

**TOWN OF HYDE PARK, N.Y.
ZONING BOARD OF APPEALS**

January 27, 2010

MINUTES

PRESENT: Mary Donohue, Chair
Dennis Eagan
Stanley Frangk, Vice Chair
Brenda Moore-Frazier

ABSENT: Herbert Sweet

OTHERS PRESENT: James P. Horan, Town Attorney
Kathleen Moss, Zoning Administrator
Lorraine Turra, Secretary

The meeting was called to order at approximately 7:05 p.m. by the Chair and the secretary was asked to note the roll of the Board. The next regular meeting of the Zoning Board of Appeals will be on Wednesday, February 24, 2010. Mrs. Donohue noted that there are two new public hearings tonight; Stop & Shop and Michael Conforti, Foxes Pub.

Mrs. Donohue asked for a motion to elect Stan Frangk, Vice Chair of the Zoning Board of Appeals.

MOTION made by Mr. Eagan, seconded by Ms. Moore-Frazier to elect Stanley Frangk Vice Chair of the Town of Hyde Park Zoning Board of Appeals. VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABSENT – MOTION CARRIED

At this point in the meeting, Mrs. Donohue stated that Mary and William Donohue have an attorney/client relationship with Harold Mangold, Attorney who is also the attorney for Hyde Park Mall (Azarian properties.) However, Mrs. Donohue noted that she is not biased one way or another regarding the area variances in front of the Board and Board members had no problem with that.

APPROVAL OF MINUTES: MOTION made by Mr. Eagan, seconded by Mr. Frank to approve the December 9, 2009 minutes. VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABSENT – MOTION CARRIED

NEW PUBLIC HEARINGS:

#2122-09 STOP & SHOP SUPERMARKET COMPANY, LLC
Hyde Park Mall
U.S. Route #9 and Kessler Drive, Hyde Park, NY 12538
VARIANCES – wall signs from 2 signs permitted to 4 signs proposed (Section 108-24.2.C(2)(b); symbol or graphic from 24 in. all directions to 32 in. height and 30 in. width (Section 108-24.2.F(2)(a) in the **Town Center Historic District** of the Town.

Henry H. Hocherman, Esq. and Noelle V. Crisalli, Esq. (Hocherman, Tortorella & Wekstein, LLP) were present to represent the applicant. The secretary confirmed that Notice of Public Hearing was published in the Poughkeepsie Journal on Friday, January 22, 2010.

MOTION made by Mr. Frangk, seconded by Mr. Eagan to open the public hearing for Application #2122-09 (Stop & Shop Supermarket Company, LLC) VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABSENT – MOTION CARRIED

The Chair stated that this is the first public hearing for variances - wall signs from 2 signs that are permitted to 4 signs which are proposed under 108-24.2C (2) (b) and size of symbol from 24 in. in all directions to 32 in. height and 30 in. width under 108-24.2F. (2)(a) in the Town Center Historic District of the Town. Mrs. Donohue noted that a letter was received from the applicant dated January 5, 2010 where the application was amended from the previous application before the Board to just two variance requests. Ms. Crisalli explained that they had originally proposed three variances, the two just mentioned and one for a free-standing fueling facility pricing sign. However, in December 2009 the Town Board actually adopted legislation permitting the fuel pricing sign within a shopping center so they no longer require that variance.

Mrs. Donohue asked if the applicants received a copy of the letter dated January 26, 2010 from John Clarke, Dutchess County Planning & Development and Ms. Crisalli confirmed that they did receive a copy of that letter. Mrs. Donohue noted that the letter is in the file if anyone would like to read it. It was pointed out that since this application was reviewed by Dutchess County Planning and Development under the previous application, the new application was circulated to them under 239m for any additional comments in terms of the logo variance. The Planning Board increased the size of the logo from a permitted 10 in. to a maximum of 24 in. and also waived the size of the sign letters to 24 in.. However, at this time the applicant is requesting an even larger logo, 32 in. by 30 in.

