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Town of Shandaken Zoning Board of Appeals Minutes for Public Hearings January 15,2025

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

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

Roll Call Summary: 4 Present, 1 Absent

Others Present: ZEO Grace Grant, Don Brewer, Robin Cornish, Leah Perloff, Leah Kilb, John Kilb, Elizabeth Potter, Don Bucher

Robin Cornish Area Variance 14.1-2-28.200 6:30

Public Hearing was opened at 6:34pm. Legal Notice was read. The ZBA is in receipt of two letters regarding this public hearing, both with concerns regarding the stream/environment during the building process. Those letters have been made a part of these minutes. No one is in attendance to comment. With no questions or comments from the Board or the public Chair Loete makes a motion to close the public hearing, seconded by Board Member Williams, all in favor. Public hearing was closed at 6:45.

Dear ZBA,

It is unfortunate to see that a licensed professional would purchase known environmentally-sensitive / ecologically important land containing irreplaceable natural resources, at a price clearly representative of the property's generally known lack of buildability, and then proceed to use their license and deep pockets to attempt to barrel through local building codes. All so that they can jam an oversized vanity-project of a structure into a narrow ribbon of undisturbed and vulnerable stream sidewalls.

The variance requested is due to a self-created hardship, is substantially at odds with community character, and goes against good old-fashioned common sense. A request for relief to avoid such areas would be valid -- a request for relief to build something that endangers said areas should be denied. Note that none of the information presented in the plans is tied to an actual field survey to verify the locations of the myriad of regulatory restrictions (most of which are environmental protections).

This disrespectful, tone-deaf project should be sent packing by each and every board and agency that it tries to convince makes any logical sense. The applicant should be required to watch Irene videos. Maybe then they would realize how pompous and selfish this project is. Best.

hilary smith

Dear Planning / Zoning Board Members,

As longtime residents of Silver Hollow Rd and one of the the owners of the abutting properties to (SBL# 14.1-2-28.200) we have some comments:

- In recent years there has been extensive work done to restore the stream in the area of proposed construction. We are concerned with proximity of this project so close to the stream. We understand this is a difficult property to try and build in such a small footprint situated between the stream and the road. We hope that all protections and construction techniques are utilized to minimize any potential stream and environmental damage.
- The owners are asking for a variance for the set backs. However, it is unclear the magnitude of relief that is needed. (Is it 2ft, 10ft, or more) On the provided drawings in the General Notes, its states "All drawings are based on an approximation of site conditions and structure". We would hope before a variance is granted there would be a better understanding of what these dimensions will be.
- On the special permit and / or Site Plan Review Application checklist, section 15 just a note of clarification. Bald Eagles are still considered a Threatened species according to the NYSDEC. We do have Bald Eagles visit Warner Creek and the whole area.

Thank you for considering these comments.

Leah Perloff Use Variance 13.16-3-2.100 6:45

Public Hearing was opened at 6:45. Legal Notice regarding the Public Hearing was read. There are several letters that were sent in opposed to the variance the applicant is requesting. Those letters have been made a part of these minutes.

Don Bucher, resident of Jay Street, speaks about his concerns regarding the project. The applicant wants to develop the structures on her property to short-term rentals, one of them being a garage. The garage was a functioning auto body shop for many years, and the neighbors have concerns about the environment since the garage is right next to the creek. There are also concerns of increased traffic, and noise since the applicant lives right in Phoenicia.

Leah Kilb is concerned due to the applicant expressing at a previous meeting that she would like her property to be like the Perch in Boiceville. The perch are short term cottage rentals, a little outside of Phoenicia.

With no further questions or comments, Chair Loete makes a motion to close the public hearing, seconded by Board Member Vella; all in favor. Public hearing closed at 7:00.

Shandaken Zoning Board:

After viewing initial ZBA meeting of 11/20 /24 and listening to my neighbor Ms. Perloff's intentions, am very concerned that they are excessively ambitious. Especially the request for a blanket of permission variance that will cover any future intentions, no matter how grand or small without a variance review by this board and the public.

Also so many rentals beyond the lawfull and existing two, raises even more concerns. Those of excessive or late night noise. Parking- we all ready have a limitation on Jay Street. Environment- Living on the Stonyclove stream often find myself removing thrash from under bridge and along my bank from those that abuse its use.

Am not one to render limitations on any new neighbors but their plans must be within reason.

