

TOWN OF HYDE PARK  
Zoning Board of Appeals  
4383 Albany Post Road  
Hyde Park, New York 12538

**Minutes**  
**May 27, 2020**

**Present:** Herbert Sweet, Chairman  
Brendan Lawler  
Richard Perkins  
David McNary  
James Agrawal

**Absent:**

**Others Present:** Patrick Logan, Attorney; Kathleen Moss, Zoning Administrator; Linda Weiner, ZBA Secretary

The next Zoning Board meeting will be held on June 24, 2020

Welcome to the May 27th meeting of the Hyde Park Zoning Board of Appeals. Will each member of the board confirm that he is alone or that no one is present that may influence his vote. As called please respond yes or no.

All confirmed.

I have confirmed with the Zoning Board's Counsel that tonight's meeting has been convened in accordance with the Governor's March 13, 2020 Executive Order 202.1, which suspends certain provisions of the Open Meetings Law to allow a municipal board to convene a meeting via video conferencing. In accordance with the Executive Order, the public has been provided with the ability to view tonight's meeting and a transcript will be provided at a later date. I have done a roll call of the Board Members and there is a quorum present for this meeting. I have also confirmed with the Zoning Secretary that this meeting has been duly noticed. We have fulfilled our legal notice requirements by posting notice on the Town's bulletin boards, and news organizations, etc, and posting notice on the Town's agenda center of its website.

We will now commence with the pledge of allegiance. Because of audio synchronization, the only person that you may here is me.

PLEDGE OF ALLEGIANCE

*The order of the applications was adjusted. Mr Pickles had technical problems getting started and Mr Hanaburgh's application was put off to last.*

## **VERIZON CELL TOWER AT ANDERSON**

The first item on the agenda is for Verizon Cell tower at Anderson for a property line area variance from 68.2 feet to 50 feet as required by chapter 101-8B. The cell tower is what is called a micro cell which is designed to support a small area. It is a 62 foot high utility pole, also called a telephone pole and will be located in a wooded area towards the rear of the Anderson School parcel adjacent to another wooded parcel also owned by the Anderson School. The applicant had earlier advised that the need for the variance is dictated by the topography of the area.

Mr Agrawal made a motion to resume the continued public hearing.

Mr McNary seconded the motion.

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

Scott Olson represented for Verizon and advised that there was nothing new for the ZBA to consider.

There were no comments from the board or from the attorney.

There were no members of the public in the Zoom Waiting Room that wished to be heard.

There were no written comments from anyone in the public.

The public can see the detail of the application by examining the plans which are on line at the town website. That is [hydeparkny.us](http://hydeparkny.us). Go to Departments, then to Zoning Board of Appeals, and then to Applications.

The ZBA will accept public comments following the close of the public hearing to received by 4 PM on June 10, 2020. They should be sent to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or email them to [zbasec@hydeparkny.us](mailto:zbasec@hydeparkny.us)

Mr Agrawal made a motion to close the public hearing.

Mr McNary seconded the motion.

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

**James and JoAnn Pickles**  
73 Roosevelt Rd Hyde Park,  
NY 12538

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

Mr Agrawal made a motion to open the public hearing.

Mr McNary seconded the motion.

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

James Pickles presented

Mr Pickles told us that the existing garage was built with too low a ceiling and is now in use as a workshop. Increasing the height is not practical as the garage is attached to the house.

Mr Agrawal commented that the proposed dimensions of the garage seemed appropriate.

There were no questions from the attorney nor any written comments from the public nor any members of the public in the Zoom waiting room wishing to speak.

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May I have a motion to close the public hearing noting that the ZBA will accept public comments following the close of the public hearing to received by 4 PM on June 10, 2020.

Mr McNary made a motion to close the public hearing.

Mr Agrawal seconded the motion.

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

**Kenneth & Renee Hanaburgh**  
7 West View Dr.  
Hyde Park, NY 12538

**Variance** - Section 10-5.15 Changing front yard setback from 50 ft. to 48 ft.; and changing side yard setback from 20 ft. to 6 ft. for construction of an attached dock in the Neighborhood District.

There was no representative present.

Mrs Moss advised that the deck is in place and the property has been sold but the Town has been unable to reach the new owner.

Mr Agrawal made a motion to adjourn the application until the July 22<sup>nd</sup> meeting.

Mr Perkins seconded the motion.

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

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**SALVATORE ROSA**

26 Kipp Rd

Rhinebeck, NY 12572

Variance - Section 108-5.15 Changing a front yard setback from 50 ft. to 35 ft. for a pool deck on an above ground pool in the Greenbelt District.

Mr Agrawal made a motion to open the public hearing.

Mr McNary seconded the motion.

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

Salvatore Rosa presented. He advised that obstacles prevent the pool deck from being installed elsewhere.

Mr Agrawal asked if the pool itself was inside of the 50 foot front yard setback and it was confirmed that it was not.

