

# TOWN OF HYDE PARK

## Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

### Minutes

March 28, 2018

**Present:** John Bickford  
Herbert Sweet  
Brendan Lawler  
Neil Krupnick  
James Agrawal

**Absent:**

**Others Present:** Victoria Polidoro, Attorney, Patrick Logan, Law Clerk, Linda Weiner, ZBA Secretary

John Bickford, Chair, welcomed everyone to the March 28, 2018 meeting at 7:00 P.M.

Mr. Bickford commenced the Pledge of Allegiance

The secretary was asked to note the roll.

The next meeting will be April 25, 2018

Motion was made by Brendan Lawler, seconded by James Agrawal to approve the February 28, 2018 minutes.  
VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSTAINED (0) ABSENT (0) NAY – MOTION CARRIED

### **Continued Public Hearing:**

**#17-16Z** Dorinda Bolander  
309 Netherwood Rd.  
Hyde Park, NY 12538  
**Use Variance – Section** 108-5.14 Changing from multiple dwelling “not permitted” to “permitted”, to allow the establishment of one three-family dwelling on a lot in the Greenbelt District.

**#17-19Z** Dorinda Bolander  
309 Netherwood Rd  
Hyde Park, NY 12538  
**Area Variance – Section** 108-5.15 Changing maximum average density from 2.5 acres per dwelling to 2.56 acres for 4 dwellings in the Greenbelt District.

Motion to open the continued public hearing was made by James Agrawal, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

Dorinda Bolander spoke regarding the application. She referred to a letter dated March 8, 2018 explaining why the special use permit is the only way viable choice with respect to this property.

Ms. Bolander discussed whether other residential care facilities or treatment centers would be interested in the property. A sale and release document was sent to several residential Care Facility operators. They asked if there was interest in purchasing or leasing this property for a residential care facility. Every one said no. They were not interested. That answers the question whether the use of a residential care facility would be available for this property.

Kevin Pellon, Architect, spoke to the Board regarding the feasible and non-feasible uses of the property in the Greenbelt area.

Neil Krupnick asked about selling the property outright without any changes. He asked if the property held any value on its own. The applicant didn't have numbers regarding that.

Mr. Bickford said it would be kicking the problem down the road to someone else.

Mr. Pellen said it would require an updated CO which the property doesn't have which shrinks the pool of potential buyers.

Victoria Polidoro said for the record, there is no updated CO because the apartments were converted without approval.

Ms. Bolander said there is a CO for the original building, but for the addition created in the 1970's there doesn't seem to be a CO. It was verified that it's being used as a multi-family at this time.

Mr. Pellen stated the construction of the addition was sanctioned by the State and the Town. The fact there isn't a CO is the issue. That's the purpose of their being in front of the Board. The estate wants to sell the property to a couple of brothers

Jim Agrawal asked if there was thought of converting to a two family and increasing the rent per unit enough to be able to break even. Ms. Bolander stated, looking at a business property, there has to be a reasonable return and breaking even is not a reasonable return. It essentially is not feasible.

Herb Sweet asked for attorney-client session due to questions how to do calculations from a financial and legal point of view.

Mr. Bickford asked if anyone wanted to speak. Barbara Sweet, 6 Covey Rd., Hyde Park stated she did not hear New Horizons listed in the possible organizations.

Mr. Pellen said they would reach out to New Horizons in the next couple of days to see if there's any interest.

Mr. Bickford stated it's not an issue with the Board. He asked if anyone else wanted to speak for or against the application.

Motion to go into attorney-client session was made by Neil Krupnick, seconded by James Agrawal at 7:42 PM.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Motion was made to return from attorney-client was made by Herbert Sweet, seconded by James Agrawal at 8:06 PM.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

Mr. Bickford stated no decisions were made while discussing legal standard of review.

Mr. Bickford asked Board or if anyone had questions or anything to add.

Mr. Bickford read the Use variance requirements asking the Board if the applicant has complied.

1. The property is incapable of earning a reasonable rate of return
2. The property is being affected by unique, or at least highly uncommon circumstances.

James Agrawal had no comment.

Herbert Sweet said it's unique. Enough evidence has been presented.

3. That the variance, if granted, will not alter the essential character of the neighborhood.

The four Board members were in agreement.

4. That the hardship is not self-created

James Agrawal agreed

Herbert Sweet agreed. If the state kept sending patients they wouldn't be here.

Brendan Lawler agreed

Neil Krupnick disagreed. He understands not wanting to make changes after 35 years. Referring to his own business he's had since 1990, he's had to make changes how he operates a million times. This has allowed him to stay relevant and current which is the nature of any business.

Ms. Bolander stated the nature of the business did change. It wasn't a matter of not wanting to change. They were no longer a viable option to receive residents. The change in the industry has changed with facilities no longer applicable for that industry. That is the hardship.

Mr. Bickford didn't feel it was self-created. What needs to be looked at is the change in the industry. The facility is no longer applicable to that industry. That's the hardship that was created. What do you do with a building that is no longer adaptable to the old industry?

Brendan Lawler questioned Ms. Bolander on what she would consider a reasonable rate of return.

Ms. Bolander explained finances were on the original application.

Neil Krupnick was concerned not having the original investment numbers. He questioned why there was no marketing of the property to see what they could get. That would be the big number to determine what the return would be. Without knowing what the numbers are there's no proof they will suffer a loss.

Ms. Bolander said brokers don't want to touch the property that's a non-conforming use without a CO.

Victoria Polidoro suggested that it's helpful to see the investments over the years even if its ballpark. The Board gave suggestions were the applicant might find the information.

Mr. Pellen asked for suggestions on what can be done to the property.

There were no further questions.

Motion was made by James Agrawal, seconded by Neil Krupnick to continue the public hearing on April 25, 2018.  
VOICE VOTE - ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT - MOTION CARRIED

**#17-20Z**

Janet Hughes  
531 Creek Rd  
Poughkeepsie, NY 12601

**Appeal** of the October 20, 2017 Notice of Violation issued by the Zoning Administrator which found that the premises were being occupied unlawfully and directed the owner to limit the use of each building to a two family dwelling in the Greenbelt District.

Mr. Bickford announced that this application was removed from the Agenda. The applicant sent a letter of withdrawal.

**New Public Hearing:**

**#18-03Z** Robert Dupont, Architect  
For/ A. Hilliker, V. Liu  
8 Howard Blvd.  
Hyde Park, NY 12538

**Variance – Section** 108-5.15 Changing a side yard setback from 20 ft. to 8 ft. at eaves; and  
**Section** 108-5.15 Replacing an existing accessory building increasing height from 15 ft. to 18 ft. in the Neighborhood District within the Historic Overlay District

Motion to open the public hearing was made Brendan Lawler, seconded by Herbert Sweet  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

Robert Dupont presented the application to the Board. He explained the measurements and what is being proposed.

Herb Sweet asked about possible alternate locations and an alternate driveway access.

Mr. Bickford asked if anyone wanted to speak. No one wanted to speak.

Motion to close the public hearing was made by Brendan Lawler, seconded by James Agrawal  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

**TOWN OF HYDE PARK  
Zoning Board of Appeals**

**VARIANCE RESOLUTION**

Application #:18-03Z

Grid #: 6065-02-957514

**Introduced by:** Herbert Sweet

Date: March 28, 2018

**Seconded by:** Neil Krupnick

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on March 28, 2018 reviewed the facts in Application 18-03Z submitted by Robert J. Dupont/For Alan D. Hilliker and Vivian W. Liu 8 Howard Blvd., Hyde Park, NY 12538

**WHEREAS**, the application was determined to be a Type II Action under Section 6NYCRR Part 617 and Section 54-7 of the Code of the Town of Hyde Park, and

**WHEREAS**, said application requests a variance or adjustment to the strict application of the Zoning Code, specifically regarding a

