



**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

605 Vestal Parkway West
Vestal • New York • 13850-1486
Telephone (607) 786-0980 Ext. 201
Fax (607) 786-0984

ZBA BOARD MEMBERS:

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

In the Matter of the Application of:

United Refining Company of PA/Kwik Fill
411 North Main Street
Vestal, NY 13850
B.C.T.M.P. # 157.14-1-3

DECISION

For an Area Variance as required by Chapter 24, Article IV, Division 2, Section 24-188(b)(4)(b) of the Code of the Town of Vestal, Broome County, New York (Zoning Ordinance)

At a meeting duly scheduled for May 27, 2021, the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of United Refining Company of PA/Kwik Fill regarding premises situate at 411 North Main Street, Vestal, NY 13850, (B.C.T.M.P.# 157.14-1-3) for an area variance as required by Chapter 24, Article IV, Division 2, Section 24-188(b)(4)(b) of the Code of the Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required setback for an accessory structure (fuel island canopy) in an Industrial Development (ID) District. Appearing in support of the variance request is the applicant, Bob Nelson (via Zoom) and Todd Markevicz, PE, APD Engineering/Architecture.

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. Mr. Markevicz submitted a letter outlining the applicant's request along with detailed site plans of the existing structures on the site and for the proposed structures. The Broome County Department of Planning and Economic Development offered no comments on the applicant's proposal.

Board members present: Clayton Ellis (acting chairman), 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:

The Applicant is requesting a variance to build a new fuel island canopy 9.1 feet from the front property line where 30 feet is required by Code. The Applicant is proposing to demolish all existing structures on the parcel and replace them with a 3,200 square-foot building and a new fuel island canopy over four fueling dispensers to accommodate eight vehicles. The Applicant also plans to remove existing underground fuel tanks, install new underground fuel tanks, and complete associated site work.

Mr. Markevicz, on behalf of the Applicant, presented the proposal to the Board. He explained the site's constraints consisting of New York State Department of Environmental Conservation Flood Control limits and a large right of way on the west side of North Main Street.

The Applicant does not believe the proposed plan for the site, nor the variance have a negative impact on the surrounding area. Further, the applicant believes the proposal will have a positive impact on the community.

Upon questioning by Board members, Mr. Markevicz explained that the Applicant is seeking a 20.9-foot variance for location so the fuel island canopy can be located 9.1 feet from the front property line. He said there will still be quite a bit of distance between the canopy and the sidewalk. It was noted that the existing fueling canopy is out of compliance with Article IV, Division 2, Section 24-188(b)(4)(b). The existing canopy is approximately 13 feet from the front property line.

The meeting was opened to the public. Carl Truman, fire marshal from the Vestal Fire Department, asked about the underground fuel storage tanks. Mr. Markevicz explained that the existing tanks would be removed, and new underground tanks would be installed. The public portion of the hearing was then closed as no other members of the public were present.

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.

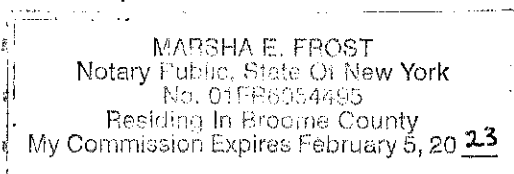
A motion was made by Eugene Burns **to grant a 20.9-foot variance** as per Chapter 24, Article IV, Division 2, Section 24-188(b)(4)(b) at B.C.T.M.P.# 157.14-1-3 (aka 411 North Main Street, Vestal, NY 13850) **to allow construction of a new fuel island canopy 9.1 feet from the front property line** where a 30-foot setback is required by Code as presented to the Board. The motion was seconded by John Taylor. A vote was called and:

The request for an Area Variance is hereby granted by a 3-0 vote. The vote was unanimous, and the votes were cast as follows: Clayton Ellis (acting chairman)-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: June 3, 2021

Marsha E. Frost



ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: *Clayton Ellis*
Clayton Ellis, Acting Chairman