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

Minutes
July 24, 2019

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

Absent:

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

Herbert Sweet, Chair, welcomed everyone to the July 24, 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 June 26, 2019 minutes.

Motion was made by David McNary, seconded by James Agrawal to approve the minutes for June 26, 2019.

VOICE VOTE - ALL IN FAVOR
(5) AYE (0) NAY (0) ABSENT - MOTION CARRIED

The next Zoning Board meeting will be August 28, 2019.

New Public Hearing:

#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.

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

VOICE VOTE – ALL IN FAVOR
(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED

Board of Trustee, David Lund gave a summary of the application to the Board.

David McNary commented, that he’s from St. Margaret’s and they welcome it.

There were no other questions or comments.

Motion to close 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
RESOLUTION TO GRANT AREA VARIANCE

STAATSBURG LIBRARY
70 Old Post Road

Date: July 24, 2019
Moved By: David McNary
Resolution #: 19-11Z
Seconded By: James Agrawal

WHEREAS, the applicant, David Lund, on behalf of the Staatsburg Library, has submitted an application for an area variance to permit the construction of a shed at property located at 70 Old Post Road (the “Project”), identified as tax parcel no. 6167-03-035429, in the Hamlet Core Zoning District (the “Site”); and

WHEREAS, the proposal is depicted on drawings received June 12, 2019, as well as elevations received July 3, 2019; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a side yard setback of 2 feet where 5 feet is required to permit construction of the shed (the “Requested Variance”); and

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

WHEREAS, on June 26, 2019, the Zoning Board of Appeals directed its Secretary to refer the Project materials to the Dutchess County Department of Planning and Development for a review and recommendation thereon pursuant to Section 239-m of the General Municipal Law, which responded on July 22, 2019, that it was a matter of local concern; and

WHEREAS, a duly noticed public hearing was held on July 24, 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 shed will feature board and batten architecture and will have a transom window. With this design, the shed will complement the architecture of the library and will not create an unwelcome intrusion on the historic character of the neighborhood.

The shed’s location will infringe on the side yard setback, but will not produce a detriment to nearby properties. The addition of a shed will not create a new, imposing structure at the Site. The property bordering the side yard where the shed will be located is a large parcel which contains the Dinsmore Golf Course, part of the Ogden Mills & Ruth Livingston Mills State Park. The minor reduction in the setback will have no impact on the golf course or the enjoyment of its users.

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 determined the proposed location of the shed is the most appropriate option given the layout and conditions of the Site. The Site is currently developed with a library and parking lot, with the only open areas being located along the Site’s northwest, southwest, and eastern borders. The southwestern portion of the Site contains a septic leach field below an open lawn at the intersection of Old Post Road and East Elm Avenue. Placing the shed here would interfere with the leach field and would be more visible and intrusive than the proposed location. The eastern portion of the Site is frequently flooded by the Staatsburg Creek, making it an unsuitable location for the shed. This leaves the northwestern portion of the Site which intrudes into the setback given the library’s proximity to the side yard.

3. The Requested Variance may be considered numerically substantial, as the permitted dimensions for the required side yard setback will decrease by 3 feet (60%). 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 shed is proposed for a previously cleared area, and will not result in a significant increase in impervious surface area at the Site. The shed has also been located away from the waterbody and septic leach field on the Site in order to prevent any interference therewith. Therefore, the Requested Variance for the shed will not have an adverse effect or impact 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: July 24, 2019

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

8 Water Tower Rd
Hyde Park, NY 12538

Variance – Section 108-5.15 Changing front yard setback from 50 ft. to 32 ft. to replace front porch and extend steps in the Neighborhood District.

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

VOICE VOTE – ALL IN FAVOR

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

Brian Berg presented the application to the Board.

There were no questions or comments.

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

VOICE VOTE – ALL IN FAVOR

(5) AYE (0) NAY (0) ABSENT – MOTION CARRIED
RESOLUTION TO GRANT AREA VARIANCE

Berg
8 Water Tower Road

Date: July 24, 2019 Moved By: Richard Perkins
Resolution #: 19-12Z Seconded By: James Agrawal

WHEREAS, the applicants, Brian and Christine Berg, have submitted an application for an area variance to permit the replacement of a porch and widening of steps serving the porch at property located at 8 Water Tower Road (the "Project"), identified as tax parcel no. 6164-01-010699, in the Neighborhood Zoning District (the “Site”); 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 for the Project (the “Requested Variance”); and

WHEREAS, pursuant to 6 NYCRR 617.5(c) (17), the granting of individual setback and lot line variances and adjustments are Type II actions 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 July 24, 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:

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

The Site contains a dwelling with a small eight foot wide porch at the front door. The steps leading up to the porch are four feet wide and cover half the width of the elevated porch, creating a gap under half of the porch. The Requested Variance will allow the porch currently at the Site to be replaced with widened stairs to eliminate the gap. This will make the porch at the Site more aesthetically pleasing, which will benefit the neighborhood. In addition, the neighborhood has multiple homes which have front porches and similar structures located within the front yard setback. Therefore, the Project will not alter the character of the area.

