


STAFF DRAT - NOT APPROVED BY THE AGENCY
THIS PERMIT RENEWS PERMIT 2005-182 ISSUED FEBRUARY 22, 2006 AND
PERMIT 2005-182RT ISSUED ON FEBRUARY 18, 2010
THIS IS A TWO-SIDED DOCUMENT-FEBRUARY 5, 2014

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	APA Project Permit 2005-182R2
	Date Issued:
<p>In the Matter of the Application of</p> <p>WALTER DLUGOLECKI AND LINDA DLUGOLECKI</p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>To the County Clerk: This permit must be recorded on or before _____ . Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Walter Dlugolecki2. Linda Dlugolecki

SUMMARY AND AUTHORIZATION

Walter Dlugolecki and Linda Dlugolecki are granted a renewed permit, on conditions, authorizing the construction of a single family dwelling in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Wilmington, Essex County.

This project may not be undertaken until this renewed permit is recorded in the Essex County Clerk's Office. This renewed permit shall expire unless so recorded on or before **Date** in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This renewed permit is void if the project authorized herein is not in existence within four years from the date the permit is recorded. The Agency will consider the project authorized herein in existence when the permit has been properly filed in the Essex County Clerk's Office and the foundation for the single family dwelling has been completed.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, state, regional or local.

AGENCY JURISDICTION

The project consists of the construction of a single family dwelling, subject to Agency review pursuant to Agency Enforcement Settlement Agreement E2005-047 which indicated that any new land use would require prior Agency review and approval.

PROJECT DESCRIPTION AS PROPOSED

The project as proposed and conditionally approved herein is summarized as follows: the construction of a three bedroom, 3000+ square foot single family dwelling, approximately 35+ feet in height with a 625+ square foot attached garage. The dwelling will be served by an on-site wastewater treatment system and on-site well. Utilities will be buried along the driveway from overhead lines located along County Route 12.

The location of the dwelling, proposed limits of clearing, garage, driveway, on-site wastewater treatment system, with 100% replacement area, and on-site well are shown on a site plan entitled "Walt Dlugolecki, Site Plan," drawn by David W. MaGurk, P. E., dated December 14, 2005 and last revised on January 30, 2006. A reduced-scale copy of the Site Plan has been stamped final plans Project File P2005-182, and is attached as a part of this permit.

The project as originally proposed and authorized has not been undertaken to date. The applicant has requested that the Agency issue a renewed permit to allow the project to be undertaken and completed as originally proposed and authorized. No changes to the project are proposed.

CONDITIONS

BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE PROJECT FILE, THE RENEWED PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The renewed project shall be undertaken as described in the Project Description as Proposed herein, and in compliance with the Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension, or revocation of the permit.
2. This renewed permit is binding on the applicants, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this

permit and all the approved maps and plans referred to herein shall be furnished by the applicant(s) to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site prior to sale or lease. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2005-182 issued February 22, 2006, Agency Permit 2005-182RT issued February 18, 2010 and Agency Permit 2005-182R2 reissued _____, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

Projected Remaining Building Density

4. This permit authorizes the construction of a single family dwelling. After the construction of the single family dwelling authorized herein, no additional principal buildings shall be allowed on the project site unless the overall intensity guidelines of the Adirondack Park Agency Act or the Park Plan Map are amended or, pursuant to the adoption of an Agency-approved local land use program, refined so as to permit additional principal building(s). Due to site limitations, the Agency makes no assurances the maximum development mathematically allowed can be approved.

Building Location and Size

5. This permit authorizes the construction of a single family dwelling in the location shown on the project plans. The authorized single family dwelling shall not exceed a footprint of 4,000 square feet including all covered and uncovered attached porches, decks, exterior stairs and accessory structures (such as an attached garage). No dwelling shall exceed 36 feet in height. The height shall be measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade, whichever is lower.

Wetlands

6. Beyond that authorized herein, no "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, new land use or development in, subdivision of, clearcutting more than three acres within, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits or values.

Wastewater Treatment

7. The proposed on-site wastewater treatment system shall be constructed in complete conformity with the location and design shown on the plans referenced herein. Installation of the system shall be under the supervision of a licensed design professional (licensed Professional Engineer, Registered Architect, or exempt Licensed Surveyor). Within 30 days of complete system installation and prior to utilization, the design professional shall provide the Agency with written certification that the system was built in compliance with the approved plans.

Erosion & Sediment Control

8. Prior to undertaking any earthwork on the site within 200 feet of the wetlands, silt fence shall be properly installed parallel to the existing contours between the construction site and these water resources. The silt fence shall be embedded into the earth a minimum of four inches and shall be a minimum of 15 feet from the wetland or surface water bodies, wherever possible. The silt fence shall be maintained throughout construction and shall not be removed until after all disturbed soils are stabilized to prevent siltation of the water resources. The applicants or their successors in interest shall inspect the fabric at least once a week and after every major storm event to ensure the fabric and supports are intact and to remove accumulated sediments so as to maintain the fence in a functional manner.

Outdoor Lighting

9. All exterior lighting shall be placed on motion detector switches to temporarily light areas and shall be fully shielded to direct light downward and not into the sky. All exterior lighting shall be hooded and/or located so as to not create a glare onto public roads. The intent is to reduce nighttime light pollution.

