

THIS PERMIT RENEWS AND SUPERCEDES PERMIT 2007-0320 ISSUED JULY 15, 2009 AND PERMIT 2007-0320R ISSUED SEPTEMBER 10, 2013. THIS IS A TWO-SIDED DOCUMENT.

 <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 Project Permit 2007-0320R2</p>
<p>In the Matter of the Application of</p> <p>SAVERIO D. RUFFOLO Permittee</p> <p>for a permit pursuant to § 809(9) of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: November 17, 2017</p> <p>To the County Clerk: This permit must be recorded on or before January 16, 2018. Please index this permit in the grantor index under the following names:</p> <p>1. Saverio D. Ruffolo</p>

SUMMARY AND AUTHORIZATION

Saverio D. Ruffolo is granted a renewed permit, on conditions, authorizing two lots containing wetlands within an eight-lot subdivision, and the filling of 130 square feet of wetlands, in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Bolton, Warren County.

This project may not be undertaken, and no transfer deed shall be recorded, until this renewed permit is recorded in the Warren County Clerk's Office. This renewed permit shall expire unless so recorded on or before January 16, 2018, 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 authorized herein in existence when either Lot 1 or the subdivision road has been conveyed and the deed of conveyance recorded in the Warren County Clerk's Office.

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 sponsor plans an eight-lot subdivision and a subdivision road for residential development, both involving wetlands. The subdivision of wetlands and the filling of 130 square feet of wetlands in a Rural Use land use area is a Class A regional project requiring an Agency permit pursuant to Sections 809(9) and 810 (1)(d)(1)(b) of the Adirondack Park Agency Act and a regulated activity requiring a wetlands permit pursuant to 9 NYCRR Sections 578.2 (a) and 578.3(n)(1)(i),(iii) and (iv).

PROJECT SITE

The project site is part of an 80.28 acre parcel of land in the Town of Bolton, Warren County, on or near South Trout Lake Road in an area designated as Rural Use on the Adirondack Park Land Use and Development Plan Map and identified as being tax map Section 185 Block 1 Parcel 2. It is described in a deed from John G. Dier, Jr. executor of the Estate of John G. Dier to Saverio D. Ruffolo dated December 28, 2000 which was recorded February 26, 2001 in the Warren County Clerk's Office in Liber 1205 of Deeds at Page 18.

PROJECT DESCRIPTION AS PROPOSED

The applicant proposes the conveyance and development of Lot 1 and a new road as part of an eight-lot residential subdivision encompassing the entire parcel. Proposed Lot 1 (7.06 acres) includes an area currently developed by a pre-existing single family dwelling which is accessed by a driveway off "Kathy's Crossing," a private graveled road forming the southerly boundary of the subdivision site. This dwelling is served by an individual on-site well and a wastewater treatment system of uncertain age which, to date, shows no sign of failure. The location of a future replacement system is depicted on the project plans. The subdivision road will be 1,300± feet in length, ending in a cul-de-sac, and will provide access to the other seven residential lots. This road will be two lanes wide except for a one-lane portion in the area of a proposed wetland fill, approximately 130 square feet in size.

The overall project is illustrated by ten sheets of plans prepared by Dennis L. Dickinson, L.S., P.E., as listed below:

- Sheet 1 is entitled, "Map of a Proposed Subdivision for Saverio D. Ruffolo" and is dated March 28, 2007, last revised May 1, 2009.
- Sheet 2 is entitled, "Map of a Proposed Subdivision Road for Saverio D. Ruffolo" and is dated September 24, 2007, last revised May 1, 2009.
- Sheet 3 is entitled, "Map of Proposed Development for lots 2 & 7, Saverio D. Ruffolo" and is dated March 14, 2008.
- Sheet 4 is entitled, "Pond Details of a Proposed Subdivision for Saverio D. Ruffolo" and is dated October 2, 2007, last revised May 5, 2009.
- Sheet 5 is entitled, "Profile of a Proposed Subdivision Road for Saverio D. Ruffolo" and is dated March 30, 2007, last revised September 25, 2007.
- Sheets 6, 7 and 8 are entitled, "Sections of a Proposed Road for Saverio D. Ruffolo" and is dated April 2, 2007, last revised March 13, 2008.

- Sheet 9 is entitled, "Engineering Details of a Subdivision for Saverio D. Ruffolo" and is dated April 2, 2007, last revised March 13, 2008.
- Sheet 10 is entitled, "Details of a Shallow Trench Septic for Saverio D. Ruffolo" and is dated June 12, 2006, last revised March 14, 2008.

