTION**

### **Variance**

Sections 806(1)(a)(2) of the APA Act and 577.6(b)(3) of Agency regulations implementing the Rivers Act establish minimum shoreline setbacks of 75 feet and 150 feet, respectively, from the mean high water mark of the Schroon River for certain accessory structures. Pursuant to §575.4(b) of Agency regulations, individual structures that are attached to each other are considered a single structure when implementing these setback requirements.

The applicants proposed a structure comprised of an attached observation deck, boardwalk, and walkways to be located approximately 12.3 feet from the mean high water mark of the Schroon River at its closest point. The applicants requested a variance from the structure setback requirements pursuant to §806(3)(a) of the APA Act and 9 NYCRR § 577.10.

### **Rivers Project**

The project consists of the construction of a municipal park on the former site of a pre-existing manufacturing plant. The project includes access roads, a pavilion, a kiosk, trails, an observation deck and attached boardwalk and walkways, two canoe and kayak put-ins and take-outs, and other recreational amenities. The project is in a Recreational River Area and a Low Intensity land use area.

The park requires a rivers project permit as an “open space recreation use” in a Low Intensity Use land use area and a recreational river area under 9 NYCRR § 577.5(c)(1).

### **Class B Regional Project**

The 29-foot by 39-foot (1,131 square feet) pavilion will be a municipal structure, owned by the Town of Warrensburg and built for public use. Therefore, the pavilion is a public building in a Low Intensity Use land use area, a Class B project under APA Act § 810(2)(b)(6).

## **PROJECT SITE**

The site is a 5.2±-acre parcel of land located on the north side of NY Route 418 and the south side of the Schroon River in the Town of Warrensburg, Warren County, in an area classified Low Intensity Use by the Adirondack Park Land Use and Development Plan Map. The site includes 1,600± feet of shoreline and 1,300± feet of frontage on Route 418. Approximately

half the site is located within the 75 foot shoreline setback established by §806 of the APA Act, and most of the site is located within the 150-foot shoreline setback established by the Rivers Act regulations.

The site is identified on Town of Warrensburg Tax Map 223.7, Block 1, Parcels 18, 24 and 29, and described in the following deeds:

- a. Tax Map Parcel 223.7-1-18 is described in a deed from the Counties of Warren and Washington Industrial Development Agency to Warrensburg Hydro Power Limited Partnership C/O Adirondack Hydro Development Corporation dated November 29, 2001 and recorded December 27, 2001 in the Warren County Clerk's Office under Instrument Number 8835 at Book 1245, Page 107.
- b. Tax Map Parcel 223.7-1-24 is described in a deed from the County of Warren to the Town of Warrensburg, dated and recorded August 16, 2013 in the Warren County Clerk's Office under Instrument Number 2013-6697 at Book 4831, Page 156.
- c. Tax Map Parcel 223.7-1-29 is described in a deed from the County of Warren to the Town of Warrensburg, dated February 9, 2006 and recorded October 21, 2009 in the Warren County Clerk's Office under Instrument Number 2009-7973 at Book 3889, Page 111.

### **Easement**

The Town of Warrensburg, Warrensburg Hydro Power, L.P. and Adirondack Hydro Development Corporation are developing a permanent easement agreement so the Town of Warrensburg can undertake the park project described herein on lands owned by Warrensburg Hydro Power, L.P. and Adirondack Hydro Development Corporation.

### **PROJECT AND VARIANCE PROPOSAL**

The project as conditionally approved herein involves the construction of a municipal park and associated structures.

The variance as conditionally approved herein is summarized as follows: construction of a single structure comprised of (1) a 400 square-foot observation deck, (2) an eight-foot wide boardwalk, and (3) five-foot wide walkways within the 75 feet shoreline structure setback of §806 of the Adirondack Park Agency Act and/or within the 150 feet shoreline structure setback of the River Act regulations, 9 NYCRR § 577.6. The closest portion of the structure to the Schroon River is the observation deck, which is located approximately 12.3 feet from the mean high water mark, requiring a 62.7-foot variance from APA Act §806 and a 137.7-foot variance from the Rivers Act regulations. The structure will be at or just above natural grade, with the exception of the observation deck and a 65±-foot section of boardwalk greater than 30 inches above grade. The attached components within the 150- shoreline structure setback under the River Act regulations (and outside the footprint of the pre-existing paper mill) are: (1) an observation deck (400 square feet), (2) a boardwalk (1,976 square feet) and (3) walkways

(2,635 square feet), comprising a 5,011-square-foot structure. The observation deck, boardwalks and a 2,010-square-foot portion of the walkways comprise a single structure measuring 4,386 square feet within the 75-foot shoreline structure setback under APA Act §806.