Mrs. Donohue pointed out that customers will be directed into the site by the free-standing Stop & Shop sign located adjacent to Route 9 and she asked the applicant if this is correct. There will be a free standing sign stating, “Hyde Park Mall” and underneath Stop & Shop will have a whole line – this is noted in the Planning Board files. Ms. Crisalli confirmed that this information is

correct. They will have a monument sign at the entrance driveway to the property on Route 9 and Stop and Shop will have a panel on that sign along with the other tenants in the mall. She added that no variance is required for that sign but the signage is still before the Planning Board for approval.

In the January 26, 2010 letter from Dutchess County Planning & Development, Mr. Clarke goes on to say that the wall signs should not also strive to attract drivers from Route 9 but rather should be designed to fit within the architectural context and primarily address customers within the shopping center. For these purposes, the logo need not be larger than 24 in. As for the requested two additional welcome signs over the entrances, the architectural features of the store front design can clearly draw attention to the entrances without setting a precedent for doubling the number of permitted signs (welcome signs) and they should be inside the door way. "Recommendations: the Board should rely on the study of facts for the two additional welcome signs with due consideration to the above comments. However, for the reasons stated above and consistent with the previous referral, it is recommended that the Zoning Board deny the request of area variance for 32 in. x 30 in. logo. If the Board determines to act contrary to our recommendations, the law requires that you do so by a majority, plus one, of the full membership and notify their agency the reasons for its decision."

Mrs. Donohue asked Ms. Crisalli to explain to the Board the client's need for the larger logo or symbol to 32 in. by 30 in. from the 24 in. that the Planning Board has already given the applicants. Ms. Crisalli replied that in an application for an area variance New York Town Law and the Hyde Park Code sets forth a balancing test that has five factors that the Board has to consider when it is considering an application for an area variance. Ms. Crisalli would like to go through that balancing test as it applies to this application. Mrs. Donohue pointed out that in a packet she received from the applicant the balancing test was noted and explained. However, Ms. Crisalli explained that she will just hit some of the highpoints of the submission letter.

Ms. Crisalli asked if the Zoning Board members had in their file a copy of the letter dated November 18, 2009 from Chairman Dupree and the Planning Board regarding this application and the Chair replied that she does have all the resolutions and a copy of the letter. Mrs. Donohue pointed out that the November 18, 2009 letter is the same date that the Planning Board passed their resolutions. The Chair asked if they did the letter before, or after or at the beginning of their meeting. Ms. Crisalli explained that at the Planning Board meeting the Board authorized the Chairman to write the letter dated November 18 and the vote of the Planning Board members should be noted in their minutes.

The essence of the letter is essentially to notify the Zoning Board that they have adopted the resolution regarding the 24" letter height for the Stop & Shop signs and the 14" letter height for the bank tenant sign and the welcome sign. The Planning Board voted unanimously to recommend that the Zoning Board grant the requested variances this evening. Mrs. Donohue pointed out that it talks about a revision to the Town Code and that revision went forward in December. The letter stated that it is the Board's opinion that allowing the applicant the additional signage is appropriate due to the size of the structure. Ms. Crisalli read the first

sentence in the letter, “At our November 4th meeting members of the Hyde Park Planning Board voted unanimously to recommend that you grant the petitioner’s application in its entirety.” Mrs. Donohue pointed out that this was before the Planning Board granted the applicant the waiver of the letter heights. Ms. Crisalli added that this was done concurrent with the granting of the waiver – everything happened at that Planning Board meeting and Mrs. Donohue replied that they are talking about their November 4th meeting and at that point they really had not granted anything – is that correct?

It was pointed out by Ms. Crisalli that the Planning Board did have the sign package before the Zoning Board tonight before their November 4th meeting and they understood the extent of the variances requested. However, the November 4th meeting was a workshop meeting and that is why they did not take any action at that meeting.

At this point in the meeting, Ms. Crisalli went through the five part area variance balancing test. She noted that throughout the entire State of New York, the area variance standard is consistent and Zoning Board of Appeals must apply this test and make findings for all the factors in this balancing test to support their decision as to whether or not to grant or deny a variance. In this case the applicants are asking for two very minor variances. The balancing test is whether the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community if the variance is granted. The granting of this variance will facilitate the redevelopment of the shopping center that has been predominantly vacant for quite a while – it will result in substantial architectural improvements to the shopping center, substantial landscaping improvements and will install a new anchor tenant and hopefully revitalizing the entire center.

