

THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>APA Order Granting Variance 2016-0100</p>
<p>In the Matter of the Application of CAMP MAJANO, LLC for a variance pursuant to Executive Law § 806</p>	<p>Date Issued: June 14, 2017</p> <p>To the County Clerk: This order must be recorded on or before August 14, 2017. Please index this Order in the grantor index under the following names: 1. Camp Majano, LLC</p>

SUMMARY AND AUTHORIZATION

Camp Majano, LLC (“applicant”) is 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 addition of two decks to the front (lake side) of an existing shoreline structure, resulting in an increase in non-compliance with the shoreline restrictions, in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of North Elba, Essex 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 Placid for all accessory structures and principal buildings greater than 100 square feet in size in a Rural Use land use area. The applicant 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 located on the northeast side of Buck Island on Lake Placid in the Town of North Elba, Essex County, on an 18.6±-acre property in an area designated as Rural Use on the Adirondack Park Land Use and Development Plan Map. The tax map numbers for the property are: Section 33.016, Block 1, Parcel 2 and Section 33.015, Block 2, Parcel 9. The property is improved by a 10-bedroom single family dwelling (constructed 1917), a guest cottage (constructed c. 1920), a single family dwelling with boat slips (constructed c. 1920, the “shoreline structure”), and a separate non-conforming dock.

The variance site includes approximately 1360 feet of shoreline on Lake Placid. The closest neighboring structure to the west is approximately 140 feet from the west deck authorized herein. The closest neighboring structure to the east is around the other side of a point of land owned by the applicant. The shoreline opposite the shoreline structure is Moose Island, 0.25± miles across Lake Placid (Shelter Strait) and predominantly forested.

The footprint of the shoreline structure is approximately 80 feet wide along the shoreline by 34 feet deep. The lower level includes four boat slips. The upper level includes a dwelling unit with two bedrooms. Additional living space was added to the east and west side of the upper level in 2016 with the addition of roof gables, without increasing the footprint of the structure.

The area around existing development on the variance site contains shrubs and patches of trees (e.g., birch, hemlock, and cedar), with little to no understory vegetation. Trees exist to the sides and rear of the shoreline structure. The vacant portion of the variance site is forested.

Variance Request

The applicant's objective is to add decks on their shoreline structure that receive morning and afternoon sunlight, without cutting any trees.

The variance request is for the addition of two 10-foot by 10-foot decks on the front/north side (lake side) of an existing shoreline structure, resulting in an increase in footprint of 200 square feet within the mean high water mark of Lake Placid. The deck on the east will be located above an existing non-conforming dock and supported by one new post located on that dock. The deck on the west will be located above the water of Lake Placid and supported by one new post located on one new 11.75-inch-diameter steel caisson in Lake Placid.

The decks will not increase the width or height of the existing shoreline structure. The decks will not extend further toward the lake than the most lakeward part of the structure, a covered porch on the northern side. The applicant will not cut any trees as part of the requested variance.

The mean high water mark (MHWM) of Lake Placid is shown on the Drawing (referenced below) as being 1858.94 feet above mean sea level and running beneath the middle of the shoreline structure. The east deck will be 28 feet lakeward of the MHWM and the west deck will be 30 feet lakeward of the MHWM.

The NYS Office of Parks, Recreation and Historic Preservation (OPRHP) issued a letter dated February 16, 2016 (#16PR00250) finding that the structure is eligible for listing in the State and National Registers of Historic Places as a contributing resource to the Buck Island Camps Historic District. The OPRHP reviewed the effect of constructing two 10-foot x 10-foot exterior decks to the upper level of the structure with renovations (interior and exterior) to the adjacent upper story dormers and concluded "that the proposed work will have No Adverse Impact upon this historic resource."

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

- A set of drawings prepared by The Design Group, Jim Edgecomb, AIA, dated November 10, 2015: Proposed Upper Level Plan (A2.2); and Existing Conditions Upper Level Plan (EX2.2) (Exhibit F, "Floor Plans");
- A drawing titled "Camp Majano Single Family Dwelling and Boat Storage" prepared by The Design Group, Jim Edgecomb, AIA, dated November 10, 2015 and marked "revised by John Dreissigacker 4/28/16" (Exhibit L, "Drawing"); and
- A color rendering for "Lussi Boathouse, Lake Placid NY" titled "Proposed Modifications" and prepared by The Design Group (Exhibit J, "Rendering").

