



Historic Town of Hyde Park

4383 Albany Post Road
Hyde Park, NY 12538
Zoning Board of Appeals
P: (845) 229-5111, Ext. 2
E: zbasec@hydeparkny.us

"Working with you for a better Hyde Park"

Agenda for Regular Meeting ZONING BOARD OF APPEALS

August 24, 2022 6:00 PM

*This meeting will be held in person. All those who wish to speak may attend,
or watch the meeting broadcast live on cable Channel 22.*

*If you wish to speak but cannot attend— written comments are due by 4:00pm on the day of the meeting.
Email to zbasec@hydeparkny.us | Or mail to ZBA Secretary, 4383 Albany Post Road, Hyde Park, NY 12538*

CONTINUED PUBLIC HEARINGS:

- #21-15z** **Camp Victory Lake** c/o Rennia Engineering
277 Crum Elbow Road
Hyde Park, NY 12538
Tax Grid No. 6265-04-630350
- Area Variance – Section 108-5.15 Bulk Regulations in Greenbelt District
Change maximum permitted building height from 35 feet to 47.5 feet for construction of a stadium-style sanctuary space.
- Area Variance – Section 108-4.3 G(2)(a)
Change stream corridor setback from 100 feet to 0 feet from the Fall Kill Creek for a stream crossing and other construction incursions.
- #22-06Z** **Marc & Lisa Vumbico** c/o Berger Engineering
120 River Road
Hyde Park, NY 12538
Tax Grid No. 6064-03-531762
- Two (2) Area Variances – Section 108-5.15 Bulk Regulations in Waterfront District to change maximum lot coverage from 15% to 16%, and building height allowance from 35 feet to 36 feet for the construction of a new house on a vacant lot.
- #22-08Z** **Christopher Ishak** c/o John Caro
34 Greenbush Drive
Poughkeepsie, NY 12601
Tax Grid No. 6163-03-382434

Zoning Board of Appeals Agenda – August 24, 2022

Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District to change maximum permitted density from 0.50 acres per dwelling unit to 0.39 acres per dwelling unit for a two-family dwelling on a 0.79 acre lot.

#22-14Z **Craig Poyser**
14 Hill and Hollow Road
Hyde Park, NY 12538
Tax Grid No. 6265-03-045219

Area Variance – Section 108-4.3 (G)(2) to change the stream corridor setback from 100 feet to 30 feet for the installation of ground-mounted solar panels.

NEW PUBLIC HEARINGS:

#22-15Z **Marcoz & Chalk** c/o Peter Andros
16 Poppinga Lane
Hyde Park, NY 12538
Tax Grid No. 6065-02-602972

Area Variance – Section 108-4.3 (G)(2) to change the stream corridor setback from 100 feet to 32 feet for the construction of a pool and to 12 feet for a fence on a lot that already has a house within the stream corridor setback.

NEW APPLICATION INTRODUCTION:

#22-_16Z_ **Sherry Dingman**
23 River Road
Hyde Park, NY 12538
Tax Grid No. 6065-04-579169
Zoning District: Landings

Appeal of Zoning Administrator's decision to deny building permit, on the basis of nonconformance.

OTHER BUSINESS:

Appoint Vice Chair to the Zoning Board of Appeals

ADJOURN:

Next meeting: Wednesday, September 28, 2022

***** Agendas are subject to change. *****

For full details regarding the above applications, please visit <https://www.hydeparkny.us/617/Applications> or visit the Zoning Office during normal business hours to view a file.

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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 AN AREA VARIANCE

Christopher Ishak
34 Greenbush Drive

Date: August 24, 2022

Motion: _____

Resolution #: 22 - 08Z

Second: _____

WHEREAS, the applicant John Caro, on behalf of owner Christopher Ishak, has submitted an application for an area variance to increase density to allow for a two-family dwelling on a parcel slightly undersized (the "Project") at property located at 34 Greenbush Drive, Poughkeepsie, NY, identified as tax parcel no. 6163-03-382434 in the Neighborhood Zoning District (the "Site"); and

WHEREAS, the Project is depicted on a plan entitled "Site Plan - Alterations to Residence of Mr. Christopher Ishak" prepared by Carl T. Grimm RA dated April 12, 2022 (the "Plan"); and

