



**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

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ZBA BOARD MEMBERS:

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

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

In the Matter of the Application of

William Walsh
4109 Vestal Road
Vestal, NY 13850
B.C.T.M.P. # 150.09-1-17

DECISION

For an Area Variance as required by Chapter 24, Article IV, Division 3, Section 24-207 of the Code of The Town of Vestal, Broome County, New York
(Zoning Ordinance)

At a meeting duly scheduled for December 10, 2020 the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of William Walsh, regarding premises situate at 4109 Vestal Road, Vestal, NY 13850, (B.C.T.M.P.# 150.09-1-17) for a Special Permit as required by Chapter 24, Article IV, Division 3, Section 24-207 of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to a having less than the required number of parking spaces for a multiple residence. Appearing in support of the Variance request is the applicant William Walsh and Peter Walsh.

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 his application was read. The applicant submitted a letter outlining his request along with a map of the proposed building on the site and a copy of the application. A 239 I & m submission form copy to the Broome County Department of Planning and Economic Development and responses were also included.

Board members present, Mark Tomko, Acting Chairman, Thomas Jackson, John Taylor, Tom Smallcomb and Clayton Ellis. 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 parking variance to construct 27 parking spaces where 48 are required by code. Applicant is proposing a 2-story building with twelve (12) 4-bedroom units on this 0.89 acre site. Applicant has owned this site for 40 years and is still vacant even after marketing the property for other numerous types of development. Applicant states that he had proposed student housing on this site years ago, 2008/2009, and received Planning Board approval but put the project on hold due to the housing bust. The applicant is now looking to revive this

project but is “handcuffed” by the change in the parking code in September of 2018. The old code required 2 parking spaces per unit vs. the new code of 1 parking space per bedroom.

The Applicant presented a proforma calculation to the Board showing that a 6-unit, 4 bedrooms/unit project would not be financially feasible while a 12-unit project would just barely be financially feasible. In addition, the tax generated from the new assessment of the completed project would be raised dramatically from the current assessment of the undeveloped parcel. The applicant states that the target market they are after for this building typically walk, ride share, or take the bus that has a stop directly in front of the project and that the number of parking spaces is more than adequate. They have not done full site plan as they did not want to waste time and money developing this if they could not get the needed parking variance and further note that the reduced parking would substantially reduce the traffic in and out of the project and allow for more green space that would benefit the community. The applicant will also have a lease agreement in place with the tenants limiting parking to two (2) vehicles per unit.

Upon questioning from the Board members, the applicant stated that there would be no undesirable change to the neighborhood due to the mix of retail/commercial and multiple family units. The topography is such that as much land as possible has been cleared and there is no other way to locate the building on the site or add additional parking due to the banks to the North and West. The applicant was asked if they could purchase the land at the North of the building but the church that owns the land was unwilling to sell or lease the space. Parking could be sought behind the building on the site that the applicant’s family owns to the East, but that would create issues should that property ever be sold. The applicant was asked what the cost difference would be to create a 3 or 4-story building to decrease the footprint and create more parking spaces, but he had not done that calculation but noted increased building costs due to other requirements in the code.

The meeting was opened to the public, and no one appeared in opposition or support of the Special Permit issuance. The public portion was closed as no members of the public were present or wished to be heard.

Responses to the 239 I & m review were received from Broome County Department of Planning and Economic Development and were concerned mainly with storm water management, ingress/egress on the busy roadway, and adherence to SEQR determination. Responses from Broome County Metropolitan Transportation and New York State DOT focused on sidewalks and connectivity to other walks in place as well as work in the right-of-way. These issues will be part of the Planning Board site plan development and review and will be completed and accounted for with the final plans/drawings from engineers and further review by the departments listed above and the Planning Board.

Therefore in consideration of the above, and in balancing the factors of; 1.) Whether an undesirable change would be produced in the character of the neighborhood or would be a detriment to the nearby properties; 2.) Whether the benefit sought by the applicant can be achieved by a feasible alternative; 3.) Whether the requested variance is substantial; 4.) Whether the requested variance would have an adverse impact on the physical or environmental conditions in the neighborhood; and 5.) Whether the alleged difficulty was self-created;

A motion was made by Thomas Smallcomb to grant a **21 parking spot** as per Chapter 24, Article IV, Division 3, Section 24-207 at B.C.T.M.P.# 159.09-1-17 aka 4109 Vestal Road, Vestal,

NY 13850 to **allow 27 spots where 48 are required by code as presented to the Board.** A vote was called and:

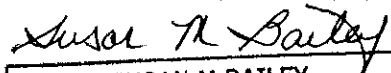
The request for a **Parking Variance** is hereby **GRANTED** by a 4-1 vote. The vote was not unanimous and the votes were cast as follows: Acting Chairman, Mark Tomko-Nay, Thomas Jackson-AYE, Tom Smallcomb-AYE, John Taylor-AYE, and Clayton Ellis-AYE.

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

Dated: December 13, 2020

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Mark Tomko, Acting Chairman


SUSAN M BAILEY
Notary Public - State of New York
No. 01BA6405217
Qualified in Broome County
Commission Expires 03/02/2024