

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

Minutes
September 23, 2020 7 PM

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

Absent:
Brendan Lawler

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

The next Zoning Board meeting will be held on October 28, 2020

Welcome to the September 23, 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 August 26, 2020.
Mr Agrawal seconded the motion.

(4) AYE (0) NAY (1) 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 not 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.

Thus far, that EAF has not been received. The board is continuing to wait for the EAF.

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 was present.

The public hearing for this application was closed on August 26, 2020 with comments acceptable until September 8, 2020.

No public comments were received.

Mr McNary moved the motion.

Mr Agrawal seconded the motion.

(4) AYE (0) NAY (1) 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

**James Peters
7 West View Drive**

Date: September 23, 2020

Moved By: David McNary

Resolution #: 20-06Z

Seconded By: James Agrawal

HEREAS, the applicant, James Peters, is seeking an area variance from Section 108-5.15 changing the front yard setback from 50 ft. to 48 ft. and changing the side yard setback from 20 ft. to 6 ft. for a preexisting attached deck in the Neighborhood District at 7 West View Drive identified as tax parcel 133200-6163-01-444626-0000 and

WHEREAS the property was recently purchased by Mr. Peters and

WHEREAS the deck was build by the previous owner and

WHEREAS the deck is situated behind the existing garage and is not visible from the street and

WHEREAS the applicant alleges that a fence to the south of the deck at the side yard property line blocks the view of the deck from the adjoining neighbor's house and

WHEREAS the applicant alleges that the deck could not have been placed at another location adjoined to the rear of the house because of the location of the septic system and extensive rebuilding that would be needed for the rear of the house and

WHEREAS, a duly noticed public hearing was held on July 22, 2020 and adjourned to August 26, 2020, via remote meetings held by the Zoning Board of Appeals in accordance with New York State Governor Cuomo's Executive Order 202.1 and the 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 August 26, 2020 meeting but kept the record open for the submission of written comments until 4 PM on September 8, 2020 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 granting of the Requested Variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck is a common addition and is shielded from public view due to its location behind the existing garage. The addition will occupy space that is already used by the applicants and other properties in the area have residential structures similarly located within their front and side yard setbacks.
2. The benefit sought by the applicants cannot be achieved by some method feasible for the applicants to pursue other than an area variance. The deck is preexisting and its location is prescribed by the location of the existing septic system. As the dwelling is already located within the front and side yard setbacks, it would be impossible to construct an attached deck without infringing on the setbacks.
3. The Requested Variance for the front yard from 50 ft to 48 ft is insubstantial and inconsequential as well being as the deck has been placed to the rear of the house. The Requested Variance to the side yard property line from 20 feet to 6 feet is substantial but not unreasonable being as the deck is approximately the same distance from the side property line as the existing garage.
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 construction of the deck will result in an insignificant ground disturbance and an insignificant increase in impervious surface area at the Site.
5. The difficulty is 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 escrows.

Adopted:

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

Roy 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 Charter was not present.

The public hearing for this application was closed on August 26, 2020 with comments acceptable until September 8, 2020.

No public comments were received.

Mr Agrawal moved the motion.

Mr Perkins seconded the motion.

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

Town of Hyde Park Zoning Board of Appeals

4383 Albany Post Road

Hyde Park NY 12538

(845) 229-5111

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RESOLUTION TO GRANT AREA VARIANCE

Roy Charter

15 Rogers Road

Date: September 23, 2020

Moved By: James Agrawal

Resolution #: 20-11Z

Seconded By: Richard Perkins

WHEREAS, the applicant, Roy Charter, has submitted an application for an area variance to permit the increase in height for an existing stockade fence from six feet to eight feet, a fence with a length of 64 feet at 15 Rogers Road, identified as tax parcel no. 6265-03-172188, in the Neighborhood District; and WHEREAS, a duly noticed public hearing was held on July 22, 2020 and continued to August 26, 2020, via remote meetings held by the Zoning Board of Appeals in accordance with New York State Governor Cuomo's Executive Order 202.1 and the 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 August 26, 2020 meeting but kept the record open for the submission of written comments until 4 PM on September 8, 2020; 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 of fact:

- a. The applicant seeks the Requested Variance in order to provide the Property, as well as the parcel immediately to the south, 9 Rogers Road, tax no. 6265-03-172172, with additional privacy. The increase in height of the fence to 8 ft is meant to block the view of the deck and pool at 9 Rogers Road from the applicant's deck.
- b. Due to the local topography, the Property is situated on a hill alongside the parcel at 9 Rogers Road, and the view from the applicant's deck looks down on the back yard of 9 Rogers Road.
- c. The deck of the adjacent home at 9 Rogers Road is approximately 39 feet from the existing 6 ft stockade style fence that is proposed to be heightened. The applicant alleges that the existing fence is nine feet from the property line and a measurement at Dutchess County Parcel Access indicates that the deck at 9 Rogers Rd is 30 ft from the property line.
- d. The applicant's deck is approximately 100 feet from the deck at 9 Rogers Road according to a measurement at Dutchess County Parcel Access.
- e. The applicant's deck is separated from the above ground pool at 9 Rogers Road by approximately 145 feet according to a measurement at Dutchess County Parcel Access.
- f. Vegetation between the Property and the pool at 9 Rogers Road screens the latter from view.
- g. The applicant has alleged that a tree that had screened the view between the two decks was threatening and damaging the dwelling on the Property and had therefore been removed and
- h. Due to existing vegetation, a 64-foot long fence is not necessary to provide privacy between the two parcels.
- i. The applicant need only increase the height of approximately 24 feet of the fence in order obtain the desired screening.

