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**Town of Shandaken Zoning Board of Appeals
Minutes for Regular Monthly Meeting
August 18, 2021**

The regular monthly meeting was called to order by Board Chair Loete at 7:08pm with the pledge of allegiance.

Roll Call by Secretary Sarah Pellizzari, with attendance recorded as follows:

Mark Loete, Chair	Present
Gary Guglielmetti	Present
Elizabeth Kneissl	Present arrived after roll call
Henry Williams	Present
Allen Vella	Present

Roll Call Summary: 5 Present, 0 Absent

Others Present: Howie McGowan-Code Enforcement Officer, Glenn Ford applicant, Jeremy Bernstein, James Armentia, Kevin Vanblarcum, Rob Stanley, Marni Andrews, Catherine Cortex-Andrews

Minutes:

The Board reviewed the minutes from the previous months meeting, having no corrections a motion was made by Board Member Vella to approve the minutes as written, seconded by Board Member Gary Guglielmetti. All in favor.

Communications:

Old Business:

New Business:

Glenn Ford has submitted an application for area variances to add an addition to 7379 St Route 28 Shandaken, NY 12480. The current room size is 24.4 ft X 26.4ft and the addition would make it 24.4 ft X 38.4 ft. The applicant is asking the ZBA for an 18foot variance to his side yard. The address of this applicant is zoned Highway Business which CEO Mcgowan states is a 40ft set back on side yards. Board Member Williams asks for a site plan. Mr. Ford explains his site plan architect had a death in the family and could not finish it. He does in fact have a survey. He also submitted some construction drawings to show the work that is being done. The board doesn't see an issue with this variance. With no other questions for the applicant a motion is made by Board Chair Loete for a Public Hearing to be scheduled April 21st at 7pm. Board member Guglielmetti seconded the motion.

All in favor

Chair Loete makes a motion to refer the application to The County Planning Board. Board Member Williams seconded the motion.

All in favor

Other Business:

Jeremy Bernstein owner of The Pines located in Mt. Tremper on Route 212 has received a violation from CEO Mcgowan for noise complaints. He has been directed by CEO Mcgowan to apply for a Use Variance since he has outdoor music in a residential area. Jeremy states he opened his restaurant 4.5 years ago, and has been doing music the entire time. He states its apart of his liquor license and insurance. He states when he opened The Pines Warren Tut was the CEO, and had gone before the Planning Board and reviewed the business. It was told to Jeremy there was no permit needed since TZO's had operated the same up until 2014. Jeremy feels that the Pandemic forced them outside, and he talked to neighbors before hand and heard all their concerns. He states the music is done before dark and one day a week. He states is a family environment, for the neighborhood to enjoy each other. He goes on to say that the Shandaken police have never been called. Once he received his certified letter from CEO Mcgowan about the noise complaints he FOILED his file, and all the complaints he claims were solicited and dated a month after he received his certified letter from the Code Enforcement Officer. He claims CEO Mcgowan also met with Town Board member Peter Discifalni behind closed doors about The Pines music.

CEO Mcgowan states that he was at a gathering when a group of people on Miller Rd near The Pines began explaining to him the loud music that they hear each weekend. He encouraged them to file a formal complaint at the office. Which he states he doesn't feel is solicitating complaints. He states he explained to people that there is a process, and when Jeremy and him had a meeting that he should go for a Use Variance with the ZBA. Chair Loete remarks that issuing a Use Variance to operate as a night club doesn't in fact help anyones issue in regard to sound. It is also brought up that there is no sound meter in Shandaken to determine what decimal or decibal the bands playing are at. The Zoning

Board reads the definition of Nightclub, and although they agree it is a bit outdated that The Pines does in fact fall into what a Nightclub is, and is allowable if it is an integral part of your business. Which Jeremy stated earlier.

Supervisor Stanley as a member of the audience makes the point that after Jeremy met with CEO McGowan that Jeremy stopped by his office and the violation was discussed. Supervisor Stanley states he knows for a fact CEO McGowan had a conversation in recent months with the head of the Police Department that The Town of Shandaken has no one certified to do sound decibel testing, and it in fact has to be done at the property where the complaint is coming from. He states there is no hard evidence or proof of any complaints, there are no photos to attest to parking issues, and that there are no phone records of complaints with the police department. He states that the violation was sent with no hard evidence. Supervisor Stanley agrees that the music is an integral part of the business. Supervisor Stanley also states the comment made by CEO McGowan to end the music by 7pm is reasonable. Supervisor Stanley states referring The Pines to get a Use Variance isn't necessary because he was already told by The Planning Board determined in the past no permit was necessary because it is operating as the same as TZO's.

Jeremy gives the Board a list of letters from neighbors in favor of his music. Marnie Andrews a member of the public in the audience asks to speak. She states she came to just hear what was going on, but is upset because it was her understanding this wasn't a public hearing. She however feels it's only fair she be heard. She claims she wasn't solicited to complain. That in fact the music is loud and she doesn't like it. She can't close her windows because of central air. She feels that having music indoors is ok, but to ignore how loud it is outside isn't fair. She claims that even if it was turned down a bit would be better.

The Board states that Jeremy doesn't have an application in front of them to review, and it seems to be that the music is integral to his business which makes a nightclub allowable in the Code Book. Therefore, there aren't any decisions for them to make tonight.

It is their hope he can work out the sound issue with his neighbors.

Adjournment:

There being no further business before the Board, a motion to adjourn the meeting was made by Chair Loete, seconded by Board Member Guglielmetti. All in favor. Meeting Adjourned at 8:27pm.