

Zoning Board of Adjustment meeting minutes for November 12, 2013

Present: Chair John Smith, Lewis Major, Vice-Chair Todd Page, Jay Ebbighausen Bruce Bellville and CDC Kathryn Lynch. Applicant was present and no of the public was present.

7:00 pm Chair John Smith called the meeting to order which was continued from October 8, 2013. Chair John Smith read the Public Hearing Notice for a Use Variance application #1013, of Article V, submitted by Ashirvad Realty LLC, tax map 9 lot 4, 220 Northfield Road. Dave Bergeron from Brickstone Land Use representing Mr. Patel explained that they are requesting a Use Variance. The property is located in the Rural Agricultural District. The property is nonconforming due to the existing lot size, pavement and building setbacks, and the existing commercial use. The owner wishes to add gas pumps as an accessory use to the existing convenience store. The Planning Board, at a preliminary consultation meeting held on September 17, 2013, determined that a variance is required for the accessory use since the existing use is non-conforming. The Planning Board sent a letter to the Zoning Board stating that they recommend a variance. They felt the site plan was clean and feel that gas pumps would be good for the residents in the downtown area.

The proposal calls for the addition of two fuel pumps with a 24' x 36' canopy. It will be located to the south of the existing building. Two underground fuel storage tanks will be installed to the west of the canopy. On site parking for up to 13 vehicles will be provided. An existing curb cut at the north end of the site will be closed and the pavement along the front of the building will be removed and replaced with loam and seed. The existing southerly curb cut will be reduced in width from 50' to 30' and shifted slightly to the south. A new curb cut is proposed at the south end of the property. These changes will allow the parking spaces to be located to the south and west of the building. It will also allow for safe traffic circulation into and out of the site. Fuel tankers will be able to deliver fuel to the site without backing up and without obstructing traffic on Rt. 63. NHDES has issued permits for the underground fuel storage tanks. NH DOT Driveway Permit is required for the proposed curb cut change.

Chair John Smith asked for further comments or questions, hearing none the Chair closed the public portion of the meeting and the Board worked on the Finding of Facts, listing five.

1. Improvements to the convenience store will give it a face lift, safer relocation of curb cut for drivers, improve property value, more options for customers.
2. Only gas station for downtown area, gas and diesel for local farmers.
3. Convenience Store has been at location for almost 50 years, times have changed it is now customary to offer gas pumps at convenience stores.
4. Up to date safety procedures for public.
5. NHDOT permit approved by the State, worked with abutters and snowmobile club. Lewis Major made a motion to adopt the Finding of Facts, seconded by Todd Page, unanimous and individual "aye" votes to adopt the Finding of Facts, motion passed.

Board members then worked on the Statement of Reasons and determined:

1. The proposed use ~~would~~ **would not** diminish surrounding property values because: *The RT. 63 Country Store is an existing nonconforming use which has been at that location for almost 50 years. The addition*

of gas pumps to the existing convenience store is a normal customary accessory use. The location is on a state highway, away from the residential areas. The proposed use will have no effect on surrounding property values.

2. Granting the variance ~~would~~/**would not** be contrary to the public interest because: *The addition of gas pumps will improve the value of the property and increase the tax base. It is in the public interest to allow property and business improvements which increase the tax base. This will be the only gas station on this side of town. It is in the public interest to provide this service and to reduce the travel distance for many residents to obtain fuel.*

3. Denial of the variance ~~would/would not~~ result in unnecessary hardship to the owner because:

a) the zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment, such that: *It is a reasonable and customary accessory use for a convenience store to have gas pumps. The existence of the convenience store at this property for almost 50 years results in a unique setting in the R/A District. The site is on a state highway and can support this use without reducing property values and without threat to public safety. Denial of the variance would have no public benefit and would hurt the existing business.*

b) that no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because: *The general purpose of the ordinance is to protect the public health, safety and welfare. On this particular property, on the state highway, where the convenience store has existed for nearly 50 years, there is no significant impact to public health or safety. The public welfare will be improved from the increase in property value. It would not be fair or reasonable to deny the variance on this basis.*

c) the variance ~~would~~/**would not** injure the public or private rights of others since: *The site is located on a state highway with adequate capacity to support the proposed use. There is good line of sight in both directions. The existing curb cuts will be altered to provide safe access for fuel tankers and delivery trucks with no obstructions on the state highway. The underground fuel storage tanks will be installed in accordance with state regulations and in compliance with the UST permit issued by NHDES on June 19, 2013. The proposed use will improve the property value and provide a convenient location for local residents to obtain fuel. Granting the variance will not injure the public or private rights of others.*

4. Granting the variance ~~would/would not~~ do substantial justice because: *The convenience store is an existing nonconforming use with nearly 50 years at this location. The addition of gas pumps is a normal and customary accessory use at a convenience store. The location on a state highway provides safe access with no negative effects to the surrounding properties. It would do substantial justice to allow the property owner to improve his property, improve his business, and fully utilize his site.*

5. The use ~~is~~/**is not** contrary to the spirit of the ordinance because: *The proposed use is a normal customary accessory use to the existing convenience store. It will not diminish property values; it will improve the property value therefore improve the tax base in Hinsdale; it is a safe location on a state*

*highway; and will meet the requirements for fuel storage and dispensing as required by the NHDES permit. The proposed use meets the spirit of the ordinance and protects the public health, safety and welfare.*

Jay Ebbighausen made a motion to approve the Statement of Reasons as presented, seconded by Lewis Major, motion passed.

Todd Page made a motion to grant the variance seconded by Jay Ebbighausen, motion passed.

Board Business:

Lewis Major made a motion to approve the minutes dated October 8, 2013, seconded by Todd Page, motion passed with Bruce Bellville and Chair John Smith abstaining.

8:15 pm Jay Ebbighausen made a motion to adjourn, seconded by Todd Page, motion to adjourn unanimous.

Respectfully submitted by,

CDC Kathryn Lynch