

Town of Highland Planning Board
Minutes April 26, 2023.

Chairman Norm Sutherland calls the meeting to order at 6:00PM.

Pledge to the Flag

Chairman states the minutes are being recorded along with being videotaped.
Secretary takes attendance.

Attendance: Norm Sutherland
JT Vogt
Jeffrey Spitz
Steve Bott
Tim McKenna
Board Secretary: Monica McGill
Town Attorney: Michael Davidoff
Code Enforcement: BJ Gettel

Also in attendance: Laura Burrell (alternate)

Motion to approve the March 22, 2023 Meeting Minutes :

Motion: Jeff Spitz Second: JT Vogt

All in favor

Zoom has been suspended until further notice and although the meeting is being videotaped it will still need to be reviewed by the Town Board, and Michael Davidoff states that zoom will not resume until a more secure system can be found so to prevent what happened at the March 22, 2023 cannot happen again.

Camp Fimfo-Catskill (Kittatiny) has been removed from the agenda due to the National Park Service has not submitted any report to date.

As per the chairman and the board all Short-Term Applications are to include the 911 form from the American Legion to apply for address numbers.

Application #4-2023 Dustin Tomes - Short Term Rental (Public Hearing)

Motion to open the public hearing on Application #4-2023:

Motion: JT Vogt Second: Tim McKenna

All in favor

Mr. Tomes has presented the board requesting permission to run a short- term rental on his property located on 82 Yulan-Barryville Road.

The secretary reads the public notice published in the local newspapers.

There were (4) letters mailed to the surrounding neighbors and (4) returned.

Mr. Tomes was not present, and as per the code officer did not schedule a fire inspection.

The public hearing will be recessed until May 24, 2023 and the secretary will contact the applicant.

Motion to recess the public hearing on application #4-2023 Dustin Tomes – Short Term Rental:

Motion: Jeff Spitz Second: Tim McKenna

All in favor

Application #8-2023 Julius Robinson – Short Term Rental (Public Hearing)

Motion to open the public hearing on Application #8-2023:

Motion: Tim McKenna Second: Steve Bott

All in favor

The secretary reads the public notice published in the local newspapers.

There were (2) letters mailed to the surrounding neighbors and (1) returned.

Mr. Robinson owns property located at 3519 State Route 97 and uses the property seasonally as a short-term rental.

The board received a letter from the UDC (Upper Delaware Council) that states no action required. (Please see attached)

BJ Gettel Code Officer states that Mr. Robinson has passed his fire inspection.

No public comment.

Motion to close the public hearing on Application #8-2023:

Motion: JT Vogt

Second: Tim McKenna

All in favor

Motion to approve Application #8-2023 Julius Robinson Short-Term Rental with observance of quiet hours between 11PM to 7AM:

Motion: Tim McKenna

Second: Steve Bott

All in favor

Application #10-2023 Drew Villano – Short Term Rental (Public Hearing)

Motion to open the public hearing on Application #10-2023:

Motion: Tim McKenna

Second: JT Vogt

All in favor

Ms. Villano owns property at 186 Eldred-Yulan Road and uses the home as a short-term rental when she is traveling for work.

BJ Gettel Code Officer states that Ms. Villano has passed her fire inspection

Public Comment:

There were a few neighbors that attended and were confused at why they had received a letter in regards to this application, because they feel they are more than 500 feet from Ms. Villano's property. As per the board no decision will be made on this application until the secretary calls the county for a list of surrounding neighbors to compare to her list.

John & Barbara Donnadio spoke against the town allowing owners to use their properties as Air B & B's.

Tim Lumley asks that if there are any issues concerning the property, where would the problems be reported, and are we going to limit the number of Air B &Bs in the town?

Town Attorney Michael Davidoff states that the town will not limit the number of Air B & Bs in the town, and if any problems arise in concerns to a Short-Term Rental property that it be reported to the Town of Highland Code Office, who will then investigate the problem. If the code office finds that the town rules were not followed, the operating permit will then be revoked.

John Calamari asked if residents renting their home full time follow the same standards as short-term rentals. The board states that the rules and regulations for a short-term are much stricter than a home that is rented full time. The board also states that all short-term rental properties are subject to an annual inspection.

Application #11-2023 Kathryn LeSaffre (Red Cottage) Short Term Rental

Amanda Lahanko owner of the Red Cottage appeared for Kathryn LeSaffre. Ms. Lahanko is the advertising agency (Red Cottage) located in Grahamsville NY. Ms. LeSaffre's property is located at 99 Split Rock Drive and is two bedrooms, 1 bath and sleeps (6). This property is located in a private community and Ms. Lahanko will need to obtain a letter from the HOA granting permission to have an Air B & B.

Ms. Lahanko will also need to provide more detailed information on the maintenance plan as to garbage removal, snow removal, and an emergency contact that lives closer to the property.

A fire inspection will need to be scheduled with code office and be completed before the public hearing.

Motion to schedule a public hearing on Application #11-2023:

Motion: Tim McKenna

Second: Steve Bott

All in favor

Application #12-2023 Eve Fisher Special Use Permit

Eve Fisher and Andrew McGrath own a small cottage at 3432 State Route 97 and want to open a small wine shop.

They have a license from the NYS Liquor authority for the sale of wine only.

The renovations on the property are almost complete except for the decking. They are still working on the handicap access.

JT Vogt: Is the property used as a residence also? Eve Fisher: No.

Tim McKenna: Were work permits obtained from the code office? Eve Fisher: Yes.

Eve Fisher submits a document from the DOT(Department of Transportation) that states they have no issue with the driveway (see attached)

The board asks for the following before they can move forward on the application:

- Obtain 911 #'s (Ms. Fisher was given the form from the American Legion to obtain the #'s)
- Survey to show handicap parking.
- A site plan drafted by a licensed engineer.
- A check for \$2000.00 to be placed in escrow in regards to this project.
- Amended application for Special Use Permit / Site Plan Review

The board also explains that when they receive all of the following, all paperwork will then need to be submitted to the UDC (Upper Delaware Council) and the County Form 239M.

To be placed on the May 24, 2024 agenda Ms. Fisher will have to submit all required documents by May 10, 2023.

Application #13-2023 Fred Reiber Minor Sub-Division

Mr. Reiber owns property on the corner of State Route 97 and County Rd. 21A Barryville NY. The property is 3.6 acres and Mr. Reiber wants to sub-divide the property into three lots for the purpose to sell as commercial lots.

The secretary will send the application to the UDC (Upper Delaware Council) and the County 239M for review.

Motion to schedule a public hearing on Application #13-2023:

Motion: JT Vogt

Second: Steve Bott

All in favor

Application #9-2023 Shane Pearson & Courtney Crangi Special Use Permit (Cannabis)

Mr. Pearson and Ms. Crangi had presented the board with the initial application on March 22, 2023 where they were asked to obtain a licensed engineered site plan that will be sent to LeBerge Group (Town of Highland Consultant) and a check for \$3000.00 to be placed in escrow.

Norm Sutherland reads the response from the LeBerge Group (see attached)

Comments pertaining to the letter received from LeBerge Group:

Rubin Lindo of Grid Iron Ent Mgt Group, advocate for the applicant will accept Leberge's decision until May 11, 2023 when NYS will set forth new rules. He will then re-organize with his clients to move forward.

Motion to close the meeting:

Motion: Jeff Spitz

Second: Tim McKenna

Meeting adjourned

PROJECT COVER FORM

Form available at www.upperdelawarecouncil.org.

Participating towns and townships submit to: Upper Delaware Council, P.O. Box 192, Narrowsburg, NY 12764; or applications@upperdelawarecouncil.org.

Non-participating towns and townships submit to: National Park Service, 274 River Road, Beach Lake, PA 18405; or UPDE_Review@nps.gov

Date: 3/22/23 Project Identification: Julius H. Robinson STR

Project Class (Check One): Class I Project Class II Project

Description of Proposed Action:
Permit for an existing Short Term Rental property

Municipality in which affected property is located

- | | | | |
|---------------------------------------|---|--|--|
| <input type="checkbox"/> A. Hancock | <input type="checkbox"/> E. Tusten | <input type="checkbox"/> I. Buckingham | <input type="checkbox"/> M. Lackawaxen |
| <input type="checkbox"/> B. Fremont | <input checked="" type="checkbox"/> F. Highland | <input type="checkbox"/> J. Manchester | <input type="checkbox"/> N. Shohola |
| <input type="checkbox"/> C. Delaware | <input type="checkbox"/> G. Lumberland | <input type="checkbox"/> K. Damascus | <input type="checkbox"/> O. Westfall |
| <input type="checkbox"/> D. Cochecton | <input type="checkbox"/> H. Deerpark | <input type="checkbox"/> L. Berlin | |

