

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

Minutes
August 26, 2020 7 PM

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

Absent:

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

The next Zoning Board meeting will be held on September 23, 2020

Welcome to the August 26th, 2020 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.

ROLL CALL *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

Due to technical difficulties this meeting was not live streamed on YouTube but our webmaster advised that a phone number had been provided for members of the public to listen to the meeting in real time. The recording was expected to be posted to YouTube later.

Mr McNary made a motion to approve the minutes for July 22, 2020.
Mr Agrawal seconded the motion.

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

PREVIOUS MATTERS

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

Mr Andre Balasz and Mr Rod Morrison were present.

The public hearing was closed on July 22nd and a written comment was received from Christopher Scholz and Ines Elskop within the post public hearing closing period. It should be noted that our Zoning Officer has determined that the ground disturbances are not construction so that no Site Plan is required.

However, a review of the SWPPP plan by our attorney shows that the pond requiring an area variance is a part of an 8.2 acre project on a parcel that is contiguous to a historic site – The Mills Mansion (aka The Staatsburg). According to 6 NY CRR 617.4 Type I actions (9) and 6 NY CRR 617.3(g), a full EAF is required. On receipt of it, the board can then determine what agencies may be involved and proceed with the application.

In subsequent conversation with our attorneys, the applicant said that he would submit a full EAF.

Mr Agrawal made a motion to table the application until the next meeting on September 23, 2020.

Mr Perkins seconded the motion.

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

Michael Lehan

1387 route 9G
Hyde Park, NY 12538

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. The board first needs to make a determination if the new non conforming use is equal or less non conforming than the present non confirming use.

A withdrawal letter from Mr Lehan was received on July 23, 2020.

Mr McNary made a motion to close the public hearing and dismiss the application.
Mr Lawler seconded the motion.

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

Macy, Sue

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**

The applicant, Ms. Sue Macy, was present.

The public hearing for this application was closed at the July 22nd meeting and our secretary advised that no written comments have been received from the public.

Mr Agrawal moved the resolution.

Mr yyy 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
(845) 229-0349**

RESOLUTION TO GRANT AREA VARIANCE

**MACY
12 West Elm Avenue**

Date: August 26, 2020

Moved By: James Agrawal

Resolution #: 20-14Z

Seconded By: David McNary

WHEREAS, the applicant, Sue Macy, has submitted an application for an area variance to permit the construction of a 10' x 20' shed on property located at 12 West Elm Avenue (the "Project"), identified as tax parcel no. 6067-04-995430, in the Hamlet Core District (the "Property"); and

WHEREAS, the Project is depicted on a sketch received June 17, 2020; and

WHEREAS, the applicant seeks an area variance from Zoning Law Section 108-5.15 to permit a side yard of 2 feet where 5 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 July 22, 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 July 22, 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:

1. 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 which uses wood as its primary heating source. The Requested Variance would allow the applicant to place a shed on the Property in order to allow for the storage of firewood. The impact on neighbors from the construction of the shed will be minimal, as that portion of the Property has previously been used to store firewood and the shed will not abut a residential property. Prior to the erection of the shed, the applicant covered the firewood with canopies that repeatedly fell apart. The Project is replacing these canopies with a permanent structure. Any impact from the Project will be a benefit to the neighborhood, as the use of the shed for firewood storage is more aesthetically pleasing than the former arrangement at the Property, i.e., exposed wood covered by an oft-deteriorated canopy.

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

The applicant could place the shed in a location on the Property that is outside of the side yard setback, but doing so would encroach on the Property's relatively small yard. Furthermore, the applicant has alleged that the proposed location of the shed is the most convenient place for the storage of firewood based on its proximity to the road and the entrances to the residence.

3. The Requested Variances may be considered numerically substantial, as the permitted dimensions of the required side yard setback will decrease by 3 feet (60%). However, as discussed herein, the impacts of the Requested Variance will not be substantial.
4. 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 shed in a previously cleared and disturbed area. The shed will result in an insignificant amount of ground disturbance and an insignificant increase in impervious surface area at the Site because it will occupy the same area that has previously been used for firewood storage. 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.

5. 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:

1. Payment of all fees and escrow.

Adopted: August 26, 2020

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 McNary made a motion to continue the public hearing from July 22nd.
Mr Lawler seconded the motion.

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

Mr Peters, the applicant, was present and provided a brief summary of his application. He confirmed that the side yard setback of 6 feet included the step.

Our webmaster advised that there were no members of the public in the Zoom Waiting Room that wished to be heard.

Our secretary advised that she had not received any written comments from anyone in the public that wished his or her remarks to be read.

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 September 8, 2020. They should be sent to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or email them to zbasec@hydeparkny.us

The board is expecting to have a resolution at the next meeting on September 23rd.

Mr Agrawal made a motion to close the public hearing.
Mr McNary seconded the motion.

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

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 resume the public hearing.
Mr Lawler seconded the motion.

*(5) AYE (0) NAY (0) ABSENT - MOTION CARRIED*All in favo

Mr Charter, the applicant, was present.

At the July 22nd ZBA meeting, Mr Charter told us that he wished to screen the view between his back yard deck and his southern neighbor's back yard deck which is about 100 feet away and also from the neighbor's above ground pool which is south of the deck and about 150 feet away. There was a tree to the south of his house that provided some screening but he stated that it was threatening the house and had to be removed.

ZBA members have visited the site and observed the existing 64 foot long 8 foot high fence and the

view of the neighbor's deck and pool from Mr Charter's deck.

At the July 22nd meeting Mr Sweet commented that the board had previously granted variances for eight foot high fences but only the minimum necessary for the privacy of the applicants.

When asked if the alternative of adding vegetation for screening had been considered, he stated that he did not want to do that for fear that it would become overgrow and, being close to the house, it would threaten the house as the removed tree previously had.

Mr Lawler indicated a concern whether the possibility of using vegetation for screening was considered and Mr Charter responded that he did not want to do that.

Our secretary advised that there were no public comments received by mail or email.

Our engineer advised that there was no one in the waiting room wishing to comment.

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 may be sent but must be received by 4 PM on September 8th and should be sent to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or emailed to zbasec@hydeparkny.us Further detail can be found in the legal notice announcing this agenda item.

A resolution is expected to be provided at the September 23rd ZBA meeting.

Mr Agrawal made a motion to close the public hearing.
Mr Lawler seconded the motion.

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

NEW APPLICATIONS

Enclave – sign

Cream Street and Long Branch Road
Hyde Park, NY 12538

Variance – Section 108-24.1F(2)(b) Changing maximum letter height from 10 in. to 18 in for letters T & E; and Section 108-24.1F(2)(b) changing maximum letter height from 10 in. to 24 in. for letters H & L for the entrance sign in the Greenbelt District.

Mr Ken Casamento was present to represent The Enclave and provided a brief description of the project.

Mr McNary made a motion to set the public hearing for September 23rd.

Mr Lawler seconded the motion.

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

Tarsio / Rodriguez

13 Curry Lane, Hyde Park

Variance – Section 108-5.15 Changing side yard setback from 25 ft. to 3 ft. 0 in. for a new three car two-story garage on a narrow lot that does not allow for 25 ft. setback; and **Section 108-5.15** Changing front yard setback from 50 ft. to 40 ft. 0 in. for an addition to the existing single family home in the Waterfront District.

Ms Tarsio was present and provided a brief description of the project.

Mr Lawler made a motion to set the public hearing for September 23rd.

Mr Agrawal seconded the motion.

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

There was no other business.

Mr Agrawal made a motion to adjourn.

Mr Lawler seconded the motion.

All voted in favor and the meeting was adjourned.