



# Adirondack Park Agency

**LEILANI CRAFTS ULRICH**  
Chairwoman

**TERRY MARTINO**  
Executive Director

Draft June minutes 7/1/2015

Regulatory Programs Committee  
June 11, 2015  
Agency Meeting  
REW:mlr

## Regulatory Programs Committee June 11, 2015

Committee Members present: Sherman Craig, Chair, Richard Booth, Designee Dede Scozzafava (Department of State), Art Lussi and Karen Feldman.

Other Agency Members and Designees present: Robert Stegemann (Department of Environmental Conservation), Bradley Austin, (NYS Department of Economic Development), and William Thomas, Lani Ulrich, Chairwoman

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 May 2015 Draft Regulatory Programs Committee Minutes

Motion was made by Mr. Lussi and seconded by Ms. Feldman to approve the April minutes with minor edits requested by Mr. Booth. 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.

3. Project: (Ariel Lynch)  
P2015-55

Sandra M. Richards  
Town of Jay: Essex County  
Low Intensity

Ms. Lynch presented a slide show describing the variance record and the applicable laws reviewed by Agency staff. She showed slides depicting the proposed variance location in the Town of Jay, Essex County.

Ms. Lynch reviewed the background and property history and she said pursuant to Settlement Agreement a shed installed shortly after 2000 will be removed by July 1, 2016. Ms. Lynch also noted that the property is located within the AuSable Acres subdivision which is subject to side and front yard setback restrictions administered by a Property Owners Association

She described the applicant's objective to construct a detached garage entirely within the shoreline structure setback to provide storage for and protection of 2 cars, household tools and recreational equipment. Ms. Lynch said the variance proposal will require a variance of 46 feet from the 150-foot shoreline setback.

Ms. Lynch described the variance site as a 1.1 acre parcel of land on the west side of River Road in an area classified as Low Intensity Use. Ms. Lynch stated that the AuSable Acres subdivision includes deed restrictions that prohibit structures within 50 feet of the centerline of River Road on the variance site. She said a silt fence will be placed on the downslope side of the garage to control erosion and sediment during construction and she stated no trees need to be cut for the garage construction. Ms. Lynch showed slides depicting the variance site and building plans of the proposed structure. The proposed two-car garage would be detached, 576 sq. ft. in size, 22 ft. in height and 104 feet from the mean high water mark of the river. Ms. Lynch said the proposed garage would be located at the end of the existing driveway and she noted no plumbing or new exterior lighting is proposed.

Ms. Lynch showed several photos illustrating the character of the shoreline vegetation, and the location of the proposed garage on the project site. She also showed maps of the AuSable Acres subdivision showing the pattern of residential, vacant, and forested parcels.

Ms. Lynch discussed the public hearing held May 19, 2015 pursuant to 9 NYCRR Part 576.5 in the Town of Jay. She noted only Agency staff and the applicant attended and no comment letters have been received.

She provided mapping of the neighborhood describing existing garages along the river with similar situations to the proposed variance site.

Ms. Lynch also described 4 variances previously approved by the Agency near the proposed variance site.

Ms. Lynch reviewed the variance factors set forth in 9 NYCRR Section 576.1(c).

Mr. Booth asked if the Property Owner's Association did not exist would it be feasible for the applicant to construct the garage closer to River Road. Ms. Lynch answered yes it would be feasible but it would require more grading and tree removal, and would not be very practical.

Mr. Booth asked Counsel to explain how the Property Owner's Association requirements relate to a State Regulation when reviewing a variance. Counsel Townsend answered that it is a consideration that staff reviews along with other relevant factors. He noted the AuSable Subdivision was created before the Rivers Act. The Rivers Act does not eliminate preexisting nonconforming uses.

A brief discussion ensued regarding the history and character of the AuSable Acres Subdivision. Ms. Lynch noted the variance site for the proposed variance was approved by the NYS Department of Health in 1963 and the Agency recognizes the lot as lawful and part of a pre-existing subdivision.

Ms. Lynch discussed staff analysis and recommendation to consider approving the requested variance.

Mr. Booth asked if language needs to be added regarding the Agency being bound by precedent. Counsel Townsend stated the Agency considers previous actions but is not bound by them. Senior Attorney Beth Phillips added that precedent goes to fairness and the reasonableness of the request but precedents are not binding.

Stormwater management was briefly discussed and Ms. Lynch said staff engineer Shaun Lalonde and herself felt there was no need for a separate stormwater plan because of the distance of the garage to the river, gentleness of the slope and existing vegetation.

Mr. Craig asked for a motion to move the variance to full Agency for approval. Ms. Feldman made the motion, seconded by Mr. Lussi.

Mr. Lussi commended staff for a thorough presentation and review of the proposed variance. The review demonstrates that staff recognizes all factors such as this difficulty being self-created by the applicant. It shows clarity in that the Agency's review can recognize and balance all the relevant variance factors.

The Committee vote was unanimous in favor of the motion.

4. General Permit- 2015G-1 Rapid Response Management or Containment of Aquatic Invasive Species Using Benthic Barriers and Hand Harvesting Techniques (Leigh Walrath)

Mr. Walrath reviewed the history for GP2015G-1 presented in April at the Agency. He stated the GP was developed by staff to address: 1) a region or parkwide rapid response for a containment program and; 2) a rapid response for a specific waterbody.

Mr. Walrath explained that The Nature Conservancy/APIPP has developed an Aquatic Regional Response Team which will begin work this month to conduct extensive surveys and identify priority Adirondack invasive species management actions.