The requested signage is the absolute minimum signage that Stop & Shop will use for its buildings; it is the smallest signage that Stop & Shop has considered for any of its stores in the last several years. There is a benefit to the applicant in moving forward with the revitalization of the mall and providing signage that can advertise its business, but there is also a benefit to the Community – the revitalization of the shopping center, improvement to the character of the neighborhood if this center is revitalized and the architecture, landscaping and the repopulation of the shopping center. There is really no detriment to the community because the requested variances are so small.

The Chair then asked if this applies to both the symbol increase of 30% and also the two welcome signs. Ms. Crisalli again stated that she will go through the five factors of the balance test and she will tell the Board what the factor is and then discuss it in the context of this application. The first factor of the five factor balancing test is whether an undesirable change will be produced in the character of the neighborhood or if a detriment to nearby properties will be created by the granting the variance. In this case there will be no undesirable change to the character of the neighborhood; in fact the character of the neighborhood will be improved by the revitalization of this shopping center.

Ms. Crisalli then asked the Board to look at their package Exhibit “B” behind Tab 2 – the sign plan that is being proposed for this store. The proposed Stop & Shop store will be 288 ft. long.

and the building will be set back from Route #9 435 ft. If the variances were to be granted, Stop & Shop is proposing 60.41 sq. ft. of signage for the building. That is 40% less in area than the signage that they are permitted under the Code because under the Code they are allowed to have 100 sq. ft. of signage. The welcome signs are intended to just provide a way for shoppers in the parking lot to easily identify the doors to the supermarket. The doors architecturally blend in very well with the building and they blend in with the additional signage for the building.

The logo height is required because Stop & Shop has a fixed proportion between the size of the logo and the size of the letters – the logo appears at the end of the Stop & Shop sign and there is a fixed ratio between the words and the picture logo. In order to maintain that proportion with a 24 in. letter Stop & Shop will require a 32 in. height for the logo and a 30 in. width for the logo. That will be replacing a sign that is currently on the building – the Ames sign. The “A” in Ames is 72 in. high, more than double the size of the Stop & Shop logo. By granting this variance there will be an improvement to the character of the neighborhood because the signage from the existing condition will be reduced by half. It will also maintain Stop & Shop’s brand image and trademark logo and there will be a pleasing proportion between the logo and the sign.

The neighborhood in which the mall is located is dominated by the mall and the mall is the main center of that neighborhood. To the north and west of the mall property is the FDR home site and their maintenance facility and you can’t see the signage from the western portion because the Stop & Shop building will be blocking most of the signage area and the fueling facility that Stop & Shop is proposing. To the south you have a wooded parcel owned by the Culinary Institute and this parcel is completely vacant and just wooded. To the east and south you have Colonial Plaza and Route 9. So, the character of the neighborhood really is essentially the Mall and Colonial Plaza; it is a commercial area and the proposed signs are commercial signs and smaller than the square footage that is permitted by just about 40%. Considering all these factors together, there will be no undesirable change to the character of the neighborhood. Granting these variances and permitting the application to move forward will be a substantial benefit to the character of the neighborhood because of the site changes that are proposed in connection with the application and improvements to the architecture landscaping.

The second factor of the five factors statutory balancing test is whether the benefits sought by the applicant can be achieved by some method other than a variance. When Stop & Shop first came to the Planning Board to propose the signage, it was much bigger than the signage that is before the Zoning Board tonight. It included several department signs and much larger lettering and that is Stop & Shop’s typical protocol for its signage, larger lettering and several department signs. Stop and Shop has scaled the signage back considerably to the 24 in. letters shown on the plan before the Board and the welcome signs and one bank tenant sign. There is really no avenue for them to pursue to receive the benefit that they are looking for – the two welcome signs and the larger logo other than obtaining an area variance for those two aspects of the sign permit.

The third factor is whether the requested variance is substantial. Substantiality is not a numerical measurement but rather it is a measurement of whether the impact of the variance will be substantial on the surrounding community. For many of the reasons already discussed, the commercial character of the neighborhood and the reduction in the size of an already existing

sign and the fact that the requested signage is only 60 sq. ft. where 100 sq. ft. is permitted pursuant to the Code, should all demonstrate that granting this variance would not have a substantial negative impact on the character of the community, but granting it would facilitate this application moving forward and all the positive aspects that go along with that would materialize.

