



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL **Request for Use Variance** **Independent Marine Inc./Map 23, Lot 36**

October 8, 2009

Applicant: Independent Marine Inc.
P.O. Box 151
Moultonborough, NH 03254-0151

Location: 1204 Whittier Highway, Moultonborough, NH (Tax Map 23, Lot 36)

On September 16, 2009 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Independent Marine Inc. (hereinafter referred to as the “Applicant” and/or “Owner”) for a Use Variance from Article V (B)(2) to allow for use of a temporary portable event sign for advertising fall storage in the Commercial B (CB) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation, the Board hereby makes the following findings of fact:

- 1) The property is located at 1204 Whittier Highway (Tax Map 23, Lot 36).
- 2) The applicant is the owner of record for the lot.
- 3) The lot on which the proposed variance is being requested is a commercial lot, and contains a marine vessel sales and service business.
- 4) The lot is located in the Commercial B (CB) Zoning District.
- 5) The proposed temporary sign is similar in design and shape to a construction sign, with changing electronic sign faces.
- 6) The proposed sign would be utilized for advertising purposes for the business on the lot.
- 7) The Board found that the applicant would also need relief from Article V(G).
- 8) One (1) member of the public spoke in favor the request for a Use Variance at the Public Hearing.
- 9) Two (2) members of the public spoke against the request for a Use Variance at the Public Hearing.

- 10) The size of the proposed temporary sign exceeds the allowable 12 sq.ft. per side in Article V(G).
- 11) Granting the variance would be contrary to the public interest as the Town recently passed the provisions of the Zoning Ordinance relating to the prohibition of such signs.
- 12) Granting the Variance does not result in unnecessary hardship for the applicant as the applicant's reasonable use of the property is not impinged upon by the prohibition of a temporary sign of this nature.
- 13) A fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restrictions of the property as the prohibition of such signs was intended to apply to such commercial endeavors, which are permitted permanent signage of different types than that which is being proposed in the Zoning Ordinance.
- 14) Granting the Variance would not do substantial justice as the prohibition of such signage on the lot does not limit the applicant's ability to advertise their business, and other signage is permitted, and utilized, on the site.
- 15) Granting the variance is not consistent with the spirit and intent of the ordinance as the ordinance speaks directly to the prohibition of this type of signage and allows for other types of advertising signage.

The Board of Adjustment closed the public portion of the hearing on September 16, 2009. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of five (5) in favor (Stephens, Hopkins, Bernstein, Nolin, Heal) and none (0) opposed, to **DENY** the request for use variance.

This decision shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

 Robert Stephens
 Chairman, Zoning Board of Adjustment

Date _____