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SUPERVISOR  
LAURIE C. DUDLEY  
TOWN CLERK/ TAX COLLECTOR  
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JACK FAVRO  
DEREK DOTY  
RICHARD CUMMINGS  
EMILY KILBURN POLITI  
TOWN COUNCIL  
KENNETH PORTER  
SUPT. OF HIGHWAYS  
523-9081  
CATHERINE EDMAN  
BUDGET OFFICER  
523-9517

## TOWN OF NORTH ELBA

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TOWN COURT OFFICE  
523-2141  
RONALD J. BRIGGS  
ATTORNEY FOR THE TOWN

### REVIEW BOARD MEETING MINUTES April 15, 2020

#### MEMBERS PRESENT

Bill Hurley  
John Rosenthal  
Chip Bissell  
Bill Walton  
Jackie Kelly  
Bob Rafferty  
Rick Thompson

#### MEMBERS ABSENT

#### ALSO PRESENT

Tim Smith, Board Attorney  
Mike Orticelle, Code Enforcement Officer  
Terry Tubridy, Planning & Zoning Coordinator

Mr. Hurley opens the meeting at 5:32 PM.

Present – all Board members, Mr. Orticelle, and Mr. Tubridy. All Board members, except Mr. Smith, present via GoToMeeting video conferencing. Mr. Smith present by telephone.

#### Lake Placid Chalet, LLC (Case #1055) – Conditional Use

Mr. Matthew Norfolk, applicant's representative, present via video.

Mr. Hurley: introduces a letter from Mr. Smith regarding a proposed position for the Board regarding this application to turn a single-family residence into a rooming house.

Mr. Smith: discusses his letter regarding the newly adopted Town and Village Short-Term Rental Law (effective March 19, 2020), vested rights of an applicant, and the status of this application. He compares the difference in this case to a similar application presented in Case #1069 – Adirondack Properties. Expresses his opinion that no approval was given to this case prior to the new law taking effect, a vested

right had not been established under the old law, and this application should be governed by the new law. A rooming house is no longer an allowed Conditional Use in the applicant's zoning district (Town Residential) and the Review Board no longer has jurisdiction in this matter. Applicant should apply to the Zoning Board of Appeals for a Use Variance. Mr. Smith further notes his opinion was not influenced by written arguments received from Mr. Norfolk and Mr. James Brooks (attorney for neighbors opposing the application).

Mr. Thompson: will the Board have jurisdiction if a Use Variance is granted?

Mr. Smith: there may be a Shoreland Overlay aspect to this application, but it is doubtful this would come back to the Board.

Mr. Norfolk: presents new information, requested by the Board, regarding parking and the right-of-way use of Yacht Club Way. asserts his opinion the application was complete on December 30, 2019, when it scheduled for a hearing on January 8, 2020. He does not see any difference between his client's case and Case #1069. Neither case needed to expend funds in preparation for applying for a Conditional Use and this case should be decided under the law in existence prior to March 19, 2020.

The Board briefly discusses the completeness of the application and concurs with Mr. Smith's opinion for the Board.

Mr. Bissell makes a motion stating the Review Board has no jurisdiction and the application should be referred to the Zoning Board of Appeals.

Ms. Kelly seconds the motion.

All members, except Mr. Hurley (abstained), vote in favor. The motion passes 6-0.

Case #1055 closed.

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These minutes were reviewed by the Review Board on May 6, 2019. Mr. Rosenthal moved to approve the minutes as written. Ms. Kelly seconded the motion. All present members voted in favor (Mr. Walton absent). The motion was approved 6-0.



William R. Hurley, Chairman  
Review Board

**RECEIVED**

Date: 5/27/2020  
Town Clerk Jamie Burt Dudley  
Date: 6/1/2020  
Village Clerk Amber A. Ely

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#### **MEMBERS ABSENT**

#### **ALSO PRESENT**

Tim Smith, Board Attorney  
Mike Orticelle, Code Enforcement Officer  
Terry Tubridy, Planning & Zoning Coordinator

#### **Adirondack Properties, LLC/Takach, Michael (Case #1069)**

Mr. Michael Takach present via video connection.

Mr. Hurley: reviews a draft Findings of Fact document presented by Mr. Smith. Subject document was requested by the Chairman, during the Board meeting on March 4, 2020, as a condition of approval.

