



Draft Minutes  
Local Government Services Committee  
July 2012 Agency Meeting  
RB:JEC:lhb

**MINUTES OF THE LOCAL GOVERNMENT SERVICES COMMITTEE MEETING  
July 12, 2012**

Committee members in attendance included Agency Chairwoman Leilani Ulrich, Sherman Craig, Arthur Lussi, Designees Robert Stegemann and Dierdre Scozzafava, Department of Environmental Conservation and Department of State, and William Thomas, Committee Chair. Members Frank Mezzano, Cecil Wray, Richard Booth, William Valentino and Designee Jen McCormick, Department of Economic Development joined the Committee. Also participating in the meeting was Gerald Delaney of the Local Government Review Board. Staff included Executive Director Terry Martino, Associate Counsel Sarah Reynolds, Planning Director James Connolly, Local Planning Specialist Brian Grisi and Environmental Program Specialist Robyn Burgess.

The Committee meeting convened at approximately 10:30 a.m.

**Approval of Draft Committee Minutes for June 2012**

A motion was made by Member Craig to approve the draft Committee minutes for June. The motion was seconded by Member Lussi. The draft minutes were unanimously approved.

**Local Government Services Program Report (B. Grisi)**

Mr. Grisi briefly reviewed the program report that was included in the Board's mailing packet.

**Presentation on Agency Administrative Review of Variance Record Referrals from Approved Program Zoning Boards of Appeals (B. Grisi/R. Burgess)**

Local Government Services staff presented the Agency's review process of variances issued by local zoning boards as part of the Agency-approved local land use programs.

Member Booth asked what the process is if a referral comes in that does not involve shoreline. Ms. Burgess responded that the referrals are reviewed to be sure that the proposal does not vary provisions of the APA Act. If the record is sufficient and does not involve the provisions of the Act, then the Agency defers to the town decision. If, for example, the proposal involves height, staff would then notify the town that a permit from the Agency may be necessary.

Designee Stegemenn asked if there seems to be a trend in any particular area where variances are reversed. Ms. Burgess replied that in the past the most noted variance reversals involved shoreline. Member Booth asked for clarification on the recently revised shoreline

regulations in terms of lateral expansions for approved towns. Ms. Burgess responded that most towns have required approvals for lateral expansions before the Agency amended its regulations. Associate Counsel Reynolds added that local land use programs must be as strict or stricter than Agency regulations at the time of approval. If the Agency regulations change, the town codes do not automatically change.

Member Wray noted that if a variance is not reversed, it is therefore affirmed. He asked if the Executive Director's variance review and decision is based on clear objective criteria or does it have discretionary criteria in it. Ms. Burgess responded that the decision is based on the record and therefore it involves discretion to assess if the record supports the ZBA's variance decision. Member Wray noted that in determining if the variance is self-created, it would require some application of judgment to determine if indeed the variance is self-created. Mr. Connolly added that the Agency oversight amounts to an administrative review of the local decision record. He noted that the local ZBA's are familiar with the history of the property and development in the area. Detailed review of the applications and site visits are conducted by the town, while the Agency staff review is limited to a review of the decision documents.

Chairwoman Ulrich noted that the premise of the approved local land use program is to give control back to the town based on the review and approval of their land use controls. Member Booth noted that the statute limits the review to 30 days thus the reason for the delegation resolution giving the Executive Director authority to reverse an approved town's variance proposal if it does not meet the necessary approval criteria. He then asked if there has been any litigation involving a decision to reverse a proposal approved by a town. Both Ms. Burgess and Ms. Reynolds responded negatively.

**Old Business**

None

**New Business**

None

The meeting was adjourned at approximately 11:40 p.m.