Draft

Regulatory Programs Committee
February 16, 2012
Agency Meeting
REW:HEK:mlr

Regulatory Programs Committee
February 16, 2012

Committee Members present: Chairman Frank Mezzano, Member Art Lussi, Member Richard Booth, Member William Valentino, Designee Dede Scozzafava (Department of State). Other Members present: Chairwoman Lani Ulrich, Member Sherman Craig, Designee Bob Stegemann (Department of Environmental Conservation), Designee Jen McCormick (Department of Economic Development) and Member William Thomas. Agency Staff present: Executive Director: Terry Martino and Counsel John Banta.

The Committee convened at 9:30 am.

Member Cecil Wray was not present for the Agency meeting.

Chairwoman Ulrich introduced Member Mezzano as the Regulatory Committee Chairman. Mr. Mezzano introduced the Regulatory Committee to the Board and thanked Chairwoman Ulrich for the opportunity to serve as the Regulatory Committee Chairman. He noted he is very pleased that Chairwoman Ulrich left the Regulatory Committee unchanged from the previous year assuring continuity and giving himself the opportunity to draw upon each member's experience and seek their counsel when necessary. He stated this Committee relies primarily on the statute and the Regulations to make its decisions; the paradigm in which the staff has consistently used when presenting projects, variances and other matters to the Agency for review. It is that reliance upon the law that gives the Regulatory Committee its solid foundation. He noted his responsibility to the Committee is to be open minded and objective in respect to all matters brought before the Agency, together with staff he will keep all members fully informed in a timely fashion on all relevant matters. He noted he will work in tandem with the Deputy Director of Regulatory Programs and staff to assure that the work of this Committee is of highest caliber and to respond to the needs of the Full Agency.

(1) **Approval of Draft Regulatory Programs Committee Minutes**

Motion was made by Member Booth and seconded by Member Valentino to approve the January minutes. The Committee vote was unanimous in favor of the motion.

(2) **Deputy Director (Regulatory Programs) Report**
(R. Weber)

Mr. Weber highlighted the Workload Summary Report and the High Profile Report for January 2012.

Member Lussi suggested the Adirondack Club and Resort (ACR) data be updated on the permit issued report.

(3) 2010-144 (T. Darrah)
Joseph Fitzgerald
Town of Lake Pleasant, Hamilton County
Moderate Intensity Use

Ms. Darrah noted the project sponsor and authorized representative were unable to attend the Agency meeting. Mr. Loyola, the authorized representative, was available by telephone if necessary.

Ms. Darrah recognized Agency staff Steve Brewer, Senior Attorney, Mary O'Dell Biologist 1 and Greg Bendell, Environmental Engineer for their contribution in the proposed project.

Ms. Darrah presented a powerpoint presentation describing the proposed project and project site.

Ms. Darrah discussed Agency jurisdiction and the project and variance description as proposed.

Ms. Darrah described the variance site as a 1.2±-acre parcel of land located on Lakeside Lane in the Town of Lake Pleasant, Hamilton County, in an area classified Moderate Intensity Use by the Adirondack Park Land Use and Development Plan Map. The site contains 310 feet of shoreline along the mean high water of Sacandaga Lake with 79 feet of navigable shoreline.

Ms. Darrah described "navigable shoreline" as being readily accessable by boat.

Ms. Darrah discussed the background and prior history of the project site. She described the existing environmental setting and character of the proposed project site and surrounding area.

Ms. Darrah noted this proposal on Lakeside Lane is on Lot 5 of a 44-lot subdivision known as Sacandaga Lake Estates, Inc., which was approved by Agency Interim Project I-83.

She used the powerpoint presentation to show slides of the applicant's original proposal received 2011 with the variance application and the current proposal being reviewed today by the Board. She used a colorcoded slide depicting the mean high water mark and adjacent properties to the proposed project site.

Using color coded site plans she discussed the original proposal and the current proposal. She stated in the original proposal

the single family dwelling would have been entirely within the 50 foot setback area. Only a corner of the dwelling and the front porch will be located within the 50 foot setback area in the current proposal.

She discussed the proposed limits of clearing, grading and erosion control measures.

