

# TOWN OF HYDE PARK

## Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

### Minutes

January 25, 2017

**Present:** John Bickford, Chair  
Herbert Sweet  
Brendan Lawler

**Absent:** Stanley Frangk, Vice Chair  
Michael Whitman

**Others Present:** Kathleen Moss, Zoning Administrator, Victoria Polidoro, Attorney, Linda Weiner,  
ZBA Secretary

John Bickford introduced himself as the new Chair for the Zoning Board of Appeals and welcomed everyone to the January 25, 2017 meeting at 7:00 P.M.

John Bickford, Chair, commenced the Pledge of Allegiance.

The secretary was asked to note the roll.

**Vote:** Stanley Frangk – Vice Chair for Zoning Board of Appeals

Motion made by Herbert Sweet, seconded by Brendan Lawler to appoint Stanley Frangk Vice Chair for Zoning Board of Appeals.

VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Mr. Bickford asked for Herbert Sweet to be appointed as a second Vice Chair for the occasions that Stanley Frangk and Mr. Bickford himself, can not be present.

Motion made by Brendan Lawler, seconded by Herbert Sweet to appoint Herbert Sweet second Vice Chair

VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

**Approve minutes:** December 28, 2016

The minutes for December 28, 2016 could not be approved at this meeting. There were not enough Board members present that attended the December meeting. Approval will be done at the February 22, 2017 meeting.

The next meeting will be February 22, 2017

**Continued Public Hearing:**

**#16-13Z** Staatsburg Storage – Hutchins  
4920 Albany Post Road  
Hyde Park, NY 12538

**Variance – Section 108-24.2 C (1) ( a )** changing the cumulative signage per business from 100 square feet to 483 square feet for Staatsburg Storage; and **Section 108-24.2 C (1) (d)** to allow wall signs to cover four non-functioning windows, to increase the number of signs allowed per business from 2 to 14 for Staatsburg Storage and to increase the number of wall signs per exterior wall on the north end of the building from 1 to 5 and on the south end from 1 to 10; and **Section 108-24.2 C (3) (b)** to allow an increase the size of a directional sign for Staatsburg Storage entrance sign from 2 square feet to 3 square feet and a second directional sign for the loading dock from 2 square feet to 4 square feet; and **Section 108-24.2 F (2) ( a )** increasing the maximum graphic size in any dimension from 10 inches on the free standing sign to a graphic of 17 inches by 26 inches and on 14 wall signs to 48 inches by 96 inches in the Neighborhood Business District.

Motion was made by Herbert Sweet, seconded by Brendan Lawler to open the continued public hearing.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

John Bickford stated that information to revise the application was received too late to publish.

Mr. Turner, Tinkelman Architecture stated he was present to answer any questions pertaining to the application.

John Bickford said the application would need to be resent to County and adjacent property owners.

John Bickford said the amount of the variance concerned him. He feels it could be reduced with small changes. The directional signs could be smaller, the spaces on walls where the green emblems are could be reduced, and the applicant has large lettering and signage where the tenants are restricted to small. His concern is the applicant would be in front of the Zoning Board again due to a future tenant not being happy.

Mr. Turner said he would discuss the concerns of the Board with his client.

Herbert Sweet said this is an unusual situation. Under normal circumstances what might be perceived as a decorative element because the applicant decided to make this his Logo, he's now into the business of grossly exceeding the standards.

John Bickford apologized for the delay and introduced the newest member of the Zoning Board, Brendan Lawler.

Motion to continue the public hearing for February 22, 2017 was made by Herbert Sweet, seconded by Brendan Lawler.

VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

**Continued Public Hearing:**

**#16-20Z** Barry – Bed & Breakfast  
43310 Albany Post Rd  
Hyde Park, NY 12538

**Variance – Section – 108-5.15** Changing a front yard setback from 50 ft. to 15 ft. and changing a side yard setback from 20 ft. to 10 ft. for reconstruction of a single family dwelling on a different footprint; and a variance from **Section 108-4.6 B** from the 100 ft. open space restriction to allow parking within 9 ft. and new structures to 24 ft. for a garage and to 40 ft. for the main building from the property line associated with a Historic site; and **Section 108-2.12** allowing an increase from 4 guest rooms to 5 guest rooms in a bed and breakfast establishment in the Neighborhood District.

No one was present to represent the application.

