



Supervisor: (845) 688-7165  
Police: (845) 688-9902  
Town Clerk: (845) 688-5004  
Justice Court: (845) 688-5005  
Assessor: (845) 688-5003  
Assessor Fax: (845) 688-5708  
**ZBA/ZEO/Planning: (845) 688-5008**  
Highway: (845) 688-9901  
Fax: (845) 688-2041

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

[www.shandaken.us](http://www.shandaken.us)

P.O. Box 134, 7209 Rte. 28, Shandaken, NY 12480

**Town of Shandaken Zoning Board of Appeals  
Minutes for Regular Monthly Meeting  
May 18, 2022**

The regular monthly meeting was called to order with the pledge of allegiance at 7:09 pm.

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

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

**Roll Call Summary:** 4 Present, 1 Absent

**Others Present:** Zoning Enforcement Officer Grace Grant/ Flood Plain Administrator Rob Stanley

**Minutes:** Chair Mark Loete begins the regular monthly meeting, with a public hearing for Durga Bernhard at 6:21. Ms. Bernhard is here for an Area Variance at 203 Broad Street Hollow Rd. Ms. Bernhard is looking for an Area Variance to turn her garage into an apartment for her daughter and her boyfriend. Board Member Williams states the garage is two feet off of state land, half of the garage will be converted into a living space for her daughter, it will have a septic, waste removal, and the garage already has electricity. It will be a matter of converting half of the garage into a living space. Chair Loete states the only issue being is this is the same footprint; you're not building out any decking or anything like that. The applicant states there's not going to be any change outside at all, except that one garage door will be replaced by a wall. Chair Loete states he thinks a variance is not required, he states there's no impact on public access to the public right away, there is no change to any frontage on your property. Chair Loete states he appreciates the applicant coming in front of the zoning board to get street legal. Chair Loete addresses the board, and states that they are in an agreement that the applicant does not need the variance. The applicant ask's if she still needs to come to the next Planning Board meeting. Former

Building Inspector Sarah Pellizzari states yes, she does need to attend the next meeting, because of the variance is a change of use it sits within the 10 ft, because its changing into a structure of living, the Planning Board informed the applicant she needed a variance, and the board doesn't want any conditions on their special use permits anymore, so they wanted her to see through the process, and get an area variance, and then they can decide. Therefore, the applicant will need to attend the next Planning Board meeting on June 8<sup>th</sup>. Board Member William's ask's what is the variance for? Mrs.Pellizzari states its because the applicant is too close to state land. The board states it is an existing structure, Mrs.Pellizzari states because she is changing the garage, into an apartment/living space, she will still need the variance. Chair Loete states if that's what the Planning Board is asking them to do, they could easily grant the variance. Chair Loete states they can vote to allow that two-foot variance, since it is a change of use. Mrs. Pellizzari who was still the Building Inspector/Code Enforcement Officer, when Mrs. Bernhard first came to the office with her plans; states. If the applicant doesn't meet the setbacks, it doesn't matter what it was, because the use has changed. She is now currently changing its use in 116-40 to the entire section in special use permits, they had to make sure first that she on the residential zone that she in, and that she met all of those setbacks .Mrs.Pellizzari states from the code book 116-40, the Planning Board had to make sure that the applicant was in the residential zone that she in, and that she met all of those setbacks, but she did not meet the one corner , so the Planning Board advised the applicant to go to the Zoning Board , and after this meeting, the applicant will attend the next Planning Board's meeting in June. You cannot have a structure ten feet within your property or you need a Variance. Chair Loete makes a motion to allow a six-foot variance on the north side of the property to grandfather in the existing structure. Board Member Vella second's the motion, all in favor. Ms.Bernhard's public hearing came to a close at 6:30.

The next order of business is a public hearing for APCR LLC. Board Member Vella made a motion to open the public hearing at 6:30, Chair Loete seconded the motion, all in favor. Mrs.Pellizzari who is representing APCR LLC, states in 2018 a Site Plan Review was done for this commercial property with the Planning Board. And in that process, and on their site plan review checklist, number fifteen states in signage, they have to define the height the size, and the location. After being approved Mrs.Pellizzari states the owner came to her when she was still the Town of Shandaken Code Enforcer to get a 48 sq ft sign, which is outside of the zoning district. Cluster Development is the only place that you can have a large sign equally 24 sq ft on your building. She states at the time she was shown that the location of the sign is off of the building, and they showed her at the time the site plan where the sign was located that had been approved by the Planning Board. She states commercial property can have 24 sq ft, but this individual was approved for three commercial properties and two luxury apartments, and they would like 48 sq ft, Chair Loete ask's if there are three commercial properties in one building? The response is yes. Board Member Williams states its highway business, Mrs. Pellizzari states whether its highway business, or residential all of them have the same square footage of allowable signage. Board Member Williams states no, with highway business, the square footage is attached to the building and 24 sq ft attached to the building. Mrs. Pellizzari states the Planning Board approved the sign's location off of the

building and it says on the site plan that's signed by the Planning Board, and approved in that resolution in 2018. She states where the sign sits now isn't for question, because it's been approved. Board Member Williams ask's the location is approved, but not the square footage of the sign. Mrs.Pellizzari states the applicant is now ready to put up a sign for his business which is a local business, she states the argument being there are three commercial business, technically each one gets 24 sq ft. To only ask for 48 is a fair shake. She states when she was the code enforcer, she had contacted the DOT, for that mile marker because it's there right away, and they okayed 55 ft for that sign. She states it will be 55 ft off the center line, and this location has been approved on the site plan, its square footage of the signage is what they're asking the variance for, and to know the topography it's a ditch down. She state's she's aware there was a discrepancy last time she was before the board, being a 13 or 16 ft post, but three feet of that is in the ground. She states the sign sits, three feet off the road, and down 55 ft the center. She states there are three commercial properties each with four square ft, as well as luxury apartments, that are long term rentals, that house local residents. By law their address and the lighting are downward lighting, dark sky compliant. Board Member Williams states when this was addressed there was to be no lighting on the sign. She states the lighting will be underneath, if the post is at the top the light's will be downward. Chair Loete ask's if there is any public comment. Barbra Mansfield owner of Phoenicia Soap Co. LLC addresses the board. She states there have been several people slowing down in that area, to look for what may be in the building, because she has a sign on the glass on the building. She states she feels it would be safer to have clear signage from the road, that's comparable to other signs in the area. She states she hopes the Board will consider the Variance. She states her business is local and has been in business since 2015, this is her storefront and it would be very helpful. Chair Loete states isn't their job to discourage or impugn on any business activity, but rather to encourage, inform, and empower the business activity. Chair Loete states he does not have an issue with the signage on the road removed from the building, the issue is the height and the width. He states the problem specifically is that, as you well know, economic opportunity in this area is extremely limited. The majority of the land is either Catskill State Park, or Forever Wild, or the NYC Watershed, and one of the very few economic resources we have here, is our easy access to wilderness. Part of that easy access to wilderness is the view shed, people driving around and looking at their surroundings. He states the problem with these signs, and regulations about signage in the first place is so that signage doesn't impugn on the view shed, that's why there isn't a lot of billboards up and down rt 28, and the only billboards that do exist are on private land. He states the issue is the sign is too big, although he agrees, there should be signs alongside the road, so they can identify your business, and acknowledge that there is a business there. Chair Loete states he doesn't see why the sign, needs to be 16 ft high, Mrs.Pellizzari states, it isn't 16 ft high, it will go 4 ft into the ground, whatever the code states. Board Member Williams ask's if she can tell the board exactly how high the posts are going to be, she says 3 ft. Mrs.Pellizzari states what the client is asking for is 48 sq ft of signage. Chair Loete states they would like the sign to be lower. Mrs.Pellizzari states the sign will be three feet in the ground, three feet down off the road and 55 center. She states she knows the difficulties of advertising a business on Route 28. She states she doesn't know how you can advertise three businesses with 24 sq ft. She states whatever the

building inspector decides she will comply with, and that the post comes in at 16 ft. Board Member Williams states, he feels the issue with the board is 48 sq ft because commercial light industry says you can have a sign 48 sq ft, or unattached to the building which is 48 sq ft, as well as a height variance of 15 ft. The board states it is highway business. Chair Loete states he doesn't have a problem with 48 sq ft, he has a problem with the height. Board Member Williams states Mrs. Pellizzari points out that the property goes down in the swell, and it levels out so no matter how high the sign is, it's going to lose three feet. She states it's a 16 ft post that, she'll give you four ft in, four ft down, we're left with 14 ft, that's 16 and they'll be going down 4 ft. Board Member Vella asks what the actual dimensions of the signs will be, she states there are four signs, all are four ft wide by eleven inches high. Board Member Vella states that are not what the drawings say, the drawing's say 8 ft by one foot four and a half. Board Member Williams states it was originally proposed at 16 and a half inches wide. She states the signs are all 4 by 11, the board states we should make a note of that since that is not what the drawings state. The board states their only concern is the sign being too big, as long as there are some restrictions on that they can go ahead with their plans. Chair Loete proposes a resolution limiting the height of the sign to 12 ft above grade, Board Member Williams seconded the resolution, all in favor.

The next public hearing is for Mcausland/Gustafsen, for an Area Variance. Board Member Vella made a motion to open the public hearing at 6:58. Carol Mcausland approaches the Board for an Area Variance at 172 Mt. Pleasant Rd. She states she was off on the side yard, which is next to her family's property. She states the difference is 18.89 ft, and the rear yard is the commercial. Her property is divided into two different lots the first being residential, and the one closest to route 28 is commercial, and she owns both lots, and it's in highway business. She states the Variance is for a lap pool which is 15 ft by 50 ft, it will be fenced in and safe. Chair Loete states there isn't an issue with the side variances, if the pool was built two feet on the property line of someone else's property that would be an issue, but since she has family on the property it poses no issues. Chair Loete states but the other issue is the crowding of the lot that it's on, and in regulations there is a fact in how much density you can put in one lot, and I think your exceeding that, so that would need a variance. Board Member Williams states both lots the applicant owns are highway business. Chair Loete asks why she would not put the pool on the lot next door, since it would offer much more room. The applicant states she would but to her she would love to just walk right to the pool, she has the kennel area as well. She states the electrical on her property needs to be adjacent to the pool itself, she also states she bought a pool cover that she needs to be standing where electricity is right where her garage is and you have to be able to physically see it to close it for safety purposes. Board Member Williams states there is only 6 ft from the pool to the other structure, and 6 ft to the kennel. She states she could move the kennel over, and to be careful of her new septic system, so she was thinking about moving it over, because the board informed her that she must have ten feet on each side, which she was unaware of. She states whatever needs to be done or changed she will adhere to, whether that is moving her shed or fencing. Chair Loete states there are a few issues with density, if it is over choked then that impedes the action of any first responders. She states that won't be an issue, and once Swim King dig's and puts in the pool, they put temporary fencing as they leave for their

own liability. She states she's already contacted the individual doing her fence, and she will be taking down the chain link and have it all nice and secure, and there will be access and availability. Chair Loete proposes a resolution allowing a 15 by 50 ft pool approving the variance of the setbacks on one side, and approving the two ft setback on the rear property, Board Member Guglielmetti seconded, all in favor.

The regular monthly meeting for the Shandaken Zoning Board of Appeals began at 7:10, with everyone rising for the pledge of allegiance. Board Member Vella made a motion to accept the minutes from last month's meeting with no corrections, Chair Loete seconded, all in favor.

**Old Business:** Chair Loete addresses a complaint from residents on 36 Route 42 pertaining to chickens becoming problematic. Chair Loete states concerning the complaints about the chickens, if the people directly affected by them want to come to the board, and give their testimony, there more than happy to listen to any new information, or concerns. But they have already ruled on the information that was already given to them, prior to this new concern. Board Member Guglielmetti states the chickens have been there for the last 60 years. Board Member Williams states the Code Officer issued a violation, and the chickens were removed and, they came before the Zoning Board of Appeals to state the fact that they have had the chickens continuously since 1945, or prior to the code. They then presented evidence, so there was no ruling or variance. Based on that information there was not a public hearing either. Chair Loete state he can't see changing the ruling, but if the individual's who are concerned would like to come and give information, they can do so at a future meeting, since they are not present tonight.

**New Business:**

. Jerry Sfora approaches the board for an Area Variance at 227 Beaverkill Rd in Mt Tremper. He is here for an area variance to extend his existing deer fence. The fence is 8 ft and he is looking to extend the fence to the end of Beaverkill Rd. The fence sits 1200 feet away from the property, which is state land on both sides of the property, there would be no impact on land surrounding the residences. The fence will be extended around the pool, it will be black twisted wire, which visually disappears. There is an existing fence already, and the applicant is looking to extend the fence around is pool. Chair Loete ask's if there is any human habitation that has direct line of sight to the property. The applicant states he is at the end of Beaverkill , and there will be no impact from anyone else. The pool is 16 by 75, the site is 120 by 50, the fence will go around the pool. All in favor. The applicant also states with the fencing around the pool a gate will be a part of it as well, he states the gate does cross the road so that component would be automatic, there's a sensor in the road so it'll open when a car passes, and close after. He states there's a human gate as well that will have a spring on it, there will be a gate on the property that includes the pool. He states you can walk from the house to the pool site. Board Member Vella states when the applicant obtains a permit for his pool, he will have to find out what the regulation is for the fencing around the pool. The board states the applicant's insurance company will have him put a 4 ft fence

around the pool. Chair Loete proposes a resolution that the existing pool be allowed to be fenced in at the height of 8 ft as length as needed. All in favor

**Adjournment:**

There being no further business Board Member Williams made a motion to adjourn the meeting, Board Member Vella seconded the motion, all in favor. Meeting adjourned at 7:34 pm. These minutes were prepared by the Planning Board Secretary Olivia Amantia.