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**Town of Shandaken Zoning Board of Appeals
 Minutes for Public Hearings
 September 20th ,2023**

Public Hearing was opened at 6:50 with the pledge of allegiance

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

Chair Loete opens the public hearing at 6:50 for Mago Watanabe. Representing the applicant this evening is Ted Reynolds. Chair Loete ask's the Board Members if they have any questions for the applicant. Being no questions from the Board, or the Public, Chair Loete makes a motion to close the Public Hearing, seconded by Board Member Lynch.

**Town of Shandaken Zoning Board of Appeals
 Minutes for Regular Monthly Meeting
 September 20th ,2023**

Minutes:

The regular monthly meeting was called to order at 7:00 pm. Chair Loete asks the Board Members if they have looked over the previous month's meeting, and if there are any corrections, or questions. With no questions or corrections, a motion was made to accept the minutes, by Chair Loete, seconded by Board Member Vella, all in favor.

The applicant on the agenda this evening is Mago Watanabe, Ted Reynolds is here this evening to represent them. They are asking for a height variance at 113 Christie Court. Chair Loete states this is a big ask, the Board has never been asked a variance of this extent. The property is at the end of a heavily wooded street, at the very end of a cul-de-sac. There is no harm to any public view.

Chair Loete adds by NYS law this Board is not obligated to rule on precedent. Chair Loete states in New York State there is a body of case law whereby attorneys have argued that a variance was given to other parties. Therefore, if that variance is not given to the party that the attorney represents that attorney's client is being in their right of equal protection constitutionally court protection is being violated. Chair Loete states we need to be cognizant of precedent in this case and other cases. Chair Loete states 13 feet is an extreme ask.

Chair Loete adds, the other Board Members agree in the opposition of a 13 feet variance. Chair Loete states he would be willing to offer a compromise whereby they grant a conditional variance, cutting the allowable height variance in half to 5 and a half feet.

Board Member Lynch states just thinking of this as a storage facility/garage if that's the case , maybe another option would be to consider a larger one story structure. That would be less of an eyesore , and less visible from the neighboring property , which is an option to consider. Board Member Lynch states the other alternative would be to try and get it as low as possible , looking at the slope of the roof, it could possibly be cut in half , and perhaps get it somewhere closer to a 6 foot variance.

Board Member Williams states the homeowner has already been granted the pool/garage variance that is next to the primary residence. Board Member Williams states there are already multiple accessory structures on the property. Those accessory structures include the pool house, the garage, which is now a residence, and the tree house, which is 34 feet high and 12 by 16 ft wide, and there is also a shed on the property. Board Member Williams states with the addition of the garage/storage space, including a three-car garage, it looks more like a primary residence than a storage facility. Mr. Reynolds states the applicant has five cars, which the garage would house, and he also plans on moving here full time.

Chair Loete states with a lot this size, according to zoning code, you are allowed three accessory structures , and currently there are four on the property. Board Member Lynch

states ZEO Grant stated the pool house is no longer an accessory structure, therefore there are only two accessory structures on the property. There is a discussion amongst Board whether there are two or three accessory structures on the property. Mr. Reynolds states the existing shed on the property will most likely be gone, with the new addition of the garage/storage space.

Board Member Vella states he agrees with the compromise, but not as a conditional verbal compromise. He states in regards to the shed, he states on the plan it should state all the things that are going to happen to make this conform in order to give us a variance. Board Member Vella states to come back with a plan that shows the roof at a different height and the removal of the structure that's there now , it wouldn't be legal otherwise.

Board Member Shiner adds, he feels its best for everyone and protects everyone if its on paper, drawn. Chair Loete states they feel to deny this application regarding a height variance. Chair Loete states the question now is to issue a conditional variance stating that the builder can compromise at five and a half feet variance, or deny the variance and ask the owner to make a new variance application . Board Member Lynch states if it a storage shed and a garage, it could possibly be one story, and you can achieve the slope that you would like with a one-story structure. Or another option would be to lower the second story pitch and go as shallow as your comfortable with.

Chair Loete states the Board feels to deny the 13-foot variance and give the applicant the option to come back with a variance the Board would be more comfortable with. Board Member Williams states we are trying to work with you, if the applicant is stating he needs this building for storage, they as a Board must try and work within the code. Chair Loete makes a motion to deny the variance, seconded by Board Member Vella, roll call vote as follows:

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

Chair Loete states if the applicant resubmits a new application for a new variance, that would be best in order to achieve the desired variance. ZEO Grant states upon a new application and drawings, it would be the board's decision to waive the fee associated with the new application.

Chair Loete states he has no issue with waiving the fee for a new application. Board Member Lynch wanted to establish how many accessory structures there currently are on the property. They include an 8 by 8 shed, a tree house, and a swimming pool, therefore there are three , so that would make this storage space a fourth. ZEO Grant states the pool house,

is no longer an accessory structure, leaving the property with two dwellings. The shed on the property did not require a building permit, making it not an accessory structure. Chair Loete states according to code, it would be an accessory structure, but the applicant has already stated, the shed will be removed, upon receiving a variance needed to construct a new garage/storage space.

ZEO Grant states when there is a vote regarding a new application, the Board can add conditions to any resolution that is passed. Board Member Williams states if the applicant submits a new application with the new drawings that show it's within the code, or only needs a slight variance that this board can meet within a time frame that suits the applicant. ZEO Grant states that would be a question for the town's attorney, and Supervisor Disclafani.

Chair Loete states he doesn't want to interfere with the construction schedule, the Board is trying to determine the best solution, for everyone. Board Member Vella ask's if the applicant thinks they will be breaking ground that quickly? Mr. Reynolds said yes if they were to receive any approvals, they would start work asap. ZEO Grant states would it not be appropriate for the Board to make an amendment and leave the public hearing open for another 30 days , and if the applicant can provide the paperwork in two weeks , the public hearing will stay open, and that may be the best solution.

Chair Loete makes an amended motion to rescind the earlier vote pursuant to the applicant providing new paperwork for a new variance within 10 days of the next meeting. Chair Loete makes a motion to rescind the previous decision to deny the applicant's variance as submitted, seconded by Board Member Vella. Chair Loete makes a motion to keep the public hearing for Mago Watanabe 113 Christie Court, seconded by Board Member Lynch, all in favor. Chair Loete makes am motion to keep open and re-open the Public Hearing for 113 Christie Court, on October 18th at 6:45, seconded by Board Member Vella.

Communications:

Old Business:

Other Business:

ZEO Grant states there is someone interested in purchasing Fichtner Terrace in Shandaken. The property currently has 3 existing trailers, and the potential buyer would like to be provided with a map showing 17 mobile home lots, would he be allowed to install 14 additional mobile homes.

ZEO Grant states her interpretation of the code states no, this is not doable. It is a pre-existing non-conforming lot, states ZEO Grant, she states it does not have an approved site plan, to her knowledge so she will treat it as a pre-existing non-conforming lot, and cannot be expanded by more than 50 percent of the current use. Which will not allow for 14

additional mobile homes. Chair Loete ask's if they would like to put up mobile homes, or modular units ?

ZEO Grant states they must be mobile homes as defined by the code; they cannot be on a foundation. ZEO Grant states there was mention of a map, but even if the map was drawn up prior to the code being adopted , from the date of adoption of the code, they have five years to install the mobiles , and after those five years it's a cessation of use and since it was never started, it cannot start now . ZEO Grant states if its not a pre-existing non-conforming lot, that opens a whole different issue. If it became a mobile home park after 1976 and there is no associated site plan that's a whole different issue. ZEO Grant states she is under the impression it a pre-existing non-conforming use. ZEO Grant states if the potential buyer and land owner disagree with her interpretation of code, an application to this Board for your interpretation of code would be appropriate.

Adjournment:

There being no further business before the Board, a motion was made to adjourn the meeting by Chair Loete, seconded by Board Member Vella, all in favor. Meeting adjourned at 7:41 pm. These minutes were prepared by the Zoning Board of Appeals Secretary Olivia Amantia