

Draft



Regulatory Programs Committee  
April 19, 2012  
Agency Meeting  
REW:HEK:mlr

**Regulatory Programs Committee  
April 19, 2012**

Committee Members present: Chairman Frank Mezzano, Member Art Lussi, Member Richard Booth, Designee Dede Scozzafava (Department of State). Other Members present: Chairwoman Lani Ulrich, Member Cecil Wray, 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 Agency Counsel John Banta.

Member William Valentino was not present for Agency meeting.

Member Lussi noted P2010-154A was no longer being presented the Agency meeting.

The Committee convened at 9:45 am.

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

Motion was made by Member Lussi and seconded by Chairwoman Ulrich to approve the March 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 he highlighted projects referenced in the High Profile Report.

Member Booth asked Mr. Weber to explain the difference in number of Class A and B numbers reported in relation to the total number of applications received in March. Mr. Weber answered he could review the report and provide more detail in the afternoon session if desired.

Member Mezzano commented on receiving comment letters at the Agency after the comment period has ended. He asked staff to encourage applicants and the public to comment on projects within the designated comment time period so all comments can be given the maximum consideration.

- (3) 2011-182 (S. Parker)  
Thomas & Christine Travaglini  
Town of Black Brook, Clinton County  
Low Intensity

Ms. Parker described the proposed project. She explained the project is a proposed variance from the shoreline structure setbacks provided in Section 806 of the Adirondack Park Agency Act.

Ms. Parker provided a powerpoint presentation describing the project site. She explained the details of the proposed variance request involving a 25 foot variance from the 75 foot shoreline setback of Silver Lake to construct one single family dwelling.

She explained the proposed dwelling is intended to replace three pre-existing residential/storage structures within the shoreline setback. She noted a total of seven bedrooms are proposed to be removed and to be replaced with three bedrooms in the new dwelling. One existing dwelling will be replaced with a new boat storage structure.

Ms. Parker showed several aerial photographs of the proposed project from various viewpoints. It was noted that none of the trees on the shoreline will be removed by the applicant.

Ms. Parker presented colorcoded slides comparing the existing conditions with the proposed variance site plan within the 75 foot setback. Ms. Parker explained the applicant's have modified their proposed site plan to reduce the variance request. She stated a reain garden shall be installed for the management of stormwater runoff generated by the new single family dwelling.

Ms. Parker showed several slides of the existing property conditions and the proposed project site from various vantage points.

Ms. Parker described the public hearing held in the Town of Black Brook, March 26, 2012. She noted the hearing was attended by Agency staff, one of the applicants, a town representative, and one member of the public. No objections were made to the proposal during the hearing.

Ms. Parker discussed the variance impacts and criteria and commented that when the applicant's purchased the property, the shoreline restrictions were different from today's regulations.

Counsel Banta stated the changes in the shoreline restrictions would not be a part of the practical difficulties, the practical difficulty involves the septic system considerations.

Ms. Parker showed slides of the steep slopes located south of Island Road.

Member Lussi asked if the variance process allows an applicant to consider an energy efficient home not requiring as many resources. Ms. Parker answered the new dwelling proposed by the applicant's will be more energy efficient than the existing dwelling. Ms. Parker noted the proposed dwelling could be used year round but the applicant's intend to use the proposed dwelling as a vacation home.

Ms. Parker discussed the conditions in the draft variance order to mitigate potential adverse impacts.

She noted the project site has the potential for two principal building rights but the applicant has agreed to implement a deed restriction limiting the site to a single principal building, with no additional docks or boathouses. Member Booth questioned the potential for two principal building rights associated with this site.

Member Wray suggested discussing and revising with counsel the current six variance criteria requirements in Agency Rules and Regulations.

Member Mezzano commented this proposed project, if approved by the Board today, is an example of a project the Board would like to review after the project has been completed.

Member Booth made the motion to approve the proposed project and move the project forward to Full Agency for approval. The motion was seconded by Member Lussi.

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

Member Booth asked if there was any information on the existing septic systems located near this project site. Ms. Parker answered that on the neighboring properties the septic systems are more than 100 feet from the proposed well but beyond that she has no other information.

Counsel Banta noted Clinton and Oneida County Health Departments are the only two County programs in the Park that review and inspect septic system installations. Ms. Parker added one reason for the new well on the project site is that the existing well is located too close to the road and would be too close to the new waste water treatment system.

Member Booth suggested the Agency conform the variance criteria with the area variance criteria reflected in New York Town Law. He believes that would incorporate some of the environmental benefit factors that Member Wray was referring to in his earlier comment.

Chairwoman Ulrich suggested that code enforcement officers be asked to participate in that conversation with staff.

2011-156 (A. Lynch)  
Independent Towers Holdings, LLC  
Town of Clifton, St. Lawrence County  
Moderate Intensity Use

Ms. Lynch discussed the staff recommendation for this project is to approve with conditions. It had been listed on the agenda as "to be determined" due to the comment period ending one day after agency mailing.

She also introduced Dan Schweigard representing Independent Towers.

