TOWN OF HYDE PARK
Zoning Board of Appeals
4383 Albany Post Road
Hyde Park, New York 12538

Minutes
June 26, 2019

Present: Herbert Sweet
Brendan Lawler
Richard Perkins
David McNary
James Agrawal

Absent: Victoria Polidoro, Attorney, Linda Weiner, ZBA Secretary

Herbert Sweet, Chair, welcomed everyone to the June 26, 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 for approval of the May 22, 2019 minutes.

Motion was made by David McNary, seconded by James Agrawal to approve the minutes for May 22, 2019.

VOICE VOTE - ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT - MOTION CARRIED

Mr. Sweet noted the Interpretation Application #19-01Z for an Aguilar & Quiroz has been withdrawn.

The next Zoning Board meeting will be July 24, 2019.

New Public Hearing:

#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.

Motion to open the public hearing was made by David McNary, seconded by Brendan Lawler.

VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Brian Stokosa, M.A. Day Engineering, gave an explanation of the requested variance.

There were no questions.
Motion to close the public hearing was made by Herbert Sweet, seconded by David McNary.

VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Town of Hyde Park Zoning Board of Appeals
4383 Albany Post Road

Hyde Park NY 12538
(845) 229-5111
(845) 229-0349

RESOLUTION TO GRANT AREA VARIANCE

MALLEN
146 Forest Drive

Date: June 26, 2019
Moved By: David McNary
Resolution #: 19-09Z
Seconded By: Brendan Lawler

WHEREAS, the applicant, Jody Mallen, has submitted an application for an area variance to permit the construction of a bridge over the Fallkill Creek to serve a residence on property located at 146 Forest Drive (the “Project”), identified as tax parcel no. 6266-04-544369, in the Neighborhood District (the “Site”); and

WHEREAS, the proposal is depicted on a plan entitled “Subdivision for Morphet,” prepared by Michael A. Dalbo, L.S., dated October 18, 2004, last revised March 8, 2005, received May 13, 2019 (the “Site Plan”); and

WHEREAS, the applicant has submitted an application for an area variance received May 13, 2019; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-4.3(G)(2) to permit a stream encroachment of 0 feet where 100 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, 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 June 26, 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 Variance:

1. The Requested Variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
The proposed bridge will be constructed on and about a portion of the stream that has been previously cleared of vegetation. The surrounding area is heavily wooded with little development. Existing trees surrounding the site will partially obscure the bridge from the road and neighboring properties. The stream is already crossed by Forest Drive, and an additional crossing will not change the character of the area.

The applicant currently has to use Forest Drive to transport horses and farm equipment and supplies throughout different portions of her property. This creates a hazard to herself and the community, as portions of Forest Drive have limited visibility and are subject to people speeding. Allowing the applicant to use the proposed bridge would eliminate her use of Forest Drive and result in a safer road for the community.

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 bridge to cross the stream so that it is no longer necessary to use Forest Drive to transport horses and farm supplies and equipment. A variance is required to construct the bridge, as the Zoning Law requires a 100-foot setback from the stream.

3. The Requested Variance is considered numerically substantial, as the required stream corridor will be reduced to zero. 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 bridge is forty feet across, while the width of the stream and banks is only thirty feet. The bridge has been designed to not impact or disturb the stream or banks, and the bridge will not impede the flow of the stream. No trees are planned to be removed within the stream corridor. The bridge has been designed so as not to impede the flow of the stream or cause any build up at the road. Given that there will be no disturbance to the stream or banks, and that the bridge will not create an impediment to travel by wildlife alongside or within the stream, the encroachment on the stream buffer will not have a significant adverse effect on the environmental conditions of the neighborhood.

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.

6. Adopted: June 26, 2019

7. Herb Sweet AYE
8. Jim Agrawal AYE
9. Brendan Lawler AYE
10. Dave McNary AYE
11. Rich Perkins AYE

#19-10Z Gary & Betty Freeborn
126 Horns Park Rd
Hyde Park, NY 12538

Variance – Section 108-5.15 Changing front yard setback from 50 ft. to 20 ft. and side yard setback from 25 ft. to 9 ft. to allow construction of a garage; and Section 108-5-15 changing front yard setback from 50 ft. to 26 ft. for a covered porch in the Neighborhood District.

