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FEBRUARY 8, 2012



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APA Permit and Order  
Granting Variance  
2002-265 Draft

Date Issued:

In the Matter of the Application of

**PATRICIA STAFFORD**

for a permit pursuant to §809 of the Adirondack Park Agency Act and a variance from the shoreline restrictions of Executive Law §806 and 9 NYCRR Part 575

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

**1. Patricia Stafford**

**SUMMARY AND AUTHORIZATION**

Patricia Stafford is granted (i) a permit, on conditions, authorizing the construction of one new single family dwelling and (ii) a variance, on conditions, from the applicable shoreline restrictions pursuant to New York State Executive Law § 806, in an area classified Resource Management by the Official Adirondack Park Land Use and Development Plan Map in the Town of Putnam, Washington County.

This project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit and order is recorded. The Agency will consider the project in existence upon construction of the foundation, framing, and roof of the single family dwelling authorized herein.

Nothing contained in this permit and 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.

**AGENCY JURISDICTION**

The project consists of the construction of a single family dwelling within an area designated Resource Management on the Adirondack Park Land Use and Development Plan Map, a class B regional project requiring an Agency permit pursuant to §810(2)(d)(1) of the Adirondack Park Agency Act.

The variance application seeks Agency approval for a variance of 20 feet from the applicable 100-foot shoreline structure setback required in Resource Management land use areas pursuant to §806(1)(a)(2) of the Adirondack Park Agency Act (Executive Law, Article 27) to authorize placement of a single family dwelling 80 feet from the mean high water mark of Lake George. Section 806(1)(a)(2) and 9 NYCRR Part 575 require a minimum shoreline setback of 100 feet measured from the mean high water mark for structures greater than 100 square feet in size in a Resource Management land use area. Section 806(3) and 9 NYCRR Part 576 authorize procedures whereby an applicant may apply for a variance from the shoreline restrictions provided certain criteria cited in the statute and regulations are complied with, as further described below.

**SITE DESCRIPTION**

The project and variance site is a 1.43±-acre parcel of land located on both sides of Black Point Way in the Town of Putnam, Washington County. The tax map number of the property is: Section 4.9 Block 1 Parcel 10. The property includes 0.26± acres located on the northwesterly (shoreline) side of Black Point Way with 316± feet of shoreline on Lake George, designated as Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map, and 1.17± acres located on the southeasterly side of Black Point Way that is designated Resource Management. The property is described in a deed from Richard Jacobs to Patricia Stafford dated June 12, 2000 and recorded February 7, 2001 in the Washington County Clerk's Office in Liber 873 of Deeds at Page 236.

**PROJECT AND VARIANCE DESCRIPTION AS PROPOSED**

The project and variance as proposed and conditionally approved herein is summarized as follows: construction of a new 4-bedroom single family dwelling on the southeasterly side of Black Point Way in the Resource Management area. The dwelling will be located 80 feet from the mean high water mark of Lake George at its closest point. The footprint of the proposed single family dwelling will be approximately 30 feet by 70 feet, including a 20-foot by 30-foot open

deck, and a two-stall garage under the first floor. The structure will be 34 feet 6 inches tall as measured from the lowest grade to the highest point. The first floor will include approximately 1376 square feet of interior floor space, plus a 600± square foot open deck and a 108± square foot covered screened porch. The second floor will include approximately 750 square feet of floor space. The basement will contain approximately 1356 square feet of floor space, including a 576± square foot garage area and a 780± square foot storage area.

The dwelling will be connected to the municipal wastewater system. An existing well will serve as the on-site water supply. Utilities will extend underground to the dwelling from existing utility poles along Black Point Way. A 90-foot-long driveway will provide access from Black Point Way to the garage located in the basement of the dwelling.