This side of the bridge has been for quite a while a quiet, friendly neighborhood of many families and would prefer to keep it that way.

Thank You From The Kilb family To whom it may concern, I am writing to voice my concerns for the request to change the variance at 29 main st . Phoenicia, NY.

My concern lies in the fact that allowing this variance circumvents our already existing short term rental laws, which have been beneficial to our community in helping to mitigate the housing crisis we are currently facing. I'm concerned that if this variance goes through, that this will create loop holes for future businesses and homeowners to disregard the short term rental laws and have multiple short term rental properties. I believe allowing this variance would be a very bad precedent for the town to set, and even more detrimental to the locals who live here who are still getting pushed out of their own community by expensive or lack of housing.

Thanks,

Aglaia (Leah) Kilb

I am writing to voice my concerns for the request to change the variance at 29 main st . Phoenicia, NY

1.I am worried about stream environmental impacts .i.e,. stress on the environment by saturating small land space, ie, water, litter near stream, effects on wildlife ecosystem.

- 2.I am concerned about noise and light pollution
- 3. Traffic congestion and parking limitations is a concern
- 4. change in quiet neighborhood due to adding more short term rentals to a property

Thank you so much Molly Kilb Dear Board Members,

The request for a use variance for cabins at 29 Main In Phoenicia has me concerned. I live about half a block away.

My understanding is that a use variance that would change zoning is granted in only very rare circumstance when hardship can be proved and benefit to the community as a whole is clear. I would ask that it be explained what hardship is there here other than self created and how does the variance help the hamlet?

I'm concerned about setting precedence of easy "use variances" in the hamlet for whatever anyone wants. There are a lots of commercial - residential properties in the hamlet - 214, Jay street, Main Street etc.. Approval of this variance will mean the board will have to say yes to whatever anyone wants to do.

If the applicant wants to have a hospitality business in the hamlet - they already have two good and legal options - a B and B like the Phoenicia Belle - or an STR.

I wish the owner luck with her hospitality business but she has other options than asking to change the zoning and setting a negative precedent the rest of us will have to live with for decades.

Liz Potter 10 Jay Street Phoenicia NY Thank you for the opportunity to comment. I am not a near neighbor but a resident of Shandaken that cares how we grow and cares about zoning.

I see no indication of the actual size of these cottages or any setbacks. It may be a density variance would also be required....and for setbacks from cottage to cottage.

This is clearly in the flood plain which represents significant challenges to this kind of proposed use. There is little to no elevation above the Stony Clove. Cars parked along the river is a bad plan for a floodway.

There is no indication that the "driveway" is also a deeded Right of Way to access a property further up 214. The cottage s proposed appear to butt right up to the ROW, which is a clear safety concern. Just because there is not much CURRENT use of ROW does not speak to the future, legal use of ROW.

Ingress and egress, if not widened, is of inadequate width for an incoming and exiting car or truck.

Increasing traffic w/multiple cars entering and exiting onto "Main St." creates traffic hazards without adding to quality of life concerns for many neighbors.

As a variance is a kind of "gift" to a homeowner whose property has inherent limitations for this kind of growth, I hope the ZBA denies this application. Variances are for hardships NOT created by homeowner's desire to develop the undevelopable.

Thank you for your consideration .

Maureen Millar

Town of Shandaken Zoning Board of Appeals Minutes for Regular Monthly Meeting January 15th, 2025

The regular monthly meeting of the Zoning Board of Appeals was opened at 7:00.

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

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

Roll Call Summary: 4 Present, 1 Absent

Others Present: ZEO Grace Grant, Don Brewer, Robin Cornish, Leah Perloff, Leah Kilb, John Kilb, Elizabeth Potter, Don Bucher

Minutes:

Chair Loete ask's the Board Members if they have looked over the previous month's meeting minutes, 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.

Communications:

ZEO Grant states that Mtn Jam will not be attending the meeting, since this is a Town Board matter, and they do not need to be before the ZBA. The Board is in receipt of a letter from Mike Mauriello, representing the Wellington Blueberry LLC.

