

Draft



Regulatory Programs Committee  
October 11, 2012  
Agency Meeting  
REW:mlr

Regulatory Programs Committee  
October 11, 2012

**AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT**

Leilani Crafts Ulrich, Chairwoman  
Cecil Wray, Member  
Richard Booth, Member  
Sherman Craig, Member  
Arthur Lussi, Member  
Frank Mezzano, Member  
William Thomas, Member  
William Valentino, Member  
Dierdre Scozzafava, Designee, NYS Department of State  
Robert Stegemann, Designee, NYS Department of Environmental  
Conservation  
Designee Patrick Hooker, NYS Department of Economic Development  
Terry Martino, Executive Director  
Acting Counsel Sarah Reynolds  
Fred Monroe, Local Government Review Board

The Committee convened at 9:30 am.

1. Approval of September Draft Regulatory Programs Committee Minutes

On motion of Mr. Lussi seconded by Mr. Valentino the Agency unanimously adopted the Draft Agency Minutes of the September 2012 Agency meeting.

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

Mr. Weber reviewed the status report for Regulatory Programs and highlighted projects on the High Profile Report and the Workload Summary Report.

He briefly discussed several preapplication files.

Question was asked if there is any data available on the timeframe for a preapplication status to permit approval status. Mr. Weber stated that staff is working on a solution to track preapplications to the permit approval stage. He noted this is a request that has been discussed in Regulatory Programs and staff are working on a tracking mechanism.

3. 2012-84 (C. Parker)  
One Main On the Lake, LLC  
Village of Lake Placid  
Town of North Elba, Essex County  
Hamlet

Ms. Parker introduced Mr. Robert Gessner, Authorized Representative and Richard Hanpeter, Architect present at the Agency meeting today.

Ms. Parker presented a power point which provided an overview of the proposed project, project site and location. She explained that the proposed project requires a permit and a variance order. She discussed Agency jurisdiction for a Class A project Section 809 and 810(1)(4) of the Adirondack Park Agency Act (APA). A structure greater than 40 ft. in height requires an Agency permit and Section 806 of the APA Act and 9 NYCRR Part 575 require a shoreline setback variance for expansions of structures located within 50 ft. of the mean high water mark in a Hamlet area.

Ms. Parker briefly described the character of the shoreline and noted that an entire block of buildings were all interconnected up to the Village Park.

She showed several slides of the existing project site which compared the existing and proposed project. Ms. Parker explained the height increase over 40 ft. for the proposed project occurs outside of the 50 ft. setback area; therefore, no variance is required for the height expansion. She noted the applicant revised their proposal downward from 47 ft. 2 in. to 43 ft. 2 in. in height in response to comments and concerns received from the High Peaks Resort.

Ms. Parker noted the concerns expressed by the management of the High Peaks Resort regarding the visual impacts from the increased height of the building.

Ms. Parker discussed Agency Enforcement case E2011-139 regarding the porch and balcony added in the 70's by a prior landowner without an Agency permit. She provided an overview of the three proposed variances requested by the applicant. She noted the Town of North Elba\Village of Lake Placid Joint Review Board approved the Class A proposed project in September 2011 and the Town of North Elba\Village Zoning Board of Appeals approved the necessary variances for the proposed decks in August 2012.

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A brief discussion ensued regarding a 1977 non-jurisdictional determination letter authorizing the preexisting building to be expanded 13 feet closer to the mean high water mark of Mirror Lake.

Using a powerpoint presentation, Ms. Parker showed several simulated photographs of the existing and proposed shoreline conditions.

The public hearing held September 18 and comment letters received were discussed.

The six variance criteria were reviewed.

Mr. Mezzano asked the Regulatory Committee for a motion to move this project to Full Agency for approval.

Mr. Valentino made the motion and Mr. Booth seconded the motion with the request to amend the draft permit by recognizing that the proposed project is compatible with the character of the Hamlet land use area in which the project site is located and is consistent with the character of the heavily developed shoreline.

The Committee vote was unanimous in favor of the motion with amended language moving the proposed project to Full Agency for approval.

Mr. Booth suggested that the legal staff review the Regulations and add language to ensure the Agency's variance review criteria is compatible with the criteria established in the Town Law. Acting Counsel Reynolds responded that staff is not opposed to that suggestion, but believes the two sets of criteria are largely parallel.

Mr. Monroe stated the Local Government Review Board supports Mr. Booth's comments.

2005-271R3 (R. Weber)  
Adirondack Wind Partners, LLC  
Town of Johnsburg, Warren County  
Industrial Use

Mr. Weber introduced Mr. Melewski representing the applicants.

He noted this is a third renewal being brought to the Agency for review.

Using a powerpoint presentation, Mr. Weber discussed Agency jurisdiction, the project and project site. He discussed previously approved permits for the project site.

He noted the current request does not involve a material change in permit conditions since the issuance of Permit 2005-271R2. Mr. Weber also stated the language "temporary" needs to be reviewed if another request for renewal is proposed.

Mr. Booth commented his concern that by the Board renewing this two year monitoring tower that the Agency is not sending a message that the Agency is committed to or increasing any likelihood of an Agency approval for wind towers in the future. Mr. Weber answered that is correct.

Mr. Mezzano agreed and stated that that view point or comment had been discussed previously at Agency meetings. He also agreed with Mr. Weber's observation regarding "temporary" installation and operation.

Mr. Monroe noted the Review Board has made resolutions in the past and supports this one particularly when most monitoring towers are up for 10 years.

Mr. Mezzano asked for the Committee for a motion to move the third renewal to the Board for approval. Mr. Valentino made the motion and it was seconded by Mr. Lussi. The Committee vote was unanimous in favor of the motion.

The Regulatory Committee vote was unanimous in favor of the motion to move the project to Full Agency for approval.

Agency Update on Permits Issued for the Control of Asian Clam in Lake George. (R. Weber)

Using a power point presentation, Mr. Weber discussed the history of Agency permitting for the control of Asian Clam in Lake George, outlining the 10 permits issued for the control of the invasive species in Lake George.

Executive Director Martino commented that the issuance of the first general permit and follow-up permits reflects the level of activity and close communication between Agency staff and Peter Bauer, who had been the Executive Director with The Fund for Lake George.

Mr. Weber discussed several issues and key permitting considerations based on experience in Lake George that staff now considers when reviewing a permit for Asian Clam control.

Mr. Wray asked if any public comments have been received regarding the invasion of Asian Clam in Lake George? Mr. Monroe answered that Asian Clam has been a topic of great concern with the Warren County Supervisors. The supervisors understand that Lake George is the most important environmental and economic asset in that region of the Adirondacks.

Mr. Weber discussed a proposed general permit being drafted by staff for the use of benthic mats to control Asian Clam infestations. He discussed the special conditions being reviewed by staff.

Executive Director, Martino stated the current general permit for benthic barriers and hand-harvesting is being used again for Asian Clam control in the Hague site.

Staff recognizes that the general permit is a useful rapid response tool for the control of Asian Clam and the General Permit will allow for broader use in the future.

4. Old Business: NO

5. New Business: NO

**Adjournment:** The Regulatory Committee meeting adjourned at 11:05 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: