



**TOWN OF VESTAL
ZONING BOARD OF APPEALS
605 Vestal Parkway West
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ZBA BOARD MEMBERS:

Chairman: Mark Tomko (acting)
Members: Clayton Ellis
Jerry Schultz
Thomas Jackson, Jr.
Patrick MacPherson
Alternate: John Taylor
Attorney: Matthew Butler

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

In the Matter of the Application of

Christopher DeMarco & Angela Eberly
317 Oak Street
Vestal, NY 13850
B.C.T.M.P. # 157.60-2-9

DECISION

For an Area Variance as required by Chapter 5, Article III, Section 5-76(d) of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance)

At a meeting duly scheduled for July 28, 2022 the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of Christopher DeMarco & Angela Eberly, regarding premises situate at 317 Oak Street, Vestal, NY 13850, (B.C.T.M.P.# 157.60-2-9) for an Area Variance as required by Chapter 5, Article III, Section 5-76(d) of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required setback for a swimming pool in an RA-2, One- and 2- Family Residence District. Appearing in support of the Area Variance request Brian & Lorie Murphy from the Make-A-Wish Foundation.

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 package outlining the request along with a map of the proposed pool location on a Parcel Mapper aerial image of the property.

Board members present, Mark Tomko, Acting Chairman, Jerry Schultz, Eugene Burns, John Taylor and Patrick MacPherson. 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 an Area Variance to place a 21' round above ground pool with a deck in the rear of his property 5' from the rear and 5' from the side property lines. The pool

location is required to be set back at least 10' to the rear and side property lines in an RA-2, One- and 2- Family Residence District.

Brian & Lorie Murphy from the Make-A-Wish Foundation reviewed the proposal stating that they have been working on this project since February to grant the wish of a 6 year old girl to have a pool. 21st Century Pools is the provider of the above ground pool and will also include a 10; x 10' deck. The pool is 4' in height and is to be located within a fenced in yard portion of the rear yard in view of the house. The pool and/or fencing meet code for this project.

The meeting was opened to the public, and no one was present in the audience, the public portion of the meeting was closed as no members of the public were present or wished to be heard.

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;

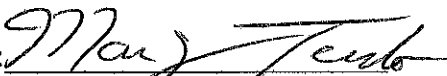
A motion was made by Patrick MacPherson to **grant an Area Variance of 5' from the rear property line and 5' from the side property line as required** per Chapter 5, Article III, Section 5-76(d) at B.C.T.M.P. # 157.60-2-9 aka 317 Oak Street, Vestal, NY 13850 **to allow a 21' above ground pool with deck to be placed 5' from the rear and 5' from the side property lines as presented. No conditions are attached.** The motion was seconded by John Taylor. A vote was called and:

The request for an **Area Variance** is hereby **GRANTED** by a 5-0 vote. The vote was unanimous and the votes were cast as follows: Acting Chairman, Mark Tomko-AYE, Jerry Schultz-AYE, Eugene Burns-AYE, Patrick MacPherson-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, and to ensure that the construction is performed to the requirements of the Code.

Dated: July 29, 2022

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Mark Tomko, Acting Chairman