



**TOWN OF VESTAL
ZONING BOARD OF APPEALS**
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ZBA BOARD MEMBERS:

Chairman: Jennifer Kakusian
Members: Mark Tomko
Tom Smallcomb
Thomas Jackson, Jr.
Alternates: Eugene Burns
John Taylor
Attorney: Matthew Butler

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

RECEIVED

AUG 17 2020

VESTAL CODE

In the Matter of the Application of

Pani Shah/Vista Square/Bella Punta

DECISION

For variance as required by Chapter 24, Article IV,
Division 1, Section 24-152, Division 2, Section 24-185(b)(1)(b) and
Chapter 24, Article IV, Division 1, Section 24-152, Division 2,
Section 24-185(b)(3)(b) of the Code of The Town of Vestal, Broome
County, New York
(Zoning Ordinance)

At a meeting duly scheduled for August 13, 2020 the Zoning Board of Appeals of the Town of Vestal held public hearing to consider the application of Pani Shah/Vista Square/Bella Punta, regarding premises situate at 2001 Owego Road, (B.C.T.M.P.#: 172.15-1-14) for variances as required by Chapter 24, Article IV, Division 1, Section 24-152, Division 2, Section 24-185(b)(1)(b) and Chapter 24, Article IV, Division 1, Section 24-152, Division 2, Section 24-185(b)(3)(b) of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required lot frontage and having less than the required side yard setback in a C-2 Community Business zoning district. A 98.77' variance is requested to allow the reconfiguration of lot lines on several properties owned by the applicant and create a new lot line with only 51.23' of lot frontage where 150' is required by code and a 14.5' side yard setback variance is requested to the required 20 foot code if the first motion is granted.. Appearing in support of the variance request is the applicant Pani Shah. One neighbor appeared to question and understand the application.

Proof of publication of the notice of the hearing in the Town Crier was submitted, and the Board's letter to the applicant in response to her application was read. The applicant submitted a brief letter and survey map with plot lines for the property and adjoining properties.

Board members present, Mark Tomko, Acting Chairman, Tom Smallcomb, and Thomas Jackson. All Board members stated that they had visited the site and were familiar with the character and nature of the area and this property.

After due deliberation, the Zoning Board of Appeals makes the following findings of fact and conclusions of law:

Applicant is requesting a variance to create a new lot line with 51.23' of frontage on Owego Road in order to reconfigure lot lines on and with adjoining properties. The applicant stated that the time has come for her to try and create three properties in a C-2 zoning district and one in a RR zoning district with the properties she owns. The creation of this new lot with only 51.23' of frontage will be used to connect the RR property in back of the other properties (Bella Punta) to road frontage with the redrawing/moving of lot lines. The applicant is looking to split the 2001 Owego Road property in 2, creating a frontage of 51.23' and then combining the rest of the lot and frontage with

the adjoining 1915 Vestal Parkway West property immediately to the east. The barn that is located on this property, 2001 Owego Road, as well as the house are in poor shape and are uninhabitable. The house will be located on 1915 Vestal Parkway West lot when the new lot lines are established. By doing this, the house would be situated 5.5' from the side lot setback and would need a variance for that if this request is approved. It is the intention of the applicant to remove/raze the barn in the near future, as well as the house. The Bella Punta property located behind (to the south) is RR and on a very steep hill and has no plans for development due to the topography.

The meeting was opened to the public, and Mr. David Elder who resides at 2005 Owego Road asked to be heard. He was not aware of what was being proposed and wanted to know what the applicants plans were. He stated that years ago there were a motel, dry cleaner, a restaurant and other businesses in the past and he was concerned about what business might be placed on the property adjoining his. He also agreed that the barn and house were in bad shape and should not be used but wondered why access to the back Bella Punta property couldn't be off of the Parkway instead of Owego Road. The maps were reviewed with Mr. Elder showing him how the property would be divided and by moving the access to Bella Punta from the Parkway to Owego Road actually creates a buffer from his property to the newly proposed C-2 lot being created. The needed frontage to allow for building in RR zoning in large plots of land is 50' so this fits that format although this land is /lot is zoned C-2. The public portion was closed after Mr. Elder had no more questions or concerns.

This is a Type II area variance and the provisions of SEQR do not apply.

A motion was made by Mark Tomko to grant a 98.77' +/- **variance to allow for a lot frontage of 51.23'** +/- at 2001 Owego Road (B.C.T.M.P.# 172.15-1-14) to Pani Shah/Vista Square/Bella Punta as presented to the Board. Thomas Jackson seconded the motion. A vote was called and:

Therefore in consideration of the above, and in balancing the factors of 1.) Change in character of locality; 2.) Alternate methods to achieve what the applicant desires; 3.) The degree of variance sought; 4.) Effect on the physical conditions existing in the locality; and 5.) Any self-created difficulties, the request for a **lot frontage variance** in the amount of 98.77' +/- is hereby **GRANTED** by a 3-0 vote. The vote was unanimous and the votes were cast as follows: Acting Chairman, Mark Tomko-AYE, Thomas Smallcomb-AYE, Thomas Jackson-AYE.

A second motion was made by Mark Tomko to grant a 14.5' +/- **variance to allow for a side yard setback of 5.5'** +/- at 2001 Owego Road (B.C.T.M.P.# 172.15-1-14) to Pani Shah/Vista Square/Bella Punta to allow as presented to the Board. **Conditions to the motion** are: 1.) That the house remains unoccupied from this time forth, 2.) The house is razed/demolished by August 31, 2021, and 3.) Once the house is razed/demolished the non-conforming use of this property as a residence goes away and cannot be re-established. Tom Smallcomb seconded the motion. A vote was called and:

Therefore in consideration of the above, and in balancing the factors of 1.) Change in character of locality; 2.) Alternate methods to achieve what the applicant desires; 3.) The degree of variance sought; 4.) Effect on the physical conditions existing in the locality; and 5.) Any self-created difficulties, the request for a **side yard setback variance** in the amount of 14.5 +/- is hereby **GRANTED** by a 3-0 vote. The vote was unanimous and the votes were cast as follows: Acting Chairman, Mark Tomko-AYE, Thomas Smallcomb-AYE, Thomas Jackson-AYE.

The Code Enforcement Officer is herewith authorized to take the necessary action to carry out the provisions of this Decision.

Dated: August 15, 2020

KELCY R WICKMAN
Notary Public - State of New York
No. 01WI6405318
Qualified in Broome County
Commission Expires 03/02/2024

Kelcy Wickman
Commission exp. 3/2/2024

8/17/2020

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: *Mark Tomko*
Mark Tomko, Acting Chairman