A 4-foot-wide, 45±-foot-long wood chip path will provide access from Black Point Way to the shoreline of Lake George. One dock will be located at the shoreline. The proposed dock will be a U-shaped dock attached to the shoreline of Lake George via one 8-foot-wide by 2-foot-long section. Each arm of the U-shaped dock will be no wider than 8 feet in width. The dock is shown on a sketch plan attached to the Lake George Park Commission permit #5346-6-11, a copy of which was received at the Agency on October 11, 2011.

No other development is proposed on the 1.43±-acre parcel, on either side of the road. The applicants have agreed to deed restrict the 0.26 acres on the shoreline side of the road to prohibit the construction of any dwelling, principal building or other structure larger than 99 square feet in size on the shoreline property. The applicants further intend to keep the 1.43± acres combined as one parcel and to ensure the property on each side of Black Point Way is not conveyed as separate lots.

#### **PROJECT AND VARIANCE PLANS**

The project and variance is shown on:

- 12 sheets of plans entitled "Rich Jacobs & Patricia Stafford Property New Residence," drawn by Jarrett Engineers, PLLC of Glens Falls, NY, and last revised September 21, 2011; and
- 4 sheets of plans titled "Jacobs, Project No. 21926," drawn by Barden Building Systems of Middleport, NY, and last revised December 7, 2009.

The Jarret plans include a site plan map and plans for stormwater, clearing, planting, wastewater treatment, and erosion and sediment control. The Barden plans show elevations and floor plans of the single family dwelling.

A reduced-scale copy of the Sheet 2 "Property Plan," drawn by Jarrett Engineers, PLLC of Glens Falls, NY, and last revised September 21, 2011 is attached as part of this permit and order for easy reference. The original, full-scale maps and plans referenced in this permit and order (hereinafter "project plans") are the official plans for the project.

**CONDITIONS**

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

1. The project shall be undertaken as described in the completed application, the Project and Variance Description as Proposed, and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the Permit and Order 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 and Order.
2. This project may not be undertaken, and no transfer deed shall be recorded, until this Permit and Order is recorded in the Putnam County Clerk's Office on or before \_\_\_\_\_ 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.
3. This Permit and Order is binding on the applicant, all present and future owners of the project variance site and all contractors undertaking all or a portion of the project. Copies of this Permit and Order and all the approved maps and plans referred to herein shall be furnished by the applicant to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site prior to sale or lease. All deeds conveying all or a portion of the lands subject to this Permit and Order shall contain references to

this Permit and Order as follows: "The lands conveyed are subject to Adirondack Park Agency Permit and Order 2002-265 issued \_\_\_\_\_ , the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

4. 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**

5. This Permit and Order authorizes the construction of one single family dwelling in the location shown on the project plans and to the dimensions and height shown on the project plans. The dwelling shall not exceed a footprint of 2,100 square feet including all covered and uncovered attached porches, decks, and exterior stairs. The structure shall not exceed 35 feet in height as measured from the highest point on the structure to the lowest point of existing grade or finished grade, whichever is lower.

In accordance with the plans, the structure shall be setback a minimum of 80 feet from the mean high water mark of Lake George, as measured horizontally from the closest part of the structure to the mean high water mark.

6. Any changes to the location, size, or dimensions as shown on the project plans authorized herein will require a new or amended Agency Permit and Order. Within 60 days of when the dwelling authorized herein receives its Certificate of Occupancy, a qualified design professional shall provide written certification to the Agency that the dwelling was built in compliance with the approved plans.

#### **Building Color**

7. All exterior building materials, including roof, siding and trim, used to surface the exterior of the dwelling authorized herein and all accessory use structures on the project site shall be of a natural earth-tone color which blends with the existing vegetation. The Agency will, upon request, advise whether any particular proposal complies with this condition.

**Outdoor Lighting**

8. Any new free-standing or building-mounted outdoor lights shall employ full cut-off fixtures, that is, they shall be fully shielded to direct light downward and not into the sky. The fixtures shall be oriented so as to not cast light toward the shoreline or the waters of Lake George, Black Point Way, or adjoining and surrounding property.

