



Chairman McNary explained the Board could not act until the Planning Board had concluded their SEQRA review; and that board was waiting to hear from Dutchess County Department of Public Works.

There were no public comments.

Richard Perkins motioned to continue the public hearing to August 24, 2022; and Chairman McNary seconded the motion.

VOICE VOTE:

All in favor 3  
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**

1. To permit a cumulative square footage of up to 1.43 square feet for each lineal foot of the portion of the front of the building with a separate external entry where the maximum permitted is 1 square foot for each lineal foot to allow 45.8 square foot sign pursuant to Zoning Law Section 108-24.2(C)(1)(a); and
2. To permit a maximum of 45.8 square feet for wall-mounted signage facing Crum Elbow Road where the maximum permitted is 32 square feet pursuant to Zoning Law Section 108-24.2(C)(1)(d); and
3. To permit a maximum letter height of 16.75 inches for “Rite Aid” and 11 inches for “Pharmacy” on the proposed wall signage where the maximum letter height of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(b), and where the Planning Board granted up to 16.25 inches for “Rite Aid” and 11 inches for “Pharmacy”; and
4. To permit a maximum symbol or graphic dimension of 24 inches on the proposed wall signage where the maximum symbol or graphic dimension of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(a), and where the Planning Board granted up to 16.25 inches; and
5. To permit a maximum height of 11 feet for decorative elements on the proposed freestanding signage where the maximum height of 8 feet for freestanding signs is permitted pursuant to Zoning Law Section 108-24.2(C)(1)(b); and
6. To permit a maximum symbol or graphic dimension of 19.5 inches on the proposed freestanding signage where the maximum symbol or graphic dimension of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(a); and

7. To permit a maximum of 4 square feet in total area per sign for safety signage where the maximum permitted is 2 square feet pursuant to Zoning Law Section 108-24.2(C)(3)(b); and

Chairman McNary motioned to open the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

Nancy Forrest, representative to the applicant, was present. There was no discussion about the application.

Dutchess County Department of Planning & Development had responded to the latest referral that it was a matter of local concern.

There were no public comments.

Gerald Bowen motioned to close the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

The Secretary noted an error in the final paragraph of the resolution.

Gerald Bowen motioned to amend Resolution #21-19Z to change “deny” to “grant” in the final paragraph; Chairman McNary seconded the motion.

VOICE VOTE:

All in favor 3  
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

***As amended***  
**RESOLUTION TO GRANT AREA VARIANCES**

**Rite Aid Signage**  
1 Crum Elbow Road

**Date: July 27, 2022**

**Motion: Gerald Bowen**

**Resolution # 21-19z**

**Second: David McNary**

WHEREAS, the applicant, GNS Group Ltd., initially submitted an application on September 29, 2021 for area variances to increase the maximum permissible graphic and/or letter height, sign size, symbol or graphic dimension, and cumulative signage square footage to re-brand and replace all signs at the site, which currently contains a Rite Aid (the “Project”), on property located at 1 Crum Elbow Road, identified as tax parcel no. 133200-6165-03-429214, in the East Park Business District (the “Site”); and

WHEREAS, the proposed signage is depicted on a signage plan entitled “Rite Aid Store # 07849,” prepared by Universal Signs & Service, Inc., dated April 30, 2021, and revised on September 29, 2021, January 11, 2022, March 3, 2022, and finally on June 8, 2022 (the “Sign Plan”); and

WHEREAS, on November 3, 2021, by Resolution # 2021-36, the Hyde Park Planning Board granted the applicant a discretionary bonus to increase the maximum letter size of 10 inches to 16.25 inches in height, a maximum symbol size in any direction from 10 inches to 16.25 inches, and an increase of one (1) inch for the word “Pharmacy” for the proposed wall sign facing the intersection of Route 9G and Crum Elbow Road based on an approximate distance of 125 feet from the entry; and

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

1. To permit a cumulative square footage of up to 1.43 square feet for each lineal foot of the portion of the front of the building with a separate external entry where the maximum permitted is 1 square foot for each lineal foot to allow 45.8 square foot sign pursuant to Zoning Law Section 108-24.2(C)(1)(a); and
2. To permit a maximum of 45.8 square feet for wall-mounted signage facing Crum Elbow Road where the maximum permitted is 32 square feet pursuant to Zoning Law Section 108-24.2(C)(1)(d); and
3. To permit a maximum letter height of 16.75 inches for “Rite Aid” and 11 inches for “Pharmacy” on the proposed wall signage where the maximum letter height of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(b), and where the Planning Board granted up to 16.25 inches for “Rite Aid” and 11 inches for “Pharmacy”; and
4. To permit a maximum symbol or graphic dimension of 24 inches on the proposed wall signage where the maximum symbol or graphic dimension of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(a), and where the Planning Board granted up to 16.25 inches; and

5. To permit a maximum height of 11 feet for decorative elements on the proposed freestanding signage where the maximum height of 8 feet for freestanding signs is permitted pursuant to Zoning Law Section 108-24.2(C)(1)(b); and
6. To permit a maximum symbol or graphic dimension of 19.5 inches on the proposed freestanding signage where the maximum symbol or graphic dimension of 10 inches is permitted pursuant to Zoning Law Section 108-24.2(F)(2)(a); and
7. To permit a maximum of 4 square feet in total area per sign for safety signage where the maximum permitted is 2 square feet pursuant to Zoning Law Section 108-24.2(C)(3)(b); and

WHEREAS, on October 27, 2021, by Resolution # 21-19Z-a, the Zoning Board of Appeals determined that the Project was an Unlisted action under the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Zoning Board of Appeals determined that the Project will not result in any significant adverse environmental impacts, adopted a negative declaration, and determined that a Draft Environmental Impact Statement need not be prepared; and

WHEREAS, the Project was referred to the Town of Hyde Park Planning Board for its comment thereon, which replied via letter dated February 2, 2022; 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 on February 16, 2022 that the Project was not complete for review as it failed to precisely articulate the applicant’s request; and

WHEREAS, the applicant submitted an amended application on March 3, 2022 providing additional details related to the requested area variances (the “March Amendment”); and

WHEREAS, the March Amendment was referred to the Dutchess County Department of Planning and Development, which responded on March 21, 2022 that the Amended Project should be denied based upon duplicative signage and disregard for the Town’s Zoning Ordinance; and

WHEREAS, General Municipal Law 239-m requires that if the Zoning Board of Appeals acts contrary to recommendation of Dutchess County Department of Planning and Development, it may only do so by a supermajority vote, and it must notify the County of the reasons for this decision; and

WHEREAS, pursuant to County recommendations, the applicant once again amended their project on June 8, 2022 in order to come more into compliance with the Town’s zoning ordinance, (the “June Amendment”); and

WHEREAS, the June Amendment was referred to the Dutchess County Department of Planning and Development, which responded on June 6, 2022 that the June Amendment was a matter of local concern; and

WHEREAS, a duly noticed public hearing was opened on November 18, 2021 during a duly noticed meeting, and said public hearing remained open during subsequent meetings held on December 16, 2021, January 26, 2022, February 23, 2022, March 23, 2022, April 27, 2022, May 25, 2022, June 22, 2022, and July 27, 2022, during which times all those who wished to speak were heard; and

WHEREAS, in rendering this determination, the Zoning Board of Appeals has considered all materials submitted with the application, as well as testimony provided by the applicants; 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 variances are 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 Variances will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The requested increases to letters, symbols, sign face area, and quantity of signs on the property will allow Rite Aid to continue to represent itself easily and effectively to passersby traveling along Route 9G and/or Crum Elbow Road. Furthermore, the proposal as a whole brings the property into more compliance.

All proposed signage reuses existing structures and mounts. The new designs are not intrusive or out of character with the area – which is heavily commercialized. The site is not changing in use or in type of business. This area is well known as a commercial district. As the variances primarily allow for larger logos and words on signs at an established business, the Requested Variances will not have a significant impact on the neighborhood or negatively affect nearby properties.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than area variances. The applicant is part of a nationwide retail chain that is currently undergoing re-branding for all stores; and this requires replacement of the signs on the building. The benefits sought – namely maintaining consistency with signage at Rite Aid locations, protecting intellectual property rights, and ensuring brand recognition – may only be achieved by the granting of the Requested Variances to make the signs readable from the roadways.

Pursuant to New York State law, Zoning Boards of Appeal are required to grant only the minimum variances necessary, if any, for an applicant to receive the

intended benefit. The applicant could potentially reduce the size of the letters and symbols, reduce the size of individual signs, but doing so would likely cause the signs to be out of scale with the building or their structures and make them harder to read given the distances from Route 9G and Crum Elbow Road. The applicant was given the option to either remove a wall-mounted sign or a freestanding sign; and they have elected to remove the very large wall-mounted sign facing Route 9G and keep the freestanding monument sign. This option allows the applicant to bring the cumulative sign square footage into compliance while still representing itself to passersby on Route 9G.

3. Some of the Requested Variances are numerically substantial, but they are not aesthetically substantial and their impacts will not be substantial. The scale of the letters and symbols of the wall signage and its subsequent increase in square footage are all proportionate to the size of the walls and building on which it is displayed. The increase in number of freestanding signs is also appropriate given the lot size, orientation, number of sides to the building, and tree lines surrounding the property.

Two variances for the wall-mounted signage have been made less substantial as the Planning Board has granted discretionary bonuses based on distance from the road. For letter heights of “Rite Aid,” the Planning Board granted an allowance up to 16.25 inches, and the applicant has requested a variance for an additional 0.5 inches. For “Pharmacy” on this same sign, the applicant does not require a variance after receiving an additional 1-inch allowance from the Planning Board. For the symbol, the Planning Board granted an allowance up to 16.25 inches, and the applicant has requested a variance for an additional 7.75 inches. All of these requested letter and symbol dimensions are smaller than what is currently on the signs, and any impacts will be smaller too.

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

Allowing increases in letter and symbol size, quantity of signs, and sign face square footage beyond what is permitted by the Zoning Law will not result in the signs having any significant adverse effects on the environment. The site and general area are already heavily developed with commercial businesses. No ground disturbance will occur as a result of replacing the signs. All existing mounting structures are being reused.

No adverse effects have been identified as a result of the current signs, and no further negative effects are anticipated. The impact the signs would have on the environment would be nearly identical if the letters, symbols, quantity of signs, and sign face square footage complied with the Zoning Law.

5. The difficulties are self-created. Though the existing signage conformed to the code at time of installation, any changes to the signage must come into compliance with current regulations. Rite Aid chose to re-brand and replace all existing signage at stores nationwide, thereby creating the difficulties the company now faces regarding Hyde Park’s zoning restrictions.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variances subject to the following condition(s):

1. Payment of all fees and escrow.

Adopted:

ROLL CALL VOTE BY SECRETARY

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

**#22-06Z Vumbico** c/o Berger Engineering  
120 River Road  
Hyde Park, NY 12538  
Tax Grid No. 6064-03-531762  
**Two (2) Area Variances – Section 108-5.15 Bulk Regulations in Waterfront District** to change maximum lot coverage from 15% to 16% and building height allowance from 35 feet to 36 feet for the construction of a new house on a vacant lot.

Chairman McNary motioned to open the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor	3	
All opposed	0	CARRIED

Michele Zervas of Berger Engineering and Paul Varanouskas, both representatives to the applicants, were present.

Chairman McNary summarized that last month, the Board had visited the site. During that visit, the owner had expressed a willingness to come closer to the code – and had subsequently amended their application as such.

Michele Zervas explained that the owner had agreed to change additional blacktop to porous pavers, which reduced the lot coverage request from 23% to 16%, where 15% is required by code. Chairman McNary asked about stormwater management practices. Ms. Zervas stated there were none; that the stormwater runoff from the lot simply drains toward the Hudson River to the west. This maintains the same drainage pattern as currently on the lot.

Mr. Perkins expressed a concern that water may flow north to the neighboring property. Ms. Zervas stated most of the water would move west, but that there was a natural low spot to the northwest, which both properties shared.

The house is quite large. Its footprint is 5,400 square feet; the lower and upper level add an additional 3,200 square feet – bringing the total house square footage upward of 8,000 square feet.

Ms. Zerfas explained that the change in height came not from lowering the ceilings or roof lines, but from adding fill around the house to decrease the average measurement of the house. Now the variance request has changed from 3 feet to only 1 foot, through changing exterior landscape alone. The actual house height or profile has not changed.

PUBLIC COMMENTS:

Patricia Wager, representative to Ellen & Richard Wager of River Road, spoke against granting the variances. She cited concerns about the size of the house, both in lot coverage and in height, and how these increases may impact stormwater drainage, the visual aesthetics of the area, and character of the neighborhood. They say, since work has begun, there is significant water pooling on their property. Ms. Wager states that she has her own architect, and this architect disagrees with the assertion that the water will flow directly west to the river. She says that, when standing to the north of the site, that property is lower and the water moves north toward the Wager's home.

Kelly Libolt of KARC Planning asked the Board to grant the variances because, according to Ms. Libolt, the neighbors' issues were being addressed. She asked that the Board focus on the variances directly, rather than be concerned with the stormwater management practices. The applicants and owners had already shown they were willing to come closer to the code requirements.

There were no other public comments.

Attorney to the Board Sarah Wilson noted that she and Board understood they were making an effort, but questioned what is preventing the applicants and owners from meeting the requirements of the code. There is no apparent need for either of the variances, as the lot is empty and anything at all can be built there.

Ms. Zerfas stated that the cost of porous pavers and their maintenance is what is preventing them from being fully compliant. She did not address why they could not reduce the footprint of the house.

Chairman McNary encouraged the applicants and their representatives to meet with the neighbors to discuss how to mitigate the drainage and flooding issues.

Ms. Zerfas asked if she was responsible for fixing the neighbor's issue on their property. She stated for the record that "they experience flooding now, existing flooding, even before the house is built."

Zoning Administrator Kathleen Moss, asked when they started clearing the lot, and if that coincided with the neighbor's flooding issue. Ms. Zerfas stated no, because it's a natural low point so water settles there anyway. The movement pattern of stormwater runoff has not changed, and will not change. Ms. Moss stated the surface of the lot changed with removal of foliage, so it has increased the amount of runoff to this northwest area in question.

Mr. Perkins agreed that stormwater runoff becomes more severe when you remove foliage and grass from an area.

Chairman McNary motioned to continue the public hearing to August 24, 2022; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

**#22-08Z Ishak** c/o John Caro  
34 Greenbush Drive  
Poughkeepsie, NY 12601  
Tax Grid No. 6163-03-382434  
**Area Variances – Section 108-5.15 Bulk Regulations in Neighborhood District** to change maximum permitted density from 0.5 acres per dwelling unit to 0.39 acres per dwelling unit for a two-family dwelling.

Paul Donnelly is recused from this application. Alternate member John Scileppi was away on business and could not attend this meeting.

Chairman McNary motioned to open the public hearing; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

John Caro and Danny Ishak, representatives to the applicant, were present. Mr. Daniel Ishak explained he was brother to property owner Mr. Christopher Ishak and property manager to 34 Greenbush.

Chairman McNary suggested the Board enter executive session to discuss an issue with the application.

Richard Perkins motioned that the Board enter executive session to discuss the application; Chairman McNary seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

The Board entered executive session at 6:36 pm.

Richard Perkins motioned that the Board return from executive session; Chairman McNary seconded the motion.

VOICE VOTE:

All in favor 3

All opposed 0

CARRIED

The Board returned from executive session at 6:57 pm.

No decisions were made.

Mr. D. Ishak explained that his brother, the owner, purchased the property entirely in cash in 2012. As it was a cash deal, there was no due diligence to find a Certificate of Occupancy as would be required from an insurance company for a mortgage. The house, when the owner purchased it, came with 3 units. It was listed as having 2 units, and is coded in the tax rolls as a two-family dwelling. The only certificate of occupancy is for a single-family dwelling.

Mr. D. Ishak pointed out that denying the variance and returning it to a single-family dwelling may not actually help to mitigate future problems that the Board has pointed out. He notes that, even if it is made to return to single-family, the footprint of the house will not change. It is a very large house with many bedrooms, and this appeals to large families or extended families. There may be upwards of 15 people living in it as a single-family residence. The consequences could be worse than if two smaller units were rented to individuals, couples, or smaller families. Mr. Christopher Ishak had plans to rent only two units, and make the final unit his brother's property management office.

Attorney to the Board, Sarah Wilson, had looked into the building department and assessor records. Since at least 2012, it has been taxed as a two-family dwelling. The assessor code change from single-family to two-family happened around 1992 or '93. Ms. Wilson surmised that the owner at the time separated it into multiple units illegally; but now it must be rectified. The zoning variance is just one step of many to legalize it as a two-family dwelling.

Mr. D. Ishak shared his plans to manage the property and keep it clean and nice for both the renters and neighbors. He acknowledged there have been property maintenance and cleanliness issues previously, and stated that he wants whomever the tenants are to treat it as a home, not just an apartment.

Chairman McNary, having accepted all this information, asked why the ZBA should grant a variance to increase density on the lot – which is the issue at hand. The request is to allow a two-family dwelling on a lot that is roughly 25% too small.

Mr. D. Ishak noted that the property had been this way for some time, used as a two-family or multi-family; and made the argument that there is no actual change other than to legalize what exists.

There were no public comments.

Richard Perkins motioned to continue the public hearing to August 24, 2022; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

**#22-11Z Michael Daubman**  
16 Bircher Avenue  
Poughkeepsie, NY 12601  
Tax Grid No. 6163-02-587549

Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District to change side yard setback from a minimum of 10 feet to 5 feet for the installation of a generator.

Richard Perkins motioned to open the public hearing; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

Paul Daubman, Jr., representative to the applicant, was present. There was no discussion.

There were no public comments.

Richard Perkins motioned to close the public hearing; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
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**

**Michael Daubman**  
16 Bircher Avenue  
Poughkeepsie, New York 12601

**Date: July 27, 2022**

**Motion: Richard Perkins**

**Resolution # 22-11z**

**Second: Chairman McNary**

WHEREAS, the applicant, Michael Daubman, has submitted an application for an area variance to install a generator which provides emergency power to basement water pumps (the “Project”) at property located at 16 Bircher Avenue, Poughkeepsie New York, identified as tax parcel no.6163-02-587549, in the Neighborhood Zoning District (the “Site”); and

WHEREAS, the Project is depicted on a sketch prepared by Mr. Daubman dated May 18, 2022, (the “Plan”) and an annotated aerial photo dated the same, (the “Aerial Photo”); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a side yard setback of 5 feet where 10 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, a duly noticed public hearing was held on June 22, 2022 and continued to July 27, 2022, both during duly noticed meetings during which all those who wished to speak were heard; and

WHEREAS, in rendering this determination, the Zoning Board of Appeals has considered all materials and supplements submitted with the application as well as testimony from the applicant’s representative; 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 be a detriment to nearby properties. The generator will be situated behind the main house and will not be clearly visible from anywhere except the owner’s property. The house to the west, where the encroachment is occurring, is more than 70 feet away from the generator.
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 owner’s basement floods frequently and badly, and they have installed sump pumps to mitigate the problem. However, in the event of a power outage, these pumps fail and the basement floods despite the prior efforts put forth by the applicant to prevent that from occurring. The applicant wishes to install a generator so the pumps will continue to run during power outages.

The site and existing structures limit possible locations. The existing house is within the side yard setback, and the lot is narrow in width. According to its specifications, the generator must be situated away from any air intakes, such as doors or windows. Additionally, the generator must be within a certain distance of the breaker box and pumps for it to work efficiently. Therefore, the proposed location is the ideal choice.

3. The Requested Variance is numerically substantial. The variance will change the permitted setback from 10 feet to 5 feet, which is a 50% decrease; however, this placement encroaches slightly less than the existing house and shed. Any impacts of this encroachment would be less substantial than the house itself, and any detriment to the neighborhood is far outweighed by the benefits to the applicant.
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 variance request will have no impact on the surrounding environment. The generator's footprint is small, and it is used infrequently.

As shown in the Aerial Photo, the neighboring house is a substantial distance from the shared property line, giving these neighbors an extensive buffer from the generator's sound. This generator is used only to provide emergency power to sump pumps in the basement in the event of both a flood and power outage so the noise impact will be infrequent.

5. The difficulties are self-created. The applicant stated the house has needed water mitigation in the basement as long as he has owned it.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variance subject to the following condition(s):

1. Pursuant to Section 108 – 33.5 F (1), the authorized activity must commence within one year from the date of issuance, otherwise it is revoked.
2. Payment of all fees and escrow.

Adopted:

ROLL CALL VOTE BY SECRETARY

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

**#22-12Z**      **Stephanie Vogt**      c/o Paul Tirums  
195 Haviland Road  
Poughkeepsie, NY 12601

Tax Grid No. 6264-01-160958

**Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District** to change front yard setback from a minimum of 50 feet to 24.3 feet for the renovation of a house and addition of covered front porch.

Gerald Bowen motioned to open the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0                      CARRIED

Stephanie Vogt, property owner, was present. There was no discussion about the application.

There were no public comments.

Chairman McNary motioned to close the public hearing; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
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**

**Stephanie Vogt**  
195 Haviland Road  
Hyde Park, NY 12538

**Date: July 27, 2022**

**Motion: Chairman McNary**

**Resolution #22-12z**

**Second: Gerald Bowen**

WHEREAS, the applicant Paul Tirums, on behalf of owner Stephanie Vogt, has submitted an application for an area variance to reduce the front yard setback to allow the partial renovation of a house and addition of a covered porch (the “Project”) at property located at 195 Haviland Road, identified as tax parcel no. 6264-01-160958, in the Greenbelt Zoning District (the “Site”); and

WHEREAS, the Project is depicted on a plan entitled “Location Plan-Site Plan” prepared by Synergy Design Architecture & Engineering, PLLC dated August 26, 2021 (the “Plan”); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a front yard setback of 24.3 feet where 50 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, a duly noticed public hearing was held on June 22, 2022 and July 27, 2022 during a duly noticed meeting 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 be a detriment to nearby properties. The variance allows the homeowner to demolish and rebuild a portion of the existing house. The entire house and covered porch are maintaining the same footprint. The addition of the 5-foot overhang above the porch requires a variance despite the concrete slab beneath it. The character of the neighborhood will not be undesirably changed as many of the houses in the immediate area are built within the 50-foot setback and multiple homes possess porches.
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 demolish and rebuild part of the house due to structural concerns, especially as related to the foundation. The homeowner’s goal is to have a safer house which is easier to maintain. The existing house was built in 1970, prior to the adoption of the current zoning regulations. If the applicant was made to adhere to current zoning, it would require the complete demolition and relocation of her house by more than 20 feet to the north. The project would become financially infeasible for the applicant.

The applicant acknowledged that she could complete individual repairs to remedy some of the outstanding issues, but there are concerns that the repairs would be insufficient. The homeowner prefers to demolish part of the existing structure to ensure the issues with the foundation are adequately fixed.

3. The Requested Variance is numerically substantial because it would allow more than a 50% reduction of the setback from 50 feet to 24.3 feet. As stated above, however, the proposed house and porch maintain the same footprint as the existing structures.
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 house was built within the setback in 1970 and has existed this way for 50 years. No discernible impacts have been noticed. As the Project seeks to maintain the same size and footprint of the house, there will be no further impacts. While the applicant has applied for an additional 5 feet of encroachment, this still maintains the existing footprint of the concrete slab. The Variance is required because the applicant seeks to add a roof overhang.
5. The difficulties are self-created since the applicant wants to demolish and renovate the house instead of repairing individual concerns.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variance subject to the following condition(s):

1. Pursuant to Section 108 – 33.5 F (1), the authorized activity must commence within one year from the date of issuance, otherwise the variance is revoked.
2. Payment of all fees and escrow.

Adopted:

ROLL CALL VOTE BY SECRETARY

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

**NEW PUBLIC HEARINGS:**

**#19-06Z-3 Dollar General Extension #2** c/o Bohler Engineering  
1 East Dorsey Lane  
Hyde Park, NY 12538  
Tax Grid No. 6163-02-504633

EXTENSION OF 2019 VARIANCE, Resolution #19-06Z  
Area Variance – Section 108-5.15 Bulk Regulations  
Extending change of maximum permitted building scale in the Neighborhood Business District from 7,500 square feet to 11,874 square feet.

Chairman McNary motioned to open the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

Caryn Mlodzianowski of Bohler Engineering, representative to the applicant, was present.

The Secretary noted that she had received written confirmation from the Building Department that the Notice of Violation on the property, issued by the Building Inspector, had been remedied.

There were no public comments.

Chairman McNary motioned to close the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
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 GRANTING  
A SECOND EXTENSION TO AN AREA VARIANCE**

**DOLLAR GENERAL**  
1 East Dorsey Lane

**Date: July 27, 2022**

**Motion: Gerald Bowen**

**Resolution #19-06Z-3**

**Second: Richard Perkins**

WHEREAS, on November 13, 2019, by Resolution # 19-06Z, the Zoning Board of Appeals granted an area variance to the applicant, HSC Hyde Park LLC, to permit the demolition of an existing building and construction of a new 7,500 sq. ft. Dollar General retail building along with new access, parking, landscaping, lighting, utilities, and stormwater management (the “Project”) at property located at 1 East Dorsey Lane, identified as tax parcel no. 6163-02-504633, in the Neighborhood Business Zoning District (the “Site”); and

WHEREAS, pursuant to Section 108-33.5(F)(1) of the Zoning Law, any variance under which the authorized activity has not commenced within one year from the date of issuance is revoked without further hearing or action of the Zoning Board of Appeals; and

WHEREAS, on September 22, 2021, by Resolution #19-06Z-2, the Zoning Board of Appeals applied a tolling period pursuant to NYS Governor Cuomo’s Executive Order 202 and granted an extension of the variance to June 30, 2022; and

WHEREAS, if the authorized activity has not commenced, the area variance for the Project would have expired on June 30, 2022; and

WHEREAS, pursuant to Section 108-33.5(F)(2) of the Zoning Law, the applicant may submit a written request to the ZBA for an extension not less than thirty (30) days prior to the variance date of expiration; and

WHEREAS, the Zoning Board of Appeals may, in its discretion, after conducting a public hearing, grant an extension to a variance; and

WHEREAS, by letter dated May 11, 2022, the applicant submitted a request for an extension of the area variance; and

WHEREAS, a duly noticed public hearing was held on July 27, 2022, during which all those who wished to speak were heard; and

WHEREAS, the Zoning Board of Appeals has considered the circumstances warranting such an extension, and there have been no significant changes in the Project or the Project Site that would warrant a different conclusion with respect to the grant or denial of the area variance.

**NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals hereby grants a one-year extension of the area variance for the Project to and including June 30, 2023.**

Adopted:

ROLL CALL VOTE BY SECRETARY

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

**#22-13Z      **Boldrin****  
46 Lawrence Road  
Hyde Park, NY 12538  
Tax Grid No. 6164-02-927571

**Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District** to change front yard setback from a minimum of 50 feet to 46 feet for the replacement of a deck.

Gerald Bowen motioned to open the public hearing; and Richard Perkins seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

There were no applicants present at this meeting. There was no discussion by the Board.

PUBLIC COMMENT:

Dan and Allison Nichols, of 3 Valerie Court, emailed a comment in favor of the application.

Richard Perkins motioned to close the public hearing; and Chairman McNary seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 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 AN AREA VARIANCE**

**Henry & Ellen Boldrin**  
46 Lawrence Road  
Hyde Park, NY 12538

**Date: July 27, 2022**

**Motion: Richard Perkins**

**Resolution # 22-13z**

**Second: Chairman McNary**

WHEREAS, the applicants and homeowners Henry and Ellen Boldrin have submitted an application for an area variance to change front yard setback to complete the construction of a 14 x 16-foot deck on their house (the “Project”) at property located at 46 Lawrence Road Hyde Park, NY 12538, identified as tax parcel no. Tax Grid No. 6164-02-927571, in the Neighborhood Zoning District (the “Site”); and

WHEREAS, the Project is depicted on a survey map entitled “Survey for Boldrin” prepared by Michael A. Dalbo, dated July 28, 1986 (the “Survey”), and an annotated aerial photo submitted by Mr. Boldrin, dated June 8, 2022; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to change the front yard setback of the second front yard of a corner lot from 50 feet to 46 feet; 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 July 27, 2022 during a duly noticed meeting where all those who wished to speak were heard; and

WHEREAS, in rendering this determination, the Zoning Board of Appeals has considered all materials submitted with the application, public comments, and testimony provided by the property owners; 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 108-5.15, 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 be a detriment to nearby properties.

The requested variance would allow the applicants to replace a deck in need of repair. The size and footprint of the structure will remain the same. The house and deck were built in the 1980s, prior to the adoption of current zoning regulations. As this new deck will maintain the exact dimensions and location of the previous one, there will be no change to the character of the neighborhood. Many houses in this area have porches and decks, so it fits the character of the neighborhood.

2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. The applicants could reduce the size of the deck, thereby removing the need for a variance. The applicant stated the contractor would be demolishing the entire deck, and installing new footings – so there is no need to maintain the same footprint.
3. The Requested Variance is not numerically substantial. The requested variance from 50 feet to 46 feet represents approximately a 9% change in the existing front yard setback. The impacts of the variance will also 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 structure has existed since 1983 and no environmental impacts have been discerned. The site is in a well-developed neighborhood. The new deck will likely

have a positive impact on the visual environment since it is replacing and improving the existing structure.

5. The difficulties are self-created as the applicants wish to replace the deck, and all new construction must adhere to current zoning standards. Furthermore, the applicants could reduce the size of the deck.

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.
2. Pursuant to Section 108 – 33.5 F (1), the authorized activity must commence within one year from the date of issuance, otherwise the variance is revoked.

Adopted:

ROLL CALL VOTE BY SECRETARY

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

**#22-14Z      Craig Poyser**  
14 Hill and Hollow Road  
Hyde Park, NY 12538  
Tax Grid No. 6265-03-045219

**Area Variance – Section 108-4.3 (G)(2)** to change the stream corridor setback from 100 feet to 30 feet for the installation of ground-mounted solar panels.

Craig Poyser, owner and applicant, was present. He summarized the application. The goal is to install solar panels to offset the cost of electricity. Mr. Poyser would prefer roof-mounted solar panels; but the roof is oriented in the wrong direction to capture an adequate amount of sunlight. The solar engineer for the project recommended he install it in the proposed location, the northeast corner. This area, however, is within the 100-foot stream corridor buffer of the lake. Furthermore, this area is already clear of trees.

The two sets of panels are angled; they are 2 feet above ground at the lowest point, and 7 feet above ground at the highest point. There will be no pylons or cement footings in the ground. The panels will be anchored with ground screws only. This leaves enough space beneath for local wildlife to pass underneath on the way to the lake.

Chairman McNary noted they were in the process of scheduling a site visit.

There were no public comments.

Chairman McNary motioned to continue the public hearing to August 24, 2022; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

**NEW APPLICATION INTRODUCTION:**

**#22-15Z**      **Marcoz & Chalk**      c/o Peter Andros  
16 Poppinga Lane  
Hyde Park, NY 12538  
Tax Grid No.

**Area Variance – Section 108-4.3 (G)(2)** to change the stream corridor setback from 100 feet to 32 feet for the construction of a pool and to 12 feet for a fence on a lot that already has a house within the stream corridor setback.

Peter Andros, representative to the applicants, was present. He summarized the application. The owners want to build a lap pool at their property. The existing house was built in 1982 with a variance to allow a setback of only 10 feet from the Hudson River. All existing structures on the lot exist within the stream corridor of either the Hudson or the wetland.

Mr. Andros explained that the proposed location for the pool is the ideal place. Much of the buildable area of the lot is within either the stream corridor of the river to the west and south or the stream corridor of federally regulated wetlands to the east. There is almost no buildable land outside these buffer zones. The proposed location is actually a high point of the lot, considerably higher than the Hudson's mean high-water level and outside of the 100-year flood plain. The proposed location is the ideal placement of the pool to maintain natural drainage and mitigate potential flooding issues.

Furthermore, Mr. Andros explained, the proposed location keeps the pool hidden from view behind the garage. All maintenance equipment will also be kept behind the garage. The fence, required by NYS Building Code, is coming closer to the river. It is proposed in such a location that, when viewing it from the river, it will blend into the hill behind it. They could build the fence further away; however, this would bring it uphill and make it visible. As proposed, none of the structures will be visible from the Hudson River.

Attorney to the Board, Sarah Wilson, questioned the distance of the fence to the pool. Mr. Andros wasn't sure, but guessed roughly 25 feet. Ms. Wilson expressed concern that there may be a NYS Building Code requirement for it to be built within a certain distance. Mr. Andros wasn't concerned, but will confirm if this is true.

Chairman McNary noted they were in the process of scheduling a site visit.

Chairman McNary motioned to set the public hearing for August 24, 2022; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

**OTHER BUSINESS:**

Chairman McNary motioned to adjourn; and Gerald Bowen seconded the motion.

VOICE VOTE:

All in favor 3  
All opposed 0 CARRIED

The meeting adjourned at 7:53 pm.

recorded by:

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

Minutes adopted by motion August 24, 2022.

MOTION: Paul Donnelly

SECOND: Jim Agrawal

**To accept the minutes of the July 27, 2022 ZBA Meeting.**

<b>Absent</b>	<b>Chairman David McNary</b>
<b>Aye</b>	<b>James Agrawal</b>
<b>Aye</b>	<b>Paul Donnelly</b>
<b>Aye</b>	<b>Richard Perkins</b>
<b>Aye</b>	<b>Gerald Bowen</b>

**VOICE VOTE      Aye-4   Absent-0   Nay-0                      Motion Carried**