

# TOWN OF HYDE PARK

## Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

### Minutes

February 22, 2017

**Present:** John Bickford, Chair  
Stanley Frangk, Vice Chair  
Herbert Sweet  
Michael Whitman  
Brendan Lawler

**Others Present:** Victoria Polidoro, Attorney, Linda Weiner, ZBA Secretary

John Bickford welcomed everyone to the February 22, 2017 meeting at 7:01 P.M.

John Bickford, Chair, commenced the Pledge of Allegiance.

The secretary was asked to note the roll.

**Approve minutes:** December 28, 2016, January 25, 2017

Mr. Bickford asked that the minutes be addressed at the end of the meeting to give the Board time to review them.

The next meeting will be March 22, 2017

### **Continued Public Hearing:**

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

**Variance – Section 108-24.2 C (2) ( b)** changing the maximum number of wall signs for any business with a separate external entry from two to fifteen wall signs; and the total sign area maximum per business from one hundred square feet to four hundred fifty square feet (total of all Staatsburg Storage wall signs and the primary tenant panel on the free standing sign); and changing the total sign area from three hundred ten square feet to four hundred ninety five square feet; and **Section 108-24.2 F(2) (a)** changing the maximum size of any graphic of ten inches in any dimension to a rectangular graphic

for Staatsburg Storage on the primary tenant panel on the free standing sign to twenty six inches high by seventeen inches wide; and the eleven graphic wall panels from ten inches in any dimension to ninety six inches high by forty eight inches wide; and changing the graphic size on the remaining two panels from the size as relaxed by the Planning Board for two of the graphic panels on the southern portion of the building from thirteen inches in any dimension to the ninety six inches high by forty eight inches wide 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

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

Mr. Turner, Tinkelman Architects, and Scott Hutchins, Managing Partner, were present. Mr. Turner presented the drawings and answered questions regarding the application. Mr. Turner stated that with the graphic panels in place, Mr. Hutchins saw an increase in interest and calls to his business. He saw a reduction in interest after the panels were removed. Mr. Hutchins is asking to be allowed to reinstall the panels.

John Bickford asked if anyone had anything to say for or against the application.

Mr. Bickford stated that there were no changes to the application, or no additional public input. He asked if the Board had any comments.

Herbert Sweet said his concern is with the extent of the variance and the fact the Board has to treat everyone the same. His worry is that the next applicant will say, “you gave it him, I want the same.” The difficulty is that the Board is dealing with Logos, which makes them constrained. The County isn’t happy for the same reason.

Scott Hutchins asked in regards to the concern in setting a precedent, is it not possible to put in language in the agreement that would put some constraints on the variance? The graphic images have proven to be very beneficial to a business. Business declined when the images were taken down. This is a relevant part of his business.

Herbert Sweet said he agreed with what Mr. Hutchins says, but the difficulty he was having was dealing with the term Logo.

Mr. Hutchins stated it was a graphic panel, it has a resemblance to the Logo, but it is a different shape. They are graphic images, murals there to create an image. Based on the rate of speed that people drive, if there isn’t something to attract their eye, they will pass by.

Herbert Sweet said the Board was specifically looking at letter and Logo size.

Mr. Turner said working with Tad Moss, Zoning Administrator, the question arose whether these were considered murals or signage. It was determined by Ms. Moss that these were signage.

Stanley Frangk said he has struggled with this. He has his own feelings on whether they are signs, graphics, or how it’s dealt with in the code. The way it was presented and the way the application is, creates a problem for him with the extent and scale of the variance and how to justify the next guy who wants signs. To expand the amount of signage from two to fifteen signs is a struggle for him.

Michael Whitman said he agrees with Stan Frangk, he also has a problem with the amount of the signage.

Brendan Lawler said he backs up Stan Frangk and Michael Whitman that going from two to fifteen is quite a significant jump. It's a very large variance that very much concerns him.

