

STATE OF NEW YORK: ADIRONDACK PARK AGENCY

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In the matter of the apparent
violation of Executive Law § 806
by:

**JOSEPH COTAZINO, JR.
JOY COTAZINO**

**DETERMINATION OF THE
ENFORCEMENT COMMITTEE
Pursuant to 9 NYCRR § 581-2.6**

Agency File E2019-0127

Respondents.

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The Enforcement Committee of the Adirondack Park Agency considered the Agency Staff Request for an Enforcement Committee Determination for Enforcement File E2019-0127 on February 12, 2021.

The Record before the Committee consists of the following documents:

- Agency Staff's January 31, 2020 Notice of Apparent Violation and Request for Enforcement Committee Determination
- Agency Staff's January 31, 2020 Memorandum of Law, with attached
 - January 31, 2020 Affidavit of Trevor S. Fravor and Exhibits 1-14
 - January 31, 2020 Affidavit of Shaun LaLonde
 - January 31, 2020 Affidavit of John M. Burth
- Affidavit of Service of Annemarie Peer, dated February 11, 2020
- Answer of Respondents, dated March 2, 2020, including Memorandum of Law in Opposition to the Notice and Affidavit of Joseph M. Cotazino, Jr., with supporting exhibits A-K
- April 23, 2020 letter from Agency staff to Respondents acknowledging postponement of Enforcement Committee proceeding
- September 8, 2020 letter from Agency staff to Respondents scheduling Enforcement Committee proceeding

- October 5, 2020 letter from Agency staff to Respondents acknowledging postponement of Enforcement Committee proceeding
- November 5, 2020 letter from Agency staff to Respondents acknowledging postponement of Enforcement Committee proceeding
- December 2, 2020 letter from Agency staff to Respondents acknowledging postponement of Enforcement Committee proceeding

Respondent Joseph M. Cotazino, Jr., Counsel for Respondents, and Agency staff appeared before the Committee on February 12, 2021, presented and responded to questions posed by Committee members. Based on the Record before and the presentations to the Committee, it makes the following findings and determinations pursuant to 9 NYCRR § 581-2.6(d).

Applicable Law

Pursuant to Executive Law § 806, a variance is required from the Adirondack Park Agency prior to the construction of any new principal building or accessory structure greater than 100 square feet in size within 50 feet of the mean high-water mark of any lake on Hamlet lands in the Adirondack Park.

Findings

1. Respondents own the subject property, designated as Tax Map Parcel 130.18-1-17.100, having shoreline on Lake Algonquin in the Town of Wells, Hamilton County.
2. The subject property is designated Hamlet on the Adirondack Park Land Use and Development Plan Map.
3. In 2019, Respondents and/or their agents constructed a single family dwelling and subsequently attached a deck to the shoreline side of the dwelling. The structure comprised of the dwelling and deck is greater than 100 square feet in size, and most of the deck, if not all, is located within 50 feet of the mean high-water mark of Lake Algonquin.
4. On a site visit on August 20, 2018, Agency staff identified the mean high water mark of Lake Algonquin on the subject property prior to Respondents constructing the dwelling and deck. Staff identified where the dwelling, absent the deck, could be located without needing a variance from the shoreline setback requirements.
5. Agency staff performed site visits on June 11, 2019, and August 13, 2019, and observed the subject property from off site on November 20, 2019, and January 27, 2020. During these site visits and observations, Agency staff noted the

location of the single family dwelling and the deck in relation to the mean high water mark.

6. No variance was obtained from the Agency prior to construction of the deck within 50 feet of the mean high water mark of Lake Algonquin on the subject property.
7. On August 21, 2019, staff sent a proposed settlement agreement to Respondents. In a response dated September 5, 2019, and in subsequent correspondence with Agency staff, Respondents' attorney informed Agency staff that the Respondents could not agree to the proposed settlement agreement. Respondents also did not allow Agency staff to access the subject property

Determination of the Violation

Respondents are violating Executive Law § 806 by having constructed in 2019 a single family dwelling with a deck within 50 feet of the mean high water mark of Lake Algonquin on the subject property in a Hamlet land use area without first obtaining a variance from the Agency.

Determination of Appropriate Disposition

Now, therefore, having considered this matter, the Enforcement Committee determines:

- (1) Effective immediately, Respondents shall cease any further construction on or expansion of the deck.
- (2) By June 1, 2021, Respondents shall remove any portion of the deck within 50 feet of the mean high water mark of Lake Algonquin. Notice of removal shall be provided to Agency staff within one week after removal. Removal consistent with the above shall be subject to confirmation by Agency staff or by a surveyor or engineer licensed to practice in the State of New York.
- (3) Respondents shall pay a civil penalty to the State of New York in the amount of \$500 per day for violations of the Adirondack Park Act for the 57 days beginning on August 21, 2019, through October 16, 2019 for a total of \$28,500.

\$1,500 of this penalty is due within 30 days of the date of this determination. However, the remaining \$27,000 of this penalty is suspended pending satisfactory completion of remediation by June 1, 2021 as specified in Paragraph (2) above. Should the remediation not be completed by June 1, 2021, the suspended \$27,000 penalty shall be immediately due and payable to the State of New York, in the same manner, and such additional proceedings as are necessary to achieve full compliance with the law will be commenced.

Payment of this penalty shall be by bank check or money order and shall be transmitted to the Agency c/o Enforcement Division.

