

# TOWN OF HYDE PARK

## Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

### Minutes

October 24, 2018

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

**Absent:**

**Others Present:** Patrick Logan, Esq., Linda Weiner, ZBA Secretary

John Bickford, Chair, welcomed everyone to the October 24, 2018 meeting at 7:00 P.M.

Mr. Bickford commenced the Pledge of Allegiance

The secretary was asked to note the roll.

Mr. Bickford asked for the approval of the September 26, 2018 minutes.

Motion was made by Herbert Sweet, seconded by Brendan Lawler to approve the minutes for September 26, 2018.  
VOICE VOTE -ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – (1) ABSTAINED -MOTION CARRIED

The Board discussed the December 26, 2018 Zoning Board meeting date. John Bickford, Chair suggested cancelling the meeting. If needed, a special meeting would be scheduled.

Motion to cancel the December 26, 2018 Zoning Board meeting was made by John Bickford, seconded by Brendan Lawler.

VOICE VOTE – ALL IN FAVOR

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

The Board directed the secretary to search the calendar for acceptable dates for the November and December 2019 meetings.

### **New Public Hearing:**

**#18-17Z** Sake Brewery  
5 Saint Andrews Rd  
Hyde Park, NY 12538

**Variance – Section** 108-24.2(F)(2)(a) for the graphic or symbol dimension to exceed 24 inches, as relaxed by the Planning Board, in any dimension for the wall mounted sign changing from 24 in. to 31 ¾ inches in height, and 25 3/16 inches in width; and **Section** 108-24.2(F)(2)(a) for the graphic or symbol dimension changing from maximum 10 in. to 24 inches high on two free standing monument signs; and **Section** 108-4.3(G)(2) allowing disturbance within the 100 ft. stream corridor for a waste

water treatment plant and generator encroaching to 23 ft. 7 in. from the stream bank in the Town Center Historic District. (subject to verification)

Motion to open 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

The secretary verified publication of the hearing.

Edward Teyber, Zarin & Steinmetz, representing Asahishuzo International Co., Ltd., presented the application to the Board. He gave a brief explanation on the proposed construction and how it will work.

Mr. Bickford asked if anyone had any comment.

Ray Hannon, Red Barn Road stated he had no problem with the brewery going into this property. His concern is that people used to cut through his yard when it was the Stop and Shop property. A fence was put up, but it wasn't enough to stop people from going through his back yard. He asked if it could be considered that something other than the fence be put up as a buffer. He asked about evergreen trees.

Mr. Bickford said that would be something to be addressed on a site plan review with the Planning Board.

Mr. Teyber said that should be easily addressed, either with landscaping or fence. He also pointed out proposed plans to extend the existing sidewalk which should help.

Mr. Sweet pointed out the Brewery is a different type of business than a grocery store, therefore shouldn't have the constant traffic as before.

Mr. Hannon said trees would help with noise. He would like a buffer for the noise and people cutting through his property.

Mr. Bickford recommended that he brings this to the Planning Board, even though Mr. Teyber is aware. It should be documented getting comments on record. It was noted Dutchess County Planning gave their response for 239M making the application a local matter.

There were no other comments or questions.

Motion to close the public hearing was made by James Agrawal, 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**  
**4383 Albany Post Road**

**Hyde Park NY 12538**

**(845) 229-5111**

**(845) 229-0349**

**RESOLUTION TO GRANT AREA VARIANCES**  
**SAKE BREWERY**  
**5 Saint Andrews Road**

**Date: October 24, 2018**

**Moved By: John Bickford**

**Resolution #: 18-17Z**

**Seconded By: Neil Krupnick**

WHEREAS, the applicant, Asahishuzo International Co., Ltd., has submitted an application for area variances in connection with its site plan application to establish a Craft Brewery, including the construction of a 4,000 sq. ft. rice polishing building, wastewater treatment plant, and related structures on a property located at 5 Saint Andrews Road (the "Project"), identified as tax parcel no. 133200-6164-03-021198, in the Town Center Historic District (the "Site"); and

WHEREAS, the proposal is depicted on plans entitled "Asahi Shuzo New Sake Brewery Project" sheets A-001 and A-060, prepared by Pelli Clarke Pelli Architects, dated December 1, 2017, last revised September 12, 2018 (the "Site Plan"); and

WHEREAS, the applicant has submitted an application for area variances dated September 11, 2018 and a revised page 2 of the application dated September 13, 2018 (the "Variance Application"); and

WHEREAS, on September 5, 2018, by Resolution # 2018-25B, the Hyde Park Planning Board granted the applicant a discretionary bonus to increase the maximum height or width of any letter, symbol or graphic on Sign C, as shown on Sheet A-060 of the Site Plan, to 24 inches; and

