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TOWN OF QUEENSBURY
ZONING OFFICE

July 27, 2010

Mr. James Underwood, ZBA Chairman
Town of Queensbury
Dept. Of Community Development
Zoning Office
742 Bay Road
Queensbury, NY 12804

Re: Patios as Accessory Structures

Dear Mr. Underwood:

As noted in the recent Crowell variance response from the Agency there seems to be some confusion about patios and whether they are subject to the shoreline setbacks. While the Agency will treat patios that are flush with the natural ground surface as exempt structures from the shoreline setback, the Crowell's patio was raised and supported by fill and a retaining wall and therefore would not qualify to be exempt from the shoreline setbacks. The issue is further governed by the Town of Queensbury Zoning Law.

When the Town of Queensbury revised its Zoning Law in 2009, part of this revision included a change to the definition of an "Accessory Structure" which now includes "patios" as a type of accessory structure - see below (emphasis added):

ACCESSORY STRUCTURE

A building or structure subordinate and clearly incidental to the principal building on the same lot and used for a purpose customarily incidental to that of the principal building. Examples of customary residential accessory uses include storage sheds, boathouses, garages (temporary or permanent), swimming pools, tennis courts, basketball courts, paddleball courts and other outdoor athletic courts, decks and patios and fences. The term does not include pool pump houses under 25 square feet, housekeeping cottages, or playhouses and gazebos under 120 square feet.

The zoning law also states, as does the APA Act, that "accessory structures" are subject to the shoreline setbacks in accordance

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with the Town's definition of "Shoreline Building Setback"
(emphasis added):

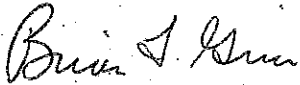
SHORELINE BUILDING SETBACK


The shortest distance, measured horizontally, between any point of a principal building or accessory structure in excess of 100 square feet in size (except docks and boathouses) and the shoreline of any lake, pond, river, wetland or stream.

In consideration of this, Agency staff believe any patio greater than 100 square feet that is proposed within the shoreline setback, regardless of its degree of "flushness" with the ground surface would require a variance from the Town's shoreline setback.

Please contact me if you would like to discuss this or any other issues that the ZBA might be facing with the new zoning law.

Sincerely,



Brian F. Grisi 
Adirondack Park
Local Government Assistance Specialist

BFG:REB:lhb

Cc: Craig Brown, Zoning Administrator
Stuart Baker, Senior Planner