WHEREAS, the applicant is under an Order to Remedy after multiple complaints were made to the Town of Hyde Park regarding excessive garbage, sewage smell, unsuitable number of people residing on the Site, unregistered vehicles, commercial activity, and other property maintenance issues; and

WHEREAS, the applicant has applied for a two-family dwelling in order to remedy the situation, and a density variance is needed; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a density change to 0.39 acres per dwelling unit where 0.50 acres is required to allow a two-family dwelling on a 0.796-acre lot (the "Requested Variance"); and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17), the granting of an area variance for a single-family, two-family or three-family residence is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, a duly noticed public hearing was held on May 25, 2022, June 22, 2022, July 27, 2022, and August 24, 2022 during duly noticed meetings during which all those who wished to speak were heard; and

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Resolution #22-08Z

WHEREAS, ZBA members conducted a site visit of the property located at 34 Greenbush Drive on June 27, 2022 to personally observe the structure and the surrounding neighborhood; and

WHEREAS, in rendering this determination, the ZBA has considered all materials submitted with the application as well as comments made during the public hearing and additional correspondence submitted by the property owner; 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 Variance:

1. The Requested Variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The Requested Variance will not result in an increase in the intensity of the permitted uses at the Site since it was previously, albeit illegally, used as a multi-dwelling residence. The Applicant ceased use of the third dwelling upon receipt of the Order to Remedy, and the Applicant now seeks to legalize the property as a two-family dwelling. While granting this variance exceed the permissible density under the Town Code because it would increase the legal density from a single-family dwelling on the 0.796 acre lot to two dwellings on the same lot size, the intensity of the use would be lessened due to the removal of the third dwelling. There are unlikely to be increases in parking, traffic, garbage, or noise due to additional occupants, which are prior issues that the Applicant has shown due diligence to resolve at the Site. Moreover, the Applicant verified during the public hearing that the commercial business activities at the Site related to car repair or maintenance have stopped, which will reduce traffic and congestion. The character of the neighborhood is largely composed of single-family residences. However, there are two (2) two-family residences in close proximity to the Site, both of which are on lots smaller in size than Applicant's parcel.
2. The applicant seeks to establish a second dwelling unit at the Site. The Site is 0.796 acres and the Zoning Law requires a minimum of 0.5 acres per dwelling unit. Therefore, the Site cannot be developed or subdivided to have a second dwelling unit without violating the Zoning Law's density requirements. An alternative method for establishing two dwellings while complying with the density limitation would be to purchase adjoining property and merge it with the Site. The neighboring parcels are already developed and this is not a feasible alternative. Another alternative to legalize two dwelling units is to subdivide the property; however, this method would still require area variances as the lots created would continue to be undersized even for one dwelling unit.

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3. The Requested Variance is not numerically substantial. The property is a 0.796-acre lot where the Zoning Code would require a 1.0-acre lot to accommodate a two-family dwelling. This represents a Variance of approximately 20% over the permissible density requirements.
4. The Requested Variance will likely not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district. The residential structure currently accommodates two dwelling units and the Applicant did not indicate that the structure itself will undergo any expansion or change in the size of the footprint. The Applicant previously used the lot for three dwelling units and has ceased use of the third, illegal unit. The reduction to a two-family dwelling will more than likely reduce any adverse effects or impacts on the physical or environmental conditions. While the addition of a legalized second dwelling unit has the potential to increase the number of vehicles at the Site at any given time, this is not anticipated since the parking area previously accommodated vehicles for three dwellings. Therefore, an adverse increase in pollution or contaminated stormwater runoff should not occur. The Applicant also obtained an adequate number of garbage receptacles to properly manage the refuse at the property, thus reducing the impact of debris and litter in the neighborhood caused by the Site's unkempt trash.
5. The difficulties are self-created. However, the Applicant claims to have bought the property as is, believing it to be approved for multiple families. This is further reflected in the Assessors' records, which demonstrate that the property has been listed as a two-family residence for at least the last ten (10) years and has been taxed based upon that classification. However, the expansion of the property's interior from a one-family to a two-family dwelling was illegally constructed in approximately 1992 in the absence of the necessary permits and approvals from the Town's Building Department. Additionally, the Site is not served by sewer; the Department of Health must provide authorization for any expansion under the circumstances present here. The Applicant only sought this variance to remedy a Notice of Violation and Order to Remedy dated July 10, 2021 issued by the Zoning Administrator.