**Variance – Section 108-5.15** Changing a side yard setback from 20 ft. to 8 ft. at eaves; and **Section 108-5.15** Replacing an existing accessory building increasing height from 15 ft. to 18 ft. in the Neighborhood District within the Historic Overlay District

*WHEREAS*, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on March 23, 2018 and posted as required by law, and

*WHEREAS*, at said Public Hearing all who desired to be heard were heard and their testimony recorded, and

*WHEREAS*, all testimony has been carefully considered and the following pertinent facts noted:

1. The existing garage has deteriorated and is 7 inches from the property line
2. The site, while large topographically severely limits the placement of structures
3. The existing structures date to the nineteenth century

*NOW. THEREFORE BE IT RESOLVED* by the Zoning Board of Appeals, that Application #18-03Z request for a variance from Section 108, as set forth above, be **granted** on the following grounds:

1. The variance requested **will not** produce an undesirable change to the character of the neighborhood or a detriment to nearby properties as the new garage will be aesthetically far more pleasing than the existing deteriorated garage and will be further from the property line and the height variance will result in a height reduction from the existing structure.
2. The needs of the applicant **can not** be achieved by other than an area variance considering that the terrain limits the placement of structures.
3. The requested variance **is** substantial but is also an improvement in relationship to the existing structure.
4. The requested variance **will not** affect the physical or environmental conditions in the neighborhood.
5. The hardship for which the variance is sought to rectify **was not** self created considering the topographical limitations and the placement of the structure.
6. The variance being granted is the minimum variance to meet the needs of the applicant.

Adopted: March 28, 2018

Brendan Lawler	AYE
Herbert Sweet	AYE
Jim Agrawal	AYE
Neil Krupnick	AYE
John Bickford	AYE

:lw

Secretary: \_\_\_\_\_  
Linda Weiner

**#17-03Z** Enclave at Hyde Park  
Cream St  
Hyde Park, NY 12538

**Extension of Variance** - On March 22, 2017 the applicant was granted a variance for the following: Changing average density from 2.5 A per DU to 1.41 A per DU (70.51 acres) in the Greenbelt District. The applicant is seeking an extension of the time in which to exercise this variance pursuant to Section 108-33.5 (F) of the Code.

Motion to open the public hearing made by, James Agrawal seconded by Neil Krupnick  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

Nicole Patti, LRC Group, presented the application to the Board. There were no questions.

Motion to close the public hearing made by Brendan Lawler, seconded by Herbert Sweet  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

**Town of Hyde Park Zoning Board of Appeals  
4383 Albany Post Road  
Hyde Park NY 12538  
(845) 229-5111 Ext. 2  
(845) 229-0349 Fax**

## **RESOLUTION TO GRANT A ONE YEAR EXTENSION OF A VARIANCE**

### **The Enclave at Hyde Park**

**Date: March 28, 2018**

**Moved By: Herbert Sweet**

**Resolution: # 17-03Z**

**Seconded By: Brendan Lawler**

WHEREAS, on March 22, 2017, by Resolution # 17-03Z, the applicant, 54-Hyde LLC, was granted a variance to change the average density in the Greenbelt District from 2.5 acres per dwelling unit to 1.41 acres per dwelling unit (the "Variance") in order to re-subdivide 70.51 acres into 25 residential lots with 50 dwelling units (the "Project"); and

WHEREAS, on September 20, 2017, by Resolution # 16-49C, the Town of Hyde Park Planning Board granted the applicant conditional final approval of a subdivision plat for the Project; and

WHEREAS, on March 7, 2018, the Planning Board granted the applicant a 90-day extension of time in which to satisfy the conditions of conditional final plat approval for the Project to June 18, 2018; and

WHEREAS, the applicant cannot commence the activity authorized by the Variance until the conditions of the conditional final plat approval are satisfied; and

WHEREAS, pursuant to Section 108-33.5(F)(1) of the Town of Hyde Park Zoning Law, any variance under which the authorized activity has not commenced within one year from the date of issuance is revoked without further hearing or action of the Zoning Board of Appeals; and