Ms. Darrah showed several photographs of adjacent properties and the proposed project site from various locations.

Ms. Darrah discussed the on-site water supply and on-site wastewater treatment system. She noted the leaching component of the on-site wastewater treatment will be located in the southwestern corner of the property approximately 74.5 feet from the wetlands at its closest point.

Member Booth commented the lot was very challenging for the applicant and authorized representative.

Member Booth noted for the record this variance is for a single family dwelling and not an on-site water supply and on-site wastewater treatment system.

Ms. Darrah agreed with Member Booth's comment.

Ms. Darrah briefly discussed the minor edits to the draft order.

Member Mezzano called for a motion to move the proposed project to Full Agency. The motion to approve the variance was made by Member Booth and Member Valentino seconded the motion.

The Regulatory Committee vote was unanimous in favor of the motion.

2011-19 (S. McSherry)
Elk Lake Land, Inc.
Town of North Hudson, Essex County
Resource Management

Ms. McSherry introduced landowners John and Margo Ernst present for the Agency meeting.

Ms. McSherry presented a slide show describing the proposed project site and location.

Ms. McSherry stated the proposed variance is for the construction of a logging bridge across the Branch, a river designated to be studied as a wild, scenic or recreational river. The original bridge was removed in 1968. The new bridge will be 45 feet long and 14 feet wide with a driving surface of 12 feet. She stated the bridge will be no less than five feet above normal water levels. The bridge will provide access between Elk Lake road on the east side of The Branch and a network of logging roads on the west side of The Branch.

Ms. McSherry continued to show slides depicting the proposed project site and proposed bridge. She showed a profile view of the proposed bridge and discussed the topography of the stream bed and surroundings. She briefly discussed the water levels of the Branch River.

Ms. McSherry discussed existing access to the westerly side of The Branch. She stated it is accessed by a small dirt driveway across the dam at the outlet of Elk Lake and by two logging roads off the Blue Ridge Road that cross Nature Conservancy lands. She stated Finch Paper, LLC granted permission to Elk Lake Land, Inc. to access their timberlands on the west side of The Branch across Branch River Road and Gulf Brook Road. No legal right-of-way exists. Finch Paper, Inc. sold this tract to the Nature Conservancy.

She showed slides of the dirt driveway across the dam used primarily by the guests at Elk Lake.

Ms. McSherry discussed the Public Hearing held December 1, 2011. The hearing was attended by Agency staff, the landowners, the manager of Elk Lake Lodge and the applicant’s representative. No objections were made to the variance request during the hearing.

Chairman Mezzano stated that the variance factors set forth in 9 NYCRR Section 576.1 are available for each slide show presentation.

Chairwoman Ulrich stated it is necessary to note for the record that the variance criteria is available in the Order for Board members to review.

Ms. McSherry discussed an edit on page 11 of the draft variance order.

Member Craig asked how The Branch being designated as a study river influences the Agency's need to be involved with this variance.

Sr. Attorney Beth Phillips answered and referred to Section 806 of the Adirondack Park Agency Act which applies shoreline restrictions to lakes, ponds and shorelines of any designated study rivers. She stated it is listed as a study river in Appendix Q5 of Agency Rules and Regulations and therefore is treated like any other lake or pond within the Adirondack Park.

Member Booth asked for a review at some time in the future of the status of all study rivers within the Adirondack Park.

Chairwoman Ulrich asked Ms. McSherry to briefly discuss the variance criteria for the new Board Members to review.

Designee Stegemann emphasized that the economic condition of sustainable forestry that is taking place with this proposal is what determines the open space character of this property in the future. The proposed bridge supports this and helping a landowner keep continued forestry management and open space with economic benefit is very important.

Chairman Mezzano noted two comment letters of support from NYS Department of Environmental Conservation for this project.

Member Booth made a motion to move the project to Full Agency for approval. Member Valentino seconded the motion.

Ms. McSherry summarized the variance impacts and criteria located in the draft variance order.

Chairwoman Ulrich referenced the Economic/Fiscal Factors on page 8 of the draft variance order.

The Regulatory Committee vote was unanimous in favor of the motion to approve the variance request.

