

APPROVAL OF MINUTES DATED April 27, 2023

Five Below- Signage Variance


Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals  
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 

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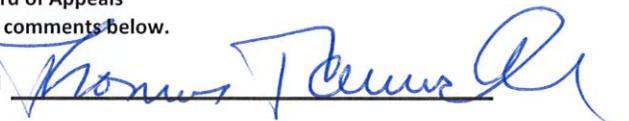
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**MEETING OF THE ZONING BOARD OF APPEALS  
TOWN OF DUNKIRK APRIL 27, 2023  
FIVE BELOW – SIGNAGE VARIANCE**

The Town of Dunkirk Zoning Board of Appeals held a Zoning meeting at 5:00 p.m. on Thursday April 27, 2023 at the Town Hall, 4737 Willow Road, Town of Dunkirk with Scott Pagano presiding as Chairman.

**PRESENT:** Scott Pagano, Thomas Tarnowski, Michael Miller, Michael Bohn and Kenny Tarnowski.

**ALSO, PRESENT:** Supervisor Pagan, Code Enforcement Officer, Ryan Mourer, Kyle Coughlin, Zoning Clerk, Sue Hazelton, and Randy DiNatale on behalf of Five Below.

The Meeting was opened at 5:00 P.M. and started with the pledge to the flag.

Chairman Scott Pagano read the legal notice that was posted on April 8, 2023:

”NOTICE IS HEREBY GIVEN that a public hearing before the Zoning Board of Appeals of the Town of Dunkirk will be held April 27, 2023 at 5:00 p.m. at the Dunkirk Town Hall, 4737 Willow Road to consider the following application:

In the matter of the application of CIMA Network Inc. on behalf of Five Below for property located at 3976 Vineyard Drive, Tax Map No. 96.04-1-40 for a variance to erect a sign that is 313.9 sq. ft. The variance request is for 220.9 sq. ft.

Any person may appear in person, agent or attorney. All interested persons shall be heard at said public hearing. If you have any questions regarding the above, please contact me at the Town Clerk’s Office at (716) 366-3967.”

An affidavit of this posting is available in the clerk’s office.

Chairman Pagano asked the applicant Randy DiNatale to present the project.

Mr. DiNatale began explaining the project. He stated the project and request were rather cut and dry. They are requesting a signage variance since the only signage they will be permitted to have is on the building. The landlord will not allow a pylon sign. He stated that since they are new to the area, they are looking for a larger size sign for advertisement purposes.

Board Members did not have any questions for Mr. DiNatale and no one from the public had any comment on the project.

Correspondence was received from Chautauqua County Planning Department.

“Dear Chairperson Pagano,

This letter is in response to your municipal zoning referral received in full by this office on March 15<sup>th</sup>, 2023 regarding an area variance to erect an advertising sign at Tax Parcel 96.04-1-40. This parcel is located within the C-2 Highway Business District.

As one of the designated staff to the Chautauqua County Planning Board, I have reviewed the above noted referral to the County since its within 500 feet of a County Road Vineyard Drive. I have reviewed the pertinent inter-community and county-wide considerations with respect to this proposal and its effect on the relevant concerns that are listed under General Municipal Law 239-1. Based on the review, I find that the proposed action would have no significant countywide or inter-community impact and that the proposal would be a matter of local concern. However, in order to help the Town with its decision, I offer the following informal comments:

1. It is recommended that any proposed construction and development efforts consider the appearance and character of the neighborhood properties with regards to the projects building design, layout, landscaping, signage, lighting, etc.

If you have any questions regarding this matter, please contact our office at (716) 661-8900.”

## **PART 2**

With no further discussion from the Zoning Board, they began reviewing the area variance application.

1. Whether undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties. The Board agreed with the applicants answer of no because there are many other retail businesses with similar signage.
2. Whether benefit sought by the applicant can be achieved by a feasible alternative. The Board agreed with the applicants answer of no because the applicant does not have access to a pylon sign, signage on the building is the only type of signage they have access to.
3. Whether the variance request was substantial. The Board stated that it was substantial but nothing that would affect any of the nearby properties.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood. The Board agreed with the applicants answer of no because that is all existing retail.
5. Whether the alleged difficulty was self-created. The Board stated that the issue was not self-created because they can only do what the Landlord of the property will allow.

It was determined by the ZBA, based on the factors above that the benefit to the applicant does outweigh the detriment to the neighborhood or community. The ZBA felt that they could approve the signage variance of 220.9 sq. ft. not exceeding a total size of 313.9 sq. ft.

Member Miller made a motion to approve the area variance for signage not exceeding the total size of 313.9 sq. ft. The motion was second by Member Tarnowski and carried.

A roll call vote was taken.

AYE:

Member Miller  
Member Tarnowski  
Chairman Pagano  
Member Tarnowski  
Member Bohn

NAY:

**ADJOURNMENT:**

A motion was made by Chairperson Pagano to adjourn the meeting. The motion was seconded by Member Tom Tarnowski and carried. The meeting was adjourned at 5:13 p.m.

Respectfully submitted,

Kyle Coughlin  
Secretary to Zoning