WHEREAS, the applicant seeks the following area variances (together, the "Requested Variances"):

1. From Zoning Law Section 108-24.2(F)(2)(a) to permit a maximum height or width of any letter, symbol or graphic on Sign C of 31  $\frac{3}{4}$  inches where 24 inches is permitted;
2. From Zoning Law Section 108-24.2(F)(2)(a) to permit a maximum height or width of any letter, symbol or graphic on two free-standing monument signs of 24 inches where 10 inches is permitted;
3. From Zoning Law Section 108-4.3(G)(2) to permit a 76-foot, 5-inch stream corridor where a 100-foot stream corridor is required (a 23-foot, 7-inch incursion) for the construction of a wastewater treatment facility ("WWTF"); and
4. From Zoning Law Section 108-4.3(G)(2) to permit an 85-foot 5-inch stream corridor where a 100-foot stream corridor is required (a 14-foot, 7-inch incursion) for the construction of a generator to serve the WWTF; and

WHEREAS, on September 5, 2018, by Resolution # 2018-25A, the Planning Board, serving as lead agency in a coordinated review of the Project under the State Environmental Quality Review Act, adopted a negative declaration, finding that the Project as proposed would not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement would not be prepared; and

WHEREAS, by letters dated September 3 and 19, 2018, the Planning Board recommended that the Zoning Board of Appeals grant the Requested Variances; and

WHEREAS, pursuant to Section 239-m of the General Municipal Law, the Project was referred to the Dutchess County Department of Planning and Development, which responded on October 19, 2018, that it was a matter of local concern with no comments; and

WHEREAS, a duly noticed public hearing was held on October 24, 2018, during which all those who wished to speak were heard; and

WHEREAS, the applicable standards for considering an area variance are set forth in Town Law Section 267-b and Hyde Park Zoning Law Section 108-33.6(B)(2), which require the Board to take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the general neighborhood or community by such grant.

**NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals makes the following findings in accordance with Section 267-b of the Town Law and Hyde Park Zoning Law Section 108-33.6(B)(2) regarding the Requested Variances:**

- 1. The two Requested Variances regarding signage will not produce an undesirable change in the character of the neighborhood or be detrimental to nearby communities.**

The wall-mounted sign is located over 300 feet from the nearest roadway and requires an increase in size in order to be visible to the tourists it is meant to attract. Given its distance from the road and the intermittent screening from trees on the Site, the sign will not be overbearing or imposing on the neighborhood. Rather, the kanji character will complement the Japanese architecture of the building and enable passersby to quickly identify the Project. Furthermore, the increase in the graphic size on the wall-mounted sign is not out of character with other signs along Route 9, one of which has lettering that is 33 inches tall.

The increase in the size of the graphic on the free-standing signs is necessary in order to effectively alert drivers of the Project and inform them that its entrance is on Saint Andrews Road. In addition, the free-standing signs incorporate materials and designs so as to invoke the aesthetics of nearby stone walls and the FDR National Park Service street signage. Thus, the larger lettering on the free-standing signs will allow the Project to inform tourists of the means of ingress and egress while still presenting a sign that conforms with the character of neighborhood.

The two Requested Variances regarding the stream corridor will not produce an undesirable change in the character of the neighborhood or be detrimental to nearby communities. The WWTF and associated generator were relocated within the stream corridor at the request of the Planning Board. This allows the WWTF and generator to be more effectively screened and prevents them from dominating visitors' views as they first enter the Site. There will be no off-Site impact as there are no nearby houses east of the Project and there is an existing buffer of trees between the proposed facility location and the closest occupied neighboring parcels. The intrusion into the stream corridor will therefore not negatively impact the neighborhood and will have a beneficial impact on the aesthetics of the Site.

- 2. The granting of the Requested Variances is the only way to obtain the desired results.**

The existing building was constructed over 300 feet back from the closest roadway. The current Zoning Law and sign standards, however, anticipate construction in the Town Center Historic District to be much closer to the road. Given the location of the existing building on the Site, the nature of the applicant's company name, and the fact that the Zoning Law prohibits internally lit signs, the Project's location and entrances cannot be effectively broadcast to drivers on Route 9 absent an increase in sign size.

The relocation of the WWTF and generator to screen it from view, per the Planning Board's request, cannot be achieved without placing them behind the Project's main structure. Placing the WWTF and generator behind the main structure but outside of the stream corridor is not possible without impacting the flow of traffic around the building. Due to the existing location of the main structure and the roadway around it, the Planning Board's requested relocation necessitates that the WWTF and generator be placed within the stream corridor.

