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*"The Heart of the Park... Where the Eagle Soars"*

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**Town of Shandaken Planning Board  
 Minutes for Public Hearing  
 August 10, 2022**

The regular monthly meeting was called to order with the pledge of allegiance at 7:05pm.

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

Cliff Rabuffo, Chair	Present
Art Christie	Absent
Joanne Kalb	Present
John Horn	Present
Allen Shiner	Present
Sam Spata	Present
Vivian Welton	Present

**Roll Call Summary:** 6 Present, 1 Absent

**Others Present:** Zoning Enforcement Officer Grace Grant Town Board Member Elizabeth Kneissl

Regular Monthly Meeting was preceded by PUBLIC HEARING 6:45 as follows:

NOTICE IS HEREBY GIVEN that the Town of Shandaken Planning Board will hold a PUBLIC HEARING, pursuant to section 274 and/or 276 of State Law and as prescribed by the District Schedule of Area and Bulk Regulations of the Shandaken Town Code for the purpose of hearing the following applicant:

Regarding an application for a Special Use Permit submitted by Liz and Peter Appelson, for a parcel located on Miller Rd in Mt Tremper NY, further indicated as SBL# 25.1-2-8.420 located in a Residential 3 Acre Zoning District. The applicant would like a Special Use Permit in order to construct an Accessory Dwelling.

The Public Hearing is scheduled for August 10, 2022 at 6:45pm at the Shandaken Town Hall; 7209 Route 28 Shandaken, NY. All persons wishing to be heard shall be heard at the date and time of the Public Hearing.

If you have any questions or concerns you would like to address at the meeting, and are unable to attend please email the secretary to the Planning Board at [shandakenbldg@gmail.com](mailto:shandakenbldg@gmail.com). All emails should be received no later than 3:00pm the date of the hearing.

The Appelson's plan on building a larger main house, & following an accessory structure. Chair Rabuffo asks if any neighbors would like to speak on this matter, no one had any comments or concerns.

All pertinent information having been discussed; Chairman Rabuffo closed the public hearing at 6:50 on a Kalb/Spata motion.

**Town of Shandaken  
County of Ulster  
State of New York**

**The Town of Shandaken Planning Board conducted a Regular Monthly Meeting on  
Wednesday August 10, 2022 7pm Shandaken Town Hall. 7209 Rt. 28 Shandaken,  
NY**

**Call to Order - 7:00  
Pledge of Allegiance  
Roll Call**

**Members Present**                      **Cliff Rabuffo Chair**  
**Art Christie - Board Member**  
**Joanne Kalb – Board Member**  
**Sam Spata – Board Member**  
**John Horn – Board Member**  
**Vivian Welton – Board Member**

**Members Absent 1**                      **Allen Shiner – Board Member**

**Recording Secretary**                      **Olivia Amantia**

**On a Spata/Shiner motion the Board unanimously approved the minutes of the  
previous meeting as submitted by the Secretary.**

**Town of Shandaken Planning Board  
Minutes for Regular Monthly Meeting  
August 10,2022**

**Old Business:**

Chair Rabuffo states the first order of business is Phoenicia Wellness.  
Ed Ullman thanks the board for their time. He is here for a change of use for his  
pharmacy/wellness center. Mr. Ullman shows the board the new sign for the potential new

space. The new space is the old Key Bank on Main St in Phoenicia. Its 850 sq ft of retail space, which will allow the pharmacy department to show, when you come in the store the first look will be a beautiful pharmacy department, modeling the store in Tannersville, that he currently has.

Mr. Ullman mentions the medication and drugs, would be stored in the vault in the old key bank. He says there will be a consultation room for minor emergencies, mental health counselling, as well as immunizations. Mr. Ullman says he is in the process of looking at a few different designs for his new sign, such as color and presentation.

Board Member Kalb ask's if the lights on the sign will be facing, down obeying the dark sky rule, Mr. Ullman says yes, they will be dark sky compliant on the sign. Mr. Ullman states he plans on opening his facility in November. He also mention's he would love to do a mural on the building eventually, with mountains and nature in mind.

Board Member Welton ask's what is behind the building, Mr. Ullman states a shed/storage space, and possibly more parking. Board Member Welton asks about the garbage situation. He states they are going to ask about sharing the garbage facilities with Sweet Sue's next door, but he mostly recycles. Board. Member Welton asks about unused medications, he says they have to be returned.