**Wastewater Treatment**

9. No on-site wastewater treatment system shall be constructed on the project site. All wastewater generated from the project shall be discharged to the municipal wastewater collection system.

**Vegetative Cutting**

10. Between the edge of right-of-way of Black Point Way and the mean high water mark of Lake George, no trees larger than 4 inches dbh may be cut or otherwise removed or disturbed, and no smaller trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, or otherwise removed or disturbed except for one area up to 6 feet in width for construction of the 4-foot-wide wood chip shoreline access path, as shown on the project plans. 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.

In the event of any loss of shoreline vegetation resulting in material off-site visual impacts from the structure authorized herein, as determined by the Agency, the landowner shall replace the vegetation that provided screening. The replacement vegetation shall be planted within one year and shall be a tree density and species composition similar to prior existing vegetation. Any replacement vegetation that does not survive shall be replanted annually, until such time as healthy replacement vegetation is established. Deciduous replacement trees shall be a minimum of 1½" in caliper at the time of planting and coniferous trees shall be a minimum of 6-8 feet in height.

11. On the project site, including lands Southeast of the edge of right-of-way of Black Point Way, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed except as indicated on the project plans as necessary for the construction of the single family dwelling and related facilities authorized 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.

#### **Planting Plan**

12. The Planting Plan shown on Sheet C3 of the project plans prepared by Jarrett Engineering, PLLC shall be implemented as shown on the project plans in the spring or fall, whichever comes first, immediately after the single family dwelling authorized herein receives its Certificate of Occupancy. Any dead or diseased trees shall be replaced and successfully re-established within one year and until such time as healthy replacement vegetation is established. Deciduous trees shall be a minimum of 1½" in caliper at the time of planting and coniferous trees shall be a minimum of 6-8 feet in height.

#### **Erosion Control and Stormwater Management**

13. The Stormwater Plan shown on Sheet C2 of the project plans prepared by Jarrett Engineering, PLLC shall be implemented and maintained as shown on the project plans and as authorized by the Lake George Park Commission.

#### **Docks and Boathouses**

14. This Permit and Order authorizes the installation of one dock to be located and constructed as shown on the project plans referenced herein. The dock may extend into or over the lake from only that portion of the immediate shoreline necessary to attach the floating or fixed structure to the shoreline. The dock shall be no wider than eight feet in width and in the case of interconnected structures, each element shall not be more than eight feet in width. The dock shall only be used for the purposes of securing and loading or unloading watercraft and for swimming or water recreation.
15. There shall be no boathouses on the project and variance site without a new or amended Agency permit.

**Legal Interests of Others**

16. This Permit and Order does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

**Deed Covenants**

17. In addition to condition 3 herein, all deeds conveying the lands subject to this Permit and Order shall contain a deed covenant stating that, "No single family dwelling, principal building, or other structure larger than 99 square feet in size (except a dock, or boathouse ) shall be allowed on the 0.26±-acre Moderate Intensity Use portion of the parcel located on the shoreline side of Black Point Way." The deed of conveyance shall also specifically state that the above covenant shall "run with, touch and concern the land" and that "it shall be enforceable by the Adirondack Park Agency, the State of New York, and any landowner of the property."

**Future Development**

18. No subdivision of the 1.43±-acre parcel shall occur; the portion of the parcel on each side of Black Point Way shall remain combined as one 1.43±-acre parcel and not conveyed as separate lots.
19. There shall be no further land use and development and no other structures on the 1.43±-acre project site without a new or amended Agency permit or order.

**FINDINGS OF FACT**

**Background/Prior History**

1. The variance record consists of the variance request, hearing record, hearing exhibits, and supporting materials.
2. As of the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan, the 1.43±-acre parcel was not part of a larger parcel and the landowners on that date, Edward Gary Thompson and Lynda Armandi Thompson, did not own any adjoining property.