WHEREAS, pursuant to Section 108-33.5(F)(2) of the Zoning Law, the Zoning Board of Appeals may, in its discretion, after conducting a public hearing, grant an extension to a variance; and

WHEREAS, on February 26, 2018, the applicant submitted a request for an extension of approval of the Variance; and

WHEREAS, a public hearing on the proposed extension for the Variance was held on March 28, 2017, during which all those who wished to speak were heard; and

WHEREAS, on February 15, 2017, the Planning Board, serving as lead agency in a coordinated review under the State Environmental Quality Review Act ("SEQRA") adopted a negative declaration, determining that the proposed Project would not result in any significant adverse environmental impacts; and

WHEREAS, the Zoning Board of Appeals has considered the circumstances warranting such an extension.

**NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals hereby grants a one year of time in which to commence the activity authorized under the Variance to March 22, 2019.**

**Adopted: March 28, 2018**

<b>John Bickford, Chair</b>	<b>YES</b>
<b>Jim Agrawal</b>	<b>YES</b>
<b>Neil Krupnick</b>	<b>YES</b>
<b>Brendan Lawler</b>	<b>YES</b>
<b>Herb Sweet</b>	<b>YES</b>

**Filed with the Secretary of the Zoning Board of Appeals on: March 29, 2018**

\_\_\_\_\_  
**Secretary**

**#18-04Z**

Andy Dahowski  
For/ Conrad & Martha Morgan  
8 Gilbert Dr  
Hyde Park, NY 12538

**Variance – Section** 108-5-15 changing front yard setback from 50 ft. to 35 ft. for construction of a front porch with roof in the Neighborhood District.

Motion to open the public hearing was made by Brendan Lawler, seconded by Neil Krupnick  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

Andy Dahowski presented the application to the Board. Mr. Bickford asked if anyone had any questions. There were no questions.

Motion to close the public hearing was made by Herbert Sweet, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

**TOWN OF HYDE PARK**  
**Zoning Board of Appeals**

**VARIANCE RESOLUTION**

Application # 18-04Z

Grid #: 6164-02-838612

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Introduced by: John Bickford  
Seconded by: Herbert Sweet

Date: March 28, 2018

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on March 28, 2018 reviewed the facts in Application #18-04Z as submitted by Andy Dahowski/For Conrad & Martha Morgan, 8 Gilbert Dr. Hyde Park, NY 12538

**WHEREAS**, the application was determined to be a Type II Action under Section 6NYCRR Part 617 and Section 54-7of the Code of the Town of Hyde Park, and

**WHEREAS**, said application requests a variance or adjustment to the strict application of the Zoning Code, specifically regarding a

**Variance – Section 108-5-15** changing front yard setback from 50 ft. to 35 ft. for construction of a front porch with roof in the Neighborhood District.

**WHEREAS**, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on March 23, 2018 and posted as required by law, and

**WHEREAS**, at said Public Hearing all who desired to be heard were heard and their testimony recorded, and

**WHEREAS**, all testimony has been carefully considered and the following pertinent facts noted:

1. Aerial photos were observed and reviewed
2. Photos of the house were provided which are clear to show where the new porch will go.
3. The new porch will not look bad
4. Measurements were made with the guidance of the Zoning Administrator

**NOW. THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #18-04Z\_a request for a variance from Section 108, as set forth above, be **granted** on the following grounds:

1. The variance requested **will not** produce an undesirable change to the character of the neighborhood or a detriment to nearby properties. The front porch will enhance the character of the neighborhood.



2. The needs of the applicant **can not** be achieved by other than an area variance. There is no other feasible spot for the new porch.
3. The requested variance **is not** substantial.
4. The requested variance **will not** affect the physical or environmental conditions in the neighborhood. The variance will improve the physical condition by making the porch useable while not negatively affecting the physical/environmental conditions in the neighborhood.
5. The hardship for which the variance is sought to rectify **was** self created.
6. The variance being granted is the minimum variance to meet the needs of the applicant.

