

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

Minutes
July 22, 2020 7 PM

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 August 26, 2020

Welcome to the July 22nd 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 will hear is me.

PLEDGE OF ALLEGIANCE

Mr McNary made a motion to approve the minutes of the May 27th meeting.

Mr Perkins seconded the motion.

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

Mr Agrawal made a motion to approve the minutes of the June 24th meeting.

Mr Perkins seconded the motion.

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

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 public hearing was closed on June 24th.

Mr Ken Casamento was present to represent the applicant.

The secretary received no public comments.

There were no questions from the board, attorney or zoning officer.

Mr McNary moved the resolution.

Mr Lawler seconded the motion.

(5) AYE (0) NAY (0) ABSENT - 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 TO GRANT A THIRD ONE-YEAR EXTENSION OF A VARIANCE

The Enclave at Hyde Park

Date: July 22, 2020

Moved By: David McNary

Resolution: # 17-03Z

Seconded By: Brendan Lawler

WHEREAS, on March 22, 2017, by Resolution # 17-03Z, the applicant, 54-Hyde LLC, was granted a 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 "Variance") in order to re-subdivide 70.51 acres into 25 residential lots with 50 dwelling units (the "Project"); and

WHEREAS, pursuant to Section 108-33.5(F)(1) of the Town of Hyde Park Zoning Law, any variance under which the authorized activity has not commenced within one year from the date of issuance is revoked without further hearing or action of the Zoning Board of Appeals; and

WHEREAS, pursuant to Section 108-33.5(F)(2) of the Zoning Law, the Zoning Board of Appeals may, in its discretion, after conducting a public hearing, grant an extension to a variance; and

WHEREAS, on March 28, 2018, after a duly noticed public hearing thereon, the Zoning Board of Appeals granted a first one-year extension of approval of the Variance; and

WHEREAS, on March 27, 2019, after a duly noticed public hearing thereon, the Zoning Board of Appeals granted a second one-year extension of approval of the Variance; and

WHEREAS, on February 27, 2020, the applicant submitted a request for a third extension of approval of the Variance; and

WHEREAS, a duly noticed public hearing was held on June 24, 2020, during a remote meeting held by the Zoning Board of Appeals in accordance with New York State Governor Cuomo's Executive Order 202.1 and subsequent extensions thereof, during which all those who wished to speak were heard; and

WHEREAS, the Zoning Board of Appeals closed the public hearing at its June 24, 2020 meeting but kept the record open for the submission of written comments for a period of ten (10) days thereafter; and

WHEREAS, the Zoning Board of Appeals has considered the circumstances warranting such an extension.

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals hereby grants a one year extension of time in which to commence the activity authorized under the Variance to March 22, 2021.

Adopted:

Herbert Sweet	yes _____
James Agrawal	yes _____
Brendan Lawler	yes _____
David McNary	yes _____
Richard Perkins	yes _____

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.

The public hearing was closed on June 24th.

John Stofa and Peter Andros were present.

The secretary received no public comments.

Mr McNary questioned if a 40 inch culvert was adequate for a one hundred year flood. Mr Andros responded that the existing 12 inch culvert on the old driveway had been adequate.

There were no questions from the attorney or zoning officer.

Mr Lawler moved the resolution.

Mr McNary seconded the motion.

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

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RESOLUTION TO GRANT AREA VARIANCE

STOFA
109 South Cross Road

Date: July 22, 2020
Resolution #:20-09Z

Moved By: Brendan Lawler
Seconded By: David McNary

WHEREAS, the applicants, John and Kim Stofa, have submitted an application for an area variance to permit the construction of a driveway over a tributary to the Indian Kill to serve a residence on property located at 109 South Cross Road (the "Project"), identified as tax parcel no. 6166-01-484793, in the Greenbelt District (the "Property"); and

WHEREAS, the proposal is depicted on a plan entitled "Proposed Lot Improvements – Lands of John C. Stofa and Kim Marie Stofa," DWG. No. S-1, prepared by Peter J. Andros, P.E., P.C., dated April 9, 2020, last revised April 29, 2020 (the "Site Plan"); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-4.3(G)(2) to permit a stream corridor encroachment of 0 feet where 100 feet is required (the "Requested Variance"); and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(17), the granting of an area variance for a single-family, two-family or three-family residence is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(16), the granting of an individual setback variance is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, a duly noticed public hearing was held on June 24, 2020, during a remote meeting held by the Zoning Board of Appeals in accordance with New York State Governor Cuomo's Executive Order 202.1 and subsequent extensions thereof, during which all those who wished to speak were heard; and

