

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, Alternate.

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

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

Alternate Member A. Dittami was appointed as a voting member for this meeting.

**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.**

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, 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. H. Boyd presented a bit of contextual background information of the site. The deceased owner, Joseph Lasden, was a Marine and his business partner was Richard Marchese, who is the Personal Representative for the Estate. There was a 1984 approved subdivision done by Parker Survey, however H. Boyd can not locate a NH Subdivision Approval for NHDES. The owner wants to build out Lots 1 and Lot 2 eventually, utilizing a shared driveway across Lot 1, as access from LaFiesta Drive to Lot 2 would be prohibitive due to slopes of 35-40 %. There are no wetlands on the site, but it does slope. Mike Cuomo from RCCD is the person who viewed and evaluated the test pits dug recently.

H. Boyd spoke to the three criteria for granting the relief to the Building Code, by reviewing a written statement by Bob Scarano, submitted as part of application materials.

1. Supporting comments of how enforcement of these regulations would do manifest injustice.
2. Supporting comments of how enforcement of these regulations would be contrary to the spirit and purpose of the building codes.
3. Supporting comments of how enforcement of these regulations would be contrary to the public interest.

The proposal was made to consider the following two scenarios, with (A) the applicant's preferred outcome, utilizing the deficient test pit (16" instead of the required 24") for a gravity-fed septic system out back, that would take advantage of the natural slope of the site, resulting in a level backyard. The

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second (B) scenario would utilize alternate test pits in the front yard, up-hill from the house, and would require a pumped system, and a mountain of eight-feet of fill.

The Board members asked several questions regarding details of the proposal.

J. DeLeire made the point that if the ZBA granted this request, then everyone else will seek the same type of relief from the Building Code. H. Boyd responded stating that it was his interpretation that there is no science behind this particular Building Code requirement, and that it was his opinion that there is no benefit to the residents of Hampton Falls to adhere to the Building Code.

A.Dittami inquired if the water table readings in the test pits was affected by the drought conditions, and H. Boyd stated that the water table was not what was being analyzed in the test pits, rather the soil profile/composition.

J. DeLeire asked what was the difference between the 24” and the 16” in the depth to water table, in terms of the functioning of the septic system, and H. Boyd responded that the septic system will have eight-inches (8”) more inches of sand.

A.Dittami asked if the septic designs are similar or different now compared with twenty-years (20) ago, and H. Boyd responded that the septic systems designed today are more sophisticated than years ago. A.Dittami said that if the ZBA approves this request that there is no guarantee of the type of septic system installed. H. Boyd stated that if his application was approved, that he would recommend installation of an Environmental Septic Pipe, type of septic system.

S. Bryant asked what is the State standard for septic systems, and H. Boyd responded saying that the State does not have a minimum.

A.Dittami said that he wants all of the details of the proposed septic system to substantiate the request for the relief from the Building Code, presented by a third party “expert”, to give the ZBA all of the information to be able to make a decision.

J. DeLeire read the Building Inspector Mark Sikorski’s report into the record, and stated that the applicant can develop the lot with the septic in the front yard. H. Boyd responded saying that he was not in favor of a pumped system, which would be necessary if the septic was located in the front yard.

S. Bryant stated that the purpose of this application review was not to debate which type of septic system design is better, but is there quantifiable information available from a non-biased third party, to present the validity of the application. H. Boyd said that he could try to get a letter from Mike Cuomo at RCCD, and he could also try to get a letter from NH DES that would address the difference between the 16-inches (16”) being proposed, and the 24-inches (24”) required by the Building Code.

**PUBLIC COMMENT**

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Chairman J. DeLeire opened the meeting to Public Comment. Although there was one abutter to the site present, he chose not to speak, and (upon inquiry) said he was attending to observe the process. There was no one else in attendance to comment on the application. The Chair closed the Public Comment Session.

The ZBA members deliberated that they were trying to find a way to help the petitioner. At this point, the Chairman offered the applicant the option of continuing his application to the next regularly scheduled ZBA meeting August 26, 2021. Given the comments of the Board, the applicant's representative, H. Boyd requested to continue his application for relief from the building code requirements to the next ZBA meeting August 26, 2021.

**MOTION: To accept the applicant's request to Continue his application Case # 21-03, to the next ZBA meeting of August 26, 2021.**

**MOTION: J. DELEIRE**

**SECOND: S. BRYANT**

**UNANIMOUS**

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 # 21-04:** 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.**

K. Curran presented her case for a Special Exception to Article III, Section 4, A. 4, to allow a small dog daycare.

The Board members asked several questions regarding details of the proposal.