Motion was made by Herbert Sweet, seconded by Brendan Lawler to reopen the Public Hearing.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) ABSENT (0) NAY – MOTION CARRIED

The application will be readvertised because of measurement changes made on the application.  
Motion was made by Herbert Sweet, seconded by Brendan Lawler to readvertise the public hearing.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Motion made by Herbert Sweet, seconded by Brendan Lawler to continue the public hearing February 22, 2017.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

**New Public Hearing:**

**#17-02Z** Todd Hixson  
23 Gilbert Dr  
Hyde Park, NY 12538

**Variance – Section 108-5.15** Changing a side yard setback from 20 ft. to 7.5 ft. for an existing pool; and **Section 108-5.15** changing a side yard setback from 10 ft. to 5 ft. for an accessory detached pool pump in the Neighborhood District.

Motion to open the public hearing was made by Herbert Sweet, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Todd Hixson presented the application and answered questions from the Board.

John Bickford asked if anyone had any questions.

Motion to close the public hearing was made by Herbert Sweet, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Dr. Stephanie J. Samuels, 25 Gilbert Dr., Hyde Park said she was late getting to the meeting, but wanted to speak regarding the application.

Mr. Hixson agreed to have the public hearing reopened so the matter could be settled.

Motion to reopen the public hearing was made by Herbert Sweet, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Dr. Samuels referred to two documents sent to Tad Moss, Zoning Administrator, and Don Westermeyer, Building Inspector, by her attorney, Joshua Mackey. She read the letter from the attorney to the Board.

Dr. Samuels stated she received documents from a FOIL that was submitted on August 4, 2016. Records indicated the Hixson's were given a permit to install an 18 X 52 pool. Dr. Samuels did not receive notice regarding the setback. A building permit was not issued. Victoria Polidoro, Attorney, Zoning Board, pointed out that the Building permit issues are not before the Zoning Board. The only issue tonight is whether the variance for the pump and pool be granted. It was pointed out that in the year 2006, a variance was not required for the pool because it was a detached structure.

Tad Moss submitted an aerial photo from Dutchess County Parcel Access for the Hixson and neighboring properties.

Mr. Bickford asked that Dr. Samuels be shown the drawing showing that the pad is separate and not attached.

Dr. Samuels stated it has been three months since her attorney submitted a letter to the Zoning Administrator with no response.

Victoria Polidoro said the Board doesn't have to respond. It is a public hearing where public testimony is taken and the Town is under no obligation to respond to every complaint received. Dr. Samuels was told she was welcome to FOIL the file asking for updates.

Dr. Samuels requested that the public hearing be kept open until her attorney can appear. A legal document asking why things are put up without a permit.

Mr. Bickford said it's not uncommon that people make modifications and don't necessarily know what has to go before a Board. The right thing to do when a violation is identified is to take it down or ask for a variance.

Mr. Bickford pointed out the Board's purpose is to discuss whether or not to approve the variance for the pool pump.

Mr. Bickford said that Dr. Samuels is opposed to the variance and the Board is aware. And note that for the record.

Dr. Samuels asked if the Board would keep the hearing open so her attorney could appear.

Mr. Bickford acknowledged Dr. Samuel's request. Mr. Bickford asked if anyone wanted to speak regarding the variance.

Mr. Bickford thanked Mr. Hixson for agreeing to reopen the public hearing.

8:08 P.M., motion to go into an Attorney, Client session was made by Herbert Sweet, seconded by Brendan Lawler.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

8:26 P.M., motion was made by Herbert Sweet, seconded by Brendan Lawler to return to regular session.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Mr. Bickford asked Tad Moss, Zoning Administrator, if at the time the pool was installed, and the pump was placed in the current location, was the pump legal at that time and did it qualify as a structure from a Zoning standpoint?

Tad Moss stated it was the first time a pool pump has ever come up. In her opinion, pool pumps are accessory structures similar to a generator. Building permits have never had pool pumps associated with them. They have never been on any of the drawings. It came up because it was on the survey that was submitted with the application. The building permit application for the accessory pool initially identified the 10 ft. setback. A survey isn't usually required when an application comes in. This applicant had a survey done. The pool was closer than 10 ft. In addition to when the new portion of deck was added, they added the pool pump.

Mr. Bickford asked Mr. Hixson if it would be practical to move the pump. Mr. Hixson said it would not.

Mr. Bickford asked if anyone had anything to add. Public comment would be accepted only if it's addressing specifically what is being granted variance for this evening.

