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**Town of Shandaken Zoning Board of Appeals
Minutes for Regular Monthly Meeting
October 19, 2022**

The regular monthly meeting was called to order with the pledge of allegiance at 7:09 pm.

Roll called by acting Secretary to the Planning Board Olivia Amantia, and attendance was recorded as follows:

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|-------------------|---------|
| Mark Loete Chair | Present |
| Gary Guglielmetti | Present |
| Allen Vella | Present |
| Christian Lynch | Absent |
| Henry Williams | Present |

Roll Call Summary: 4 Present, 1 Absent

Others Present: Assessor Grace Grant Flood Plain Administrator Rob Stanley

Minutes:

The meeting begins with a Public Hearing at 6:45, for applicant Vivian Welton regarding an Area Variance. Secretary Amantia reads the legal notice. Chair Loete opens the public hearing states he needs some clarification as to what the Variance is for, he states one of the Variance is an Area Variance, and the other is a Use Variance. ZEO Grant states, it's not an issue of use, that it is an Area Variance. She states the code says you cannot have two habitable dwellings on a preexisting non-conforming lot, it's a Variance relief of that.

There were two emails sent in regarding the applicant's area variance, one in favor and one against. The applicant states there is no shared driveway, and no parking issues. Board Member Williams ask's when the accessory structure was built. The applicant says it was there when she purchased her home in 1998. Ms. Welton says the structure was an art studio/office, and she made it livable. She intended to fix it up for her daughter to stay, but has been short-term renting the space since 2018. Board Member Vella ask's the applicant what improvements she made to the space. She states a bathroom and kitchen facilities were done. She states over time she had hoped to fix up the space, but did not obtain any building permits. Chair Loete ask's if she has a certificate of occupancy, she states no she does not. The applicant states she once had one issued by former building inspector McGowan, but does not currently have a C of O. Chair Loete states it's a 1.5 district under half an acre.

Board Member Williams ask's if there is a kitchen and bathroom in the accessory structure. The applicant says yes there is a bathroom and a kitchenette. She states there was always electricity and heat. Chair Loete states if were allowing a second dwelling on an undersized lot, isn't a use variance required. ZEO Grant states a second dwelling requires a special use permit, not a use variance, it would be an area variance. Board Member Williams states it looks like quite a bit of work was done to this accessory structure, and did the applicant apply for building permits the answer is no. She states she knows it was wrong to do work without them.

Local resident of 35 years Tina Rice states she has concerns on having two structures on less than an acre lot. Chair Loete states there is absolutely a precedent issue. Flood Plain Manager Rob Stanley address's the board. He states the applicant's property is undersized, for two structures, which he is concerned about as well. He states there's several issues, the lot is nonconformance, a habitable structure with no legal permits, and she has been operating a commercial business, by renting the structure out. Chair Loete points out what she's been doing is illegal. The applicant states she never demo'd the structure, she just "added to it, and put appliances in, which she is willing to take out. She states she was unaware that with a kitchen it made it an accessory dwelling. She states she's willing to take the kitchen out if that makes it a non-habitable dwelling. Chair Loete states if the kitchen is removed it will become a guest cottage. She states each of her neighbors have undersized lots, but they are grandfathered in, making her lot not the only undersized one.

Chair Loete makes a motion to close the public hearing, at 7:09 Board Member Vella seconded the motion. Chair Loete makes a motion to open up the regular monthly meeting at 7:10

Board Member Williams ask's what the set backs are on the lot. The required set backs are 25 feet on each side. Board Member William's ask's if there's an issue with parking, the answer is no. Chair Loete states Mr. Stanley makes a good point we are setting a precedent here that has the potential to change the character of the town. ZEO Grant states the applicant's original application was turned in years ago. Chair Loete states one of the variances is from the second structure to the primary, but what is the second variance for.

ZEO Grant states to have an accessory dwelling on an undersized lot. The height of the second structure is 12 and a half feet, and the distance between the two structures is 9 feet, needing a 3 and a half variance. The issue of use is that there is a second dwelling on an undersized lot. A special use permit will be required from the Planning Board in order for the applicant to proceed, but first this Board needs to give the applicant an area variance, the issue of use is to be before the planning board. Chair Loete states they cannot give a use variance, if the reason is a self-induced hardship, being the structure was created without a permit or a c of o, as well as being there is a second habitable dwelling on an undersized lot. The issue with granting this variance, is it will open "PANDORAS BOX" for all other STR owners on undersized lots. Board Member Williams points out this issue would not have come up, had it not been for the new STR law. Granting this Variance, can create more issues in the future.

Chair Loete states they are not in the business of preventing people from doing things, they are in the business of enabling people to do so. But if the rules are bent in this case, it opens up the opportunity for more individuals who have two dwellings on undersized lots. Board Member Vella says he's uncomfortable with two dwellings on an undersized lot, it's simply way too small. Board Member Guglielmetti agrees with the issue of precedent as well. Chair Loete asks if there are any other questions. ZEO Grant states the applicant will need a variance for the guest cottage. Chair Loete makes a motion to grant the variance for the distance between the two houses, a variance of three feet. Roll call vote as follows

Mark Loete- Yes

Allen Vella- Yes

Gary Guglielmetti- Yes

Henry Williams- No

Board Member Williams states the reason his vote is no is because, the code speaks for itself, in granting the area variance, the distance between the main house, and the accessory structure, the accessory structure in his opinion, is still going to be used as a dwelling, therefore his answer is no. After discussion amongst the board, Chair Loete makes a motion to deny the second area variance based on violation of the code, and the density issue of two habitable dwellings on an undersized lot. Roll call vote as follows

Mark Loete- Yes

Allen Vella- Yes

Gary Guglielmetti- Yes

Henry Williams- Yes

Chair Loete states if we bend the rules for the applicant who is also a Planning Board member, how will it look to everyone else who would like to do the same thing. The applicant feels it shouldn't be used against her, the board assures her it's not being used against her, everyone should be equal and treated fair. The applicant states it was a preexisting structure, Chair Loete points out but she changed the use. The applicant states

the intended use for this accessory structure was for her daughter, but that did not work out, so she plans on renting it out regardless. The applicant states her problem is part of an ongoing problem in the area, whether or not there is enough housing, being buildable space or short-term rentals. Deputy Supervisor VanBlarcum states, there is plenty of housing, one of the issues is it isn't being used properly. There aren't enough affordable long-term rentals. Seventy six percent of the town of Shandaken is owned by the State and the City. There aren't enough properties for long term affordable housing, which is also why there are regulations on short term rentals. FP Administrator Stanley, points out we do live in Catskill Park, we love where we live, and part of why we love where we live is because of the environment. In this case do we want to double up on the density. We want to enjoy the environment, doubling the housing, is not the answer. Chair Loete agrees, we don't want to change the demographics and land economy. The reason why we live here is because we feel this land is so precious to us.

Old Business:

New Business:

Adjournment:

There being no further business Acting Chair Williams made a motion to adjourn the meeting, Board Member Vella seconded the motion, all in favor. Meeting adjourned at 7:51 pm. These minutes were prepared by the Planning Board Secretary Olivia Amantia.