



**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 McPherson
Alternate: John Taylor
Attorney: Matthew Butler

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

In the Matter of the Application of

Mark Vulaj/232 Vestal Parkway, LLC
232 Vestal Parkway West
Vestal, NY 13850
B.C.T.M.P. # 157.17-1-4

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 December 14, 2023 the Zoning Board of Appeals of the Town of Vestal held a public hearing at 6:00 PM to consider the application of Mark Vulaj/232 Vestal Parkway, LLC, regarding premises situate at 232 Vestal Parkway West, Vestal, NY 13850, (B.C.T.M.P.# 157.17-1-4, 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 permitted in the ID, Industrial Development Zoning District. Appearing in support of the Use Variance request is Mark Vulaj and Dina Kalina.

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. The applicants submitted a package outlining the request along with a letter addressing the four tests of a Use Variance, financials, survey map, construction plans and a 239 l and m review from the Broome County Department of Planning and Economic Development with comments from Broome County Department of Planning and Development, Broome County Health Department, and New York State Department of Transportation.

Board members present, Mark Tomko, Chairman, Clayton Ellis, Eugene Burns, Pat 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. The applicants took the Board members through their request.

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 lease and use space in their building to Kidventures At The Clubhouse for use as pre-school and pre-K classes as well as summer educational camp. Applicant states that they have outgrown their current space and are looking to continue to grow as they currently serve 8 pre-school and or pre-K classes with children ages 2-10.

The applicant states that they purchased the building in August of 2016 and that it housed a plumbing and electrical supply business on the lower level, with a showroom and Marshall Arts studio on the main level. There are 3 “store fronts” on the main level and the Marshall Arts studio went out of business in 2020 with the COVID epidemic. They have upgraded the site and spaces but have not been able to rent the 2 spaces over the years and have actively listed the space with Pyramid and Flaum Brokers. The space is really set up for retail spaces on the main level and for supply pick-up on the lower lever in the rear of the building. Financial papers submitted show the history of their investments and income.

In addition, there is a “glut” of commercial space up and down the parkway due to the change in retail and office work since on-line shopping has boomed and the effects of the COVID epidemic on business work. The only current tenant cannot justify occupying any additional space and the spaces are too small for many of the allowed uses in the ID zone, as well as being outside of the desired location central to other retail spaces in Vestal. There will be no alterations to the exterior of the building for this use, only interior construction for building out class rooms. Parking will not be an issue due to class sizes and staggering of drop-offs and pick-ups. The change in

The meeting was opened to the public. The public portion of the meeting was closed as no members of the public present 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 Pat McPherson to **approve a Use Variance to allow the operation of Kidventures At The Clubhouse** as per Chapter 24, Article IV, Division 1, Section 24-152, Permitted Uses at B.C.T.M.P. # 157.17-1-4 aka 232 Vestal Parkway West, Vestal, NY 13850 as presented to the Board.

Two (2) Conditions are attached to the motion;

1. That if there is an expansion/ change in the size of square footage then the applicant would need to return to the ZBA
2. That the applicant needs to comply with the comments from Broome County Health Department, Brrome County Department of Economic Planning and Development and NYS DOT.

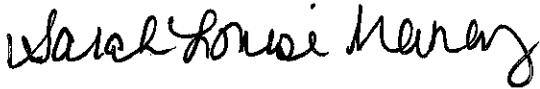
The motion was seconded by Jerry Schultz. A vote was called and:

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, Pat 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: December 17, 2023

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL



SARAH LOUISE MANEY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA0016937
Qualified in Broome County
My Commission Expires 11-27-2027

BY: 
Mark Tomko, Chairman