**Existing Environmental Setting/Character of the Area**

3. The 0.26±-acre portion of the site located on the northwesterly (shoreline) side of Black Point Way is classified Moderate Intensity Use (and the shoreline setback is 50 feet) and includes 316± feet of shoreline on Lake George. The width of the Moderate Intensity Use area between the mean high water mark and Black Point Way ranges from approximately 18 feet to approximately 50 feet at the widest point, and there is insufficient area to locate a dwelling on the Moderate Intensity Use lands farther than 50 feet from the mean high water mark. The 1.17±-acre portion of the site located on the southeasterly side of the road where the single family dwelling is proposed is classified Resource Management (and the shoreline setback is 100 feet).
4. There are no wetlands or other statutory critical environmental areas on the project site or within 200 feet of proposed development.
5. The results of four deep-hole soils test pits and three percolation tests on the project site are given on Sheet C1 "Site Plan" of the Jarret plans referenced herein. County soil maps created by the USDA Natural Resources Conservation Service show the project site as being Charlton soils, very stony, moderately steep and steep, with the natural drainage class being well drained.
6. Existing slopes on the project site range from 30± to 50± percent, except for a nearly level area excavated at the proposed dwelling site southeast of the road. The land rises steeply from Lake George and slopes upward to the southeast. Existing slopes are 0 to 36± percent in the vicinity of the proposed single family dwelling and are 16± percent over the first 50 feet of the proposed driveway.
7. The 0.26±-acre portion of the project site between Lake George and Black Point Way is forested with a mix of coniferous and northern hardwood trees. On the 1.17±-acre portion of the site southeast of Black Point Way, trees and woody vegetation have been cleared from the proposed dwelling site; otherwise the area southeast (and upslope) of the proposed dwelling site is forested with a mix of coniferous and deciduous vegetation.

8. The project site is 3.75± miles south of the Hamlet of Ticonderoga. Land of the State of New York designated Wild Forest is located 720± feet (0.14± miles) south of the project site; it is managed as part of the Lake George Wild Forest. In the vicinity of the project site (from the border with State Land to the south and for more than 2 miles to the north of the project site) Black Point Way and Black Point Road run parallel to and close to the eastern shoreline of Lake George. The Black Point Way/Black Point Road corridor and the Lake George shoreline is characterized by small lots with dwellings or camps located close together and close to the shoreline.

#### **Public Notice and Comment**

9. The Agency notified all parties as required by the Adirondack Park Agency Act and Agency regulations and published a Notice of Variance Application in the Environmental Notice Bulletin. One comment letter was received; it expressed opposition to approval of the proposed single family dwelling and cited concerns about the urbanization of the Lake George shoreline, the dwelling being constructed too close to the shoreline, increased traffic, destruction of the mountain, runoff, and the protection of Resource Management areas.

#### **Public Hearing**

10. On November 7, 2011, a public hearing on the variance request was held in the Town of Putnam. Advance notice of the hearing was published in the local newspapers and sent to adjoining landowners as required by Agency regulations. The hearing was attended by the applicant with her husband, and her attorney and consulting engineer, Agency staff and three members of the public. An audio recording of the hearing is the formal transcript of the hearing record. The applicant, consulting Engineer and Agency staff testified at the hearing. Two members of the public spoke at the hearing, one opposed to issuance of the variance and the other with no objection to the variance.

#### **Other Regulatory Permits and Approvals**

11. The project has been discussed at Town of Putnam planning board meetings, most recently in November 2010, but no final approvals have yet been granted by the Planning Board.

12. The Lake George Park Commission approved the project's Stormwater Plan at their September 28, 2010 meeting. Their approval included three conditions: inspection by Commission staff before backfill, no site disturbance between October 15 and April 15, and permit modification required for any changes to the approved plans. Their approval included the granting of two variances from the 100-foot setback between the roadway infiltration device and the lake and the same roadway infiltration device and the well. The proposed and authorized distances from the roadway infiltration device are 34 feet to the lake and 55 feet to the well.
13. On April 5, 2011, the Lake George Park Commission issued a permit for the U-shaped dock proposed and authorized herein along with standard general conditions.

