

Town of Highland Planning Board  
Meeting Minutes June 28, 2023

Chairman calls the meeting to order at 6:00 PM

Pledge to the Flag

Chairman states the minutes are being recorded

Secretary takes attendance.

Attendance:	Norm Sutherland	Present
	JT Vogt (co-chairman)	Present
	Jeffrey Spitz	Present
	Steve Bott	Absent
	Tim McKenna	Present
	Laura Burrell	Present
Board Secretary	Monica McGill	Present
Town Attorney	Michael Davidoff	Present
Code Enforcement		Absent

Also, in attendance - Scott Reed (alternate)

Motion to approve the May 24, 2023 meeting minutes:

Motion: Jeff Spitz                      Second: JT Vogt

All in favor

**Application #14-2023 SPSTR 1 LLC Short Term Rental Public Hearing**

Motion to open the public hearing on application #14-2023:

Motion: Tim McKenna                      Second: Jeff Spitz

All in favor

Secretary reads the public notice published in the local newspapers.

There were (22) letters mailed to the surrounding neighbors and (17) returned

Skylar Vaughn attended the meeting for SPSTR 1 LLC.

The property is a two-bedroom home purchased in 2021.

There were no comments from the public and the board.

Motion to close the public hearing on application #4-2023:

Motion: JT Vogt                      Second: Tim McKenna

All in favor

The owners of the property were not present for their scheduled fire inspection, therefore there will be no resolution for this applicant and planning board will do the lead agency for SEQR at the July 26, 2023 meeting.

**Application #15-2023 Anne Rogers Short Term Rental Public Hearing**

Motion to open the public hearing on application #15-2023

Motion: Tim McKenna                      Second: JT Vogt

All in favor

Secretary reads the public notice published in the local newspapers.

There were (14) letters mailed to the surrounding neighbors and (12) returned.

There is no public comment from the public or the board.

Motion to close the public hearing on application #15-2023:

Motion: Jeff Spitz                         Second: Tim McKenna

All in favor

Motion to make the Planning Board lead agency for Part (2) SEQR :

Motion: Scott Reed                         Second: Steve Jeff Spitz

All in favor

SEQR part 2 read by Michael Davidoff and completed by the board.

Motion for SEQR part 2 will not result in any significant adverse environmental impacts:

Motion: Tim McKenna                      Second: Jeff Spitz

All in favor

Ms. Rogers has provided pictures that were emailed to the code officer to show that she has completed all requirements in regards to the fire inspection. The code officer approved and passed Ms. Rogers fire inspection.

Motion to approve application #15-2023 Anne Rogers Short Term Rental with the condition quiet hours to be observed 10PM to 7AM:

Motion: JT Vogt                             Second: Tim McKenna

All in favor

**Application #17-2023 Eric Hantman Short Term Rental Public Hearing**

Motion to open the public hearing on application #17-2023:

Motion: Tim McKenna                      Second: JT Vogt

All in favor

Secretary reads the public notice published in the local newspapers.

There were (35) letters mailed to the surrounding neighbors and (25) returned.

Public Comment: Herman Klaus was concerned that there might be confusion in regards to the address in the event that an emergency would prevent 911 finding the correct address. Mr. Hantman explains that there was an error and he has corrected it.

Janice Blackbay had concerns of the property being rented to hunters. Mr. Hantman assured her that his rentals would not be an issue in regards to her concern.

There is no board Comment:

Motion to close the public hearing on application #17-2023:

Motion: Jeff Spitz                         Second: Tim McKenna

All in favor

Motion to make the planning board lead agency for Part (2) SEQR:

Motion: Tim McKenna                      Second: JT Vogt

All in favor

SEQR Part (2) read by Michael Davidoff and completed by the board.

Motion for SEQR Part 2 will not result in any significant adverse environmental impacts:

Motion: Scott Reed                      Second: Tim McKenna

All in favor

Mr. Hantman passed his fire inspection

Motion to approve application #17-2023 Eric Hantman Short Term Rental with the condition quiet hours to be observed 10PM to 7AM:

Motion: Jeff Spitz                      Second: Tim McKenna

All in favor

### **Application #18-2023 Bill Victori & Allison Kubinski Short Term Rental Public Hearing**

Motion to open the public hearing on application #18-2023:

Motion: Tim McKenna                      Second: JT Vogt

All in favor

Secretary reads the public notice published in the local newspapers.

There were (15) letters mailed to the surrounding neighbors and (14) returned.

Correspondence: Letter from John O'Callaghan read into record. (please see attached)

UDC Response stating that the application is an existing single-family dwelling less than 35' in height and located more than 100' from the Delaware river, no formal project review is required.

Public Comment: Delores Case who resides at 111 Mail Rd in Barryville NY wanted to ask that the tenants will follow the noise ordinance of quiet hours from 10PM to 7AM.

There is no comment from the board.

Motion to close the public hearing on application #18-2023:

Motion: Tim McKenna                      Second: Scott Reed

All in favor

Motion to make the planning board lead agency for Part (2) SEQR:

Motion: Tim McKenna                      Second: JT Vogt

All in favor

SEQR Part (2) read by Michael Davidoff and completed by the board.