Mr. Rosenthal: approval should refer to the new Short-Term Rental (STR) Law for guidance.

Mr. Hurley: expresses no objection but notes a rooming house was allowed under the Land Use Code (Code) prior to the STR law.

Mr. Smith: the application stands on its own. Applicant must abide with applicable portions of the STR law.

Mr. Orticelle: enforcement will be directed by the old and new laws. Rooming houses and beds & breakfasts are required to obtain STR permits.

Mr. Takach: asserts any approval under the 2011 Code supersedes the changes enacted by the STR law.

Mr. Orticelle: all STR units require a permit. Approval under the old Code puts no limit on the number of days you are allowed to rent, but you need a permit.

Mr. Thompson makes a motion to approve the Findings of Fact and to approve the application.

Mr. Bissell seconds the motion.

Messrs. Rosenthal, Bissell, Walton, Rafferty, and Thompson vote in favor. Mr. Hurley and Ms. Kelly vote against. The motion passes 5-2.

Case #1069 closed.

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These minutes were reviewed by the Review Board on May 6, 2019. Mr. Rosenthal moved to approve the minutes as written. Ms. Kelly seconded the motion. All present members voted in favor (Mr. Walton absent). The motion was approved 6-0.

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William R. Hurley, Chairman  
Review Board

**RECEIVED**

Date: 5-27-2020  
Town Clerk [Signature]  
Date: 6/1/2020  
Village Clerk [Signature]

## DECISION

### VILLAGE OF LAKE PLACID/TOWN OF NORTH ELBA REVIEW BOARD

#### CONDITIONAL USE/HISTORIC & SHORELAND OVERLAY APPLICATION OF:

#### Adk Properties LLC (Case #1069)

#### Findings of Fact and Conclusions of Law

1. The applicant is Adk Properties, LLC/Michael Takach.
2. The project site is a 0.47-acre residential property located at 16 Stage Coach Way, Lake Placid (Tax Map #42.73-3-8.000). The property is presently owned by Adk Properties, LLC, and is in a Village Residential District under the Village of Lake Placid/Town of North Elba Land Use Code (the Code).
3. The proposed project is a Change of Use from residential to Rooming House, and is described on a series of plans and other submissions by a Review Board application dated 2/10/2020.
4. The project site is presently improved by a single-family dwelling.
5. The proposed project is a "Type II" action under the State Environmental Quality Review Act (SEQRA), for which no determination of significance is necessary.
6. The proposed project complies with the use and dimensional provisions of the Code as applicable.
7. The project was the subject of a Notice to Neighbors hearing held by the Review Board on March 4, 2020, at which members of the public were afforded an opportunity to make comments on the project. No oral or written comments were made by any member of the public in this matter.
8. The Board finds that the proposed use does fall within the Code's definition of "rooming/boarding house", and also takes note of the following unique facts related to this application:
  - a. The use would involve two bedrooms only, two persons per bedroom.
  - b. No exterior construction or land disturbance would be involved.
  - c. There is adequate parking for the use, in compliance with the Code's off-street parking requirements.
  - d. The proposed use would be approximately 200 feet away from the "Stagecoach Inn" bed-and-breakfast, at 3 Stage Coach Way, a company which is owned by Mr. and Mrs. Michael Takach who also own the applicant in this proceeding, ADK Properties, LLC. Mr. and Mrs. Takach live at the Stage

Coach Inn, which will enable them to monitor the proposed rooming house use at 16 Stage Coach Way and enable them to respond to any disturbances or noise issues in a timely and appropriate manner.

9. On the basis of the foregoing, the Review Board finds that the project complies with the Code's criteria for approval, the project is approved, subject to the following conditions:

- a. Parking and site design plans are approved as submitted. Any and all changes or additions to the use, plans, specifications, materials, or engineering must be submitted in writing for further review and approval by the Review Board.
- b. The two bedrooms in the rooming house shall be limited to two persons each. Moreover, there shall be no tent-camping on the property or sleeping in travel trailers or camper vehicles.
- c. This approval does not address or make any findings regarding applicable deed restrictions, covenants, or other title conditions. This approval does not excuse the applicant from obtaining all other necessary governmental approvals, including but not limited to the New York State Building Code, Adirondack Park Agency, New York State Department of Environmental Conservation, New York State Department of Health, and/or Army Corps of Engineers.