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

The applicants wish to replace the porch and widen the steps serving the porch at the front of their home. The front of the residence, as well as the existing porch and steps are already located within the front yard setback. It is not possible to replace the front porch and steps at the Site without infringing on the front yard setback.

8. 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 herein, the impacts of the Requested Variance will not be substantial.
9. The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

The Requested Variance will allow an existing porch to be replaced. The proposed porch is the same size and at the same location as the existing structure, and will not result in any new disturbance to the Site. The widening of the steps leading up to the porch will result in an insignificant disturbance and an insignificant increase in impervious surface area at the Site. Therefore, the Requested Variance will not have an adverse effect or impact on the environment.

10. 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: July 24, 2019

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

OTHER BUSINESS:

Motion was made by Richard Perkins, seconded by David McNary to approve Planning Board to Serve as Lead Agency for Dollar General

VOICE VOTE – ALL IN FAVOR

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

Authorize Planning Board to initiate Special Use Permit Review for proposed Telecommunications Tower upon receipt of a complete application.

Town of Hyde Park Zoning Board of Appeals
4383 Albany Post Road
Hyde Park NY 12538
(845) 229-5111
(845) 229-0349

RESOLUTION TO AUTHORIZE THE PLANNING BOARD TO INITIATE SPECIAL USE PERMIT REVIEW FOR A PROPOSED TELECOMMUNICATIONS TOWER

Date: July 24, 2019 Moved By: Herbert Sweet
Resolution #: A-2019 Seconded By: James Agrawal

WHEREAS, Chapter 101, Telecommunications Towers and Facilities, Section 2, of the Hyde Park Town Code provides that the Zoning Board of Appeals shall review and approve special use permits for telecommunications towers and facilities; and

WHEREAS, all special use permits also require site plan approval by the Planning Board; and

WHEREAS, the Town Board is considering transferring authority for review and issuance of special use permits under Chapter 101 from the Zoning Board of Appeals to the Planning Board; and
WHEREAS, the Town Board enacted Local Law No. 3 of the Year 2019 imposing a moratorium on all applications for erection, construction, expansion, changing, repairing or structurally altering any communication tower for a period of six months to enable the Town Board to enact certain amendments to the provisions of the Town Code with regard to approval of telecommunications towers and facilities; and

WHEREAS, by submission dated June 13, 2019, Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless (“Verizon Wireless”) submitted applied to the Town Board for a hardship waiver pursuant to § 5 of the moratorium law for a small cell wireless facility and has expressed an intent to submit an application for site plan and special use permit approval to the Town (the “Application”); and

WHEREAS, the Town Board granted the hardship waiver on July 15, 2019; and

WHEREAS, the hardship waiver was granted conditioned on review being conducted by the Planning Board and further conditioned on the Planning Board not issuing final approval until the Chapter 101 is amended.

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals, in anticipation of the amendment of Town Code changing the approving board from the Zoning Board of Appeals to the Planning Board and in accordance with the Town’s hardship waiver, hereby cedes review of the Application to the Planning Board until the earlier of: 1) Amendment of Chapter 101 to provide the Planning Board with authority to review and approve special use permits for telecommunications towers and facilities; or 2) 90 days after the date of this resolution. In the event that the Town Board does not amend Chapter 101 of the Town Code within 90 days of the date of submission of a complete Application, the Zoning Board of Appeals will consider a recommendation on the issuance of the special use permit from the Planning Board based on its review of the Application.

Adopted: July 24, 2019

Herbert Sweet  AYE
James Agrawal  AYE
Brendan Lawler  AYE
David McNary  AYE
Richard Perkins  AYE

Motion was made by Brendan Lawler, seconded by David McNary to adjourn at 7:30 PM
VOICE VOTE – ALL IN FAVOR

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

Respectfully Submitted,

Linda Weiner, ZBA Secretary