



Historic Town of Hyde Park  
Zoning Board of Appeals  
4383 Albany Post Road  
Hyde Park, NY 12538  
(845) 229-5111, Ext. 2

*“Working with you for a better Hyde Park”*

**MINUTES FOR PUBLIC HEARING/REGULAR MEETING  
OF THE HYDE PARK ZONING BOARD OF APPEALS**

**September 28, 2022, 6:00 PM**

**Absent** David McNary, Chairman  
**Present** James Agrawal, Board Member  
**Present** Paul Donnelly, Board Member  
**Present** Richard Perkins, Board Member  
**Present** Gerald Bowen, Board Member-Acting Chair for Sept. 28, 2022  
**Absent** John Scileppi, Alternate

**Absent** Kathleen Moss, Zoning Administrator  
**Present** Sarah Wilson, ZBA Consulting Attorney  
**Present** Kathleen Hoppe, ZBA Secretary

**PLEDGE OF ALLEGIANCE**

*Gerald Bowen led the Pledge of Allegiance.*

**CONTINUED PUBLIC HEARINGS:**

*Consulting Attorney, Sarah Wilson asked for a motion to establish Board Member Gerald Bowen as Acting Chair in the absence of Chairman McNary for this meeting.*

MOTION: Richard Perkins

SECOND: James Agrawal

**To establish Gerald Bowen as acting Hyde Park Zoning Board of Appeals  
Chair for the September 28, 2022 ZBA meeting.**

**Absent** Chairman David McNary  
**Aye** James Agrawal  
**Aye** Paul Donnelly

**Aye**                    **Richard Perkins**  
**Aye**                    **Gerald Bowen**

**VOICE VOTE**      **Aye-4**   **Absent-1**   **Nay-0**      **Motion Carried**

**CAMP VICTORY LAKE #21-15z**

Location: 277 Crum Elbow Road, Hyde Park , NY 12538  
Grid #: 6265-04-630350

**Area Variance – Section 108-5.15 Bulk Regulations in Greenbelt District**

Change maximum permitted building height from 35 feet to 47.5 feet for construction of a stadium-style sanctuary space.

**Area Variance – Section 108-4.3 G(2)(a)**

Change stream corridor setback from 100 feet to 0 feet from the Fall Kill Creek for a stream crossing and other construction incursions.

MOTION: Richard Perkins  
SECOND: James Agrawal

**To re-open the public hearing for Camp Victory Lake.**

**Absent**                    **Chairman David McNary**  
**Aye**                      **James Agrawal**  
**Aye**                      **Paul Donnelly**  
**Aye**                      **Richard Perkins**  
**Aye**                      **Gerald Bowen**

**VOICE VOTE**      **Aye-4**   **Absent-1**   **Nay- 0**      **Motion Carried**

*There were no public comments.*

MOTION: Richard Perkins  
SECOND: James Agrawal

**To adjourn the public hearing for Camp Victory Lake to October 26, 2022.**

**Absent**                    **Chairman David McNary**  
**Aye**                      **James Agrawal**  
**Aye**                      **Paul Donnelly**  
**Aye**                      **Richard Perkins**  
**Aye**                      **Gerald Bowen**

**VOICE VOTE**      **Aye-4**   **Absent-1**   **Nay- 0**      **Motion Carried**

**MARC & LISA VUMBICO #22-06z**

Location: 120 River Road, Hyde Park , NY 12538

Grid #: 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.

*Acting Chair Bowen noted that this application was withdrawn on September 2, 2022, thus ending the ZBA review.*

MOTION: Richard Perkins

SECOND: James Agrawal

**To re-open the public hearing for Marc and Lisa Vumbico.**

<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-1   Nay- 0      Motion Carried**

*There was no public comment.*

MOTION: Richard Perkins

SECOND: James Agrawal

**To close the public hearing for Marc and Lisa Vumbico, as the application has been withdrawn.**

<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-1   Nay- 0      Motion Carried**

**CHRISTOPHER ISHAK #22-08z**

Location: 34 Greenbush Drive, Poughkeepsie, NY 12601

Grid #: 6163-03-382434

*Board Member Donnelly is recused from this application and Alternate Board Member Scileppi has been assigned to review this application, but he is absent this evening. Mr. Donnelly left the room.*

**Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District**

to change maximum permitted density from 0.50 acres per dwelling unit to 0.39 acres per dwelling unit for a two-family dwelling on a 0.79 acre lot.

