

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

**MINUTES FOR REGULAR MEETING**

**February 24, 2021**

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

**Absent:**

**Others Present:** Patrick Logan, Attorney  
Kathleen Moss, Zoning Administrator  
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 January 27<sup>th</sup>, 2021.

David McNary motioned to approve the minutes, and Richard Perkins 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 Board is still waiting for a completed Environmental Assessment Form; it is expected in March.

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**Resolutions and Votes:**

**#20-18Z** Hudson Valley Hospice House  
542 Violet Ave.  
Poughkeepsie, NY 12601  
**Variance – Section 108-5.15** Changing bulk regulation scale from 6,000 sq. ft. to 30,000 sq. ft. for a non-single-family residence in the Neighborhood Core District

Representatives Michele Zerfas and Michael Kaminski were present.

Mr. Sweet noted that the Public Hearing for this application had been closed at the January 27<sup>th</sup> meeting.

The Secretary received no comments from the public in the allocated timeframe.

None of the Board members had comments or questions. Neither the Zoning Administrator nor the Attorney to the Board had questions.

Richard Perkins motioned to grant area variance; James Agrawal seconded the motion.

Town of Hyde Park  
**Zoning Board of Appeals**  
4383 Albany Post Road  
Hyde Park NY 12538  
(845) 229-5111

**RESOLUTION TO GRANT AN AREA VARIANCE**  
**Hudson Valley Hospice**  
542 Violet Avenue and 31 East Dorsey Lane  
Poughkeepsie, NY 12601

**Date:** February 24, 2021

**Motion:** Richard Perkins

**Resolution #:** 20-18Z

**Second:** James Agrawal

WHEREAS, the applicant, Hudson Valley Hospice, Inc., has submitted an application for an area variance to permit the construction of a residential in-patient care facility with driveways, parking, and related infrastructure (the “Project”) at

property located at 542 Violet Avenue and 31 East Dorsey Lane, identified as tax parcel nos. 6163-02-552748, -570735, in the Neighborhood Core Zoning District (the “Site”); and

WHEREAS, the proposal is depicted on a site plan entitled “Site Plan Prepared for Hudson Valley Hospice,” prepared by MAG Designs, Berger Engineering and Surveying PLLC, and Carney Rhinevault, L.S., dated June 5, 2020 (the “Site Plan”); and

WHEREAS, the applicant also seeks, among other things, subdivision approval from the Town of Hyde Park Planning Board to consolidate the two parcels constituting the Site into a single lot; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a scale of 30,000 sq. ft. where 6,000 sq. ft. is required (the “Requested Variance”); and

WHEREAS, on December 16, by Resolution #2020-17A, the Hyde Park 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, 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 with comments on October 23, 2020 and recommended that it the Board rely upon its own study of the facts; and

WHEREAS, a duly noticed public hearing was opened on October 29, 2020 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 January 27, 2020 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 Requested Variance would not change the character of the neighborhood, which already contains several commercial and institutional structures including an automotive repair shop, a deli and retail plaza, and a church with an accompanying school. The properties containing the deli/retail plaza and church/school are located at an intersection directly south the Site. The deli/plaza appears to exceed the scale limitation and the school and parking lot significantly exceed the scale limitation. The size of the school alone is over 40,000 sq. ft. As the pattern of development in the area consists of multiple properties and uses of a scale similar to the Project, the Requested Variance would conform with the character of the neighborhood.

The Requested Variance will not result in a significant increase in traffic as the Project will contain 14 inpatient rooms staffed by approximately 12 employees over a 24-hour period. The Project will generate an estimated 43 vehicle trips over 24 hours, which is insignificant compared to the estimated 9,000+ daily vehicle trips already on Violet Avenue.

Impacts on neighboring residential properties to the south will also be decreased by the construction of a fence on the Site between the Project and the residences.

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 proposes the development of an in-patient hospice facility, which necessitates having separate rooms for patients and their loved-ones, staff, equipment, and facilities to provide 24-hour care.

The applicant has designed the proposed facility to a scale of approximately 30,000 sq. ft., which is the minimum size that still provides the facility with adequate space to function. If the facility were any smaller, it would be unable to provide the types of services it proposes to the 14 units within the Project.

Such a facility is meant to accommodate not only patients and staff, but relatives of the patient as well. The number of people occupying the building necessitates at least 32 parking spaces, which are required by code to be at least 162 sq. ft., for a total area of 5,184 sq. ft.

In addition, the New York State Department of Health and Medicare's conditions of participation for hospice inpatient units set forth requirements for staffing and unit size. The units are to be approximately 397 sq. ft. to allow for a handicapped accessible bathroom and a space for family members to visit. 397 sq. ft. for each of the 14 units totals 5,558 sq. ft. This calculation omits offices, hallways, and other common areas which would cause the scale to exceed 6,000 sq. ft.

As the maximum permitted scale is 6,000 sq. ft., and scale includes parking in addition to the facility's building area, there is no way for the applicant to develop the Project as proposed without needing an area variance. It appears

that such a facility would only be able to contain 2 units in order to comply with a 6,000 sq. ft. scale limitation, which is not financially feasible.

3. The Requested Variance is numerically substantial, as the permitted scale will increase by 24,000 sq. ft. (800%). 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 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 Variance on the Site and neighborhood will be minimal.

Any increase in impervious surface area as a result of the increased scale will not result in any significant impacts on the quantity or quality of stormwater runoff. The applicant has prepared a draft Stormwater Pollution Prevention Plan that will be reviewed by the Town Engineer and Zoning Administrator, and which will require the implementation of best practices to further reduce environmental impacts from erosion and sedimentation.

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 conditions:

1. Payment of all fees and escrow.
2. Receipt of subdivision approval by the Town of Hyde Park Planning Board for the consolidation of the two tax parcels constituting the Site.

ROLL CALL VOTE:

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

Adopted February 24, 2021  
Filed with the Town Clerk February 25, 2021

Mr. McNary congratulated Michael Kaminski on receiving the Variance, and thanked him for the Project and its contribution to the community.

**#20-24Z** Pauline Yoo  
62 East Market St  
Hyde Park, NY 12538  
**Variance – Section 108-4.3G(2)(c)** Changing the undisturbed stream corridor from 100 ft. to 75 ft. for installation of a generator in the Neighborhood District

There were no representatives present.

Mr. Sweet noted that the Public Hearing for this application had been closed at the January 27<sup>th</sup> meeting.

The Secretary received no comments from the public in the allocated timeframe.

None of the Board members had comments or questions. Neither the Zoning Administrator nor the Attorney to the Board had questions.

David McNary motioned to grant the area variance; James Agrawal seconded the motion.

Town of Hyde Park  
**Zoning Board of Appeals**  
4383 Albany Post Road  
Hyde Park NY 12358  
(845) 229-5111

**RESOLUTION TO GRANT AREA VARIANCE**

**Pauline Yoo**  
62 East Market St  
Hyde Park, NY 12538

**Date:** February 24, 2021

**Motion:** David McNary

**Resolution # 20-24Z**

**Second:** James Agrawal

WHEREAS, the applicant, Pauline Yoo, represented by David Stewart, DS Electric, has submitted an application for an area variance from Section 108-4.3G(2)(c) changing the undisturbed stream corridor from 100 ft. to 75 ft. for installation of a generator in the Neighborhood District; and

WHEREAS, the stream is the Crum Elbow Creek, a class C stream; and

WHEREAS, the existing house was constructed prior to the establishment of limitations of construction within the 100 feet stream corridor; and

WHEREAS, the proposed generator will be located on the north side of the house, opposite from the stream; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(16), the granting of an individual setback variance 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 January 27, 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 January 27, 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 granting of the Requested Variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties as the generator will not be visible from any of the neighborhood properties. Mr. Stewart also advised that the generator would not be visible from the road.
2. The benefit sought by the applicants cannot be achieved by some method feasible for the applicants to pursue other than by an area variance because of the location of the existing propane tank.
3. The Requested Variance is substantial numerically but not in its impact. The generator will be located within the virtual footprint of the existing house.
4. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district for reasons previously stated.
5. The difficulty is self-created.

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.

ROLL CALL VOTE:

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

Adopted February 24, 2021

Filed with the Town Clerk February 25, 2021

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**New Public Hearing:**

**#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

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

ROLL CALL VOTE:

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

The applicant's architect, Brad Will, was present to comment and answer questions. He shared a brief explanation of the site and the plans for it. It exists in a district which has just been approved for buildings with multiple family dwellings. The property is just slightly undersized for two dwelling units; hence the need for the density variance.

David McNary asked if the property had a septic tank or sewer connection. Mr. Will explained it has a septic tank, which has been inspected and approved by a representative from the Dutchess County Department of Health.

Herbert Sweet shared that the house was originally built in 1918, and had 3 bedrooms at that time. He believes it is not a substantial request to grant a variance for 2 single-bedroom apartments when the original house had 3 bedrooms.

The Attorney, Patrick Logan, noted that is a Type II action under SEQRA, meaning exempt from review; therefore, it does not need to be sent to the County.

Richard Perkins asked if the applicant would be increasing the driveway's impervious surface; to which Mr. Will said no. The driveway is asphalt, but the parking area is pervious paver stones. There will be no changes to the driveway or parking area.

No other board members had questions, and neither did the Zoning Administrator.

Herbert Sweet asked for a motion to close the hearing.

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

ROLL CALL VOTE:

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

Herbert Sweet noted that the public has 7 days to submit written comments about this application. They can be emailed to [zbasec@hydeparkny.us](mailto:zbasec@hydeparkny.us) or mailed to Hyde Park Town Hall ATTN: ZBA Secretary, 4383 Albany Post Road, Hyde Park, NY 12538.

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**New Application:**

**#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  
in the Greenbelt District

**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*)

Representative for Enclave, Dagmara Drago, was present to answer questions.

Herbert Sweet began by reminded everyone that this is the fourth extension on the original variance. He asked Ms. Drago if anything had changed which might affect the conditions of the initial approval in 2017; and asked what has happened during the past three extensions.

Ms. Drago shared that the development’s model home was completed early in 2020. Due to COVID complications, their marketing and selling plans were heavily affected. Some people were interested in purchasing property, but Enclave could not get building permits because they did not have sewer and water systems built yet. Now, Enclave is coordinating with the Dutchess County Department of Health to finalize the plans for both sewer and water facilities.

David McNary asked why Enclave initially wanted to change from 2.5 density acres per dwelling unit to 1.41 density acres per dwelling unit. Ms. Drago explained that the initial plan was impossible to accomplish given the property area and zoning, so they switched to 50 units and made the density 1.41 acres per dwelling unit. The sewer and water density changed with the acreage density.

The Zoning Administrator, Kathleen Moss, asked for an estimated time when the project would have approvals from the Department of Health for the sewer and water facilities. Ms. Drago stated their hopeful timeframe is six to eight weeks from now. The Zoning Administrator asked for confirmation that Enclave would complete work on their sewer and water facility before the expiration of this variance extension, and Ms. Drago said yes.

No other Board members had questions. The Attorney to the Board had no questions.

David McNary motioned to set the public hearing for March 24, 2021; James Agrawal seconded the motion.

ROLL CALL VOTE:

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

There was no further business.

MINUTES OF THE ZONING BOARD OF APPEALS – February 24, 2021

David McNary motioned to adjourn the meeting; James Agrawal seconded the motion.

ROLL CALL VOTE:

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

The meeting adjourned at 7:45pm.

Minutes recorded by,

Sarina Teuschler  
Secretary to the Zoning Board of Appeals