



**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

Atif Saleem

DECISION

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

At a meeting duly re-scheduled for 6:20 PM July 23, 2020 the Zoning Board of Appeals of the Town of Vestal held public hearing to consider the application of Atif Saleem for property situate at 874 Bunn Hill Road, (B.C.T.M.P.#: 174.08-1-24) for use variance as required by Chapter 24, Article IV, Division 1, Section 24-151, Permitted Uses, of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to a property use that is not permitted in the RR, Rural Residential zoning district. This was a continuation of a hearing originally held on February 27, 2020 where the applicant requested a continuance to a future date to better prepare and present materials needed for the Use Variance request.

The applicant, nor a designated agent or attorney was present at this hearing. The Board waited until 6:30 PM before closing the hearing. As no one was present for this meeting, the Board

reviewed the application and materials that were presented in the original package for the February 27, 2020 hearing and new materials presented to the Board in the interim.

At the February 27, 2020 hearing, the applicant was requesting that four (4), two-family residential structures be built on a single parcel in a "R-R" zoning district. Appearing in support of the variance request was the applicant, Atif Saleem. Mr. Saleem began his presentation, but Board members felt it was prudent to inform Mr. Saleem that he did not present the Board with materials needed for the Use Variance test in advance, nor did Mr. Saleem come in for the meeting with any new materials in support of the four tests for the variance. Mr. Saleem then requested the continuance to a future date.

The package presented in advance of the February 27, 2020 meeting contained Mr. Saleem's application, a site plan of the proposed and letter from George W. Haus, RA of Root 2 Architecture for the applicant, a letter from Victor Lamoureux and an Email from Bryan Goodman opposed to the project. In addition, a copy of the Broome County 239-1 and-m with a recommendation for denial was also included.

Prior to the July 23, 2020 re-hearing date, the Board was presented with a copy of a Notice Of Violation to Sarah Azim Khan & Atif Saleem dated 11/5/2019 stating the property was in violation of Vestal Town Code, Chapter 6 – Environmental Conservation, Article VI – Storm water Erosion and Sediment Control and violation of New York State Environmental Conservation Law (ECL) – 6NYCRR PART 750 which implemented the State Pollutant Discharge Elimination System (SPDES) program permit. Updated pictures submitted by the Vestal Town Engineer Vernon Myers dated 7/22/2020 were included showing the property was still currently in violation of the above.

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 into record at the February 27, 2020 hearing and notice was sent for the re-hearing date of July 23, 2020.

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.

As the applicant or a designated agent or attorney were not present for the case, the Board asked ZBA Attorney, Matthew Butler, for options to the situation. Mr. Butler recommended that the Board deny the application for a Use Variance as abandoned, without prejudice. That way, Mr. Saleem would be able to re-apply for the variance without any prejudice from the Board at a future date when he would be ready to present materials for the four tests required.

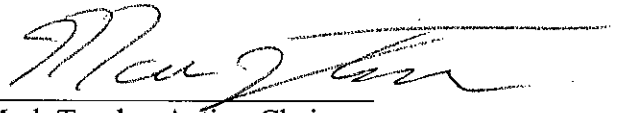
A motion was made by Tom Smallcomb to deny the **Use Variance as abandoned, and without prejudice** for 874 Bunn Hill Road (B.C.T.M.P.# 174.08-1-24) to Atif Saleem. Eugene Burns seconded the motion. A vote was called and:

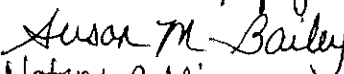
Therefore in consideration of the above, **use variance** was **DENIED** by a 4-0 vote. The vote was unanimous and the votes were cast as follows: Acting Chairman, Mark Tomko-AYE, Thomas Smallcomb-AYE, Eugene Burns-AYE, and John Taylor-AYE.

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

Dated: July 26, 2020

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Mark Tomko, Acting Chairman

Subscribed and sworn to before me
this 27th day of July, 2020.

Notary Public

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