MOTION: Richard Perkins

SECOND: James Agrawal

**To re-open the public hearing for Christopher Ishak.**

<b>Absent</b>	<b>Chairman David McNary</b>
<b>Aye</b>	<b>James Agrawal</b>
<b>Recused</b>	<b>Paul Donnelly</b>
<b>Aye</b>	<b>Richard Perkins</b>
<b>Aye</b>	<b>Gerald Bowen</b>
<b>Absent</b>	<b>John Scileppi, alternate</b>

**VOICE VOTE    Aye-3    Absent-2    Nay-0                      Motion Carried**

*The applicant and his representative were delayed and the Board decided on a short adjournment of this public hearing until later in the meeting.*

MOTION: Richard Perkins

SECOND: James Agrawal

**To temporarily adjourn the public hearing for Christopher Ishak and move the matter to the end of the agenda.**

<b>Absent</b>	<b>Chairman David McNary</b>
<b>Aye</b>	<b>James Agrawal</b>
<b>Recused</b>	<b>Paul Donnelly</b>
<b>Aye</b>	<b>Richard Perkins</b>
<b>Aye</b>	<b>Gerald Bowen</b>
<b>Absent</b>	<b>John Scileppi, alternate</b>

**VOICE VOTE    Aye-3    Absent-2    Nay- 0                      Motion Carried**

**NEW PUBLIC HEARINGS:**

*Board Member Donnelly returned to the Dais.*

**SHERRY DINGMAN #22-16z**

Location: 23 River Road, Hyde Park, NY 12538

Grid #: 6065-04-579169                      Landings District

In Attendance:

Sherry Dingman, Property Owner

**Appeal of Zoning Administrator’s decision** to deny building permit, on the basis of nonconformance

MOTION: Richard Perkins

SECOND: Paul Donnelly

**To open the public hearing for Sherry Dingman.**

<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-1   Nay- 0      Motion Carried**

*Property owner Sherry Dingman gave a summary of her appeal. Public comment letters from Mr. Pete Andros and Ms. Deborah Howe were read into the record by Acting Chair Bowen, see below. There was no additional public comment.*

\*\*\*\*\*  
September 21, 2022

Zoning Board of Appeals  
Town of Hyde Park  
4283 Albany Post Road  
Hyde Park, NY 12538

Re:    Public Hearing  
      Sherry Dingman #22-16Z  
      Appeal of Zoning Administrator Decision  
          To Deny Building Permit - Non-conformance  
      23 River Road (6065-04-579169)

Dear Members of the Board:

Please accept this letter as my comments on the subject appeal. I will not be able to attend this public hearing in person.

I have, for many decades, represented individuals and other entities in my capacity as a consulting engineer regarding the Zoning Law, most recently Chapter 108 of the Town of Hyde Park Code. I opine that a number of those instances were draconian and/or counterproductive. However, those whom I have represented endured the application/approval process in order to comply with the provisions of Chapter 108 and obtain the permits necessary to utilize their land,

in many cases suffering through variance, special permit, and site plan approval processes at substantial expense.

The subject property is located in the Landings Zoning District. The property is burdened with a Historic Overlay District (Estates District Scenic Area of Statewide Significance), which compels any use within this district to obtain site plan approval for external structural alterations or construction.

The appeal under consideration by your board is the most recent of many actions taken by the appellant ignoring Chapter 108, to wit:

- The instant structural alteration of an existing garage;
- The construction of a platform for and placement of a prefabricated shed (the second one on the property) at a location non-compliant with the bulk regulations for side yard setback; perhaps occupying the required side yard on the subject property as well as the side yard of the otherwise vacant adjacent property;
- The construction of a retaining wall (a structure) without a building permit, likely located totally on the aforementioned adjacent property owned by others;
- The construction of a parking area within the side yards of both the subject property and aforementioned adjacent vacant property owned by others; and,
- The construction of above-ground bins (structures) in the front yard.

Further, the parking area developed and referred to hereinabove is used for parking of a commercial vehicle in violation of Chapter 108. The vehicle is clearly advertised on its side panels as Bottini Fuels.

Bottini Fuels does not own the property. A review of the records of the zoning administrator revealed no proof that any part of the property is tenanted by Bottini Fuels or by any operator of that commercial vehicle. Demonstration of such tenancy could be easily provided via lease or other rental agreement, validated by income tax returns of the property owner showing the income from such tenancy. No such proof could be found in the files.

It is noted that had the garage doors not been removed and walled off, thereby eliminating two wholly enclosed parking spaces, the commercial vehicle could have been garaged, out of sight to those passing by or living in the viewshed of the parked vehicle.

I can provide photographs of the various non-compliant constructions and occupancy if the board requests.

This property is a sterling example of why site plan review is required in the Historic Overlay District. When properly documented through a boundary survey by a licensed land surveyor, including the surveyed locations of all the improvements on the property, the disregard of the various provisions of Chapter 108, for which the instant exterior construction is merely the most recent example, will be clear.

In the absence of the correction of these violations, the strength of Chapter 108 will be irreparably diminished.

I support the decision of the zoning administrator to deny the building permit being sought.

Very truly yours,

PETER J. ANDROS

\*\*\*\*\*

Zoning Board of Appeals  
Town of Hyde Park  
4283 Albany Post Road  
Hyde Park, NY 12538

Re: Dingman Appeal of Zoning Administrator’s Decision to deny Building Permit  
Location: 23 River Road, Hyde Park

Dear Members of the Zoning Board of Appeals:

In the matter of Ms. Dingman’s appeal of a building permit denial for non-conformance, I would like to bring to your attention the attached copy of a survey of 21 River Road conducted last November by Michael A. Dalbo. I own this vacant parcel. When I heard that a retaining wall for 23 River Road was encroaching on my property, I commissioned him to resurvey the property. He set the corners on this lot when I purchased it over 40 years ago. He found that the retaining wall extends 5.5’ into my property and the corner marker is now buried under the parking area.

According to Ms. Dingman’s testimony before the Board last month, she believes that the use of the garage structure as a dwelling was legally established many years ago.

I served as a Dutchess County Planner from 1979-1985 before pursuing a career in higher education. I was the county’s liaison to Hyde Park with responsibility for county reviews of zoning issues. I wrote Hyde Park’s zoning code for accessory dwelling units in the early 1980s. The zoning along River Road at that time permitted only one dwelling per .25 acres. The ADU code was significant in allowing more density in single family zones.

During my time as a Hyde Park resident, I did not see evidence that the garage structure at 23 River Road was being used as a dwelling. Prior to the adoption of the ADU code, use of the garage as a dwelling would have been illegal. After ADUs became an allowable use, conversion of the garage into a dwelling would have necessitated meeting the zoning standards. It is not clear that the appropriate approvals were ever sought

Regards,

Deborah A. Howe, PhD, FAICP

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**Aye** James Agrawal  
**Aye** Paul Donnelly  
**Aye** Richard Perkins  
**Aye** Gerald Bowen

**VOICE VOTE**      **Aye-4 Absent-1 Nay- 0**      **Motion 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 AREA VARIANCES**

**Charles Lamanna & Crystal Habinowski**  
**2 Cathy Drive**  
**Hyde Park, New York 12538**  
**6163-02-504842**

**Date: September 28, 2022**

**Motion: Mr. Donnelly**

**Resolution #22-17Z**

**Second: Mr. Perkins**

WHEREAS, the applicants, Charles Lamanna & Crystal Habinowski, have submitted an application for an area variance to construct an addition to the single-family home located at 2 Cathy Dr, Hyde Park, NY 12538, identified as tax parcel 6163-02-504842, in the Neighborhood Zoning District (the “Site”); and

WHEREAS, the house was constructed under a prior Zoning Code and the majority of the existing home is within the current front yard setback; and

WHEREAS, the Project is depicted on a proposed site location plan by Michael Berta, AIA, dated September 18, 2022 and a survey map prepared by Johnson Surveying, dated August 2, 2021 (the “Plan”); and

WHEREAS, the applicants authorized Michael Berta to represent their application before the ZBA; and

WHEREAS, the applicant seeks one area variance from Zoning Law Section 108-5.15 as follows: a reduction of the front yard setback from the required 50 feet to 35 feet; and

WHEREAS, the side setback of the proposed addition is the same as the current house of 20 feet, which is within the permitted side yard setback; and

WHEREAS, the proposed 24 feet by 20 feet addition of impervious coverage will not cause the coverage to exceed the total maximum impervious requirement of 50% of the parcel; 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 September 28, 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 a detriment to nearby properties. The proposed addition will be added to the back of the house and not disrupt or change the street view.
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 location of the proposed addition is the only site available and fits the flow of traffic within the house.
3. The Requested Variance is numerically substantial. The variance will change the permitted setback from 50 feet to 35 feet. The front of the existing house, built more than 50 years ago, is within 12 feet of the front lot line. The addition does not infringe on the side yard setback. The impact of this addition to the neighborhood is minimal and 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.

- 5. The difficulties are self-created. The applicant stated the addition to the back of the house will expand the living space and the ability of the family to more fully enjoy the home.

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: September 28, 2022

ROLL CALL VOTE BY SECRETARY

James Agrawal Aye  
Gerald Bowen Aye  
Paul Donnelly Aye  
Richard Perkins Aye  
David McNary Absent MOTION CARRIED

**KATHLEEN NICHOLS (#22-18Z)**

Location: 22 Roosevelt Road, Hyde Park  
Grid #: 6164-04-795395

**Three (3) Area Variances** -Section 105-5.15 Bulk Regulations in the Neighborhood District. Change side yard setback from 10 feet to 4.3 feet for the installation of two LP Tanks, side yard setback from 10 feet to 7 feet for installation of a generator and side yard setback from 5 feet to 4.6 feet for an existing woodshed.

MOTION: James Agrawal  
SECOND: Paul Donnelly

**To open the public hearing for Kathleen Nichols.**

**Absent** Chairman David McNary  
**Aye** James Agrawal  
**Aye** Paul Donnelly  
**Aye** Richard Perkins

**Aye Gerald Bowen**

**VOICE VOTE Aye-4 Absent-1 Nay- 0 Motion Carried**

*The property owners Ray & Kathleen Nichols were not present.*

MOTION: James Agrawal  
SECOND: Richard Perkins

**To adjourn the public hearing for Kathleen Nichols to October 26, 2022.**

**Absent Chairman David McNary**  
**Aye James Agrawal**  
**Aye Paul Donnelly**  
**Aye Richard Perkins**  
**Aye Gerald Bowen**

**VOICE VOTE Aye-4 Absent-1 Nay- 0 Motion Carried**

**CHRISTOPHER ISHAK #22-08z**  
Location: 34 Greenbush Drive, Poughkeepsie, NY 12601  
Grid #: 6163-03-382434

*Board Member Donnelly is recused and left the room.*

*In Attendance: Daniel Ishak, Property Manager  
Chris Ishak, Property Owner*

**Area Variance – Section 108-5.15 Bulk Regulations in Neighborhood District**  
to change maximum permitted density from 0.50 acres per dwelling unit to 0.39 acres per dwelling unit for a two-family dwelling on a 0.79 acre lot.

MOTION: Richard Perkins  
SECOND: James Agrawal

**To re-call the public hearing for Christopher Ishak.**

**Absent Chairman David McNary**  
**Aye James Agrawal**  
**Recused Paul Donnelly**  
**Aye Richard Perkins**  
**Aye Gerald Bowen**  
**Absent John Scileppi, alternate**

**VOICE VOTE Aye-3 Absent-2 Nay-0 Motion Carried**

Attorney Rebecca Valk, representing Paul Donnelly, spoke to the materials that she submitted to the Board as public comment on Mr. Donnelly's behalf earlier that day. She requested that Mr. Donnelly be allowed to be present as a member of the public. The Board consented.

MOTION: James Agrawal  
SECOND: Richard Perkins

**To close the public hearing for Christopher Ishak, with the exception of written comments to be received until 5:00 PM on October 7, 2022.**

<b>Absent</b>	<b>Chairman David McNary</b>
<b>Aye</b>	<b>James Agrawal</b>
<b>Recused</b>	<b>Paul Donnelly</b>
<b>Aye</b>	<b>Richard Perkins</b>
<b>Aye</b>	<b>Gerald Bowen</b>
<b>Absent</b>	<b>John Scileppi, alternate</b>

**VOICE VOTE    Aye-3    Absent-2    Nay-0                    Motion Carried**

**ADJOURNMENT :**

*Board Member Donnelly did not return to the dais.*

MOTION: James Agrawal  
SECOND: Richard Perkins

**To adjourn.**

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

**VOICE VOTE    Aye-3    Absent-2    Nay-0                    Motion Carried**