



**Adirondack  
Park Agency**

# **Shoreline Setbacks**

**An Overview**

**October 8, 2020**

# APA Shoreline Setback Provisions

- Adirondack Park Agency Act
  - Executive Law §§ 806, 811
  - NYCRR Part 575
- Wild, Scenic and Recreational River System Act
  - 9 NYCRR §§ 577.4(d), 577.6(b), 577.7
- (Freshwater Wetlands Act / NYCRR Part 578)



# APA Act, Rivers Act – Background

Two tiered system:

- 1) Permits required for certain subdivision / development activities
- 2) Prohibition on certain activities impacting shorelines
  - If a landowner cannot comply with these prohibitions, a variance is required

# Presentation Outline

## APA Act

- Structures subject to the setback
  - New structures
  - Expansions of existing non-conforming shoreline structures
- Structures exempted from the setback
  - New structures
  - Existing non-conforming boathouses and docks

## Rivers Act, Wetlands Act

# APA Act

# APA Act – New Shoreline Structures

Other than docks and boathouses, all new accessory structures and principal buildings greater than 100 square feet in size must be set back from the mean high water mark of lakes, ponds, study rivers, and other navigable rivers and streams a distance of:

Hamlet:	50 feet
Moderate Intensity Use:	50 feet
Low Intensity Use:	75 feet
Rural Use:	75 feet
Resource Management:	100 feet

Section 806(1)(a)(2)

# APA Act – New Shoreline Structures

## What is subject to the structure setback?

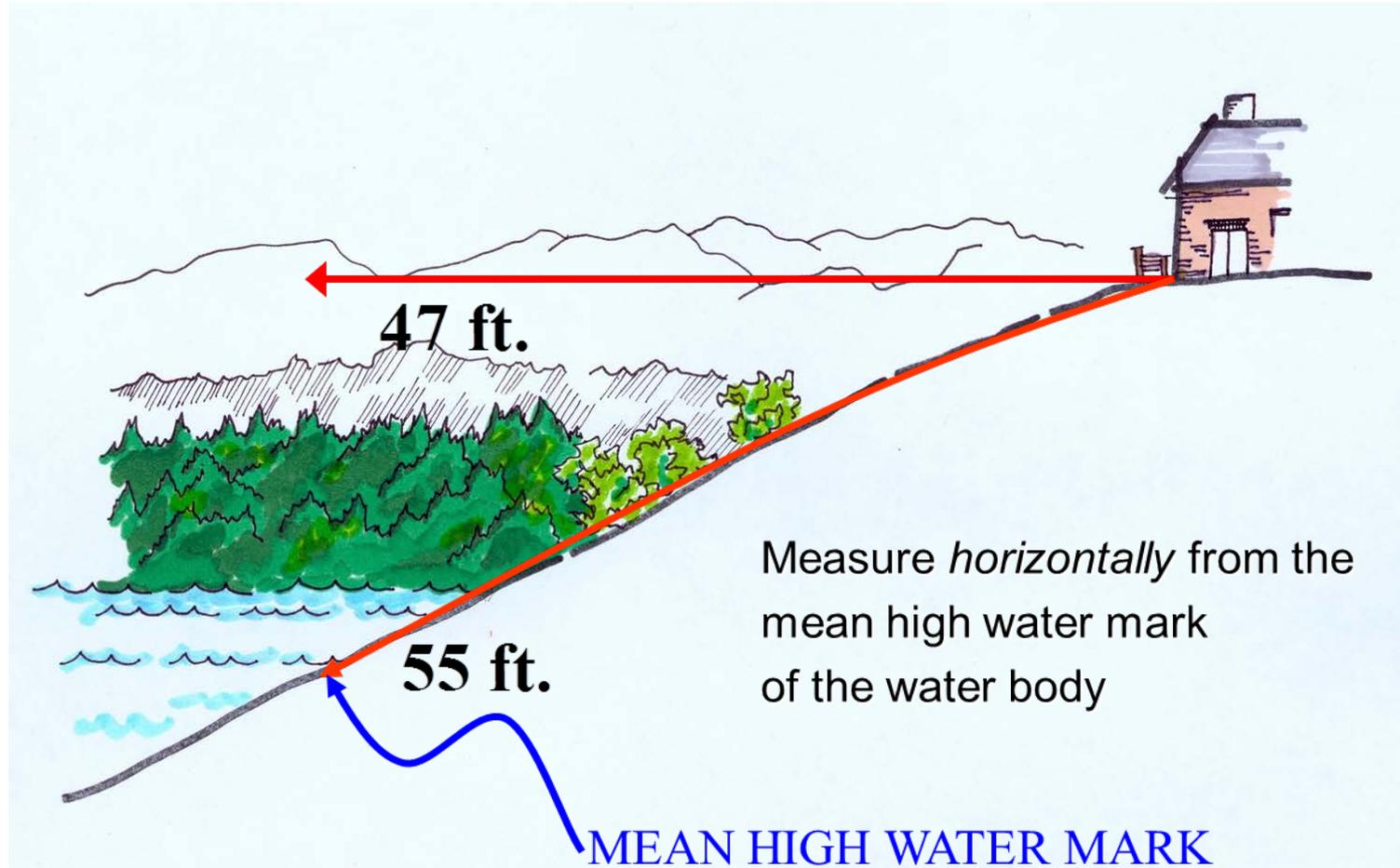
- Accessory structures and principal buildings