J. DeLeire asked how many dogs maximum, what hours would the dog day care be open, and were there plans for waste disposal. K. Curran responded that she would have a maximum of ten (10) dogs, but would start out with five (5), that her hours of operation would be from 8:00 am to 6:00 pm Monday through Friday, and that she would utilize a small dumpster for the dog waste, inside her barn, so that it would not be visible. Additionally, the applicant offered that she would develop fencing next to her garage, to contain the dogs, and that she would utilize the barn for early mornings, with the dogs inside until approximately 10:00 am, and then she would take the dogs for walks on leashes on the adjacent Conservation Commission land/trails.

J. DeLeire asked about insurance in case a dog escaped or bit someone, or bit another dog, and K. Curran responded that she would obtain a lot of insurance. The question was raised about whether she would accept dogs to stay overnight, as in a kennel, and the response was no overnight dogs. Someone asked if she had any experience or background in this area, and she said that she had previously worked in a kennel, and had some experience.

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J. DeLeire read into the record the Building Inspector Mark Sikorski's staff report. K. Curran said that she had a letter of support from one of her neighbors, a direct abutter at 9 Marsh Lane, and she shared the letter with the ZBA.

The question was raised as to whether there would be any employees, and the applicant responded saying that she may eventually have a part-time employee, but not right away.

A.Dittami was concerned about the potential increase in the number of cars going up and down Marsh Lane several times daily, as it is a street that narrows considerably the farther one travels off of Route 1. He said that he would want Public Safety (Police and Fire Chiefs) to weigh-in on the proposal in terms of traffic impact.

J. DeLeire asked if there would be any type of limitations on the types of dogs accepted, and K. Curran responded saying that some dog daycares interview the dogs prior to accepting them for daycare.

M. Call asked if there were any licensing requirements, and the applicant responded no. He followed up asking how close to her nearest neighbor's house was the proposed fenced area for the dogs, and she did not have a response indicating the exact distance, but said that it is quite some distance. There was a discussion about noise impacts of dogs barking, which resulted in J. DeLeire looking up the Nuisance Provisions of the Zoning Ordinance in Article IV, Section 1, page 70 which addressed the members' concerns, as the Zoning/Building Enforcement Officer would be the one to enforce the Nuisance Provisions, if an issue were to develop.

PUBLIC COMMENT

Chairman J. DeLeire opened the meeting to Public Comment.

There was no one present, other than the applicant, so the Chair closed the Public Comment Session.

The ZBA members deliberated that they were trying to find a way to help the petitioner, and felt that if they detailed some Conditions of Approval, which the applicant has agreed to (through the questions and answers, and, as part of her proposal), that the ZBA members were generally in support of the application.

**MOTION: To approve, as presented, the request for a Special Exception for 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**, subject to the following **Conditions of Approval:**

- 1) That a maximum of ten (10) dogs per day are allowed at the dog day care.
- 2) That a dumpster, suitable to industry standards, be located on site, inside the barn, to accommodate the dog waste.
- 3) That the hours of operation are limited to: no earlier than 8:00 am, and no later than 6:00 pm from Mondays through Fridays. Hours of operation will not be allowed on weekends.
- 4) Subject to Public Safety review and approval for traffic impact.
- 5) That sufficient insurance, suitable to industry standards, be obtained and maintained by the applicant prior to opening for business.
- 6) That a safe, fenced, outside area for dogs be established prior to opening for business.

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- 7) That continued operation of the dog daycare is subject to the Hampton Falls' Nuisance Ordinance.
- 8) That dogs will be leashed at all times, when not inside the fenced area.
- 9) That any license requirements by the State or Town will be adhered to by the applicant.
- 10) That the approval of this Special Exception is solely for the use and benefit of Katie Curran, for the premises located at 15 Marsh Lane, Hampton Falls, NH, and the approval does not transfer with the sale or rental of the property to any subsequent residents, tenants, or employees.

**MOTION: J. DELEIRE  
SECOND: S. BRYANT  
UNANIMOUS**

**REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES (05/27/2021)**

J. DeLeire requested the Board review the minutes from the previous meeting of May 27, 2021.

**MOTION: To approve the minutes of May 27, 2021 as written.**

**MOTION: J. DELEIRE  
SECOND: A. DITTAMI  
UNANIMOUS**

**D. OTHER BUSINESS**

There was no other business brought before the Board at this time.

**E. COMMUNICATIONS TO BOARD MEMBERS**

No communications were made to Board members at this time.

**F. ADJOURNMENT**

**MOTION: To adjourn the meeting at 8:30 p.m.  
MOTION: J. DELEIRE  
SECOND: A. DITTAMI  
UNANIMOUS**

*The next meeting of the Zoning Board of Adjustment is scheduled for Thursday, August 26, 2021*