



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

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**Town of Shandaken Zoning Board of Appeals
Minutes for Regular Monthly Meeting
August 19th, 2026**

Call to Order

The regular monthly meeting was called to order with the pledge of allegiance at 7:00 pm.

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

Gary Gugliemetti	Present
Allen Vella, Chair	Present
Frank Cuevas	Present
Ruby Huber	Present
Jeremy Bernstein	Present

Roll Call Summary: 5 Present, 0 Absent

Others Present: Zoning Enforcement Officer Grace Grant, Howard Widensky

Minutes:

Board Members reviewed the **July 15th** meeting minutes, with one correction.

Motion by: Bernstein

Seconded by: Cuevas

Vote: All yes- Motion Carried

New Business:

Phoenicia Trail Homes LLC 5.14-1-6.110

Howard Widensky owner of 43-51 Fichtner Terrace is here this evening to present. Mr. Widensky would like to convert the existing trailer park to a multi-use property; the property consists of 18.1 acres. The property has two wells, and the owner is currently working with an engineer and the UCDOH. Mr. Widensky states there is existing septic, water, and electric. Mr. Widensky would like to replace the existing trailers with modular homes on the property. The property's previous owner had a plan to put 15 trailers on 15 lots, there are currently 3 trailers, two of which are occupied.

Mr. Widensky was previously in front of the Town Board, Mr. Widensky states that the Town Board denied the request citing zoning code issues. Mr. Widensky states that the Town Board advised him that only manufactured homes could be placed on the property, not modulars. Mr. Widensky states his goal is to change the use of the property to create more rentals and keep the current residents in their homes. Mr. Widensky states the proposed modulars would be fair market value. Mr. Widensky states that manufactured homes are not as well built compared to modular homes, and that individuals would have a better place to live overall.

The ZBA felt that town council should be contacted to discuss the matter, and to find a resolution since they cannot make a decision this evening. **Chair Vella makes a motion** to contact the town's attorney regarding this matter, **seconded by Board Member Cuevas**
Vote: All yes -motion carried.

Old Business:

169 Rt 214 LLC 13.12-2-39

ZEO Grant states per the denial of the variances that the applicant applied for at a previous meeting, the reasons for said denial be included in these meeting minutes. The reasons that Chair Vella stated are attached in these meeting minutes.

Reasons for ZBA denial of 169 Rt 214 LLC variances.

Response to the denial of the Area variances requested for 169 Rt.214 from the majority of the board members.

After reviewing the application for three area variances, we were unable to approve the requested relief. Our decision was based on the standards required under the Town of Shandaken Zoning Code and the legal criteria for area variances under New York Town Law.

Substantiality of the Requested Variances

The setback reductions sought —9 feet in the front yard, 7 feet in the rear yard, and 32 feet in the side yard—are substantial, particularly the 32-foot side yard variance, which reduces the required 50-foot setback to only 18 feet. Under ZR §116-40.O.2, setbacks for hotel, motel, or lodge uses in the HR district are doubled specifically to ensure adequate separation between commercial lodging operations and neighboring residential properties.

Although the encroachments are pre-existing, the law requires us to evaluate the variance in the context of the proposed use, not merely the existing condition. Because the applicant was seeking to convert the property to a more intensive commercial lodging classification, the magnitude of the setback relief becomes materially significant. Granting variances of this size would undermine the protective intent of the doubled setbacks and would not satisfy the requirement that variances be minimal and necessary.

Impact on Neighborhood Character

The HR – Hamlet Residential district is primarily a residential zone. While hotel/motel/lodge uses may be allowed by special permit, they must be compatible with the surrounding neighborhood and must not create an undesirable change in character.

The applicant currently operates the property under a Short-Term Rental License, which allows transient occupancy within the existing residential framework. However, a Hotel/Motel/Lodge Development is a distinct commercial use. It typically involves increased traffic, more frequent turnover of guests, commercial signage, and operational impacts that differ from residential short-term rentals.

When we weighed the benefit to the applicant against the potential detriment to nearby properties —as required by Town Law—regardless of current ownership, we found that converting this parcel into a formal commercial lodging establishment, combined with the substantial setback reductions requested, would produce an undesirable change in the character of the neighborhood. The HR district's residential nature, along with the proximity of neighboring homes, makes the commercial intensification incompatible without full compliance with the required setbacks.

Self-Created Hardship

The hardship the applicant may cite would arise from the fact that the existing buildings do not meet the setbacks required for a hotel/motel/lodge use. However, the property was purchased and operated specifically as a short-term rental business, and the current request seeks to formalize that business as a hotel use.

Under the Town's variance guidance, a hardship must relate to the physical characteristics of the land and cannot be self-created. Here, the difficulty results from the applicant's decision to pursue a commercial lodging classification on a parcel that cannot meet the required setbacks for that use. While New York law does not automatically bar relief for a self-created hardship, it is a factor that weighs against granting the variances—especially when combined with substantial setback reductions and neighborhood character impacts.

For these reasons—the substantiality of the requested variances, the adverse impact on neighborhood character, and the self-created nature of the hardship—we denied the application. Our determination was based on and consistent with the standards set forth in the Town of Shandaken Zoning Code and the legal criteria governing area variances under New York Town Law.

We also want to acknowledge that while some of the public comments we heard about this application were emphasizing that they do not think this property should be allowed to be a hotel, we understand that that determination is not what was before the ZBA. The application before us was an area variance, not a special use permit. However, the area variance size in this case was determined by the proposed hotel use, so while we were not being asked to determine if this parcel should be permitted to be used as a hotel, we were being asked to determine if a hotel should be allowed these setbacks. There would be no need for an area variance if the property was not going to be used as a hotel.

We regret that we did not provide the applicant with this information at the time of the vote, and apologize for any distress or confusion that caused.

Ruby Huber, ZBA Member
Frank Cuevas, ZBA Member
Allen Vella, ZBA Chair

Adjournment:

Motion by: Bernstein- Adjourn Meeting

Seconded by Huber

Vote: All yes- Motion Carried

Meeting adjourned at **8:00 pm**

These minutes were prepared by the Zoning Board Secretary Olivia Amantia.