The fourth factor of the balancing test is whether the variance would have an adverse impact on physical or environmental characteristics. The Planning Board has acted as lead agency under the review of this application pursuant to the State Environmental Quality Review Act and at its meeting on November 18, 2009 the Planning Board adopted a Negative Declaration for this application. In that Negative Declaration the Board found that because the building is set back more than 400 ft. from Route 9, all aesthetic impacts pertaining to signage affixed to the building have been mitigated. So, the Planning Board in its Negative Declaration has determined that there will not be any environmental impacts from the signage proposed.

The final factor to be considered is whether the difficulty has been self-created. Ms. Crisalli noted that the difficulty here has not been self-created and under the law, the self-created hardship factor of the area variance test is an analysis of whether the applicant bought the property or came to the property knowing of the zoning restrictions. In this case, when the applicant began leasing the property both of the signs for which they were requesting a variance would have been permitted. Also, in the context of an area variance application, which is different from a use variance application, whether or not a hardship is self-created in an area variance context is not outcome determined - an application can not be denied simply because the hardship has been self created. In this case, the applicant feels that the hardship has not been self-created because the law changed while Stop & Shop was the lessee of the property, but even if it was self-created this factor should be given little weight considering the minor magnitude of the variances that the applicant is requesting and the substantial benefit that the community will realize by a revitalization of this shopping center.

At this point in the meeting, Ms. Crisalli asked for any questions from the Board. Mr. Eagan asked where the entrances are on the layout and how many entrances there are. Ms. Crisalli clarified that the entrances to the building on Exhibit "B" are right underneath the welcome signs and there are two welcome signs. Mr. Eagan then stated when Ms. Crisalli gave her recitation she talked about the benefits that would come about as a result of this variance – he asked if it is her client's position that if the variances are not granted, they will not go ahead with the project. Ms. Crisalli replied that she would have to consult with their client in order to answer that question – she does not know if she is in a position to answer that question this evening. Mr. Eagan added that he is very interested in knowing the answer to that question.

Henry Hocherman, Attorney stated that it would be disingenuous on his part to tell the Board that Stop & Shop will not go ahead with this project over 8 in. of logo size. He would also be wrong to make believe that this is a factor in their decision, it is not; the factors are really dictated by the law and what is relevant or not relevant is also dictated by the law when considering whether or not to grant or deny a variance. Attorney Hocherman added that he does not know the answer and he does not think his client will be able to answer whether an 8 in. discrepancy in logo size is

going to squash an entire project. However, he will state that they have been before the various Boards of this Town for two and a half years now and they have done a lot of work, they have changed a lot of the plans – they have moved the fueling facility around (and that would have made them give up the project) but what is important to remember is that you are talking about somebody who is willing to spend millions of dollars to improve what is really a failed site right now and to invest in the Town of Hyde Park. It is almost absurd to be sitting here, all of us, spending our time, intelligence and resources talking about an 8 in. increase in a sign.

In order for the Board to find against this application they would have to look at themselves in a mirror and say that they genuinely believe if that sign was 8 in. bigger than 24 in., all of these criteria would not be met and the health, safety and welfare of the community would be adversely impacted. The Board has to make that decision in order to turn this variance down and Atty. Hocherman does not know for certain whether Stop & Shop would walk away from this project; he really does not think so – it would be silly. He then pointed out that this is something they feel is needed based on extraordinarily broad experience in this business. They sell groceries all over the northeast and they find that this is something that they need.

Mrs. Donohue asked if this Stop and Shop is considered a super Stop & Shop or is it just a regular Stop & Shop with a gasoline fueling station. She is just trying to figure out the different wording on Stop & Shop buildings – she sees Super Stop & Shop and then she sees Stop & Shop and she also commented that when looking at the application a retail use is indicated on the end of the building where there used to be a bank. The Chair pointed out that this retail use is not included in any of these plans and Ms. Crisalli clarified that this will be a separate retail space. Mrs. Donohue then asked if this will be owned by Mr. Azarian or will Stop & Shop get a tenant for that space and Ms. Crisalli confirmed that this space will be part of Stop & Shop but with its own retail space and its own door.