(Examples: dwellings, sheds, stairs, decks, fences, walls)

- Exemptions:
  - Boathouses
  - Docks
  - Certain retaining walls
  - Certain vehicles



# APA Act – New Shoreline Structures



# APA Act – New Shoreline Structures

- The size of attached structures is aggregated when determining whether they can be located within the setback

9 NYCRR § 575.4(b)

→ Adjacent

→ Structurally attached

→ Functionally attached

1. located in close proximity to each other and
2. used together

# APA Act – Shoreline Structure Expansions

Structure replacement or expansion allowed, except that no expansion or replacement may result in an increase in non-compliance with the setback restrictions

Section 811(5)

Increase in non-compliance = expansion “in any direction within the shoreline setback area...”

9 NYCRR § 575.5(b)(2)

# APA Act – Shoreline Structure Expansions

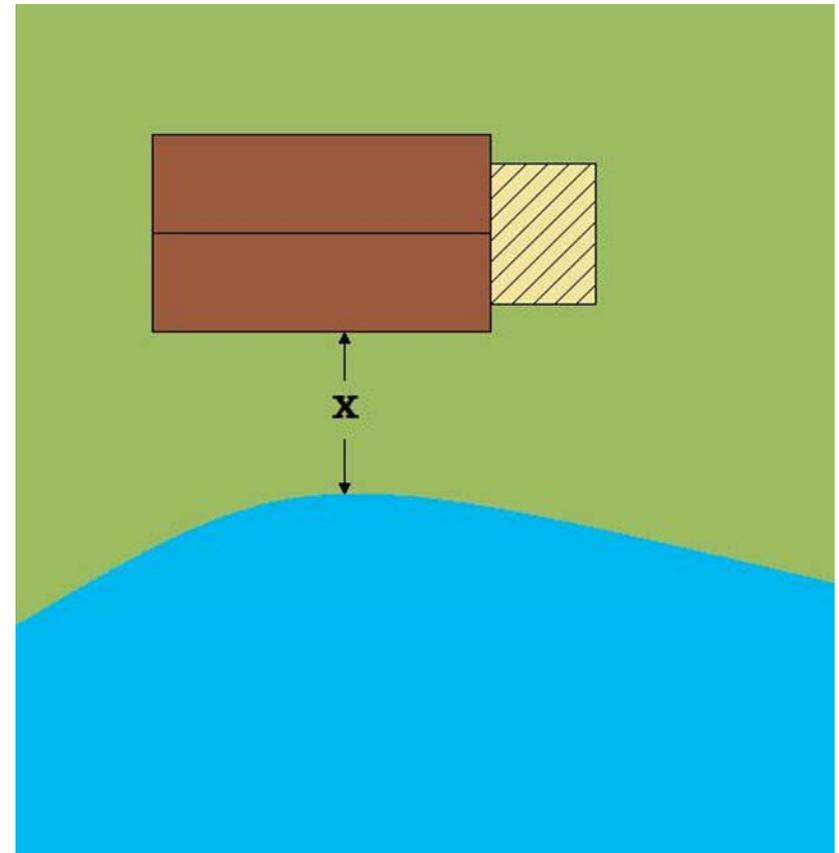
Four parameters:

- 1) No closer to the mean high water mark
- 2) Height
- 3) Footprint
- 4) Width

# APA Act – Shoreline Structure Expansions

## Parameter 1 (closer):

No portion of an expanded or replacement structure may be located closer to the mean high water mark than the closest point of the pre-existing structure



# APA Act – Shoreline Structure Expansions

Parameter 2 (height):