There were no questions from the attorney.

There were no members of the public in the Zoom Waiting Room that wished to be heard.

There were no written comments from anyone in the public.

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May I have a motion to close the public hearing providing for public comments following the close of the public hearing to received by 4 PM on June 10, 2020.

Mr Agrawal made the motion.

Mr McNary seconded the motion.

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

## **MICHAEL LEHAN**

**Determination** - Section 108-6.5 Changing of a non-conforming use. The applicant, Michel Lchan, is seeking a finding from the Zoning Board of Appeals regarding the proposed use of the property for a base of operation associated with a small landscape business. Is it of similar or lesser impact than the existing non conforming use of monument display and sales and garage storage in the Neighborhood District.

Michael Lehan presented. He said that he plans to fix up the existing building for the *storage* of equipment. Trucks and trailers would be stored outside.

In response to questions from the board and from the Zoning Administrator he said:

There will be two gas powered pickup trucks and two 14 ft long trailers parked on site. The current plan is to park just north of the existing memorial sign but that could change. During the day, employees would be parking their cars there. There are no plans at this time to add more trucks.

In case of flooding, the vehicles would be moved off site to his father's home in the Greentree development.

No customers will be coming to the site.

No landscaping supplies will be stored outdoors.

The trucks will have stock exhaust systems.

There was no damage from prior flooding to the existing building except to the sheet rock.

He planned to sell the existing stock of monuments but does not know how long that would take. Special equipment would be needed to move the monuments out.

There would be no truck maintenance on the site.

Equipment in the building would be evacuated in case of flooding.

Workers would not be returning to the site at lunchtime.

He had noticed that the existing monument business had some customer activity on the site.

He doesn't plan to receive mail at the site but would do that if required.

He has no fence plan but would install fences and plantings if required.

As a courtesy to the applicant, the Chairman summarized as follows:

- In determining if the parking of trucks has the "same or lesser impact" than the sale of monuments, in addition to the criteria for the replacement non conforming use detailed in 6.5B, it is implicit in the concept of "same or lesser" that the two uses are being compared. Included in that comparison would be appearance and activity on the site and trips to and from the site itself. The process was explained , to the applicant.
- 4.3D(3)(b) prohibits the storage of unenclosed commercial vehicles unless they are (1) used "in conjunction with a commercial business or other use lawfully conducted on that lot..."
- 6.5 provides for the changing of a non conforming use. It does not provide for the continuance of a non conforming use along with the addition of a new non conforming use.
- 4.3G2 disallows any use within the 100 ft stream corridor. This corridor includes the western portion of the parcel up about where the present driveway exists. The entire parcel is within the Flood Plain.
- A Site Plan approval by the Planning Board is likely and a screening requirement should be expected.
- A Flood Plain Development permit will be needed.

Patrick Logan confirmed that the earliest that a Determination could be concluded would be at the July 22<sup>nd</sup> meeting. He also reiterated that the board needs to know the current vehicle trip level and the planned vehicle trip level. Also, the board needs to know the current customer activity level.

Mr Agrawal made the motion to set the public hearing for June 24<sup>th</sup>.

Mr McNary seconded the motion.

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

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#### **ENCLAVE**

**Extension of Variance** -- On March 22, 2017 the applicant was granted a variance for the following: Changing average density from 2.5 A per DU to 1.41 A per DU (70.51 acres) in the Greenbelt District. The applicant is seeking an extension of the time in which to exercise this variance pursuant to Section 108-33.5 (F) of the Code.

The applicant's representative was not expected and was not present.

The applicant had earlier advised that nothing in the plan had changed since the variance was granted.

There were no questions on the application from the board or the attorney.

Mr McNary made the motion to set the public hearing for June 24<sup>th</sup>.

Mr Agrawal seconded the motion.

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

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**John & Kim Stofa**

South Cross Rd  
Staatsburg, NY 12580

**Variance & Interpretation – Section 108-4.3G (2)** To allow construction of a new driveway within the 100 ft. stream corridor changing the undisturbed corridor from 100 ft. to 0 ft. in the Greenbelt District.

Representing: John Stofa, Peter Andros, John Marvin (attorney)

The applicant has two applications - one for an Interpretation regarding the need for an Area Variance and the other for the Area Variance itself. After some discussion with Patrick Logan, the applicant chose to first apply for an area variance.

There were no questions from the board.

Mr Agrawal made a motion to set the public hearing for an Area Variance for June 24<sup>th</sup>.

Mr McNary seconded the motion.

*(5) AYE (0) NAY (0) ABSENT - MOTION CARRIED*

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There was no other business.

Mr Agrawal made a motion to adjourn the meeting.

Mr McNary seconded the motion.

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

The meeting was adjourned.

Respectfully Submitted,

Herbert Sweet – temporarily assisting the ZBA Secretary

DRAFT