2002-265 (C. Parker)
Patricia Stafford
Town of Putnam, Washington County
Resource Management and Moderate Intensity

Ms. Parker welcomed Patricia Stafford and Rich Jacobs to the Agency meeting.

Ms. Parker explained the applicant's proposal to build a single family dwelling in an area classified Resource Management will require a permit and a variance from the applicable shoreline restrictions pursuant to Section 806 of the Adirondack Park Agency Act.

Ms. Parker noted the recent completion of a municipal wastewater collection system on Black Point Road enabling the applicant to move forward in completing the application process.

Ms. Parker acknowledged Agency staff's involvement in the review of this proposed project.

She used a power point presentation to discuss the proposed project's site location and description. She stated the proposed project site is a 1.43±-acre parcel of land located on both sides of Black Point Way in the Town of Putnam, Washington County. She noted the proposal is to construct a new 4-bedroom single family dwelling on the southeasterly side of Black Point Way in Resource Management.

Ms. Parker stated the dwelling will be located 80 feet from the mean high water mark of Lake George at its closest point. As noted previously, the dwelling will be connected to the municipal wastewater system.

She used a power point presentation to show several aerial photographs discussing the existing and surrounding development near the proposed project site.

Member Booth asked if the land use boundary for this project site is the road. Ms. Parker answered yes and noted that Agency staff person Henry Savarie had researched that upon the request of the authorized representative in 2002. She also noted a map amendment request to change the Resource Management land use area to Rural Use had been reviewed and denied by the Agency in 1987.

She discussed the existing slopes on the project site. She stated the land rises steeply from Lake George and slopes upward to the southeast.

She showed several slides of the proposed project site from various locations.

Ms. Parker stated the project site between Lake George and Black Point Way is forested with a mix of coniferous and northern hardwood trees. She noted on the 1.17±-acre portion of the project site trees and woody vegetation have been cleared from the proposed dwelling site.

She showed slides and discussed the final site plan and the revisions from previously submitted site plans. She showed elevation plans for the proposed single family dwelling.

Ms. Parker showed a visual simulation provided by the applicant’s consultant showing the view of the house from Lake George. She noted the exterior finish materials will be a natural earth-tone color which blends with the existing vegetation to help minimize potential visual impacts.

Ms. Parker discussed the Public Hearing held November 7, 2011 in the Town of Putnam. She noted the hearing was attended by the applicant and her husband, their attorney and consulting engineer, Agency staff and three members of the public. She mentioned 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.

Ms. Parker reviewed with the Board the variance factors and criteria set forth in 9 NYCRR Section 576.1.

She noted the Lake George Park Commission has reviewed the project site and issued a permit for the stormwater management plan for the proposed project site.

Member Lussi asked if the Town had a variance process in place. Ms. Parker answered the Town of Putnam issued approvals for the proposed dwelling in 2001. Agency staff requested the applicant's to review their revised plans with the Town of Putnam. The Town was satisfied pending the Agency's decision. There are no local variances needed from the Town of Putnam.

A brief discussion ensued about how the variance criteria would apply regarding the Moderate Intensity Land Use area compared to the Resource Management Land Use area.

Member Mezzano asked for a motion to move the proposed project to Full Agency for approval. Member Valentino made the motion and Member Booth seconded the motion.

Member Lussi stated there are consequences in purchasing a lot that has several issues. He noted the issues did not disappear from the date of purchase; if the applicants had not started clearing the area they could have constructed a house further back behind the vegetation, screening it from the Lake.

Member Lussi stated that he will not support the motion to move this project to Full Agency for approval.

Member Booth noted that with the existing development surrounding the proposed project site he believes the proposed project is suitable for the area.

Member Mezzano stated the motion to move to Full Agency for approval passes with a 4 in favor and 1 opposed. The Regulatory Committee vote: Designee Scozzafava, Members Valentino, Booth and Mezzano voting yes and Member Lussi voting No.

(4) Old Business: NO

(5) New Business: NO

Adjournment: The Regulatory Committee meeting adjourned at 11:50 am.

REW:mlr
Note: The power point presentations referred to herein are on file at the Agency. Copies are also available for inspection on request.