For buildings – highest point  
of the highest roof ridgeline

For other structures – highest  
point of the structure

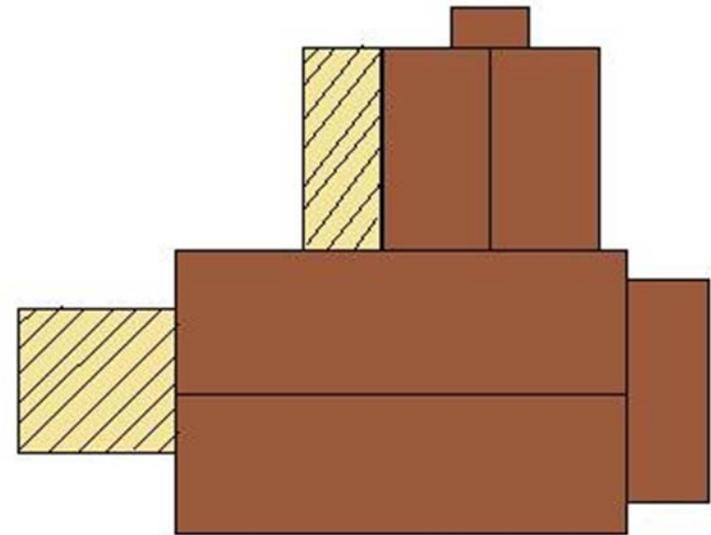


# APA Act – Shoreline Structure Expansions

## Parameter 3 (footprint):

All attached components are considered part of a single structure

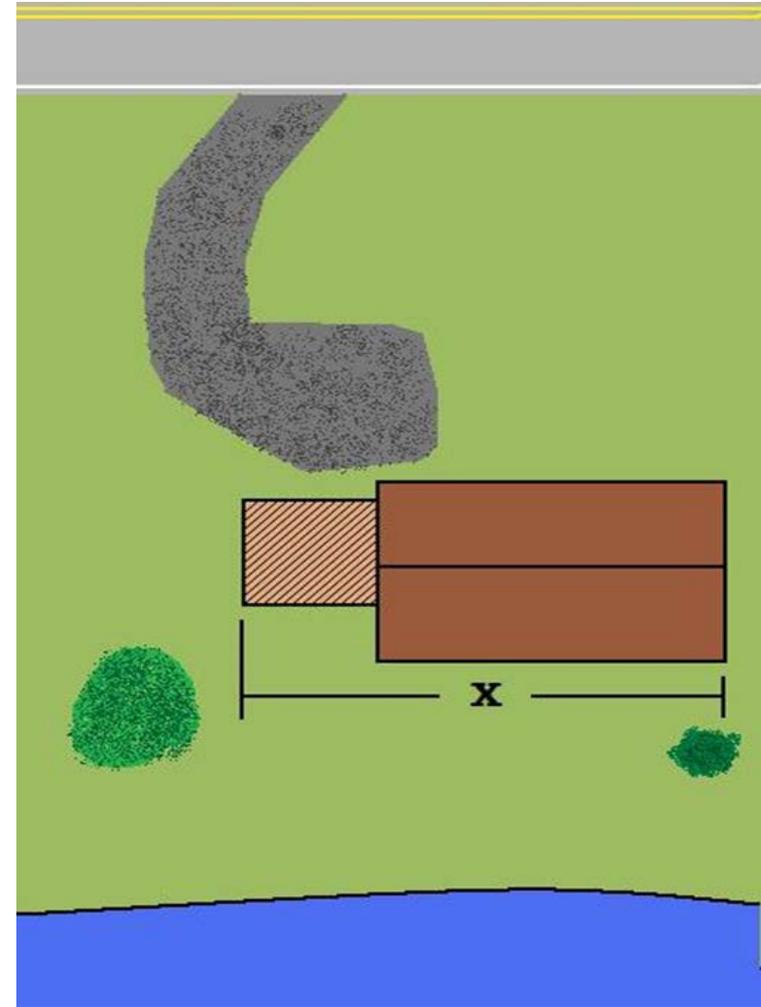
9 NYCRR § 575.4(b)



# APA Act – Shoreline Structure Expansions

Parameter 4 (width):

Maximum width measured parallel to the side facing the mean high water mark



# APA Act – Shoreline Structure Expansions

## Exceptions to the four part test:

### 1) Minor height expansion

- An increase of up to two feet in height for sfd, mobile homes, and certain other pre-existing structures

### 2) Minor rearward expansion (footprint)

- An increase by up to 250 square feet to the non-shoreline side of an sfd or mobile home
- An increase by up to 100 square feet to the non-shoreline side of certain other pre-existing structures

# APA Act – Shoreline Structure Expansions

## Exceptions to the four part test:

### 3) Dwelling access

- An attached structure < 25 square feet in size providing access to an sfd or mobile home and located on a non-shoreline side of the structure