#### **Water Resources / Navigable Shorelines**

14. Provided the dwelling is constructed in the location and to the dimensions shown on the project plans, provided there is limited removal of vegetation between Lake George and Black Point Way, and provided there is proper implementation of the stormwater management and erosion control plans as referenced herein, then surface water and groundwater resources will be adequately protected from potential adverse impacts. Connection to the municipal wastewater system will further ensure protection of water resources.

#### **Land Resources**

15. Provided the dwelling is constructed in the location and to the dimensions shown on the project plans, then the steep slopes behind (to the southeast of) the dwelling and in front of (to the northwest of) the dwelling will not be further impacted or disturbed. If the dwelling was to be located further back (southeast) in order to comply with the 100-foot Resource Management shoreline setback and the size/design of the proposed structure and landscaping was not changed, then additional disturbance and grading on steep slopes would potentially be required.

#### **Open Space/Aesthetics/Shoreline Character**

16. Provided the dwelling is constructed in the location and to the dimensions shown on the project plans, provided there is no removal of vegetation between Lake George and Black Point Way except to create and maintain one 4-foot-wide shoreline access

path, and provided the Planting Plan is fully implemented and maintained as shown on the project plans, then there will be no undue adverse visual impacts to the character of the Lake George shoreline.

17. Requiring downward-directed or hooded exterior lighting will reduce nighttime light pollution (glare, light trespass, and sky glow) that would be visible from Lake George, Black Point Way, and adjoining and surrounding property. Requiring that exterior finish materials be of a natural earth-tone color which blends with the existing vegetation will further help to minimize potential visual impacts.

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

18. The project site is not within an archeologically sensitive area as mapped by the Office of Parks, Recreation, and Historic Preservation. There are no structures greater than 50 years old either on site or within the viewshed of the proposed single family dwelling. 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 Section 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

#### **VARIANCE IMPACTS AND CRITERIA**

The following findings of fact evaluate the proposal against the variance factors set forth in 9 NYCRR § 576.1.

#### **Whether there are practical difficulties in carrying out the strict letter of the shoreline restrictions**

19. The applicants have demonstrated that there are practical difficulties present on the site due to the size and configuration of the parcel in relation to the shoreline, road, and existing steep slopes. The practical difficulty associated with the applicant's objective to construct a single family dwelling on the property is that building outside of the setback would require further cutting into the slope and/or building the house higher in a location more visible from the lake.

Whether adverse consequences from denial outweigh the public purpose of statutory shoreline restriction -

20. Adverse consequences to the applicant from denial of the requested variance would include:
- i. having to further reduce the size of the proposed dwelling;
  - ii. having to undertake additional grading and disturbance on steep slopes to the rear (southeast) of the building site, so as to move the structure further from the shoreline; and/or
  - iii. having to redesign the dwelling to directly abut the steep slopes (and retaining wall) to the rear (southeast) thereby potentially eliminating/reducing rear exits and egress around the dwelling.

Adverse consequence (ii), above, would potentially increase the visibility of the dwelling from Lake George and risk impacts to water quality, which would counter the public purpose of the shoreline restrictions. Adverse consequence (iii), above is partially a self-created hardship as the applicant's consultant proceeded with clearing and grading the site prior to realizing Agency approval was required.

With regard to the "public purpose of the statutory shoreline restriction" it is relevant that the shoreline portion of the project site located northwest of Black Point Way is classified Moderate Intensity Use area, wherein only a 50 foot shoreline setback is required. The proposed dwelling will be located 80 feet from the mean high water mark and the applicant has agreed to deed restrict their shoreline property northwest of the road to prohibit principal buildings or structures larger than 99 square feet. Thus, the public purpose of the shoreline restrictions will not be compromised by issuance of the requested Resource Management area variance.

