



**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

**RECEIVED**

SEP . 1 2020

**VESTAL CODE**

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**TOWN OF VESTAL  
ZONING BOARD OF APPEALS**

In the Matter of the Application of

Brandon Cady  
2779 NYS Route 26  
Vestal, NY 13850  
B.C.T.M.P. # 206.03-2-3

**DECISION**

For a use variance as required by Chapter 24, Article IV, Division 1, Section 24-151 of the Code of The Town of Vestal, Broome County, New York  
(Zoning Ordinance)

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At a meeting duly scheduled for August 27, 2020 the Zoning Board of Appeals of the Town of Vestal held public hearing to consider the application of Brandon Cady, regarding premises situate at 2779 NYS Route 26 , (B.C.T.M.P.#: 206.03-2-3) for a use variance as required by Chapter 24, Article IV, Division 1, Section 24-151 of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to constructing an accessory structure, without a principal structure, for the storage of personal equipment in a R-R, Rural Residential zoning district. A use variance is requested to allow the construction of a 24' by 48' cold storage structure to house hunting gear and equipment. Appearing in support of the variance request is the applicant Brandon Cady and Jared Cady.

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 brief letter and survey map with plot lines for the property and adjoining properties.

Board members present, Mark Tomko, Acting Chairman, Tom Smallcomb, Eugene Burns and John Taylor. 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 use variance to build a cold storage structure to house hunting equipment, ATV's and outdoor power tools on land purchased for hunting, and where no principal

structure is situated. The applicant stated that the land was purchased for hunting purposes only and the building is to be built approximately 947' from the road and 425' from the southern property line. The total acreage is approximately 137 acres and is situated in a RR zoning district. The land is very hilly and steep in numerous areas and this is one of the few flat spots where the building could be easily constructed and getting proper vehicles/supplies to construct the foundation and structure. The applicant lives in his own single family residence on Noyes Road and has no plans to build a residence on this plot of land and will use it only for hunting and recreation. The building will not be connected to utilities, water, or have plumbing.

The meeting was opened to the public, and Mr. Richard Cady who resides at 225 Harding Ave., Vestal, NY appeared in support of the variance. The public portion was closed as no other members of the public were present or wished to be heard.

A 239 l & m submission to and response from the Broome County Department of Planning and Economic Development was reviewed. The comments were regarding any work that might be needed in the State right-of-way, such as the driveway construction/work to the site would require a Highway Work Permit, design standards must be met in accordance with NYSDOT Policy and Standards, and placement of anything in, including signage is not allowed.

Since this is a Use Variance request the four (4) factors to be considered for the issuance of a use variance were reviewed by the Board;

1. **Property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district.** In the request to build storage for storing hunting equipment/supplies/vehicles for hunting and recreation purposes on land purchased for hunting and recreation, this factor does not apply. He is simply asking to be able to build a structure to store items necessary to use the land as purchased and intended.
2. **The property is being affected by unique, or at least a highly uncommon circumstance.** The request to build an accessory building for storage on RR zoning district land where no principal structure exists is fairly uncommon in the Town. Very few requests have come in over the years for this type of use and the location and topography of the land does not permit the use for many other applications.
3. **The variance, if granted, will not alter the essential character of the neighborhood.** The rural nature of the neighborhood will not be altered by constructing a 24' x 48' cold storage building on 137 acres of land a minimum of 425' from the nearest plot line. The topography and forest will not allow the structure to be visible to anyone or neighbor.
4. **The hardship was not self-created.** The applicant purchased the land for hunting and recreation, not for another use. The building of a cold storage facility with no utilities is not self-created. He is merely trying to use the land for it's purchased and intended purpose, not use it for any other means.

A motion was made by Eugene Burns to grant a **Use Variance to allow for an accessory building where no principal structure exists** at 2779 NYS Route 26, Vestal, NY (B.C.T.M.P.# 206.03-2-3) to Brandon Cady as presented and amended to the Board. John Taylor seconded the motion. A vote was called and:

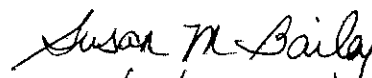
Therefore in consideration of the above, and in balancing the factors of 1.) Reasonable Return; 2.) Unique or Uncommon Circumstance; 3.) Alter the Essential Character of the Neighborhood; and 4.) Hardship was not Self-created; the request for a **use variance** is hereby **GRANTED** by a **4-0** vote. The vote was unanimous and the votes were cast as follows: Acting Chairman, Mark Tomko-AYE, Thomas Smallcomb-AYE, Eugene Burns-AYE, and John Taylor-AYE.

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

Dated: August 30, 2020

ZONING BOARD OF APPEALS  
OF THE TOWN OF VESTAL

BY:   
Mark Tomko, Acting Chairman

  
8/31/2020

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