The project and variance is shown on the following 16 sheets of plans titled "Warrensburg Papermill Park, Draft Final Design," dated January 26, 2016 and prepared by Chazen Engineering, Land Surveying and Landscape Architecture Co. D.P.C., received by the Agency on February 1, 2016:

1. Sheet T1 titled "Title Sheet";
2. Sheet EC1 titled "Existing Conditions Plan";
3. Sheet SP1 titled "Site Preparation Plan";
4. Sheet SP2 titled "Site Layout Plan";
5. Sheet SP3 titled "Site Layout Plan";
6. Sheet SP4 titled "Grading, Drainage, Utility and Erosion & Sediment Control Plan";
7. Sheet SP5 titled "Grading, Drainage, Utility and Erosion & Sediment Control Plan";
8. Sheet SP6 titled "Landscape Plan";
9. Sheet SD1 titled "Site Details";
10. Sheet SD2 titled "Erosion & Sediment Control Plan";
11. Sheet SD3 titled "Storm Sewer Details";
12. Sheet SD4 titled "Observation Deck Details";
13. Sheet SD5 titled "Pavilion Plans";
14. Sheet SD6 titled "Pavilion Details";
15. Sheet SD7 titled "Entrance Sign & Kiosk Details"; and
16. Sheet SD8 titled "Landscape Details".

There are also two additional sheets of plans that show the project and variance prepared by Chazen Engineering, Land Surveying and Landscape Architecture Co. D.P.C. received by the Agency on March 14, 2016. They are

17. Sheet SP1 titled "Existing Vegetation Map" dated January 26, 2016 (Exhibit 8 of Hearing Record), and
18. Sheet SP2 titled "Proposed Vegetation Map" dated January 26, 2016 (Exhibit 7 of Hearing Record).

The pre-existing manufacturing facility and the authorized project are also shown on a survey map titled "Map of Lands of Warrensburg Board and Paper Corp." prepared by Coulter and McCormack, L.L.S. dated October 27, 1976.

Reduced-scale copies of sheets SP2 and SP3 are attached as a part of this Order and Permit for reference. The original, full-scale maps and plans described in this paragraph are the official plans for the variance and permit, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

**CONDITIONS**

**BASED UPON THE FINDINGS ABOVE AND INFORMATION CONTAINED IN THE PROJECT FILE, THE VARIANCE AND PROJECT ARE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. This Order shall be recorded in the Warren County Clerk's Office by **DATE**.
2. The authorization to undertake the construction of the town park including the structures described above shall expire four years from the date this Order and Permit 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. The variance granted herein, however, will not expire.
3. The project shall be undertaken as depicted on the plan sheets referenced herein. Any changes to the locations, sizes, dimensions, or other aspects of the structures shall require a new or amended Agency Order and Permit or a letter of compliance.
4. The easement between the Town of Warrensburg and Warrensburg Hydro Power, L.P. and Adirondack Hydro Development Corporation shall be fully executed and recorded in the Warren County Clerk's Office prior to undertaking the project and variance authorized herein.
5. The undertaking of any new land use or development not authorized herein on the project site within one-quarter mile of the Schroon River shall require a new or amended permit or variance, if necessary.
6. 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 the Schroon River, Route 418 or adjoining property.
7. All exterior building materials, including roof, siding and trim, of the pavilion and kiosk on the project site shall be a dark shade of green, grey, or brown.
8. All new signs on the project site shall comply with 9 NYCRR Appendix Q-3 of the Adirondack Park Agency Regulations.
9. The project shall be undertaken in compliance with the approved "Proposed Vegetation Map (sheet SP2) dated January 26, 2016 and received March 14, 2016, and the Landscape Plan", (sheet SP6), dated January 26, 2016 and received February 1, 2016.. No other vegetation, shrubs or other woody-stemmed vegetation may be cut, culled,

trimmed, pruned or otherwise removed or disturbed on within 75 feet of the mean high water mark of the Schroon River 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.

10. All trees and shrubs depicted for planting on the Landscape Plan (sheet SP6) and the Landscape Details (sheet SD8) shall be planted no later than the first spring or fall planting season after final grading related to the construction of the park on the project site. Trees and shrubs that do not survive shall be replaced annually until established in a healthy growing condition.
11. The project shall be undertaken in compliance with the Grading, Drainage, Utility and Erosion & Sediment Control Plan (sheets SP4 and SP5), the Erosion and Sediment Control Plan (sheet SD2), and the Storm Sewer Details (sheet SD3).
12. 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 site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites.
13. At the request of the Agency, the permittee or the permittee's successor shall report in writing the status of the project, including details of compliance with any terms and conditions of this permit.