Motion for SEQR Part 2 will not result in any significant adverse environmental impacts:

Motion: Jeff Spitz                      Second: Scott Reed

All in favor

Mr. Victori and Ms. Kubinski passed their fire inspection.

Motion to approve application #18-2023 Bill Victori & Allison Kubinski Short Term Rental with the condition quiet hours to be observed 10PM to 7AM:

Motion: Tim McKenna                      Second: Jeff Spitz

All in favor



**Application #20-2023 Aaron Andrews & Claudia Crespo Short Term Rental Public Hearing**

Motion to open the public hearing on application #20-2023:

Motion: Tim McKenna

Second: JT Vogt

All in favor

Secretary reads the public notice published in the local newspapers.

There were (20) letters mailed to the surrounding neighbors and (13) returned.

Michael Packer of Packer Associates appeared on behalf of the applicant.

Correspondence: (2) letters read into record from Mikhail & Tamara Tsilevich and Washington Lake Homeowners Assoc. (please see attached).

Public Comment: Christine Kramer President of the Washington Lake Homeowners Assoc. was present at the meeting. She briefly explains the bi-laws and states that if the applicants ever sell their property that it will no longer be able to be used as a short-term rental.

There is no comment from the board.

Motion to close the public hearing on application #20-2023:

Motion: Tim McKenna

Second: Scott Reed

All in favor

Motion to make the planning board lead agency for Part (2) SEQR:

Motion: JT Vogt

Second: Tim McKenna

All in favor

SEQR Part (2) read by Michael Davidoff and completed by the board.

Motion for SEQR Part 2 will not result in any significant adverse environmental impacts:

Motion: Scott Reed

Second: Jeff Spitz

All in favor

Mr. Andrews & Ms. Crespo passed their fire inspection.

Motion to approve application #20-2023 Aaron Andrews & Claudia Crespo Short Term Rental with the condition quiet hours to be observed 10PM to 7AM:

Motion: Tim McKenna

Second: Jeff Spitz

All in favor

**Application #21-2023 John Oliva Short Term Rental Public Hearing**

Motion to open the public hearing on application #21-2023:

Motion: Tim McKenna

Second: JT Vogt

All in favor

Secretary reads the public notice published in the local newspapers.

There were (31) letters mailed to the surrounding neighbors and (28) returned.

Correspondence: (2) letters read into record (please see attached).

Public Comment : Delores Case who resides at 111 Mail Rd in Barryville NY wanted to ask that the tenants will follow the noise ordinance of quiet hours from 10PM to 7AM.

Comments from the Board:





Mr. Marques was told to schedule a fire inspection with the code office to be completed before the public hearing.

And chairman Norm Sutherland states that the process of obtaining an operating permit for a short-term rental is for the safety of the neighbors.

**Application #24-2023 Edun Sela Short Term Residential Application:**

Mr. Sela owns a home on 40 Airport Road. He is asking the board to approve the property to be used as a rental property. It is a single-family home with 3 bedrooms and 1 bath.

Motion to schedule a public hearing on application #24-2023 to be held July 26, 2023 at 6PM:

Motion: Jeff Spitz

Second: JT Vogt

All in favor

Mr. Sela was told to schedule a fire inspection with the code office to be completed before the public hearing.

**Application #25-2023 Jason Perkal Short Term Residential Application:**

Mr. Perkal owns a 3-bedroom home on 89 Highland Lake Road. Along with his application Mr. Perkal provided a detailed welcome letter that he presents to all his tenants explaining the rules and regulations.

Motion to schedule a public hearing on application #24-2023 to be held July 26, 2023 at 6PM:

Motion: Tim McKenna

Second: JT Vogt

All in favor

Mr. Sela was told to schedule a fire inspection with the code office to be completed before the public hearing.

**Application #12-2023 Eve Fisher Site Plan Review Public Hearing**

Motion to open the public hearing on application #12-2023:

Motion: Jeff Spitz

Second: JT Vogt

All in favor

Secretary reads the public notice published in the local newspapers.

There were (33) letters mailed to the surrounding neighbors and (29) returned.

Correspondence:

Letter from Michael Frey read into record (see attached)

Email from the UDC see attached)

Memorandum from the Laberge Group (Town of Highland Consultant) (see attached)

Susan Roth representative (Laberge Group) reads the memorandum.

Michael Packer of Packer Assoc. representing the applicant disagrees with the determination from the LaBerge Group.

The board suggests that Mr. Packer meet with Susan Roth and discuss the report and come to an agreement.

Eve Fisher and her husband ask the board to allow her to open the wine shop pending a determination from the National Park Service and Mr. Packer's meeting with LaBerge Group.

The board decides to recess the public hearing until July 26, 2023 at which time they hope to have all that is needed to approve the application.

Motion to recess the public hearing on application #12-2023:

Motion: Jeff Spitz

Second: JT Vogt

All in favor

Eve and her husband are very excited to become a part of the community, but feel they are being strung along with the entire process. They have financially invested a lot of money and are eager to open their doors for business.

### **Application #7-2023 Catskill Resort 211 Mail Road Site Plan Review**

Application Re-cap:

The applicant Yeshiva Ohr Shraga Veretzky has applied to add a religious resort to the existing use of Hotel / Motel / Restaurant. They want to construct (4) dormitories to supply sleeping accommodations for their students. Each dormitory will be 5,800 square feet and one story tall. In addition, they want to add an 800 square foot building to be used as a mikva (ritual bath) and finally a 10,150 square foot one story tall building to be used for studying, lectures, prayer etc.

Correspondence: Fusco Engineering (Code Consultant) Report (read into record by chairman Norm Sutherland ) and attached to the minutes.

LaBerge Group Memorandum (Town of Highland Engineering Firm (presented by Susan Roth - Senior Planner)

Both reports were presented at the current meeting and will need to be reviewed before making any decisions.

Appearing on behalf of the applicant was Steven Barshov Attorney. Mr. Barshov wanted to begin the process of lead agency, but the board will hold off on the lead agency and the scheduling of a public hearing until all comments from the above-mentioned reports can be reviewed and addressed.

The applicant will be added to the July 26, 2023 agenda.

### **Application #5-2022 Camp Fimfo - Catskills (Kittatiny) Site Plan Review**

The board is still awaiting a decision from the NPS (National Park Service)

Daniel Rubin Attorney for the applicant expresses his disappointment and concern in regards to the process his clients have had to endure for over a year,



Norm Sutherland explains that the process for applications in the River Corridor, and the size of the project, the process takes longer. Mr. Sutherland also wanted on the record that the National Park Service wanted to set up a private meeting with (3) Board members, (3) representatives from Camp Fimfo, and (3) representatives from their group. Mr. Sutherland declined and stated that they have been one hundred percent transparent with the public and felt a private meeting would jeopardize the public's trust. He did however invite them to attend the July 26, 2023 meeting to discuss any issues they may have.

The UDC and the NPS met on June 13, 2023.

Any information that was discussed between the UDC and the NPS will be found on the UDC website minutes.

Mr. Rubin feels that they would not like the process to start all over due to the lack of cooperation from the NPS. Mr. Rubin requests that board proceed with the naming of the lead agency for SEQR.

The board will not move on until they receive NPS's decision, and urge Mr. Rubin to invite the NPS to the July meeting.

Attached you will find a letter sent by the applicants attorneys in regards to the NPS.

#### **Application #19-2023 Mark Rossi Special Use Permit Animal Husbandry**

Mr. Rossi is asking the board to approve more animals on his property that is allowed. Mr. Rossi's application was sent to the LaBerge Group (Town of Highland Consultant). Present from LaBerge was Susan Roth to discuss the application. LaBerge's Memorandum is attached to these minutes. They are requiring a Site Plan Application be submitted.

Motion to schedule a public hearing on Application #19-2023 to be held on July 26, 2023 at 6PM:

Motion: Jeff Spitz

Second: Tim McKenna

All in favor

#### **Application #26-2023 Alex Wise Special Use Permit**

Mr. Wise was called at 8:28PM but was not in attendance.

The secretary will reach out to him and reschedule for July's meeting.

Motion to close the meeting:

Motion: JT Vogt

Second: Tim McKenna

Meeting adjourned



**John O'Callaghan**  
**1559 Hendrickson Avenue**  
**North Merrick, NY 11566**  
**Phone: 516-378-2673**

June 22, 2023

Hi Monica,

Thank you for your notification regarding the Public Hearing to be held on June 28<sup>th</sup> concerning the request by a neighbor for a "Short Term Residential Rental Permit". I will not be able to attend the hearing however I would like to provide some comments regarding concerns I have with Short Term Rentals, as follows:

1. Is the request for an Owner Occupied or Non-Owner Occupied STR?
  - a. If "Non-Owner Occupied" will the owner or a designee of the owner (living within 15 miles of the residence) serve as the Host as required to be available to deal with emergencies, other renter issues and compliance with STR operating requirements?
  - b. From personal experience using either Verizon or T-Mobile cell phone service, the proposed STR seems to be located in a "dead zone", with no calls being able to be made from this location. How will the renter or a neighbor be able to contact the host/owner via cell phone if the need arises?
2. With regards to STR "Occupancy Restrictions", there only seems to be a limit on the number of guests that would be "sleeping over" based on a count of two per bedroom, plus two additional guests at any one time.
  - a. What is the limit on the number of people that can be in the house or on the property at any given time, and how will this be enforced?
3. In addition to a Map depicting the property boundaries, will the property be fenced, or posted to visibly mark the boundaries? *No*
  - a. Concerns would be that guests would wander on to adjacent properties either intentionally or unintentionally.
  - b. Another concern would be unauthorized discharging of firearms or hunting on adjacent properties.
4. Last but not least is the concern that there will be some Short Term Renters who view their stay in Barryville as an opportunity to "let loose" and "unwind" in ways above and beyond what would be considered acceptable by the local residents used to the peace and tranquility of Barryville, with excessive noise, exceeding the number of people allowed on the property and not following curfews topping the list.

Emergency  
contact

4

As I understand that there are some benefits to allowing STR's, my hope is that not only my concerns but those of others residents in the area can be addressed to our satisfaction.

Sincerely,

John O'Callaghan

46 Yulan Barryville Rd

Washington Lake Homeowners Association  
c/o Christine Kramer Santangelo  
PO Box 58, Yulan, NY 12792  
917-578-2340  
washingtonbeachHOA@hotmail.com

May 31, 2023

3 Melanie Lane, Eldred, NY 12732  
Letter of Authorization to Use Property as a Short-Term Rental

Dear Sir/Madam:

As President of the Washington Lake Homeowners Association, we have authorized Claudia Crespo and Arron Andrews, the owners of 3 Melanie Lane, Eldred, NY to utilize the property as a short-term rental property while they are in ownership of the property.

Thanks,

*Christine Kramer*  
Christine Kramer Santangelo

7 Melanie lane  
Yulan NY, 12732

To whom it my concern,

I am Mkhail Tsilevich and my wife Tamara Tsilevich against that any house  
in our community can be renting. It is dangerous and risky.  
My son is coming to our house with my little grand daughter and grandson, I want them to be save.  
Absolutely no renting for short or long term.  
Thank you for understanding.

Mikhail Tsilevich

*Mikhail Tsilevich*

Tamara Tsilevich

*Tamara Tsilevich*

06/09/23

Aaron Andrews - Claudia Crespo



## Planning Board and Zoning

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**From:** Kaitlin Carney <kaitecarney@yahoo.com>  
**Sent:** Tuesday, June 20, 2023 10:54 AM  
**To:** Planning Board and Zoning  
**Subject:** Regarding the STR Application for 2 Park Road Ext.

Dear Mrs. McGill and Planning Board Members:

I write with concern about the STR Application for 17.-4-22 which is 2 Park Road Extension, not 2 Park Road.

My husband and I are the adjacent/connecting property owners at 60 Park Road, and since we purchased our home in December of 2009, there have been myriad problems with the private road that is Park Road Extension. Primarily the name. Because of the poor labeling of the private roadway, we have received furniture and generator deliveries for 60 Park Road Ext., we have received mail, packages, decking supplies, lumber deliveries, drapes, and in the most troubling incident had our propane tank locked by Suburban Propane (when they were intending to lock the tanks at 60 Park Road Ext.) We're happy to be good neighbors and make sure that all of these items are getting to their correct locations and manage everyone that gets lost because it is a low traffic area (there are only about four homes on the road) but at some point, the onus of correcting this falls to the property owners of the private road. Signage labeling the road is overgrown and prohibitive, not identifying.

With a STR on a private road the Town is indicating that the property is appropriate and permissible for rental but cannot ensure the safety and maintenance of the private road. In the very least, there should be parameters established for STRs located on private roads for signage (directional and identifying) and maintenance (seasonal and ongoing).

Thank you for the opportunity to comment on this.

Best,

Kaitlin Carney Haas  
h: 845.557.8869  
c: 718.442.8575  
e: kaitecarney@yahoo.com

Dear Johnny,

We've enjoyed getting to know you and welcoming you to Park Road Extension, our private, shared road community on Beaver Brook. Thank you for keeping us up to date on your renovations and plans to AirBnB your place. We respect your choices to manage your property as you choose, including for generating revenue. We appreciate your invitations to let you know if any of the guests cause an issue. We received letters from the town inviting us to submit a comment or attend a session of the Planning Board where your application will be reviewed at the end of this month. We wanted to take this opportunity to share some concerns and requests related to your plans, which we will also submit to the Planning Board. We don't intend to try to stop your application, but we do hope you will take our concerns into consideration.

We treasure the quiet, darkness, and relative wilderness of our private dirt road on Beaver Brook. As you know, our delicate forested wetland is home to many plants and animals and our brook feeds into the Delaware River. Eagles, kingfishers, herons, ducks, owls, bears, deer, foxes, beavers, and many more share our home.

Keeping the preciousness of our environment in mind, we hope that your house rules and criteria for your guests will be in keeping with the need to protect privacy, quiet and natural beauty. We hope you limit the number of guests staying at any time, suggest quiet hours after 10pm, and remind guests to please keep voices and amplified music down because sound carries over the creek and in the woods. In addition to noise, we hope that outdoor lights will be kept to a minimum to reduce any potential disruption to the animals as well as light pollution for enjoyment of the night sky. Finally, please note that your guests should not walk down our road past your property line. As property owners, under our shared road agreement, we only have rights to use the road as far as our property extends (as a courtesy, we welcome the other owners to walk down the road as long as they respect everyone's privacy, however we do not wish to extend this offer to paying guests).

We purchased and worked on our homes in Yulan to have an escape from the stresses of everyday life. We enjoy socializing with our neighbors, including you, and will welcome anyone to enjoy this beautiful escape too, as long as they respect our neighbors—human, plant and animal—and take care of our natural surroundings.

We wish you success with the business and look forward to getting to know you better.

Your neighbors,

Al, Caroline, Laurie, Fiona & Tony

**MICHAEL FREY**

ATTORNEY AT LAW

EMAIL: freylawyer@gmail.com

46 RIVER ROAD  
P.O. BOX 190  
BARRYVILLE, NY 12719  
(845) 557-8000  
FAX : (845) 557-8001

548 BROADWAY  
MONTICELLO, NY 12701

PLEASE REPLY TO BARRYVILLE ADDRESS  
NO MAIL ACCEPTED AT MONTICELLO OFFICE

June 2, 2023

Town of Highland Planning Board  
c/o Monica McGill, Secretary  
PO Box 148  
Eldred, NY 12732

Re: **27-8-14**  
**Special Use Permit**

Members of the Board:

Please accept this correspondence in full support of Ms. Fisher's application now before you.

The proposed business appears to fit into the Zoning scheme for the Hamlet-Commercial District and would be a welcome addition to the town.

Best of luck to Ms. Fisher and cheers!

Thank you for your attention to this matter.

Very truly yours,

*Michael Frey*

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MICHAEL FREY



## Code

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**From:** Kerry Engelhardt <kerry@upperdelawarecouncil.org>  
**Sent:** Wednesday, June 28, 2023 12:09 PM  
**To:** Code; Norm Sutherland  
**Cc:** 'Andy Boyar'; Laurie Ramie; Eve Fisher; Michael Davidoff; Larry Richardson  
**Subject:** Fisher/McGrath application

Monica and Norm,

The Project Review Committee met last night to review the Fisher/McGrath Site Plan Application for the property located at 3432 State Route 97 in Barryville, NY.

They found that the application substantially conforms to the Land and Water Use Guidelines of the River Management Plan (RMP). They approved a motion to make this recommendation to the full council, which will meet next Thursday, July 6. The full council will vote on whether or not to recommend to the National Park Service (NPS) that the project substantially conforms to the RMP. The NPS will then have 45 days to make their determination.

To be clear, it is the Park Service's determination which is final, not the Project Review Committee's, and not the UDC's. However, this clearly a compatible use in a Hamlet area, with no proposed improvements except for the expansion of a gravel driveway/parking area. After I made my report, the committee made their decision with little discussion, as it seems a very straightforward project in terms of the what we are reviewing. (The matter of "use" is of paramount importance to the UDC and the NPS, and retail establishments are a compatible use in a Hamlet.) The River Management Plan indicates on page 45 that *the town or township will not have to await the input of the Council before making a decision*, so we would have no objection to the Town deciding on the application before the final decision from the NPS is in hand.

I will of course keep you informed as the project progresses through the various stages of our review process. Feel free to contact me with any questions.

**Kerry Engelhardt, P.E.**  
**Resources & Land Use Specialist**



**Upper Delaware Council**  
**LAND • WATER • PEOPLE**

Upper Delaware Council  
211 Bridge Street P.O. Box 192  
Narrowsburg, NY 12764

(845) 252-3022  
[kerry@upperdelawarecouncil.org](mailto:kerry@upperdelawarecouncil.org)  
[www.upperdelawarecouncil.org](http://www.upperdelawarecouncil.org)



## MEMORANDUM

TO: Norman Sutherland, Planning Board Chairman

CC: Michael Davidoff, Esq., Drew, Davidoff & Edwards – Attorney to the Town of Highland  
Jeffery Haas – Supervisor, Town of Highland  
Nicole Allen, AICP – Director of Planning & Community Development, Laberge Group

FROM: Susan Roth, AICP – Senior Planner, Laberge Group

DATE: June 2, 2023

RE: **Eve Fisher & Andrew McGrath – Proposed Conversion of Cottage to Retail Use**

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As requested, we have provided an interpretation of the grandfathered rights of the applicant to use an existing cottage on a 0.40-acre property within the H-C Hamlet Commercial District. The cottage does not conform to the setback requirements for this district, although the proposed use is permitted.

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**Applicant:** Eva Fisher & Andrew McGrath  
**Address:** 3432 State Route 97, Barryville, NY 12719  
**SBL:** 27.-8-14  
**Zoning:** H-C Hamlet-Commercial  
**Request:** Interpretation of Non-Conforming Status of Building

### Chapter 190 Zoning Law Review

- According to the Town of Highland Zoning Law § 190-58, Non-Conforming Uses and Buildings:
  - The lawful use of any building, structure, or land existing at the time of the enactment of this chapter may be continued although such building, structure, land, or **use** does not conform with the provisions of this Zoning Law.
  - A nonconforming building, structure or use shall not be re-established if it has been discontinued for any reason for a period of two years or more or has been changed to or replaced by a conforming building, structure or use. The mere intent to resume nonconforming building, structure or use shall not confer the right to do so from the date of adoption of this Zoning Law.
- According to the Town of Highland Zoning Law, Article 2: Definitions – § 190-7:
  - RETAIL STORE – An enclosed store for the sale of retail goods such as but not limited to a department store, convenience store, food store, or any other store for the retail sale of other products.
- According to the Town of Highland Zoning, Schedule 2: District Schedule of Use Regulations, a Retail Store is a permitted use within the Hamlet Commercial (H-C) District and requires Site Plan Review.

