

**Town of Vestal Planning Board Minutes  
October 6, 2009**

**7:30 P.M.**

Present: Chairwoman, Joyce Majewski

Board Members: Bob Warner, Augie Gates, Bob Bennett,  
Ed Zimmer, and Madeleine Cotts

Also present: Gary Campo, Town Engineer;  
Carl Truman, Fire Marshall  
Barb Taggart, Planning Board secretary

**1). Approval of Past minutes**

Motion was made to approve the August 4, 2009 minutes. Motion by Ed Zimmer, second by Bob Bennett. Motion was passed with all members voting in favor.

**2). Richard Brush, 221 Crest Road, BCTMP#172.11-1-42**

Flood variance request.

Flood variance at the corner of North and Crest Roads, is being requested by the owner, Rich Brush. The 100 year flood elevation is about ½ foot below his first floor. His first floor is 829.4 and flood elevation is 828.9. The Town of Vestal had made the previous owner fully aware that prior to making repairs to the house, after being flooded in 2006, they had to obtain a building permit; as well as moving all the utilities from the basement to the first floor above the flood elevation. The previous owner knew this as they did get an elevation certificate.

Gary states, Rich bought the house and started doing the repairs without a building permit, Code Enforcement noticed it. By then it was too late, he was already over \$20,000 into the repairs. The previous owners did remove the furnace and hot water heater to the first floor before the flood, so the new owner just put the hot water heater and furnace back. Gary did tell Rich, he should have obtained a building permit before starting his renovations and at that time Code Enforcement would have told him of the restrictions. There is a combination of the previous owner not disclosing what they knew, your attorney not discovering the matter and Mr. Brush not obtaining a building permit.

Gary stated: The Town would never tell them not to fix the house and he now has all this work done, so that is where we are at this time.

The adjacent grade is just below the floor line, the first floor is basically at the 100 year flood line and the basement is 7 feet below the flood line. Code Enforcement is telling us the flood elevation plus two feet is the construction elevation (which has changed from plus one). FEMA rules are substantial improvements that have to meet the new flood elevations, and we consider substantial improvement at 51 percent of the value of the house. For explanation purposes, if he was putting on a 10 x 10 addition and it cost \$20,000 and the house is worth \$100,000, he would not have to meet the flood specifications, technically, because it is not substantial improvement

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of the house. Being that a building permit should have been applied for, we would try to get the utilities up.

Ed Zimmer states you have \$26,000 into improvements; the value of the house is \$108,000. Augie Gates asks if his assessment has gone up, which it has, and the taxes were raised before he purchased the house. Ed then asks about new technology, tank less hot water heaters, direct venting to which the owner states, that is more money than he wants to spend.

Joyce Majewski states that Dave Berger, Vestal Town Attorney has drawn up a liability paper that if the board was to permit this, the Town is not held responsible. That the owner would not have any recourse, Mr. Brush stated he understood.

Bob Bennett and Ed Zimmer ask at what percentage is the owner near for completion of the renovations? How much more money does he have to spend?

Madeleine also added that the chances of this area flooding again do exist. The flood elevation is based on the existing flood map, they are being re-drawn and it is highly likely that that new number will be higher, that is what has been happening. Chances are that even if your furnace is on the first floor, it might still get flooded there. It is a two edged statement, it may help you but it might hurt you, flooding is getting worse.

Joyce asked about the insurability of the house. Will it be affected by this? Gary states he has to have flood insurance because he is in the 100 year flood plan. There are different levels of flood insurance which the homeowner needs to investigate.

Gary: He goes back to - if he built a \$40,000 addition from the existing structure, at the same elevation tomorrow, he would not have to get any variance from us by the FEMA rules...Code stops at the house, and they can't walk away, so they brought it to the Planning Board.

Ed Zimmer states if he is not exceeding 51 percent of the value of the house, then he agrees with the variance. They ask Mr. Brush if he can remove the furnace and hot water heater if it does flood again, and he stated yes...

Motion was made by Ed Zimmer, second by Bob Bennett. Ayes: All in favor; with the stipulation that a **waiver is signed with an indemnification agreement and he must obtain a building permit.**

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**Engineer's report prepared outside of this meeting**

A). Ed Puglisi. Puglis Tax Service, 164 N Jensen Rd, Vestal NY, site plan dated 8-10-09, proposal to build a 450 sfr addition to the rear of the present building, was reviewed and approved.

B). Bob Warner, Warner Gas, 116 Vestal Rd Vestal NY BCTMP#157.14-2-3  
Site plan dated 8-14-09 proposal to building a 1,800 sf cold storage building on the 301 N Stage Road site has been reviewed and approved.

C). **Change of tenant**, 130 Front Street, BCTMP# 157.79-1-32  
Letter dated 8-11-09 intent to occupy reference parcel, consignment shop, selling women and children clothing, has been reviewed and approved.

D). **Change of tenant**, 1500 Vestal Parkway East, BCTMP#157.16-1-12 Darryl Reynolds, Pastor, Triumphant Life Church to occupy reference parcel with church services, previously used by Sylvan Learning Center, has been reviewed and approved.

E). Weiss Market, 100 Rano Blvd, BCTMP#158.14-1-18  
Weiss Market, formally the Giant Market, to change the operating hours to 24 hours, has been reviewed and approved.

F). **Change of tenant**, 4100 Vestal Rd, Vestal Executive Park,  
BCTMP# 159.09-2-8.11 Raymond James Financial Services, area previously used by Charles Schwab and Company has been reviewed and approved.

G). **Change of tenant**, 2231 Vestal Parkway West, BCTMP# 172.14-1-5, The Bargain Place  
2231 Vestal Parkway West, to occupy building with new-only furniture business, the Bargain Place Liquidation Warehouse, has been reviewed and approved.

H). Bob Warner, Warner Gas, 116 Vestal Road, Vestal BCTMP#143.17-1-1 proposal to building a 3,600 sf cold storage building on the 3925 Gates Road site, to be used for storage of propane trucks, per request of Homeland Security, has been reviewed and approved.

I). **Change of tenant**, 259 Vestal Parkway East, BCTMP#157.18-1-20, David Williams to occupy reference building, previously used by CMS Inc, for your retail photographic supplies, printing and photo studio called Beyond the Print, has been reviewed and approved.