Exterior Colors

10. All exterior building materials, including roof, siding and trim, used to surface the exterior of the dwelling authorized herein and all accessory use structures on the project site shall be of a color which blends with the existing vegetation. The Agency will, upon request, advise whether any particular proposal complies with this condition

Visual/Open Space Protection

11. Within 150 feet of the centerline of County Route 12 no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed without prior Agency review and approval, except for an area not to exceed 20 feet in width for driveway construction and utilities installation, and excluding existing maintained trails and open areas. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Accessory Uses and Structures

12. Accessory structures [except guest cottages] are permitted without a permit amendment, provided they are located within 50 feet of the single family dwelling shown on the Site Plan Map. In no case shall an accessory structure exceed 300 square feet or 20 feet in height.

Legal Interests of Others

13. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

Review of Future Development

14. No further subdivision or new land use and development shall occur on the project site without first obtaining a new or amended permit from the Agency.

FINDINGS OF FACT

Renewal Request

1. Agency Permit 2005-182 authorized the construction of one new single-family with on-site wastewater treatment system and water supply. The permit was issued on February 22, 2006 and recorded on February 23, 2006 in the Essex County Clerk's Office in Book 67 of APA Permits at page 182.
2. The property was transferred in a deed from James Muller to Linda Dlugolecki and Walter Dlugolecki dated February 7, 2006 and recorded in the Essex County Clerk's Office on April 3, 2006 in Liber 1485 of Deeds at page 140. The first renewal of Agency Permit 2005-182RT was issued on February 18, 2010 and recorded on April 19, 2010 in the Essex County Clerk's Office in Book 84 of APA Permits at page 189.
3. In an inquiry from the applicant on January 2, 2014, a request was made for a second renewal of Permit 2005-182.

Background/Prior History

4. The project site was part of a larger 66± acre parcel as described in a deed from John and Joan LaHart to Susan Dauphin dated April 10, 1978 which was recorded April 27, 1978 in the Essex County Clerk's Office in Liber 657 of Deeds at Page 88. Dauphin then conveyed the project site to John and Lorraine as described in a deed dated March 29, 1990 which was recorded March 30, 1990 in the Essex County Clerk's Office in Liber 965 of Deeds at Page 106. A violation was created by the conveyance of a parcel involving jurisdictional wetlands without an Agency permit.
5. The matter of the violation was the subject of Agency Enforcement case E2005-047. The violation was reviewed by the Agency's Associate Counsel and Assistant Director of Regulatory Programs. Pursuant to their delegated authority, they determined that the violation could be resolved by agreement with the landowners. A proposed Settlement agreement dated June 2, 2005, was accepted by all parties involved in the violation.

The agreement recognized the project site as a lawful lot, but required an Agency permit be obtained prior to any new land use and development.

Existing Environmental Setting

6. The project site has 341± feet of road frontage on County Route 12, with an existing driveway which leads to the building site. Sand and gravel have been removed from several areas on the project site; however there is no active removal of sand and gravel.
7. Based on a site visit by Agency wetland Biologist, Mark Rooks, deciduous wetlands exist greater than 200 feet from the proposed building site. The wetland has an overall value rating of "2" pursuant to 9 NYCRR 578.6.
8. Soils in the vicinity of the proposed on-site wastewater treatment system are classified as Monadnock series. Based on deep hole test pit data, the depth to the seasonal high groundwater table and bedrock was greater than 72 inches. The percolation rate of the soils is 1 inch in 2 minutes.
9. Slopes on the project site range from 2% to greater than 12%. Slopes where the single family dwelling, on-site wastewater treatment system and driveway will be located are generally less than 5%.
10. Land uses in the vicinity of the project site include rural residential development and forested open space private and state lands.
11. The project site is forested with a mix of coniferous and deciduous trees consisting of white pine, red pine, yellow birch, hard maple, soft maple, balsam fir, beech, spruce, aspen and tamarack.

Other Regulatory Permits and Approvals

12. The Town of Wilmington advised the Agency that the project requires its approval prior to construction of the single family dwelling.

PROJECT IMPACTS

Wetlands

13. As proposed, the project will result in no loss of wetlands. Erosion control measures are necessary to protect the wetlands during construction activities on the project site. Wetlands shown on the plans and/or described herein are intended to alert landowners and others that wetlands are present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

Water Resources

14. Installation and maintenance of the on-site wastewater treatment systems authorized herein in strict compliance with the approved plans and all applicable New York State Department of Health and Agency standards will adequately protect ground and surface water resources.

Open Space/Aesthetics

15. The proposed single family dwelling and related development on project site will not be visible from County Route 12, the surrounding areas, or nearby wilderness areas due to existing vegetation between the proposed development and these areas. Provided existing vegetation remains between the development and the Road, there will not be an adverse visual or aesthetic impact to the character of the area.

Historic Sites or Structures

16. Since there are no historic structures on the project site and the site is not located within a known archeologically sensitive area, the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574; §24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this day
of , 2014.

ADIRONDACK PARK AGENCY

BY: _____
Richard E. Weber, III
Deputy Director, Regulatory Programs

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:TJD:mlr