Stormwater and erosion control plans are described in a report prepared by D.L. Dickinson Associates entitled, "Stormwater Management & Erosion Control plan" dated April 3, 2006, last revised April 16, 2008.

A reduced-scale copy of Sheet 1 is attached as a part of this permit for reference. The original, full-scale maps and plans referenced in this permit are the official plans for the project.

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.

CONDITIONS

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

1. The project shall be undertaken as described in the completed application, the Project Description as Proposed, and the 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.
2. This renewed permit is binding on the applicant, 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 2007-0320 issued July 15, 2009, and renewed Permit 2007-0320R issued September 10, 2013 and renewed Permit 2007-0320R2 issued November 17, 2017, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. 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.

Building Location and Size

4. This permit authorizes the continued use of the pre-existing single family dwelling on Lot 1 in the location shown on the project plans referenced herein. The single family dwelling shall not exceed a footprint of 1,800 square feet including all covered and uncovered attached porches, decks, exterior stairs and accessory structures (such as an attached garage) or replaced in a new location closer to the wetlands without a new or amended Agency permit. The dwelling shall not exceed 35 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.

Accessory Uses and Structures

5. Accessory structures, except guest cottages, are permitted on Lot 1 without a permit amendment, provided they are located within 50 feet of the single family dwelling, and at least 30 feet from wetlands, and in no case shall an accessory structure exceed 600 square feet in footprint or 24 feet in height.

Wetlands

6. 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, clearcutting 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.
7. No expansion or relocation of the driveway serving Lot 1 shall be undertaken without a new or amended permit.

Wastewater Treatment

8. Any replacement of the existing on-site wastewater treatment system on Lot 1 shall be installed in complete conformity with the location and design shown on the plans referenced herein and at least 100 feet from wetlands. 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 shall provide the Agency with written certification that the system was built in compliance with the approved plans.

Stormwater Management and Erosion Control

9. The proposed stormwater management and erosion control devices shall be installed on Lot 1 and the subdivision road lot prior to development of the road up-slope of each device.

10. A copy of the approval by the NYS Department of Environmental Conservation (NYSDEC) of the Stormwater Control plan shall be provided to the Agency within 30 days of issuance and prior to any construction. In the event the NYSDEC requires changes to the plan, the landowner shall request and obtain a concurring permit amendment from the Agency prior to construction.

Visual/Open Space Protection

11. Within 100 feet of the centerline of South Trout Lake Road, 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 utility installations as depicted on the plans referenced herein. 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.

Future Development

12. There shall be no further land use and development on Lot 1 or the un-numbered subdivision road lot without a new or amended Agency permit.

FINDINGS OF FACT

Renewal Request

1. Agency Permit 2007-0320 authorized two lots involving wetlands in an eight-lot residential subdivision. The permit was issued on July 15, 2009 and recorded July 27, 2009 in the Warren County Clerk's Office in Book 3833 of APA Permits at Page 61. Permit 2007-0320R was issued on September 10, 2013 and was recorded in the Warren County Clerk's Office on October 8, 2013 as Instrument No. 2013-8351.
2. By letter dated August 7, 2017, the permittee requested a second renewal of Permit 2007-0320.

Local Land Use Program

3. The Town of Bolton administers a local land use plan program approved by the Agency pursuant to Section 807 of the APA Act, effective June 13, 1980. The Agency must determine that the project meets all of the pertinent requirements and conditions of the approved program. These include the pertinent factors contained in the statutory development considerations and provided for in the approved local program and addressed herein.
4. The Town of Bolton Planning Board approved the overall subdivision of 80.28 acres on January 22, 2009. Conditions of approval include: 1) HOA/Deed Covenants or Restrictions are to be submitted and approved by (Town of Bolton) Counsel; 2) An APA permit has been issued; 3) A \$400.00 recreation fee for each lot is to be paid to the Town of Bolton prior to a Certificate of Compliance being

issued; 4) Exterior lighting is to be downward facing and shielded with low wattage bulbs used; 5) Site Plan Review is required for each lot; 6) No lots are to be sold until the HOA is in place and the APA grants approval.

The Town approved the project on January 28, 2009 subject to conditions. The final plat was filed in the Warren County Clerk's Office in the Book of Plats at Page 136 on September 15, 2009.