3. The Requested Variances may be considered substantial, as the permitted dimensions for the wall-mounted signs and free-standing signs will increase by 7 ¾" (32.29%) and 14" (140%), respectively, and the WWTF and generator will encroach in the stream corridor by 23' 7" (23.58%) and 14' 7" (14.58%), respectively. However, as discussed above, the impacts of the Requested Variances will not be substantial.
4. Issuance of the Requested Variances will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district. The Planning Board, acting as lead agency, has already determined that the Project as proposed would not result in any significant impacts to the environment. In addition, as discussed above, the impacts of the Requested Variances on the Site and neighborhood will be non-existent or minimal.

The increases in signage dimensions are necessary for the Project's scale, were designed to complement other nearby signs and architectural elements, and will have no effect on the environmental conditions of the Site.

The stream corridor encroachment allows the WWTF and generator to be better screened, minimizing the visual impact of the structures on the area. The stream corridor encroachment also allows the applicants to avoid disturbing steep slopes located along the eastern edge of the Site by locating the generator on a more level surface. By avoiding these slopes, the applicant minimizes the potential for erosion and leaves in place a natural barrier that will prevent wildlife from travelling near the WWTF and generator. The slopes create a natural boundary within the stream corridor such that wildlife may continue to traverse the stream corridor undisturbed. Finally, the encroachment also allows the applicant to remove fewer trees than as initially proposed.

5. The difficulties are self-created with respect to the signage variances. The difficulties with respect to the stream corridor encroachments are the result of the Planning Board's request and, in that respect, are not self-created.

**BE IT FURTHER RESOLVED**, that the Zoning Board of Appeals hereby grants the Requested Variances subject to the following conditions:

1. Payment of all fees and escrow.

Adopted: October 24, 2018

John Bickford	AYE
Jim Agrawal	AYE
Neil Krupnick	AYE

Brendan Lawler AYE  
Herb Sweet AYE

**#18-26Z** Zachary Fischer  
26 Willow Cross Rd  
Hyde Park, NY 12538

**Variance – Section** 108-5.15 changing a front yard setback from 50 ft. to 30 ft. to allow construction of a garage; and **Section** 108-4.3G (2) to allow construction within the 100 ft. stream corridor changing the undisturbed corridor from 100 ft. to 20 ft. for construction of an addition and deck attached to the house; and changing from 100 ft. to 85 ft. for the detached garage in the Greenbelt District.

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

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

The secretary verified publication of the hearing.

Zachary Fischer presented the application to the Board. He gave a lengthy description of his property and how it wouldn't cause any impact on the environment and wildlife.

No one wanted to comment.

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 #: 18-26Z

Grid #: 6264-04-648080

---

Introduced by: Neil Krupnick  
Seconded by: James Agrawal

Date: October 24, 2018

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on October 24, 2018 reviewed the facts in Application 18-26Z as submitted by Zachary Fischer, 26 Willow Cross Rd., Hyde Park, NY 1538

**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 front yard setback from 50 ft. to 30 ft. to allow construction of a garage; and **Section** 108-4.3G (2) to allow construction within the 100 ft. stream corridor changing the undisturbed corridor from 100 ft. to 20 ft. for construction of an addition and deck attached to the house; and changing from 100 ft. to 85 ft. for the detached garage in the Greenbelt District.

**WHEREAS**, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on October 17, 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 entirety of the house currently sits within the 100 ft. of the stream corridor
2. The applicant plans to install solar panels. The chosen garage location and addition is the most ideal for solar alignment
3. Current garage is too small for larger and or multiple cars.

**NOW. THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #18-26Z 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 deck and addition will be in the back of the house and will not be visible to the neighbors. The detached garage will be visible, but it is the best location for solar alignment while minimizing the public view.
2. The needs of the applicant **can** be achieved by other than an area variance. The garage can be located elsewhere but it would then be closer to the neighbors, and more visible, and less suited to solar alignment. It doesn't make sense for the deck addition to be anywhere but in the back. Because the house is already within the 100 ft. of the stream corridor, a variance for any addition would be needed.
3. The requested variance **is** substantial. Both requests are substantial numerically, but not in their impact (the house is already within the stream corridor).
4. The requested variance **will not** affect the physical or environmental conditions in the neighborhood. The garage location has already been cleared so it will not have an environmental impact. The deck and addition are only adding 8 ft.
5. The hardship for which the variance is sought to rectify **was** self -created. The hardship for which the variances are sought to rectify were self -created. The applicant should have been aware of the zoning laws when purchasing the house.
6. The variance being granted is the minimum variance to meet the needs of the applicant.

Adopted: October 24, 2018

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

:lw

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

**OTHER BUSINESS:**

Motion to adjourn made by Neil Krupnick, seconded by Brendan Lawler at 8:15 PM.  
VOICE VOTE – ALL IN FAVOR

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