WHEREAS, the Zoning Board of Appeals closed the public hearing at its June 24, 2020 meeting but kept the record open for the submission of written comments for a period of ten (10) days thereafter; and

WHEREAS, the applicable standards for considering an area variance are set forth in Town Law Section 267-b and Hyde Park Zoning Law Section 108-33.6(B)(2), which 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 general 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 Hyde Park Zoning Law Section 108-33.6(B)(2) regarding the Requested Variance:

The Requested Variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The Requested Variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties because of its location and design. The culvert in question will be located deep within the approximately 89-acre parcel. The culvert will be over 300 feet from the nearest neighboring parcel and roughly 1,000 feet from the nearest road. Existing topography and vegetation at the Property will heavily obscure or block from view the driveway's crossing of the tributary. Furthermore, Requested Variance's impact on the stream will not be significant as the tributary is already subject to one crossing at the Property, the culvert is a relatively small development, and the culvert has been designed not to significantly interfere with the flow of the tributary.

The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The Requested Variance would allow the applicants to construct a driveway culvert within a tributary of the Indian Kill in order to access the site of a former residence on the northern half of the Property. The applicants wish to redevelop this residential site with a new single-family dwelling. In planning this new residence, the applicants could not continue the use of the existing driveway serving the Property because its entrance on to South Cross Road lacks adequate sight lines. Relocating the driveway entrance necessitates crossing the tributary at a different location from the existing drive. There is no way to develop the existing residential site without crossing the tributary.

The applicants could locate their proposed development south of the tributary, but requiring this would eliminate the use of the majority of the parcel and would prevent the applicants from utilizing the existing residential site.

The Requested Variance is considered numerically substantial, as the required stream corridor will be removed in its entirety. However, as discussed herein, the impacts of the Requested Variance will not be substantial.

The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

The tributary is an intermittent, seasonal stream. The culvert has been designed to have the smallest possible disturbance on the stream area, minimize erosion of the stream banks, and to not impede with the flow of the stream. Moreover, development on the Property will be subject to a Stormwater Pollution Prevention Plan, which will further reduce environmental impacts. Given that there will be limited disturbance to the tributary, and that the culvert will not create an impediment to travel by wildlife alongside or within the stream, the encroachment on the stream buffer will not have a significant adverse effect on the environmental conditions of the neighborhood.

While some public comments noted that the driveway entrance on South Cross Road may result in stormwater runoff, these concerns do not relate to the Requested Variance. The applicants could construct a home south of the tributary without the need for the Requested Variance and these concerns would remain.

The difficulties are self-created.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variance subject to the following conditions:

Payment of all fees and escrow.

Adopted: July 22, 2020

Herbert Sweet	yes _____
James Agrawal	yes _____
Brendan Lawler	yes _____
David McNary	yes _____
Richard Perkins	yes _____

Darla Steinhauer and Derricks Tims

541 Creek Road
Poughkeepsie, NY 12601

Variance – Section 108-5.15 Changing a backyard setback from 25 ft. to 12 ft. for an above ground pool and deck in the Greenbelt District

The public hearing was closed on June 24th.

Darla Steinhauer and Derricks Tims were present.

The secretary received no public comments.

There were no questions from the board, attorney or zoning officer.

Mr Agrawal moved the resolution.

Mr Lawler seconded the motion.

