



**TOWN OF VESTAL
ZONING BOARD OF APPEALS
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ZBA BOARD MEMBERS:

Chairman: Jennifer Kakusian
Members: Mark Tomko
Tom Smallcomb
Thomas Jackson, Jr.
Paul Houle
Alternates: Eugene Burns
John Taylor
Attorney: Phillip Grommet

TOWN OF VESTAL ZONING BOARD OF APPEALS

In the Matter of the Application of:

Vestal American Legion Post 89
3404 Vestal Road
Vestal, NY 13850
BCTM#: 158.07-3-4

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At a meeting duly scheduled for November 29, 2018, the Zoning Board of Appeals of Town of Vestal held a public hearing to consider the application of the Vestal American Legion Post 89 regarding premises situated at 3404 Vestal Rd. (BCTM#: 158.07-3-4) for a variance for non-conformity with Chapter 24, Article IV, Division 3, Section 24-207 of the Code pertaining to having less than the required parking spaces in a "C-2" Community Business District. The applicant seeks a variance so as to be allowed to have 23 parking spaces where the Code requires 32 parking spaces.

This matter was rescheduled from October 25, 2018 due to a lack of quorum as Zoning Board Board Member Tom Smallcomb recused himself because of a conflict of interest as he is a member in good standing at this American Legion. Scheduling conflicts arose with room availability and proper public hearing notification, and the meeting was thus scheduled for November 29, 2018.

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 the application was read. The applicant previously submitted a letter to the Board dated September 26, 2018 as well as a rendering of the parking lot.

Jennifer Kakusian, Zoning Board Chairman, started the meeting by noting the Vestal Town Board members in attendance: John Fletcher and Fran Majewski. Mrs. Kakusian further explained the above conflict of interest situation in great detail and the effect of Mr. Smallcomb's recusal. She also designated Alternate Board Member Eugene Burns as a Board Member for tonight's matters.

Mr. Keith Barney from Walsh & Sons Construction Corporation, Inc. and Mr. Ron Fancher, President of the Vestal American Legion Post 89, were in attendance and appeared on behalf of this application. There were no letters of opposition to the matter.

Board Member Mark Tomko inquired as to if nine (9) additional parking spaces could be squeezed in. Mr. Barney answered in the negative noting that the water storage retention was an issue as was the grade of the property. Mr. Barney noted that the building was already re-oriented to consider more spaces. Mr. Tomko inquired as to if there will be any events held at the building. Mr. Fancher answered in the negative. Only members will be at the building and membership is small.

Board Member Eugene Burns inquired as to if there would be any ceremonials, i.e. patriotic assemblies. Mr. Fancher answered in the negative stating that they will attend the parades, but will not hold such events on this premises. Mr. Burns inquired as to what types of trees will be planted on the property. Mr. Barney stated dwarf hemlocks (deer retardant).

There were no questions from other members of the Board.

The hearing was opened for public discussion at 6:09PM

Mr. Kenneth Craig, 3404 Lynwood Pl., a member of this American Legion and a Korean War Veteran (1949-1953) inquired as to the building's usage. Mr. Barney reiterated again that it was a "member only" facility.

Shoba Agneshwar, 817 Stonehedge Dr., inquired as to if this new location will be used as a voting election site and if the Board of Elections has approached them about this. Noting that the ZBA Attorney Philip Grommet is a BOE Commissioner, Jennifer Kakusian asked Mr. Grommet to respond. Mr. Grommet stated that this question "had no relevance" to the application. Further, Mr. Barney and Mr. Fancher noted they had not been approached by anyone regarding this.

Georgia Libin, 3397 Lynwood Pl., inquired as to if there will be a fence between her property and this American Legion. Mr. Barney answered in the negative. He pointed out the grading and the border of dwarf hemlocks. Ms. Libin expressed concern about the sewage and water drainage. Mr. Barney noted that this premises would be connected to Town sewer and water. Ms. Libin was very concerned that she was not notified about the variance. After much discussion with Code Officer Lincoln Ellis, it was determined that this property was mailed a courtesy letter regarding the variance request, but she probably did not receive it because she only recently purchased the house during the pendency of this matter. Proof of publication was shown to Ms. Libin and procedures were explained. Mr. Barney was very courteous and offered to visit with her. It was noted that the Planning Board would be discussing this matter on December 12, 2018.

The hearing was closed for public discussion at 6:14PM.

Board Members had stated that they visited the site or were familiar with the character and nature of the area.

After due deliberation, the Zoning Board of Appeals made the following finding of facts and conclusions of law:

There was no General Municipal Law 239 review and there is no SEQRA review required.

The Board Members reviewed the requirements for an area variance and analyzed the various factors in deciding to grant or deny the request.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: NO

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: YES
 Reasons: However, the alternatives would be extremely cost prohibitive; applicant exhausted two (2) other plans.

3. Whether the requested area variance is substantial: NO
 Reasons: Not a huge reduction in parking spaces compared to Code requirement.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: NO
 Reasons: No such adverse impact considering property is situated on Old Vestal Rd.

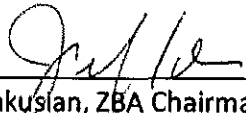
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance: NO
 Reasons: Alleged difficulty relates to the property's topography.

A motion was made by Board Member Eugene Burns to grant an area variance under Chapter 24, Article IV, Division 3, Section 24-207 of the Code of the Town of Vestal pertaining to BCTM#: 158.07-3-4 also known as 3404 Vestal Rd., as presented to the Zoning Board, to be allowed to have a total of twenty-three (23) parking spaces, where thirty-two (32) are required by Code in the "C-2" Community Business District. The motion was seconded by Mark Tomko, a vote was called, and all Board Members present voted as follows:

Vote:	Aye	Nay
Jennifer Kakuslan	x	
Mark Tomko	x	
Tom Smallcomb	RECUSAL	
Thomas Jackson, Jr.	x	
Eugene Burns	x	

The area variance was thus granted and the Code Enforcement Officer is herewith authorized to take the necessary action to carry out the provisions of this Decision.

Dated: November 27, 2018

Affirmed: 
Jennifer Kakuslan, ZBA Chairman