



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

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

In the Matter of the Application of

4505 Vestal, LLC
Attn: Sukhminder S. Pannu
4501 Vestal Parkway East
Vestal, NY 13850
B.C.T.M.P. # 159.10-1-14

DECISION

For a Use Variance as required by Chapter 24, Article IV, Division 1, Section 24-152, Permitted Uses, of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance).

At a meeting duly scheduled for October 26, 2023 the Zoning Board of Appeals of the Town of Vestal held a public hearing at 6:30 PM to consider the application of 4505 Vestal, LLC, Sukhminder S. Pannu, regarding premises situate at 4505 Vestal Parkway East, Vestal, NY 13850, (B.C.T.M.P.# 159.10-1-14, for a Use Variance as required by Chapter 24, Article IV, Division 1, Section 24-152, Permitted Uses, of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to a property use that is not listed/permitted in the C-2, Community Business Zoning District. Appearing in support of the Use Variance request is Sukhminder S. Pannu.

This is a continuation of the Public Hearing that was tabled from October 12, 2023. Proof of publication of the notice of the hearing in the Town Crier was submitted. The applicant had previously been granted a Use Variance for this property on October 14, 2021 for 12 units in this building and is now seeking to revise the total number of units to 16. Since there are no provisions in State Law for modifying a previously-granted Use Variance, the applicant and the Board would need to treat this as a new request for a use variance. The Board would need to see the applicant prove the same hardship again for this project.

The applicant has returned and provided new updated construction estimate financials for the project comparing 12 units vs. 16 units along with their application. Also submitted are the comments from Broome County Department of Planning and Development, Binghamton Metropolitan Transportation Study, New York State Department of Transportation and Department

of Public Works from October 2023, along with the same department comments from October of 2021. The applicants took the Board members through their request.

Board members present, Mark Tomko, Chairman, Clayton Ellis, Eugene Burns, John Taylor 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:

Applicant is requesting a Use Variance to convert an Office Building located at this parcel to 16 efficiency style units designed for professionals and not necessarily students. The parcel has remained vacant since the previous Use Variance approval while the did the demolition and upgraded the property next door. After demolition, it was determined that they could utilize much more of the existing structure and utilities including windows and plumbing if they opted out of providing washers & dryers. This would then allow them to revise the floor plan to create 16 units instead of 12. The change would decrease the overall cost of the renovations and make the project more feasible given the location and change in apartment style.

The applicant states that the same market conditions to office space, uniqueness of the property and self created hardship exist today as back in 2021. The property has more than enough parking available for the increase in units and the Planning Board had approved the site plan back in 2021 for all egress/ingress to this parcel, as well as all other comments from BMTS, NYSDOT, and DPW.

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

Therefore in consideration of the above, and in balancing the factors of; 1.) Property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district; 2.) The property is affected by unique, or at least a highly uncommon circumstance; 3.) The variance, if granted, will not alter the essential character of the neighborhood; 4.) The hardship was not self-created;

A motion was made by John Taylor to **approve a Use Variance to allow the creation of 16 efficiency/studio apartments** as per Chapter 24, Article IV, Division 1, Section 24-152, Permitted Uses at B.C.T.M.P. # 188.02-1-2 aka 4505 Vestal Parkway East, Vestal, NY 13850 as presented to the Board.

Two (2) Conditions are attached to the motion;

1. That a side walk be constructed along the sites frontage with County Road 44 (Old Vestal Road) and that the applicant work with the Town to assist in the development of a connection between this site and the sidewalks along Murray Hill Road
2. That the applicant should work with the Planning Board to address the concerns and show compliance with comments from BMTS, and NYSDOT.

The motion was seconded by Jerry Schultz. A vote was called and:

The request for a **Use 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 Jerry Schultz-AYE.

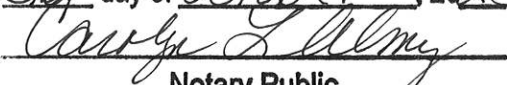
The Code Enforcement Officer is herewith authorized to take the necessary action to carry out the provisions of this Decision, and to ensure that the construction is performed to the requirements of the Code.

Dated: October 30, 2023

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Mark Tomko, Chairman

Subscribed and sworn to before me this

30th day of October, 2023

Notary Public

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