

TOWN OF HYDE PARK

Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

Minutes

March 22, 2017

Present: John Bickford, Chair
Herbert Sweet
Michael Whitman
Brendan Lawler

Absent: Stanley Frangk, Vice Chair

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

John Bickford welcomed everyone to the March 22, 2017 meeting at 7:08 P.M.

John Bickford, Chair, commenced the Pledge of Allegiance.

The secretary was asked to note the roll.

Approve minutes: February 22, 2017

Motion was made by Michael Whitman, seconded by Brendan Lawler to approve the February 22, 2017 minutes.

The next meeting will be April 26, 2017

Mr. Bickford stated there was a change in the order of the Agenda. Victoria Polidoro, Town Attorney, was delayed in court. The application for Enclave will be heard first.

The application for Staatsburg Storage will be moved to the end of the Agenda so the attorney could be present for that as well.

#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.

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

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

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

Nicole Patti, LRC Group, Ken Casamento, LRC Group, and Neil Alexander, Cuddy & Feder presented the application answering questions from the Board and public.

Mr. Bickford asked if anyone had any questions regarding to the application.

Ted Boland, 139 Honeywell Lane, Hyde Park said his property is in back of the Enclave property. Mr. Boland would like to know what the solar farm is going to look like. Mr. Casamento stated at this time there is no application for the solar farm. When they have an application, it would go before the Planning Board for site plan and the residents would again be notified. At this time, there is no design. All that's done so far is to put the acreage aside for the project.

Neil Alexander said the town has just adopted the solar law. Once a vendor is identified, they will have to go through the whole process which neighbors would receive public notice.

Mr. Boland asked if his property could be identified on the drawings. He asked about possibly getting an exit on his property. Mr. Casamento answered once it went to Planning Board it could be discussed.

Barbara Sweet, 6 Covey Road, Hyde Park questioned if it would be the Planning Board that would deal with potential sidewalk concerns. Mr. Bickford answered yes.

There were no other comments. Motion to close the continued public hearing was made by Brendan Lawler, seconded by Herbert Sweet.

VOICE VOTE – ALL IN FAVOR

(4) AYE (1) 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 DENSITY VARIANCE

The Enclave at Hyde Park

Date: March 22, 2017

Moved By: Michael Whitman

Resolution: # 17-03Z

Seconded By: Brendan Lawler

WHEREAS, the applicant, 54 Hyde, LLC, has submitted an application for an area variance to change the average density in the Greenbelt District from 2.5 acres per dwelling unit to 1.41 acres per dwelling unit (the "Requested Variance") in order to resubdivide 70.51 acres in the Meadows subdivision into 25 residential lots with 50 dwelling units ("the Project"); and

WEREAS, the Project is located at Cream Street, Hyde Park, within the Greenbelt Zoning District, and identified as Tax Grid Numbers:

6263-01-421992; 6263-01-434997; 6264-03-450016; 6264-03-461019; 6264-03-472018; 6264-03-482018; 6264-03-493018; 6264-04-504018; 6264-04-514015; 6264-04-519001; 6264-04-527007; 6264-04-531018; 6264-04-544020; 6264-04-557014; 6264-04-558001; 6263-02-561984; 6263-02-545992; 6263-02-546977; 6263-02-533980; 6263-02-522978; 6263-02-518952; 6263-02-528952; 6263-02-539954; 6263-02-549959; 6263-02-563961; 6263-02-567946; 6263-02-566931; 6263-02-553932; 6263-02-544928; 6263-02-534925; 6263-02-523927; 6263-02-511927; 6263-02-518911; 6263-02-522891; 6263-02-533893; 6263-02-543897; 6263-02-552902; 6263-02-562910; 6263-02-575913; 6263-02-568880; 6263-02-559875; 6263-02-549869; 6263-02-538869; 6263-02-517869; 6263-02-514859; 6263-02-509847; 6263-01-495841; 6263-01-484840; 6263-01-472842; 6263-01-460847; 6263-01-459862; 6263-01-460878; 6263-01-473883; 6263-01-480868; 6263-01-492864; 6263-01-495876; 6263-01-498899; 6263-01-487905; 6263-01-478912; 6263-01-470921; 6263-01-493926; 6263-01-493938; 6263-01-494949; 6263-01-495959; 6263-01-496975; 6263-02-505989; 6263-01-490992; 6263-01-473998; 6263-01-460995; 6263-01-446983; 6263-01-438961; 6263-01-431973; 6263-01-433937; 6263-01-447937; 6263-02-675871; 6263-01-465957; 6263-02-543968; 6263-01-436890; 6263-02-585865; and

