

Draft 11/5/2014



Regulatory Programs Committee
October 9, 2014 Agency
Meeting: REW:mlr

**Regulatory Programs Committee
October 9, 2014**

Committee Members present: Sherman Craig, Chair, Richard Booth, and Lynn Mahoney (Department of State), Art Lussi and Karen Feldman voting.

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

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

Ms. Scozzafava was not present at the October Agency meeting.

Local Government Review Board Representative: Fred Monroe, Executive Director

The Committee convened at 9:30 am.

1. Approval of September Draft Regulatory Programs Committee Minutes

Motion was made by Member Mr. Lussi and seconded by Ms. Feldman to approve the September minutes. The Committee vote was unanimous in favor of the motion.

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

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

Mr. Weber discussed the on-going slope repair on New York State Route 73 (Cascade Lake). Mr. Weber noted that the discussion between DOT, APA and the Department of Environmental Conservation (DEC) is very good and that the agencies are working together closely and efficiently to review the project.

Mr. Weber highlighted several projects for the Board and welcomed questions and reviewed the criteria for second renewals being presented to the Board at the October meeting.

(3) Project: (S. Parker)
2013-21

Joan M. Sykes
Town of Russia: Herkimer County
Low Intensity Use

Ms. Parker presented a power point describing project description, location and land use area.

Ms. Parker reviewed Agency jurisdiction and showed several photos of the site and the surrounding area from various viewpoints. Ms. Parker stated the mean high water mark of Hinckley Reservoir comes very close to the applicant's property line. She showed slides and discussed the survey map, plan sheets and planting plan for the proposed project.

Ms. Parker referenced the public hearing held in the Town of Russia on September 23, 2014. She, Mitch Goroski and Keith McKeever attended from the Agency. Ms. Sykes and Mr. Ehre the project consultant/engineer were also in attendance. She noted that no member of the public attended and there was only one comment letter prior to the hearing from an adjoining shoreline landowner supporting the variance.

M. Parker discussed the variance factors in 9 NYCRR Sections 576.1 (b) and 576.1(c)(1) through 6 of the APA Act. She noted the applicant discussed alternative designs and methods, but found them to be less effective for preventing further erosion and/or very expensive.

Ms. Parker stated staff, after considering several factors, recommends approving the variance with conditions.

Mr. Lussi asked if the applicant had considered enlarging the area for the retaining wall to include more of the slope. Ms. Parker answered the adjoining landowner, Canal Corporation, stated they have no interest in putting up any type of retaining wall.

A discussion ensued regarding the possibility of other landowners completing the retaining wall to help prevent further erosion in the future.

Mr. Bendell commented that the proposed retaining wall will adequately address the applicant's property but the Agency does not have any control over any of the adjoining properties.

Mr. Bendell further commented that the potential impact to the neighbor on the west does not surpass the need for the proposed retaining wall for this project site. Ms. Parker stated as you go further to the west the slope does decrease to almost no slope at all.

Ms. Parker stated the staff goal was to address the problem that the applicant was having including safety issues and to prevent further complications.

Council Townsend reiterated what Ms. Parker and Mr. Bendell had previously mentioned that staff reviewed a variance order for this applicant only. The variance cannot be conditioned to consider imposing any obligation to build this retaining wall on to any other landowner unless they join in this variance request; the Agency has no authority to extend any findings onto any other landowner.

Mr. Craig asked for a motion to move the proposed variance to Full Agency for approval. Ms. Feldman made a motion and Mr. Lussi seconded the motion to move forward to Full Agency for approval.

Mr. Booth stated he will vote no against this proposed variance. He commented this is a Resource Management land use area and if every home owner that buys on this type of property requests a variance it will present a negative set of impacts.

Ms. Parker stated the applicant acquired the property in 1989 and the erosion was not what it is today. The applicant has been losing land over a couple of decades.

The motion moved with a vote of 4 in favor and 1 against.

(4) Project (S. McSherry)
2005-223R2

Kathleen & Gary P. Rego
Town of Dannemora: Clinton County
Rural Use

Ms. McSherry stated the first renewal is an administrative issue for staff; a second renewal is brought to the Board for review.

Ms. McSherry presented a powerpoint reviewing the process of renewing permits pursuant to 9 NYCRR Part 572.20 of the Adirondack Park Agency Act. She stated staff is recommending renewal of this permit.

Ms. McSherry discussed the project site and Agency jurisdiction.

The presentation showed several slides describing the applicant's property overlooking Chateaugay Lake. She showed the site plan for the six-lot subdivision each with individual access to public road.

Ms. Feldman asked if there has been any new laws enacted since the first permit was issued that would affect the Board's decision to renew. Ms. McSherry stated no there has been no change in Agency Regulations that would apply to this renewal.

Mr. Craig asked for a motion to move the second renewal to Full Agency. Mr. Booth made the motion and Ms. Feldman seconded the motion. The Regulatory Committee vote was unanimous in favor of the motion.

(5) Project (A. Lynch)
2005-54R2

Ann Z. Hartsig
Town of Webb: Herkimer County
Moderate Intensity Use

Ms. Lynch presented a powerpoint depicting Agency jurisdiction and the project site. She stated staff are recommending renewal of the permit.

She showed slides of the proposed project. She stated she reviewed older aerial photos of the project site to compare changes over the past 8 years that would warrant any new analysis of the project and found none.

Ms. Lynch showed final plans of lots 1 and 2 and discussed the Jurisdictional Inquiry for Lot 1 issued October 3, 2014.

Mr. Craig asked for a motion to move the second renewal to Full Agency for renewal. Mr. Lussi made the motion and Ms. Feldman seconded the motion to move the second renewal to Full Agency for approval. The Regulatory Committee vote was unanimous in favor of the motion.

(6) Old Business: None

(7) New Business: None

Regulatory Programs Committee

October 9, 2014

Page 5

Adjournment: The Regulatory Committee meeting adjourned at 10:40 am.

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 of this meeting: