

Town of Hyde Park  
Zoning Board of Appeals  
4383 Albany Post Road  
Hyde Park, New York 12538

**MINUTES FOR REGULAR MEETING**

**March 24, 2021 7:00 PM**

**Present:** Herbert Sweet, Chairman  
James Agrawal  
Paul Donnelly  
David McNary  
Richard Perkins

**Absent:** Kathleen Moss, Zoning Administrator

**Others Present:** Patrick Logan, Attorney  
Sarina Teuschler, ZBA Secretary

The meeting began at 7:00pm. The Chairman, Herbert Sweet, asked that each member of the Board confirm that they are alone and no one present will influence their vote. All members confirmed.

Mr. Sweet lead the Pledge of Allegiance.

Mr. Sweet then asked for a motion to approve the minutes of the last meeting on February 24, 2021.

David McNary motioned to approve the minutes of February 24, 2021, and James Agrawal seconded the motion.

**ROLL CALL VOTE:**

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	YES	
Herbert Sweet	YES	CARRIED

**Previous Matters:**

**#20-13Z** Locusts on Hudson  
135 Old Post Road  
Staatsburg, NY 12580  
**Variance – Section 108-4.3(G)(2)** To allow construction within the stream corridor changing the undisturbed area from 100 ft. to 0 ft. for construction incursion in the Waterfront District

Mr. Sweet noted that the Public Hearing for this application was closed on July 22, 2020.

Robert Stout, attorney to the applicant, was present. Mr. Stout updated the Board on the current status of the project. The applicant has retained the services of Hudson Valley Cultural Resource Consultants to perform a cultural investigation on the site; this is in addition to Mr. Stout’s services for the Full Environmental Assessment Form.

Mr. Stout explained that there had been delays throughout winter due to frozen ground and poor weather, and only recently had the cultural investigation began. After the cultural investigation finishes, the State Historic Preservation Office can make their determination on the site and project. Mr. Stout state that the applicant expected to finish the environmental assessment before the submission deadline of the April regular meeting.

David McNary motioned to reopen the Public Hearing on April 28<sup>th</sup>, 2021, and Paul Donnelly seconded the motion.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	YES	
Herbert Sweet	YES	CARRIED

**#21-01Z** Sulejman & Hava Dodic  
4305 Albany Post Road  
Hyde Park, NY 12538  
**Variance – Section 108-5.15** Changing density from 12 dwelling units per acre to 14 dwelling units per acre for the addition of one dwelling unit to an existing house on a 5,880 sq. ft. parcel in the Town Core PW-1 district. [The Secretary notes for accuracy that the site is in TC-1 district.]

Brad Will of Ashokan Architecture, representative to the applicant, was present.

Mr. Sweet asked if anyone present had comments or questions for Mr. Will prior to granting the variance resolution. No Board members had questions or comments; neither did the attorney to the Board.

Rich Perkins motioned to grant resolution, and David McNary seconded the motion.

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(845) 229-5111

**RESOLUTION TO GRANT AREA VARIANCE**

**SULEJMAN & HAVA DODIC**  
4305 Albany Post Road  
Hyde Park, NY 12438

**Date:** March 25, 2021

**Motion:** Richard Perkins

**Resolution #21-01Z**

**Second:** David McNary

WHEREAS, the applicants, Sulejman and Hava Dodic, have submitted an application for an area variance to permit the conversion of an existing mixed-use structure containing a commercial space and one dwelling unit to a two-family dwelling (the “Project”) on property located at 4305 Albany Post Road, identified as tax parcel no. 6065-20-883070, in the Town Core District, sub-area TC-1 (the “Site”); and

WHEREAS, two-family dwellings are permitted in the Town Core District subject to site plan approval by the Town of Hyde Park Planning Board; and

WHEREAS, the Project is depicted on a site plan entitled “Sulejman & Hava Dodic Property,” prepared by Ashokan Architecture & Planning PLLC, dated December 21, 2020; and

WHEREAS, the applicants have submitted an application for an area variance dated December 21, 2020, received January 7, 2021; and

WHEREAS, the applicants seek an area variance from Zoning Law Section 108-5.15 to permit a maximum average density of 2 dwelling units (“DU”) on a 5,880 square foot lot (~14.82 DU/acre) where 12 DU/acre is permitted (the “Requested Variance”); and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17)-(18), the granting of an area variance for a two-family family residence and the reuse of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, are Type II actions under the State Environmental Quality Review Act and are not subject to review under the Act; and

WHEREAS, a duly noticed public hearing was held on February 24, 2021, during a remote meeting held by the Zoning Board of Appeals in accordance with New York State Governor Cuomo’s Executive Order 202.1 and the subsequent extensions thereof, during which all those who wished to speak were heard; and

WHEREAS, the Zoning Board of Appeals closed the public hearing at its February 24, 2021 meeting but kept the record open for the submission of written comments for a period of seven (7) days thereafter; 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 a detriment to nearby properties.

The Site contains a mixed-use structure with a commercial space on the first floor and a single dwelling unit on the second floor. The Requested Variance would allow the applicants to convert the first floor to a second dwelling unit. The grant of the Requested Variance will not produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties as the renovation involves an insignificant change to the exterior of the premises and will only result in changing an interior commercial space to a residential space, which will not result in a significant change to the impact of the Site on other properties.