John Bickford agreed that he had the same difficulty. He would like to find a way to say it was fine. He can not do it. There are things that were discussed in the past that could be done. Directional signs could be reduced in size. Another concern is storage units are shown on the left side of the building, yet the space isn't storage. Mr. Bickford's thought is that four could be eliminated very quickly and still get the point across on the other end of the building. If four had originally made its point, then some of those nine could be reduced to make the same point.

For the free standing sign, Mr. Bickford has the same comment for the signs over the doors for the individual tenants. There's a big sign for Staatsburg Storage. He sees a problem showing up in the future with a tenant appearing before the Zoning Board asking for a variance for a sign as large as the Staatsburg Storage sign.

Mr. Bickford commented that the Zoning Board's charter is to grant only the minimum variance necessary.

Mr. Hutchins asked what numbers would be the acceptable. He doesn't want to keep appearing in front of the Board with no results.

Mr. Bickford said the Zoning Board is not in a position where they can dictate what is acceptable. The Board has to depend on the applicant for the information. The Board can relate their concerns, so the applicant can return with a proposal.

Addressing Mr. Hutchins, Stanley Frangk stated the Zoning Board is different than the Planning Board. The Zoning Board's job is to determine if the variance is justified.

The struggle is the size of the variance requested. The total sign area is going from three hundred ten square feet to four hundred ninety five square feet, and from two to fifteen wall signs. He also has a struggle with the wording calling them signs. They are graphics because they're not real.

The Zoning Board differs from the Planning Board in that the Planning Board can work with the applicant. The Zoning Board is a Judicial Board.

Victoria Polidoro referred to the letter from County stating that the decision requires a super majority to approve the vinyl panels but it is a matter of local concern regarding the free standing sign. The Board could separate the two if they wanted.

Mr. Bickford asked Mr. Hutchins where he wanted to go from here.

Mr. Hutchins said he would like the public hearing to remain open. He will converse with Bob and either he will be back or will withdraw the application.

Victoria Polidoro asked if he wanted it continued for one or two months. Mr. Hutchins replied one month.

Motion to continue the public hearing for March 22, 2017 was made by Stanley Frangk, seconded by Herbert Sweet.  
VOICE VOTE – ALL IN FAVOR

(5) AYE (0) 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.

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

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

Paul Tirums, Project Engineer was present to represent the application for Mr. Barry answering questions from the Board.

No one from the Board had any questions.

Mr. Bickford asked if anyone had anything they wanted to say for or against the application.

David Ray, South Drive, Hyde Park, Councilman Ward 2, said he attended Hyde Park Elementary as a student and knows the house very well. Anything that can be done with this parcel to make it look better, he is all for it. Many constituents have called him over the years about the appearance of that property and if anything could be done about the appearance. He thinks it would be a nice improvement for that area.

There were no other comments.

Motion to close the continued public hearing was made by Stanley Frangk, seconded by Michael Whitman.  
VOICE VOTE – ALL IN FAVOR

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

**Town of Hyde Park Zoning Board of Appeals  
4383 Albany Post Road  
Hyde Park, NY 12538  
(845) 229-5111 Ext. 2  
(845) 229-0349 Fax**

**RESOLUTION GRANTING AREA VARIANCES**

**BARRY BED & BREAKFAST**

**Date:** February 22, 2017

**Moved By:** Herbert Sweet

**Resolution:** # 16-20Z

**Seconded By:** Michael Whitman

WHEREAS, the applicant, Patrick Barry, has submitted an application for area variances to construct and establish a bed and breakfast on the footprint of an existing structure ("the Project") located at Old Route 9, Staatsburg, identified as Tax Grid No. 6065-20-857136, in the Neighborhood Business District (the "Property") into conformance with the Zoning Law; and

WHEREAS, a bed and breakfast is defined as "an owner-occupied one-family dwelling offering from one bedroom to four bedrooms without kitchens, which are offered for use to transient guests by whom compensation is paid"; and

WHEREAS, the applicant is seeking the following variances (hereafter the "Requested Variances"):

1. A variance from Section 108-5.15 of the Zoning Law to decrease the minimum front yard setback from 50 feet to 15 feet.
2. A variance from Section 108-5.15 of the Zoning Law to decrease the minimum side yard setback from 20 feet to 10 feet.
3. A variance from Section 108-2.2 to permit five guests bedrooms where four are allowed.
4. A variance from Section 108-4.6B to reduce the requirement for 100 feet of open space along the common boundary line of a lot designated as a historic place to allow parking within 9 feet, a new garage within 24 feet and a new primary structure within 40 feet of the common boundary line.

