Present: Herbert Sweet  
          Brendan Lawler  
          David McNary  
          James Agrawal  

Absent: Richard Perkins

Others Present: Patrick Logan, Attorney, Linda Weiner, ZBA Secretary

Herbert Sweet, Chair, welcomed everyone to the May 22, 2019 meeting at 7:00 P.M.

Mr. Sweet commenced the Pledge of Allegiance

The secretary was asked to note the roll.

Mr. Sweet asked approval of the April 24, 2019 minutes.

Motion was made by David McNary, seconded by James Agrawal to approve the minutes for April 24, 2019.  
VOICE VOTE - ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY - MOTION CARRIED

Mr. Sweet noted the next Zoning Board meeting will be June 26, 2019.

Continued Public Hearing:

#19-03Z  Tara Wild  
          For/ Renaissance Rehabilitation  
          4975 Albany Post Rd.  
          Staatsburg, N.Y. 12580  
          Tax Map# 6066-02-856792  
          Variance – Section 108-24.2 C (1) (b) Changing maximum area of a free standing sign from 30 sq. ft. to 36 sq. ft.; and Section 108-24.2 F (2) (a) Changing maximum graphic size in any dimension from 10 in. to 15 in. x 18 in.; and Section 108-24.2 F (2) (b) Changing maximum letter height from 10 in. to 15 in. in the Waterfront District.

Motion to open the continued public hearing was made by David McNary, seconded by James Agrawal

Ms. Wild verified she measured and the sign was in compliance.

Mr. Sweet stated the portion of the requested variance changing the maximum area of a free standing sign has been withdrawn since it’s no longer needed.

Motion to close the continued public hearing was made by David McNary, seconded by James Agrawal.  
VOICE VOTE – ALL IN FAVOR
New Public Hearing:

#19-07Z Michael Muscat
22 Horns Park Rd
Hyde Park, NY 12538

Variance – Section 108-5.15 Changing a front yard setback from 50 ft. to 32 ft. for construction of a deck in the Neighborhood District.

Motion to open the public hearing was made by Brendan Lawler, seconded by James Agrawal.
VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY – MOTION CARRIED

Michael Muscat and Paul Muscat presented the application to the Board.

No one had any questions.

Motion to close the public hearing was made by James Agrawal, seconded by Brendan Lawler.
VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY – MOTION CARRIED

RESOLUTION TO GRANT AREA VARIANCE
MUSCAT
22 Horns Park Road
Date: May 22, 2019

Moved By: David McNary
Seconded By: Brendan Lawler

WHEREAS, the applicant, Michael Muscat, has submitted an application for an area variance to permit the construction and expansion of a deck in substantially the same location as an existing porch attached to dwelling on property located at 22 Horns Park Road (the “Project”), identified as tax parcel no. 6165-04-898203, in the Neighborhood District (the “Site”); and

WHEREAS, the proposal is depicted on a plan dated April 9, 2019, last revised April 12, 2019, and additional plans entitled “Deck Plans” and “Pier & Framing Plans” received May 15, 2019 (the “Site Plan”); and

WHEREAS, the applicant has submitted an application for an area variance dated April 9, 2019, last revised April 12, 2019; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a front yard setback of 32 feet where 50 feet is required; 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 22, 2019, 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 Variances:

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

The proposed deck will replace a porch in substantially the same location. The house and porch were both already within the 50-foot front yard setback, and the additional intrusion into the setback from the new wider deck will not significantly impact the neighborhood. The neighborhood is heavily wooded, and existing trees will partially obscure the deck from neighbors. Multiple other residences and decks/porches on the same street similarly encroach into the front yard setback.

As the deck is replacing another structure and the neighborhood contains other residential buildings and structures that are similarly placed within the front yard setback, the Requested Variance will not change the character of the neighborhood or affect on nearby properties.

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 wishes to construct a deck at the front of the residence. As the residence is already located within the front yard setback, there is no way to construct a deck on the front of the house without needing a variance.

3. The Requested Variance may be considered numerically substantial, as the permitted dimensions for the required front yard setback will decrease by 18 feet (36%). However, as discussed above, the impacts of the Requested Variance will not be substantial as it is replacing a former structure in substantially the same location and the neighborhood contains numerous homes and residential structures located within the front yard setback.

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 is replacing a former structure in substantially the same location. The area is already disturbed and the construction of the deck will not create any new adverse effects or impacts on the environment.

5. The difficulties are self-created.

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

1. Payment of all fees and escrow.

Adopted: May 22, 2019

Herb Sweet   AYE
Jim Agrawal   AYE
Brendan Lawler AYE
Dave McNary   AYE
Rich Perkins  ABSENT
New Application:

**#19-09Z** Jody Mallen
138 Forest Drive
Hyde Park, NY 12538

**Variance – Section** 108-4.3G (2) To allow construction within the 100 ft. stream corridor changing the undisturbed corridor from 100 ft. to 0 ft. for construction of a 40 ft. span steel bridge crossing the Fallkill Creek in the Neighborhood District.

Brian Stokosa, M.A. Day Engineering, gave a brief explanation to the Board.

Patrick Logan, Attorney, stated, pursuant to municipal law 239m the application needs to be referred to Dutchess County Planning.

Motion to distribute the application to DC Planning pursuant to General Municipal Law 239m was made by David McNary, seconded by Brendan Lawler.
VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY – MOTION CARRIED

Motion to set the public hearing for June 26, 2019 was made by David McNary, seconded by Brendan Lawler.
VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY – MOTION CARRIED

**OTHER BUSINESS:**

Motion was made by Brendan Lawler, seconded by James Agrawal to adjourn AT 7:30 PM
VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY – MOTION CARRIED

Respectfully Submitted,

Linda Weiner, ZBA Secretary