Mrs. Donohue noted that both entrances will have “Welcome” signs over the doors and asked if the welcome signs are both the same size and height and which will be the main entrance; the one that has the larger front or façade to the north or the door to the south and is one supposed to be more important than another. Attorney Hocherman clarified that the fact that one façade looks bigger than the other is just an architectural feature to make the building look interesting. There really isn’t necessarily a main entrance but what they think of in the supermarket business is that there is a strong side and a weak side to the store. The side with the produce is usually the strong side but both entrances are intended to be of equal use and both are entrances to the Stop & Shop store.

Regarding the logo or symbol itself, Mrs. Donohue asked if the Planning Board allowed only 18 in. for letter height for the rest of the letters then correspondingly would the applicant want to have a larger symbol – not as high as the 22 in. or the 30 in., but certainly higher than the 18 in. Mrs. Donohue commented that she does not see any Stop & Shop stores around that have this symbol and asked if this is something new and just beginning to be a part of the corporate identification? Ms. Crisalli explained that this symbol is relatively new and there is a fixed proportion between the letter height and the logo height. But, the Planning Board has permitted the 24 in. letter height so they are just seeking the additional proportion for the logo.

Mrs. Donohue noted that the logo still can be seen because right now it is 24 in. (by the Planning Board's waiver) and commented that the logo and letters are all the same height – 24 in. so what the applicant is looking for is an increased size of the symbol or logo to keep the proportion in the Stop & Shop brand intact. Ms. Crisalli pointed out that the proportion between the letter height and logo height is a part of the Stop & Shop brand and they are just trying to keep that intact. Attorney Hocherman added that the logo height is intended to be 1.3 times the letter height; that is the way it was designed and the applicant has spent a great deal of money having it designed a certain way, i.e. if they have a 24 in. letter that would call for a 32 in. logo.

Attorney Hocherman asked the Chair how tall she thinks the cup standing on the table is and Mrs. Donohue replied that since it is close to her, she certainly thinks it is 8 – 10 in. He then asked if the Chair was 400 ft away, 100 ft. away or even 50 ft. away, would she perceive that 8 in. as something that will destroy the environment of the Town of Hyde Park? Mrs. Donohue commented that she really does not know if it would destroy anything but it is important to have it fit in with the architectural area north and south of the building and of course the residential use across the street needs to be considered. Attorney Hocherman then stated that there is no residential directly across the street and Mrs. Donohue pointed out that across the street on Route 9 there is a large subdivision; you have apartments and a senior citizen complex.

Ms. Crisalli commented that the store is not visible and the Chair replied that in the winter time when all the leaves are off the trees it is visible. It was also pointed out that it is a diverse section of Town; it isn't store upon store or retail upon retail or restaurant – that is further up Route 9. Ms. Crisalli pointed out that right now the neighborhood is living with a 72 in. Ames sign and the Chair noted that Ames is no longer there and noted that if Ames came back they probably would not be allowed to use that same sign. The Town has a new sign code in place and there has been a lot of work that went into the new code, not saying that it will be approved or not, but the questions are just to gather some information and have it on the record.

There were no further questions from the Board and no one present to speak for or against the increase of the symbol sign and the increase in number of wall signs. Mrs. Moss asked just as a point of clarification, Exhibit "B" for the main Stop & Shop sign identifies channel letters with led and plastic faces and white trim. She asked if this would be similar to what Rite Aid has on Route 9G – they have a reflective back on the letters that shines a light on the wall or are these internally lit letters with led lights? Ms. Crisalli replied that she is not 100% sure about the character of the lights but she does know they will comply with the Code. They will be working on the lighting issue with the Planning Board and Mrs. Moss clarified that the internally lit channel letters are not allowed.

Town Attorney Horan asked if the variance is not granted in order for Stop and Shop to maintain the relationship between the logo and the letter size, keeping the logo at 24 in., what would that reduce the letter size to? Ms. Crisalli replied that it would reduce the largest letter to 18 in. but Stop & Shop has a logo where the "S" is capital and then lower case letters for the rest of the words. So, if the "S" is 18 in. the "O" would be very small when compared to the "S".