Pertinent Requirements and Conditions of Local Program

5. The Town of Bolton Local Land Use program includes a sanitary code, stormwater management regulations, a subdivision ordinance, road frontage and setback restrictions, and density restrictions. Only those lots containing wetlands are subject to Agency jurisdiction as a Class A project; in this case only Lots 1 and the subdivision road lot contain wetlands and are subject to Agency review. The residential development on Lot 1 is pre-existing and no new land use or development is proposed. The proposed lot meets all lot size and setback restrictions as well as the density limits. Lot 1 is located in the RR-5 zone, with a small (vacant) portion in the RR-10 zone. The subdivision road lot is located in the RR-5 and RR-10 zone. No principal buildings are proposed for this lot.
6. Lot 1 is located primarily in the RR-5 zone with a small portion in the RR-10 zone. Minimum lot size for new principal buildings in the RR-5 zone is 5 acres. Accordingly, no additional principal buildings/single family dwellings shall be allowed on the 5.93-acre Lot 1 authorized herein or as otherwise restricted by the Town's plan for other types of uses. No principal buildings shall be allowed on the subdivision road lot.

Background/Prior History

7. The 80.28-acre property is a pre-existing lot of record developed by one pre-existing single family dwelling. Access to the dwelling is afforded by an easement across Kathy's Crossing, a dead-end gravel private road. No prior Agency actions involve the project site.

Existing Environmental Setting

8. The 80.28-acre property is located on northeasterly facing slope of a wooded hillside with frontage on South Trout Brook Road, a secondary paved public highway. Slopes on much of the property are steep and unsuitable for construction of roads, residences and on-site wastewater treatment systems. Limited areas and benches of moderate slopes and soils suitable for on-site wastewater treatment systems have been identified and found suitable for the development proposed. Lot 1 is developed by a 1,500 square foot pre-existing single family dwelling.

The pre-existing driveway serving Lot 1 crosses wetlands. The driveway is approximately 12 feet wide and 160 feet long where it crosses wetlands. No change to this access is proposed.

9. An easement allows access across Kathy's Crossing for the project site. This access will continue to be used for access to Lot 1, but will not be used for access to any of the other lots on the remainder of the project site.

Public Notice and Comment

10. During review of 2007-0320, the Agency notified all adjoining property landowners and those parties as statutorily required by § 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. Four letters of comment objected to the proposed wetland filling, citing concerns about impacts to plants, animals and flood control benefits. Another concern was with regard to the use of "Kathy's Crossing" road for access to multiple lots, a part of the plan that has since been abandoned in favor of a new subdivision road being built from South Trout Lake Road to access all building lots except Lot 1.

Other Regulatory Permits and Approvals

11. The project is not subject to NYS Department of Health (NYSDOH) review. The NYSDEC has review jurisdiction over the storm water management plan, which will occur prior to development.

PROJECT IMPACTS

Wetlands

12. Wetlands were delineated on the subdivision site by Agency staff in August 2006 and are accurately depicted on the plans referenced herein. The wetlands are located on Lot 1 and on the un-numbered subdivision road lot and are associated with an intermittent stream. The wetlands consist of a hardwood swamp and wet meadow covertype having a preliminary value rating of "2" pursuant to 9 NYCRR 578.

There is no suitable non-wetland alternative to access the vast majority of the project site. Access points off Kathy's Crossing would involve steep slopes or filling more wetland area than the route proposed.

13. This project will involve the loss of 130 square feet of wetland. The original proposal involved filling over 330 square feet of wetlands. The installation of a 42 inch diameter elliptical culvert and restricting the subdivision road width to one-lane in this area minimizes wetlands impacts to the greatest extent possible, while still providing for vehicular access to the bulk of the property.

14. Wetlands shown on the plans and 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

15. There are no classified streams or navigable shoreline on the project site. Several small streams flow across the project site including an un-named intermittent stream associated with the wetlands on Lot 1. No streams will be dammed or diverted as a result of the project.

Land Resources

16. Areas of steep slopes, shallow soils and perched water table exist in portions of the property. The proposal involves siting the development on moderate slopes having soils suitable for individual on-site wastewater treatment systems, as proposed.

Open Space/Aesthetics

17. Provided that the pre-existing dwelling on Lot 1 is not expanded such that it becomes highly visible from South Trout Lake Road, and provided that existing mature trees along the public travel corridor are maintained to provide screening of the development, the project will not result in an adverse impact to the visual resources of the Adirondack Park.

Historic Sites or Structures

18. According to available mapping resources, the project site is not located in an area containing known archaeological resources and the existing dwelling on Lot 1 is not historically significant. 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 § 426.2 for the purposes of implementing § 14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

If undertaken in compliance with the conditions herein, the project will:

1. Meet all of the pertinent requirements and conditions of the approved local land use program of the Town of Bolton;
2. 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, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom;
3. Conform to the applicable criteria set forth in 9 NYCRR Part 574; and
4. Conform to § 24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10.

PERMIT 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 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:SBM:slp