Board Member Kalb notes, the Shandaken Town Hall, has a box dedicated to expired medications. There being no further questions or discussion, a motion was made by Board Member Welton, Board Member Kalb seconded, all in favor. The public hearing for Phoenicia Wellness is set for September 14<sup>th</sup> at 6:45.

The next order of business is Peter and Liz Appelson, regarding their special use permit. Chair Rabuffo makes a motion to approve their application as submitted. Board Member Welton makes a motion to approve the applicant's application as submitted to be approved. Roll call vote as follows:

Next order of business is the Festival of the Voice. Adam Turba architect representing the FOV, approaches the board, regarding a change of use. He states they are asking to change the use to a permitted use in the district, and to have no more than 45 people in the building.

Mr. Turba says the reason for coming to the board, was to submit the site plan for approval, to show that they had handled parking. Mr. Turba states he appreciates the diligence put forth and thought, about this matter. Although he says, he's disappointed, to hear after the last meeting, they were dismissed, & some neighbors came forward and tried to obtain other restrictions, other than what had been discussed in front of the board. He states one of the additional requests, was for a yearly review to be done. Mr. Turba says they are not here for a special use permit, and it isn't required for this lot, he states all they needed was a site plan.

He also mentions the Phoenicia Library uses their space similarly to what the FOV would like to do, without having to have a yearly review. He says that this project is beginning to die the death of a thousand cuts. Mr. Turba says all they'd like is to have a cultural facility in the

community, he is asking for approval of the site plan as presented with no restrictions. He states they are happy to meet with the neighbors, and be good neighbors, he mentions out of the entire Town of Shandaken, only a “few people are unhappy with what their doing, and their trying to cut it down.

Chair Rabuffo states the yearly review is not yearly”, it would be next year, and it’s a chance for the FOV to come back to the board, and show their progress. Mr. Turba says if that could be something done by their choice, since they are a nonprofit. He says for them to come back to the board again next year, and find the money in their budget to have people coming for a review for a cultural facility for the community seems egregious. Chair Rabuffo points out it would only be a one-time review.

Board Member Kalb states comparing the Phoenicia Library to what the FOV would like to do, is a little different. Firstly no one lives next to the library. Mr. Turba says following the most recent planning board workshop other restrictions were put towards what they already planned on doing.

Chair Rabuffo states from the beginning the certain things were established they’d be done, such as the fence, and parking. Mr. Turba states they don’t need a special use permit, just site plan approval, they were happy to be good neighbors until he felt things” kept getting added to what they had already discussed. He states there are only a few neighbors who are upset, and about a thousand who are happy. He feels they should have approval, with out any of the restrictions

Board Member Kalb ask’s they don’t want to be held for ten performances a year. Mr. Turba states its not a performance venue, it’s a cultural facility that has performances. Chair Rabuffo says the limitations are to ensure that the space does not turn into a concert venue.

Chair Rabuffo states there needs to be an agreement that both parties agree to, being the town and the applicant that, that’s what will happen. If it goes smoothly, and everybody’s happy, then more performance days can be added. Mr. Turba says what if we agree no restrictions, and then they’ll come back in a year, and address it.

Board Member Kalb says what if it’s a problem in two months. Mr. Turba says if there is a problem, people will come and complain to the Zoning officer. Mr. Turba says all they are asking for is for them to be able to do what they the law allows them to do. Mr. Turba says that is why the FOV bought the building, and had lawyers look at the space, and they were informed what they wanted to do , they were able to. Mr. Turba says when you go by what the code says, and financial decisions are based on that, you would hope that the Town would back you on that.

Chair Rabuffo points out they were holding the Phoenicia Farmers Market, in the basement of the church, which they were told to stop, and they did not. As well as the parking situation, which has been resolved, and a fence. Chair Rabuffo states the limits are as follows, ten performances days, ending by nine pm, no more than forty-nine people in the building, the parking agreement, all activities on the property will abide by regulations in the noise. The last restriction can be stricken, Chair Rabuffo says, and Mr. Turba says he would like all of the limitations to be stricken. He states the FOV does not plan on violating

any of the terms, and they're not planning on doing more than ten performances. He says what they want to do is permitted in the zoning district.