Mr. Horan then asked what the height of the “0” would be and Ms. Crisalli answered that she does not know what the proportion is there.

The Chair asked how the Board feels – do they want to close the public hearing, gather all of the facts and findings and draft resolutions for the Board to see and act on the application at the next meeting – Wednesday, February 24, 2010.

MOTION made by Mr. Eagan, seconded by Mr. Frangk to close the public hearing for Application #2122-09 (Stop & Shop Supermarket Company) VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABSENT – MOTION CARRIED

#2126-09 MICHAEL CONFORTI (Foxes Pub)
547 Violet Avenue (Route 9G), Hyde Park, NY
VARIANCES – height of sign from the hanger bar to the pavement
from 8 ft. to 14 ft. 2 in. and from the top of the sign to the pavement
from 7 ft. to 13 ft. 2 in. (Section 108-24.2C.(b) in the **Neighborhood
Core** district of the Town

Mr. Conforti was present to explain his application to the Board and answer further questions from the Board and/or the public. The secretary confirmed that notice of public hearing was published in the Poughkeepsie Journal on Wednesday, January 22, 2010.

MOTION made by Mr. Eagan, seconded by Mr. Frangk to open the public hearing for Application #2126-09 (Michael Conforti – Foxes Pub)

Mrs. Donohue read comments from a letter dated January 15, 2010 from Dutchess County Department of Planning as follows: “According to the photo submitted with the application, this site has had a bare pole sign and front yard parking lot along its almost 200-foot frontage for over 70 years. The wide open asphalt character of the frontage is unattractive and potentially hazardous for entering and exiting traffic, especially under current higher speed conditions. This may be an opportunity for the zoning and planning boards to coordinate reviews and ensure that the sign and site plan design is upgraded to the standards of the recently adopted zoning law.” (copy of January 15, 2010 letter in the file)

Mrs. Donohue asked Mrs. Moss, Zoning Administrator if there is anything in this application that is going to send Mr. Conforti’s application to the Planning Board? Mrs. Moss replied that the sign is visible from Route 9G and therefore it have to be referred to the Planning Board for their recommendation as to whether or not she should issue the sign permit. Typically the Planning Board tries to work with applicants who are coming in and doing substantial changes to a property or a business in order to get them to upgrade the site. It is not required, but if there is construction going on or an addition, a second story, if you are having more customers than you have now and needed to expand the parking area under site plan – under those conditions the Planning Board would try to work with an applicant to improve the site. However, merely for a

change in operator and name the Planning Board typically does not try to leverage that kind of improvement to a property.

Mr. Conforti commented that the business has been in this location for over 80 years (his father built the structure) and right now the building looks fairly attractive. They moved and painted the vestibule room, put new awnings on the building and this year they hopefully will black top the parking area. Mrs. Donohue asked if Mr. Conforti if he is operating this business as a restaurant/bar and Mr. Conforti explained that his daughter is operating the business as a pub and that he ran the business for 50+ years as a restaurant.

Mrs. Donohue asked how high the planter is in front of the property and Mr. Conforti replied that is approximately 28 inches. She noted that as she was looking at the sign application, there are significant measures that Mr. Conforti has taken to keep the building away from the fog line (Route 9G) and also the size of the sign (32 in. by 68 in.) If the Board does not grant the variance it would mean that part of the planter would have to come down. If the height was brought down to 7 ft or 8 ft. there really wouldn't be room for the vision element. In answer to a question from the Board, Mr. Conforti explained that the pole is put into the ground with probably 4 ft. of cement. He explained that when his father built the structure the road was not Route 9G but Violet Hill Road and noted that in the late 1920's Route 9G was construct and at that time the road was straightened out here and there However, when the building was put up it probably met all the rules and regulations.

There were no further questions from the Board and no one present to speak for or against this application.

MOTION made by Mr. Frangk, seconded by Mr. Eagan to close the Public Hearing for Application #2126-09 (Conforti/Foxes Pub) VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABSENT – MOTION CARRIED

VARIANCE RESOLUTION

Application #: 2126-09

Grid #: 6163-02-538767

Introduced by: **Stanley Frangk**
Seconded by: **Dennis Eagan**

Date: January 27, 2010

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on **January 27, 2010** reviewed the facts in Application **#2126-09** as submitted by **Michael Conforti**.