### **FINDINGS OF FACT**

#### **Project Site/Character of the Area**

1. The project site includes 1,600± feet of shoreline on the Schroon River and 1,300± feet of frontage on Route 418. There are steep slopes along Route 418 and at the shoreline of the river as shown on sheet EC1. The site is improved by an existing parking area and canoe and kayak put-in/take-out. The site is vegetated with a mix of northern hard and softwoods along the shoreline of the river and predominantly deciduous vegetation on the slopes along Route 418. As shown on the project site plans, existing vegetation along the shoreline on the westerly two-thirds of the site ranges in width from 20 to 60 feet between the river and open grassed areas. There is an access road and cleared areas between the river and Route 418. Vegetation in the central portion of the site where the manufacturing plant was located has grown in since 1999. The areas where the pavilion, circular access road, open space grassed area and parking are authorized are moderately sloped. There is no lighting or nighttime use of the park proposed at this time.

The site is located one-half mile west of the hamlet of Warrensburg on Route 418, which leads to Thurman, Athol, Stony Creek and other small communities in the Park. There is an operating train station nearby, where Route 418 crosses the Hudson River.

The Schroon River flows into the Hudson River approximately three-quarters of a mile west of the site.

Access to the project site is off NYS Route 418 over an existing access road on the east side of the parcel. A second access road is proposed in the west end of the parcel from Route 418. The Department of Transportation evaluated access to the project site from the state highway and by letter dated March 2, 2016 conceptually approved the park entrances within the DOT highway right of way. The letter further states "Upon review and approval of the final plans, the Department is prepared to issue a State of New York Department of Transportation Highway Work Permit for this project."

2. The site was home to the Warrensburg Board & Paper Corporation from the late 1800's until it was vacated in 1980. The manufacturing plant on the site consisted of a building approximately 380 feet long by 80 feet wide (30,400 square feet). The majority of the structure was located 20 to 50 feet from the mean high water mark of the Schroon River except for a section of the building that adjoined the tailrace of the dam that is within the mean high water mark of the river. There were also accessory buildings on the site. The paper mill was demolished in 1999. The pavilion and portions of the boardwalk and pathways are in the same location as the pre-existing buildings and thus those portions of the structure do not require a variance, and have not been included in calculating the square footage of the structure,

The FERC license and Recreation Plan for the Schroon River dam requires the owners of the dam to provide access to the river and a portage around the dam. This project will provide access to the river and a portage route around the dam in compliance with the FERC license.

The site was designated a brownfield site and with New York State and municipal funding the brownfield site was remediated. However, remains of the parcel's previous use persist. This includes clearings and a road onto the site. In addition to the road, foundation remnants, brick piles and broken concrete, are prevalent throughout the site. The former tailrace and dam also remain. The dam has been rebuilt and is now owned by Warrensburg Hydro Power, L.P.

In addition to the matching funding for brownfield remediation, the Town has provided matching funds for a NYSDOS and First Wilderness grant for the planning and design of the park. The Town was awarded a 2015 Local Waterfront Revitalization Program grant to construct the park and will provide matching funds for the project. The Town has also secured fill material for the new access road.

The site is a component of the Wilderness Heritage Corridor, a NYS funded regional/inter-municipal economic revitalization and natural resource initiative. The First Wilderness Heritage Corridor's Action Plan Update notes that a canoe and kayak

access point along the Schroon River should be created, along with wayfinding signage and kiosks, in order to "increase accessibility and linkage between recreation resources (land and water), promote less-utilized natural/recreation sites, and actively direct traffic away from overused sites towards underused sites".

The municipal park is supported by the Town of Warrensburg's Comprehensive Plan & Waterfront Revitalization Strategy. The plan includes a recommendation to "explore opportunities for additional water-based recreation areas, to expand the type of waterfront experience available in the Town," and specifically mentions the Schroon River dam area.

3. By letter dated May 12, 2015, the New York State Office of Parks, Recreation and Historic Preservation determined that the project will have no impact upon archeological and/or historic resources in or eligible for inclusion in the State and National Registers of Historic Places.

### **Nearby Land Uses**

4. The northern shoreline opposite the project site consists of state land, a dam, a pond and a power generating facility. Several residences are located on the south side of Route 418 opposite the easterly half of the project site. The Town of Warrensburg wastewater treatment plant with an array of solar panels is located on the south side of Route 418 opposite the westerly half of the project site.