Board Member Kalb asks Mr. Turba if he wants to begin this new project with the FOV, being at odds with the neighbors. He states he would like the organization to begin their existence there as a good member of the community, which he feels they are trying to do. Mr. Turba feels an agreement was put in place, and that the neighbors are trying to shut it down "and/or, addressing concerns after meetings have already taken place. He says as a professional it's very difficult to do business here", he feels they don't need a special use permit. Board Member Kalb notes they are not the first organization to have restrictions or limitations.

Mr. Turba feels they didn't even need a public hearing, he states he feels a special use permit is being pushed on them. Board Member Kalb asks what changed from the last time they presented before the board. Following the most recent workshop, Mr. Turba says additional restrictions were added, discussions were had, and they were happy to accept it where they had left it, a month ago, but he feels other stuff" kept getting added to it. He states the FOV doesn't have the funds to do a lot of what they're being asked of. Mr. Turba says he doesn't think it's fair for the board to ask this organization to do things that aren't in the code. Board Member Horn asks Mr. Turba if he does not want to comply with what is being asked, or if it isn't fair, the response is that he feels it's unfair. Chair Rabuffo proposes twenty-five performance days, and then to come back in a year. Mr. Turba states he feels fifty is fair, he states they are not putting on concerts, they will be small shows.

Liz Potter and her husband, direct neighbors of the church, address the board. Don Bucher states the impact on their lives as a result of unlimited concerts, will be very bad. He says that the FOV do not honor agreements with their own people, over the years so why would they agree to these new terms and honor them. Liz Potter states she feels it was better to speak directly to the FOV, to compromise, a fence would be needed, and to have no restrictions would be unethical, and the site plan needed to be set in stone, otherwise it won't be enforced. She states a lawyer wrote an agreement for the neighbors, and she states a written lawyer agreement is not the same as a site plan. She states this is not the middle of town, this is a quiet side street, and she doesn't want it to become a big concert venue.

Board Member Kalb feels the site plan needs more review at this point and time. Board member Spata states they should do a rewrite of the site plan review, regarding the discussion that was held tonight. Chair Cliff goes over the site plan once more, stating in the agreement, one stays, two is gone, because the noise ordinance covers that, no more than forty-nine people will occupy the church, the parking agreement, should the parking agreement between St Francis and the FOV, be revoked, the site plan approval would be revoked. Number five is stricken, which is reiterating the noise ordinance, six is stricken, seven is the fence, which is being given six months to do, number eight, should be left. Chair Rabuffo states, they should be given the chance to come back and extend the performance

days. Board Member Spata makes a motion to approve the agreement as written, Board Member Shiner seconded; Roll call vote as follows:

Cliff Rabuffo, Chair	Yes
Art Chrisite	Absent
Joanne Kalb	Yes
John Horn	Yes
Allen Shiner	Yes
Sam Spata	Yes
Vivian Welton	Recused

Last order of business is Rail Explorers. Chair Rabuffo states this isn't a public hearing, and that the planning board has done all it can do, at this point and time, this is a matter to be brought up to the Town Board. Chair Rabuffo states he sympathizes but there isn't much they can do.

ZEO Grant says she reached out to the County, but still has not heard back, and they are the ones who would need to be reached for a meeting to be held regarding the Rail Explorers. Molly Holm Andrew Lane resident, mentions she has reached out several times to the county, but has not heard back. She feels the county has all the power, and shouldnt the town have some say as well.

Board Member Spata asks Mrs. Holm, what it is that they want from the rail explorers. She says, the quieter wheels, since the rail bikes are very noisy, as well as not as many runs, since they run seven days a week, and the neighbors get no relief.

She also mentions she was disappointed to have heard, that one of the Rail Explorers employees, was going around Phoenicia to all of the local business, stating a neighbor" was trying to shut down the business, which is not the case whatsoever. In addition, it is not one neighbor who is affected by them, it is many.

Board Member Spata suggests the neighbors form a committee and possibly consult a lawyer, for what to do from here, since they have tried to reach the county many times with no response. The noise is a big factor, and they are operating in a residential zone, which no noise should be made after 7 pm, and they are operating past 9 pm. Mrs. Holm also notes her property value has gone down, as have her neighbors, the noise is relentless, and its created quite the hardship. Board Member Kneissl suggests they come to the next Town Board meeting, to discuss with her and Supervisor Disclafani on what to do from here/

\*All Evening's business having been discussed, The board adjourned at 8:10 on a Welton /Spata motion. All in favor.