Mr. Walrath stated that "water chestnut" was discovered in Loon Lake and APIPP noted this GP would have allowed them to immediately remove the invasive species. In this case, the Town of Chester already had a permit for hand harvesting and had contracted Aquatic Invasive Management (AIM) who located and removed the infestation. If the Town had not had AIM under contract, APIPP would not have been able to immediately start the process to address the situation.

Mr. Walrath noted that the Agency approved the resolution authorizing staff to seek public comment on the draft order and general permit at the April Agency meeting. He discussed the three public comments received, all in support of the GP.

Mr. Craig asked for a motion to move the permit to full Agency for approval. Mr. Lussi made the motion, seconded by Ms. Sozzafava.

The Committee vote was unanimous in favor of the motion.

Chairwoman Ulrich asked if this GP has been requested by any individuals. Mr. Walrath answered yes, staff received an application from APIPP pending approval. Staff hopes to have the GP issued early next week.

5. General Permit-2014G-1A Management of Terrestrial Invasive Plant Species in or Within 100' of Wetlands in the Adirondack Park (Mark Rooks)

Mr. Rooks noted this is the second reading of the proposed general permit. He stated the general permit is applicable for activities where: 1) regulated wetland activity is sole basis of jurisdiction and; 2) activity is undertaken by authorized users.

Mr. Rooks explained the application process would allow organizations and Individuals other than current users to be designated as authorized users of the GP by the Deputy Director of Regulatory Programs, in consultation with the RASS staff.

Mr. Rooks stated that the Agency authorized staff to seek public comment on the draft approval order and general permit at the April meeting. He noted that public notification has been completed and the general permit is now before the Board for consideration. Staff recommends approval. Two public comments were received in support of the general permit.

Mr. Craig asked for a motion to move the permit to full Agency for approval. Ms. Feldman made the motion, seconded by Ms. Sozzafava.

The Committee was unanimous in favor of the motion.

6. Project (Aaron Ziemann)  
2015-76

MWF Adirondacks, LLC and  
The Molpus Woodlands Group, LLC  
Town of Piercefield: St. Lawrence  
Resource Management

Mr. Ziemann presented a slide show describing the proposal and stated the area proposed for treatment was last harvested with a shelterwood establishment treatment approximately 15 years ago by a previous owner. The treatment was successful and now an overstory removal harvest is proposed for the entirety of the project site. Mr. Ziemann explained that all stems 6"

diameter at breast height (dbh) and greater will be harvested allowing the well-established regeneration to grow.

He reviewed the Silvicultural Treatment and explained Agency jurisdiction. Mr. Ziemann showed several slides depicting the project site. Mr. Ziemann stated portions of the project site are located adjacent to wetlands, but the harvest boundary has been delineated to exclude these. No activities are proposed within wetlands.

There was a brief discussion concerning several small streams located on the project site and Mr. Ziemann explained the streams will be crossed by using temporary removable bridging. He noted the existing haul road uses several existing culvert crossings.

Mr. Ziemann described the existing overstory and understory of the stand and harvest prescription including proposed retention. He stated that wildlife, trees and snags will be retained for habitat value where possible and inoperable terrain and riparian management zones will serve as overstory retention patches.

Mr. Ziemann showed several examples of declining overstory trees that if not removed will lose their value.

Mr. Ziemann discussed Agency review standards specific to timber harvesting projects. .

Mr. Ziemann stated there have been no public comments received by staff and he noted that Best Management Practices will be used.

Mr. Ziemann concluded his presentation with a staff recommendation that the Agency approve the draft permit with conditions.

A discussion followed regarding whether all timber harvesting proposals such as the projects recently presented by Mr. Ziemann are required to be reviewed by the Board. Mr. Craig commented that the timber harvest presentations are done well, the projects meet all the Agency review standards, and the Board's discussions surrounding these proposals have mostly been focused on gaining a better understanding of forestry practices in general. Mr. Weber replied the Deputy Director could review and authorize timber harvest proposals by existing delegated authority as is the case with the majority of projects. He stated that Mr. Ziemann reviews most of the timber harvest projects in the pre-application phase before application submission. This procedure has worked well and moves the proposals very efficiently through the review process.

Mr. Weber stated staff believe many of these applications are appropriate for approval under the Deputy Director's signature. Mr. Weber stated that the projects would continue to be reported to the Board on monthly reports as with all projects..

Mr. Craig commented that the timber harvest projects can be compared to cell tower projects. He noted that both types of projects can at times have issues that warrant Board review but this should not preclude the Deputy Director authorizing permits such as the one presented at today's meeting.

Mr. Booth commented that now is not the time for the Deputy Director to be authorizing timber harvesting permits. He said the Agency has not received proposals for these projects for decades and each timber harvest proposal should be reviewed closely and on a case-by-case basis for a period of time. These are projects that involve hundreds of acres and he said he agrees these projects have been well done and clearly presented but there may be some in the future that will not be clearly defined. These types of projects are very educational to the public and the Board. He said the discussion is still premature, but he is not opposed to the use of the Deputy Director's delegated authority in the future.

Chairwoman Ulrich commented that staff should keep a record of any issues that arise when reviewing timber harvest projects and to bring them to the Board's attention as an educational tool. Chairwoman Ulrich referred to Condition 18 of the draft permit and discussion ensued regarding protocols preventing the spread of invasive species related to timber harvesting proposals.

Mr. Craig asked for a motion to move the permit to full Agency for consideration with the recommended language by Ms. Feldman. Ms. Feldman made the motion, seconded by Mr. Lussi.

The Committee vote was unanimous in favor of the motion.

(7) Old Business: None

(8) New Business: None

Adjournment: The Regulatory Committee meeting adjourned at 11:15 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](http://nysapa.granicus.com/ViewPublisher.php?view_id=2) of this meeting: