



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

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## **Town of Shandaken Planning Board**

### **Minutes**

**June 11<sup>th</sup>, 2025**

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

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

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

**Roll Call Summary:** 5 Present, 2 Absent

**Others Present:** Zoning Enforcement Officer Grace Grant, CEO/FPA Donna LeMoine, Mike Moriello,

### **Minutes:**

Chair Rabuffo asks the Board if they have had a chance to look over the previous month's meeting minutes. With no corrections just a comment that they are excellent, Board Member Shiner makes a motion to approve the minutes, seconded by Board Member Welton; all in favor.

### **Old Business:**

#### **Perpetual Space LLC 25.3-1-11 Site Plan Review**

The first order of business on the agenda is Perpetual Space LLC. Mike Moriello is here this evening to represent the applicant. There is a discussion pertaining to the letter that the

project's team has received from the neighbors of the Leeway, regarding their proposed event tent. The direct neighbor and other residents have expressed their opposition for the project including concerns about the noise, their quality of life, and they feel the project is not allowed per the Zoning Code. Mike Moriello, representing Leeway, states he reached out to the law firm that send the letter on behalf of the neighbors, but has not received a call back. Mr. Moriello states he feels the letter is wrong, he thinks that all of the lawyers and neighbors and the team at Leeway should all sit down to discuss the project, and the concerns of everyone. There have been suggestions such as noise monitors, a limit on events, screening, etc. Board Member Kalb ask's Mr. Moriello if he will reach out to the lawyer again? And he said yes, he would.

Chair Rabuffo states that he has spoken to the Town's attorney regarding the project, and has a summary of what was discussed between him, the zoning enforcement officer, and the building inspector. Chair Rabuffo states while the tent(s) used during the events will come taken up and down between events, the use will not be considered "temporary." Chair Rabuffo also states in area and bulk regulations if the use is considered an "accessory use or structure incidental to the permitted or special permit use and located on the same lot" it could be allowed as section 116-58 allows for the extension of a pre-existing non-conforming use if said extension/enlargement is no more than 50% of the existing use. Chair Rabuffo refers to section 116-4 sub section B, where "accessory use" is defined, there is a discussion amongst the Board referring to that in the code book. Chair Rabuffo informs the applicant that they will have to apply for an interpretation of the definition of "accessory use" and 116-58, to determine if the proposed use falls within the code definitions and parameters before the applicant can move forward with the Site Plan review.

The Board also informs the applicant that if the ZBA decides that the proposed use is not "accessory" to the pre-existing/non-conforming use, the applicant will have to apply for a Use Variance before they can move forward with the Site Plan review.

There is a discussion amongst the Board regarding tents, and how the applicant states the tents will be temporary. Board Member Shiner states according to the code book tents are defined as a structure. Board Member Shiner states there's no such thing as a temporary structure, you cannot extend 50 % of the parcel, you cannot move parking, etc. Board Member Shiner adds the purpose of allowing changes to non -conforming properties is so it will not affect others, which is not the case here. Board Member Shiner also states that there is nothing in the code relating to outdoor wedding venues, and that this project would need to go before the ZBA if they want to make this big of a change to the property. Board Member Shiner explains that this project would need to go before the ZBA, then come back to the Planning Board. Board Member Shiner adds this approval would only be granted if this project doesn't affect the character of the neighborhood, and this project certainly affects the character of the neighborhood, hence the letter the Board received from the lawyer of the neighbors of the Leeway, who will be deeply negatively impacted by this proposal.

Board Member Shiner adds that if this project were to get approvals from the ZBA, there will be no guarantee that the Planning Board will approve the project, once it comes before the Board again. Board Member Shiner also adds that he does not feel that the site plan is ready, he states the dimensions of the tent are missing, and that several changes have been made since the first submission. Board Member Shiner adds that parking, lighting, etc. is missing from the site plan, as well as the septic information. There is also a question of the bathrooms and whether or not they are connected to the septic, since they are outdoors. Board Member Shiner states that the bathrooms will have to be emptied after each event, and he didn't see any dumpsters on the site plan either.

CEO/Floodplain Administrator LeMoine states that she has an issue with any structures/tents being in the floodway. They currently do not have an elevation certificate, or a no rise certificate both of which would be required. Ms. LeMoine adds that any tents could impact the property in the event of a flood. FEMA regulation number 3 prohibits anything in the floodway, including fill, new construction, or development within the regulatory floodway. Ms. LeMoine adds that flooding in the past, shows that the area/motel has been impacted in the past from the flooding in the area. Ms. LeMoine states that gravel is not allowed in the driveway, the entire parcel is in the floodway, and who's responsible if something was to happen, there could be a disaster. Ms. LeMoine adds that she needs to know where the septic and outdoor bathrooms are located, porta-potties are not allowed in the flood way, and Ms. Lemoine adds that she doesn't think "weather monitoring" will work, as the Leeway stated as part of their emergency evacuation plan. Ms. LeMoine's biggest concern is the existing bathroom is elevated, but it is in the floodway. Since the owners currently do not have a no rise or elevation certificate, there's no telling if what is there, will float away in the event of a flood. She asks the applicant to provide an elevation certificate as well as a Certification of No Rise before determining if a FEMA variance will be required.

Board Member Shiner adds that he has been on the Planning Board for eight years, and he is pro development, and has not been against projects, but feels that questions that have been asked pertaining to this project have been given naïve answers. Board Member Shiner states for example, regarding lighting in the tent, the Board was told that they will be using extension cords. He adds that when asked what they'll do in the event of rain before an event at the Leeway, that the solution would be to cancel the event, which Board Member Shiner feels is a naïve answer. Board Member Shiner adds that he worked in the wedding business for 40 years, and is familiar with these types of situations. Board Member Shiner adds that there are many factors to consider at an event, including number of guests, trucks with food caterers, a band or DJ, and the Leeway has limited rooms, therefore the majority of the guests will have to stay off-site. This also raises the concern of guests drinking, and driving.

Mr. Moriello states that the Planning Board cannot decided whether the event tent is a permitted use, that the Planning Board does not have the authority to do so. Mr. Moriello

stats that it is up to the ZEO, and the CEO to make a decision. Mr. Moriello states he will request an interpretation of the code. Mr. Moriello states that he will not recommend for his client to get a variance from the ZBA.

ZEO Grant states what variances would they need if they were to go before the ZBA? Ms. Lemoine states that if the applicant obtains a no rise cert. then they will not need a variance for the use or the tents in the floodway. If they do not obtain a no rise cert, they would need a variance for being in a floodway. Board Member Welton ask's who issues the certificate? An engineer would, and a surveyor would issue the elevation certificate. Chair Rabuffo states the bathroom outside in the floodway is an issue, parking is also an issue. Chair Rabuffo ask's what the UCPB recs were? It is noted this was several months ago when they gave their recommendations, but one of them was that the bathroom is not in the floodway. Mr. Moriello ask's if he can have a copy of the letter from the town's attorney to address the concerns. Chair Rabuffo states they have nothing to do with alcohol on the premises, but they are in terms of, the accessory use. Such as floodway development, tent specs, parking surface, which isn't identified. Also, what type of tent, the material, and a lighting plan. Board Member Welton states at a previous meeting, an evacuation plan was discussed, and it was said that if there are cars on the site, they will not be prioritized, and could potentially be left in the floodway, which is a potential problem. Board Member Kalb adds, if there is a flood, everything will be in the floodway.

Chair Rabuffo states that this project will have to go before the Zoning Board of Appeals, before the Planning Board can act any further.

#### 54 Main St LLC 14.13-3-6 Special Use Permit/Site Plan Review

The next order of business on the agenda is 54 Main St LLC. Andrew Wright the project's architect is here this evening to represent the applicant. The applicant was previously before the Board for their public hearing at last month's meeting. The UCPB had some recommendations for the project, that included obtaining a flood plain development permit. They are currently awaiting an elevation certificate from Don Brewer, CEO LeMoine stated she would like to come and do a site visit as well due to the building being in a floodplain, the building may need to be elevated. ZEO Grant states there is still not a sign on the site plan. Mr. Wrights informs the Board that there has not been a decision made whether or not the owners will reuse the existing sign, or erect a new one. Mr. Wright states there will be no utilities in the basement, or electric. Chair Rabuffo states they'll be in the existing footprint, and it will be an interior renovation. With no other questions or comments from the Board or for the applicant, Board Member Welton made a motion to approve the project, seconded by Board Member Kalb, roll call vote as follows:

Cliff Rabuffo, Chair	Yes
Joanne Kalb	Yes
John Horn	Absent

Allen Shiner	Yes
Sam Spata	Absent
Vivian Welton	Yes
Juan Rosales	Yes

#### Michael Mills 13.9-1-10 Special Use Permit

The next order of business on the agenda is Michael Mills. Mr. Mills is currently selling his home in Shandaken, and there was a garage built with an apartment, that is not reflected on his current certificate of occupancy. The certificate of occupancy needs to reflect the garage, with the apartment & bathroom in order for the house to be sold. Board Member Rosales did a site visit at Mr. Mill's property, and saw the apt over the garage with the bathroom. There are also several pictures on the listing. With no further questions or comments, a sketch plan conference was sufficient, for the Board. Board Member Welton made a motion to approve the application, seconded by Board Member Kalb, roll call vote as follows:

Cliff Rabuffo, Chair	Yes
Joanne Kalb	Yes
John Horn	Absent
Allen Shiner	Yes
Sam Spata	Absent
Vivian Welton	Yes
Juan Rosales	Yes

#### **Other Business:**

Sam Umhey is here this evening as a concerned citizen, regarding the proposed Verizon cell tower in Phoenicia that will be his next-door neighbor. Mr. Umhey expressed extreme opposition for the tower. Reasons include, devaluing his property, radiation, visual impact, his family, etc. The Board explained to Mr. Umhey that Verizon is not on our agenda this evening, and he'll want to attend the Zoning Board of Appeals meeting next week, when the applicant is present, and he can express his opposition at that meeting during the public hearing.

#### **Adjournment:**

All the evening's business having been discussed; the board adjourned at 8:24 on a Kalb/Shiner motion. All in favor.