

<b>ZONING BOARD OF ADJUSTMENT</b>	<b>September 23, 2021 7:00 PM</b>
<b>TOWN OF HAMPTON FALLS</b>	<b>TOWN HALL</b>

**DRAFT**

**A. CALL TO ORDER**

John DeLeire, Chairman, called the meeting to order at 7:01 PM.

**B. ROLL CALL**

**5 PRESENT:** John DeLeire, Chairman; Steve Bryant, Vice-Chairman; Mark Call, Alex Dittami, Members; James Hasenfus, Alternate.

**2 ABSENT:** Scott Almeda, Member; Patricia Young, Alternate

**2 NON-VOTING:** Mark Sikorski, Building Inspector; Rachel D. Webb, Town Secretary.

**C. PUBLIC HEARINGS**

**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 August 26, 2021).**

Chairman J. DeLeire conveyed the applicant's request, by email received earlier in the day, to be continued to the next scheduled ZBA meeting October 28, 2021. The report from RCCD's Mike Cuomo's review had only been received earlier today, and he needed time to review the report and to formulate a response.

**MOTION: To continue Case # 21-03 to the ZBA meeting October 28, 2021.**

**MOTION: S. BRYANT**

**SECOND: J. DELEIRE**

**UNANIMOUS**

**Case # 21-05: Application from N. Miles Cook, III, 19 Lafayette Rd., LLC. For a Variance from Article IV, section 3.2.1.1.1 and Article 3.2.1.1.2 to allow for five (5) building signs totaling 208 square feet, in Zone BDS: Business District South, at property located at 19 Lafayette Road, Map 7, Lot 68.**

The applicant, Miles Cook, representing his Seacoast Powersports Dealership, described how he is planning to move his currently Hampton-based business to Hampton Falls, into the building currently under construction, located at 19 Lafayette Road. He wants to move his existing signage, located on the building in Hampton, to the new building in Hampton Falls. M. Cook stated that the proposed signage in Hampton Falls will only be located on one façade of the building facing Route One. The signage will not be visible to the residences located behind the business, and there is currently no land use located across Route One from the site. Traveling north or south on Route One, there will be no signage on either northerly nor southerly building façades. M. Cook read his application material that he submitted to justify his request for a Variance, in terms of addressing the five (5) criteria needing to be met for a Variance.

J. DeLeire inquired about the total square-footage size of the building under construction, and the response was 17,400-sqft, including the mezzanine and office areas.

A.Dittami inquired about the eventuality of a Free-Standing sign, and the applicant responded that he plans to request a building permit for a Freestanding Sign, which will include the name of

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the business only, but that he does not yet have plans ready for that sign. M. Sikorski clarified that the total square-footage allowed for a freestanding sign will be 100-square-feet on each side, (based on the size of the building being over 9,001-square-feet) so 10-ft by 10-ft, as an example. M. Call asked about illumination of the proposed signage, and M. Cook responded that the signs will be internally illuminated and on timers to be lit from dusk to dawn. There was a discussion regarding awning signage, and the applicant stated that there will be no signs on the awnings. M. Sikorski stated that if awning signage were (hypothetically) proposed, that he would consider the awning square-footage proposal to be a part of the wall signage allotment/calculation.

Chairman J. DeLeire noted there were no members of the public present to speak during the Public Hearing, so he closed the Public Hearing, and the ZBA entered deliberations.

M. Call asked about the rationale behind the zoning ordinance signage limitation of 60-square-feet for a 6,000-square-foot building and noted that the percentage is roughly one-percent (1%). The applicant's building size is close to three-times the size of the 6,000-square-feet in the zoning ordinance. If that one-percent ratio were applied to this application, then the applicant would be permitted 174-square-feet of signage, which is close to what he is asking. M. Call is looking at this application as a ratio perspective. He asked if A. Dittami knew the history of the rationale behind the signage limitations for this zoning district, for building sizes up to 6,000 square feet. A. Dittami responded that there was interest in bringing some uniformity and consistency to signage along Route One.

A.Dittami raised the hypothetical scenario of the applicant subdividing his building, or subletting parts of the space into smaller businesses, and discussed what the sign ordinance would allow under that scenario. M. Sikorski said that it would be difficult to project what would happen, but if that were to occur, that the applicant would need to return to the Planning Board with a new site plan proposal, because it would be enough of a modification to the site, and the new signage proposals would be addressed at that time. The additional point M. Sikorski made was to apply tonight's decision of the ZBA, regarding the proposed Variance, to the Site Plan, so that it is documented on the Site Plan.

A.Dittami said that according to the State enabling statutes the ZBA has the right to make an exception to the ordinance, so he wants the ZBA to consider utilizing a Special Exception, review of this application, rather than a Variance, because more conditions can be attached to a Special Exception than to a Variance. A Variance would normally attach to a property, whereas conditions attached to a Special Exception permit would protect the Town from the adverse scenario of hypothetical subdivision of the building with a potential of multiple signs with increased signage area.

S. Bryant said that he does not have any challenges with the proposed signage but wants to make sure that there is a mechanism to make sure that any proposed future changes would come back to the ZBA for consideration. J. DeLeire stated that he felt the signage request was reasonable, and that tying the ZBA decision to the Site Plan made the most sense.

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A.Dittami asked M. Cook if he adds another dealer, will he need more signage, and the answer was yes. M. Sikorski said that window signs are not addressed in the zoning ordinance, so if there was a lit sign inside a window, the ordinance would not regulate that.