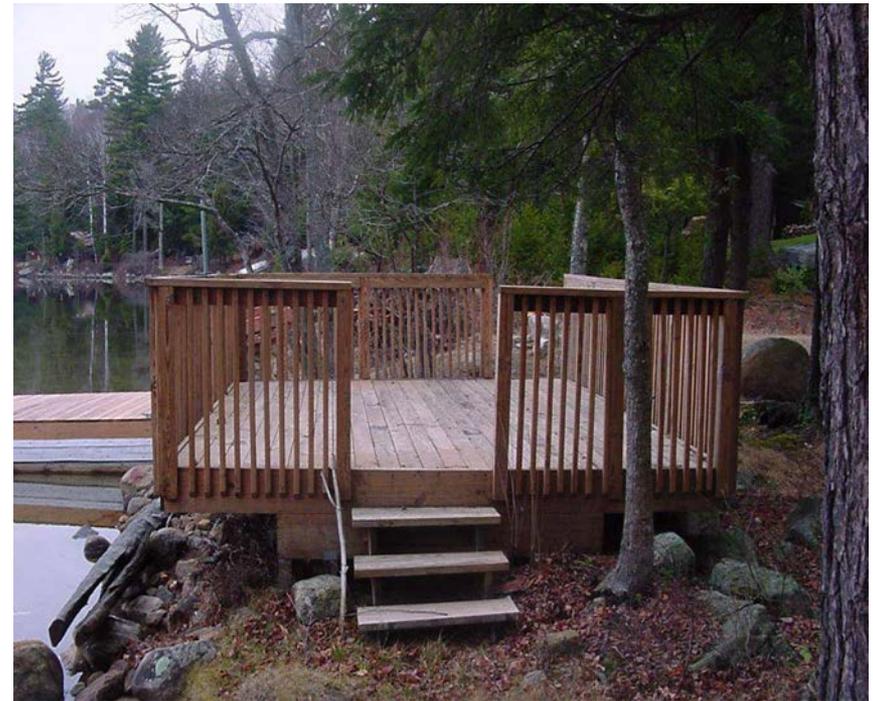
# APA Act – Exempted Structures

## What is subject to the structure setback?

- Accessory structures and principal buildings

(Examples: dwellings, sheds, stairs, decks, fences, walls)

- Exemptions:
  - Boathouses
  - Docks
  - Certain retaining walls
  - Certain vehicles



# APA Act – Exemption: Retaining Walls

9 NYCRR § 575.4(f): A retaining wall is not subject to the setback requirement if the wall

- Is constructed of dry laid stone or untreated natural logs
- Is smaller than 200 square feet in size (including any portion of the wall below the mhw)
- Does not exceed two feet in height above the mhw
- Is designed to control an on-going erosion problem
- Is limited to the area necessary to control the erosion, and
- Follows the existing natural elevation and contour of the shoreline

# APA Act – Exemption: Vehicles

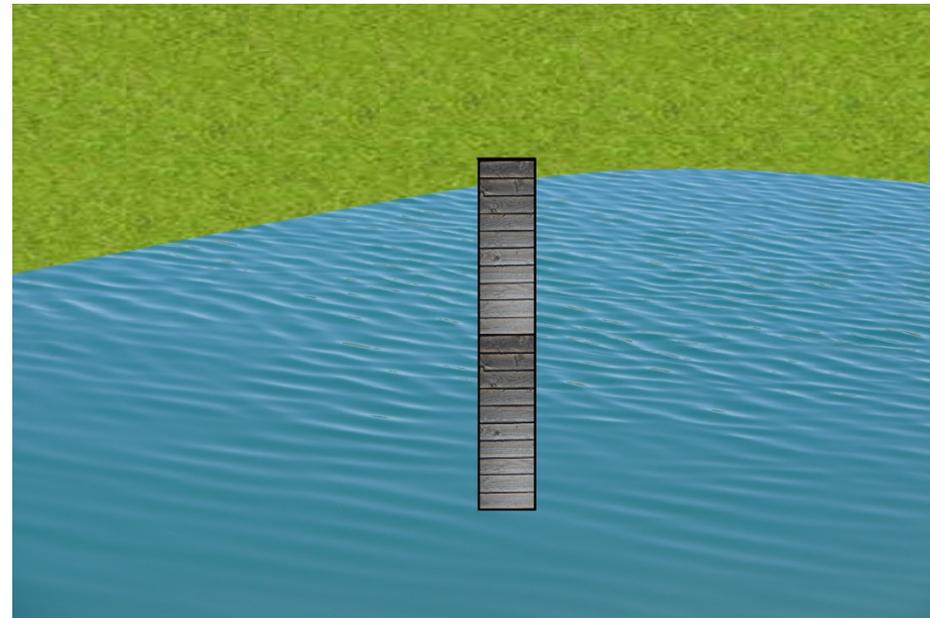
Vehicles are not considered principal buildings or accessory structures if they are:

- 1) Motorized vehicles for transport on land or water that are
  - registered with the Department of Motor Vehicles,
  - have a current inspection sticker, and
  - not connected to permanent sanitary facilities; or
- 2) Trailers or other non-motorized vehicles that are
  - registered with the DMV,
  - have a current inspection sticker,
  - not connected to permanent sanitary facilities, and
  - not carrying or serving as a base or support for a structure that is greater than 100 square feet in size

# APA Act – Exemption: Docks

## Definition:

- A floating or fixed structure
- That extends horizontally (parallel with the water surface) into or over a lake, pond, or navigable river or stream
- From only that portion of the immediate shoreline or boathouse necessary to attach the floating or fixed structure to the shoreline or boathouse,
- Is no more than eight feet in width, or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element of which is no more than eight feet in width, and
- Is built or used for the purposes of securing and/or unloading water craft and/or for swimming or water recreation