A reduced-scale copy of the Drawing 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 Monday, May 22, 2017 at 2:00 pm at the Town of North Elba Town Hall, 2693 Main Street, Lake Placid, NY, Honorable Maria E. Villa, Administrative Law Judge, conducted a hearing pursuant to APA Act § 806 and 9 NYCRR § 576.5. In attendance for the applicant were Cristina Lussi (authorized representative), Arthur Lussi, and Martina Lussi. In attendance for the Agency were Paul Van Cott (Associate Attorney), Ariel Lynch (Environment Program Specialist 2), and Shaun LaLonde (Professional Engineer 2 Civil/Environmental). There were no members of the public in attendance; no public comment was given.

DISCUSSION

The Agency may grant a variance where there are practical difficulties in carrying out the restrictions set forth in Section 806(1)(a)(2) of the APA Act. The Agency has considered the standards and factors set forth in 9 NYCRR § 576.1(b)-(c).

§ 576.1(b): Whether the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.

If the variance request were denied, the applicant would potentially be unable to construct open air decks that receive sunlight on the east and west sides of an existing shoreline structure without additional construction and alteration of existing interior space.

The public purposes of the shoreline restrictions are the protection of the water quality of Lake Placid and the quality of the shoreline of the lake.

The variance involves the construction of two new decks 200 square feet in size, entirely within the mean high water mark of Lake Placid. The decks will not increase the width or height of the existing single family dwelling, and will not extend further into the lake than the existing porch. The decks will be back-dropped by existing gables, and will be approximately 140 feet from the closest neighbor's structure, which is located to the west along the shoreline of Buck Island. The decks will complement the architecture of the existing structures on the site and are consistent with the character of existing development along the shoreline.

In addition, construction of the decks will not involve any upland earth disturbance, require removal of trees, or increase surface water runoff into Lake Placid. Provided they are not enclosed, the decks will also not allow for increased occupancy or associated wastewater generation.

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

The total footprint of the two decks will be 200 square feet, entirely within the mean high water mark. The decks will not increase the width or height of the existing single family dwelling, and will not extend further into Lake Placid than the existing porch.

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

The decks will be back-dropped by existing gables, and will be approximately 140 feet from the closest neighbor's structure, which is located to the west along the shoreline of Buck Island. Other similar structures already exist along the shoreline.

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

Feasible alternatives may exist that would meet the applicant's objectives and obviate the need for a variance. Regardless of the 2016 addition of roof gables, these alternatives would require additional construction and alteration of existing interior space.

The record is unclear as to whether these alternatives would require the cutting of trees, and any associated aesthetic or water quality impacts that would then occur. Therefore, it is unknown whether any alternatives exist that would have a lesser impact to water quality and shoreline character of than the variance request.

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

The applicant's difficulty is self-created as the applicant has known since it became the owner of the variance site in 2015 that the shoreline restrictions would require a variance for the proposed decks.

§ 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 decks will not involve any upland earth disturbance, require any tree removal, or increase surface water runoff into Lake Placid. In addition, provided they are not enclosed, the decks will not allow for increased occupancy or associated wastewater generation. The decks will complement the architecture of the existing structures on the site and are consistent with the character of existing development along the shoreline.

§ 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 will be ameliorated by compliance with the following conditions:

1. This Order shall be recorded in the Essex County Clerk’s Office by August 14, 2017.
2. The project shall be undertaken as depicted on the Floor Plans, Drawing, and Rendering 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.
3. The applicant shall not enclose the decks described herein without further review and prior written authorization granted by the Agency.
4. Trees shall be retained for a distance of 25 feet on either side of the existing shoreline structure. This condition is subject to amendment upon request from the applicant to the Deputy Director – Regulatory Programs pursuant to 9 NYCRR § 576.9. This condition shall not be deemed to prevent 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 Part 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.

A variance of the terms of the Executive Law is not personal and runs with the land. Recording of this Order is intended to provide notice to subsequent owners of the variance site.

ORDER issued this day
of , 2017.

ADIRONDACK PARK AGENCY

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

STATE OF NEW YORK
COUNTY OF ESSEX

On the day of in the year 2017, 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

JTT:slp