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**Town of Shandaken Zoning Board of Appeals**

**Minutes for Public Hearings**

**October 18,2023**

Public Hearing was opened at 6:50

Roll called by Secretary to the Zoning Board of Appeals Olivia Amantia, and attendance was recorded as follows:

 Mark Loete, Chair Present

 Gary Guglielmetti Present

 Allen Vella Present

 Christian Lynch Present

 Henry Williams Present

**Roll Call Summary:** 5 Present, 0 Absent

**Others Present:** Zoning Enforcement Officer Grace Grant, Ted Reynolds, Geoffrey Harden

Chair Loete made a motion to open the public hearing, seconded by Board Member Vella, all in favor. Chair Loete opens the Public Hearing at 6:50 for Mago Watanabe. Ted Reynolds, and Geoffery Harden are here this evening to represent the applicant. The legal notice is read by ZBA secretary Amantia. The applicant is requesting a height variance at 113 Christie Court. No one was in attendance regarding this public hearing, and no correspondence was received regarding this public hearing. Chair Loete made a motion to closed the public hearing, seconded by Board Member Vella.

 **Town of Shandaken Zoning Board of Appeals**

**Minutes for Regular Monthly Meeting**

**October 18th ,2023**

**Minutes:**

The regular monthly meeting was called to order at 7:00 pm with the pledge of allegiance. Chair Loete ask’s the Board Members if they have looked over the previous month’s meeting, and if there are any corrections, or questions. With no corrections, Chair Loete makes a motion to approve the minutes, seconded by Board Member Vella, all in favor.

The first order of business on the agenda is a height variance, submitted by Mago Watanabe, of 113 Christie Court. Chair Loete states the applicant previously applied to the Zoning Board of Appeals, for a 13 ft height variance which was denied. The Board advised the applicant to revise his application and to come back to the Board, which is what they have done this evening. Chair Loete states the new application is for a 7- foot height variance. Chair Loete states the initial request was overly excessive, and the Board felt they were setting a dangerous precedent, the applicant was asked to resubmit a new design, which they have done, with a lower height variance. Chair Loete states the property is at the end of a cul-de-sac in a heavily wooded property/ neighborhood, it will not be visible from the road, with the construction, and with the lower height it will not be seen from the neighbor’s property as well. Chair Loete states he is in favor of granting this new height variance, and ask’s the Board Members if they have anything to add, or fi they would like to discuss further.

Board Member Willams states he would like to discuss the fact that the applicant claims that the second story is for storage, and that the owner needs the additional space for storage. Board Member Williams states the new plans show the height coming down 6 ft , to 22 ft, and the building has been expanded as well. Board Member Williams states the purpose of a variance is that if there’s no other way to grant the applicant the relief they need without a variance. Board Member Williams states it seems they can expand the footprint of the property to give you the storage that you actually need without needing the variance. Board Member Williams adds the applicant’s property already has the garage and the pool, which he believes the ZBA has already given the applicant a variance for that as well.

Mr. Harden states it was expanded due to a large shelf, which was 600 sq ft, which is now eliminated from the new plan. Chair Loete states they are not asking to build in the footprint, they’re allowed to build in any footprint they want as long as they are within the area variance of the lot lines. Mr. Harden states the applicant is going to retire and he currently has two clothing stores, and a lot of merchandise, that will need to be stored.

ZEO Grant states the ZBA never granted the applicant relief for the existing garage on the property, they obtained a permit but not a variance, when they should have gotten a variance. Zeo Grant states they converted the garage into a pool house. Board Member Lynch states he drove by the location and noticed it was very visible from the road, the work being done, and many trees have been cut down. Mr. Reynolds states the homeowner would like to add some additional trees and landscaping to make it less visible. Chair Loete adds there is no public opposition concerning the viewshed, and the property is at the end of a cul-de-sac. Chair Loete states he is disposed to granting the variance. Board Member Gugliemetti adds he doesn’t understand why a garage would need a second floor.

Chair Loete makes a motion to grant the 7-foot height variance, seconded by Board Member Vella.

Roll call vote as follows:

Mark Loete- Chair Yes

Gary Guglielmetti Yes

Allen Vella Yes

Christian Lynch No

Henry Williams No

The next order of business is an applicant, Aero Star Petroleum currently before the Planning Board, who have asked the ZBA for their interpretation of the zoning code. ZEO Grant states the question the Planning Board poses to the ZBA is what should be considered as they calculate the percent that the project is increasing as they move through the site plan process for approval. ZEO Grant adds essentially what is to be taken into consideration. Ms. Grant states the laundry mat on the property, she feels should not be considered at all, since it is not a pre-existing non-conforming use. Ms. Grant states it was an approved use by the Planning Board in 1993. It is not a part of the pre-existing non-conforming use and therefore is not an issue about percentage. Ms. Grant states the plaza itself which is going from 5732 to 7200 sq ft. They are clearing land as well, they’re going from 15,000 sq ft of usable land to 24,000 and lastly the gas pumps, should the pumps be a part of their consideration when they’re calculating that percentage. Chair Loete states this is a pre-existing non-conforming use that was in pre-existence before the zoning laws were written in 1976. Chair Loete read a passage from the Zoning Code 116-58. Chair Loete states the expansion from four pumps to expanding to twelve pumps, which would be a 200% increase. That increase exceeds the fifty percent increase, the Planning Board is asking the ZBA for an interpretation of whether that increase in the gas pumps should be incorporated into their calculations of a fifty percent increase. ZEO Grant states the increase for the plaza itself is twenty five percent, the increase in the land if that is to be considered is fifty five percent, and the increase of the gas pumps is two hundred percent. Board Member Williams ask’s if the gas pumps are shown on any maps of the property. ZEO Grant states no there is not, the town has a survey from the property done in 1975. Board Member Lynch states the way he looks at 116-58 states that the use is the issue, not necessarily the building, and if the pumps are apart of the building’s use” it should be calculated into the fifty percent use. Also Board Member Lynch states that per the definition section of the code, the definition of “structure “ refers to a “gas pump” as an example of a structure. Chair Loete makes a resolution that the recommendation to the Planning Board, that the gas pumps should be included in the 50 % increase, as well as the plaza, and the land, seconded by Board Member Williams, all in favor.

**Communications:**

**Old Business:**

 **Other Business:**

**Adjournment:**

There being no further business before the Board, a motion was made to adjourn the meeting by Chair Loete, seconded by Board Member Lynch, all in favor. Meeting adjourned at 7:31 pm. These minutes were prepared by the Zoning Board of Appeals Secretary Olivia Amantia