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

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RESOLUTION TO GRANT AREA VARIANCE

STEINHAUER and TIMS
541 Creek Road

Date: July 22, 2020

Moved By: James Agrawal

Resolution #: 20-12Z

Seconded By: Brendan Lawler

WHEREAS, the applicants, Darla Steinhauer and Derricks Tims, have submitted an application for an area variance to permit the construction of a 15'x20' pool on property located at 541 Creek Road, identified as tax parcel no. 6164-04-791028, in the Greenbelt District (the "Property"); and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a rear yard of 12 feet where 25 feet is required (the "Requested Variance"); and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(16), the granting of an individual setback variance is a Type II action under the State Environmental Quality Review Act ("SEQRA") and is not subject to review under the Act; and

WHEREAS, a duly noticed public hearing was held on June 24, 2020, during a remote meeting held by the Zoning Board of Appeals in accordance with New York State Governor Cuomo's Executive Order 202.1 and subsequent extensions thereof, during which all those who wished to speak were heard; and

WHEREAS, the Zoning Board of Appeals closed the public hearing at its June 24, 2020 meeting but kept the record open for the submission of written comments for a period of ten (10) days thereafter; and

WHEREAS, the applicable standards for considering an area variance are set forth in Town Law Section 267-b and Hyde Park Zoning Law Section 108-33.6(B)(2), which 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 general 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 Hyde Park Zoning Law Section 108-33.6(B)(2) regarding the Requested Variance:

The Requested Variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The Property contains a one-family dwelling. The Requested Variance would allow the applicants seek to place an above ground pool and deck behind the dwelling. The impact on neighbors from the proposed pool and deck will be reduced because the Property's rear yard is partially screened from view due to existing fences and vegetation along the southern, western, and northern borders, along with the house and garage to the east. There will no undesirable change in the character of the neighborhood because the construction and location of the pool would be in conformance with the area's current pattern of development. Several properties in the area have pools that appear to be within yard setbacks (e.g., 15 Judy Terrace and 7 Judy Terrace).

The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The applicants propose constructing a pool and connected deck in their rear yard. The Property's rear yard is approximately 35 feet deep, meaning the 25 foot rear yard setback leaves just a 10-foot rear yard in which to place a pool. This is an inadequate amount of space in which to place a pool and deck. The applicants cannot construct their desired pool and deck without encroaching on the rear yard setback.

The Requested Variances may be considered numerically substantial, as the permitted dimensions for the required rear yard setback will decrease by 13 feet (52%). However, as discussed herein, the impacts of the Requested Variance will not be substantial.

The Requested Variance will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

The Requested Variance will allow the construction of a pool and deck in a previously cleared and disturbed area. The new construction will result in an insignificant ground disturbance and an insignificant increase in impervious surface area at the Site. Moreover, area variances of this type are presumed not to have a significant adverse environmental impact under SEQRA. Therefore, the Requested Variance will not have an adverse effect or impact on the environment.

The difficulties are self-created.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals hereby grants the Requested Variance subject to the following condition:

Payment of all fees and escrow.

Adopted:

Herbert Sweet	yes _____
James Agrawal	yes _____
Brendan Lawler	yes _____
David McNary	yes _____
Richard Perkins	yes _____

Kenneth & Renee Hanaburgh / Peters

7 West View Dr.
Hyde Park, NY 12538

Section 108-5.15 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 deck in the Neighborhood District.

Mr Peters joined the meeting by audio only.

The application originally made by the Hanaburghs needs to be modified so it was asked to be presented at the August 26th meeting. The meeting was adjourned until then.

MICHAEL LEHAN
1387 R 9G, Hyde Park NY 12538

Determination - Section 108-6.5 Changing of a non-conforming use. The applicant, Michel Lehan, 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. The board first needs to make a determination if the new non conforming use is equal or less non conforming than the present non conforming use.

The secretary advised that Mr Lehan had verbally withdrawn the application and that a letter was anticipated.

Mr Perkins then moved to indefinitely table the motion.

Mr Lawler seconded the motion.

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

It is anticipated that, when the letter is received, the board will note that the application has been withdrawn, then move to close the public hearing and dismiss the application.

Roy Charter

15 Rogers Rd
Hyde Park, NY 12538

Variance – Section 108-4.4(2) Changing fence height from 6 ft. to 8 ft. in the
Neighborhood District

Mr McNary made a motion to open the public hearing.

Mr Agrawal seconded the motion.

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

Mr Charter appeared at the meeting.

He stated that his concern was the visibility between his deck and the deck of his southern neighbor. He told us that the neighbor has events there every weekend.

