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Town of Hyde Park Zoning Board of Appeals  
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Hyde Park NY 12538  
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**RESOLUTION TO GRANT AN AREA VARIANCE**

**DOLLAR GENERAL  
1 East Dorsey Lane**

**Date: November 13, 2019**

**Moved By:**

**Dave McNary**

**Resolution #: 19-06Z**

**Seconded By:**

**Jim Agrawal**

WHEREAS, the applicant, HSC Hyde Park LLC, has submitted an application for an area variance 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, the proposal is depicted on a site plan entitled "Site Development Plans for HSC Hyde Park, LLC," prepared by Bohler Engineering, dated January 5, 2019, last revised July 26, 2019 the ("Site Plan"); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a scale of 11,874 sq. ft. where 7,500 sq. ft. is required (the "Requested Variance"); and

WHEREAS, on October 2, 2019, by Resolution # 2019-04A, the Planning Board, serving as lead agency in a coordinated review of the Project under the State Environmental Quality Review Act, adopted a negative declaration, finding that the Project as proposed would not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement would not be prepared; and

WHEREAS, by letter dated October 9, 2019, the Planning Board recommended that the Zoning Board of Appeals grant the Requested Variance; 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 October 22, 2019, that it was a matter of local concern; and

WHEREAS, a duly noticed public hearing was opened on September 25, 2019, and closed on October 23, 2019, during which all those who wished to speak were heard; and

WHEREAS, after the conclusion of the public hearing on October 23, 2019, the record remained open until November 2, 2019 to allow for the submission of additional written comments and the Board received none; 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 existing Site contains a deteriorated, vacant building, and the Requested Variance will allow the applicant to replace it with a new, functional building, which will improve the aesthetics of the Site.

The Requested Variance would not change the character of the neighborhood, which contains several commercial and institutional structures including an automotive repair shop, a deli and retail plaza, and a church with an accompanying school. The properties containing the deli/retail plaza and church/school are located at the same intersection as the Site. The deli/plaza appears to exceed the scale limitation and the school and parking lot certainly do. The size of the school alone is over 40,000 sq. ft. Thus, the Requested Variance would conform with the character of the neighborhood.

The applicant proposes the installation of a privacy fence to visually screen the Project from adjoining residential property owners to the north, which will reduce any negative impacts that the increase in scale may have on those properties.

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

The applicant proposes the development of a general retail store, which necessitates having a storefront capable of housing the types and quantities of goods that general stores provide, as well as an inventory area capable of maintaining adequate stock for the store. The applicant has previously constructed one such store in the Town with a building size of 9,100 square feet, albeit in a zoning district that allowed a larger scale.

The applicant has reduced the size of the proposed store to 7,500 sq. ft., which is the minimum size that still provides the store with adequate space to function. If the store were any smaller, it would be unable to stock enough products and inventory to maintain an adequate supply chain, hindering the ability of the store to remain competitive.

As the maximum permitted scale is 7,500 sq. ft., and scale includes parking in addition to the building area, there is no way for the applicant to develop the Project without needing an area variance.

3. The Requested Variance is numerically substantial, as the permitted scale will increase by 4,374 sq. ft. (58.32%). 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 Planning Board, acting as lead agency, has already determined that the Project as proposed would not result in any significant impacts to the environment. In addition, as discussed above, the impacts of the Requested Variance on the Site and neighborhood will be minimal.

The Project is proposed for a previously disturbed area, and any increase in impervious surface area will not result in any significant impacts on the quantity or quality of stormwater runoff. The applicant has prepared a Stormwater Pollution Prevention Plan that will address runoff and water control measures at the Site and which has been reviewed by the Town's engineer.

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.

Adopted: November 13, 2019

Brendan Lawler	ABSENT
Richard Perkins	ABSENT
Dave McNary	AYE
Jim Agrawal	AYE
Herb Sweet	AYE