

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

DRAFT MINUTES FOR REGULAR MEETING

April 27, 2022 6:00 PM

Present: David McNary, Chairman **Absent:** none
James Agrawal
Gerald Bowen
Paul Donnelly
Richard Perkins

Others Present: Kathleen Moss, Zoning Administrator
Sarah Wilson, Attorney to the Board
Sarina Teuschler, Secretary to the Board

The meeting began at 6:01pm Chairman McNary led the Pledge of Allegiance.

Richard Perkins motioned to approve the minutes of the March 23, 2022 meeting; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

CONTINUED PUBLIC HEARINGS:

#21-15Z Camp Victory Lake
277 Crum Elbow Road
Hyde Park, NY 12538
Tax Grid No. 6265-04-630350
Variance – Section 108-5.15
Change maximum permitted building height from 35 feet to 47.5 feet for construction of a stadium-style sanctuary space in the Greenbelt District.
Variance – Section 108-4.3 G (2) a
Change stream corridor setback from 100 feet to 0 feet from the Fallkill Creek to allow a construction incursion.

Richard Perkins motioned to open the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

Applicants Present: None

Discussion: WAITING FOR PB TO FINISH SEQRA 5/14

PUBLIC COMMENTS:

ONE WRITTEN COMMENT

Richard Perkins motioned to **continue** the public hearing to **May 25, 2022**; and James Agrawal seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0

CARRIED

#21-19Z Rite Aid Pharmacy, c/o Gloede Signs
1 Crum Elbow Road
Hyde Park, NY 12538
Tax Grid No. 6162-03-429214

Multiple Variances within Section 108-24.2

1. To permit a cumulative square footage for signs on a single lot to 166.35 square feet for the proposed signage where the maximum permitted is 100 square feet pursuant to Zoning Law Section 108-24.2(C)(1)(a); and
2. To permit a cumulative square footage of up to 2.46 square feet for each lineal foot of the portion of the front of the building with a separate external entry where the maximum permitted is 1 square foot for each lineal foot pursuant to Zoning Law Section 108-24.2(C)(1)(a); and
3. To permit a maximum of 54.6 square feet for wall-mounted signage facing Route 9G where the maximum permitted is 32 square feet pursuant to Zoning Law Section 108-24.2(C)(1)(d); and
4. To permit a maximum of 63.25 square feet for wall-mounted signage facing Crum Elbow Road where the maximum permitted is 32 square feet pursuant to Zoning Law Section 108-24.2(C)(1)(d); and
5. To permit a maximum letter height of 21 inches on the proposed wall signage where the maximum letter height of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(b); and
6. To permit a maximum symbol or graphic dimension of 30 inches on the proposed wall signage where the maximum symbol or graphic dimension of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(a); and
7. To permit a maximum of two individual freestanding signs on a single lot where the maximum permitted is one individual freestanding sign pursuant to Zoning Law Section 108-24.2(C)(1)(b); and
8. To permit a maximum height of 11 feet for decorative elements on the proposed freestanding signage where the maximum height of 8 feet for freestanding signs is permitted pursuant to Zoning Law Section 108-24.2(C)(1)(b); and

9. To permit a maximum symbol or graphic dimension of 19.5 inches on the proposed freestanding signage where the maximum symbol or graphic dimension of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(a); and
10. To permit a maximum of 4 square feet in total area per sign for safety signage where the maximum permitted is 2 square feet pursuant to Zoning Law Section 108-24.2(C)(3)(b);

Richard Perkins motioned to open the public hearing; and James Agrawal seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

Applicants Present: None

Discussion: WAITING FOR APPLICANT TO HEAR BACK FROM CORPORATE ABOUT HOW TO PROCEED

PUBLIC COMMENTS: None

Richard Perkins motioned to **continue** the public hearing to **May 25, 2022**; and James Agrawal seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

#22-02Z Thompson, c/o David Freeman
3 Pond Road
Poughkeepsie, NY 12601
Tax Grid No. 6163-03-023417
Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District to change maximum permitted density from 2 dwelling units per 1 acre to 2 dwelling units per 0.39 acres to allow an existing accessory apartment.