WHEREAS, pursuant Section 6 NYCRR 617.5(c)(7) of the Town Code, the application is a Type II action under the State Environmental Quality Review Act ("SEQRA") as a non-residential structure involving less than 4,000 square feet; and

WHEREAS, pursuant to Section 239-m of the General Municipal Law, the application was referred to the Dutchess County Department of Planning and Development for a report and recommendation which responded on December 13, 2016 that it was a matter of local concern; and

WHEREAS, by letter dated November 16, 2016, the Planning Board recommended that the Zoning Board of Appeals grant the Requested Variances; and

WHEREAS, a public hearing on the Requested Variances was held on February 22, 2017, during which all those who wished to speak were heard; and

WHEREAS, an earlier public hearing was held on a prior version of the application on December 28, 2016; and

WHEREAS, the applicable standards for considering an area variance are set forth in Town Law Section 267-b and Town Code Section 108-33.6, and 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 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 Town Code Section 108-33.6B regarding the Requested Variances:**

1. **The Requested Variances will not produce an undesirable change in the character of the neighborhood or be detrimental to nearby properties. The Property is located adjacent to the former Hyde Park Elementary School on US Route 9, a commercial corridor.**

**The existing structure is in a state of disrepair and cannot be rehabilitated without significant cost. The new structure will match the setbacks of the existing structure, which does not comply with front yard and side yard setbacks. Therefore the variances to reduce the required setbacks will not alter the character of the neighborhood.**

**The proposed architecture for the new structure has been designed to reflect a traditional, historical residence, which would improve the visual character of the area.**

**The additional guest room and activity that it generates will not impact the character of the neighborhood as the property is located on a commercial corridor and is surrounded by a former school building and a multiple dwelling rental property.**

2. **The granting of a variance is the only way to obtain the desired result. The lot is 91.50 feet wide at its widest point. It is impossible to both develop the lot with a structure and provide a 100 foot open space buffer along the southern and western boundary lines with Hyde Park Elementary School. The buffer requirement is intended to protect historic structures from being overwhelmed by larger buildings. Because Hyde Park Elementary is significantly larger than the proposed new structure, reducing the open space buffer as requested will have no impact on the historic resource.**

**The front and side yard setbacks are consistent with setbacks of the adjacent structure. Adherence to the required setbacks would negatively impact the aesthetics of the site.**

3. **The Requested Variances are numerically substantial, however, as discussed in paragraphs 1 and 2, the impact of the variances are not substantial.**
4. **Issuance of the proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district. The new structure will replace an existing structure on approximately the same footprint. The architecture has been designed to reflect a traditional, historical residence, which would improve the visual character of the area.**
5. **In one sense, the difficulty is self-created, as the owner could move the new structure to the rear of the property and relocate the septic system to the front of the property, obviating the need for the front yard and side yard variances. In another sense the difficulty is not self-created as the structure is replacing an existing non-conforming structure which cannot be repaired, and the lot cannot be redeveloped if the 100 foot buffer is not reduced.**

**BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variances subject to the following conditions:**

1. **Payment of all fees and escrow.**

**Adopted: February 22, 2017**

<b>John Bickford, Chair</b>	<b>AYE</b>
<b>Stanley Frangk</b>	<b>AYE</b>
<b>Brendan Lawler</b>	<b>AYE</b>
<b>Herb Sweet</b>	<b>AYE</b>
<b>Michael Whitman</b>	<b>AYE</b>

**Filed with the Secretary of the Zoning Board of Appeals on: February 23, 2017**

---

**Secretary**

**New Public Hearing:**

**#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.

The secretary verified publication in the Poughkeepsie Journal February 16, 2017.