# APA Act – Exemption: Boathouses

## Definition:

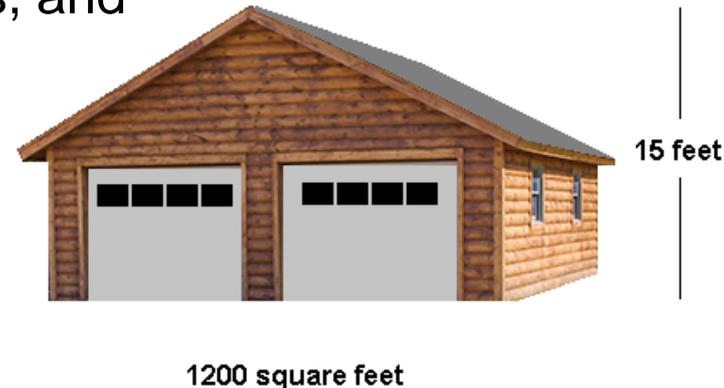
- A covered structure with direct access to a navigable body of water which (1) is used only for the storage of boats and associated equipment;(2) does not contain bathroom facilities, sanitary plumbing or sanitary drains of any kind; (3) does not contain kitchen facilities of any kind; (4) does not contain a heating system of any kind; (5) does not contain beds or sleeping quarters of any kind; (6) does not exceed a single story in that the roof rafters rest on the top plate of the first floor wall, and all rigid roof surfaces have a minimum pitch of 4 on 12, or, alternatively, 1 flat roof covers the entire structure; and (7) has a footprint of 1,200 square feet or less measured at the exterior walls (or in the absence of exterior walls, at the perimeter of the roof), and a height of 15 feet or less. For the purposes of this definition, the height of a boathouse shall be measured from the surface of the floor serving the boat berths to the highest point of the structure. The dimensional requirements specified herein shall not apply to a covered structure for berthing boats located within the Lake George Park, provided the structure is built or modified in accordance with a permit from the Lake George Park Commission and is located fully lakeward of the mean high-water mark of Lake George.



# APA Act – Exemption: Boathouses

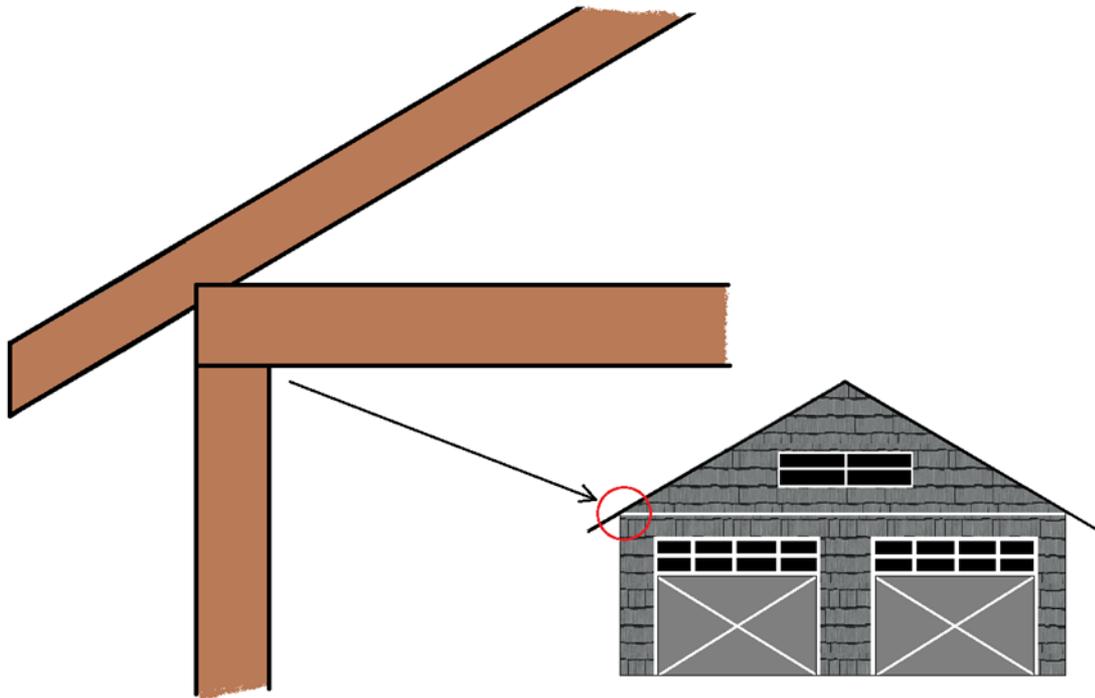
## Current implementation:

- A covered structure
- with direct access to a body of water
- that is used only for the storage of boats and associated equipment,
- does not contain sanitary plumbing of any kind,
- does not exceed a single story in that the roof rafters rest on the top plate of the first floor wall,
- has a footprint of 1200 square feet or less, and
- a height of 15 feet or less.