James Agrawal motioned to open the public hearing; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

Applicants Present: David Freeman

Discussion:

PUBLIC COMMENTS: None

James Agrawal motioned to close the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0

CARRIED

Town of Hyde Park
ZONING BOARD OF APPEALS
4383 Albany Post Road
Hyde Park NY 12538
(845) 229-5111, ext. 2

RESOLUTION TO DENY AN AREA VARIANCE

Thompson Accessory Apartment
3 Pond Road

Date: April 27, 2022

Motion: David McNary

Resolution #22-02z

Second: Richard Perkins

WHEREAS, the applicant, David Freeman on behalf of Dolores, Shelly, and Michael Thompson, has submitted an application for an area variance to bring an existing accessory apartment within a one-family dwelling into compliance (the “Project”) on property located at 3 Pond Road, Hyde Park, identified as tax parcel no. 133200-6163-03-023417, in the Neighborhood Zoning District (the “Site”); and

WHEREAS, the Project is depicted on a site plan entitled “Accessory Apartment for Thompson Residence,” prepared by D. Freeman Architect and dated December 15, 2021, as well as interior floor plans prepared by same and dated January 14, 2022 (collectively, the “Site Plan Set”); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a density of two dwelling units on a 0.39-acre lot (~5.13 DU/acre) where a maximum average density of two dwelling units per 1 acre is required (2 DU/acre) (the “Requested Variance”); and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17), the granting of an area variance for a one-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 opened on March 23, 2022 and closed on April 27, 2022 during duly noticed meetings 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 Variance:

1. The Requested Variance will cause an undesirable change in the character of the neighborhood and/or a detriment to nearby properties. The Requested Variance will result in an increase in the intensity of the permitted uses at the Site, which is already undersized for a one-family dwelling. Legalizing the accessory apartment would increase the density from a single-family dwelling on the 0.39 acre lot to two dwellings on the same lot size, which exceeds the maximum permissible density under the Town Code. The increased intensity of the use of the Site may also cause an increase in parking, traffic, and noise due to additional occupants. The potential for more frequent turnover in occupants within an accessory apartment may also diminish the largely one-family character of the neighborhood, especially on Pond Road where the nearby properties are single-family only. The neighboring properties would be affected by the increased density that would occur with the legalization of the accessory apartment in the one-family dwelling.

While not determinative, the property deed dated August 18, 2004 and recorded August 27, 2004 contains a restrictive covenant that only one one-family house shall be erected or constructed on the lot. This deed restriction was memorialized in the prior deed dated September 4, 2002 and recorded September 6, 2002, which was conveyed to the current owner via the 2004 deed.

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 applicant seeks to establish a second dwelling unit at the Site. The Site is 0.39 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. The only way to establish two dwelling units (i.e. one-family dwelling and an accessory apartment) and comply 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.
3. The Requested Variance is numerically substantial, as the permitted maximum average density for the Site will increase by over 100% since it will double the number of permitted dwellings per acre.
4. The Requested Variance may have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district. The conversion of the structure to include an accessory apartment may require an increase in parking area. The addition of a second dwelling unit has the

potential to increase the number of vehicles at the Site at any given time, which could adversely contribute to pollution and contaminated stormwater runoff. The applicant has indicated the property owner’s intent to sell the property. Should that occur and should the number of occupants of the accessory apartment increase, then these impacts become more likely. Moreover, the Dutchess County Health Department has determined that the private water and sewer arrangement does not currently meet the Department’s standards, which may be causing potential negative environmental impacts related to the well and sewage disposal system.

- 5. The difficulties are self-created. The property owners constructed the accessory apartment in the absence of a lawfully-issued building permit and without applying for the requisite area variances. The difficulties that followed occurred solely because the property owners failed to comply with the requirements of the Town Code and now seek to legalize an illegal accessory apartment.

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

- 1. Payment of all fees and escrow.

Adopted:

ROLL CALL VOTE BY SECRETARY

James Agrawal YES
Gerald Bowen YES
Paul Donnelly YES
Richard Perkins YES
David McNary YES CARRIED

#22-04Z David Rozan & Funda Saygin, c/o Kristina Dousharm Architecture
42 Old Post Road
Staatsburg, NY 12580
Tax Grid No. 6167-03-018325
Area Variance – Section 108-5.15 Bulk Regulations in Hamlet District to change side yard setback from 10 feet to 3 feet 10 inches for the construction of a deck on a house already built within the setback.

Richard Perkins explained he knew the representative to the applicant, Dawn Santiago; but regardless he would be fair and impartial while reviewing the application.

James Agrawal motioned to open the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

Applicants Present: Dawn Santiago of Kristina Dousharm Architecture, representative to the applicant

Discussion:

PUBLIC COMMENTS: None

Paul Donnelly motioned to close the public hearing; and James Agrawal seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0

CARRIED

Town of Hyde Park
ZONING BOARD OF APPEALS
4383 Albany Post Road
Hyde Park NY 12538
(845) 229-5111, ext. 2

RESOLUTION TO GRANT AN AREA VARIANCE

David Rozan & Funda Saygin
42 Old Post Road
Staatsburg, NY

Date: April 27, 2022

Motion: Gerald Bowen

Resolution #22-04Z

Second: Paul Donnelly

WHEREAS, the applicant, Kristina Dousharm on behalf of David Rozan and Funda Saygin, has submitted an application for an area variance to construct a deck within the side yard setback (the “Project”) at property located at 42 Old Post Road Staatsburg, NY 12580, identified as tax parcel no. 6167-03-018325, in the Hamlet Zoning District (the “Site”); and

WHEREAS, the Project is depicted on a plan entitled “Proposed Site Plan,” prepared by Kristina Dousharm Architecture, dated 10/28/21 (the “Plan”); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a side yard setback of 3 feet 10 inches where 10 feet is required (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 March 23, 2022 and continued to April 27, 2022, both during a duly noticed meeting 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 Variance:

1. The Requested Variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. Established vegetation in front of property will shield and provide adequate visual blocking. The deck will not be visible from the street and not observable or offensive to the neighbor to the north as it is hidden inside the existing fence.
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 applicant wished to keep the visual aesthetics consistent with the footprint of the house. The alternative is to move the deck to the rear of the house, however the homeowner felt that change would leave an awkward empty space between the deck and the exterior wall of the house.
3. The Requested Variance is numerically substantial. The applicant seeks to increase by more than 50% from 10ft to 3ft 10in. While requested variance is a substantial increase it is important to note that the footprint of the house is not changing, nor will there be an alteration to the original character of the home either visually or ecologically.
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 deck will be in keeping with the character of the neighborhood and substantially shielded from the street and neighboring properties. In addition, the deck will be constructed utilizing cedar wood pervious with proper runoff effected.
5. The difficulties are self-created as the applicant and owner of the property wishes to build a deck on his house. Additionally, the homeowner had no control over the fact the house was originally built within the setback in 1900 when no zoning laws were applicable.

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

1. Pursuant to Section 108 – 33.5 F (1), the authorized activity must commence within one year from the date of issuance, otherwise this

variance is revoked.

- 2. Payment of all fees.

Adopted:

ROLL CALL VOTE BY SECRETARY

James Agrawal	YES	
Gerald Bowen	YES	
Paul Donnelly	YES	
Richard Perkins	YES	
David McNary	YES	CARRIED

NEW PUBLIC HEARINGS:

#22-03Z Hyde Park Quick Stop, c/o Mauri Architects
4912 Albany Post Road
Staatsburg, NY 12580
Tax Grid No. 6066-02-879622

Three (3) Area Variances – Section 108-5.15 Bulk Regulations in Neighborhood Business District to change maximum permitted lot coverage from 70% to 81.7%; change front yard setback from 20 feet to 5 feet, 7 inches; change maximum permitted scale from 7,500 gross square feet to 9,071 gross square feet to allow septic improvements, building renovations, and construction of additional fueling stations on an existing gas station and convenience store.

James Agrawal motioned to open the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor	5	
All opposed	0	CARRIED

Applicants Present: Brendon Petrella of Mauri Architects, representative to the applicant

Discussion:

PUBLIC COMMENTS: None

James Agrawal motioned to **continue** the public hearing to **June 22, 2022**; and Richard Perkins seconded the motion. (WAITING FOR PB TO FINISH SEQRA 6/15)

VOICE VOTE:

All in favor	5	
All opposed	0	CARRIED

#17-03Z-5 Enclave Extension #5, c/o LRC Group
The Enclave at Hyde Park
Cream Street at Long Brand Road
Poughkeepsie, NY 12601

Tax Grid No.'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, and 6263-02-585865

FIFTH EXTENSION OF 2017 VARIANCE, Resolution #17-03Z

Section 108-5.15 Bulk Regulations in Greenbelt District

Extend for another year the authorized change of average density from 2.5 acres/dwelling unit to 1.41 acres/dwelling unit on a project site totaling 70.51 acres

_____ motioned to open the public hearing; and _____ seconded the motion.

VOICE VOTE:

All in favor _____

All opposed _____

Applicants Present: Ken Casamento of LRC Group, representative to the applicant

Discussion: Recently received building permit for water & wastewater treatment plants

PUBLIC COMMENTS: None

Gerald Bowen motioned to close the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5