Date: April 15, 2020

Decision moved by: Mr. Thompson

Seconded by: Mr. Bissell

Voting Aye: Messrs. Rosenthal, Bissell, Walton and Rafferty

Voting Nay: Mr. Hurley and Ms. Kelly

Absent: None



William R. Hurley, Chairman

Review Board

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Bill Walton  
Jackie Kelly  
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Rick Thompson

#### MEMBERS ABSENT

#### ALSO PRESENT

Tim Smith, Board Attorney  
Mike Orticelle, Code Enforcement Officer  
Terry Tubridy, Planning & Zoning Coordinator

#### White Horse Placid, LLC (Case #1070)

Mr. and Mrs. White present, via video, as applicants.

Applicants propose to build a two-bay car wash on Saranac Avenue in Lake Placid.

Mr. Hurley: reviews the application and new design and noise information submitted earlier this week.

Mr. Rafferty: when was the application submitted?

Mr. Orticelle: explains he has previously met with the applicants on multiple occasions over the past year.

Mr. Hurley: the application is dated March 9, 2020 and is an allowable Conditional Use in a Gateway Corridor District.

Mr. White: the proposed design is intended to allow cars to line up alongside the building and not block Saranac Avenue. The intent is to maintain the entry and exit so as not to block road or pedestrian traffic.

Ms. Kelly: how will Saranac Avenue traffic be affected?

Mr. Hurley: will you reclaim the water runoff from the car wash or allow it to drain straight into the sewer?

Mr. White: the design intent is to collect the water in underground tanks and use an oil separator to treat the water. The water and waste will be pumped out and properly disposed of.

Mr. Thompson: is there a plan for the large area in the rear of the property? What kind of screening will be used in the rear? Does the parking plan violate lot setbacks?

Mr. Hurley: the Board needs to determine screening requirements. The building design is very nice and does not look like the usual box design of car washes.

Mr. White: our intent is a design which blends in with the area.

Mr. Hurley: how much time will you need to stake out the lot lines, building corners, and vacuum station? Provides guidance for marking the property.

Mr. Hurley: should we conduct a public hearing or a notice to neighbors. Expresses concern that the public be able to properly conduct under the current COVID-19 restrictions.

Ms. Kelly: the proposal will affect the entire village and should be a public hearing. Other Board members concur.

Mr. Hurley: recommends conducting a public hearing on May 6, 2020.

Mr. Bissell: agrees and states the Board can determine landscaping/screening requirements during the site visit.

The Board will determine the date of a site visit after further coordination with Mr. & Mrs. White.

Mr. Hurley: the information regarding noise levels should be compared to familiar tools such as lawn mowers, leaf blowers, etc.

Mr. Orticelle: do you have any other car wash businesses?

Mr. White: no.

End of discussion.

These minutes were reviewed by the Review Board on May 6, 2019. Mr. Rosenthal moved to approve the minutes as written. Ms. Kelly seconded the motion. All present members voted in favor (Mr. Walton absent). The motion was approved 6-0.



William R. Hurley, Chairman  
Review Board

<b>RECEIVED</b>	
Date	<u>5-27-2020</u>
Town Clerk	<u>Jane Ann Buckley</u>
Date	<u>6/1/2020</u>
Village Clerk	<u>Amelia A. Esty</u>

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#### ALSO PRESENT

Tim Smith, Board Attorney  
Mike Orticelle, Code Enforcement Officer  
Terry Tubridy, Planning & Zoning Coordinator

#### Board Business

#### Minutes of 3/18/2020

The Board unanimously approves the minutes as written.

The Chairman asks about any upcoming vacations. Mr. Walton states he will be out of town for 25 days, starting on 4/22/2020.

Meeting adjourned at 6:36 PM.

These minutes were reviewed by the Review Board on May 6, 2019. Mr. Rosenthal moved to approve the minutes as written. Ms. Kelly seconded the motion. All present members voted in favor (Mr. Walton absent). The motion was approved 6-0.

William R. Hurley, Chairman  
Review Board

<b>RECEIVED</b>	
Date	5-27-2020
Town Clerk	<i>Laura Ant. Swales</i>
Date	6/1/2020
Village Clerk	<i>Amelia A. Esty</i>