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

1. Payment of all fees and escrow.
2. Permanent removal of the third dwelling unit.
3. Apply for and obtain Site Plan Approval and a Special Use Permit from the Planning Board authorizing the two-family dwelling.
4. Apply for and obtain the necessary building permit(s) to have the illegal construction of the two dwellings legalized in accordance with State and local law.
5. Obtain the Certificate of Occupancy for a two-family dwelling within nine (9) months of the date upon which the Requested Variance was granted.

Adopted:

James Agrawal —
Gerald Bowen —
Richard Perkins —
John Scileppi —
David McNary —

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ZONING BOARD OF APPEALS
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RESOLUTION TO GRANT AN AREA VARIANCE

Nadja Marcoz and Adrian Chalk
16 Poppinga Lane

Date: August 24, 2022

Motion: _____

Resolution #22-15Z

Second: _____

WHEREAS, the Applicants, Nadja Marcoz and Adrian Chalk, have submitted an application for an area variance for stream corridor setback relief to complete the construction of a 12 foot by 36 foot lap pool and surrounding pool fence (the "Project") at property located at 16 Poppinga Lane, Hyde Park, NY 12538 identified as tax parcel no. 6065-02-602972 in the Waterfront Zoning District (the "Site"); and

WHEREAS, the Project is depicted on a plan entitled "Lands of Marcoz and Chalk" prepared by Peter J. Andros, P.E., dated June 30, 2022 (the "Plan"); and

WHEREAS, the Applicants seek an area variance from Zoning Law Section 108-4.3G(2) to permit a stream corridor setback of 12 feet where 100 feet is required for the lap pool fence, as well as a setback of 32 feet where 100 feet is required for the lap pool (the "Requested Variance"); and

WHEREAS, the Applicants authorized Peter J. Andros, P.E. to represent them before the Zoning Board of Appeals during the area variance process; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17), the granting of an area variance for a single-family, two-family or three-family residence is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, the Applicants submitted a Short Environmental Assessment Form dated June 30, 2022 with their area variance application; and

WHEREAS, ZBA members and a member of the Town of Hyde Park's Conservation Advisory Committee ("CAC") conducted a site visit of the property located at 16 Poppinga Lane on August 3, 2022 to personally observe the Site and the surrounding neighborhood; and

WHEREAS, a duly noticed public hearing was held on August 24, 2022 during a duly a noticed meeting during which all those who wished to speak were heard; and

WHEREAS, in rendering this determination, the ZBA has considered all materials submitted with the application, Andros' introduction of the application,

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comments made during the public hearing, and correspondence from CAC member Richard Mattocks; 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 applicants 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 Variance:

1. The Requested Variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

The property is a 3.07-acre parcel in a neighborhood lot containing seven (7) total parcels. Four (4) parcels contain single-family dwellings and the remaining three (3) lots are undeveloped. Nearly all of the existing improvements on the Site are within the 100 foot stream corridor due to the proximity to the Hudson River. The lap pool, fence, and equipment cabinet will not be visible from the neighboring properties to the north or the south, and the improvements will only be minimally visible from the Hudson River. The single-family character of the neighborhood will not be altered.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The Site is surrounded by the Hudson River on two sides with over 60% of the property being constrained by the 100 foot stream corridor. The property is also encumbered by federal wetlands on the east side. The only land not constrained by the stream corridor is long, narrow, and steeply sloped. Installation in this location would be prohibitively expensive as it would require the relocation of the access drive, well water line, power and control wires, construction of a retaining wall, and tree removal. Therefore, this is not a viable option. Consequently, the proposed location within the stream corridor is the only viable place for the lap pool and pool fence to be installed.

3. The Requested Variance is numerically substantial. The Requested Variance represents an 88% change in the required setback standard from 100 feet to 12 feet for the lap pool fence. The setback for the pool is slightly less substantial at 68%, changing from 100 feet to 32 feet.
4. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

Decreasing the stream corridor setback requirement will likely not have any impacts on the natural environment. The installation of the lap pool and lap pool fence will not be visible to adjoining properties and will only be minimally visible from the Hudson River. Moreover, the improvement will necessitate

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minimum tree removal and will not encroach upon the federal wetlands. The Project is intended for personal use by the owners of 16 Poppinga Lane and will not cause an increase in traffic or need for municipal services. The lap pool will result in a modest increase in electrical power consumption, which should not impact the general neighborhood.

