



**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 - Karen McMullen, ESQ.
Alternates: Eugene Burns
John Taylor
Jennifer Kakusian

TOWN OF VESTAL
ZONING BOARD OF APPEALS

In the Matter of the Application of
Rod Vargason and Todd Vargason



DECISION

For variances as required by:

Chapter 24, Article IV, Division 2, Section 24-180 (b) (1) (b)
Chapter 24, Article IV, Division 2, Section 24-183 (b) (2) (a)
Chapter 24, Article IV, Division 1, Section 24-151

of the Code of The Town of Vestal, Broome County, New York
(Zoning Ordinance)

At a meeting duly scheduled for September 14, 2017, the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of Rod Vargason and Todd Vargason, regarding premises situate at 1700 & 1702 Glenwood Road (Tax Map No. 189.11-4-28 & 189.15-1-1) for a variance for nonconformity with Chapter 24, Article IV, Division 2, Section 24-180 (b)(1)(b) of the Code of the Town of Vestal pertaining to having less than the required lot frontage in an "RA-1", One Family Residence District, and a variance for nonconformity with Chapter 24, Article IV, Division 2, Section 24-183(b)(2)(a) pertaining to having less than the required 240 feet of lot frontage in an "RR" Rural Residential District, and for a use variance under Chapter 24, Article IV, Decision 1, Section 24-151 pertaining to having two primary residential structures on a single parcel.

Rod Vargason and Todd Vargason appeared in support of the variance requests. Proof of publication in the Town Crier was submitted, the Board's letter to the applicant in response to his application was read. The applicants had previously submitted a letter dated July 28, 2017, a highlighted tax map, and a GIS map with lines indicating the proposed premises boundary. The applicants explained that their parents purchased the property in the 1950s or 1960s, which contained a house on Glenwood Road and second house on the rear of the parcel, with vacant land. They want to sell the two houses and keep the vacant land. Their families own the nearby property, except for 1706 Glenwood Road, which is the house immediately next door, and there is a shared

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driveway with that house. The applicants and the Board discussed that if 1702 Glenwood Road and 1652 – 1664 Glenwood Road are combined into one tax parcel, the rear parcel will no longer be landlocked, which itself is a violation of the Code. In addition, the Board discussed that the parcels are partially in an RA-1 district and partially in a RR district.

The Zoning Board of Appeals members present, Mark Johnson, Tom Smallcomb, Gene Burns, and Jennifer Kakusian, indicated that they drove by the site and were familiar with the character and nature of the area.

The hearing was opened to the public. No one appeared in opposition, and after hearing no comments, the hearing was closed. There was no SEQR and no 239 l&m review required.

The Board discussed the area variance request under Section 24-180(b)(1)b. The requirement is lot frontage of 75 feet for an RA-1, and there is only 40 feet. The Board also discussed the area variance request under Section 24-183(b)(2)a, which says that minimum frontage is 240 feet in an RR district.

The Board reviewed the requirements for the area variance and analyzed the various factors in deciding to grant or deny the requests. There would be no significant change in the character of the locality and no alternate method to achieve what the applicants desire. There is no feasible alternative. The degree of the variance sought was relatively substantial, but the structures and the lot frontage existed long prior to the current Code. There would be no serious effects on physical and environmental conditions existing in the locality. The difficulty was not self-created. The change in the tax map parcels allows 1702 Glenwood Road to become more conforming because it will have some lot frontage, instead of being entirely landlocked.

Tom Smallcomb made a motion to grant a variance of 35 feet of lot frontage under Chapter 24, Article IV, Division 2, Section 24-180 (b)(1)(b) of the Code of the Town of Vestal pertaining to having less than the required lot frontage in an “RA-1”, One Family Residence District, to the Elaine E. Vargason Trust, Rod and Todd Vargason, Trustees, regarding premises situated at 1700 & 1702 Glenwood Road, (tax map parcels 189.11.-4-28 & 189.15.1-1) as presented to the Board. Gene Burns seconded the motion. A vote was called, and all Board members present voted in favor.

Tom Smallcomb made a motion to grant a variance of 200 feet for lot frontage under Chapter 24, Article IV, Division 2, Section 24-183(b)(2)(a) of the Code of the Town of Vestal pertaining to having less than the required lot frontage in an “RR”, Rural Residential district, to the Elaine E. Vargason Trust, Rod and Todd Vargason, Trustees, regarding premises situated at 1700 & 1702 Glenwood Road, (tax map parcels 189.11.-4-28 & 189.15.1-1) as presented to the Board. Gene Burns seconded the motion. A vote was called, and all Board members present voted in favor.

The Board then discussed the use variance requested. When the two lots with the houses are combined into one lot, there will be two principal residences on one lot, which is not permitted under the Code. The Board analyzed the factors. The first factor is whether the applicant can realize a reasonable rate of return on their investment, which has to be shown with financial

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evidence. In this instance, though, the use of the structures is not changing, and the combination of the tax map parcels adds frontage to a currently landlocked parcel. The Board decided that this factor does not really apply. The second factor is whether the plight is due to unique circumstances rather than neighborhood conditions. Chairman Mark Johnson said that it was unique in that combining the two properties solves one issue but creates the use variance issue, but also pointed out that the neighboring premises also has non-conforming frontage. The Board determined that the use variance, if granted, would not impact the essential character of the neighborhood, and that it is not a self-created hardship.

Code Officer Lincoln Ellis suggested that the Board consider placing a condition that if one of the buildings is demolished, or is significantly altered so that the use is no longer residential, then a second principal residence is no longer permitted on the parcel.

Chairman Mark Johnson made a motion to grant a use variance under Chapter 24, Article IV, Decision 1, Section 24-151 to allow two primary buildings one on lot by combining 1700 & 1702 Glenwood Road, (tax map parcels 189.11.-4-28 & 189.15.1-1) to create one property consisting of approximately one acre +/-, to the Elaine E. Vargason Trust, Rod and Todd Vargason, Trustees, regarding premises situated at 1700 & 1702 Glenwood Road, (tax map parcels 189.11.-4-28 & 189.15.1-1), with the condition the remainder of tax map parcel 189.15-1-1 be combined with tax map parcel 189.11-4-30 to create one lot at 1652, 1654, and 1664 Glenwood Road, and with the second condition that should the residential use of either 1700 or 1702 Glenwood Road change and/or one of the residence buildings be destroyed, it shall not be replaced. Tom Smallcomb seconded the motion. All Board members present voted in favor.

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

Dated: 10/24/2017

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: Mark S. Johnson
Mark S. Johnson, Chairman