



**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**

In the Matter of the Application of

Franklin Land Associates, LLC
104 Alexandria Avenue & 2304 Owego Road
Vestal, NY 13850
B.C.T.M.P. # 172.14-1-3 & 172.71-2-4

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 September 10, 2020 the Zoning Board of Appeals of the Town of Vestal held public hearing to consider the application of Franklin Land Associates, LLC, regarding premises situate at 104 Alexandria Avenue & 2304 Owego Road, (B.C.T.M.P.# 172.14-1-3 & 172.71-2-4:) for a use 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), pertaining to having less than the required parking spaces for a retail business in a C-2, Community Business zoning district. A use variance is requested to allow for 30 parking spaces instead of 73 as required by code. Appearing in support of the variance request is Bob Gage of Franklin Land Associates, LLC, the applicant.

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, survey map with plot lines for the property and adjoining properties, and site plan.

Board members present, Mark Tomko, Acting Chairman, Tom Smallcomb, 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 to provide 30 parking spaces for a retail business where 73 are required by code. The applicant is proposing to build a 9,100 sq. ft. retail business, a Dollar General

store, and the code would call for 73 parking spaces for a building this size. The applicant states that they have 17,000 stores throughout the country and that a vast majority of them require 30 spaces for cars. The average number of customers/cars is 10 per hour except at afternoon/evening rush hour where they average 23 per hour for a 1-2 hour period. Customers spend an average of 10 minutes in the store and with 2-3 employee's, the 30 spaces would be more than enough. The applicant has enough land to provide the 73 spaces but only building 30 would allow for more greenspace (less impervious area), less stormwater runoff, and more screening to surrounding neighbors. In the event the 30 stalls are not enough, there is room for expansion and these areas were reviewed on the site plan.

The meeting was opened to the public, and Mr. Neil Lawton of 116 Alexandria Avenue, Vestal, NY asked to speak as he had a couple of questions/concerns pertaining to the project. His concerns were regarding the entrances to the property, if there would be one on the Vestal Parkway as well as Alexandria Avenue and where would trucks enter? Another concern/question was the hours of operation and if there was any screening for the neighbors. An additional concern was the property to the east of this proposed building, the current trailer park. Mr. Gage addressed the questions/concerns and explained that there would be 2 entrances, one off of Alexandria Avenue and one on the Vestal Parkway, trucks delivering to the store would only be allowed to use the Vestal Parkway entrance. Store hours would be 9:00 AM – 9:00 PM 7 days per week. In addition, a 6 foot stockade fence would be erected along the western boundry to screen the sight from the neighbors located there. The site layout plan was shown to Mr. Lawton and he had no other concerns. Mr. Lawton was advised to attend a Town Board meeting in regards to any issues/concerns in regards to the trailer park on the other side of the property. The public portion was closed as no other members of the public present 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 State DOT permits to work on the Parkway entrance, sidewalks and connections to residential areas, following the Complete Streets principles when completing the final site plan submission. These comments will be addressed by the planning board when the site plan is submitted and reviewed.

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

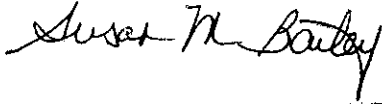
A motion was made by Tom Smallcomb to grant a **43 car parking stall variance to allow for 30 stalls where 73 are required by code** Section 24, Article IV, Division 3, Section 24-207 at 104 Alexandria Avenue & 2304 Owego Road, (B.C.T.M.P.# 172.14-1-3 & 172.71-2-4) as presented to the Board. A vote was 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 **43 car parking stall variance** 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, John Taylor-AYE.

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

Dated: September 14, 2020

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL



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

BY: 
Mark Tomko, Acting Chairman