

PUBLIC HEARING & BUSINESS MEETING  
DRAFT

**A. CALL TO ORDER:** The Chairman called the meeting to order at 7:05 PM.

**B. ROLL CALL**

**Members:** John DeLeire, Chair; Steve Bryant, Vice Chair; Mark Call, Member; Alex Dittami, Member.

**Absent:** Scott Almeida, Member; Patricia Young, Alternate.

**Non-Member:** Rachel D. Webb, Town Secretary

**C. PUBLIC HEARINGS:**

The applicant was offered to continue their application to the next regular meeting of the ZBA, due to the fact that there were only four of the five ZBA members present, and the applicant decided to proceed with their application at this meeting.

**Case # 21-03:** Application from **Richard M. Marchese** for relief from Building Code Requirements Section 7.1.1.1 b) Septic Reserve Area (SRA) to allow the use of a Test Pit with a result of 16-inches to the estimated Seasonal High-Water Table, in Zone A/R, at property located at **9 LaFiesta Drive, Map 1, Lot 30-1 (continued from July 22, 2021).**

Henry Boyd, Engineer, with Millennium Engineering, represented his client, Richard Marchese (who is the Personal Representative for the Estate of Joseph Lasden), for property located at 9 LaFiesta Drive. H. Boyd explained that he decided to go ahead and draft the septic design plan, which he presented to the ZBA. His understanding, at the conclusion of the July ZBA meeting, was that he was tasked with obtaining a third-party's opinion regarding his proposed septic design, and to bring that opinion to the ZBA's August meeting. H. Boyd spoke with Mike Cuomo from Rockingham County Conservation District (RCCD) and asked if M. Cuomo could write a letter to the ZBA regarding the application case #21-03, and M. Cuomo responded saying that he would need to have authorization from the ZBA to write a report or opinion. Additionally, H. Boyd commented that NH-DES will not review a hypothetical application, only formal application, so that was also why he went ahead a drafted the septic design plan.

There was substantial discussion regarding peer review of the proposed septic design, and the sequence of obtaining that information to better inform the ZBA's decision. J. DeLeire said that his opinion was that the ZBA should exercise its due diligence and request a peer review of the proposal. Subsequent to receiving the peer review report, then the ZBA should deliberate and make their decision. A. Dittami agreed that having M. Cuomo provide his opinion/report (as a peer review) will inform the ZBA to make their decision regarding the requested waiver. S. Bryant wants to understand the rationale of the 24" vs the 16" requirement, and emphatically get the answer to the following question: Does the proposed plan provide commensurate level of protection as the Hampton Falls ordinance, yes, or no? M. Call reviewed the Decision Letter sent to the applicant as a result of the July meeting.

A.Dittami asked if there will be any additional changes to proposed plan, and H. Boyd responded that there were some drafting errors, due to different layers of data, that needed correction, and a few typos, but that dimensions will not change, and any updates will be minor. J. DeLeire requested that H. Boyd

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make those changes to the plan, and then submit the plan administratively to the Zoning Board Secretary to forward to RCCD/ M. Cuomo for peer review. The applicant agreed to provide additional payment for the cost of the peer review by RCCD, to be determined administratively through the Zoning Board Secretary.

**PUBLIC COMMENT**

Chairman J. DeLeire opened the meeting to Public Comment.

There was no one else in attendance to comment on the application.

The Chair closed the Public Comment Session.

**MOTION: To approve the waiver requested for relief from Building Code Requirements Section 7.1.1.1 b) Septic Reserve Area (SRA) to allow the use of a Test Pit with a result of 16-inches to the estimated Seasonal High-Water Table, in Zone A/R, at property located at 9 LaFiesta Drive, Map 1, Lot 30-1, with the following conditions, that:**

- 1) the plan identified as Septic Design dated August 17, 2021, be updated with typo corrections only; and that**
- 2) the plan be submitted to RCCD for peer review.**
- 3) If the environmental review produces the same, if not better, results then the Hampton Falls ordinance, then the waiver is approved.**