- 5. The difficulties are self-created. The Applicants purchased the property understanding the limitations it had due to its location on the Hudson River and the restrictions caused by the stream corridor.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variance subject to the following condition(s):

- 1. Payment of all fees and escrow.
- 2. Pursuant to Section 108-33.5F(1), the authorized activity must commence within one year from the date of issuance, otherwise this variance is revoked.

Adopted:

ROLL CALL VOTE BY SECRETARY

James Agrawal	___	
Gerald Bowen	___	
Paul Donnelly	___	
Richard Perkins	___	
David McNary	___	___

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RESOLUTION TO GRANT AN AREA VARIANCE

Craig Poyser
14 Hill and Hollow Road

Date: August 24, 2022

Motion: _____

Resolution #22-14Z

Second: _____

WHEREAS, the Applicant, Craig Poyser, has submitted an application for an area variance for stream corridor setback relief to install a ground mounted solar system at property located at 14 Hill and Hollow Road, Hyde Park, NY 12538 identified as tax parcel 6265-03-045219 in the North Neighborhood District (the "Site"); and

WHEREAS, the Project is depicted on a plan entitled "PV System 20.0 KW AC PV System Site Plan" prepared by Manning Electric Inc. dated June 15, 2022; and

WHEREAS, the Applicant seeks an area variance from Zoning Law Section 108-4.3G(2) to permit a stream corridor setback of 30 feet where 100 feet is required for the solar system (the "Requested Variance"); and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17), the granting of an area variance for a single-family, two-family or three-family residence is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, the Applicant submitted a Short Environmental Assessment Form dated June 8, 2022 with their area variance application; and

WHEREAS, ZBA members and a member of the Town of Hyde Park's Conservation Advisory Committee ("CAC") conducted a site visit of the property located at 14 Hill and Hollow Road on August 3, 2022 to personally observe the Site and the surrounding neighborhood; and

WHEREAS, a duly noticed public hearing was opened on July 27, 2022 and closed on August 24, 2022 during duly noticed meetings during which all those who wished to speak were heard; and

WHEREAS, in rendering this determination, the ZBA has considered all materials submitted with the application, Poyser's introduction of the application, comments made during the public hearing, correspondence from neighboring property owners, and correspondence from CAC member Richard Mattocks; and

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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 applicants 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 Variance:

1. The Requested Variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

The woods and trees surrounding the property shield the neighbors' view of the Site. The neighbors to the north are at least 200 feet from the Site. Solar panels are already installed on surrounding neighbors' properties. The Lake Association members have toured the Site and have not expressed any objections to the project.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The proposed Site at the northeast corner of the property is already devoid of trees and represents the most level surface within the property. Selecting an alternate location would require the removal of a significant number of trees as well significant clearing of rock. Further, the Applicant cannot use the roofs of either the house or garage for the installation of solar panels due to the cardinal direction those structures face, which is not optimal for solar collection.

3. The Requested Variance is numerically substantial because it would reduce the 100 feet setback to 30 feet, a 70% change in the required setback standard. However, it is the preferred location for the installation of solar panels because it is most efficient area on the Site for the collection of solar energy. Moreover, using this location will have minimum disruption of the removal of rocks and/or trees.
4. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

Decreasing the stream corridor setback requirement will likely not have any impacts on the natural environment. The Racking system will be sufficiently above ground as to allow the movement of any endangered wildlife species in the area. Construction of the panels will integrate any requirements of the Clean Water Act defined impaired waterway. Plans to manage the sheet flow of precipitation runoff from the panels will be integrated into the construction.

5. The difficulties are self-created. However, the selected site for the solar panels is the only location available on the property that results in the minimum disruption to the natural habitat.

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BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variance subject to the following condition(s):

1. Installation of the panels must include management of the sheet flow of precipitation runoff from the panels.
2. Payment of all fees and escrow.
3. Pursuant to Section 108-33.5F(1), the authorized activity must commence within one year from the date of issuance, otherwise this variance is revoked.

Adopted:

ROLL CALL VOTE BY SECRETARY

James Agrawal	—	
Gerald Bowen	—	
Paul Donnelly	—	
Richard Perkins	—	
David McNary	—	—