

# TOWN OF HYDE PARK

## Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

### Minutes Special Meeting July 12, 2017

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

**Absent:** Michael Whitman

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

John Bickford, Chair, commenced the Pledge of Allegiance.

John Bickford welcomed everyone to the July 12, 2017 Special Meeting of the Zoning Board of Appeals at 5:04P.M.

#### **Continued Public Hearing:**

**#17-04Z** 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 4 ft. at the closest point to allow placement of a new accessory structure in the Waterfront District.

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

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

Kathleen Hinz-Shaffer and John Lombardi were present to answer questions regarding the variance.

Mr. Lombardi explained the characteristics of the property. Moving the structure back would be very costly. There is a large rock that stands very high and is close to a drainage swale. He recommended placing the structure ahead of the swale. It could possibly worsen the condition for the adjoining neighbor if there were flooding.

Herbert Sweet asked how close would that put the structure from the rear line. Mr. Lombardi said at minimum it would need to be 5 to 7 ft. away which would make it 35 ft. from the rear lot line.

Herbert Sweet stated considering the lay of the land, it would be accommodating the neighbor's property as well as Ms. Hinz-Shaffer's.

Ms. DeCaro stated that she has lived at her property since 1997 and has never seen flooding on that side of her yard. She has a problem with the opposite side of her property with a creek that moves through the middle of her lawn. She doesn't want to have a problem on both sides. She wants to see where the structure is going to be placed.

Sylvia Laddaran stated she had a tree service removing three trees. She hasn't seen any action on the other end.

Mr. Sweet stated that the alternative to the variance would be to put the structure at the end of the driveway.

John Bickford asked the two neighbors Ms. DeCaro and Ms. Laddaran who objected to the variance, which location they preferred for the structure.

Ms. DeCaro stated she would rather have the variance approved rather than have the structure in the front of the property.

Brendan Lawler said it's a sizeable variance with a very large structure. His concern is setting a precedent.

Herbert Sweet stated the character of the neighborhood would be less impacted with a larger variance. It's a unique situation.

Stanley Frangk said he was struggling and can appreciate the concerns of the neighbor. They are calling it a shed. In the Code it's an accessory building. It's bigger than a normal garden shed. He's concerned about the size.

The Board is not supposed to grant a variance to let you do something that you can do without a variance. He doesn't want to set a precedent granting a variance if one is not needed.

John Bickford stated the reason Ms. Hinz-Shaffer is requesting this location rather than in the front of the property is to minimize the impact.

Herbert Sweet said all they're addressing is the setback.

Victoria Polidoro said the setback and the structure go hand in hand for distance and height. The impact changes depending on the size of the structure. The fact that it can be achieved by some other means, it doesn't preclude the Board from granting the variance if it can find that the other factors weigh strongly in favor of it.

John Bickford said the point is there will be a change in the neighborhood, but less than if it's done without a variance in another location. The needs of the applicant can be done without a variance. The request is substantial looking at the setbacks but it is necessary to avoid the septic, ditch, and water runoff.

The variance granted is the minimum variance to meet the needs of the applicant.

Mr. Bickford said he is reasonably comfortable with it.

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

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

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

**VARIANCE RESOLUTION**

Application #:17-07Z

Grid #: 6064-02-578966

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Introduced by: Herbert Sweet  
Seconded by: Stanley Frangk

Date: July 12, 2017

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on July 12, 2017 reviewed the facts in Application #17-07Z as submitted by Kathleen Hinz-Shaffer, 7 Maple Lane, 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 rear yard setback from 50 ft. to 10 ft.; and  
**Section 108-5.15** changing a side yard from 25 ft. to 4ft. at the closest point to allow placement of a new accessory structure in the Waterfront District.

**WHEREAS**, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on June 23, 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 applicant can build the structure as of right at the end of her driveway, which is an elevation 6 feet higher than her proposed location.
2. The location at the end of the driveway would be visible from the road and inconsistent with the character of the neighborhood.
3. The applicant has voluntarily proposed to plant a landscape buffer on the neighbor's property.

**NOW. THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #17-07Z 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. There will be a negative change to the neighborhood, but impacts will be less than if the variance was not granted.
2. The needs of the applicant **can** be achieved by other than an area variance. The building can be constructed elsewhere on the property, but the impact would be lessened by the granting of the variance due to elevations and location.
3. The requested variance **is** substantial.
4. The requested variance **will not** affect the physical or environmental conditions in the neighborhood. There will be a change to the neighborhood but the change is lessened by the granting of the variance.
4. The hardship for which the variance is sought to rectify **was** self created.  
It is a self-created hardship.
6. The variance being granted is the minimum variance to meet the needs of the applicant.

Adopted: July 12, 2017

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

:lw

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

Motion was made by Stanley Frangk, seconded by Brendan Lawler to adjourn at 6:30 P.M.  
VOICE VOTE – ALL IN FAVOR

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

Respectfully Submitted,

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Linda Weiner  
Secretary