UDC member municipality? Yes No

Check the management area(s) in which the affected property is located:

Scenic Recreational Hamlet

Height of All Proposed Structures is 35' or Less? Yes No

Construction Proposed Within 100' of the Mean High Water Mark of the River? Yes No

Town/ship Zoning District: H-C Hamlet-Commercial

Section/Block/Lot Number: 27.-3-1 Parcel Number: _____

Latitude/Longitude Coordinates: _____

Parcel Address: 3519 State Route 97

City, State, Zip: Barryville, NY 12719

Date Proposal was Submitted to the Municipality: _____

Form Completed by: Kerry Engelhardt Position: RLUS

Work Email: kerry@upperdelawarecouncil.org Work Telephone: 845-252-3022

Office Use Only: Reference # _____

Section III : Forms for Reviewing Significant Projects

How to Review Significant Projects

This review process includes private land development as well as public projects (e.g. municipal buildings, parks, bridges, roads, utilities, etc.). Public projects may include infrastructure projects owned by county, state, or federal government agencies, public utility companies, or private entities, including natural gas or hydroelectric facilities subject to the approval of the Federal Energy Regulatory Commission for environmental impact.

As the first step in the project review process, municipalities and other government agencies will use the checklists⁽¹⁾ below to determine whether the application is for a development within the Upper Delaware Scenic and Recreational River corridor boundary that is subject to review by the Upper Delaware Council and/or the National Park Service. Submit the completed project review checklists with the complete development application package received by the municipality, the completed cover form (if applicable) and the completed project review form (if applicable) to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

Checklist I : Does the Project Require Review?

Place a check next to all that apply. Project Review is **NOT** required if:

- 1. The parcel on which the project is located is not within the Upper Delaware Scenic and Recreational River corridor boundary
- 2. The project is a single family home on an existing, pre-approved lot; AND:
 - a. The height of all proposed structures is 35 feet or less; AND
 - b. All construction and improvements are located 100 feet or more from the mean high water mark of the Delaware River.⁽²⁾ *It appears that existing structure is within 100'*
- 3. The project is a customary accessory use or structure, or other minor improvement such as a residential fence, deck, driveway, wall or patio
- 4. The project is a subdivision of single family detached dwelling units involving four or fewer dwelling units or lots, including all planned phases; AND:
 - a. The height of all proposed structures is 35 feet or less; AND
 - b. All construction and improvements are located 100 feet or more from the mean high water mark of the Delaware River; AND
 - c. No new roads and other improvements are proposed to be constructed; AND
 - d. All lots are at least 2 acres in size; AND
 - e. A conditional use approval, special use permit or site plan review are not required by the municipality; AND
 - f. The project does not involve stream discharge of sewage effluent or the use of central sewer and water services; AND
 - g. The project does not involve a facility to be constructed or operated by a governmental agency or agencies.

¹ The checklists are based on the descriptions of Class I and Class II projects on pages 44-45 of the River Management Plan.

² As defined in the Land and Water Use Guidelines, "High Water Setback—The required distance between the mean high water line of the Upper Delaware River and the building line of any lot" (p. 128).

- ___ 5. The project is a non-residential development in a hamlet, involving sewage flows equaling an equivalent dwelling unit³ of four or fewer dwelling units, including all planned phases; AND:
- a. The proposed use is compatible within the river corridor classification as described in the Schedule of Compatible, Conditional, and Incompatible Uses (in Appendix A of this Workbook); AND
 - b. No more than 20 acres are used for the construction; AND
 - c. Clearing for building purposes does not exceed 10% of any lot; AND
 - d. No lot contains slopes exceeding 15% in grade; AND
 - e. The height of all proposed structures is 35 feet or less; AND
 - f. All construction and improvements are located 100 feet or more from the mean high water mark of the Delaware River; AND
 - g. No new roads and other improvements are proposed to be constructed; AND
 - h. All lots are at least 2 acres in size; AND
 - i. A conditional use approval, special use permit or site plan review are not required by the municipality; AND
 - j. The project does not involve a river related recreational use project; AND
 - k. The project does not involve stream discharge of sewage effluent or the use of central sewer and water services; AND
 - l. The project does not involve a facility to be constructed or operated by a governmental agency or agencies.
- ___ 6. The project involves construction or improvements to agricultural and related structures:
- a. Within 100 feet of the mean high water mark of the Delaware River; or
 - b. That exceed 35 feet in height.

