



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

Chairman: Mark Tomko
Members: Clayton Ellis
Jerry Schultz
Eugene Burns
Patrick MacPherson
Alternate: John Taylor
Attorney: Matthew Butler

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

In the Matter of the Application of

Scott Kelly
109 Clark Street
Vestal, NY 13850
B.C.T.M.P. # 173.23-2-13

DECISION

For an Area Variance as required by Chapter 24, Article IV, Division 2, Section 24-181(e)(3)(a)(3), of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance).

At a meeting duly scheduled for July 27, 2023 the Zoning Board of Appeals of the Town of Vestal held a public hearing at 6:30 PM to consider the application of Scott Kelly, regarding premises situate at 109 Clark Street, Vestal, NY 13850, (B.C.T.M.P.# 173.23-2-13) for an Area Variance as required by Chapter 24, Article IV, Division 2, Section 24-181(e)(3)(a)(3), of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required rear yard setback in a RA-2, One- & Two-family Residence District. Appearing in support of the Area Variance request is Scott Kelly.

Proof of publication of the notice of the hearing in the Town Crier was submitted, and the Board's letter to the applicants in response to their application was read. This is a continuation of a hearing that was originally held and tabled on July 13, 2023 since some of the Board members were not able to view the property. The applicant submitted a package outlining the request along with a map of the property. The applicant took the Board members through his request.

Board members present, Mark Tomko, Chairman, Clayton Ellis, Eugene Burns, John Taylor and Pat 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 construct a rear addition to within 24 feet of the rear property line, where a 30 foot setback is required. Applicant states that he wants to construct a family room to the rear of his residence and that constructing it any smaller would make the

addition almost useless for the intended purpose. The existing house is setback extremely far from the front property line leaving little space in the rear yard.

The meeting was opened to the public. 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 John Taylor to **approve an Area Variance of 6 feet +/- for a frear yard setback to construct a family room addition** as per Chapter 24, Article IV, Division 2, Section 24-181(e)(3)(a)(3) at B.C.T.M.P. # 173.23-2-13 aka 109 Clark Street, Vestal, NY 13850 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 5-0 vote. The vote was unanimous and the votes were cast as follows: Chairman, Mark Tomko-AYE, Clayton Ellis -AYE, Eugene Burns-AYE, John Taylor-AYE and Pat MacPherson-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: August 6, 2023

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Mark Tomko, Chairman