

# TOWN OF HYDE PARK

## Zoning Board of Appeals

*4383 Albany Post Road*

Hyde Park, New York 12538

### Minutes

May 24, 2017

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

**Absent:** Stanley Frangk, Chair

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

John Bickford, Chair, commenced the Pledge of Allegiance.

John Bickford welcomed everyone to the May 24, 2017 meeting at 7:00 P.M.

The secretary was asked to note the roll.

**Approve minutes:** April 26, 2017

Motion was made by Michael Whitman, seconded by Herbert Sweet to approve the April 26, 2017 minutes.  
VOICE VOTE – ALL IN FAVOR

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

The next meeting will be June 28, 2017

### **Continued Public Hearing:**

**17-04Z** 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.

The secretary verified publication in the Poughkeepsie Journal on April 20, 2017.

Mr. Bickford noted that DC Planning responded to the 239m as a matter of local concern.

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

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

Kelly Libolt, and Anthony Morando were present to answer questions pertaining to the variance. Ms. Libolt noted the response received from County. Also noted, was the correspondence received from the Planning Board indicating their support of the variance.

Victoria Polidoro, Town Attorney, questioned if Ms. Libolt had the revised elevations. Ms. Libolt stated that the elevation that the Zoning Board received were revised. The only modification that occurred had to do with the addition of cupolas. The elevation has been submitted to the Planning Board.

No one wanted to speak for or against the application.

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

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

The draft resolution was read by Michael Whitman. Motion to amend and accept the resolution was made by John Bickford, seconded by Herbert Sweet to change the wording in Sec 2 to read 100 foot open space buffer.

VOICE VOTE – ALL IN FAVOR

(4) AYE (1) ABSENT (0) NAY

**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 TO GRANT AREA VARIANCES**

### **Hyde Park Town Center North - Mavis**

**Date: May 24, 2017**

**Moved By: Michael Whitman**

**Resolution: # 17-04Z**

**Seconded By: Brendan Lawler**

WHEREAS, the applicant, N & N Hyde Park, LLC, has submitted an application for area variances in connection with its application for site plan approval to partially redevelop an existing shopping center

with a new "Mavis" auto repair shop, located at 4280 Albany Post Road, tax parcel nos. 6065-04-919007 & 6065-04-933017 (the "Lot") in the Town Center Historic District (the "Project"); and

WHEREAS, the Project is depicted on a site plan entitled "Hyde Park Town Center - North" prepared by Berger Engineering and Surveying, dated June 1, 2016, last revised March 28, 2017 (the "Site Plan"); and

WHEREAS, the applicant has applied for a variance from: 1) Section 108-4.4(A)(3) of the Zoning Law to permit a cubic volume of 211,406 cubic feet where 60,000 cubic feet is allowed; and 2) Section 108-4.6B of the Zoning Law to permit a buffer of 20.5 feet where 100 feet is required, as depicted on the Site Plan (the "Requested Variances"); and

WHEREAS, the applicant submitted an Environmental Assessment Form dated February 9, 2016, last revised March 28, 2017; and

WHEREAS, by letter dated April 5, 2017, the Planning Board recommended that the Zoning Board of Appeals grant the Requested Variances for the Project; and

WHEREAS, on May 3, 2017, the Planning Board, serving as lead agency in a coordinated SEQRA review of the Project, adopted a negative declaration, determining that the Project as submitted would not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement would not be prepared; and

WHEREAS, as part of the SEQRA process, the State Historic Preservation Office advised the Planning Board by letter dated October 14, 2016 that the Project would have no impact on historic resources; and

WHEREAS, pursuant to Section 239-m of the General Municipal Law, the Project was referred to the Dutchess County Department of Planning and Development, which responded on May 22, 2017, that it was a matter of local concern; and

WHEREAS, a duly noticed public hearing was opened on April 26, 2017 and closed on May 24, 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 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 restriction on maximum cubic volume is intended to ensure that new structures located next to historic resources do not dominate or overwhelm the latter. In this instance, there are a number of intervening buildings on the parcel on which the Bergh-Stoutenburgh House is located, including a new McDonald's. In addition, the existing structure, formerly Molloy's pharmacy, already exceeds 60,000 cubic feet and does not appear to have negatively impacted this historic resource. Finally, while the proposed replacement structure is actually smaller in footprint size, it must have a greater cubic volume if the applicants adhere to the code requirement barring flat roofs (or effectively disguising them when building size necessitates a flat roof, such as a grocery store).**

**The Project has been designed to be compatible with the historic character of the area. The proposed architecture incorporates components from other local structures in the Town and follows much of the design components of the "Gray Barn" structure immediately adjacent to (south of) the project. The structure will utilize a fiber cement clapboard siding material, fieldstone bases and corners, historic dormers, black storefront windows, black mullions, and clear glass. All entrances are further defined with a canopy and historic gooseneck lighting fixtures.**

**The ZBA finds that the requirement for the open space buffer along common property lines is intended to ensure that site lines remain clear when viewing historic resources. Again, the Bergh-Stoutenburgh House is situated some distance from the proposed structure, and well beyond 100 feet. While the structure would occlude views from inside the shopping plaza where it is proposed, even if the existing structure were razed and not rebuilt, a two-story former stable (the Gray Barn) would prevent a resident or visitor from seeing the historic House from within the Lot. In addition, the Bergh-Stoutenburgh House is sited close to**

Albany Post Road and the nearby McDonald's is set back far enough that views from the north or south are fairly unobstructed.