WHEREAS, the Meadows Subdivision was previously approved as a 74 lot subdivision comprising 116.74 acres as shown on FM 11697A dated May 23, 2007, and as amended by FM 11697B, dated February 5, 2008; and

WHEREAS, 25 acres of the Meadows Subdivision is being set aside for potential use as a commercial Solar Farm and the Requested Variance does not include this land in the calculation of density; and

WHEREAS, the 25-acre lot would retain the potential for dwelling units if not used for a commercial use, currently 10 units under the Zoning Law; and

WHEREAS, the applicant has not included the membership club lot in the calculation of density for the Requested Variance; and

WHEREAS, on February 15, 2017, the Planning Board, serving as lead agency in a coordinated review under the State Environmental Quality Review Act ("SEQRA") adopted a negative declaration, determining that the proposed Project would not result in any significant adverse environmental impacts; and

WHEREAS, area variances for residential uses are exempt from review under Section 239-m of the General Municipal Law; and

WHEREAS, by letter dated January 18, 2017, 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 March 22, 2017, 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 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 of fact:

- 1. The Meadows Subdivision consists of 74 residential lots which may be developed as of right.**
- 2. The Zoning Law was amended after the 74 lots were created to reduce the permitted density in the Greenbelt District to 2.5 acres per dwelling unit.**
- 3. The Project will reduce the overall density of the Project to 50 units, with the potential for an additional 10 units on the 25-acre parcel and 1 unit on the membership club parcel.**
- 4. The Project would result in a more compact, clustered development which is encouraged by the Greenway Guidelines A-1 and A-3 and would reduce the total amount of disturbance.**
- 5. The Project would meet the 30% open space requirement for Average Density Subdivisions.**
- 6. The Planning Board encourages the use of the 25-acre parcel for a Solar Farm.**

BE IT FURTHER 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 Variance will not produce an undesirable change in the character of the neighborhood or be detrimental to nearby properties. The Project would revive an abandoned subdivision which has ten vacant model homes which have been the subject of vandalism. Previously disturbed areas are now covered in weeds and invasive species. The Requested Variance would permit the Project which would be beneficial to the neighborhood by ending the current blight. There will not be an undesirable change as the ultimate density is less than what can currently be constructed as-of-right.**
- 2. The granting of the Requested Variance is the only way to obtain the desired result of smaller, more compact homes. The existing lots in the Meadows Subdivision range in size from approximately .4 acres to .7 acres. Any change in the lot lines to rearrange the lots results in the need to bring the lots into compliance with current density regulations.**
- 3. The impact of the Requested Variance will not be substantial. The total density of the site, even if the 25-acre lot is fully developed as residential dwelling units, is less than the density that can be constructed as-of-right under the Meadows Subdivision. The size of the variance is numerically 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 overall reduction in the total number of dwelling units, even if the 25-acre lot is fully developed, will reduce impacts related to**

traffic, school district, water and sewer demand. The Planning Board has issued a negative declaration, determining that the project as proposed will not result in any significant adverse environmental impacts.

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.
2. Approval of an Average Density Subdivision for the Project by the Planning Board to create the 25-acre lot, the residential lots, a membership club lot and any necessary utility lots, as evidenced by a Filed Map recorded with the Dutchess County Clerk.

Adopted: March 22, 2017

John Bickford, Chair	AYE
Stanley Frangk	ABSENT
Brendan Lawler	AYE
Herb Sweet	AYE
Michael Whitman	AYE

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

Secretary

New Application:

7-04Z Hyde Park Town Center North
4274 and 4280 Albany Post Rd
Hyde Park, NY 12538

Variance – **Section** 108-4.4A (3) changing Building volume from 60,000 cubic feet to 211,406 cubic feet; and **Section** 108-4.6 (B) changing Building distance from 100 ft. to 20.5 ft. to 60 ft. in the Town Center Historic District.