Old Business:

Robin Cornish - 14.1-2-28.200 - Area Variance

The first order of business on the agenda is Robin Cornish who is before the Board for an Area Variance. The applicant is asking for a 15 ft variance in order to build a single-family

residence. The residence will not be visible from the road. There is a question of eagles and whether or not they are endangered which would be a concern. ZEO Grant states that the Planning Board will handle the SEQR review, and that when the parcel is run through the State EAF mapper, eagles are not listed as an endangered species associated with the parcel. The distance between the road and the building is 35 ft from the boundary line, and there is a 25 ft right of way. Mr. Cornish states he's been working with Bobby Taylor from the Ashokan watershed, and the proposed building met with Ashokan watershed's requirements. The building is 200 ft upstream from any work the watershed has done on the site. Mr. Cornish states following a Planning Board workshop, the building was closer to the stream, upon the watershed's recommendation they advised it to be further down. Following the variances, if approved, from this Board Mr. Cornish states he still needs to meet with the DEP/DEC and he will obtain the proper permits, as well as his meeting with the Planning Board. Board Member Lynch ask's the applicant if a field survey has been done of the property? Mr. Cornish states no just a GIS survey.

With no further questions or comments from the Board, Chair Loete makes a motion to grant the variance, seconded by Board Member Williams.

Roll call vote as follows:

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

Leah Perloff - 13.16-3-2.100 - Use Variance

The applicant is here this evening because she initially applied for a building permit to add a bathroom and a kitchen to her garage. Since there is already an ADU on the property, she was unable to obtain a building permit. The applicant was informed she had to come before the Planning Board for approvals to build any additional habitable units. The Planning Board then forwarded the application to the ZBA for a Use Variance since a cottage development is not allowed in a Hamlet Commercial zoning district. In addition to converting the garage into a habitable space, there is also a shed on her property that she would like to renovate and rent. She does not yet know if these structures would be rented short or long term.

Cottage development was one of the options the applicant was looking into. She states that since she is in a residential area, it is allowed versus if she was in a commercial area which it is not, she states she is not "tied" to the cottage development idea. She states her intention was to renovate the garage on her property as well as the shed. She is not building anything new; she is only renovating existing structures. She is aware that environmental/stream mitigation would need to be done.

Ms. Perloff states she does not want to have enemies in her neighborhood, she isn't a big developer, and does not have bad intentions. She did not think her plan would upset her neighbors, and does not think if she adds some rentals on her property that it would change the town, she adds she also had plenty of parking.

Board Member Willams mentions the right of way? Which was also a concern of her neighbors. The applicant states she is more then willing to work with her neighbors on the matter.

Chair Loete states there are already too many Airbnb's in our area, and that is upsetting to the community, given there is a housing shortage, and not enough long-term rentals available. Chair Loete notes that the neighbors concern about her plan are valid. The applicant has a 5½ acre parcel, and ZEO Grant states this section of code seemed to fit the best for what the applicant would like to do. The applicant states she has had her str for four years, and the income from that is helping her develop the rest of the property. She states she is trying to do the right thing, and didn't expect this reaction. Board Member Williams points out if the applicant was to sell the property in the future, the use variance, if granted stays with the property.

Board Member Vella reads aloud the requirements that must be met to approve a Use Variance:

- 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
- 2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
- 3. The requested use variance, if granted, will not alter the essential character of the neighborhood.
- 4. The alleged hardship has not been self-created.

Ms. Perloff is disappointed that this is how the meeting is going, she did not expect this degree of pushback. Chair Loete states he understands that the Zoning laws were written in 1976, therefore it does not always make sense. Ms. Perloff understands the concerns from her neighbors, but doesn't understand the push back. Board Member Williams states although it may seem like a small ask what she'd like to do, it's a big ask, because it will be changing the entire property. Ms. Perloff states she could reapply for an area variance in the future, as opposed to a use variance. There is a discussion amongst the Board and ZEO Grant, regarding what the hardship is for the applicant requesting the variance. Chair Loete states the hardship here is self-inflicted. Chair Loete adds it's up to the Board to preserve quality of the community, and to preserve community character and protect economic

development. With no further questions or comments from the Board, or the applicant, Board Member Lynch makes a motion to deny the variance, seconded by Chair Loete.

Roll call vote as follows:

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

Other Business:

The last order of business is patters for progress. ZEO Grant states they will reschedule to meet with the Board the following month.

Board Member Willams points out that Patrick McGann's application is still on the website for the ZBA, regarding his sauna. ZEO Grant states that the applicant needs to speak to Donna our Building Inspector and see whether or not the structures are permanent. Mr. McGann may or may not need a variance, depending.

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 8:04pm.

These minutes were prepared by the Zoning Board of Appeals Secretary Olivia Amantia