M. Call asked if the signs will be moving, flashing, animated, or digital. The applicant responded no, and M. Sikorski responded that the signs being proposed are static signs.

A.Dittami discussed how he planned to make a motion to allow for 1) restrictions to prevent potential signage issues if the property is further subdivided at a future date; 2) provisions to allow flexibility; and 3) recommending signs that are larger than four by eight in square-feet. J. DeLeire reminded A. Dittami of the Variance request before the board, and A. Dittami proceeded with his motion.

**MOTION: To approve Case # 21-05: Application from N. Miles Cook, III, 19 Lafayette Rd., LLC. For a Variance from Article IV, section 3.2.1.1.1 and Article 3.2.1.1.2 to allow for five (5) building signs totaling 208 square feet, in Zone BDS: Business District South, at property located at 19 Lafayette Road, Map 7, Lot 68 with the following Conditions of Approval:**

- 1) **There will be five, and only five (5) signs installed on the front of the building;**
  - a) **The signs will be no more than 4-ft by 12-ft maximum (48 sqft) each, and no less than 4-ft by 8-ft (32 sqft) each minimum in size;**
  - b) **The signs will be internally illuminated;**
  - c) **The signs will be non-moving, nor flashing;**
  - d) **If the applicant wants to replace the signs in the future with digital signs, that would be approved with the restriction that the digital message not be replaced more frequently than once in a 24-hour period.**
- 2) **The Variance will remain in effect as long as the current business occupies 100% of the space;**
- 3) **If the owner sublets any portion of the space, then the Variance would be suspended;**
- 4) **There will be no window signs, and no awning signs, no signs on the sides of the building, and no signs on the rear of the building;**
- 5) **Any Free-standing sign in the front of the building will comply in all respects to the sign ordinance of the Town of Hampton Falls;**
- 6) **No further changes in the size nor style of the signage can be allowed on that property.**

M. Call stated that he felt as though the proposed motion was an overcomplication of a simple Variance request. M. Sikorski said that the Board should not grant an approval of a Variance which exceeds that which the applicant is requesting, as that would be equivalent to the Board re-writing the zoning ordinance. J. DeLeire reminded the Board that the abutters were notified by certified mail of the specific Variance request. S. Bryant said that the ZBA is trying to facilitate the future business plans of the applicant relevant to potential signage requests while also protecting the Town's interests. If the space is further subdivided, then there would be more

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signage allowed by the sign ordinance. J. DeLeire said that that is why the Variance decision needs to be tied to the Site Plan. He was in favor of keeping the Variance decision very simple and letting the zoning ordinance take care of everything else, namely whether the signs are back lit or front lit, whether the signs move or don't move, and the details about the free-standing sign out front. M. Call said that he is not sure he wants to approve more than 208 square feet of signage.

**MOTION SECONDED: S. BRYANT**

S. Bryant said that he was in support of A. Dittami's motion because it provided both protection to the Town and flexibility to the applicant.

**AMENDMENT TO THE MOTION, BY A. DITTAMI: To tie the Variance approval to the Site Plan.**

**AMENDMENT TO THE MOTION, BY S. BRYANT: To remove the window sign restriction from the original motion.**

J. DeLeire moved the motion to a vote.

**2 IN FAVOR**

**3 OPPOSED**

**MOTION FAILED.**

**MOTION: To approve Case # 21-05: Application from N. Miles Cook, III, 19 Lafayette Rd., LLC. For a Variance from Article IV, section 3.2.1.1.1 and Article 3.2.1.1.2 to allow for five (5) building signs totaling 208 square feet, in Zone BDS: Business District South, at property located at 19 Lafayette Road, Map 7, Lot 68, and if granted, the Variance approval will be tied to the Site Plan, so that the signage square-footage can only be changed by modification to the Site Plan.**

**MOTION: J. DELEIRE**

**SECOND: M. CALL**

**4 IN FAVOR**

**1 OPPOSED**

**MOTION PASSED.**

The applicant commented that the decision process was spirited and thoughtful. And S. Bryant commented that there is nothing wrong with having differences of opinion. M. Call agreed stating that it is healthy for board members to have differences of opinions.

**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES: 08/26/202.**

**MOTION: To approve the minutes of the Zoning Board of Adjustment from August 26, 2021 as written.**

**MOTION: A. DITTAMI**

**SECOND: J. DELEIRE**

**UNANIMOUS**

**E. OTHER BUSINESS**

- 1. Request for reconsideration or rehearing of 21-04 ZBA decision, based on new business plan for Dog Day Care at 15 Marsh Lane, Map 9, Lot 8.**

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Chairman, J. DeLeire conveyed the applicant's request, by email received earlier in the day, to be continued to the ZBA scheduled meeting November 18, 2021. The applicant had a death in the family and was unable to attend tonight's meeting, and she is scheduled to be out of town for the October 28, 2021 meeting.

**MOTION: To continue Case # 21-04 to the ZBA meeting November 18, 2021.**

**MOTION: S. BRYANT**

**SECOND: J. DELEIRE**

**UNANIMOUS**

**F. COMMUNICATIONS TO BOARD MEMBERS.** There were no communications.

**G. ADJOURN**

**MOTION: To adjourn the Zoning Board of Adjustment at 8:15 pm.**

**MOTION: J. DELEIRE**

**SECOND: S. BRYANT**

**UNANIMOUS**

**The next meeting of the Zoning Board of Adjustment is scheduled for Thursday, October 28, 2021**