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May 1, 2017

Shandaken Planning Board
Donald Brewer, Chair
PO Box 134
Shandaken, NY 12480

Re: Shandaken with Catskill Mountain Railroad
Our File No. 14093-0002

Dear Don:

I have reviewed all of the material submitted in this matter. At this time the Planning Board cannot act on this application. Currently there is a notice of violation issued by your building inspector dated February 24, 2017. Under the Town of Shandaken Code §116-66 the existing violation prohibits the Planning Board from reviewing the application. That violation needs to be cleared either through compliance or an appeal to the Zoning Board of Appeals.

Additionally, the current application is asking for a "railroad siding for the storage of railroad equipment." The only use permitted under the zoning code by special permit is a "public utility or transportation use, excluding garage and maintenance facility." Clearly the application speaks to the fact that the requested use is for storage (garage) use pending further relocation. Since it is not a permitted use the Planning Board has no authority to act.

Unless the applicant can obtain an interpretation that it is in fact a Public Transportation facility and not a "garage or maintenance facility" the Planning Board has no ability to take any action on the request.

Very truly yours,

MCCABE & MACK LLP


RICHARD J. OLSON

RJO/me