Adopted: March 28, 2018

Brendan Lawler	AYE
Herbert Sweet	AYE
Jim Agrawal	AYE
Neil Krupnick	AYE
John Bickford	AYE

:lw

Secretary: \_\_\_\_\_

Linda Weiner

**New Application:**

**#18-05Z**

Joseph & Ann-Marie Van Etten  
408 Violet Ave  
Poughkeepsie, NY 12601

**Variance – Section** 105-5.15 changing gross square feet from 7,500 to 50,500 gross square feet to allow relocation of their existing business, Associates Golf Car, Inc. in the Neighborhood Business District.

Mark Day, Engineer, presented information to the Board. No one had any questions. The Board directs

**Town of Hyde Park Zoning Board of Appeals**  
4383 Albany Post Road

Hyde Park NY 12538

(845) 229-0316  
(845) 229-0349

**RESOLUTION REFERRING APPLICATION TO THE COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT**

**ASSOCIATES GOLF CAR SERVICE, INC**  
**408 Violet Ave**

**Date: March 28, 2018**

**Moved By: John Bickford**

**Resolution #: 18-05Z**

**Seconded By: James Agrawal**

WHEREAS, the applicants, Joseph & Ann-Marie Van Etten, have submitted an application for area variance in connection with the relocation of their existing golf car service business to a 12.4-acre property located at 408 Violet Ave, identified as tax parcel No. 6163-04-596439, in the Neighborhood Business District (the "Project"); and

WHEREAS, the proposal is shown on plans entitled, "Associates Golf Car Service, Inc Amended Site Plan" prepared by M.A. Day Engineering, PC, dated August 17, 2017, last revised February 27, 2018 (the "Site Plan"); and

WHEREAS, the applicant seeks a variance from Section 108-5.15 of the Zoning Law to permit a scale of 50,500 gross square feet where 7,500 gross square feet is allowed (the "Requested Variance"); and

WHEREAS, the Planning Board has circulated notice of its intent to serve as lead agency in a coordinated SEQRA review of the Project; and

WHEREAS, pursuant to Section 239-m of the General Municipal Law, projects located within 500 feet of any county road, or within 500 feet of a boundary of any city, village or town, must be referred to the Dutchess County Department of Planning and Development for a report and recommendation thereon; and

WHEREAS, the property is located within 500 feet of NYS Route 9G, a state highway.

**NOW THEREFORE BE IT RESOLVED that the Zoning Board of Appeals hereby:**

- 1. Directs its Secretary to refer the Project materials to the Dutchess County Department of Planning and Development for a review and recommendation thereon pursuant to Section 239-m of the General Municipal Law; and**
- 2. Directs its Secretary to refer the Project materials to the Hyde Park Planning Board for a report and recommendation thereon.**

Adopted: March 28, 2018

John Bickford	AYE
Jim Agrawal	AYE
Neil Krupnick	AYE
Herb Sweet	AYE
Brendan Lawler	AYE

Motion was made by John Bickford, Seconded by Neil Krupnick to set the public hearing for April 25, 2018.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED.

**#18-06Z**

Deborah Seidman  
60 Mills Cross Rd  
Hyde Park, NY 12538

**Variance – Section 108-4.3G(2)** To allow construction within the 100 ft. stream corridor changing the undisturbed corridor from 100 ft. to 0 ft. for site work associated with a proposed single family home in the Greenbelt District.

Nicole Patti, was present to represent Ms. Seidman. No one had any questions.

Motion to set the public hearing for April 23, 2018 was made by Herbert Sweet, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

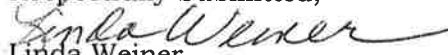
**Other Business:**

Discuss Hyde Park Town Center North, Lead Agency. The Zoning Board agreed that the Planning Board serve as Lead Agency

Motion was made by Herbert Sweet, seconded by Herbert Sweet to adjourn at 10:16 P.M.  
VOICE VOTE - ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

Respectfully Submitted,

  
Linda Weiner  
Secretary