Referring to the survey, Victoria Polidoro asked the applicant identify what decks were constructed and when.

Mr. Bickford again noted that Tad Moss had submitted information from Dutchess County Parcel Access, printed on January 25, 2017, showing the neighborhood, noting the joining properties showing pools on both sides. Also, noted that lots are constructed such as houses are relatively close in that section.

Mr. Hixson provided information about the decks and when they were constructed.

Motion made by Herbert Sweet, seconded by Brendan Lawler to close the public hearing.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

**TOWN OF HYDE PARK**  
**Zoning Board of Appeals**

**VARIANCE RESOLUTION**

Introduced by: Herbert Sweet  
Seconded by: Brendan Lawler

Date: January 25, 2017

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on January 25, 2017 reviewed the facts in Application #17-02Z as submitted by Todd Hixson, 23 Gilbert Dr., Hyde Park, NY 12538

**WHEREAS**, the application was determined to be an 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 a

**Variance – Section 108-5.15** Changing a side yard setback from 20 ft. to 7.5 ft. for an existing pool; and **Section 108-5.15** changing a side yard setback from 10 ft. to 5 ft. for an accessory detached pool pump in the Neighborhood District.

**WHEREAS**, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on January 18, 2017 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 structures have been in place for over nine years.
2. The pool location was established in coordination with the house.
3. The property is small at .44 acres leaving little room to spare.

**NOW. THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #17-02Z a request for a variance from Section 108, 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 as the pool has been in place for over 10 years and was legal when installed and is shielded from view by a stockade fence. The construction of a deck connecting the pool to the house necessitated a variance. It is also noted based on Dutchess County Parcel Access aerial shots and photos submitted by the applicant, that there are other pools in the neighborhood and that lots they're in are relatively small.
2. The needs of the applicant **can not** be achieved by other than an area variance as the structures are in place and the potential for moving is constrained by property size, in addition moving the pool pump to a location for which a variance is not required would be cost prohibitive.
3. The requested variance **is** substantial numerically but considering the foregoing, will not be substantial.
4. The requested variance **will not** affect the physical or environmental conditions in the neighborhood as the pool itself has been in place for over 10 years. It is noted that the pool, when installed was stated to have been 10 ft. from the property line. The 12/28/16 survey shows that the distance is 7.5 ft.
5. The hardship for which the variance is sought to rectify was self created.
6. The variance being granted is the minimum variance to meet the needs of the applicant.

Adopted: **January 25, 2017**

Michael Whitman	ABSENT
Stanley Frangk	ABSENT
Herbert Sweet	AYE
Brendan Lawler	AYE
John Bickford	AYE

:lw

Secretary: \_\_\_\_\_  
Linda Weiner

**New Application:**

**#17-01Z**

Glen Simmons  
1 Simmons Drive  
Staatsburg, NY 12580

**Variance – Section 108-5.15** Changing a side yard setback from 25 ft. to 4 ft. and changing a front yard setback from 50 ft. to 38 ft. for construction of a detached two car garage in the Greenbelt District.

John Lombardi, Contractor, and Glen Simmons presented the application to the Board. They answered questions regarding measurements and placement of the garage.

Motion was made by Herbert Sweet, seconded by Brendan Lawler to set the Public Hearing for February 22, 2017.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

**#17-03Z**

Enclave of Hyde Park  
Cream St  
Hyde Park, NY 12538

**Variance – Section 108-5.15** Changing average density from 2.5 A per DU to 1.41 A per DU (70.51 acres) in the Greenbelt District.

Nicole Patti, LRC, Sam Mermelstein, Property Owner, Ken Casamento, LRC, and Neil Alexander, Cuddy & Feder, were present to answer questions from the Board.

Nicole Patti and Ken Casamento gave a brief presentation of the proposed sub-division.

Sam Mermelstein, and Neil Alexander answered questions regarding the application.

Motion was made by Herbert Sweet, seconded by Brendan Lawler to set the Public Hearing for March 22, 2017.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

**OTHER BUSINESS:**

Motion was made by Herbert Sweet, seconded by Brendan Lawler to adjourn at 9:35 PM.  
VOICE VOTE- ALL IN FAVOR

(3) AYE (2) ABSENT (0) NAY – MOTION CARRIED

Respectfully Submitted,

A handwritten signature in cursive script that reads "Linda Weiner".

Linda Weiner  
Secretary