

Draft May Regulatory  
Committee minutes-  
June 4, 2014



Regulatory Programs Committee  
May 8, 2014 Agency  
Meeting; REW:mlr

**Regulatory Programs Committee  
May 8, 2014**

Committee Members present: Sherman Craig, Chair, William Valentino and Dede Scozzafava (Department of State), and Art Lussi

Absent and excused: Richard Booth

Other Agency Members and Designees present: Daniel Wilt, Robert Stegemann (Department of Environmental Conservation), Bradley Austin, (NYS Department of Economic Development), and William Thomas and Karen Feldman.

Agency Staff present: Terry Martino, Executive Director and James Townsend, Counsel.

Local Government Review Board Representative: Fred Monroe, Executive Director

The Committee convened at 9:30 am.

1. Approval of April Draft Regulatory Programs Committee Minutes

On motion of Mr. Valentino and seconded by Designee Scozzafava, the Committee unanimously adopted the Draft Regulatory Committee Minutes of the April 2014 Agency meeting with revisions.

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

Mr. Weber reviewed the monthly statistics of applications received and permits issued. He discussed several projects from the High Profile Report and welcomed questions from the Board.

3) Project

2013-249  
(T. Darrah)

Anthony and Katherine Cincotta  
Town of Jay: Essex County  
Low Intensity

Ms. Darrah introduced Mr. Bob Marvin, Authorized Representative and staff members that assisted in the review of the proposed variance.

She presented a slide show which depicted the project site as one lot determined to be part of a pre-existing subdivision known as "Au Sable Acres."

Ms. Darrah explained Agency jurisdiction and the proposed variance from shoreline setback standards and stated the proposed structure is not a rivers project per 9 NYCRR Section 577.7.

She noted that the variance site is subject to deed covenant restrictions. In response to a question about the process of seeking release of deed restrictions Ms. Darrah answered that it could be done, but could be cost prohibitive and take extensive time.

Ms. Darrah described the existing environmental setting and character of the area.

Mr. Craig asked if all the sites were built out and Ms. Darrah replied no and each site has its own topography and site restrictions.

She reviewed the variance criteria as detailed in a staff memorandum and proposed Order and stated a variance is requested by the applicants to allow them to sell the property as a buildable lot. Ms. Darrah stated the construction of the single family dwelling and garage are site specific as shown on the approved plans; any other proposal would need Agency review.

Ms. Darrah stated no one from the public attended the public hearing held March 28, 2014 and no comments have been received.

Ms. Darrah explained that the variance is specific to the conditions in the proposed variance Order. Any changes in the footprint for both the dwelling and the deck would need Agency review and approval.

Ms. Darrah also stated that the current landowner would have to renew the Order and new landowner would have 3 years to substantially commence. A first renewal is fairly simple, a second renewal would come back to the Board for review.

Mr. Craig made a motion to move the proposed variance to Full Agency for approval and Mr. Valentino seconded the motion. The Regulatory Committee vote was unanimous in favor of the motion.

Project

2014-14  
(A. Lynch)

1016 Saranac Properties, LLC  
High Peaks Distributing  
Town of St. Armand, Essex County  
Rural Use

Ms. Lynch acknowledged Thomas McCraith and Mr. William Kissel, Esq., Authorized Representative, representing the project applicants.

Ms. Lynch presented a slide show which described Agency jurisdiction, project site location and the project as proposed. She stated the proposed project is a Class A regional project- greater than 25% expansion of a commercial use and a Rivers project because it is located within ¼ mile of Saranac River, a designated recreational river.

Ms. Lynch described the building location and size and explained there is a signed agreement between Charles H. Duffy and the project applicant for the transfer of one principal building right from the Duffy parcel to the warehouse parcel to allow the 12,880 square foot expansion. The proposed permit requires them to complete the transfer before constructing the expansion.

Ms. Lynch discussed the existing on-site wastewater treatment system will be permanently decommissioned and the proposed system will be constructed in complete conformity with the location and design shown on the project plans referenced in the proposed permit.

She described the existing development and the environmental setting.

Ms. Feldman asked if the parking lot was to expand to accommodate additional employees. Ms. Lynch answered that the applicants explained the current schedule and shift work will not require additional parking spaces. Ms. Lynch also stated that the project site is sufficiently large and level to allow space for construction vehicles.

Mr. Lalonde described the stormwater management infiltration practices proposed for the project.

Ms. Lynch stated no comments have been received and the Town of St. Armand does not have land use controls and therefore has not issued any decision on this project. She said a building permit will be required.

She briefly described the economic and fiscal factors of the project including increased employment and site investment and concluded her presentation discussing selected conditions from the proposed permit.

Executive Director Martino and Ms. Feldman acknowledged staff and the applicants for their well-developed and detailed project plans and the proposed job creations in the Adirondack Park.

Mr. Craig made a motion to move the project to Full Agency for approval and Mr. Valentino seconded the motion. The Regulatory Committee vote was unanimous in favor of the motion.

