



**ZONING BOARD OF APPEALS**  
4 High Street Saugerties, NY 12477  
Tel: (845) 246-2800, ext. 358  
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**March 2, 2026**

**PRESENT:** Bill Schirmer (Chair), Joseph Mayone, Tim Scott Jr. and Holly Strutt (Alternate).

**ALSO PRESENT:** Becky Bertorelli (Zoning Board Secretary), Alvah Weeks (Code Enforcement Officer) and Sean Weaver (Building Inspector).

**ABSENT:** Henry Rua (Vice-Chair) and Randy Ricks.

Schirmer called the meeting to order at 7:01 pm. Asked Strutt to join as a member in Rua's and Ricks' absence. Strutt accepted. Due to the length of the agenda under New Business the ZBA is adjusting the agenda items for this evening, reviewing "Old Business" first, since there are no public hearings.

**PLEDGE**

**PUBLIC HEARING**

NONE

**OLD BUSINESS**

**PUTTIN PLUS: AREA VARIANCES**

455 Washington Ave. Ext.  
Saugerties, NY 12477  
File #: 25-009  
SBL #: 18.1-3-57.100

Presented by Jennifer Rossano-Koschitzki, owner. The applicant is present this evening in hopes of a decision on the requested 10' side yard setback area variance for the replacement building and the 24' side yard setback area variance and 37' rear yard setback area variance of an existing building that has been in that location since 2011. The public hearing was opened and closed at the February 2, 2026 monthly meeting. The application was referred to Ulster County Planning Board (UCPB) and the applicant received a response of "No County Impact".

Schirmer-the Board can entertain a decision at this time. A motion was made by Mayone, seconded by Scott, to approve the area variances as requested. Schirmer-the Board will now consider the five (5) criteria regarding the balancing test that states that the Board shall balance benefit to the applicant with detriment to health, safety and welfare to the community:

1. It was determined that an undesirable change will not be produced in the character of the neighborhood nor would a detriment to nearby properties be created.
2. There is no other feasible method for the applicant to pursue, other than the area variances, because the applicant is making a non-conforming structure less non-conforming by removing it and replacing it with a structure that is further inside the property lines while rectifying non-conformities on a structure that has been located on the site since 2011.

3. The requested variance is substantial for the pre-existing structure but it has been located on the site since 2011 and the applicant is rectifying the non-conformities with the area variances.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.
5. The alleged difficulty is self-created for the proposed removal and replacement building but the applicant is making the non-conformity less and the alleged difficulty is not self-created for the pre-existing building as they purchased the property with the issue.

Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried.

### **NEW APPEALS**

#### **DIYDS, LLC: INTERPRETATION OF §245-56 OF TOWN OF SAUGERTIES ZONING CODE**

1776 Route 212

Saugerties, NY 12477

File #: 26-002

SBL #: 27.4-5-4.200

Presented by Khattar Elmassalemah, Preatorius & Conrad, P.C. The applicant is looking for an interpretation of §245-56 of the Town of Saugerties zoning code, General Definitions, specifically “Horticultural Specialties” and “Indoor Agriculture” to determine how the proposed indoor cannabis cultivating facility should be classified. The parcel is approximately 1.2 acres and is located on Route 212 in the Highway Business (HB) zoning district with Gateway Overlay (GO). There are two existing buildings located on site that have been vacant for the last two years. The applicant is proposing a micro cannabis facility, to include growing, processing and production. The site is not changing. Proposing no more than 10 employees. The initial determination in the Planning Board workshop was “Horticultural Specialty” which is an allowed use within the Highway Business (HB) zoning district with site plan review and special use permit. However, “Indoor Agriculture” specifically mentions cannabis in the definition and that use is only allowed in the Industrial (I) zoning district. The applicant is hoping that the ZBA will agree with horticultural specialty as it is an allowed use.

Schirmer-the Board’s purview will be to determine where the use fits best between the two definitions. Elmassalemah-the State Marijuana and Taxation Act (MRTA) does address that municipalities can not be more restrictive than the State. Schirmer-the issue with horticultural specialties is that definition includes the sale of the product. However, the sale of cannabis to the public is not permitted in the Town of Saugerties. Evan Seplow (applicant)-the NYS License that we have received does allow retail if allowed in the future within the Town of Saugerties. Schirmer-we would request a copy of the licensing approvals to see what is allowed under such license by NYS. Strutt-you have mentioned a third building in the second phase of this site plan. Where would that be located? Elmassalemah-it would be located in the northeast area of the parcel. That is not proposed with this initial site plan but will be added by amendment in the future depending on business.