The chairman asked: Mr Charter, almost all of us have a view of the properties that surround our own properties. For example, from my side porch, I can see my next door neighbor's patio, children's pool, and other things placed in his back yard for his children. The distance between us is about the same as the distance between your deck and your neighbor's deck which is over 100 feet as measured by the Dutchess County Parcel Access map.

This board has granted fence height variances but they have been for neighbors that are far closer together – typically about 10 to 20 feet.

What is your need for such extraordinary outdoor privacy that 100 feet of separation is not enough?

Mr Charter's reply was only that he desired privacy.

The chairman asked: Mr Charter, do you know exactly where your side line is and where the fence is in relation to it?

Mr Charter replied that the side line location was known and that the existing six ft fence was about nine feet from it.

The chairman asked: The state requires that local ZBAs inquire if a request for a variance could be avoided by the applicant resolving his need by other measures. Have you considered planting vegetation such as trees and bushes along the side line to screen the view?

Mr Charter replied that he had already removed a tree that would have screened the view because it had threatened the house with branches and had created moss on the roof. He also stated that the southern neighbor had planted some vegetation near his side of the property line.

The chairman stated: The state requires ZBAs to grant the minimum variance that would meet the needs of the applicant. That would be to screen the view of your next door neighbor's deck from your deck.

Mr Charter said that he would need 18 to 24 feet of the fence raised to eight feet to shield his view.

The chairman asked if any board members have any comments and would anyone want to make a visit. Mr Perkins and Mr Lawler indicated their desire to visit and would make arrangements with Mr Charter later.

Mr Charter agreed to mail in his plans with an accompanying diagram.

There were no written comments received from the public nor any member of the public in the waiting room wishing to be heard.

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. Go to Departments, then to Zoning Board of Appeals, and then to Applications.

Public comments should be sent to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or email them to zbasec@hydeparkny.us Further detail can be found in the legal notice announcing this agenda item.

Mr McNary made a motion to adjourn the public hearing to the August 26th meeting.

Mr Lawler seconded the motion.

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

LOCUST ON HUDSON

135 Old Post Road Staatsburg, NY
12580

Variance – Section 108-4.3(G)2 To allow construction within the stream corridor changing the undisturbed area from 100 ft. to 0 ft. for construction Incursion in the Waterfront District

Andre Balazs and Rod Morrison represented.

Mr Agrawal motioned to open the public hearing.

Mr McNary seconded the motion.

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

Mr Morrison presented that the applicant had regraded land within the stream corridor for the N Staatsburg Creek. A pond had been created that was intended to recreate a pond on the site shown by a century old map. It would handle overflow from the N Staatsburg Creek and later discharge back into it.

No comments had been received from the public and no members of the public were in the waiting room.

There were no comments from the board.

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. 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 August 3, 2020. Public comments should be sent to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or email them to zbasec@hydeparkny.us Further detail can be found in the legal notice announcing this agenda item.

Mr Lawler made a motion to close the public hearing.

Mr Perkins seconded the motion.

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

A resolution is anticipated to be presented at the August 26th meeting.

SUE MACY

12 West Elm Avenue, Staatsburg NY
12580

Variance – Section 108-5.15 Changing a side yard setback from 5 ft. to 2 ft. to maximize the usable space in the Hamlet Core District

Ms Macy (AKA MacDonald) appeared by audio.

Mr McNary motioned to open the public hearing.

Mr Agrawal seconded the motion.

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

Ms Macy explained that the existing wood shed replaced a canvas structure at the present location and that the small space between it and the house was taken up as a work area for sawing and splitting the wood which is used to heat the house. The adjacent property is being commercially used.

No comments had been received from the public and no members of the public were in the waiting room wishing to be heard.

There were no comments from the board.

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. 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 August 3, 2020. Public comments should be sent to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or email them to zbasec@hydeparkny.us Further detail can be found in the legal notice announcing this agenda item.

Mr Agrawal made a motion to close the public hearing.

Mr Perkins seconded the motion.

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

The ZBA is expecting to have a resolution at the August 26th meeting.

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There was no other business

Mr Perkins made a motion to adjourn.

Mr Agrawal seconded the motion.

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

The meeting is adjourned.

Respectfully submitted,

Herbert Sweet – temporarily assisting the secretary