



2613 Lynnhurst - 158.18-2-50

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

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ZBA BOARD MEMBERS:
Chairman - Mark S. Johnson
Mark Tomko
Tom Smallcomb
Paul Houle
George Gerner
Attorney - Matt Butler, ESQ.
Alternate: Eugene Burns

TOWN OF VESTAL
ZONING BOARD OF APPEALS

In the Matter of the Application of

NEHAL & DHARA DESAI

DECISION

RECEIVED
MAY 26 2016
TOWN CLERK'S OFFICE

For a variance as required by chapter 24,
Article IV, Division 2, Section 24-180 (b) (3) (a)
of the Code of The Town of Vestal, Broome County,
New York (Zoning Ordinance)

At a meeting duly scheduled for May 12, 2016, the Zoning Board of Appeals of the Town of Vestal held public hearing to consider the application of Nehal & Dhara Desai, regarding premises situate at 2613 Lynnhurst Drive, (tax map no.: 158.18-2-50) for a variance as required by Chapter 24, Article IV, Division 2, Section 24-180 (b) (3) (a) of the Code of The Town of Vestal, Broome County, New York (Zoning Ordinance), pertaining to having less than the required front yard setback in an "RA-1", Single Family Residence District, so that a 9' x 10' front porch may be constructed 22 feet from the front property line. The Code requires a 30-foot setback in this RA-1 parcel, so there is a need for an 8' +/- variance to allow the porch to remain approximately 22' from the front lot line. The construction replaced an existing deteriorated concrete entrance stair and landing. The construction has already been completed, and the applicant indicated that they were unaware of any need for ZBA approval. An 8.5' +/- variance was requested to allow the porch to remain in place. Appearing in support of the application was Nehal Desai. No one appeared in opposition. In support of the variance, the applicants provided the Board with a detailed survey

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delineating the location and scale of the new porch. The board also received a letter from the applicants indicating their reasons for this variance request, as well as explaining the reason that no variance was sought prior to construction.

After due deliberation, the Zoning Board of Appeals makes the following findings of fact and conclusions of law:

Applicant is requesting that this Board grant a retroactive variance to allow their front porch to remain as situate. It was constructed to replace a deteriorated concrete step and landing at the entry to their home. Upon being notified by the Town that approval was necessary to build that porch, the applicants immediately complied. Code Enforcement Officer Lincoln Ellis recommended certain modifications to the construction, which were done, and the applicants filed the necessary application to obtain the front setback variance.

Board member Mark Johnson, Chairman, Thomas Smallcomb, Jr, Eugene Burns and Paul Houle stated that they had visited the site and were familiar with the character and nature of the area.

The Board reviewed the requirements for the variance and analyzed the various factors in deciding to grant or deny such a request. None of the Board Members saw any impediment to the request as the porch would have virtually no effect on the neighborhood. It was a self-created issue but was done to replace a deteriorated portion of the property. There are certain issues that will need to be done to comply with the building Code, and applicants advised that they will comply if the variance is granted.

The hearing was opened to the public, and after hearing no comments, the hearing was closed.

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As this is a Type II area variance, there is no SEQR review required.

A motion was made by Thomas Smallcomb to grant an 8.5' +/- front yard setback variance to allow for the construction of the 9' x 10' porch on the front of the property situate at 2613 Lynnhurst Drive. The motion was seconded by Paul Houle. A vote was called and:

Therefore in consideration of the above, and in balancing the factors of 1.) Change in character of locality; 2.) Alternate methods to achieve what the applicant desires; 3.) The degree of variance sought; 4.) Effect on the physical conditions existing in the locality; and 5.) Any self-created difficulties, the request for a front yard setback variance in the amount of 8.5' +/- to allow for construction of the 9' x 10' porch on the front of the home at 2613 Lynnhurst Drive is hereby **GRANTED** by a **4-0** vote.

The variance was unanimously granted with the votes cast as follows: Chairman Mark Johnson-AYE, Thomas Smallcomb-AYE, Eugene Burns-AYE and Paul Houle-AYE.

In the event that construction is not commenced within four months from the date hereof, then the variance granted by this Decision shall be deemed revoked.

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

Dated: 5/26, 2016

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OF THE TOWN OF VESTAL

BY: 
Mark Johnson, Chairman