



**TOWN OF VESTAL
ZONING BOARD OF APPEALS
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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

Kim Young/Dragon Billiards
404 Costley Road
Vestal, NY 13850
B.C.T.M.P. # 205.08-3-5

RECEIVED

NOV 21 2022

VESTAL CODE

DECISION

For a Special Permit for a Customary Home Occupation as required by Chapter 24, Article IV, Division 1, Section 24-154(a)(3) of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance)

At a meeting duly scheduled for November 10, 2022 the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of Kim Young/Dragon Billiards, regarding premises situate at 404 Costley Road, Vestal, NY 13850, (B.C.T.M.P.# 205.08-3-5) for a Special Permit for a Customary Home Occupation as required by Chapter 24, Article IV, Division 1, Section 24-154(a)(3) of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to operate an unlisted home occupation in a RR, Rural Residence Zoning District. Appearing in support of the Special Permit request is Kim Young.

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 and a survey of the property.

Board members present, Mark Tomko, Chairman, Jerry Schultz, Pat MacPherson, and John Taylor. 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 Special Permit as required to use this property for a small business to provide billiard instruction and billiards equipment sales in a RR, Rural Residence Zoning District. This property was recently re-zoned by the Vestal Town Board from a RA-1, One-family Residential to a RR, Rural Residential property.

Mr. Young reviewed the application and plans for the project with the Board. He states that started his business, Dragon Billiards, in 2018 when he lived in Binghamton. He states that he is a Dual Master Instructor in billiards and that he provides approximately 95% of his instruction to people on-line. He has created a small space in his basement in order to provide on-site instruction and small accessories to his students. The students are usually 1 or 2 at most and for larger groups he travels to their site. Items for sale are pool cues, balls, and other small accessories. Larger items, such as tables, can be ordered through him and will be drop-shipped to the client/customer and he will travel there to set this up for them.

The applicant stated that he was unaware of the need for a Special Permit until he went to the Town Code Enforcement office to get permission to install a sign on his property. This started his need to have the zoning changed to then allow a for a Special Permit request to operate his business out of his home. The applicant did go through the process and the Town Board did re-zone the property on October 26, 2022 from RA-1 to RR thus allowing Mr. Young to seek a Special Permit to operate an unlisted home occupation.

The meeting was opened to the public, and no members of the public wished to speak. The public portion of the meeting was closed as no other members of the public were present or wished to be heard. One letter from Michael Gaynes who resides at 336 Horseshoe Lane, Vestal, New York was read into the record. Mr. Gaynes was opposed to the Town of Vestal Rezoning application to operate this small business of billiards instruction and billiards equipment sales at the 404 Costley Road location.

Therefore in consideration of the above, and in balancing the factors of; 1.) The 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 being 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 Jerry Schultz to **grant a Special Permit for a Customary Home Occupation** as required by Chapter 24, Article IV, Division 1, Section 24-154(a)(3) at B B.C.T.M.P.# 205.08-3-5 aka 404 Costley Road, Vestal, NY 13850 to operate as presented. **Three (3) conditions are attached;**

1. That any substantial growth in instruction or sales beyond what is presented will require the applicant to return to the ZBA
2. That only a maximum of three (3) students would be allowed on-site at any time
3. That hours of operation on-site will be limited to between the hours of 8:00 AM – 8:00 PM


The motion was seconded by Pat MacPherson. A vote was called and:

The request for a **Special Permit** is hereby **GRANTED** by a 4-0 vote. The vote was unanimous and the votes were cast as follows: Chairman, Mark Tomko-AYE, Jerry Schultz-AYE, Pat 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 business is operated to the requirements of the Code.

Dated: November 21, 2022

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Mark Tomko, Chairman