

## STAFF REPORT

**To:** Southern Shores Planning Board  
**Date:** July 17, 2023  
**Case:** VA-23-01  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Lindsey Lupino – Cima Network Inc.  
121 New Britain Blvd.  
Chalfont, PA 18914

**Property Owner:** Southern Shores Owner, LLC  
610 E. Morehead St. Suite 100  
Charlotte, NC 28202

**Requested Action:** Variance from Town Code Section 36-165(8) Table C.

**PIN #:** 986720717057  
**Location:** 5500 N. Croatan Hwy.  
**Zoning:** C, General Commercial District

**Existing Land Use:** “Commercial”

#### **Surrounding Land Use & Zoning:**

**North-** Residential; RS-1, Single-Family Residential District

**South-** Highway 158, Town of Kitty Hawk

**East-** Commercial; C, General Commercial District

**West-** Commercial; C, General Commercial District

**Physical Characteristics:** Developed (existing Group Development)

**Applicable Regulations:** Chapter 36, Zoning Ordinance: Section 36-165(8) Table C and Section 36-165(2)b.

### ANALYSIS

The applicant is requesting a Variance to seek relief from Town Code Section 36-165(8) Table C to allow a wall sign that exceeds the Town’s current requirements. Town Code Section 36-165(8) Table C establishes the requirements for permanent signage in the Commercial district. The applicant is proposing signage for a new Five Below retail store to be located at the Marketplace shopping center (group development) that consists of a wall sign, canopy sign, sign face on the existing Marketplace freestanding sign, and temporary signs with the following square footages:

- Wall sign: 156 sq. ft. (no in compliance);
- Canopy sign: 5 sq. ft. (also not in compliance);
- Sign face on freestanding sign: 5.5 sq. ft.;
- Temporary freestanding construction sign: 32 sq. ft.;
- Temporary freestanding Coming Soon/Now Hiring sign: 32 sq. ft.;
- Temporary freestanding Now Open/Now Hiring sign: 32 sq. ft.

- Temporary Coming Soon banner: 45 sq. ft. (also not in compliance);
- Temporary Grand Opening banner: 80 sq. ft. (also not in compliance);
- Temporary Now Open/Now Hiring banner: 80 sq. ft. (also not in compliance);

Town Code Section 165(8) Table C allows a maximum of one sq. ft. of wall sign area per linear foot of store frontage for each store in group developments. According to the submitted drawings, the store frontage for the Five Below space is 58.2 ft. which means that the maximum allowable size for the proposed wall sign is 58.2 sq. ft. and the applicant is requesting 156 sq. ft. Town Code Section 36-165(2)b. states that the surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including frames and all of the elements of the matter displayed.

Town Code Section 36-367 of the Town Zoning Ordinance establishes that the Planning Board, when performing the duties of the Town Board of Adjustment, shall vary any of the provisions of the Zoning Ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - Strict application of Town Code Section 36-165(8) Table C. would still allow a 58.2 sq. ft. wall sign.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
  - There are other businesses currently in the Marketplace that have wall signs that are less than 58.2 sq. ft:
    - Farm Bureau (corner, east side): 32.5 sq. ft.
    - Farm Bureau (south side): 27.2 sq. ft.
    - Shun Xing: Less than 27.2 sq. ft.
    - Spectrum: 24 sq. ft.
    - Verizon: 22 sq. ft.
    - Jersey Mike's: 19.6 sq. ft.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  - The one square foot of wall sign area per linear foot of store frontage requirement has been in effect since 2001.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
  - The Town adopted the current signage standards and regulations to ensure that permitted signs reflect the aesthetics desired by its residents; promote traffic safety; and, provide minimum interference with individual property rights.