



Exhibit VIII.C.3.a. - Current Zoning and Proposed Rezoning or Variance

Submit as Exhibit VIII.C.3.a. copies of current local zoning approvals and any rezoning or variances that are required and any land use approvals, a detailed explanation of the status of any request for any of the foregoing with copies of all filings, including a specific schedule of applications for zoning approvals and anticipated approval dates.

The Town of Nichols does not have any Site Plan review procedures and the Proposal was acceptable for current zoning with respect to land use. A height (area) variance was required with respect to the proposed Hotel. The Town of Nichols Zoning Ordinance, Supplementary Regulations states; “6. *Height Regulations: No building or structure of any type in any district or zone shall exceed thirty-five (35) feet in height, except by special permit granted by the Town of Nichols Zoning Board of Appeals. Permit procedures shall be those specified in Item 5, Section X, of this ordinance.*”

No additional zoning appeals are planned, submitted or anticipated as part of the Project Proposal.

Attached - Zoning Board of Appeals motion of acceptance.

TIOGA DOWNS RACETRACK, LLC

Exhibit VIII.C.3.a. (cont.)

TOWN OF NICHOLS

ZONING BOARD OF APPEALS

November 6, 2012

The Zoning Board of Appeals public hearing and meeting was called to order by Chairman Paul Friedrichsen at 7:30 PM.

Members Present:

*Jim Bower
Paul Friedrichsen, Chairman
Steve Lounsberry
Howard Stolfus
Harvey Twigg*

Also Present:

*Jeff Jacobs, Counsel to the Board
Christopher J. Williams, Acting Secretary
Jay Dinga, Regional Director of Business
Development and Gov't. Relations for Tioga
Downs
Barb Crannell, Town Board member*

A copy of the application and Tioga County 239 Review Letter is attached

The public hearing portion of this meeting was opened. The purpose of this hearing was to discuss the variance requested by Thomas Osiecki for Tioga Downs Racetrack, LLC on the property located at 2384 W. River Rd, Nichols, N.Y. 13812. Chairman Friedrichsen provided those in attendance an opportunity to review the application and site plan provided by the applicant.

Some comments were made concerning the "Owner" being Tom Osiecki instead of Tioga Downs.

Additional Discussion was held concerning flood plain, access during flooding, fire suppression, and water supply.

Jeff commented that approvals have been received from the County and the Town Board has completed the required SEQOR.

TIOGA DOWNS RACETRACK, LLC

Exhibit VIII.C.3.a. (cont)

Public hearing closed at 7:20 PM.

Motion by Jim, seconded by Howard, to approve the proposed area variance as submitted.

Roll Call Vote:

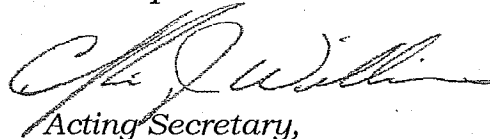
*Jim Bower - Aye
Paul Friedrichsen - Aye
Steve Lounsberry - Aye
Howard Stolfus - Aye
Harvey Twigg - Aye*

Howard brought up the issue concerning Larry Brink's issue. Jeff commented that the issue was now in his hands and to go further from the Town's stand would be extremely expensive. The issue could end up in State Supreme Court.

Motion made by Harvey, seconded by Steve, to approve the minutes as amended. Motion carried.

Motion made by Howard, seconded by Jim, to adjourn. Motion carried.

Christopher J. Williams



*Acting Secretary,
Zoning Board of Appeals*