



**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

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In the Matter of the Application of

ROLAND & MARILYN HORTON

**DECISION**

For a variance as required by Chapter 24,  
Article IV, Division 2, Section 24-181 (e) (3) (b) (1)  
and Chapter 24, Article IV, Division 2, Section 24-181  
(e) (3) (b) (2) of the Code of The Town of Vestal,  
Broome County, New York (Zoning Ordinance)

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At a meeting duly scheduled for December 8, 2016, the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of Roland & Marilyn Horton regarding premises situate at 2070 Owego Road (Tax Map No. 172.14-1-23) for variances as required under Chapter 24, Article IV, Division 2, Section 24-181 (e)(3)(b) (1) and Chapter 24, Article IV, Division 2, Section 24-181 (e)(3)(b) (2) of the Code of the Town of Vestal, Broome County, New York pertaining to having less than the required side yard setback and also pertaining to having an accessory building less than 10 feet to the rear of a principal building in an "RA-2", One- and Two-Family Zoning District, so as to be permitted to construct a 12 ft. X 20 ft. steel frame carport to the east of the principal building in the front yard. A side yard variance of 2 feet is requested as well as a variance to permit the structure to be located in the front yard.

Appearing in support of the variance were the applicants, Roland and Marilyn Horton. The Board was provided with a letter, detailed drawings, photos and carport specs.

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

The basis for the requested variances is that applicants advise that it has become more difficult for them to remove snow and ice from their vehicle that is not parked in their garage. Mr. Horton is 87 years old and has had both knees replaced and several bouts with cancer. They have two vehicles and only a one car garage. The Board was advised that this would only be a temporary variance as when there is no longer a need for two cars at the residence, the carport would be removed by their son in law. Mr. Horton also advised that he inquired of his neighbors to see if any of them would object to this carport. None of the neighbors objected.

The hearing was opened to the public for comment, and after hearing no comments, the public portion of the hearing was closed.

In summary, the Code requires that such an accessory building be located 10 feet to the rear of the principal building. In this case, the Board finds that the limitations on this property, as well as the particular circumstance of the applicants make the variances reasonable.

This Board is in possession of Broome County's 2391 and in review. There were no County wide concerns indicated, except to state that the applicants should be aware that their property is in a flood zone.

Based upon the testimony of the applicants and a review of the submissions, a motion was made by George Gerner to grant applicant a 2 ft. +/- side yard setback variance and a variance to allow for the carport to be erected less than 10 feet from the rear of the principle building, as presented to the Board, with the condition that these are temporary variances and shall run only with

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the Hortons and only for so long as they are needed. That motion was seconded by Mark Tomko. A vote was called and therefore in consideration of the factors of:

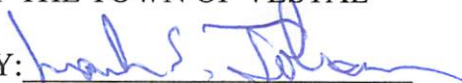
- 1.) Change in character of locality;
- 2.) Alternate methods to achieve what the applicant desires;
- 3.) The degree of variance sought;
- 4.) Effect on the physical conditions existing in the locality; and
- 5.) Any self-created difficulties, the request for a 2 ft. +/- side yard setback variance and a variance to allow for the carport to be erected less than 10 feet from the rear of the principle building, as presented to the Board, with the condition that these are temporary variances and shall run only with the Hortons and only for so long as they are needed, is hereby **GRANTED** by a 5-0 vote. The variance requests were unanimously approved. The votes were cast as follows: Chairman Mark Johnson-Aye, George Gerner-AYE, Eugene Burns-AYE, Paul Houle-AYE and Mark Tomko-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.

Dated: January 3, 2017

ZONING BOARD OF APPEALS  
OF THE TOWN OF VESTAL

BY: 

Mark Johnson- Chairman