



**TOWN OF VESTAL
ZONING BOARD OF APPEALS**
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ZBA BOARD MEMBERS:

Chairman: Mark Tomko
Members: Clayton Ellis
Jerry Schultz
Thomas Jackson, Jr.
Eugene Burns
Alternate: John Taylor
Patrick S. McPherson
Attorney: Matthew Butler

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

In the Matter of the Application of

319 Burriss Associates, LLC
319 Burriss Road
Vestal, NY 13850
B.C.T.M.P. #158.15-1-26

RECEIVED

APR - 1 2022

VESTAL CODE

DECISION

For an Area Variance as required by Chapter 24, Article IV, Division 2, Section 24-182(b)(2)(c) of the Code of the Town of Vestal, Broome County, New York (Zoning Ordinance)

At a meeting duly scheduled for March 24 2022, the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of 319 Burriss Associates, LLC regarding premises situate at 319 Burriss Road, Vestal, NY 13850, (B.C.T.M.P. #158.15-1-26) for an Area Variance as required by Chapter 24, Article IV, Division 2, Section 24-182(b)(2)(c) of the Code of the Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required 35' of rear yard setback in an RC, Multiple Residence zoning district. Appearing in support of the Area Variance request are Sarah Campbell, an attorney at Hinman, Howard and Kattell, LLP, and Dustin Squier of Squier Construction.

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 the application was read. The applicant submitted a package outlining the request along with a copy of the application.

Board members present: Clayton Ellis, Acting Chairman; Eugene Burns; Jerry Schultz; and Patrick McPherson. 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 19.5' +/- variance to construct two 10' x 10' decks on the back of the four-family residence at 319 Burriss Road. The northern-most side of the decks would be within 15.5' +/- of the rear property line. The applicant provided materials including an application for the

variance, a Short Environmental Assessment Form, a Property Detail Summary, and various drawings and photos. The photos show that one of the decks is nearly complete, although no building permit has been obtained.

Sarah Campbell explained that the property in question and the property behind it are owned by the same entity. She said the intent is to enlarge the existing decks. She also discussed the balancing factors the Board must consider and said they should not affect approval of the variance. Dustin Squier said the new decks and existing decks would be connected, and railings will be replaced.

Upon questioning from the Board members, Sarah Campbell said the "Yes" response to a question regarding nearby environmental remediation on the Short Environmental Assessment Form is self-populating. She said she is not aware of any remediation on the property, but that perhaps something occurred as far away as the Parkway. Dustin Squier indicated that there would be no steps to the decks.

The meeting was opened to the public and then closed as no members of the public were present or wished to be heard.

This is a request for an Area Variance and the provisions of SEQR do not apply, but since a Short Environmental Assessment Form was submitted, Counsel indicated the Board should act as the lead agency and should vote on a negative declaration.

A motion was made by Patrick McPherson to approve a negative declaration regarding environmental impact. The motion was seconded by Jerry Schultz. A vote was called and:

The negative declaration was APPROVED by a 4-0 vote. The vote was unanimous, and votes were cast as follows: Acting Chairman Clayton Ellis-AYE; Eugene Burns-AYE; Jerry Schultz-AYE; and Patrick McPherson-AYE.

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 Jerry Schultz to grant a 19.5' +/- Area Variance as per Chapter 24, Article IV, Division 2, Section 24-182(b)(2)(c) at B.C.T.M.P. #158.15-1-26 aka 319 Burris Road, Vestal, NY 13850 to construct two 10' x 10' decks less than 35' from the rear property line, as submitted. The motion was seconded by Eugene Burns. A vote was called and:

The request for an Area Variance is hereby GRANTED by a 4-0 vote. The vote was unanimous, and the votes were cast as follows: Acting Chairman Clayton Ellis-AYE; Eugene Burns-AYE; Jerry Schultz-AYE; and Patrick McPherson-AYE.

If construction is not commenced within four months from the date hereof, then the variance granted by this Decision shall be deemed revoked.

The Code Enforcement Officer is herewith authorized to take the necessary action to carry out the provisions of this Decision, and to ensure that the construction is performed to the requirements of the Code.

Dated: April 1, 2022

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Clayton Ellis, Acting Chairman