



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

TOWN OF VESTAL
ZONING BOARD OF APPEALS

In the Matter of the Application of

Samuel R. Estes, Architect/Skechers/Jersey Mike's
Vestal Shops LLC
2540 Vestal Parkway East
Vestal, NY 13850
B.C.T.M.P. #158.14-1-13

DECISION

For an Area Variance as required by Chapter 24, Article IV, Division 3, Section 24-207 of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance)

At a meeting duly scheduled for January 26, 2023, the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of Samuel R. Estes/Skechers/Jersey Mike's, regarding premises situate at 2540 Vestal Parkway East, Vestal, NY 13850, (Vestal Shops LLC; B.C.T.M.P. #158.14-1-13) for an Area Variance as required by Chapter 24, Article IV, Division 3, Section 24-207 of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required parking spaces in a C-2 Community Business District.

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.

Appearing in support of the Area Variance request are Robert McKertich, a partner at Coughlin & Gerhart, LLP, and Luke Hazelwood, project manager-construction, West Region, Brixmor. The applicant submitted a letter from Samuel R. Estes, a letter from Robert McKertich, and a site plan showing the existing structure, existing parking spaces and the proposed new tenant spaces in now-vacant space in the existing structure. Mr. McKertich's letter included information on expected customer traffic and peak hours at Jersey Mike's among other business operation information.

Board members present: Clayton Ellis, Acting Chairman; John Taylor; Eugene Burns; Patrick McPherson; and Jerry Schultz. 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 said Skechers is longer a proposed tenant for approximately 7,846 square feet of the vacant space in the existing structure. While the owner will continue to market this space, it will remain vacant for now. So, the requested variance is for only Jersey Mike's (approximately 1,557 square feet of the vacant space in the existing structure). Thus, the request is to permit Jersey Mike's to operate using a portion of the existing 71 parking spaces. For context, under the Code of the Town of Vestal, the existing businesses at the site, together with Jersey Mike's, require 89 parking spaces (Starbucks: 35; GameStop: 18; Jersey Mike's: 36).

Robert McKertich explained that even when Pier 1 Imports occupied the now vacant space, the available parking spaces did not meet Code. He said that any new use of that space will require a variance. He said the owner is looking for relief from parking requirements for the first step in filling the vacant space. He also said Jersey Mike's, with high customer turnover, few customers dining in, and few employees, would, in fact, use far fewer parking spaces – Robert McKetrich estimates approximately 10 – than the 36 required by Code.

Town of Vestal records indicate that the building at 2540 Vestal Parkway East, Vestal, NY was constructed in 2001 to house Pier 1 Imports and Eye Glass World. Prior to occupancy, Eye Glass world was replaced with Starbucks and the space now occupied by GameStop. Minutes from a February 2, 2001 Town of Vestal Planning Board meeting indicate that 108 parking spaces would be required. There is no record of any parking variances ever being granted. There is a site plan in the Planning Board records that shows “future parking” around portions of the perimeter of the property.

Robert McKertich and Luke Hazelwood were encouraged to look at the issue of the Starbucks drive-through and the line of cars that sometimes backs up to the shoulder of the Vestal Parkway, limiting access to the parking lot at the site. They were also encouraged to look at how to add parking spaces to the site to be prepared to address a parking variance request when a new tenant is identified for the remaining vacant space in the existing structure at the site.

The meeting was opened to the public for comment. The public comment portion was then 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 Jerry Schultz to grant an Area Variance as per Chapter 24, Article IV, Division 3, Section 24-207 at B.C.T.M.P. #158.14-1-13 aka 2540 Vestal Parkway East, Vestal, NY 13850 to permit Jersey Mike's to operate using a portion of the existing 71 parking spaces. The motion was seconded by Patrick McPherson. A vote was called and:

The request for a Variance is hereby GRANTED by a 5-0 vote. The vote was unanimous, and the votes were cast as follows: Acting Chairman Clayton Ellis-AYE; John Taylor-AYE; Eugene Burns-AYE; Patrick McPherson-AYE; and Jerry Schultz-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: February 2, 2023

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Clayton Ellis, Acting Chairman

Subscribed and sworn to before me this

2nd day of February, 2023


Notary Public

CAROLYN L ALMY
Notary Public, State of New York
Reg. No. 01AL6422753
Qualified in Broome County
Commission Expires 09/27/2025