



SHERMAN CRAIG
Chairman

TERRY MARTINO
Executive Director

Draft Minutes
Regulatory Programs Committee
July 14, 2016 Agency Meeting

MINUTES OF THE REGULATORY PROGRAMS COMMITTEE MEETING July 14, 2016

The Committee meeting convened at approximately 11:00 a.m.

Regulatory Programs Committee Members Present

Arthur Lussi, John Ernst, Barbara Rice, Daniel Wilt, and Lynn Mahoney.

Other Members and Designees Present

Robert Stegemann, William Thomas, Karen Feldman, Bradley Austin, Dr. Chad Dawson, and Sherman Craig.

Local Government Review Board

Fred Monroe.

Agency Staff Present

Terry Martino, James Townsend, Richard Weber, Colleen Parker, Steve Brewer, Ariel Lynch, Sarah Reynolds, Shaun LaLonde, Suzanne McSherry, Kate-Lynn Knight and Susan Parker.

Approval of Draft Committee Minutes for May 2016

A motion to approve the draft committee minutes was made by Daniel Wilt and was seconded by Lynn Mahoney. All were in favor.

Deputy Director Report

Mr. Weber reviewed the division reports and statistics relevant to permit applications received. He discussed a number of projects listed in the High Profile report and an emergency recovery authorization recently issued by staff for Olah, 2016-0128 involving the raising of a pre-existing dwelling out of the base floodplain elevation. The dwelling was damaged by flooding during Hurricane Irene in 2011. He also reviewed the delegation of responsibility to the Deputy Director of Regulatory Programs regarding variance approvals in accordance with Part 576. He discussed the proposed McCann Variance 2016-0061 in the Town of Clifton for a lateral expansion of 40 square feet in

the shoreline setback of Cranberry Lake. Mr. Weber recommended staff approval of the variance request according to the Agency's Delegation of Responsibility.

Mr. Lussi noted the high profile report was confusing as it was put together backwards. He asked Mr. Weber to review the various reports that were included in the mailing packet sent to the Board for the benefit of the new members. There were no further comments.

Project (A. Lynch) P2016-0046 R.L. Vallee, Inc.
Town of North Elba, Essex County
Moderate Intensity Use Land Use Area

This project is described as a replacement of an existing convenience store/gas station (1,520 sq. ft. store plus a 720 sq. ft. detached gas canopy) and three existing residential cabins (1,920 sq. ft. total) with a new convenience store/gas station (9,010 sq ft with attached gas canopy plus 865 sq. ft. detached diesel canopy), as well as expansion of the number of fuel pumps and parking spaces and installation of a new on-site wastewater treatment system. Hours of operation are proposed to expand to 24 hours.

Ms. Lynch reviewed the jurisdictional components of the project. She noted that an earlier permit was issued for this area (1991-0078) which granted expansion of an existing use at that time.

Mr. Stegemann asked about tree removal and whether there would be erosion impacts from such removal. Ms. Lynch responded no additional clearing is proposed on the slope in question and the area is vegetated although without trees.

Ms Feldman asked about the retaining wall in the back of the area and whether there would be additional erosion concerns from water runoff. Mr. LaLonde stated that a storm water management plan was requested from the applicant and noted that the retaining wall will act as a buffer to the wetland which will minimize any runoff impacts to the wetland area.

Mr. Austin asked if the new sign proposed for the commercial use will be illuminated. Ms. Lynch noted that parts of the new sign will be illuminated but not all of it (i.e., just the gas prices) and LED lighting will be used.

Ms. Lynch stated that no public comment was received. She also stated that approval was granted by the Town of North Elba Joint Review Board with conditions and the site has a valid NYS DEC bulk petroleum permit.

Ms. Lynch noted that staff recommendation is approval as the project meets all of the necessary criteria. She noted that two of the conditions could be amended dependent upon the applicant's pending revisions to the planting and erosion control plans.

Mr. Ernst asked about the fuel tanks. Mr. LaLonde stated they were recently replaced and meet the required specifications.

Ms. Feldman referred to page 6 of the draft permit, paragraph 14. She asked if there is intent in the future to replace the 3 single family dwellings located on the site. Ms. Lynch stated that the applicants have not indicated that the dwellings would be replaced, but a condition exists in the permit addressing replacement of the dwellings if the applicants desire to do so in the future.

Ms. Feldman then asked if the wastewater treatment system would be adequate for replacement of the three existing buildings or if it is solely adequate for the commercial use. Ms. Lynch responded the system is currently designed solely for the commercial use.

Mr. Lussi asked if the project is not undertaken, would the applicants be able to continue using the current wastewater treatment system. Ms. Lynch responded that the applicants would be required to follow the current plan submitted. Mr. LaLonde responded that the permit condition mirrors the NYS Department of Health (DOH) standards. If within 5 years the proposal is not undertaken, a new plan would need to be submitted to ensure that any proposed system would meet current DOH guidelines.

Mr. Austin noted that there does not seem to be any economic findings listed within the permit noting the economic impacts of the project. Ms. Lynch responded that because there are not significant impacts to resources on the site, the need for a balance between resource protection and economic impacts does not need to be cited within the permit.

Mr. Lussi stated that as the hours of operation are proposed to increase, an economic impact finding should be noted within the permit. He stated that the Agency's economics specialist should be brought in on such projects when this type of commercial use expansion occurs.

Mr. Townsend responded that this project has no undue adverse impact as proposed so therefore the economic activity in relation to any adverse impacts is an unnecessary discussion as the commercial use is already in existence. Mr. Lussi responded that he would argue that economic impacts such as a greater number of employees should be stated. Mr. Townsend replied this is a positive impact that is not necessary to overcome a negative one.

Ms. Feldman stated that Agency permit provisions do not include a statement indicating that applicants need to comply with all applicable laws and regulations. She encouraged staff to include such a statement on this and future permits. Mr. Townsend stated such a statement will be added to this and future permits.

Mr. Stegemann stated that the earlier comments regarding economic impacts derived from projects are perhaps something to consider including in permits in the future as it can be a positive finding.

Mr. Austin suggested that the applicant include a bike rack at the site due to its proximity to a future rail trail.

Mr. Lussi stated that he would like to know some of the conditions the Town of North Elba required of the applicant and whether they are different from the conditions the Agency have included in the permit. Ms. Lynch responded that the Town wants to: review any changes to the architectural and site design plans; review approval for the dumpster enclosure; review signage; retain jurisdiction over exterior lighting and off-hours interior lighting; retain jurisdiction over the planting plan for one year after all plantings have been completed; and retain jurisdiction over the storm water management plan until one year after the improvements have been completed.

Mr. Lussi called for a motion with minor edits made by Ms. Feldman. Mr. Wilt moved the item with Ms. Feldman's additions regarding compliance with all applicable laws and regulations. Ms. Rice seconded the motion and all were in favor.

Old Business

None

New Business

None

The meeting was adjourned at approximately 12:15 p.m.