NO, Project Review **IS NOT REQUIRED** if the application is any one of the types listed above. If NO, **STOP** here.

YES, Project Review **IS REQUIRED** if the application is not among the types listed above. If YES, **CONTINUE** with the checklists on the following pages.

Reviewer: Kerry Engelhardt Date: 3/22/23

³ As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit: The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127).

Checklist II : Review Type – Is the Project a Class I Project?

Place a check next to **ALL** that apply.

If the project is located within the *Upper Delaware Scenic and Recreational River Corridor Boundary* and any of the following apply, **THE PROJECT IS A CLASS I PROJECT:**

- 1. The project is a subdivision of single family detached dwelling units involving between five and twenty-four dwelling units, and no more than 24 lots, including all planned phases; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 2. The project is a non-residential development involving sewage flows equaling an equivalent dwelling unit⁽⁴⁾ of five to twenty-four dwelling units, including all planned phases; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 3. The project involves construction of multi-family residential units, which may include, but are not limited to garden apartments and townhouses; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 4. The project is a subdivision involving the construction of new roads and other improvements; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 5. The project is NOT made up exclusively of single family detached dwelling units AND any of the following are true: more than 20 acres will be used for the construction, OR more than 10% of any lot will be cleared for building purposes, OR any lot is on slopes exceeding 15% in grade; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 6. The project is a subdivision (other than a land transfer for lot improvement purposes) involving lots of less than 2 acres in size; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 7. The project is an off-premises advertising sign.
- 8. The project involves construction or improvements within 100 feet of the mean high water mark of the Delaware River (excluding agricultural and related structures); and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- 9. The project involves construction of a structure with a height exceeding 35 feet (excluding agricultural and related structures); and meets all the Supplementary Criteria for Class I Projects listed on this checklist.

Supplementary Criteria for Class I Projects

All Supplementary Criteria must be met for a project to be considered a Class I Project.

- a. No more than 24 lots or equivalent dwelling units are proposed, including all planned phases; AND
- b. A conditional use approval, special use permit or site plan review are not required by the municipality; AND
- c. The proposed use is compatible within the river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook); AND *Bed and Breakfast, Small Motels both compatible uses in Recreational Segments*
- d. The project does not involve a river related recreational use; AND

⁴ As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit: The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127).

- e. The project does not involve stream discharge of sewage effluent or the use of central sewer and water services; AND
- f. The project does not involve a facility to be constructed or operated by a governmental agency or agencies.

YES, the application **IS FOR A CLASS I PROJECT**.

- **For municipalities that are in substantial conformance:** IF YES, no further action is required.
- **For municipalities that are NOT in substantial conformance:** IF YES, submit this completed checklist along with the **COMPLETE** development application package received by the municipality and a completed Project Cover Form to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

NO, the application is **NOT FOR A CLASS I PROJECT**, if the application is not among the types listed above. If NO, **CONTINUE** with the checklist on the following pages.

Reviewer: Kerry Engelhardt Date: 3/22/23

Checklist III : Review Type – Is the Project a Class II Project?

PLACE A CHECK NEXT TO ALL THAT APPLY.

If the project is located within the *Upper Delaware Scenic and Recreational River Corridor Boundary* and any of the following apply, THE PROJECT IS A CLASS II PROJECT:

- 1. The project requires a conditional use approval under local ordinances
- 2. The project requires a special use permit under local ordinances
- 3. The project requires site plan review under local ordinances
- 4. If approved, the project would take the municipality out of substantial conformance with the Guidelines BECAUSE:
 - a. The proposed use is incompatible within the river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook), OR
 - b. The proposed use would require special use/conditional use approval within the given river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook), but the municipality is not requiring a conditional use/special use permit application
- 5. 25 or more lots or equivalent dwelling units⁽⁵⁾ are proposed, including all planned phases
- 6. The project involves a river related recreational use
- 7. The project involves stream discharge of sewage effluent or the use of central sewer and water services
- 8. The project involves a facility to be constructed or operated by a governmental agency or agencies
- 9. The project was found to require project review under Checklist I, and is not a Class I Project according to Checklist II.