A motion was made by Mayone, seconded by Strutt, to declare this a Type II action under SEQR.

Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried. A motion was made by Mayone, seconded by Scott, to set the public hearing for the April 6, 2026 monthly meeting.

Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried. Schirmer-reiterate

that certified receipts of the mailers as well as delivery receipts are required to be submitted to the ZBA secretary before the public hearing can be opened.

**MIRTO CPA, LLC: INTERPRETATION OF §245-21 OF THE TOWN OF SAUGERTIES ZONING CODE**

436 Route 212  
Saugerties, NY 12477  
File #: 26-003  
SBL #: 17.16-1-14

Schirmer-the applicant is requesting an interpretation of §245-21 of the Town of Saugerties zoning code as it relates to an additional 2' x 6' sign on the second free standing sign that was approved by ZBA variance in the decision dated 8/23/07. The applicant is also requesting a bulk area variance to permit the sign should the interpretation deem the variance is required.

Presented by Robert Rowan, representing Mirto CPA for owner Melinda Rowan. The business has been located in this building for 2.5 years along with two other businesses. The pre-existing businesses have one free standing sign each, one for Starr Collision and one for State Farm Insurance. The applicant is proposing to add a second sign to the stand containing the State Farm Insurance business sign. The additional sign will provide ease of access for customers of Mirto CPA and be attached with a metal base and allow clear sight lines. Schirmer-the issue the ZBA needs to address does not need to take in consideration the existence of two free standing signs on one parcel as this was approved via ZBA variance already. The existing sign on the freestanding post that the applicant would like to place their sign has a sign that is already pre-existing and is larger than the 12 square foot restriction but was approved via building permit previously. The new sign will meet that 12 square foot restriction and between the two signs the freestanding structure will be well within the 96 square foot restriction. Strutt-just to be clear there are two freestanding sign structures already where only one is allowed in our zoning but the second received a ZBA variance, so both are permitted at this point. Schirmer-correct. Rowan-there are only three storefronts in the building so it is safe to say that no other signs will be added in the future as all businesses will now have a sign.

A motion was made by Strutt, seconded by Mayone, to declare this a Type II action under SEQR. Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried. A motion was made by Mayone, seconded by Scott Jr., to set the public hearing for the April 6, 2026 monthly meeting. Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried. Schirmer-reiterate that certified receipts of the mailers as well as delivery receipts are required to be submitted to the ZBA secretary before the public hearing can be opened.

**ELIZABETH REECE: INTERPRETATION OF THE BUILDING INSPECTOR/ZONING ADMINISTRATOR'S DETERMINATION DATED MARCH 11, 2025.**

7 Tomsons Road  
Saugerties, NY 12477  
File #: 26-001  
SBL #: 18.1-4-5.100

Schirmer-the applicant is seeking an interpretation of the Building Inspector/Zoning Administrator's determination dated March 11, 2025 classifying the proposed BESS as an "electric service" as defined

in the Town of Saugerties Zoning Code, and therefore being permitted in the Industrial (I) zoning district by special use permit and site plan review.

The matter was presented by Elizabeth Reece, a third-party appellant, along with her associate, Tanya Tripi-Weiss. Also present was the applicant for the proposed battery energy storage facility, KCE NY 34, LLC. The applicant's counsel, Hyde Clark, and KCE Developer, Paul Williamson, were permitted by the Board to speak, as the applicant has a vested interest in the outcome of this application.

Reece-looking for interpretation as mentioned. Have requested verification of the filed Zoning Administrator's determination and have not received it.

