

STATE OF NEW YORK
EXECUTIVE DEPARTMENT

ADIRONDACK PARK AGENCY

P.O. Box 99, Route 86
RAY BROOK, NEW YORK 12977
(518) 891-4050
FAX: (518) 891-3938

Backup to

E2002-54

June 20, 2001

Mary Ann Sawyer
304 Mullin Street
Watertown, NY 13601

Dear Ms. Sawyer:

RE: Jurisdictional Determination J2001-298

The proposed project as described in the materials submitted on May 29, 2001 will not require a permit from the Agency, provided the facts submitted are accurate and complete, and provided there is compliance with the restrictions below.

Description

It is our understanding that the proposed project consists of the following:

1. The property is a 4.7±-acre parcel located in the Town of Brighton, Franklin County on the shoreline of Spitfire Lake, tax map designation 395-1-4.1.
2. The property is owned by you as described in a deed to you and Gary McDermott recorded February 5, 1988 in Liber 534 of Deeds, page 490 in the Franklin County Clerk's Office.
3. According to information provided by you the subject property was part of a larger parcel as of the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan. The larger parcel included the adjoining 4± acres currently owned by Widlicka and described as tax designations 395-1-4.2 and 4.3. Agency Project Number 178 authorized the conveyance of the original 3±-acre lot (tax lot 4.3) to Widlicka and it appears that Agency Project 77-196 (Permit P77-167) later authorized the conveyance of another 1±-acre lot (tax lot 4.2) to the same landowner as a boundary line adjustment. No other post-1973 subdivisions of the original parcel have occurred.

4. As described on the site plan submitted with your inquiry, the subject property was improved by a single family dwelling and accessory use structures as of the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan. As described by you, the structures in existence as of that date included: the 2000 square foot "Main House" (circa 1930); a 625 square foot accessory use "Beach house" (circa 1940); the 1000 square foot "Little House" (circa 1960), which appears to have been used as an accessory use guest cottage (see enclosed flyer); a 240 square foot accessory use "tool shed"; a 160 square foot accessory use "firewood building"; and a 1050 square foot single story boathouse with a flat roof "sundeck" (circa 1940). According to the information you submitted, the only structure still in existence on the property is the boathouse. The "Beach House" burned in the 1970's and the single family dwelling and "Little House" burned in 1983; the "tool shed" and "firewood building" have also been destroyed.
5. You currently propose to convey the subject parcel in its entirety and on behalf of the prospective purchasers you are requesting confirmation that the single family dwelling and accessory use structures in existence as of the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan may be replaced in kind and in the same location. No other new land use or development is proposed for the property at this time.

If any of the above is incorrect, please contact the Agency as a different determination could result.

FOR YOUR INFORMATION:

This determination is based upon the existing laws, regulations and Park Plan Map administered by the Agency. If they change before substantial commencement of the proposed project, this determination may also change.

The property is located in a Resource Management land use area on the Adirondack Park Land Use and Development Plan Map.

Based upon review of aerial photography, Agency staff has determined that there are no wetlands subject to Agency jurisdiction on the property. However, field inspection by Agency staff is the only way to confirm the presence, location and size of wetlands especially with regard to shoreline. Therefore, if you or the prospective purchasers have any reason to believe that wetlands could be affected by any construction project then you are encouraged to contact the Agency to arrange for a site visit prior to undertaking the project. This finding regarding the presence, location or size of wetlands may be

relied upon for this determination only and for a period of three (3) years following issuance.

The property is not located in a statutory "critical environmental area" as such is defined in §810 of the Adirondack Park Agency Act.

The property is not located in a designated river area pursuant to the New York State Wild, Scenic and Recreational Rivers System Act.

Restrictions

As described above, the proposed conveyance of the subject parcel in its entirety and replacement of the pre-1973 structures in kind and in the same location will not require an Agency permit provided there is compliance with the following restrictions which are imposed by law.

1. In a Resource Management land use area any new structure over 100 square feet in size except docks and boathouses (see definitions in the enclosed flyer) must be set back at least 100 feet from the mean high water mark of any water body navigable by boat or canoe, including rivers, streams, lakes or ponds. Building setbacks are measured horizontally from the closest part of the structure to the mean high water mark. Porches, decks and other physically attached components are considered part of the structure when applying the setback requirements.

Vegetative cutting restrictions apply to the shoreline of any navigable waterbody. The removal of any vegetation is limited within 6 feet of the high water mark. The cutting of trees is limited within 35 feet of the high water mark. Enclosed is a flyer which further describes shoreline restrictions.

Please note that as described on the enclosed flyer, docks must not be wider than eight feet; a structure wider than eight feet is considered a deck and would be subject to the shoreline setback requirements. Further, for a structure to qualify as a boathouse it must have direct access to a navigable water body, it must be used only for the storage of boats and associated equipment and it must not contain bathroom or kitchen facilities nor be designed or used for lodging or residency. Also, to remain in compliance with the restrictions regulating removal of shoreline vegetation, the construction of a dock and boathouse must not encumber greater than 30% of the parcel's total shoreline lot width.

If a single family dwelling and accessory use structures were in existence as of the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan, and were located in noncompliance with the shoreline setback requirements (i.e., within 100 feet of the mean high-water mark) then any new replacement single family dwelling or accessory structure may be located in the same location but must not be located any closer to the mean high-water mark. Further, with regard to any accessory use structures located within 100 feet of the mean high-water mark they may be replaced in kind in the same location provided they are not expanded laterally within the setback area to a greater extent than 25% of the average width of the preexisting structure being replaced. Otherwise, the replacement and/or expansion would require an Agency variance.

Thus, the pre-1973 boathouse may be replaced in kind in the same location, but it may not be expanded laterally by greater than 25% and the preexisting nonconformance may not be increased. Thus no new amenities may be added to the structure and the preexisting second story "sundeck" may not be expanded. Also, the replacement boathouse must otherwise comply with the definition of boathouse as set forth above.

2. Projects must be undertaken in accord with Agency regulations implementing the State Freshwater Wetlands Act. Enclosed for your information is a flyer describing various types of wetlands and some of the activities which require a wetlands permit.
3. The leaching facility of any new on-site sewage disposal system may not be located within 100 feet of any water body, including intermittent or seasonal streams or wetlands, without Agency approval (permit or variance). Sewage disposal system setbacks are measured horizontally from the closest part of a leaching facility to the mean high water mark.

New York State Department of Health has additional sewage disposal system standards which must also be met.
4. Without an Agency permit, no structure shall exceed 40 feet in height, except residential radio and TV antennas. Please be aware that height is measured from the highest point of a structure to the lower of either natural or finished grade.

The proposal may require approvals from other government entities. We recommend that you check with Town authorities and with other State agencies, especially the Departments of Environmental Conservation and Health, to obtain all necessary approvals prior to beginning your project.

Mary Ann Sawyer
June 20, 2001
Page 5

If you have any questions, please do not hesitate to contact the Agency.

Sincerely,

A handwritten signature in cursive script, reading "Colleen C. Parker".

Colleen C. Parker
Project Administrator

CCP:RGQ:mr
Enclosures

j:\sawyer.298