

**THIS IS A TWO-SIDED DOCUMENT**

 <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 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>APA Order Granting Variance <b>2017-0150</b></p>
<p>In the Matter of the Application of</p> <p><b>CAMP MAJANO, LLC</b></p> <p>for a variance pursuant to Executive Law § 806</p>	<p>Date Issued: October 19, 2017</p> <p>To the County Clerk: This order must be recorded on or before December 18, 2017. Please index this Order in the grantor index under the following names:</p> <p><b>1. Camp Majano, LLC</b></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 one deck 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 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 cover the steel tiebacks and caissons supporting the upper west deck, for both safety and aesthetic reasons. The safety reasons described by the applicant include the potential for people or animals to fall into the water between the tiebacks, the temptation for kids to walk on the tiebacks as balance beams, and the complication added by the tiebacks to docking a boat in the nearest boatslip.

The two existing tiebacks are 10 feet in length. The variance request is for the addition of one deck 12 feet by 12 feet in size to cover the 10-foot by 10-foot square created by the tiebacks, plus 2 feet of overhang beyond the tiebacks on the lake (north) side and on the boatslip (west) side, resulting in an expansion of the shoreline structure by 144 square feet. The deck will be located at the water level of Lake Placid, beneath a 100-square-foot deck authorized by APA Order Granting Variance 2016-100, and covering and supported by steel tiebacks authorized by APA Order Granting Variance 2016-0100A.

The deck will not increase the width or height of the existing shoreline structure. The deck 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 1858.94 feet above mean sea level and runs beneath the middle of the shoreline structure. The deck will be 30 feet lakeward of the MHWM.

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 NYS Office of Parks, Recreation and Historic Preservation (OPRHP) issued a letter dated September 2, 2017 (#A17PR05859) finding that "the proposed work would have No Adverse Impact on the eligible historic resource."

On September 6, 2017, the Town of North Elba issued a building permit for “addition of a 12’ x 12’ deck to existing boathouse.”

The variance proposal is shown on the following maps and plans (“Lower Deck Plan”):

- An unattributed and undated schematic drawing labeled “proposed dock extends 2’ past structure. Above pre-existing center deck extends 6’ past structure. Pre-existing east deck extends 6’ past structure.”

A reduced-scale copy of the Lower Deck Plan 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**

Additional interior space was added to the east and west side of the upper level of the shoreline structure in 2016 with the addition of roof gables, which did not require an Agency permit or variance.

APA Order Granting Variance 2016-0100, issued June 14, 2017, authorized the addition of two 10-foot by 10-foot decks on the front/north side (lake side) of an existing shoreline structure, each supported by one post/caisson, resulting in an increase in footprint of 200 square feet within the mean high water mark of Lake Placid.

APA Order Granting Variance 2016-0100A, issued July 24, 2017, authorized the addition of three additional caissons and two steel tiebacks beneath the upper west deck as an amendment to the original Order. In Order 2016-0100A, the Agency also determined that a deck in the same location as now proposed would require a new variance.

Following receipt of the variance application, the Agency notified all parties as required by Agency regulations. On Tuesday, September 26, 2017 at 1:30 pm at the NYS Adirondack Park Agency, 1133 NYS Route 86, Ray Brook, NY 12977, Honorable Molly T. McBride, Administrative Law Judge, conducted a hearing pursuant to APA Act § 806 and 9 NYCRR § 576.5. In attendance for the applicant were Katrina Kroes (authorized representative) and Arthur Lussi. In attendance for the Agency were Paul Van Cott (Associate Attorney) and Ariel Lynch (Environment Program Specialist 2). 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 be able to conceal the steel tiebacks and caissons, but would be unable to fully cover the steel tiebacks, which would address the applicant's aesthetic concerns but would not address the applicant's safety concerns.

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 one deck 144 square feet in size, entirely within the mean high water mark of Lake Placid. The deck will not increase the width or height of the existing shoreline structure, and will not extend further into Lake Placid than the existing porch. The deck will be approximately 140 feet from the closest neighbor's structure, which is located to the west along the shoreline of Buck Island. The deck will be back-dropped by the existing shoreline structure, will complement the architecture of the dwellings and cottage on the site and is consistent with the character of existing development along the shoreline. Construction of the deck will not involve any upland earth disturbance or increase surface water runoff into Lake Placid.

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

The total footprint of the deck will be 144 square feet, entirely within the mean high water mark. The deck will not increase the width or height of the existing shoreline structure, 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 deck will be back-dropped by the existing shoreline structure, 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.**

Alternatives that would not require a variance include facing the steel tiebacks with wood and/or bumpers, and placing a dock no wider than 8 feet over the steel tiebacks. However, with either alternative, uncovered or partially uncovered steel tiebacks would remain, and the applicant's safety concerns would not be addressed.

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

The applicant became the owner of the variance site in 2015, when the Agency's current shoreline regulations were in effect. The steel tiebacks that have created the safety and aesthetic concerns were recently installed in accordance with APA Order Granting Variance

2016-0100A (July 2017) to support an upper west deck granted by APA Order Granting Variance 2016-0100 (June 2017). The need for the additional caissons and steel tiebacks, and any related safety and aesthetic concerns, could have been proposed and considered as part of the original 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.**

The deck will be back-dropped by the existing shoreline structure, will complement the architecture of the dwellings and cottage on the site, and is consistent with the character of existing development along the shoreline. Construction of the deck will not involve any upland earth disturbance or increase surface water runoff into Lake Placid.

**§ 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 <<<DATE>>>.
2. The project shall be undertaken as depicted on the Lower Deck Plan referenced herein. The deck shall not exceed 144 square feet in footprint and shall not extend greater than 2 feet over the steel tiebacks. Any changes to the locations, sizes, dimensions, or other aspects of the structure shall require a new or amended Agency Order or a letter of compliance.
3. The applicant shall not enclose the deck described herein without further review and prior written authorization granted by the Agency.
4. The deck shall be a dark brown color that matches the exterior color of the existing shoreline structure.

**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.

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Notary Public

REW:ADL:slp