

# TOWN OF HYDE PARK

## Zoning Board of Appeals

4383 Albany Post Road

Hyde Park, New York 12538

### Minutes July 26, 2017

**Present:**

**John Bickford, Chair**

Stanley Frangk, Vice Chair, (7:50 P.M. arrival)

Brendan Lawler

Herbert Sweet

Michael Whitman

**Absent:**

**Others Present:** John Scileppi, Alternate, Warren Replansky, Attorney, Linda Weiner, ZBA Secretary

John Bickford, Chair, commenced the Pledge of Allegiance.

Mr. Bickford welcomed everyone to the July 26, 2017 meeting at 7:00 P.M.

The secretary was asked to note the roll.

**Approve minutes:** May 24, 2017, Special meeting June 12, 2017, and June 28, 2017

Motion was made by Brendan Lawler, seconded by Michael Whitman to approve minutes for May 24, 2017

VOICE VOTE – ALL IN FAVOR

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

Motion was made by Herbert Sweet, seconded by Michael Whitman to approve the minutes for Special meeting June 12, 2017.

VOICE VOTE – ALL IN FAVOR

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

Motion made by Herbert Sweet, seconded by Brendan Lawler to approve minutes for June 28, 2017.

VOICE VOTE – ALL IN FAVOR

(3) AYE (1) ABSENT (0) NAY (1) Abstained

The next meeting will be August 23, 2017

**New Application:**

**#17-12Z** Eleanor Wilkinson  
38 Main St.  
Hyde Park, NY 12538

**Variance – Section 108-4.3 G (2)** To allow construction within the stream corridor changing the undisturbed area from 100 ft. to 42 ft. for a porch; and changing from 100 ft. to 59 ft. for a kitchen in the Neighborhood Core District.

Eleanor Wilkinson presented her application to the Board. John Bickford recommended Ms. Wilkinson work with Tad Moss, Zoning Administrator regarding the measurements to make sure they were correct prior to the public hearing being advertised.

**#17-09Z** Michelle Dyal  
16 W. Market St.  
Hyde Park, NY 12538

**Variance – Section 108-5.15** Changing a side yard setback from 7.5 ft. to 0.9 ft. for a detached garage in the Neighborhood Core District.

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

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

Michelle Dyal presented the application answering questions from the Board regarding location and measurements.

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

Motion was made by Brendan Lawler, seconded by Michael Whitman 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 #: 17-09Z

Grid #: 6065-16-780276

Introduced by: Herbert Sweet  
Seconded by: John Bickford

Date: July 26, 2017

The Town of Hyde Park Zoning Board of Appeals, at a meeting duly convened on July 26, 2017 reviewed the facts in Application #17-09Z as submitted by Michelle Dyal, 16 W. Market St., 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 7.5 ft. to 0.9 ft. for a detached garage in the Neighborhood Core District.

**WHEREAS**, the Board held a Public Hearing, notice of which was duly published in the Poughkeepsie Journal on July 20, 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 constructed in 1780 and, as was common then, placed very close to the neighbor's house.**

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- 2. The lot is small at .20 acres.**

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- 3. The structure being replaced is in a dilapidated condition.**

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**NOW. THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #17-09Z 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 removal of the dilapidated structure will be an improvement to the character of the neighborhood.**

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- 2. The needs of the applicant cannot be achieved by other than an area variance.**

**As the small lot and the location of the septic system constrain the location of the garage.**

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- 3. The requested variance is substantial.**

**But unavoidable considering the forgoing arguments.**

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- 4. The requested variance will not affect the physical or environmental conditions in the neighborhood.**
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**5. The hardship for which the variance is sought to rectify was self created.**

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

Adopted: July 26, 2017

Brendan Lawler	<u>Y</u>
Herbert Sweet	<u>Y</u>
Stanley Frangk	<u>ABS</u>
Michael Whitman	<u>Y</u>
John Bickford	<u>Y</u>

:lw

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

**#17-10Z** Kathryn Whitman  
33 East Elm Ave.  
Staatsburg, NY 12580  
**Use Variance– Section 108-5.14** Changing from multiple not permitted to permitted, one three family dwelling in the Hamlet District.

Michael Whitman recused himself from this application.

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

(3) AYE (1) ABSENT (0) NAY (1) RECUSED

The Board entered into attorney client session at 7:43 P.M.

The Board returned from attorney client session at 8:04 P.M. Mr. Bickford said that no decisions were made, it was for education only.

Tom Mansfield, Attorney, Mansfield, Gautier, & Rosenthal LLP, and Kathryn Whitman presented the application to the Board.

Mr. Mansfield submitted a letter to the Board giving him permission to represent Ms. Whitman in her absence.

Mr. Mansfield pointed out multiple references regarding the three family dwelling

Mr. Mansfield stated the house was built in 1900. He made reference to the town property record card, county parcel access, and documents from a fire inspection. The records indicate the property class is 230, three family. He also referenced to a letter from a neighbor which read the property has been used as a three family for many years. The town property card was dated 1979 showing a three family unit.

Ms. Whitman has applied for the variance. Mr. Mansfield believes she has met the four standards. The uniqueness, there is no other property in the Hamlet like it. No work has to be done. When purchased, the applicant relied on documents that said it was a three family. It was bought as an investment property. It will not change the character of the neighborhood. Nothing is changing.

The difference between a two and three family rental would cause financial hardship on the applicant. The conversion cost and loss of rent would be more than the cost of the house.

John Scileppi asked how it was determined that there were no other three family properties. Ms. Whitman said she did not do an investigative study, but the property has been taxed as three family. She doesn't think there are other three family houses in the Hamlet. Mr. Scileppi said the reason for his question is that as soon as things change from being unique, we've got problems. Ms. Whitman said it's about the layout. The apartments are small. If you had to convert it you would have to take a big chunk out of the floors which would make them useless. If there is another house with the same situation, you would have to look at the layout. Mr. Scileppi said the uniqueness is the difficulty of not being able to be converted.

John Bickford said knowing that there are any two families that are currently being used as three families would be granting a special use which would be opening the door.

The Board suggested that Ms. Whitman research records such as county records, utility bills, tax bills as a three family, census records, etc. to determine the three family status.

Motion was made by Stanley Frangk, seconded by Brendan Lawler to continue the public hearing on August 23, 2017.

VOICE VOTE – ALL IN FAVOR

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

**OTHER BUSINESS:**

Motion was made by Brendan Lawler, seconded by Michael Whitman to adjourn at 8:50 P.M.

VOICE VOTE- ALL IN FAVOR

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

Respectfully Submitted,

Linda Weiner  
Secretary