John Bickford stated the purpose of this meeting is to set the public hearing.

Neil Alexander, Cuddy & Feder was present for the application giving a brief explanation of what they were seeking.

Motion was made by Herbert Sweet, seconded by Michael Whitman to set the public hearing for April 26, 2017.
VOICE VOTE – ALL IN FAVOR

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

#17-05Z

Ronald Morse II
10 Enderkill Dr.
Staatsburg, NY 12580

Variance – Section 108-5.15 Changing a front yard setback from 50 ft. to 39 ft. for construction of an attached garage in the Neighborhood District.

Ronald Morse answered questions regarding the measurements for his application. Mr. Morse stated he made corrections. The setback will be changed from 39 ft. to 25 ft. He also wanted to add a porch to the application. Mr. Morse was asked to initial and make the correction on the application before it is publicized.

Motion was made by Michael Whitman, seconded by Brendan Lawler to set the public hearing for April 26, 2017.
VOICE VOTE – ALL IN FAVOR

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

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

Robert Turner, Tinkelman Architecture was present to answer questions regarding the application and the changes that were made.

Victoria Polidoro asked if Mr. Turner could verify the color selected for the panels. Mr. Turner said it was a darker green. He had a sample of the color that was presently in place. It would be darker than the sample.

Ms. Polidoro stated that Mrs. Moss, Zoning Administrator had wanted it noted that if the ZBA should grant the variances, a sign permit would still be required from her.

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**RESOLUTION TO GRANT AREA VARIANCES
HUTCHINS-STAATSBURG STORAGE**

Date: March 22, 2017

Moved By: John Bickford

Resolution: # 16-13Z

Seconded By: Herbert Sweet

WHEREAS, the applicant, 4920 LLC, has submitted an amended application dated March 8, 2017 for area variances for signage at 4920 Albany Post Road, Hyde Park, NY 12538, located in the NBD Zoning District (the "Site"); and

WHEREAS, the amended application was submitted in response to a negative recommendation from the Dutchess County Department of Planning and Development dated February 22, 2017, issued pursuant to Section 239-m of the General Municipal Law, and comments from the Zoning Board of Appeals; and

WHEREAS, the proposed sign package is depicted on an elevation prepared by Tinkleman Architecture entitled, "Hutchins-Staatsburg Storage, Site Plan Amendment – Sign Change" dated August 3, 2016, last revised March 8, 2017; and

WHEREAS, the applicant seeks variances from the following sections of the Town of Hyde Park Zoning Law (the "Requested Variances):

Section 108-24.2 C(2)(b), changing the maximum number of wall signs for any business with a separate external entry from 2 to 6 wall signs (Staatsburgh Storage);

Section 108-24.2 C(2)(b), changing the total sign area maximum per business for Staatsburg Storage from 100 sq. ft. to 159 sq. ft. (total of all Staatsburg Storage wall signs and the primary tenant panel on the free standing sign) of 25 ft.;

Section 108-24.2 F(2)(a), changing the maximum size of any graphic from 10 inches in any direction to a rectangular graphic for Staatsburg Storage on the primary tenant panel on the free standing sign to 26" x 17"; and

Section 108-24.2 F(2)(a), changing the maximum size of any graphic from 10 inches in any direction to concerning graphic size of two (2) wall panels to 96" x 48" and changing the graphic size on the remaining two (2) panels from 13" x 13" (as relaxed by the Planning Board) to 96" x 48".