Ms. Lynch provided a power point presentation. She described the proposed project site. She stated the proposed project site is located in a Moderate Intensity Use land use area near the Hamlet of Cranberry Lake.

She showed color-coded slides comparing existing cellular coverage from AT&T antennas with expected additional coverage should the proposed telecommunications tower be approved.

Ms. Lynch stated the original application proposed a 90-foot tower with AT&T antennas. The modified application being presented today is for a 100-foot tower with the top 35 feet to be concealed as a simulated pine tree. She stated this tower is for both AT&T and St. Lawrence County EMS antennas.

Using the power point presentation she described the location on the cellular tower for the AT&T and St. Lawrence County EMS antennas. She noted there is room for four additional carriers within the compound and on the tower. Project plans show how Verizon Wireless equipment could fit on the tower (at a centerline height of 90 feet AGL) and in the compound. Ms. Lynch did state that Verizon Wireless is not part of the application and this permit does not authorize their co-location on this tower.

Member Booth asked Ms. Lynch if there were any maps depicting the proposed emergency coverage. She answered she does not have any maps but noted the local fire department and the county EMS helped to design the tower facility in order to ensure it met their requirements.

She described the project site, located on the west side of Columbian Road, in the Town of Clifton. She noted all new land use and development proposed as part of this project will occur on the Moderate Intensity Use portion of the project site.

Chairwoman Ulrich asked Ms. Lynch to explain the location of the existing parking area in relation to the proposed gate. Ms. Lynch explained Independent Tower's assertion that the gate location will allow for continued use of the existing parking area.

She also noted space is available within the equipment compound if St. Lawrence County EMS decides to install a generator. Independent Towers has indicated they would provide generator space to the county EMS at no charge.

A brief discussion ensued regarding if in the event of a power outage would the AT&T generator power the EMS antenna.

Member Lussi commented each company typically prefers to have their own generators on the project site.

Counsel Banta commented that Agency permits may require opportunities for co-location and shared facilities but the Agency does not resolve business and compensation relationships between cellular companies.

Ms. Lynch showed slides describing the character of the area.

Ms. Lynch described the visual and open space impacts. She noted a vegetative "no cutting" easement will protect trees in the vicinity of the proposed tower. She noted the applicant will plant ten 6-foot-tall evergreen trees at the southern property boundary.

Ms. Lynch discussed the visual analysis submitted by the applicant.

Ms. Lynch discussed comment letters received at the Agency and the Town of Clifton's Site Plan Review Board public hearing held August 18, 2011. She noted that the Town Board passed two resolutions in support of the proposed project.

Ms. Lynch stated staff believes the proposed tower and antennas are consistent with the Agency's "Tower Policy" as seen from off-site locations; however, she noted staff's belief that it was at the margin of compliance due to its height.

It was noted that Condition 10 on page 6 of the draft order would cover the loss of vegetation due to any natural cause such as blow-down, ice storm, fire, disease or another event beyond the control of the operator of the tower.

Member Wray commented that he does not believe the proposed cellular simulated tree tower is substantially invisible as expressed by Agency staff. He discussed the difference in his opinion with whip antennas and flat antennas.

Mr. Weber discussed staff's process in the event Verizon submits an application to add an antenna to this proposed tower. He also discussed staff's recommendation to approve this tower with conditions and the purpose of presenting this tower to the Board.

Member Booth suggested staff reference the reason why a project is being presented to the Board at the beginning of a presentation. In this case it would be staff's opinion that this tower is at the outer limit for compliance with the Towers Policy, due to its height and level of visibility.

Question was asked if the "Towers Policy" differentiates between private companies and public emergency system on a tower. Counsel Banta answered that there are two different considerations: 1) the "Towers Policy" acknowledges the importance of public safety communications; and 2) compliance with respect to "readily apparent" in the visual landscape. There is no specific exception to the second point in the "Towers Policy" for public safety emergency towers.

Member Booth noted that public safety is an important factor in determining whether a public safety tower complies with the "Towers Policy".

Member Mezzano stated that public safety was a very important issue when the "Towers Policy" was drafted.

A brief discussion comparing the reliability of cell phones and emergency radios followed.

Member Mezzano asked for a Committee vote to move to Full Agency for approval. Member Booth made the motion and it was seconded by Member Lussi.

The Committee vote was unanimous in favor of the motion.

2004-135R2 Second Renewal (T. Darrah)  
Karen A. Fountain & Virgil Lupu  
Town of Jay, Essex County  
Rural Use

Ms. Darrah noted the original project was reviewed by John Quinn.

She provided a power point presentation describing Agency jurisdiction and the project site.

Ms. Darrah discussed revisions to the permit since the original permit was issued.

Ms. Darrah discussed the background and prior history of the proposed renewal.

Member Mezzano asked for a Committee vote to move the proposed second renewal to Full Agency for approval.

Member Booth made the motion and the motion was seconded by Member Lussi.

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The Committee vote was unanimous in favor of the motion.

(4) Old Business: NO

(5) New Business: NO

**Adjournment:** The Regulatory Committee meeting adjourned at 11:30 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.