

TOWN OF SHANDAKEN PLANNING BOARD
MINUTES FOR PUBLIC HEARING & REGULAR MONTHLY MEETING 7/11/12

The Public Hearing was opened by Vice-Chairman Joan Munster at 7:06 PM with the Pledge of Allegiance to the Flag. The Secretary called the roll, advised that a quorum was present and that the meeting could commence.

ROLL CALL:

Art Christie	Present
John Horn	Present
Joanne Kalb	Present
Maureen Millar	Present
Joan Munster	Present
Faye Storms	Absent

Roll Call Summary:

5 present, 1 Absent,

Others Present: *Richard Stokes*

New Business: Case 2012-09 Richard Stokes, application to amend special use permit 2002-01 for property located at main & Academy St. Pine Hill, NY , SBL #4.46-1-32.110. Mr. Stokes would like to amend his permit to allow retail space in his hotel/restaurant.

Mr. Stokes explained that he is requesting the retail space to sell antiques and furniture. Member Munster asked if the restaurant is currently operating. Mr. Stokes has replied it is not open as of yet. Member Millar asked to see a copy of his special permit. Advised it is in her packet. Member Millar commented that the special use permit was issued in 2001 and if the hotel has not operated then the permit has expired. Mr. Stokes explained that there was a court case involved with this special permit that took four (4) years to resolve and that he has always re-newed his building permit. Member Millar indicated there should be a permit that is more up to date than 2002. Mr. Stokes indicated that a special use permit does not expire. Member Millar indicated that since he has not operated the property as a hotel since the special use permit was issued it would expire. Mr. Stokes indicated that he has been working on the renovations since the permit was issued and the subsequent court case. Member Millar indicated that she doesn't think the law allows an amendment for a special permit. She suggested he apply for a new special permit to include the retail space. She indicated that our zoning laws do not address amending a special permit. Chair Kalb indicated that he would need to apply for a special permit for retail space. Member Millar addressed Member Christie for his opinion asking that he show her in the code book where it indicates someone can apply for an amendment to a special permit. Mr. Stoke indicated that if his renovations were complete, he would already be utilizing the space as retail. Member Christie indicated he believes there is an amendment process to a special permit, he does not know the section right off, but believes providing that it is more conforming and that it doesn't change the complexion of the special use permit. He will research the issue. He believes it is under change of use. Member Millar has researched this issue and case law and indicates there is no such way to amend the special use permit. Mr. Stokes asked if he has to apply for a new special use permit, member Millar indicates he does. He indicates nothing in the application has changed. Chair Kalb asked Mr. Stokes apply for a new special use permit. Member Millar indicates that if we are going to follow the law, then everyone has to follow the law unless the law supports the application. Member Munster asked if this requires a public hearing. Member Millar indicates it does. Which is part of the issue, and should require a public hearing. Member Millar indicated he is asking for a new special use permit to add retail space on a special use permit issued for a hotel/restaurant. Member Christie asked the secretary to contact the town attorney and ask if an amendment can be made to a special use permit. Discussion ensued on Mr. Stokes applying for a new special use permit. Member Christie indicated that if the town attorney indicates that the current special use permit cannot be amended. Member Millar indicated that if that is what the town attorney indicates this she would like to see this in writing.

Chair Kalb asked Mr. Stokes as the building and zoning officer if there was an issue with the Phoenicia Diner opening. Mr. Stokes indicated that it was just behind on his opening timeline.

Councilmember Bartlett asked about the Phoenicia Library and if they had applied to the Planning Board. Not as of yet. Member Millar asked if after the fire was the building condemned. The process of determining how a case is referred to the ZBA. The secretary indicated that the Building Inspector would review the application and determine if a variance and or site plan review is needed. If so, then the case would be referred to the Planning Board and then referred to the ZBA

by the Planning Board. Member Millar asked if the library was there prior to zoning laws. Yes. Then they would be considered pre-existing, non-conforming. Member Munster asked if they are adding more than 50%, yes, then they would be required to come before the Planning Board.

Member Millar brought up that in the case of Mr. Stokes, his original special permit indicates that there are "no dinners" to be served. Member Munster indicated that that made no sense. Member Millar indicated it doesn't matter. Chair Kalb asked the secretary to see if Mr. Stokes had the decision from the court case addressing the dinners issue.

Motion was made by member Maureen Millar to accept both sets of minutes from May & June's 2 meetings as submitted. Seconded by Member Joan Munster, all members present in favor.

Chair Joanne Kalb asked if secretary has advertised for the opening on the Planning Board. Secretary advised she was awaiting the board to direct this request. Discussion was to advertise for a new Planning Board member, with applications postmarked no later than September 1, 2012.

Member Christie indicated that he interviewed 27 people about having bicycle trails in regards to the Complete Streets project. All but two indicated that they would not want these trails. Member Christie suggested at our workshop meetings the board review the Town's Comprehensive Plan. Member Millar indicated that she did not feel the Planning Board should be responsible for re-working the Town's Comprehensive Plan. Member Christie indicated the board would not be re-working it, but reviewing it.

There being no further business a motion was made by member Maureen Millar to adjourn the meeting, seconded by Joan Munster, all members present in favor.