WHEREAS, the Requested Variances are the latest of several iterations of the sign package proposal for the Site; and

WHEREAS, by resolution dated September 21, 2016, the Hyde Park Planning Board approved a resolution granting approval of discretionary bonus to increase maximum size of letter, symbol or graphic pursuant to Town Code Section 108-24.2F(2) for two of the wall signs; and

WHEREAS, the application was accompanied by a short Environmental Assessment Form ("EAF") dated August 25, 2016; and

WHEREAS, on March 22, 2017, the Zoning Board of Appeals classified the action as an unlisted action under the State Environmental Quality Review Act and adopted a negative declaration; and

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

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals makes the following findings of fact:

1. The majority of the variances are related to the applicant's proposal to place large vinyl decals depicting a partially-open, black and green colored garage door along the length of an existing building along NYS Route 9 in connection with a self-storage business.
2. The Site is located on NYS Route 9 in the Neighborhood Business District and is non-conforming as to scale, which is defined in the Zoning Law as "the size of a use or structure, expressed in gross square feet, including the total area occupied by the use or structure, including all floors of the structure and including all parking stalls required for such use or structure, but not including the remaining area of the parking lot or driveways."
3. The existing scale of the Site is 60,201.80, while the permitted scale in the Neighborhood Business District is 7,500 sq. ft.
4. The building is brown and tan while the decals are proposed to be green and black.
5. The purpose of the vinyl decals are to alert drivers of the self-storage use within the building.
6. The vinyl decals would be placed over existing blacked-out windows.
7. The vinyl decals are proposed to be placed only along portions of the building occupied by the self-storage business.
8. The size of the vinyl panels proposed are more than five to ten times the permitted graphic size.
9. If site plan approval is obtained, the applicant has indicated that a total of six tenants would be permitted to occupy the building.

10. The applicant had previously installed four vinyl decals without a permit in a different shade of green at the Site and some members of the Zoning Board of Appeals viewed the previously installed panels.
11. The free-standing sign is proposed to have seven panels: one large tenant panel of 24.6 sq. ft. with five significantly smaller tenant panels, a "landlord rental advertisement" panel. The maximum square footage allowed for the free-standing sign is 60 sq. ft. and the applicant has proposed a sign totaling 56.3 sq. ft. (The Zoning Board of Appeals notes that the Zoning Administrator will determine the permitted number of panels since the overall area complies with the Zoning Law).
12. Signs within a shopping center are intended to be readable from within the shopping center, not necessarily from the roadway. This is evidenced by Section 108-24.2F, which permits an increase in the size of sign based on its distance from the entry to the shopping center, not the roadway.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals, in weighing the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the general community, makes the following findings:

1. The variance will not produce an undesirable change in the community. The applicant has significantly reduced the variance request to minimize the impact on the surrounding community. The Site is a former industrial building located on a commercial corridor. The additional signage is appropriate for the size of the building. Members of the Zoning Board of Appeals have seen the vinyl decals on the building, albeit in a different shade of green, and have observed that the proposed vinyl decals will not result in a significant visual impact.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than an area variance. When the applicant installed the self-storage units inside the building several windows became non-working windows and were blacked out. The applicant is proposing to cover the unattractive blacked out windows with the vinyl decals. The size of the windows necessitates the large vinyl decals.
3. The requested area variance is substantial, but the impact of the variances is not substantial. The number of vinyl panels proposed are more than three times the allowable number of wall signs. However, the total amount of signage on the site will not exceed what is permitted under the Code. The existing building is significantly larger than permitted under the Zoning Law and therefore the larger signs will not look out of place. The building already has an industrial look to it and the additional signs will not cause additional impact on community character.
4. The variance will not have an adverse impact on physical or environmental conditions in the neighborhood, other than community character, which is minimal due to the Site's location on a commercially developed state road.
5. The hardship is self-created, resulting from the desire of the applicant to attract the attention of possible customers driving on Route 9.

BE IT FURTHER RESOLVED by the Zoning Board of Appeals that, for the reasons set forth above, the Requested Variances are hereby granted subject to the following conditions.

1. Submission of a color sample depicting a Kelly green color
2. Revision of the drawing to correct the number of panels

3. Payment of all fees and escrow

Adopted: March 22, 2017

John Bickford, Chair	AYE
Stanley Frangk	ABSENT
Brendan Lawler	AYE
Herb Sweet	AYE
Michael Whitman	AYE

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

Secretary

OTHER BUSINESS:

Motion was made by Herbert Sweet, seconded by Brendan Lawler to adjourn at 8:38 PM.
VOICE VOTE- ALL IN FAVOR

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

Respectfully Submitted,

Linda Weiner
Secretary