

# ***ZONING BOARD of APPEALS***

TOWN OF HOPEWELL

2716 County Road 47 – Canandaigua, NY 14424

585-394-0036 ext. 8 – [www.townofhopewell.org](http://www.townofhopewell.org)

Minutes – May 15, 2023

**Present: Chairman Rich Vienna, Bob Price, Mickie Kelly, Grace Perry, Valerie Calkins, Shawn Cotter, CEO Justin Bruen, Kevin & Judy Simpson, Marshal Winn (Sonbyrne Sales), Rick Spurr**

**Chairman Vienna opened the meeting at 6:30 p.m.**

**Approval of Minutes: April 17, 2023**

**Micki Kelly moved to approve the April 17, 2023 minutes as presented. Motion seconded and carried.**

**Privilege of the Floor: No one from the public spoke.**

**Public Hearing: Sonbyrne Sales/Byrne Dairy – 4340 County Road 50 – PZ-2023-007  
TM 85.03-1-8.000 – Signage Variances**

The Chairman opened the Public Hearing at 6:35 p.m. – Public Notice was read aloud by the Chairman.

Marshall Winn briefly went over the application pertaining to the signage requests. The applicants are seeking a variance for 22.5 square feet for a two-sided ground mounted sign of 62.5 square feet where 40 square feet is allowed; and, more than one commercial speech sign erected on building (variance request of seven).

Mr. Winn further stated the FLCC Honors House sign located in the State R.O.W. is to be removed and not be reinstalled.

CEO Bruen stated the variance request for the ground mounted sign is due to the fact of the distance from the state and county R.O.W.'s, since the parcel is in a unique area. He further added, the signage requests are similar to the gas/convenience store located on the corner of County Road 10 and Routes 5 & 20.

There were no comments from the public.

**Mickie Kelly moved to close the public hearing for application PZ-2023-007 of Sonbyrne Sales, seconded and carried.**

**Board Business: Sonbyrne Sales/Byrne Dairy – 4340 County Road 50 – PZ-2023-007  
TM 85.03-1-8.000 – Signage Variances**

The Board reviewed OCPB comments pertaining to application PZ-2023-007 of Sonbyrne Sales. Their final recommendation for the application of variance requests was a Denial.

**SEAF Part II and III were completed by TOH Planning Board, designated Lead Agency.**

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## **Hopewell Zoning Board of Appeals – Findings Statement**

**DATE: May 15, 2023**

### **AREA VARIANCES- PZ-2023-007**

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined by part 267-b of N.Y.S. Town law.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall consider the following as addressed by the Zoning Board of Appeals (ZBA):
  1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: **No, the proposed business is located in C-1 Zoning District and the proposed business will not produce and undesirable change, since another convenience/gas station store is located nearby, as well as other retail businesses located on the Route 5 & 20 corridor.**
  2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances: **No, the parcel is unique in the fact that there is a 70' State R.O.W from Routes 5 & 20, and a 45' County R.O.W. from County Road 50.**
  3. Whether the requested area variances are substantial: **No**
  4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: **No, there will not be an adverse impact on physical or environmental conditions within the neighborhood.**
  5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance: **No, the parcel is unique in the fact the State and County R.O.W.'s are pre-existing.**

The Board found there will not have an adverse effect or impact to the neighborhood by granting the variance requests, and the character of the neighborhood will not have an undesirable change.

**Mickie Kelly moved to approve the following variance requests for application PZ-2023-007, Sonbyrne Sales of 4340 County Road 50:**

1. 7 (seven) speech signs building mounted
2. 1 (one) two-sided ground mounted sign of 62.5 square feet.

**Motion seconded by Bob Price. Roll Call:**

**Rich Vienna (aye) Mickie Kelly (aye) Grace Perry (aye) Valerie Calkins (aye) Bob Price (aye)**

***Motion was approved unanimously, meeting the criteria of majority plus one, due to OCPB denial recommendation for application PZ-2023-007, Sonbyrne Sales LLC/Byrne Dairy – 4340 Co. Rd. 50.***

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**Project: Sonbyrne Sales, LLC / Byrne Dairy**  
**ZBA Signage Variances – Tax Map # 85.03-1-8.000 - 4340 County Road 50**  
**Applications #PZ -2023-007**

**APPLICANT NAME (S)** Sonbyrne Sales/Byrne Dairy

**OWNER (S)** Sonbyrne Sales/Byrne Dairy

**SUBJECT PROPERTY ADDRESS:** 4340 County Road 50 – Canandaigua – NY 14424

**APPLICANT (S) ADDRESS:** 4340 County Road 50 – Canandaigua – NY - 14424

**PROJECT:**

Subdivision      Site Plan Modification      Special Use Permit      ☒ Area Variances

Public Hearing Held:    Date Opened 5/15/2023

Date Closed 5/15/2023

| RECOMMENDATIONS: | For Approval | For Denial | Date      |
|------------------|--------------|------------|-----------|
| VOTING:          | AYE          | NAY        | ABSTAINED |

| ZONING BOARD OF APPEALS APPROVAL: | <input checked="" type="checkbox"/> | Granted | Denied | Date <u>5/15/2023</u> |
|-----------------------------------|-------------------------------------|---------|--------|-----------------------|
| VOTING:                           | <u>5</u> AYE                        | 0       | NAY    | ABSTAINED             |

APPROVAL FOR:

1. **7 (seven) building mounted commercial speech signs.**
2. **Variance of 22.5 sf for two-sided ground mounted sign of 62.5 sf where 40 sf is allowed.**

**CERTIFIED BY:** Shawn L Potter      **DATE:** May 15, 2023

Final approval requires chairperson signature on the plan. All above conditions and/or modifications must be satisfied prior to signature. For a subdivision, a linen or Mylar with four copies must be signed. The town will retain two copies. The Ontario County Clerk requires the original and two copies for filing. For a sign application, a permit must be obtained prior to erection of the sign.

*Copies: Code Enforcement Officer/Applicant/File*

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Minutes – May 15, 2023

## **Board Determination: Reid Classics – 4336 Recreation Dr – PZ-2023-009 TM 85.03-1-7.000 – Classic Auto Museum and Sales**

CEO Bruen stated owners Kevin & Judy Simpson recently purchased the former Boat Sales property located at 4336 Recreation Drive. The applicants are seeking an interpretation of TOHZO in order to allow their Classic Auto Museum & Sales as a permitted use that is not specifically enumerated in any other TOH Zoning District. He further added, NYSDMV licensing for Reid Classics LLC requires Town approval.

Mr. Simpson stated he has restored several cars and has a collection of vintage memorabilia. He added, his intent is to create a small museum which will include classic cars (mainly 60's era), display of signage, road art and memorabilia that correlates with the 60's time period, as well as a shop for restoration work. Future plans would possibly include a small Annual Classic Car Show, with a food truck on the premises and a site for educational purposes (i.e., BOCES).

CEO Bruen stated the applicants are seeking a Determination from the Board to allow a Classic Auto Museum and Sales as a permitted use not specifically enumerated in any other TOH Zoning District. He added, the last approval of use for this parcel was a mercantile business approval for a floor store, occupancy was changed during Mark's Leisure ownership, but not changed on their site plan and therefore CEO must have "use" utilizing 603 b 24 in TOHZO.

CEO Bruen further added, Reid Classics is already an LLC. Presently there is a commercial speech sign on the premises and the owners may update present sign, altering word content of signage only.

The Board briefly discussed Mr. Simpson's plan, and were in agreement that the plan/use is in the character of the neighborhood. Photos of memorabilia and classic cars were reviewed by the Board.

The Board questioned Mr. Simpson on what exactly is involved with car restoration on the premises.

Mr. Simpson stated welding, sanding, and painting of the cars' bodies are done off premises by another party. The shop will mainly be used for car re-assembly, along with memorabilia cleaning and restoration. No automobile restoration jobs for the public will take place on the premises.

### **The Board Determined the following:**

TOH Zoning Ordinance Article VI – Section 603 B 24 - To allow Classic Auto Museum & Sales as a permitted use, as not specifically enumerated in any other TOH Zoning Districts.

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**RESOLUTION**  
**INTERPRETATION** for  
Town of Hopewell  
**Zoning Board of Appeals**  
2716 County Road 47  
Canandaigua, NY 14424

**Office Use Only**  
Application# PZ-2023-009 / 85.03-1—  
17.000  
Date of Public Hearing: n/a  
Date of PH Published: n/a  
Date of OCPB Referral: n/a  
Date of Final Action: 5/15/2023

This form is used by the ZBA to express its opinion on Applications for Interpretation.

The Town of Hopewell Zoning Board of Appeals at a meeting duly convened on May 15, 2023 reviewed the facts in an application for an interpretation Town of Hopewell Zoning Ordinance.

Application PZ-2023-009, described as follows: Classic Auto Museum and Sales; and

Whereas, said application requests an interpretation of Zoning Ordinance relevant to TOH Zoning Section:

Allow Classic Auto Museum & Sales as permitted use not specifically enumerated in any other district.  
TOH Zoning Ordinance Article VI Section 603 B 24

The ZBA has carefully considered the following pertinent facts and has determined the following events to be:

To allow Classic Auto Museum & Sales – TOHZO Article VI – Section 603 B 24

NOW THEREFORE BE IT RESOLVED, by the Zoning Board of Appeals that **Application # PZ-2023-009**,  
An application for an interpretation by the applicant (name) **Reid Classics LLC, (Kevin & Judy Simpson)**,  
is hereby interpreted to be defined as follows: **Classic Auto Museum & Sales**

**TOH Zoning Ordinance – Article VI – Section 603 B 24**

*Rich Vienna – ZBA Chairman*  
ZBA Chairman/Vice Chair

*May 15, 2023*  
Date of Final Action

**Mickie Kelly moved to Determine application PZ-2023-009, Reid Classics LLC, as a Classic Auto Museum and Sales TOH Zoning Ordinance, as a permitted use - Article VI, Section 603 (b) 24.**

*Motion seconded by Bob Price.*

Roll Call:

Rich Vienna (aye) Mickie Kelly (aye) Grace Perry (aye) Valerie Calkins (aye) Bob Price (aye)

**Adjournment: Mickie Kelly moved to adjourn. Submitted by Shawn L Cotter – 6/19/2023**