Schirmer-the first thing the ZBA board members will have to determine is if this interpretation was submitted within the mandated 60-day timeframe required by NYS Department of State Law. The ZBA will have to confer with their attorney to look further into the regulations and requirements within the NYS Law. The question also arises as to whether a third party appellant, which is what Ms. Reece would be considered, and has a longer than 60-day time period from when the determination is filed. For instance, does that 60-day period start upon public knowledge of the determination. Reece-first heard about the proposed project at the January 21, 2026 Town Board meeting when Supervisor Costello mentioned it. Submitted a FOIL to receive the determination correspondence with the BESS applicant. I have requested several times to get a copy of the date stamped received determination but have yet to receive that. Weeks-the determination became public record and was filed within the Building Department files, as required, on the date it was signed. The determination itself does not get filed with any other department within the Town at that time. Schirmer-the determination was issued in March 2025. The ZBA will have to determine whether this will be considered a timely interpretation request and if the third party appellant has a vested interest in the outcome of the proposed project.

Clarke-the applicant received the signed determination letter from the Zoning Administrator, dated March 3, 2025. Filed the same date. The full application was submitted to the Planning Board on December 9, 2025. The ZBA will have to determine whether tolling applies. Strutt-the letter that was submitted and signed by the Zoning Administrator was not site specific but specific to the use within the Industrial Zoning District. Tripi-Weiss-the letter of determination from March 2025 was not confirmed to be a final determination. There are two applicants for the proposed area of Tomsons road. This use does not meet the "electric service" definition within the zoning. Ms. Reece has submitted this interpretation to appeal the classification of the use as it does not match the intended definition within the zoning. Strutt-the first thing this Board will have to determine is whether this is a timely appeal. It is understood that the applicant submitted a Planning Board application in December 2025 but requested it to be held from the agenda for the initial review until the February 17, 2026 monthly meeting. Reece-why was the public not informed of this proposed use prior? Clarke-there is no public notice requirement prior to submission to the Planning Board. The 60-day tolling period needs to be applied from the date of determination. Williamson-did request a delay for the first presentation to the Planning Board to allow the developer time to host a public forum and gather public information prior to the initial meeting. The community open house was hosted on February 5, 2026.

Schirmer-the ZBA will have to determine if the applicant is an aggrieved third party appellant and if the interpretation was requested in a timely manner. The Board will have to confer with their attorney. If the applicant and the ZBA can agree to adjourn on the determination of timeliness to the April 6, 2026 monthly meeting it will give the Board more time to collect information to make a decision on such.

Reece-our contention is that the determination is incorrect. Agree to adjourn the determination on timeliness until the April 6, 2026 monthly meeting.

Schirmer-the BESS applicant did send an email to the ZBA prior to this evening's meeting but it came in after the offices were closed. The applicant provided a copy of the correspondence with Ms. Reece. Clarke-we would like to move forward with the public hearing. Strutt-timeliness is still in question. Schirmer-we plan on adjourning the determination of timeliness to stop the clock on the 62-day requirement of a public hearing to ensure that this application will be moving forward. If it is determined that Ms. Reece's request for interpretation did not meet the timeliness requirements the application will not be considered. Once we set a public hearing we are confirming that the appeal will be considered. The BESS applicant can move forward with their Planning Board review but no decisions can be made until the ZBA has made their decision regarding the interpretation. Clarke-the ZBA will be using this time to see if the appellant is aggrieved as a third party as well. The interpretation is on the use classification not the project. Schirmer-just to let the appeal applicant know that the public hearing will require her to mail out certified, return receipt mailers to all individual property owners located within a 500' radius of the site of the proposed project. She will not even be on that list as her property is located outside of that 500' radius. There are a lot of matters within this application that will need to be discussed.

A motion was made by Mayone, seconded by Scott, to adjourn the determination of timeliness until the April 6, 2026 monthly meeting as Ms. Reece has agreed with this. Board vote: Strutt-Aye, Scott Jr. -Aye, Mayone-Aye, Schirmer-Aye. Motion carried with mutual agreement between the applicant, Ms. Reece, and the Zoning Board of Appeal members.

### **BOARD DISCUSSION**

- A motion was made by Scott Jr., seconded by Mayone, to approve the draft minutes of the February 2, 2026 meeting. Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried.
- The Planning Board meeting minutes were received.

### **ADJOURNMENT**

A motion was made by Mayone, seconded by Scott Jr., to adjourn the meeting as there are no further items to discuss. Board vote: Strutt-Aye, Scott Jr.-Aye, Mayone-Aye, Schirmer-Aye. Motion carried. Meeting adjourned at 8:14 pm.

Respectfully submitted,

Becky Bertorelli  
*Secretary*  
*Zoning Board of Appeals*