Whether the application requests the minimum relief necessary

21. To minimize the extent of the variance being requested, the applicants have reduced the size/width of the proposed dwelling, relocated a proposed deck from the front of the structure to the side, and located the garage underneath instead of beside the dwelling.

Whether granting the variance will create a substantial detriment to adjoining or nearby landowners -

22. The area surrounding the proposed dwelling site includes significant development located on the northwest side of Black Point Way, and structures very close to the shoreline and within the shoreline setback. Furthermore, other nearby dwellings located on the southeast side of the road are located on ridgelines at higher elevations than the proposed dwelling and are notably visible from the waters of Lake George. As designed and proposed, the applicant's dwelling will have fewer impacts to adjoining landowners than most of the surrounding development along Black Point Way. The applicant's agreement to deed restrict her shoreline property northwest of the road to prohibit principal buildings or structures larger than 99 square feet will greatly limit any future impacts to adjoining landowners, as will the retention of shoreline vegetation as conditioned herein.

Whether the difficulty can be obviated by a feasible method other than a variance -

23. It is possible that the applicant could avoid the need for an Agency variance by (i) further reducing the size of the proposed dwelling, (ii) by undertaking additional grading and disturbance on steep slopes to move the structure further from the shoreline, and/or (iii) redesigning the dwelling to directly abut the steep slopes (and retaining wall) to the rear. However, some of these alternatives could result in greater environmental impacts and less protection of the shoreline resources, and the alternatives might not include the restrictive deed covenants offered as part of the variance request.

The manner in which the difficulty arose -

24. The difficulty faced by the applicant is based in part on the purchase of a lot which is difficult to build on, due to the size and configuration of the parcel in relation to the shoreline of Lake George, Black Point Way, and existing steep slopes. These constraints prohibit the applicant from constructing a single family dwelling of the size and design she desires without obtaining a variance from the 100-foot shoreline setback.

The difficulty is further created by the change in land use area classification from Moderate Intensity Use on the shoreline side of the road (requiring a 50-foot shoreline setback) to Resource Management on the non-shoreline side of the road (requiring a 100-foot shoreline setback).

Whether granting the variance will adversely affect existing resources

25. Granting the variance will not adversely affect resources if the project is undertaken in compliance with the applicant's proposal and the conditions herein, including limiting the maximum footprint and height of the dwelling, strict adherence to project plans (including stormwater and planting plans), limiting the removal of vegetation, connecting to the municipal sewer system, choosing exterior finish materials of earth-tone colors, using exterior lighting that is shielded and downward facing, and inserting deed covenants that prohibit structures larger than 99 square feet in size on the shoreline side of the road.

Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above

26. The conditions included in this Order will ameliorate any potential adverse effects.

**CONCLUSIONS OF LAW**

1. The Agency has considered all statutory and regulatory criteria for project approval as set forth in: §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.
2. There are practical difficulties in the way of carrying out the strict letter of the shoreline restrictions.
3. The adverse consequences resulting from denial of this request are greater than the public purpose sought to be served by the restrictions.
4. The factors set forth in 9 NYCRR § 576.1(c) have been considered:

- a. whether the application requests the minimum relief necessary;
  - b. whether there will be a substantial detriment to adjacent or nearby landowners;
  - c. whether the difficulty can be obviated by a feasible method other than the variance;
  - d. the manner in which the difficulty arose;
  - e. whether granting the variance will adversely affect the resources of the Park; and
  - f. whether the conditions noted herein will ameliorate any adverse effects.
5. The variance, pursuant to §806 of the Adirondack Park Agency Act and 9 NYCRR Part 576, observes the spirit of the Act, secures public safety and welfare, and does substantial justice.
  6. A variance of the terms of the APA Act is not personal and runs with the land. Recording of this Order Granting Variance is intended to provide notice to subsequent owners of the land.