Project

2013-227  
(S. Parker)

Benjamin & Betsy LeRoy  
Town of North Elba; Essex County  
Hamlet

Ms. Parker presented a slide show describing the proposed variance, Agency jurisdiction and project site location. She stated it is strictly a shoreline setback variance for the construction of a single family dwelling. The applicants proposal complies with Agency's shoreline cutting restrictions. She said vegetation clearing will not exceed the shoreline restrictions, and an extensive planting plan is also proposed.

She showed several slides of the existing environmental setting, character of the area and discussed a previous authorized variance for the site. Mr. Lussi asked if the variance approved in 1986 was approved by the Agency and Ms. Parker answered yes. She also noted a variance for the proposed site was denied in 1979.

Mr. Lussi also asked about the setbacks for Mirror Lake and Ms. Parker answered that in a Hamlet area it is 50 feet.

Ms. Feldman asked for an explanation of the grading plan. Ms. Parker answered that there will be a 7 foot change and using a slide presentation showed where a grade level walking path will be located.

Ms. Parker said the driveway and proposed turnaround will be paved.

Mr. Wilt asked if the view from the opposite side of the road will be obstructed and Ms. Parker answered no it will not.

Mr. Lussi commented that the construction on this property will ultimately result in the loss of several existing trees and he asked if the applicants are planting 25 foot trees to replace the loss. Ms. Parker responded that some of the trees that the applicants are going to replant will be up to 20 feet in height that the applicants are going to replant.

She noted the proposed construction techniques have been reviewed by staff. She said there will be no disturbance within the 25 foot setback from Mirror Lake.

Mr. Lussi commented the use of the excavator will disturb the 25 foot setback area between the house and the lake. Ms. Parker replied that staff reviewed and approved the proposed excavation techniques. She briefly discussed a larger and smaller retaining wall proposed on the project site.

Ms. Parker noted a public hearing was held on the variance request in the Town of North Elba. The meeting was attended by Agency staff, the applicant, the authorized representatives, and three members of the public. One attendee informally represented the Village of Lake Placid/Town of North Elba Joint Review Board and spoke in support of the project. The Town of North Elba Code Enforcement Officer submitted a letter in support of the variance and one comment letter was received in support of the proposed variance.

She reviewed the variance criteria as discussed in the staff memorandum and proposed Variance Order and reminded the Board that this proposal is in the Hamlet of Lake Placid where development such as this is encouraged.

She said a September 10, 2013 letter was received at the Agency which reported the municipal water and sewer connections are available to the proposed dwelling, and the Village has adequate capacity to serve this dwelling. She also noted that staff determined the proposed stormwater plans to be sufficient to protect water quality. There will be no impacts from onsite wastewater treatment, as the dwelling will be served by the municipal system, with treatment occurring offsite.

She said staff are recommending approval based on the variance considerations including the proposals for shoreline restrictions, water quality, aesthetic character and the project site in the Hamlet of Lake Placid.

Mr. Craig asked if a detailed stormwater plan was available and Ms. Parker answered the applicant's engineer, Kevin Hastings, designed the stormwater plan to collect most of the stormwater generated and handled through the municipal system. She stated there are extensive plans available that have been reviewed by our staff engineer and found to be adequate to protect the proposed project site.

Mr. Valentino asked what action has the local planning board taken on this proposed project. Ms. Parker answered that the local planning board approved the 25 foot variance in 1986 and the municipality has already approved the present proposal.

Agency Counsel Townsend reminded the Board that the Village of Lake Placid and the Town of North Elba do not have Agency approved programs and the Joint Planning Review Board approved the previous variance and have reviewed and approved the new plans.

Mr. Lussi made several comments regarding the past variance and the new proposal being approved by the the Town of North Elba Joint Review Board. He requested confirmation that the Joint Review Board approved the municipal wastewater plant collecting the stormwater from the proposed project site. Ms. Parker stated that the Joint Review Board have approved the stormwater plans and that staff received a letter from Mr. Hathaway, Department of Public Works, authorizing the stormwater to be collected through the municipal wastewater plant.

Ms. Feldman questioned the size of the lots in the surrounding area that have been approved by variances Ms. Parker replied that variances previously reviewed have been more in the business district in the Town of North Elba.

Question was asked if there was any concern with the Lake rising and affecting the project site. Ms. Parker answered that there is a 25 foot setback from the mean high water mark so that is not a concern. Mr. Lussi also added that the lake does not fluctuate because of its outlet dam.

Designee Stegemann asked if the 1986 variance had retaining wall and stormwater issues and Ms. Parker answered no it did not.

Mr. Craig made the motion to move the proposed variance to Full Agency for approval and Mr. Lussi seconded the motion. Mr. Valentino asked if there was going to be a clarification on the stormwater issue. Agency Counsel Townsend stated that Mr. Bendell would be

available on Friday to answer any questions. On the motion, Lussi, Craig and Scozzafava voted in favor, Valentino abstained till further review of the stormwater. The Committee then moved the proposed variance to Full Agency without a Committee recommendation.

5. Old Business: No

6. New Business: No

**Adjournment:** The Regulatory Committee meeting adjourned at 2:20 pm.

Note: The power point presentations referred to herein are on file at the Agency. Copies are also available for inspection on request and can be viewed at [http://nysapa.granicus.com/ViewPublisher.php?view\\_id=2](http://nysapa.granicus.com/ViewPublisher.php?view_id=2) of this meeting: