

Town of Highland Planning Board
Meeting Minutes November 29, 2023

Chairman opens the meeting at 6PM
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	Present
	Tim McKenna	Absent
	Laura Burrell (alternate)	Sitting in for Tim McKenna
Board Secretary	Monica McGill	Present
Town Attorney	Michael Davidoff	Present
Code Enforcement	BJ Gettel	Present

Motion to approve the October 25, 2023 meeting minutes:
Motion: JT Vogt Second: Steve Bott All in favor

Correspondence: The UDC (Upper Delaware Council) States the following in regards to Short Term Rental Applications.

The issue has been discussed with this with the Project Review committee, and after looking over the Short- Term Rental applications for the last year or so, I don't think it's necessary after all for us to have to take a look at everyone. So, far they've all been using an existing single- family home for short term rentals. If it's new construction specifically for the purpose of a STR, or something with several units on the same property, or if they're making changes to the property (doing some grading, or adding impervious cover) in order to accommodate the STR, then those we would definitely want to take a look at – but just using an existing home is not enough to trigger a formal Project Review, so you don't have to worry about including us going forward. But thank you for thinking of us in the first place and making sure we were included as a part of the process. it is much appreciated!

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

Application #36-2023 Micah Burgess Short Term Rental Residential Application:

Mr. Burgess owns a home at 120 Eldred Yulan Road. The home is two bedrooms and one bath.

Motion to open the public hearing on Application #36-2023:

Motion: Jeff Spitz Second: Laura Burrell All in favor

Secretary reads the public notice posted in the local newspapers.

There were (15) letters mailed to the surrounding neighbors and (10) returned

Correspondence: Mr. Gregory Bodner submitted a letter that the secretary read into record along with supporting document. (Please see attached) Mr. Bodner was also present at the meeting and wanted to clarify the information with the board. Let the record show that Mr. Bodner is against this application.

Public Comment:

Meridith Priest is a neighbor with property identification 11.-1-44.1. Ms. Priest states that all the docks down by the lake are private, and the guests renting Mr. Burgess's home are using the private boats and docks that are on the shore of the lake. She asks how does this get regulated, and wants the record to show that she is against the application.

Janet Poppendieck resides at 142 Eldred Yulan Road. Ms. Poppendieck states that the lake is pristine and would like to keep it that way. She also asks is the home owner going to only rent occasionally , and will he be spending time at the property?

Peter Kolesar has lived at Raccoon Lane since 1978. He helps in the process of monitoring the quality of the lake. He says that so many homes around the lake are deciding to rent as Airbnb's and fears that all outside residents will not have the respect to respect the lakes beauty. He thanks Mr. Kolesar for doing the research that was prepared by Mr. Bodner and agrees that the application should be denied.

Woody Goldberg is Janet Poppendieck' s partner. Mr. Goldberg states that taxes are higher for residents that live by the lake. Some of the neighbors are not full time and there is no monitoring on the owner's behalf. He is against the application.

Michael Davidoff town attorney states that the planning board's job is to make sure the applicant is following the requirements of the zoning codes laws. The board does not have any decision making in regards to HOA's, deed restrictions etc.

Micah Burgess the owner of the Airbnb addresses Janet Poppendieck' s question and states that he will be renting out occasionally.

Mr. Burgess also presents the board with a copy of the updated rules that he leaves for his tenants.

Jeff Spitz suggests that Mr. Burgess use a more direct language in his handbook.

Chairman Norm Sutherland suggest that Mr. Burgess introduce himself to all the neighbors.

Motion to close the public hearing on application #36-2023:

Motion: Laura Burrell	Second: Steve Bott	All in favor
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Motion to make the Town of Highland lead agency for SEQR (Part 2):

Motion: Jeff Spitz	Second: JT Vogt	All in favor
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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: Laura Burrell	Second: Jeff Spitz	All in favor
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Motion to approve Application #36-2023:

Motion: Laura Burrell	Second: Steve Bott	All in favor
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The application is approved with the following condition: Quiet hours 10PM to 7AM. The applicant has also completed is fire inspection and passed.

Application #37-2023 Dumbo RE Properties LLC Short Term Rental Residential Application Public Hearing:

Mike Ollsson is the owner of the Airbnb located at 14 Walters Farm Road.

Motion to open the public hearing on Application #37-2023:

Motion: Jeff Spitz Second: JT Vogt All in favor

Secretary reads the public notice posted in the local newspapers.

There were (32) letters mailed to the surrounding neighbors and (24) returned.

Correspondence: None

Public Comment: None

Board Comment: None

Motion to close the public hearing on application #37-2023:

Motion: Jeff Spitz Second: Steve Bott All in favor

Motion to make the Town of Highland lead agency for SEQR (Part 2):

Motion: JT Vogt Second: 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: Jeff Spitz Second: JT Vogt All in favor

Motion to approve Application #37-2023:

Motion: Jeff Spitz Second: JT Vogt All in favor

The application is approved with the following condition: Quiet hours 10PM to 7AM.

The applicant has also completed is fire inspection and passed.

Let the record show that Laura Burrell is a neighbor and friend of the applicant and abstained from the vote to pass the application.

Application #38-2023 Karen MacIntyre Short Term Rental

Ms. MacIntyre was a resident of the Town of Highland since 1985 and owned a dance studio. They have moved to Texas and occasionally use the home. She wants to keep the home and renting as an Airbnb helps pay the taxes and other expenses. She looked for someone to rent the home long term and had no luck.

Ms. MacIntyre requests that her public hearing to be held in January 2024 being she will not be able to be back in New York in December.

Motion to schedule a public hearing on application #38-2023 to be held January 24, 2024 at 6PM:

Motion: Laura Burrell Second: JT Vogt All in favor

BJ Gettel Code Officer states that Ms. MacIntyre has completed and passed her fire inspection.

Application #39-2023 DKS Properties (Sobel) Short Term Rental

Applicant not present. Secretary will contact and reschedule for December 20, 2023.

Application #40-2023 Lauren Espeseth & Steven Phan Short Term Rental

Ms. Espeseth & Mr. Phan own a home located at 441 State Route 55 and live in Jeffersonville. They are the primary emergency contact along with a friend located in Smallwood and entered on the application.

Motion to schedule a public hearing on application #40-2023 to be held December 20, 2023 at 6PM:

Motion: Steve Bott

Second: JT Vogt

All in favor

BJ Gettel Code Officer states that the applicants have completed and passed her fire inspection.

Application #41-2023 Martine Body Short Term Rental

Ms. Body owns a home located at 54 Highland Lake Road. The home is a two-bedroom one bath cottage and is looking to rent as an Airbnb.

Motion to schedule a public hearing on application #41-2023 to be held December 20, 2023 at 6PM:

Motion: Jeff Spitz

Second: Laura Burrell

All in favor

BJ Gettel Code Officer states that the applicants have completed and passed her fire inspection.

Application #42-2023 Benjamin Becton Short Term Rental

Mr. Becton owns a home located at 12 Yulan-Barryville Road.

Michael Packer of Packer Associates is present for the applicant. Mr. Packer reviews the packet presented to the board and answers all the questions the board asks.

Motion to schedule a public hearing on application #42-2023 to be held December 20, 2023 at 6PM:

Motion: Laura Burrell

Second: JT Vogt

All in favor

BJ Gettel Code Officer states that the applicants have completed the fire inspection and states that the applicant has the 911 # sign ordered and it should be placed prior to the public hearing.

Application # 23-2023 Michael Tkachuk Short Term Rental

Mr. Tkachuk was originally scheduled for a public hearing on September 27, 2023.

The applicant did not appear for that hearing and the board tabled the hearing for

October 25, 2023. The secretary reached out to Mr. Tkachuk by email and phone and

was unable to contact him. The applicant was not present for the tabled public

hearing, therefore the board closed the hearing and stated that Mr. Tkachuk would

need to start over.

The applicant was then sent a violation order to remedy, and responded to the code office where he was informed that he will need to attend tonight's meeting and schedule a new public hearing. Once Mr. Tkachuk completes the entire process the violation will then be lifted.

Mr. Tkachuk has not completed his fire inspection to date.

Motion to schedule a public hearing on application #23-2023 to be held December 20, 2023 at 6PM:

Motion: Laura Burrell

Second: Jeff Spitz

All in favor

Application #5-2022 Camp Fimfo-Catskill Site Plan Review

Attending on behalf of the applicant is Alex Betke.

At the October 25, 2023 Planning Board Meeting a resolution was read into record regarding Part (3) SEQR by Michael Davidoff stating that Camp Fimfo will submit a draft scoping document for the Environmental Impact Statement to be open for public comment starting November 3, 2023 and ending November 23, 2023. This document was also to be published in the local newspapers and posted on the town's website. The document was also sent to Ken Ellsworth of Keystone Assoc., town's engineer for review.

All documents and public comment are entered into record at this meeting and the secretary will post all documents and public comment on the town's website.

The board received a response from Ken Ellsworth (Keystone Associates)

Camp Fimfo was presented with a copy of the report from Mr. Ellsworth for review and will prepare a final draft scoping document to be presented at the December 20, 2023 meeting.

Application #7-2023 211 Mail Road Site Plan Review/Special Use Permit

In attendance for the applicant is John Fuller (Engineer) and Steven Barshov, Counsel for the applicant.

The new plans submitted at tonight's meeting addressed some of the issues of the board and the public.

Perk testing has been completed with a representative from Fusco Engineering present.

There has been no response from Fusco Engineering to the new plans submitted, therefore the board will need to reschedule the applicant for December 20, 2023.

Mr. Barshov asks the board for permission to deal directly with Fusco Engineering in the hope to schedule a public hearing at the December meeting. The board has no objection.

Other Business:

The board votes that all correspondence presented will need to have a full name of persons presenting public comment. There will be no LLC or company names accepted without a person's name attached.

Motion: Jeff Spitz

Second: Steve Bott

All in favor

Motion to close the meeting:

Motion: JT Vogt

Second: Laura Burrell

Meeting adjourned

11/22/2023

Town of Highland Planning Board,

Replying to Short-Term Residential Rental Permit for Section 11, Block 1, Lot 47 located on 120 Eldred Rd.
Application #36-2023

As the owner of 126 Eldred Yulan Rd. down the hill on the lake ROW (Right of Way) from 120 Yulan Eldred Rd, I do not think this property should be allowed or is allowed to be a Short-Term Rental for the following reasons.

1. Deed restriction does not allow its use for this purpose. They are spelled out in Deed Books 592 page 436 and 704 page 908. Phil Blaum and prior owners had these on their ownership of the house in Book 871 page 288. Subsequent ownership documents reference this in prior Deeds and Surveys. All of the original 1.4 acres has the statement. It was split into 3 lots (GFA/Burgess 11.-1-47, Freudenthal 11.-1-46.1, Bodner 11.-1-46.3 and one ROW Kopf/Kayser 11.-1-46.2

Knowing both the original owners I think the restrictions were there to not have the smaller non-motorboating lake like Montgomery is to not become what Washington was in its heyday with boarding houses, hotels and bars. Mr. McGough one of the owners built and owned two houses on the lake.

BOOK 704 PAGE 910

(a) No building or structure shall be erected, constructed or maintained nor suffered to be erected, constructed or maintained upon said pre- mises except a detached dwelling house designed for the use and occupancy of one family only, and except one garage and other out buildings for the use and occupancy only in connection with and as appurtenant to such dwelling, and **no one shall use or occupy such premises nor any part thereof, or suffer said premises or any part thereof to be used or occupied for the manufacture or sale of any goods, wares, or merchandise whatsoever, nor for the carrying on or conducting thereon of any trade, business, boarding house, lodge, calling or pursuit whatsoever.**

(b) No fence except a hedge fence upon said premises shall be constructed upon said premises without the consent of the party of the first part.

(c) The septic tank on the premises used in connection with the dwelling thereon shall be of sufficient size and capacity to properly dispose of all sewage or waste water from such dwelling and that all sewerage or waste therefrom or from any other structure thereon shall not threaten the purity of Montgomery Lake.

2. Prior trespassing onto my property (Dock, beach and around my house) by the owners and guests of 120 Eldred Yulan as a currently operating Airbnb for the last few months. (I even had a Private Dock sign to keep them out). House was first advertised as a Lakefront House that has change to Lake Access. I had to find Micah Burgess after joining Airbnb (because it an LLC) to tell him that his guests are doing this trespassing. He has and will have no control over his guests. He said he was going to be putting up signs to point to the (ROW) and I think he said that he did put

something in his Airbnb Owner's Manual for the house. Only a few couples have used it since Manual changes supposedly went in so I cannot gauge its effectiveness. He and his family members have been out on my dock and on my property besides his Airbnb customers. Only 1 boat is allowed. Now 4 are there on the ROW, I believe the dock the previous owner put in place on the ROW is on my shoreline property. (a prior tree fall took out one of the Iron Survey Pins so I recently took measurements from the remaining ones on mine and adjoining Stamant properties) Mr. Burgess's family and boat supplier have transited the property via vehicle a bunch of times. It is only to be walked on. I provided Monica McGill months back a USB drive with video evidence of the previous issues.

3. The owner of the closest house of Mr. Freudenthal aka The Can Man is deceased but would have objected to the use from knowing him for over 20 years. But that is OBE
4. The owner of the ROW Vern Kopf and Fritz Kayser are deceased also. I know the remaining Kopf's (Monica, Franz) have liability concerns with a high volume of people transiting the ROW they own. See how they reply to the Public Hearing!

If 6 people groups are there for just 40 weeks that is 240 people up and down the ROW multiple times a week. If smaller groups or more than 1 group per week it could be more on the 16.7-foot Montgomery ROW and Lake Frontage.

Bottom line is I think the Lake ROW, trespassing liability issues and especially the Deed Restrictions should stop its use as an Airbnb or other type Short Term Rental.

The town should look at the subject house as when I had the clerk look in the file to see if Deeds existed for it but the file showed there were NO Building Permits. I was personally in there 4 times while it was being modified. From the Towns web site Building Permits should be in place for Roof replacements, Deck replacements and major interior modifications. Most of the modifications could be seen from the outside of the house. The valuation went from REPO 9/2/2016 of \$44,182.00 to GFA Vacation LLC aka Micah Burgess on 12/7/2022 for \$222,000.00. The seller TS on his affidavit that no Exterior Mods had been done in 2 years. Obviously, a lot of work was done to show such a price increase. Just an F.Y.I.

I did get to learn how the Sullivan County Deed office works and spent a few hours there researching all of this with the help of Clerk Ann and paying 50 cent a page for each item. A lot was already in the Title Search done over 20 years ago for my house at 126 Eldred Yulan that seemed more comprehensive than for the others.

I will try to attend the hearing but feel free to reach out to me for more info and documents.

Respectfully,

Gregory P. Bodner

Cell 607-242-8043

126 Eldred Yulan Rd, Mailing: 1203 Leona Ave. Endicott, NY 13760