YES, the application **IS FOR A CLASS II PROJECT**.

- **For all municipalities:** IF YES, submit this completed checklist along with the **COMPLETE** development application package received by the municipality and a completed Project Cover Form to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

NO, the application is **NOT AMONG** the application types listed in **Checklist I, II, or III**.

- **For all municipalities:** IF NO, submit this completed checklist along with the **COMPLETE** development application package received by the municipality, a completed Project Cover Form, **AND** the "Questions to Guide Review of Significant Projects," found in this Workbook to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

Reviewer: _____ Date: _____

⁵ As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit: The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127).



Eve Fisher <evehenkesfisher@gmail.com>

Fwd: Next case

Niederriter, Cathy (DOT) <Cathy.Niederriter@dot.ny.gov>

Mon, Apr 17, 2023 at 10:45 AM

To: Eve Fisher <evehenkesfisher@gmail.com>, "daveprestonn@gmail.com" <daveprestonn@gmail.com>

Eve, if there is significant work being done for the drainage then yes a permit will be required if this work is in the NYS Right of Way. Other than that I have no issue with the new use of driveway at this time.

Thanks,

Cathy

From: Eve Fisher <evehenkesfisher@gmail.com>
Sent: Thursday, April 13, 2023 2:11 PM
To: daveprestonn@gmail.com
Cc: Niederriter, Cathy (DOT) <Cathy.Niederriter@dot.ny.gov>
Subject: Re: Next case

You don't often get email from evehenkesfisher@gmail.com. [Learn why this is important](#)

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Cathy - nice to meet you! Thanks for taking the time to look at this. Any advice on whether to get a permit or not?

On Tue, Apr 11, 2023 at 10:34AM Dave Preston <daveprestonn@gmail.com> wrote:

Cathy,

Here is a photograph of the driveway profile as it enters State Route 97:

4/24/23, 5:24 PM

Gmail - Fwd: Next case



[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

MEMORANDUM

TO: Michael Davidoff, Esq., Drew, Davidoff & Edwards – Attorney to the Town of Highland
Julie Brennan, Legal Assistant, Drew, Davidoff & Edwards

CC: Jeffery Haas – Supervisor, Town of Highland
Nicole Allen, AICP – Director of Planning & Community Development, Laberge Group

FROM: Kevin Schwenzfeier – Senior Planner, Laberge Group

DATE: April 21, 2023

RE: **Town of Highland Planning Board Application of Shane Pearson & Courtney Crangi
App # 9-2023**

As requested, please find below a Special Use Review for the Loosey Kit LLC Adult-Use Cannabis Dispensary in the Town of Highland.

Applicant: Shane Pearson & Courtney Crangi
Address: 3465 State Route 97, Barryville, NY 12719
SBL: 27.-9-14
Zoning: Hamlet-Commercial
Request: Special Use Permit – Adult-Use Cannabis Retail Dispensary

Application Discussion:

- The applicant seeks a Special Use Permit Review for the conversion of a mixed-use property into an Adult-Use Cannabis Retail Dispensary.

Assessment of Request:

According to the Town of Highland Zoning Code §190-74.C(2):

- “Adult-use cannabis retail dispensaries shall be separated from other uses that could be impacted by their presence.”
- “Furthermore, an adult-use cannabis retail dispensary may not locate within 100 feet of any residential lot line boundary”.

The proposed project is sited on a property directly adjacent to a single-family residential property and an apartment complex.

Conclusion

Based on a complete review of the Town of Highland Chapter 190-74 “Adult-Use Cannabis Retail Dispensary”:

- The proposed property is only 90x104 feet and therefore leaves no viable space for the operation of an adult-use cannabis retail dispensary within the confines of the required buffer from the adjacent residential lot line boundaries.

Therefore, for the purpose of this zoning interpretation, an adult-use cannabis retail dispensary is not permitted on this property.
