

Town of Hyde Park  
**ZONING BOARD OF APPEALS**  
4383 Albany Post Road  
Hyde Park NY 12538  
(845) 229-5111, ext. 2

**RESOLUTION TO GRANT AREA VARIANCES**

Kochem – Animal Husbandry  
26 Bella’s Way

**Date: June 22, 2022**

**Motion: Paul Donnelly**

**Resolution #22-07Z**

**Second: Jim Agrawal**

WHEREAS, the applicants/owners, John & Kelly Kochem, have submitted an application for area variances to allow animal husbandry for chickens and a rooster closer to neighboring residences and wells (the “Project”) at property located at 26 Bella’s Way, Poughkeepsie, NY 12601 identified as tax parcel no. 6164-02-901912, in the Greenbelt Zoning District (the “Site”); and

WHEREAS, the Project is depicted on drawings prepared by Mr. Kochem dated May 5, 2022 (the “Plan”), and measurements determined using Dutchess County Parcel Access (the “Aerial Measurements”); and

WHEREAS, in a memo dated May 12, 2022, Zoning Administrator Kathleen Moss determined that the coop (chicken’s house) is considered “storage” for manure based on the fact that the manure, regardless of its small quantity, remains on the property for at least seven days before being removed off-site; and

WHEREAS, the applicant seeks the first area variance (“First Variance”) from Zoning Law Section 108-4.3 B(5)(b) to change the distance of the chicken and rooster pen to four residences, from minimum of 350 feet (or 250’ without rooster) to 220 feet from 40 Bella’s Way (tax grid no. 6164-02-906943); 152 feet from 36 Bella’s Way (tax grid no. 6164-02-904927); 135 feet from 20 Bella’s Way (tax grid no. 6164-02-901898); and 245 feet from 16 Bella’s Way (tax grid no. 6164-02-907878); and

WHEREAS, the applicant seeks a second area variance (“Second Variance”) from Zoning Law Section 108-4.3 B(5)(d) to change the distance of unenclosed chicken manure storage (the coop) to two wells, from minimum of 200 feet to 160 feet to the applicant’s own well, and 170 feet to 20 Bella’s Way (tax grid no. 6164-02-901898); and

WHEREAS, the applicant seeks a third area variance (“Third Variance”) from Zoning Law Section 108-4.3 B(5)(d) to change the distance of unenclosed chicken manure storage (the coop) to three residences, from minimum of 250 feet to 241 feet from 40 Bella’s Way (tax grid no. 6164-02-906943); 201 feet from 36 Bella’s Way (tax grid no. 6164-02-904927); 209 feet from 20 Bella’s Way (tax grid no. 6164-02-901898); 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, a duly noticed public hearing was held on April 27, May 25, and June 22, 2022 during duly noticed meetings during which all those who wished to speak were heard; 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 Variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The applicant initially applied for animal husbandry of chickens and a rooster. The chickens are contained in a 4,000+ square foot pen in the woods behind the applicant's house, and the chickens are relatively quiet. This noise is further mitigated by the forest cover. Furthermore, chickens eat bugs and ticks, which will benefit the neighborhood.

The rooster, however, can be a detriment to the peace of the neighborhood as it crows frequently and loudly throughout the day. Removing the rooster will not only reduce the severity of the First Variance, changing the required dimension from 350 feet to 250 feet, but will also reduce the level of noise. Husbandry of the rooster may violate Town Law Chapter 75-4 M, which specifies that loud birds which disturb the peace are an "unreasonable noise" and are subject to fines.

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

The Kochem Family homeschools their children and uses animal husbandry of chickens as part of the curriculum. If the applicant wishes to conduct animal husbandry on their own property, they must seek variances as neighboring houses are too close to any available grazing or housing area.

The Zoning Board of Appeals is required to grant the minimum variance necessary. Removal of the rooster greatly decreases the variances. As stated above, this lessens the minimum required setback from 350 feet to 250 feet. Furthermore, the applicant has stated they do not need the rooster to conduct animal husbandry of chickens. The benefit as stated by the applicant is to gather eggs from chickens and teach responsibility to their children. The

applicant has also stated they do not want to fertilize eggs to increase their number of chickens. The applicant has further stated they maintain the rooster only for crowd control and protection from predators. As the chickens are housed safely in a pen and do not need the rooster to produce eggs, there is no need for the rooster. The First Variance will be greatly decreased by removal of the rooster, the neighborhood will not be affected by loud rooster crows, and the applicant will still receive the intended benefit.

3. The First Variance is numerically substantial; but the Second and Third Variances are not.

The First Variance will be made less substantial by conditioning its approval on the removal of the rooster. Animal husbandry with roosters may be conducted no closer than 350 feet to nearby residences; however, animal husbandry with only chickens may be conducted 250 feet to nearby residences – a difference of 100 feet. The removal of the rooster will greatly decrease the area variance as well as the noise levels.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the general neighborhood or district.

Regarding the Second Variance, there is no discernable concern for pollution of the wells or aquifer. Dutchess County Agricultural Environmental Management Program Team (AEM) created a summary report of the property, which reflected there is no concern for the environment. Storage of chicken manure will be contained to the coop (chicken's house), which has a solid floor and is elevated above ground. The applicant cleans the coop weekly and takes the manure off-site. While the manure storage (coop) requires variances, the pen at large adheres to Section 108-4.3 B(5)(a). This section specifies animals may not be housed, fed, or grazed within 50 feet of a well. The pen, and any potential manure throughout it, is well outside this radius. The applicant does not spread manure throughout the pen or anywhere else on the property.

Regarding the Third Variance, there is little possibility of chicken odors carrying to the nearby residences. In the same aforementioned summary report, AEM noted upon visiting the site, the chickens are cared for well and there was no odor coming from the chickens.

5. The difficulties are self-created. Without approvals, the applicant purchased chickens and a rooster and has participated in animal husbandry for several years. They sought these area variances to remedy a *Notice of Violation and Order to Remedy* from the Zoning Administrator.

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

1. Removal of rooster from 26 Bella's Way.

2. The granted variances are specific to 13 chickens only; any change in animal type or addition of animals will result in revocation of the variances.
3. Payment of all fees and escrow.
4. Pursuant to Section 108 – 33.5 F (1), the authorized activity must commence within one year from the date of issuance, otherwise this variance is revoked.

Adopted:

ROLL CALL VOTE BY SECRETARY

James Agrawal	YES	
Gerald Bowen	YES	
Paul Donnelly	YES	
Richard Perkins	YES	
David McNary	YES	CARRIED

Filed by,

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**Sarina Teuschler**  
Secretary to the Zoning Board of Appeals