All opposed 0

CARRIED

Town of Hyde Park
ZONING BOARD OF APPEALS
4383 Albany Post Road
Hyde Park, NY 12538
845-229-5111 ext. 2

RESOLUTION TO GRANT A FIFTH ONE-YEAR EXTENSION OF A VARIANCE

The Enclave at Hyde Park
Cream St. at Long Branch Rd.
Poughkeepsie, NY 12601

Date: April 27, 2022

Motion: David McNary

Resolution: #17-03Z-5

Second: Gerald Bowen

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, 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 March 28, 2018, after a duly noticed public hearing thereon, the Zoning Board of Appeals granted a first one-year extension of approval for the Variance; and

WHEREAS, on March 27, 2019, after a duly noticed public hearing thereon, the Zoning Board of Appeals granted a second one-year extension of approval for the Variance; and

WHEREAS, on July 22, 2020, after a duly noticed public hearing thereon, the Zoning Board of Appeals granted a third one-year extension of approval for the Variance; and

WHEREAS, on April 28, 2021, after a duly noticed public hearing thereon, the Zoning Board of Appeals granted a fourth one-year extension of approval for the Variance; and

WHEREAS, on February 16, 2022, the applicant submitted a request for a fifth extension of approval for the Variance; and

WHEREAS, a duly noticed public hearing was held on April 27, 2022, during a duly noticed meeting held by the Zoning Board of Appeals, during which all those who wished to speak were heard; and

WHEREAS, the Zoning Board of Appeals has considered the circumstances warranting such an extension, and there have been no significant changes in the Project or the Project site.

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals hereby grants a one-year extension of time in which to commence the activity authorized under the Variance to April 27, 2023.

Adopted:

ROLL CALL VOTE BY SECRETARY:

James Agrawal	YES	
Gerald Bowen	YES	
Paul Donnelly	YES	
Richard Perkins	NO	
David McNary	YES	CARRIED

#22-05Z Pedro Acero
8 Rymph Blvd
Poughkeepsie, NY 12601
Tax Grid No. 6263-03-477473
Area Variances – Section 108-5.15 Bulk Regulations in Greenbelt District to change front yard setback from 50 feet to 40 feet for the construction of a porch on the front of a house already built within the setback.

James Agrawal motioned to open the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor	5	
All opposed	0	CARRIED

Applicants Present: Pedro Acero, owner and applicant; Shawn Pitcher, colleague and representative to the applicant

Discussion:

PUBLIC COMMENTS: None

David McNary motioned to continue the public hearing to May 25, 2022; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor	5	
All opposed	0	CARRIED

#22-07Z **John Kochem**
26 Bella's Way
Poughkeepsie, NY 12601
Tax Grid No. 6164-02-901912
Two (2) Area Variances – Section 108-4.3 B (5) Animal Husbandry to change minimum distance of chicken pen to closest residence, from 300 feet to 135 feet, and change minimum distance of enclosed chicken manure storage to a well, from 200 feet to 152 feet (applicant's well).

James Agrawal motioned to open the public hearing; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

Applicants Present: John & Kelly Kochem, their two children

Discussion:

PUBLIC COMMENTS:

FIVE WRITTEN COMMENTS

Two public comments during hearing

Richard Perkins motioned to continue the public hearing to May 25, 2022; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

NEW APPLICATION INTRODUCTIONS:

#22-06Z 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 23% and building height allowance from 35 feet to 38 feet for the construction of a new house on a vacant lot.

Applicants Present: Michele Zerfas of Berger Engineering, representative to the applicant; Paul Verdinhaus; Steve Whelan

Discussion:

James Agrawal motioned to set the public hearing for May 25, 2022; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

#22-08Z Ishak c/o John Caro
34 Greenbush Drive

Poughkeepsie, NY 12601
Tax Grid No. 6163-03-382434

Area Variances – Section 108-5.15 Bulk Regulations in Neighborhood District to change maximum permitted density from 0.5 acres per dwelling unit to 0.39 acres per dwelling unit for a two-family dwelling.

Paul Donnelly is recused from this application.

Applicants Present: None

Discussion: None

David McNary motioned to set the public hearing for May 25, 2022; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 4
Recused 1
All opposed 0 CARRIED

OTHER BUSINESS:

James Agrawal motioned to adjourn; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 5
All opposed 0 CARRIED

The meeting adjourned at 8:00 pm.

Sarina Teuschler
Secretary to the Zoning Board of Appeals