### **PUBLIC NOTICE AND HEARING**

5. Following receipt of the variance and permit application, the Agency notified all parties as required by the Adirondack Park Agency Act and Agency regulations and published a Notice of Complete Permit Application and Notice of Hearing in the Environmental Notice Bulletin and in the Glens Falls Post Star, a newspaper of general circulation in the area. On April 19, 2016, the Agency held a public hearing on the variance request in the Town of Warrensburg. The hearing was attended by Agency staff, the applicants and their consultants and no members of the public. One comment was received on April 26, 2016 from the applicants' consultant reiterating the rationale for granting the variance including the justification for granting the variance previously provided. No other comments have been received regarding the project.

### **PROJECT IMPACTS**

#### **Visual**

6. Because the majority of the vegetation along the shoreline of the river will remain intact and undisturbed, the structures authorized and described herein will not be visible from the river, except for a filtered view of the observation deck. Therefore, there will not be any adverse visual or aesthetic impacts to the shoreline or recreational river area.



7. The access road, parking and pavilion may be partially visible as viewed from NYS Route 418. However, the area will be a public park and the majority of the site will be vegetated. Therefore, the park will not have a visual or aesthetic impact to the Route 418 travel corridor or the character of the area.

#### **Soils/Surface Waters/Groundwater**

8. Because a stormwater control plan has been designed for the site and the project will be undertaken in compliance with the Grading, Drainage, Utility and Erosion & Sediment Control Plan, the Erosion and Sediment Control Details and the Storm Sewer Details, there will not be any adverse impacts to ground or surface waters or the water quality of the Schroon River. Additionally, the conditions of approval of this permit and Order will protect against erosion, sedimentation, water quality degradation, and other adverse impacts.

#### **Invasive Species**

9. Requiring inspection and cleaning of construction vehicles and tools prior to use on the project site or after use in an area with invasive plant species will reduce the likelihood of spreading invasive plants to the project site and adjoining properties.

#### **Nearby Land Uses**

10. The authorized improvements to the park will likely increase use of the existing canoe and kayak put-in/take-out and will increase use of the site. Because the uses at the park will be primarily recreational uses along the river and at the pavilion and more than three quarters of the nearby and adjoining land is undeveloped, there will be minimal adverse impacts to nearby or adjoining land owners. The park will provide improved access to the Schroon River for nearby and adjoining land owners and also offer other recreational opportunities.

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

11. By letter dated May 12, 2015, NYS Office of Parks, Recreation and Historic Preservation opined that the project will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR §426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980. Therefore, there will not be any adverse impacts to cultural resources.

## **VARIANCE IMPACTS AND CRITERIA**

### **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 and § 577.6 of the Agency's regulations. 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 applicants resulting from denial are greater than the public purpose sought to be served by the restriction.**

The Town and the State of New York have already expended funds to restore this site, including brownfield remediation and a NYSDOS and First Wilderness grant for the planning and design of the park. The State also awarded the Town a Local Waterfront Revitalization Program grant in 2015 to construct the park, subject to the Town's providing matching funds. The Town has already secured material for the new access road. If the variance is denied, the Town would have to pay for additional design revisions that could change the site layout and increase project costs. Changes that would comply with the shoreline setbacks would result in a significantly different project, not meet the applicants' objectives, increase costs, and could result in the Town abandoning the project.

The structure comprised of the walkways and boardwalks will provide part of the portage around the dam required by the FERC license and Recreation Plan. This portage route will promote safe recreational use of the Schroon River. Additionally, the park is part of the Town's River Street revitalization effort. Denial of the variance could cause economic hardship for the Town and negatively impact tourism-based economic development envisioned in the Town's overall development plans.

The public purposes sought to be served by the shoreline restrictions under APA Act § 806 and the Rivers Act regulations are to protect water quality and quality of the shoreline and, under the Rivers Act, protect the river and its immediate environs for present and future generations. These purposes would not be harmed by the structure comprised of the observation deck, boardwalks, and walkways due to the minimal environmental impact. Because the majority of the vegetation along the shoreline of the river will remain intact and undisturbed, the structures authorized and described herein will not be visible from the river, except for a filtered view of the observation deck. In addition, the project plans have been designed to reduce surface runoff and protect and enhance water quality. Accordingly, the effects on the purposes sought to be served by the shoreline restrictions do not outweigh the adverse consequences of denial.

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

The Town's objective in designing and building the structure comprised of the observation deck, boardwalks, and walkways is to allow for universal accessibility to and within the municipal park, as a recreational amenity on the shoreline of the Schroon River. During the

planning phases, engineers, surveyors and landscape architects collaborated with the NYS Department of State, Warren County, Warrensburg Town Board, and local residents at a public workshop to identify alternative measures and designs. Several alternatives were developed and considered in an effort to identify the least intrusive design scheme. Minimizing impact to the successional forested shoreline, as well as using the existing roadway and site access, was a priority in the applicants' proposal.