**MOTION: A.DITAMMI**

**SECOND: S. BRYANT**

**2 IN FAVOR, 2 OPPOSED; MOTION FAILED**

**A.DITTAMI WITHDREW HIS MOTION.**

**MOTION: To authorize the Zoning Board Secretary to receive the updated septic design plan from the applicant, and to submit that plan for peer review to M. Cuomo at RCCD, with the RCCD resultant report submitted to the Zoning Board Secretary by September 13<sup>th</sup> to meet the agenda deadline requirement for the September ZBA meeting. The applicant has agreed to pay the TBD review fee to the Town of Hampton Falls, to contract with RCCD, for the independent review.**

**MOTION: J. DELEIRE**

**SECOND: M. CALL**

**AMENDED MOTION: To determine if the plan submitted provides commensurate level of environmental protection as the current Hampton Falls ordinance requires.**

**MOTION: S. BRYANT**

**SECOND: J. DELEIRE**

**UNANIMOUS**

**MOTION: To accept the applicant's request to Continue his application Case # 21-03, to the next ZBA meeting of September 23, 2021.**

**MOTION: J. DELEIRE**

**SECOND: S. BRYANT**

**UNANIMOUS**

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**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES (07/22/2021)**

**MOTION:** To approve the minutes of July 22, 2021 as written.

**MOTION:** S. BRYANT

**SECOND:** J. DELEIRE

**UNANIMOUS**

**E. OTHER BUSINESS**

1) **Case # 21-04:** Application from **Katie Curran** for a Special Exception to the terms of Article III, Section 4, A. 4, to allow a Dog Day Care, in Zone A, at property located at **15 Marsh Lane, Map 9, Lot 8**. J. DeLeire reviewed the decision process for this application, which was on the July ZBA agenda. He reviewed that the ZBA voted to *“approve, as presented, the request for the Special Exception for Case # 21-04...subject to the following Conditions of Approval...with #4 Subject to Public Safety review and approval for traffic impact.”* The Police Chief’s requested comments were received August 4, 2021. J. DeLeire stated that he called Chief Dirsra to discuss the report, and confirmed that the Police Department was clearly against the proposal, so the ZBA Decision Letter to the applicant was sent on August 5, 2021.

J. DeLeire said that he felt badly that the ZBA gave the applicant false hope by granting an Approval with Conditions, only to have one of the conditions fail, which caused the application to be denied. M. Call asked how the ZBA could have handled the sequence differently. J. DeLeire said that the ZBA should request input from others, and receive that input, prior to making their decision, and not get in a practice of granting “conditional approvals”, if they can be avoided. Both A.Dittami and S. Bryant agreed.

M. Call said that he thought the way the sequence of decisions and actions unfolded, that it looks, to the general public, as if the Police Chief denied the Special Exception. He continued that he thought it would be an improvement to have the ZBA take a final vote on the case, having discussed the Police Department’s report.

**MOTION:** To deny Case # 21-04: Application from Katie Curran for a Special Exception to the terms of Article III, Section 4, A. 4, to allow a Dog Day Care, in Zone A, at property located at 15 Marsh Lane, Map 9, Lot 8, based the Decision Letter dated July 28, 2021 that was an approval letter subject to Conditions of Approval, and specifically regarding the failure of Condition of Approval #4, subject to Public Safety review for traffic impact, and the subsequent Decision Letter sent August 5, 2021.

**MOTION:** M. CALL

**SECOND:** J. DELEIRE

**UNANIMOUS**

- 2) A.Dittami shared some informational documents with the ZBA that he suggested be copied and distributed to all ZBA members. J. DeLeire agreed and requested the Zoning Secretary include them in the next packets, prior to the ZBA’s September meeting.

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- 3) A.Dittami introduced James Hasenfus, Drinkwater Rd, as an interested candidate to serve as an Alternate member of the ZBA.

**F. COMMUNICATIONS TO BOARD MEMBERS**

No communications were made to Board members at this time.

**G. ADJOURNMENT**

**MOTION: To adjourn the meeting at 8:15 p.m.**

**MOTION: J. DELEIRE**

**SECOND: S. BRYANT**

**UNANIMOUS**

*The next meeting of the Zoning Board of Adjustment is scheduled for Thursday, September 23, 2021*