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**TOWN CLERK
HYDE PARK, NY**

**Town of Hyde Park Zoning Board of Appeals
4383 Albany Post Road
Hyde Park NY 12538
(845) 229-5111
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RESOLUTION TO GRANT AMENDED AREA VARIANCES

**SAKE BREWERY
5 St Andrews Road**

Date: October 23 2019

Moved By: David McNary

Resolution #: 18-17Z

Seconded By: James Agrawal

WHEREAS, on October 24, 2018, the applicant, Asahishuzo International Co., Ltd., received four area variances in connection with its site plan application to establish a Craft Brewery, including the construction of a 4,000 square foot rice polishing building, wastewater treatment facility (the "WWTF"), and related structures on the property located at 5 Saint Andrews Road (the "Project"), identified as tax parcel no. 6164-03-021198, in the Town Center Historic District (the "Site"); and

WHEREAS, the applicant seeks to amend its approved site plan to increase the size of the approved WWTF from 5,364 sq. ft. to 6,320 sq. ft. and to shift the location of the WWTF and generator closer to the main building, as shown on plans entitled "New Sake Brewery, 5 Saint Andrews Road, Hyde Park, New York, Waste Water Treatment Building" prepared by Fred W. Clarke III dated September 4, 2019, Sheets G-011, G-012, A-002, A-331, A-971, C-110, C-120, C-130, C-140, C-160, C-170, C-530, C-540, C-560, C-574, E-000, E-061, E-062, E-062A and E-063 (the "Amended Site Plan"); and

WHEREAS, on September 17, 2019, the applicant submitted an application to amend two previously granted area variances regarding the location of the WWTF and associated generator at the Site (the "Variance Application"); and

WHEREAS, the applicant seeks the following amended area variances (the "Requested Variances"):

1. From Zoning Law Section 108-4.3(G)(2) to permit an 84-foot, 7-inch stream corridor for the construction of the WWTF where an area variance for a 76-foot, 5-inch stream corridor was previously granted and a 100-foot stream corridor is required; and
2. From Zoning Law Section 108-4.3(G)(2) to permit an 85-foot 9-inch stream corridor for the construction of a generator to serve the WWTF where an area variance for an 85-foot 5-inch stream corridor was previously granted and a 100-foot stream corridor is required; and

WHEREAS, on October 16, 2019, by Resolution # 2018-25G, the Planning Board, serving as lead agency in a coordinated review of the Project under the State Environmental Quality Review Act, reaffirmed its prior negative declaration for the Project, 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, 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 held on October 23, 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 Variances:

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

The WWTF and associated generator were originally located within the stream corridor at the request of the Planning Board in order to allow the WWTF and generator to be more effectively screened and to prevent them from dominating visitors' views as they first enter the Site. The relocation proposed by the Amended Project would still accomplish these goals while allowing less of an encroachment into the stream corridor, which will benefit the Site. While the Amended Project would enlarge the size of the WWTF and place the WWTF closer to a residential community to the north of the Site, any impact on the neighborhood will be mitigated by the installation of seventeen conifers to bolster the existing vegetative buffer between the proposed facility location and the closest occupied neighboring parcels.

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

In order to screen the WWTF and its generator from view from US Route 9 and the main entry, pursuant to the Planning Board's request, the structures must be placed behind the Project's main structure. Placing the WWTF and generator

behind the main structure but outside of the stream corridor is not possible without restricting the flow of traffic around the building. While the Requested Variances would create less of an encroachment into the stream corridor, the WWTF and generator still must be placed within the stream corridor in order to allow the continued use of the roadway around the main structure.

3. The Requested Variance may be considered numerically substantial, as the WWTF and generator will encroach in the stream corridor by 15' 5" (15.42%) and 14' 3" (14.25%), respectively. However, as discussed above, the impacts of the Requested Variances will not be substantial. Although the size of the WWTF has increased, the size of the variance requested is less substantial than previously granted for the Project.
4. The Requested Variances will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

The encroachments into the stream corridor proposed by the Requested Variances are smaller than those originally granted for the Project, albeit for a larger building, and will therefore have less of an impact on the physical or environmental conditions in the neighborhood than what is already approved. In addition, the Requested Variances will accomplish the same goals as the original variances with respect to minimizing visual impacts and preserving steep slopes.

The stream corridor encroachments allow the WWTF and generator to be better screened, minimizing the visual impact of the structures on the area. The encroachments also allow the applicants to avoid disturbing steep slopes located along the eastern edge of the Site by locating the generator on a more level surface. By avoiding these slopes, the applicant minimizes the potential for erosion and leaves in place a natural barrier that will prevent wildlife from travelling near the WWTF and generator. The slopes create a natural boundary within the stream corridor such that wildlife may continue to traverse the stream corridor undisturbed.

Finally, any visual impacts at the Site will be further mitigated by the planting of seventeen new conifers to the north of the WWTF.

5. The difficulties are the result of the Planning Board's request to move the WWTF and generator behind the main structure at the Site and, in that respect, are not self-created.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variances, for the Project as depicted on the Amended Site Plan, subject to the following conditions:

1. Payment of all fees and escrow.

2. Installation and maintenance of seventeen conifers to the north of the WWTF, as depicted on sheet C-130 of the Amended Site Plan.

Adopted: 10/23/2019

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