- j. The current 64-foot long fence is partially visible from Rogers Road and would be more visible if increased in height to 8 feet.
- k. The soil in the vicinity of the fence between the two decks is hard, rocky, and not suitable for the planting of vegetation.

BE IT FURTHER 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 may produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed fence would be 8 feet high and 64 feet long. Such a fence would create a large and imposing structure between the two properties, which may cause a detriment to other property owners in the area. Such a fence would be out of character with the neighborhood, as other fences in the area comply with the 6-foot limitation. If the increase in fence height were to be limited to a smaller portion of the fence located to the rear of the dwelling on the Property, rather than a 64-foot portion, the impact on neighbors and the community would be significantly smaller. The fence would be less imposing and present less of a visual intrusion on the community.
2. The benefit sought by the applicants cannot be achieved by some method feasible for the applicants to pursue other than an area variance. Vegetative screening and the erection of accessory structures such as arbors would be impractical to achieve considering the rocky soil conditions of the back yard.
3. The Requested Variance of increasing a 64 foot long stockade fence from a height of six feet to a height of eight feet is 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 fence already exists and the granting of a variance for a portion of the fence to a height of eight feet will not result in any ground disturbance or have an impact on the local environment.
5. The difficulty is self-created.

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

1. That the increase in height of the existing fence from 6 feet to 8 feet be limited to a 24 foot section to the rear of the house.
2. That a 3 foot addition at each end of the heightened section tapering from 8 feet to 6 feet be granted for aesthetic purposes.
3. Payment of all fees and escrows.

Adopted:

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

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.

Mr Agrawal made a motion to open the public hearing.

Mr McNary seconded the motion.

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

Mr Casamento provided a brief description of the application.

There were no members of the public in the waiting room that wished to speak on this application.

There were no written comments received from the public.

Our attorney advised that the application, under 239m, be sent to Dutchess County Planning.

Mr Sweet moved to send the application to Dutchess County Planning.

Mr McNary seconded the motion.

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

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 October 5, 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 October 28, 2020.

Mr McNary made a motion to close the public hearing.

Mr Agrawal seconded the motion.

(4) AYE (0) NAY (1) 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.

Mr Agrawal made a motion to open the public hearing.

Mr McNary seconded the motion.

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

Ms Tarsio made a brief presentation of the application.

Ms Moss advised that the large room above the garage will be office space but will not be a Home Occupation.

There were no members of the public in the waiting room that wished to speak on this application.

There were no written comments from 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. 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 October 5, 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 October 28, 2020.

Mr Agrawal made a motion to close the public hearing.

Mr McNary seconded the motion.

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

NEW APPLICATIONS

Jennifer Mastroeni

9 Gary Drive
Hyde Park, NY 12538

Variance - Section 108-4.3B (5) changing distance to allow for the keeping of chickens in the Neighborhood District

The applicant has provided the number and weight of the chickens. There will be 6 two pound chickens. For this number and weight of animals, 792 sq ft of available land in which to conduct animal husbandry is required.

The applicant has provided estimates of the distances from the edge of the area where animal husbandry will be conducted to 9 neighboring residences within 250 ft. She has also provided estimates of the distances to 5 wells and 4 residences within 200 ft. of the revised manure storage location.

The applicant has confirmed that the chicken coop is more than 5 ft from the side and rear property lines and is less than 10 ft high thereby meeting the definition of Shed and not requiring a variance.

Jennifer Mastroeni was present and gave the board a description of the project.

It was confirmed by Ms Mastroeni that there will be no roosters.

Mr McNary asked why the manure storage location had been moved and the reason was to lower the number of variances needed.

Mr Agrawal asked if the garbage can storing the manure was considered to be enclosed. Our Zoning Officer confirmed that it was as the can had a secure lid.

Ms Mastroeni confirmed that the manure is removed once a week.

Our attorney confirmed that no SEQRA or 239m circulation was needed and also recommended that the applicant commence pre – app with the Zoning Officer and the Planning Board for the Site Plan Approval as possible changes required by the Planning Board could impact the distance variances sought.

Mr McNary made a motion to set the public hearing for October 28, 2020.

Mr Agrawal *seconded* the motion.

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

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 to: ZBA Secretary at 4383 Albany Post Rd, Hyde Park, NY or email them to zbasec@hydeparkny.us

Hudson Valley Hospice, Inc.

542 Violet Ave.
Poughkeepsie, NY 12601

Variance – Section 108-5.15 Changing bulk regulation scale from 6,000 sq. ft. to 30,000 sq. ft. for a non single family residence in the Neighborhood Core District.

Michael Kaminski, President & CEO; Jaime Machado, Architect; and Michele Zerfas were present.

Mr Kaminski provided a brief description of the project.

The number of hospice patients in Dutchess & Ulster counties has grown from 100 to 385 per day in the past five years. Patients now have to be moved out of the area. A local facility

is needed. The facility will have beds for 14 clients and will have an approximately 15,000 sq ft footprint.

The Planning Board is expected to assume lead agency and proceed with the SEQRA evaluation. That could happen as soon as its next meeting on October 7th. The ZBA will not be able to close the public hearing until that has been completed. Following a ZBA approval resolution, the Planning Board can then continue the process which is to complete a site plan evaluation.

Mr McNary made a motion to set the public hearing for October 28th.

Mr Agrawal seconded the motion.

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

There was no other business.

Mr Agrawal made a motion to adjourn.

Mr Lawler seconded the motion.

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

The meeting was adjourned.

Respectfully submitted,

Herbert Sweet

temporarily providing support to ZBA Secretary during the pandemic