2. The granting of a variance is the only way to obtain the desired result. The Project is located on an irregularly shaped lot. A new replacement structure could not be constructed that meets the 100 foot open space buffer requirement on all sides of the Lot that adjoin the lot containing the Bergh-Stoutenburgh House without removing existing structures on the Lot. The buffer requirement is intended to protect historic structures from being overwhelmed by larger buildings. Because there are a number of existing structures between the Bergh-Stoutenburgh House and the proposed structure, reducing the open space buffer as requested will have no impact on the historic resource.
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 barn, which would improve the visual character of the area.
5. In one sense, the difficulty is self-created, as the owner is choosing to demolish and replace an existing building. In another sense the difficulty is not self-created as the structure is replacing an existing non-conforming structure which is not reusable in its current state.

**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.

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: May 25, 2017**

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**Secretary**

**New Public Hearing:**

**17-07Z**            Kathleen Hinz-Shaffer  
7 Maple Lane  
Hyde Park, NY 12538  
**Variance – Section** 108-5.15 changing a rear yard setback from 50 ft. to 46.5 ft.; and **Section** 108-5.15 changing a side yard setback from 25 ft. to 4ft. at the closest point to allow placement of a new accessory structure in the Waterfront District.

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

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

The secretary verified publication in the Poughkeepsie Journal on May 19, 2017.

Kathleen Hinz-Shaffer presented the application to the Board explaining measurements and purpose for the request.

Herbert Sweet pointed out a measurement discrepancy of the variance request and what's written on the diagram. Ms. Hinz-Shaffer stated she would move the building back to meet the advertised measurement to prevent the application from having to be readvertised.

Mr. Bickford asked if anyone wanted to speak for or against the application.

Sylvia Laddaran and Louise DeCaro, 9 Maple Lane, were invited to approach the dais to look at the drawings. Ms. Hinz-Shaffer also was invited to assist in answering questions.

Sylvia Laddaran said she was not happy with the distressing news about the building structure causing her sleepless nights. She proposed ideas to Ms. Hinz-Shaffer that she felt she should consider. Ms. Laddaran partially blames the Hyde Park real estate landlords who have driven small businesses out. She feels there are other things that could be done rather than building a structure.

Louise DeCaro said the structure will be a mini ranch house with electricity four feet from her property line, causing obstruction of view, open space. She feels it would create problems if she tried to sell her house. There is a shed already on the property, two sheds would not be acceptable.

Ms. Hinz-Shaffer said elevations show that there are no windows facing the neighbor's property. The only windows are on the structure facing south. The only lights that would be seen are lights on the side of the double doors. Mr. Bickford asked about the lights seen over the double doors. Ms. Hinz-Shaffer said she would shade it at night. The window allows daylight in the building.

Herb Sweet questioned why the structure had to be the size that's being requested. Ms. Hinz-Shaffer said she has large equipment to help her keep up the property maintenance. The equipment needs to be stored there as well as equipment for her sign business.

The Zoning Board will do a site visit on Saturday, May 27, 2017 9:00 A.M. Victoria Polidoro reminded the Board not to converse with each other on the Application while at the site. Ms. DeCaro welcomed the Board to visit her property as well.

A special meeting to continue the public hearing will be held on June 12, 2017 4:30 P.M.

Motion made by Brendan Lawler seconded by Michael Whitman to do a special continued public hearing on June 12, 2017 at 4:30 P.M.

VOICE VOTE – ALL IN FAVOR

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

**OTHER BUSINESS:**

**Return of Escrow:**

**RELEASE OF ESCROW**

May 24, 2017  
Resolution: #17-AZ

Moved By: Michael Whitman  
Seconded by: Herbert Sweet

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Hyde Park does hereby request that the Town Board authorize that the following escrow accounts be released:

PROJECT NAME	ADDRESSES	PROJECT #	ENGINEER/ PLANNER	ATTORNEY	TOTAL
Hutchins – Staatsburg Storage	4920 Albany Post Rd Staatsburg, NY 12580	16-13Z		25.00	25.00
Barry's Bed & Breakfast	43310 Albany Post Hyde Park, NY 12538	16-20Z		548.50	548.50

The Board was polled as follows:

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

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Linda Weiner, Secretary

Motion was made by Brendan Lawler, seconded by Michael Whitman to adjourn at 8:40 P.M.  
VOICE VOTE- ALL IN FAVOR

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

Respectfully Submitted,

Linda Weiner  
Secretary