The structure itself is not substantial in size. The walkways are five feet wide and at natural grade, and the boardwalks are eight feet wide and above natural grade. The observation deck is 400 square feet in size. Due to the dimensions, existing topography, and other site conditions, constructing the structure further from the river could require more disturbance to existing vegetation and could impact steep slopes and increase site disturbance. Construction of the structure further from the shoreline would also make shoreline access more difficult and would limit views of the river.

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

The project site is located 0.5 miles west of the Hamlet of Warrensburg where there is substantial residential and commercial development. The Town of Warrensburg Wastewater Treatment Plant, the Warrensburg Hydro Power L.P. generating facility and 15 to 20 residential dwellings are located in the immediate vicinity of the park park. Use of the structure comprised of the observation deck, boardwalks, and walkways is intended to be passive and intermittent, with the exception of occasional small community gatherings that may generate an insignificant impact to nearby properties. Therefore, if granted, the variance would not have a substantial detrimental effect on properties in the vicinity.

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

Due to existing topography and the shape, size, and dimensions of the site, the structure depicted in the applicants' final design plan cannot be constructed outside of the 150-foot setback area. Alternative structures could be constructed within the footprint of the former manufacturing building to allow for shoreline access without a variance. However, construction activities within the foundation of the former building would require increased site disturbance to remove remaining foundation remnants. In addition, this alternative would limit views and use of the river and the associated recreational resources.

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

Development on the site is limited by the fact that more than half of the property is located within the 150-foot setback from the Schroon River. Development on the lands outside of the setback is limited by steep slopes and proximity to NYS Route 418. However, the difficulty was self-created, in that the Town acquired the property after the shoreline restrictions were in effect.

**§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.**

The natural, scenic, aesthetic, and open space character of the shoreline will not be impacted by the structure comprised of the observation deck, boardwalks, and walkways, as it will be located at or just above grade and will be largely hidden from the Schroon River by existing typography and vegetative cover. In addition, the structure will not have an adverse impact on the water quality of the Schroon River, because the design and stormwater management controls will comply with all appropriate stormwater management practices and regulations and will improve management of surface water runoff.

**§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 Order and Permit will ameliorate any potential adverse effects. In particular, the conditions regarding lighting, signage, building color, landscaping and vegetation plans, erosion control, and invasive species control measures, and adherence to the approved plans will ensure that there will be no adverse effects.

**CONCLUSIONS OF LAW**

**Variances**

- A. There are practical difficulties to carrying out the strict letter of the shoreline restrictions.
- B. The adverse consequences resulting from denial of this request are greater than the public purpose sought to be served by the restrictions.
- C. The factors set forth in 9 NYCRR § 576.1(c) have been considered:
  - (1) whether the application requests the minimum relief necessary;
  - (2) whether there will be a substantial detriment to adjacent or nearby landowners;
  - (3) whether the difficulty can be obviated by a feasible method other than the variance;
  - (4) the manner in which the difficulty arose;
  - (5) whether granting the variance will adversely affect the resources of the Park; and
  - (6) whether the conditions noted herein will ameliorate any adverse effects.

The variance, pursuant to Section 806 of the Adirondack Park Agency Act, 9 NYCRR Part 576 and 9 NYCRR Part 577 observes the spirit of the Act and River Regulations, secures public safety and welfare, and does substantial justice.

A variance of the terms of the APA Act § 806 and the Rivers Act Regulations, 9 NYCRR § 577.6, is not personal and runs with the land. Recording of this Order Granting Variance and Permit is intended to provide notice to subsequent owners of the land.

**Class B and Rivers Project**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act and the Wild, Scenic and Recreational Rivers System Act and 9 NYCRR Part 577, and 9 NYCRR Part 574. The Agency hereby finds that the Pavilion and municipal park and its amenities authorized 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 Low Intensity Use land use area;
- c. will be consistent with the overall intensity guidelines for the Low Intensity Use 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;
- f. will be consistent with the purposes and policies of the Wild, Scenic and Recreational Rivers System Act;
- g. will comply with the restrictions and standards of 9 NYCRR § 577.6, except as approved in the variance granted herein; and
- h. will not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom.

ORDER GRANTING VARIANCE AND PERMIT issued this       day  
of       , 2016.

## ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
Richard E. Weber III  
Deputy Director (Regulatory Programs)

STATE OF NEW YORK)  
 ) ss.:  
COUNTY OF ESSEX )

On the       day of       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 he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:TES:SHR:EAP:mlr