Motion to open the public hearing was made by Michael Whitman, seconded by Stanley Frangk.

VOICE VOTE – ALL IN FAVOR

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

Paul Tirums, Project Engineer and Glen Simmons presented the application to the Board. They answered questions and discussed measurements.

Noted was a letter received by an adjoining neighbor Pat O'Mara, stating he had no objection to the proposed location of the garage.

Mr. Bickford asked if anyone had anything to say for or against the application.

Michael Whitman asked if the garage could be set behind the house. Mr. Simmons stated it could not because of a leach field.

Stanley Frangk asked if there was any reason it couldn't go on the other side of the house.

Mr. Simmons stated it would be in the front yard which wouldn't make him happy. It would require a lot of fill.

Herbert Sweet asked why it wouldn't work on the opposite side of the house.

Mr. Simmons said he wouldn't be happy with it there.

Stanley Frangk questioned if there was an elevation. What is the height of the garage and what type of bay doors?

Paul Tirums said total was 16 ft., normal garage height.

Motion to close the public hearing was made by Herbert Sweet, seconded by Michael Whitman.

VOICE VOTE – ALL IN FAVOR

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

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

**VARIANCE RESOLUTION**

Application #: 17-01Z

Grid #: 6268-03-326186

---

Introduced by: Stanley Frangk  
Seconded by: Michael Whitman

Date: February 22, 2017

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on February 22, 2017 reviewed the facts in Application #17-01Z as submitted by Glen Simmons, 1 Simmons Dr., Staatsburg, NY 12580

**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 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.

**WHEREAS**, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on February 16, 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 house was built circa 1959 towards the rear of the lot
2. There are septic systems that would prohibit the garage from being put back farther and also makes the need for the front setback.
3. The adjoining property owner has no objection to the variance requested

**NOW. THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #17-01Z 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. The garage will be of a standard height of 16 ft. and as such will keep in the residential character of the neighborhood.
2. The needs of the applicant **can not** be achieved by other than an area variance as the locations of the septic systems and the grade of the property prohibits locating the garage to the south or east side of the house without a large amount of fill
3. The requested variance **is** substantial.
4. The requested variance **will not** affect the physical or environmental conditions in the neighborhood.
5. The hardship for which the variance is sought to rectify **was not** self created.
6. The variance being granted is the minimum variance to meet the needs of the applicant.

Adopted: February 22, 2017

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

:lw

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

**#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.

Mr. Bickford opened by apologizing for the mix up for the applicant not being present. The applicant requested that the public hearing be scheduled for March 22, 2017. The notices went out in error.

There would be no presentation by the applicant on this night.

There was one person who didn't wish to comment at this time. He will return for the March 22, 2017 meeting.

Motion was made by Michael Whitman, seconded by Brendan Lawler to open the public hearing.

VOICE VOTE – ALL IN FAVOR

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

Motion to continue the public hearing was made by Michael Whitman, seconded by Stanley Frangk.  
VOICE VOTE – ALL IN FAVOR

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

Mr. Bickford asked that approval of minutes for December 28, 2016 and January 25, 2017 be addressed.

Motion made by Michael Whitman, seconded by Stanley Frangk to approve minutes for December 28, 2016  
VOICE VOTE – ALL IN FAVOR

(4) AYE (0) ABSENT (0) NAY (1) RECUSED – MOTION CARRIED

Motion made by Brendan Lawler, seconded by Herbert Sweet to approve minutes for January 25, 2017.  
VOICE VOTE – ALL IN FAVOR

(3) AYE (0) ABSENT (0) NAY (2) RECUSED – 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

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

Respectfully Submitted,

Linda Weiner  
Secretary