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

The applicants seek to convert the existing structure at the Site from a mixed-use building containing a commercial space and one dwelling unit to a two-family dwelling. To accommodate two dwelling units, a lot in the Town Core District must be at least 7,260 sq. ft. in order to comply with the maximum permitted density of 12 DU/acre. The applicants are constrained by the size of the Site, which is only 5,880 sq. ft. The only way to establish two dwelling units and comply with the density limitation would be to purchase adjoining property and merge it with the Site. However, the neighboring parcels are already developed and this is not a feasible alternative.

3. The Requested Variance may be considered numerically substantial, as the permitted maximum average density for the Site will increase by ~2.82 DU/acre (23.5%). However, as discussed herein, the impacts of the Requested Variance will not be substantial.
4. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district. The conversion of the structure from a mixed-use building to a two-family dwelling will involve a limited amount of ground disturbance and will not result in a significant increase in impervious surface area at the Site as there will be no increase in impervious parking area or the building footprint.

The change in usage from mixed commercial and residential to purely residential will not result in a significant change in the intensity of the uses at the Site. Moreover, actions of this type are presumed not to have significant adverse environmental impacts pursuant to the State Environmental Quality Review Act. Therefore, the Requested Variance will not have an adverse effect or impact on the environment.

5. The difficulties are self-created.

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

1. Payment of all fees and escrow.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	YES	
Herbert Sweet	YES	CARRIED

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**Public Hearing:**

**#17-03Z** Enclave Variance Extension #4  
The Enclave at Hyde Park  
Cream St at Long Brand Rd  
Poughkeepsie, NY 12601  
**Tax Map #s:** 6263-01-470921, 6263-01-478912, 6263-01-487905,  
6263-01-498899, 6263-02-522891, 6263-02-533893, 6263-02-543897,  
6263-02-552902, 6263-02-562910, 6263-02-568880, 6263-02-559875,  
6263-02-549869, 6263-02-538869, 6263-02-517869, 6263-02-514859,  
6263-02-509841, 6263-01-495841, 6263-01-484840, 6263-01-472842,  
6263-01-460847, 6263-01-459862, 6263-01-473883, 6263-01-480868,  
6263-01-492864, 6263-01-495876, 6263-01-465957, 6263-01-475939,  
6263-01-436890, 6263-01-447937, 6263-02-675871, 6263-02-585865.

**Fourth Extension on Variance – Section 108-5.15** Changing average density from 2.5 acres/dwelling unit to 1.41 acres/dwelling unit (70.51 acres) in the Greenbelt District (*originally granted in 2017*)

David McNary motioned to open the public hearing, and James Agrawal seconded the motion.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	YES	
Herbert Sweet	YES	CARRIED

Dagmara Drago, representative for the applicant, was present to update the Board. She explained that no part of the project has changed which would affect the Board's potential decision to extend the original variance.

No members of the public were present to ask questions or comment. The secretary received no written comments from the public prior to the hearing.

Richard Perkins asked about Enclave’s ability to share their water facilities with neighboring communities. Ms. Drago did not have an answer; she suggested the Board speak to Mr. Kenneth Casamento.

No other Board member, nor the attorney, had questions for Ms. Drago.

David McNary motioned to close the public hearing, and James Agrawal seconded the motion.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	NO	
Herbert Sweet	YES	CARRIED

**New Application:**

**#21-02Z**                    **Interpretation – Section 108-28 Rural Event Venues:** Whether Section 108-28 of the Zoning Law permits the construction of new permanent structures and buildings to house kitchen, bathroom, and/or public assembly facilities as part of a “rural event venue” use.

Herbert Sweet stated that the question is whether Section 108-28 of the Zoning law permits the construction of specifically *new* permanent structures in a rural event venue.

Attorney to the Board, Mr. Logan, stated that the Zoning Administrator, Kathleen Moss, submitted this application for Interpretation. She will be submitting additional materials to help with the Board’s determination.

James Agrawal motioned to set the public hearing for April 28<sup>th</sup>, 2021 and Paul Donnelly seconded the motion.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	YES	
Herbert Sweet	YES	CARRIED

**Other Business:**

Mr. Sweet stated that the Board has agreed to schedule a second monthly meeting for the purpose of expediting resolutions. Patrick Logan, attorney to the Board, clarified that this was discussed in an attorney-client session where no decisions were made and no discussions were had about applications pending before the Board.

Mr. Sweet asked if anyone present had comments about this additional meeting. No members of the Board had comments.

Mr. Sweet read the following statement: The ZBA wishes to schedule additional monthly meetings for the purpose of voting on application resolutions for which the public hearings have been closed at the prior regular monthly meeting. These meetings will consist of ZBA votes on fully considered applications and will not be used for listening to applicant presentations or holding public hearings. If the ZBA does not have any resolutions to vote on it, such a meeting, the meeting will likely will be canceled. These monthly resolution meetings will be scheduled for the second Wednesday of each month at 6:00 PM throughout the remainder of 2021; with the exception of the months of November and December.

Herbert Sweet motioned to schedule the Special Meetings, and David McNary seconded the motion.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	YES	
Richard Perkins	YES	
Herbert Sweet	YES	CARRIED

Neil Krupnick, Town Board liaison, thanked the volunteer board members for committing to these additional monthly meetings.

James Agrawal motioned to adjourn the meeting, and Richard Perkins seconded the motion.

ROLL CALL VOTE:

James Agrawal	YES	
Paul Donnelly	YES	
David McNary	NO	
Richard Perkins	NO	
Herbert Sweet	YES	CARRIED

Meeting adjourned at 7:35 pm.