- According to the Town of Highland Zoning Law, Schedule 1: Area and Bulk Regulations, the Hamlet-Commercial (H-C) District requires the following:

- Minimum Lot Area – 1 Acre
- Minimum Lot Width – 150'
- Minimum Lot Depth – 150'
- Front Yard Setback – 20'
- Rear Yard Setback – 50'
- Side Yard Setback – 20'
- Maximum Percent Lot Coverage – 50%
- Maximum Building Height – 35'

### Conclusions

Based on a complete review of the Town of Highland Zoning Law Chapter 190, we offer the following to assist the Planning Board:

1. This property is **currently not in compliance with the bulk regulations** of the Town of Highland Zoning Law.
2. The applicant would need to establish that the building was occupied in the last two years in order to claim that they are eligible as a nonconforming building, structure or use that could continue without complying to zoning setback regulations.
3. If the building has been vacant for more than 2 years, multiple area variances are necessary as the building is a nonconforming structure due to its undersized lot area (0.40 acres), rear yard setback (10.2 feet), and side yard setback (less than 5 feet); this shall require a professional survey of the property that provides a calculation of all setback dimensions of the property.
4. A Special Use Permit shall **not** be required because retail uses are permitted by right in the Hamlet Commercial Zone.
5. The Site Plan Review of the property will allow for the Town Planning Board to address the additional site uses and the change in intensity of the property's use.
6. A SEQRA Review and Determination of Significance shall be required as part of the Site Plan Review process and shall be made prior to Plan Approval.
7. A NYS Department of Health Review and Inspection is required for operation along with all applicable licenses, including but not limited to a liquor license for retail sale, and the location of the well and septic system.
8. The Town of Highland Zoning Law does not contemplate allowance of wine tasting on the premises.





BROWN | WEINRAUB

June 8, 2023

Chair Norman Sutherland ([planningboardzba@townofhighlandny.com](mailto:planningboardzba@townofhighlandny.com))  
Town of Highland Planning Board  
4 Proctor Road  
Eldred, NY 12732

*RE: Northgate / Sun Communities  
Camp FIMO Catskills  
Job # 2220488*

Brown & Weinraub represents the Applicant in the above matter. Reference is made to the National Park Service's ("NPS") letter to the Upper Delaware Council ("UDC") dated May 25, 2023 (the "NPS Letter").

The NPS Letter notes, without explanation, that "a preliminary substantial conformance review . . . revealed elements of the proposal that fundamentally conflict" with the Land and Water Use Guidelines ("LWUG").

We are also in receipt of an email from the UDC, dated June 7, 2023, stating, in relevant part, that all communications between the Applicant, the UDC and the NPS should be coordinated through the Town of Highland's Planning Board ("Planning Board").

Accordingly, we kindly request that the Planning Board ask NPS to identify, in writing, each of the specific "elements" of the proposal that "fundamentally conflict" with the LWUG, the specific section(s) of the LWUG each such element purportedly conflicts with and an explanation of how such element conflicts with the relevant section(s).

The Applicant respectfully requests that the Planning Board ask the NPS to provide this information on or before June 21, 2023, so it can be evaluated by the Applicant and the Planning Board in advance of the upcoming Planning Board meeting on June 28, 2023.

Thank you for your time and attention to this matter, which we know has been a significant undertaking for the Town Planning Board.

Very truly yours,  
*Alexander Betke*  
Alexander Betke, Esq.

The Kenmore Building  
76 North Pearl Street, Suite 3  
Albany, NY 12207

ph: 518.427.7350  
fx: 518.427.7792  
[www.brownweinraub.com](http://www.brownweinraub.com)

## MEMORANDUM

TO: BJ Gettel – Code Enforcement Officer, Town of Highland

CC: Michael Davidoff, Esq., Drew, Davidoff & Edwards – Attorney to the Town of Highland  
Nicole Allen, AICP – Director of Planning & Community Development, Laberge Group

FROM: Susan Roth, AICP – Senior Planner, Laberge Group

DATE: June 27, 2023

RE: **Rossi Special Use permit request**

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As requested, we have provided an interpretation of the allowable number of domesticated animals on a property.

**Applicant:** Rossi  
**Address:** Unknown  
**SBL:** Unknown  
**Zoning:** R-2 Zoning District  
**Request:** Interpretation of “Animal Unit” and allowable number of domesticated animals on a property described by the Zoning Inspector as a 2 acre property. No address was provided.

### Chapter 190 Zoning Law Review

According to the Town of Highland Zoning Law, Article 2: Definitions – § 190-7:

**ANIMAL HUSBANDRY** – The care and breeding or boarding of any domestic animals or fowl, whether for profit or as a hobby. Household pets, including but not limited to cats, dogs, or birds, are excepted.

**ANIMAL UNIT** - An animal unit is, for the purpose of this Chapter, defined as:

- One large domesticated animal, over 500 pounds, such as but not limited to a horse, cow, or llama; or
- Five medium-sized domesticated animals, weighing between 100 and 500 pounds, such as but not limited to sheep, goats, and pigs; or
- 50 small domesticated animals weighing less than 100 pounds, such as but not limited to chickens, turkeys, or ducks.

*Note: This definition has been reformatted for ease of understanding.*

According to the Town of Highland Zoning, Schedule 1: Area and Bulk Regulations (Tables), the Residential (R-2) allows for “Animal Husbandry” to be permitted within the R-2 District by special use. It does not specify how many “animal units” are allowed on the property in the zoning schedule.

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# FUSCO

ENGINEERING &  
LAND SURVEYING, D.P.C.



233 East Main Street  
Middletown, NY 10940

Phone: (845)344-5863  
Fax: (845)956-5865

## Consulting Engineers

*Alfred A. Fusco, Jr.*  
*P.E. Principal*

*Alfred A. Fusco, III*  
*General Manager*

June 26, 2023

Norman Sutherland, Planning Board Chairman  
Town of Highland  
4 Proctor Road  
Eldred, New York 12732

RE: 211 Mail Road  
Preliminary Review  
Town of Highland  
SBL 15-1-70.1 and 70.2  
Our file # HL-004

Dear Chairman Sutherland,

We have reviewed the material submitted to us by Michael Davidoff, Esq. and are providing this review as the Town of Highland Planning Board Consultant.

Project:	Applicant – John D. Fuller, P.E. for Yeshiva Ohr Shraga Veretzky
Address:	211 Mail Road
SBL:	15-1-70.1 and 70.32
Zone:	Agricultural – Residential – R2
Request:	Special Use Permit – Change of Use

Project: Hotel site with four (4) 5,800 square foot dormitories, one 800 square foot Mikvah, a 10,150 square foot multi-purpose building and additional use as a place of worship.

### Material Reviewed:

Site Plan – John Fuller, P.E. 6/10/23

Application

EAF and Narrative

Laberge Group memorandum

Memorandum of Law regarding case law for New York Law and (RLUIPA) Federal Religious Land Use and Institutionalized Persons Act of 2000

### COMMENTS - SEAF:

1. 13a) Wetlands or other bodies of water need to be shown on site plan.
2. 13b) SEAF indicated wetlands not impacted.



#### COMMENTS – ZONING:

1. Under Chapter 190, Schedule 2, District Schedule of Use Regulations R2 District:
  - a. Hotel/Motel is listed as Special Use Permit and is required.
  - b. Multi-Purpose building is not specifically listed in R2 but is part of Hotel/Motel and part of Special Use Permit (SUP).
  - c. Place of Worship is listed in R2 and require a Special Use Permit from the Planning Board. This would also include the Mikvah, Religious Retreat, and religious education.
2. The above shows that this project can be considered by the Planning Board as a combination of Special User Permits; mainly due to the Place of Worship designation and the New York State and Federal RLUIPA 2000 legislature. The Planning Board must determine carefully if the Place of Worship and religious education are the basis of the application.

We will, of course, make sure that the design and workmanship meets the requirements of the Town of Highland Code and the NYSBCC New York State Building Construction Codes and NYS Fire Codes.

#### COMMENTS – SITE PLAN REVIEW:

1. Show dimensions of setback on plans.
2. Is existing water system and new to be tied together or independent water systems? Show all waterlines and material.
3. Show dimensions between all buildings, primarily the dormitories.
4. Provide a septic disposal system for the Mikva.
5. Provide parking area for Mikva.
6. Provide test results for the soil tests that have been performed.
7. The existing reserve area and the proposed sanitary system will need witnessed soil testing.
8. The Multi-Purpose building will need to have sewer shown and included in calculations for usage.
9. Show cleanouts at angle points of sewer line or at 75' intervals.
10. Provide a 200' minimum radius from the proposed well to the existing septic reserve.
11. Indicate inverts on septic tanks, pump chamber, distribution boxes.
12. Show the location of roof/footing drains.
13. Calculations shall be provided for switch/on and off on septic pump.

14. Provide the source of the topography shown on the mapping.
15. Provide construction details on new access road.
16. NYSDOH approval is required for water and sanitary systems.
17. NYSDEC SPEDES permit is required for sanitary system..
18. Identify water piping detail, type, depth, etc.
19. Detailed specifications for sidewalks, curbing, asphalt paving, landscape, lighting, signage and stripping are required.
20. Show drainage with calculations to verify the size of the rain garden.
21. Provide a driveway sight distance on all existing/proposed entrances.
22. Show fire truck turning access.
23. All buildings to meet New York State Building Construction Code and NYS Fire Code as well as all NYS and local codes.
24. Provide handicapped accessibility to all existing and proposed buildings.
25. Indicate handicap detectable warning pads where needed on the sidewalks.
26. Plans to be provided to the local fire department for comment.
27. Note required regarding no tree cutting from April 1 to October 1.
28. Additional detail is required on all construction.
29. Escrow account required for inspections of public improvements.
30. Provide list of involved and interested parties for SEQRA determinations.
31. No work can begin until approved.
32. Stormwater Pollution Prevention Plan (SWPPP) is required, we would ask that additional silt fencing is shown along the new access road to the proposed dormitories to protect the existing septic disposal area from stormwater runoff.
33. Show any signage and indicate proposed signage.
34. Show dumpsters.
35. Board comments.

