

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

## **MINUTES FOR REGULAR MEETING**

**February 23, 2022 6:00 PM**

**Present:** David McNary, Chairman      **Absent:**  
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 6:10pm. Chairman McNary led the Pledge of Allegiance.

Paul Donnelly motioned to approve the minutes of the January 26, 2022 meeting; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor    5  
All opposed    0                      CARRIED

### **NEW APPLICATION INTRODUCTION:**

**#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**

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 in the Neighborhood District.

Representative to the applicant, David Freeman, was present. He explained that in 1983, Clayton Thompson applied for a building permit for an addition of a 2-story garage. The owner also built an accessory apartment in the second story. As an architect, Mr. Freeman believes the accessory apartment was planned from the beginning by an architect – based on the quality of work and layout. Mr. Freeman claims the apartment meets all necessary requirements, other than the density. Current owner, Michael Thompson, wants to legalize the apartment so that, when the family is ready, they can sell the property. The apartment is 576 square feet.

Paul Donnelly asked if the house was currently owner occupied; it is. He also asked if this was a two-family dwelling, or a single-family. Zoning Administrator Kathleen Moss explained that the application is for a single-family dwelling with accessory apartment.

Ms. Moss further explained that when a building permit is issued, if any, it will note a two-family dwelling because the building and assessing departments do not have codes for single family with accessory apartment.

Mr. Donnelly asked Mr. Freeman to clarify his claim that the apartment was created by an architect. Mr. Freeman claims that there were drawings at some point, but they were lost or destroyed. He believes an architect was responsible because the craftsmanship of the building denotes a skilled professional.

Mr. Freeman noted that most of the immediate neighborhood are single-family homes; up the hill to the East are condominiums.

Mr. Freeman claims the property has been taxed with its current square footage of 2548 sq ft.

Mr. Perkins asked for clarification about the owner-occupied aspect.

Ms. Moss explained that there will be a note on the Certificate of Occupancy about the area variance (if granted) and special use permit. These requirements mean one of the dwelling units must be owner-occupied for it to remain legal.

Chairman McNary addressed the actual area variance request: increasing density.

James Agrawal motioned to set the public hearing for March 23, 2022; and Paul Donnelly 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.

There were no applicants present.

There can be no action taken on this project until the Planning Board concludes their SEQRA review. They themselves are waiting for other departments to submit comments.

On February 9, 2022, the applicant submitted a new set of plans. The applicants have relocated the proposed cabins to be outside the 100-foot stream corridor buffer, removing that part of the area variance. The applicant still requires the 100 to 0-foot variance, but it is only for widening of the existing stream crossing and general construction activities. No new structures will be placed inside the stream corridor.

The height variance remains the same.

There were no public comments.

Paul Donnelly motioned to continue the public hearing to April 27, 2022; and Gerald Bowen 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**  
Change up to six commercial sign code requirements for two wall-mounted signs and eight freestanding signs in the East Park Business District.

At this time, no applicants were present.

On January 20, 2022, for the second time, the Secretary referred this application to Dutchess County Department of Planning & Development, pursuant to GML 239-m. On February 16, 2022, County Planning responded to the referral that the application, as it was, was incomplete and could not be reviewed. The Zoning Board cannot act on this application until the County submits a response.

Chairman McNary explained the application is incomplete, and the applicant needs to submit additional information for both the Board and the County.

There were no public comments.

Richard Perkins motioned to continue the public hearing to March 23, 2022; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5  
All opposed 0 CARRIED

**#21-21Z** Key Construction  
1234 Route 9G  
Hyde Park, NY 12538

Tax Grid No. 6165-04-524481

**Variance – Section 108-5.15 Bulk Regulations**

Change maximum permitted building scale from 40,000 square feet to 66,941 square feet for the construction of an office space, warehouse, and storage units on a 17.2-acre parcel in the East Park Business District.

Kelly Libolt and Amy Argyrakis of KARC Planning Consultants were present. She had no new information to present.

Richard Perkins discussed the water runoff from the property’s driveway into Route 9G. Mr. Perkins believes this is mainly a problem for NYS Department of Transportation to fix, but can be lessened by the applicant if they crown the road and grade it to the sides. While this is a Planning Board issue, the applicant appreciated the observation and comments.

There were no comments.

James Agrawal motioned to close the public hearing; and Gerald Bowen 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**

**Key Construction, LLC**  
1234 Route 9G  
Hyde Park, NY 12538  
Tax Parcel No. 6165-04-524481

**Date: February 23, 2022**

**Motion: Richard Perkins**

**Resolution: #21-21z**

**Second: Paul Donnelly**

WHEREAS, the applicant, Key Construction on behalf of property owner JASA, LLC, has submitted an application for an area variance to increase the maximum permissible building scale square footage to construct commercial buildings (the “Project”) at property located at 1234 Route 9G, Hyde Park, New York 12538, identified as tax parcel no. 6165-04-524481, in the East Park Business District (the “Site”); and

WHEREAS, the Project is depicted on a plan entitled “Site Plan,” prepared by LRC Group, dated June 1, 2021 and revised December 21, 2021 (the “Plan”); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit an increased building scale of 66,914 sq. ft. where 40,000 sq. ft. is the maximum allowed for the construction of an office space, warehouse, and storage units on a 17.2-acre parcel (the “Requested Variance”); and

WHEREAS, a duly noticed public hearing was held on February 23, 2022 during a duly noticed meeting during which all those who wished to speak were heard; and

WHEREAS, in accordance with the Town Code and the State Environmental Quality Review Act (“SEQRA”), the Planning Board is required to determine the classification of the proposed Project as lead agency; and

WHEREAS, the Planning Board classified the proposed Project as an Unlisted action under SEQRA and determined that the proposed Project will not result in any significant adverse environmental impacts and issued a Negative Declaration by Resolution #2020-30A on January 19, 2022 and filed with the Town Clerk on January 20, 2022; 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 subject parcel covers 17.2 acres in the East Park Business District and the proposed development will be visually concealed from the roadway and screened from adjacent properties by extensive vegetation, including both evergreen and deciduous trees.
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 area variance will allow the applicant to develop a significantly larger portion of the sizable parcel. Moreover, the proposed development complies with the remaining bulk requirements and is outside of the wetland buffer.

The alternative is to subdivide the property into multiple parcels and locate the buildings separately across each new parcel. This is both financially inconceivable for the applicant and also environmentally detrimental as it would likely increase the area of disturbance.

3. The Requested Variance is numerically substantial. The applicant seeks to increase the building scale to 66,941 sq. ft where 40,000 sq. ft. is the maximum permitted. If granted, the additional 26,941 sq. feet. represents a 67% increase.

4. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district. While the proposed Project will result in a significant amount of ground disturbance to develop several commercial structures, this type of development will not negatively impact the East Park Business District. Further, the development does not extend into the wetland buffer, and extensive vegetation on the 17.2-acre parcel will screen the development from the roadway and adjacent properties. Lastly, the Planning Board determined that the proposed Project would not cause any significant adverse environmental impacts.
5. The difficulties are self-created as the property owner, JASA Properties, LLC, has owned the parcel since 2012 and now seeks to develop the site in conjunction with the applicant.

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.

Adopted:

ROLL CALL VOTE BY SECRETARY

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

At this time, Nancy Forrest of Gloede Signs, representative to Rite Aid, arrived to the meeting. As the Board had not yet adjourned the meeting, they reopened the public hearing.

Richard Perkins motioned to reopen the public hearing on Rite Aid signage; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor	5	
All opposed	0	CARRIED

Chairman McNary again explained the County has deemed the application incomplete, and the applicant must submit additional information to clarify what exactly they are requesting.

James Agrawal motioned to continue the public hearing to March 23, 2022; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 5  
All opposed 0 CARRIED

**Other Business:**

David McNary motioned to adjourn; and Paul Donnelly seconded the motion.

VOICE VOTE:

All in favor 5  
All opposed 0 CARRIED

The meeting adjourned at 6:58 pm.

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**Sarina Teuschler**  
Secretary to the Zoning Board of Appeals