# APA Act – Exemption: Boathouses

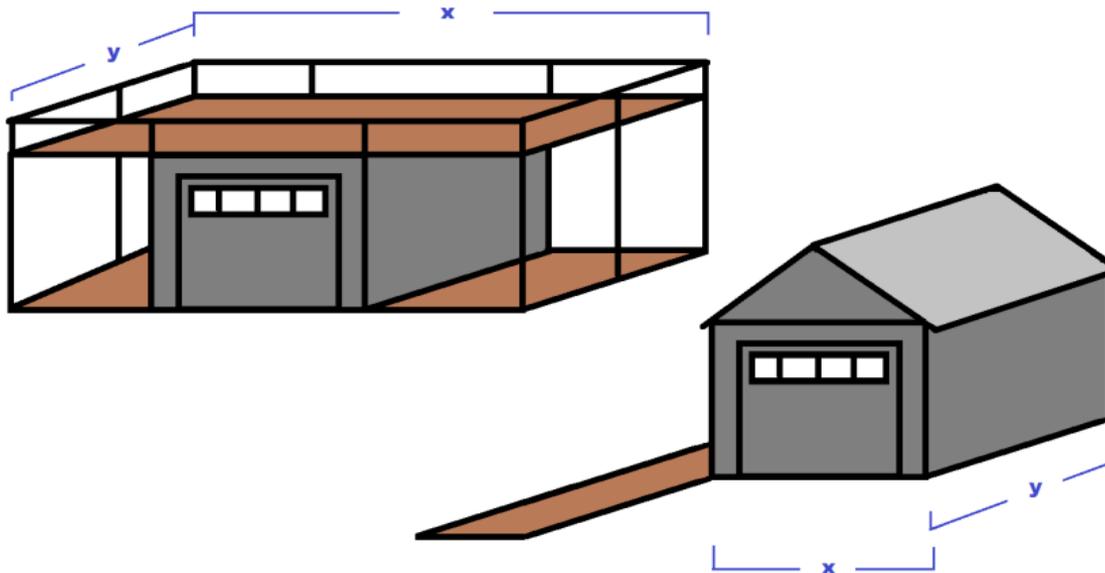
Must not exceed a single story in that the roof rafters rest on the top plate of the first floor wall



# APA Act – Exemption: Boathouses

Footprint of 1,200 square feet or less

- A boathouse with a pitched roof is measured at the perimeter of the walls.
- A boathouse with no walls or a flat roof is measured at the perimeter of the roof.



# APA Act – Exemption: Boathouses

Footprint of 1,200 square feet or less

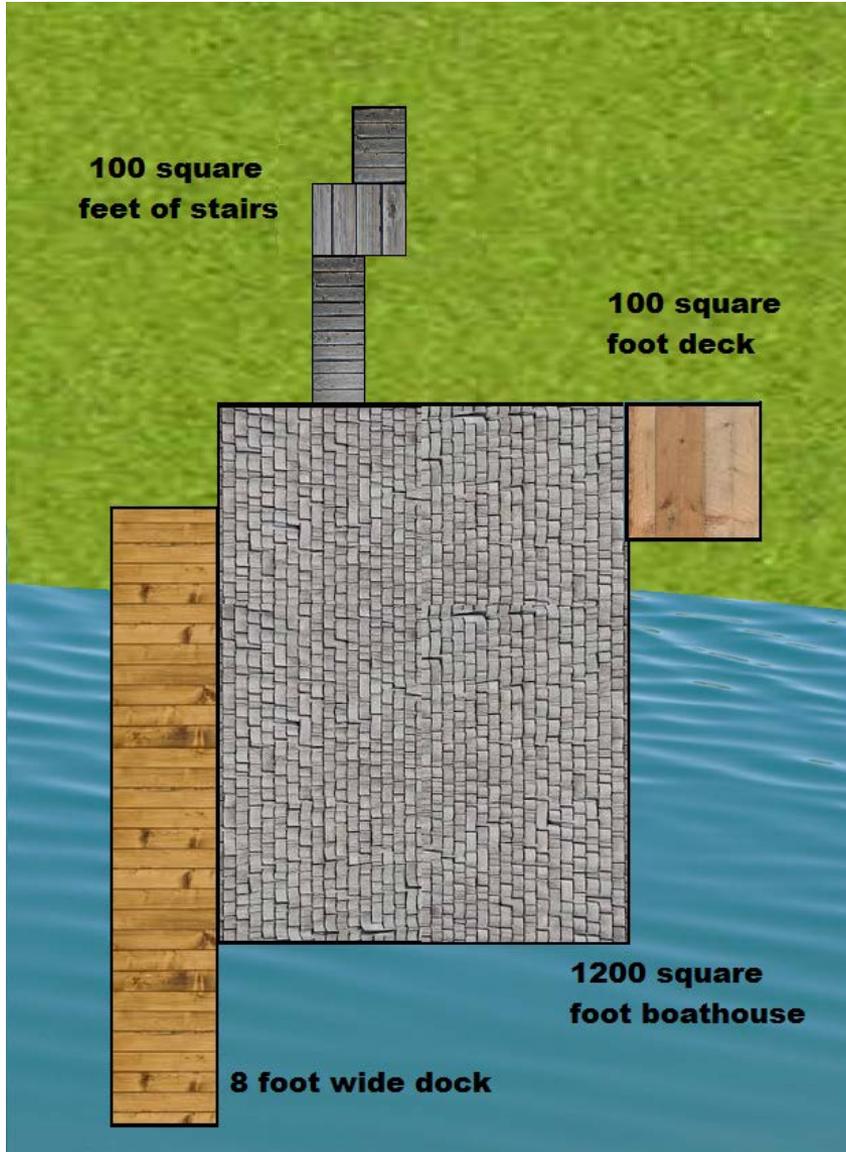
Structures can be attached to a boathouse without affecting the boathouse footprint measurement:

1. 100 square feet of combined deck and porch footprint, provided these decks and porches are not adjacent to structures allowed under 2 or 3

9 NYCRR § 575.4(c)

2. An additional 100 square feet of combined footprint of structures other than decks and porches
3. Docks

# APA Act – Exemption: Boathouses

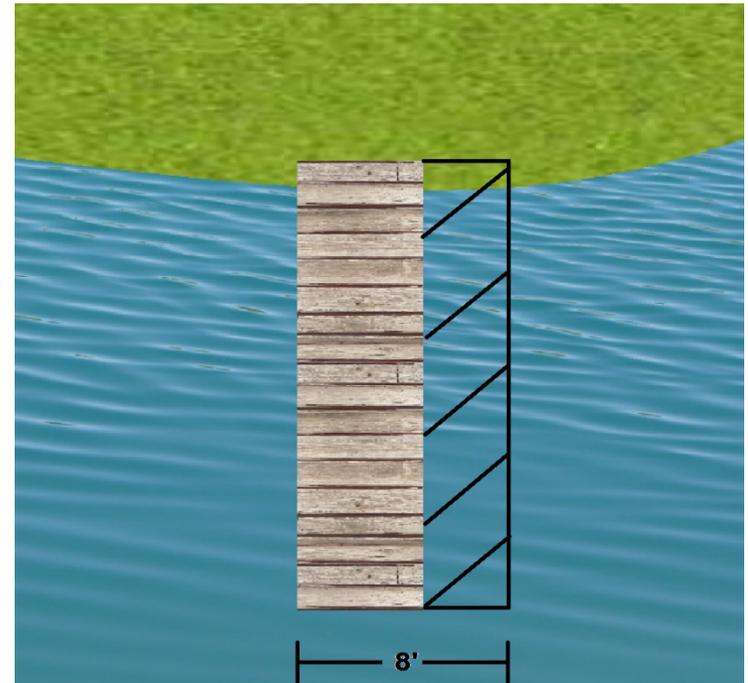


Footprint of 1,200 square feet or less

# APA Act – Existing Boathouse and Dock Expansions

A structure is a boathouse or dock if it meets the current definition, regardless of when constructed

- May be expanded in size to the limits of the current definition.



# APA Act – Existing Non-Conforming Docks

A structure that does not meet either definition may be considered a lawfully-existing, non-conforming dock if it:

- Extends horizontally from the shoreline or a boathouse
  - Is used for swimming or water recreation, and
  - Was constructed before May 1, 2002.
- 
- ***Cannot be added to or expanded***

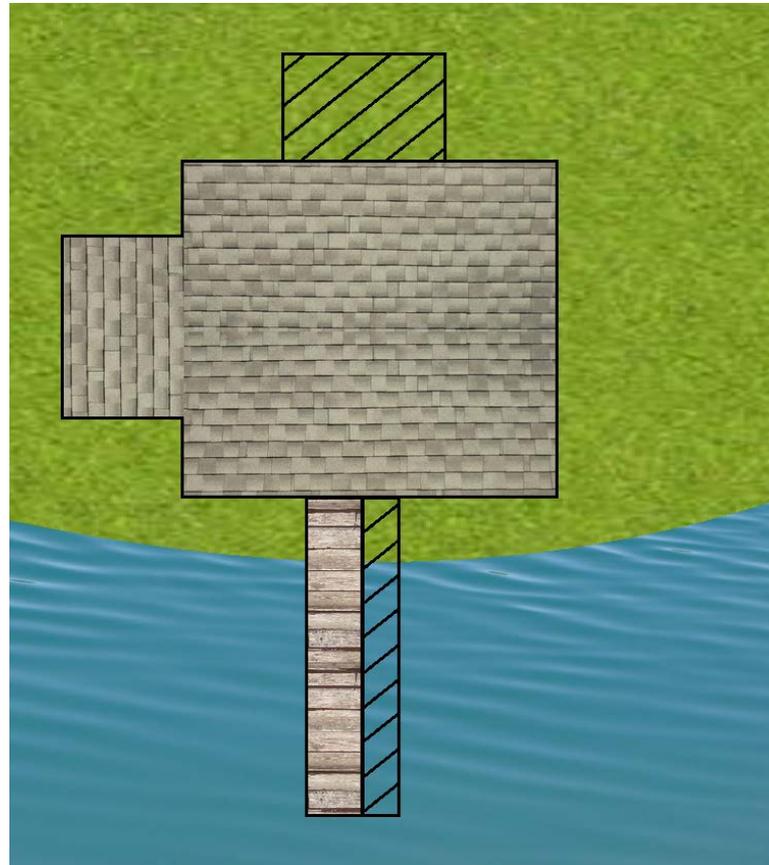
# APA Act – Existing Non-Conforming Boathouses

A structure that does not meet either definition may be considered a lawfully-existing, non-conforming boathouse if it:

- Is a covered structure
- With direct access to a navigable body of water,
- Is used for the storage of boats and associated equipment, and
- Either
  - was constructed before October 15, 1982,
  - was constructed between October 15, 1982, and May 2, 2002, and has no bathroom or kitchen facilities, or
  - was constructed between May 2, 2002, and September 21, 2010, and has no bathroom or kitchen facilities and does not exceed a single story
- ***Cannot be added to or expanded***

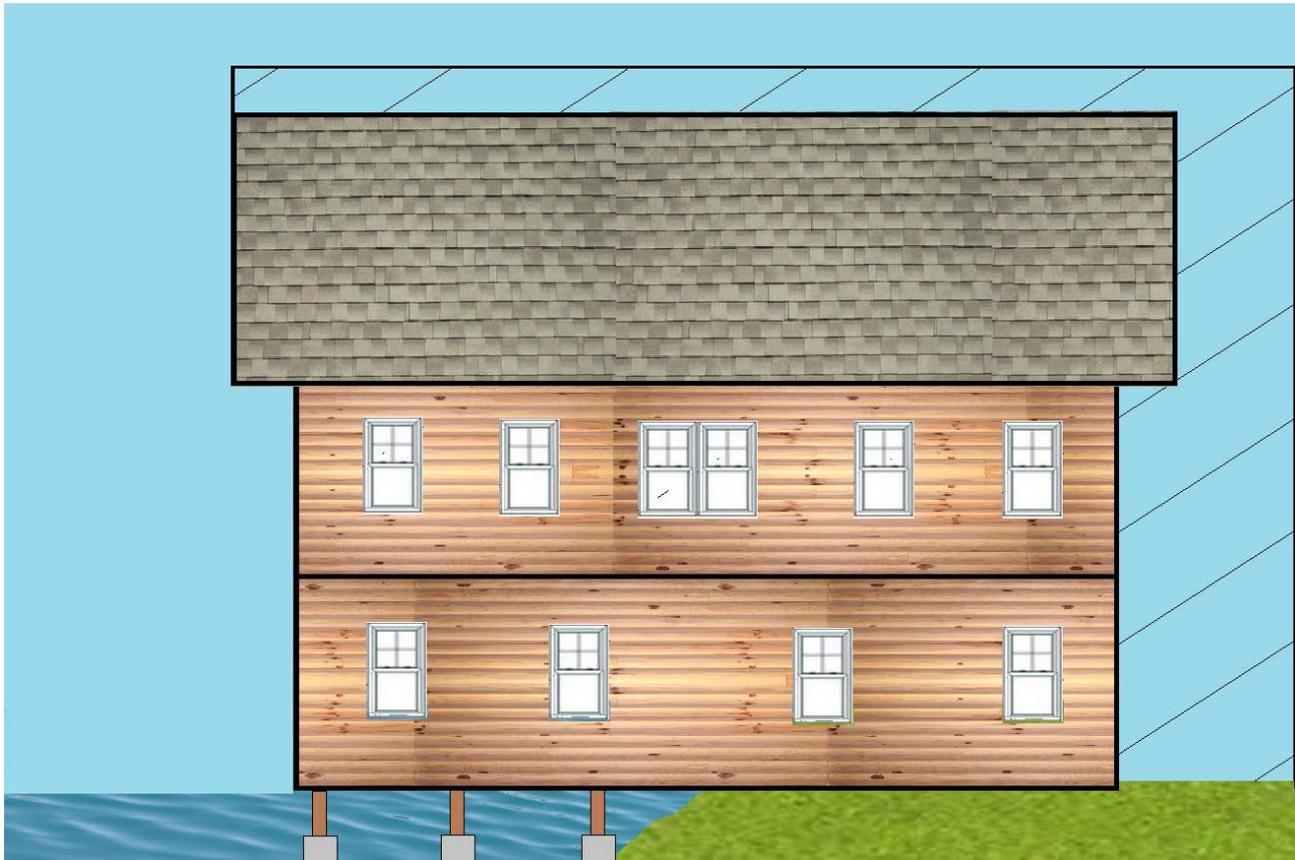
# APA Act – Existing Non-Conforming Boathouses and Docks

Analyzed separately  
from other structures  
for expansion  
purposes



# APA Act – Existing Non-Conforming Boathouse/Other Structures

Lawfully-existing, non-conforming boathouses that are part of another structure on the interior are considered only as the other structure, and not as a boathouse



# Wild, Scenic, and Recreational Rivers System Act

# Rivers Act – New Shoreline Structures

All new structures must be set back from the mean high water mark of the river a distance of:

Recreational river:	150 feet
Scenic river:	250 feet

9 NYCRR 577.6(b)



- Exceptions: fences, poles, signs < 2 ft<sup>2</sup>, docks, boathouses (recreational only), bridges, stream improvement structures for fishery management purposes

# Freshwater Wetlands Act

# Wetlands Act – Basic Requirements

## Definition

- Any land that is annually subject to periodic or continual inundation by water, commonly referred to as a bog, swamp or marsh, and either:



One acre or more in size, OR

Located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface.

→ No shoreline structure setbacks

→ Permit may be required

# APA Shoreline Structure Requirements

Questions?