WHEREAS, the application was determined to be a **Type II** Action under Section 6NYCRR Part 617 and Section 54-7 of the Code of the Town of Hyde Park, and

WHEREAS, said application requests a variance or adjustment to the strict application of the Zoning Code, specifically regarding height of sign from the hanger bar to the pavement from 8 ft. to 14 ft. 2 in. and from the top of the sign to the pavement from 7 ft. to 13 ft. 2 in. (Section 108-24.2C.(b)) in the **Neighborhood Core District** of the Town, and

WHEREAS, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on **Friday, January 22, 2010** and posted as required by law, and

WHEREAS, at said Public Hearing all who desired to be heard were heard and their testimony recorded, and

WHEREAS, all testimony has been carefully considered and the following pertinent facts noted:

1. The current signage “scheme” has been at the location for approximately 70 years.
2. The current sign will be used except will be turned 90 degrees to bring the sign in conformance with set back requirements.

NOW. THEREFORE BE IT RESOLVED by the Zoning Board of Appeals, that Application #2126-09 a request for a variance from Section 108-24.2C(b) as set forth above be granted on the following grounds:

1. The variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties since the same sign has been in place for 70+ years.
2. The needs of the applicant can not be achieved by other than an area variance as the whole planter area would have to be redone and the lower sign may cause sight line problems from the open parking lot.
3. The requested variance is substantial; however, the same signage has been in place for years and previously met regulations.
4. The requested variance will not affect the physical or environmental conditions in the neighborhood as the same signage scheme has been there for years.
5. The hardship for which the variance is sought to rectify was not self created as the premises has been owned and operated by the same party for most of the last 70 years.
6. The variance being granted is the minimum variance to meet the needs of the applicant

Adopted: January 27, 2010

Dennis Eagan	<u>AYE</u>
Herbert Sweet	<u>ABSENT</u>
Stanley Frangk	<u>AYE</u>
Brenda Moore-Frazier	<u>AYE</u>
Mary Donohue	<u>AYE</u>

Lorraine Turra
Secretary

CONTINUED PUBLIC HEARING:

#2120-09 DEMETREUS MOUSTAKAS
87 East Dorsey Lane, Poughkeepsie (Hyde Park, NY 12601
VARIANCE – side yard setback from 25 ft. to 7 ft. for the construction
of a 32 ft. x 32 ft. garage (Section 108-4.4 and Section 108-5.15) in the
Greenbelt District of the Town.

It has been determined that part of Mr. Moustakas' property is in a Freshwater Wetland based on the letter received from the Department of Environmental Conservation and their site inspection. A Department of Environmental Conservation official went out to the property and declared that the area where Mr. Moustakas wants to construct his building is either within a wetland or within a wetland buffer that would require a permit from DEC.

Mr. Moustakas has submitted a copy of that letter dated December 11, 2009 to Mrs. Moss and the applicant has communicated to the Zoning Office that he would like his application continued to February 24, 2010.

MOTION made by Mr. Frangk, seconded by Mr. Eagan to continue Application #2120-2009 (Moustakas) to Wednesday, February 24, 2010. VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABENT – MOTION CARRIED

RELEASE OF ESCROW:

The Chair explained that there are Town Attorney escrow funds to be returned to applicants and asked for a motion from the Board.

MOTION made by Mr. Frangk, seconded by Ms. Moore-Frazier to request the Town Board to release the following escrow funds. VOICE VOTE – ALL IN FAVOR

(4) AYES (0) NAYS (1) ABENT – MOTION CARRIED

Application #2073-08 – Lowin	\$1,128.75
Application #2110-09 - Haase (Estate of Margareta Anderson)	\$ 366.25
Application #2159-07 - Ace Self Storage	\$ 71.50

Since there was no further business to be discussed, a motion was made by Mr. Frangk, seconded by Mr. Eagan to close the meeting at approximately 8:20 p.m.

Respectfully submitted,

Lorraine Turra,
Zoning Board Secretary

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