Action:

233 East Main Street  
Middletown, NY 10940  
(845)344-5863



None at this time.

Please advise if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alfred A. Fusco, Jr.", written in a cursive style.

Alfred A. Fusco, Jr., P.E.  
Fusco Engineering &  
Land Surveying, D.P.C.

Cc: Town Clerk  
Building Department  
Michael Davidoff  
John Fuller, P.E.  
Alfred A. Fusco, Jr., P.E.  
BJ Gettel



## 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 – Planning Services Manager, Laberge Group

FROM: Kevin Schwenzfeier – Senior Planner, Laberge Group

DATE: May 24, 2023

RE: **Proposed Special Use Review of 211 Mail Road Pre-Submission Planning Board**

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As requested, please find below a special use review for the Pre-Submission for 211 Mail Road, in the Town of Highland.

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**Applicant:** John D. Fuller, P.E.  
**Address:** 211 Mail Road  
**SBL:** 15.-1-70.1 & 15.-1-70.2  
**Zoning:** Agricultural-Residential (R2)  
**Request:** Special Use Permit – Change of Use

### Application Discussion:

- The applicant seeks a new special use permit for the addition of four (4) 5,800 sf dormitories, an 800 sf Mikvah, and a 10,150 sf multi-purpose building for operation as a religious retreat to a property currently specially permitted as a “Hotel”.
- The dormitories and multi-purpose building would be serviced by a new drilled well and septic system.
- The memorandum dated April 27, 2023, prepared by Steven Barshov asserts that absent clear definitions in the Town zoning code, the proposed application must be reviewed as a “Place of Worship.”
- Please note we have not reviewed the site or sketch plans of the proposed project. The below comments are based on information provided in the Application and EAF dated February 10, 2023, as well as the memorandum referenced above.

### Assessment:

1. Understanding of Principal Use. The application thus far has focused on the use of the site during the “summer months” as a “Religious Retreat” (assume three months, June-August), while the existing “Hotel” use is proposed to remain throughout the remainder of the year (assume nine months, September-May). The code does not speak to the regulation of multiple principal uses on a lot and should be evaluated by the Planning Board for consistency with the Town Zoning Law.
2. This project was presented in the Special Use Permit Application as both a “Hotel” which is a special use within the R2 District as well as a “Religious Retreat”:

- 
- a. In accordance with §190-12(B) – “Any use not listed specifically within the District Schedule of Use Regulations shall be considered a prohibited use in all districts under this chapter. Where permitted or special uses are identified by generic words or descriptions, the Planning Board shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Planning Board shall consider to what extent the proposed uses is similar to the class of use indicated in the District Schedule of Use Regulations. If a use is specifically listed elsewhere in the District Schedule of Use Regulations, it is excluded from a generic classification.”
- b. Hotel/Motel:
- Hotel/Motel is listed in Chapter 190 Schedule 2: Schedule of Use Regulations and requires a Special Use Permit (SUP) in the R2 District.
  - A Multi-Purpose Building while not specifically listed in Chapter 190 Schedule 2: Schedule of Use Regulations, is a common element of a “Hotel/Motel”.
  - However, it remains unclear as to the extent to which the hotel use is to be altered from current operations. A hotel/motel is not a dormitory and is not intended for year-round residency. In accordance with §190-12(B), a dormitory is not a generic class of a hotel/motel. In addition, a Religious Retreat, Mikvah, and Children’s Camp are also not considered common elements of a “Hotel/Motel”.
- c. Religious Retreat: Additional information is needed from the applicant to understand the proposed use. This proposed use is not specifically listed in Chapter 190 Schedule 2: Schedule of Use Regulations. We offer the following for the Town’s consideration as to whether this specific use can be construed to be part of such generic class:
- “Place of Worship” is listed in Chapter 190 Schedule 2: Schedule of Use Regulations and requires a Special Use Permit (SUP) in the R2 District.
  - A “Mikvah”, while not specifically listed in Chapter 190 Schedule 2: Schedule of Use Regulations, is a common element of a “place of worship.”
  - “Religious Retreat” may be included in the generic class of “Place of Worship” with additional information for the Planning Board to determine.
  - A “Multi-Purpose Building” while not specifically listed in Chapter 190 Schedule 2: Schedule of Use Regulations, is a common element of a “Place of Worship”.
  - “Educational Institutions” if the definition is to be extended to the generic class per 190-12, this use is not permitted in R2 District. Educational Institutions are allowed only in the HC District.
  - “Hotel” and “Dormitories” are not considered to be common elements of a “Place of Worship”.
  - “Camp, Child” is defined in Chapter 190 Schedule 2 as “An establishment, either publicly or privately owned, complete with buildings, structures, sanitary facilities, and ancillary services designated for the recreation and education of youth. The definition shall not include motels/hotels, campgrounds, or short-term rentals as defined herein.” However, Chapter 190-41(H) identifies the defined children’s camps as prohibited in all districts.