Motion to open the public hearing was made by David McNary, seconded by Brendan Lawler.

VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Mr. Freeborn and Mr. Allt, Excavator, presented the application to the Board.
There were no questions.

Motion was made by James Agrawal, seconded by Brendan Lawler to close the public hearing

VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Town of Hyde Park Zoning Board of Appeals
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RESOLUTION TO GRANT AREA VARIANCE

FREEBORN
126 Horns Park Road

Date: June 26, 2019 Moved By: Jim Agrawal
Resolution #: 19-10Z Seconded By: Brendan Lawler

WHEREAS, the applicants, Gary and Betty Freeborn, have submitted an application for an area variance to permit an existing porch and the construction of a garage on property located at 126 Horns Park Road (the “Project”), identified as tax parcel no. 6165-04-871278, in the Neighborhood District (the “Site”); and

WHEREAS, the proposal is depicted on drawings received May 17, 2019; and

WHEREAS, the applicant has submitted an application for area variances received May 17, 2019; and

WHEREAS, the applicant seeks the following area variances (the “Requested Variances”):

• from Zoning Law Section 108-5.15 to permit a front yard setback of 20 feet where 50 feet is required to permit construction of the garage;
• from Zoning Law Section 108-5.15 to permit a side yard setback of 9 feet where 25 feet is required to permit construction of the garage;
• from Zoning Law Section 108-5.15 to permit a front yard setback of 26 feet where 50 feet is required to allow the existing porch; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17), the granting of individual setback and lot line variances and adjustments is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; 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:

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

The neighborhood is largely residential and numerous other properties have garages located within their front and side yard setbacks. The surrounding property is heavily wooded, and existing trees will partially obscure the garage from
neighboring properties. Therefore, the proposed garage will be in character with other properties in the neighborhood and will not produce an undesirable change to nearby properties.

The porch will similarly not produce an undesirable change in the neighborhood or be a detriment to nearby properties. The porch is not out of character with the neighborhood, as other properties in the area have residential structures located within the front yard setback. The existing trees on the Site partially obscure the porch from the road and neighboring properties.

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

The house is angled such that front is not parallel to the street. An existing driveway matches this angle while leading up to the side of the house. This arrangement makes it difficult to site a garage on the property without also angling the structure. The applicant wishes to construct a garage in line with the existing residence and driveway at the Site, and doing so necessarily places the garage within the front and side yard setbacks.

The applicant also seeks to continue the use of an existing porch at the front of the residence. As the residence is already located within the front yard setback, there is no alternate location for a porch on the front of the house outside the setback.

14. The Requested Variances may be considered numerically substantial, as the permitted dimensions for the required front yard setback will decrease by 30 and 24 feet (60% and 48%, respectively), and the permitted dimensions for the side yard setback will decrease by 16 feet (64%). However, as discussed herein, the impacts of the Requested Variance will not be substantial.

15. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

The garage is proposed for a previously cleared and disturbed area, and will not result in a significant increase in impervious surface area. The porch already exists and is located in a previously disturbed area and above an impervious surface. Therefore, neither the garage nor the porch will have an adverse effect or impact on the environment.

16. 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:

2. Payment of all fees and escrow.

Adopted: June 26, 2019

Herb Sweet AYE
Jim Agrawal AYE
Brendan Lawler AYE
Dave McNary AYE
Rich Perkins AYE

New Application:

#19-11Z Staatsburg Library
70-72 Old Post Road
Staatsburg, NY 12580

Variance – Section 108-5-15 Changing front yard setback from 50 ft. to 12 ft.; and side yard setback from 5 ft. to 2 ft. to allow construction of a shed in the Waterfront District.

Board of Trustee, David Lund presented the application to the Board.
Motion to set the Public Hearing for July 24, 2019 was made by James Agrawal, seconded by Brendan Lawler
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

OTHER BUSINESS:

Motion was made by David McNary, seconded by Brendan Lawler to Approve Planning Board to serve as Lead Agency for Taconic Realty Violet Avenue and Hudson Valley Hospice
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Motion was made by James Agrawal, seconded by Brendan Lawler to adjourn at 7:45 PM
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Respectfully Submitted,

Linda Weiner, ZBA Secretary