



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

Memorandum

Date: March 22, 2016

To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

From: Robert Price, Assistant Planner

Subject: **OM Shanti OM Realty Management, LLC (petitioner/owner)** – Variance under Section 3.02, Note 6 of the Zoning Ordinance to permit the replacement of a gasoline station canopy with a setback from Daniel Webster Highway of 30 feet whereas 50 feet is required. The parcel is located at 392 Daniel Webster Highway in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 4D-3, Lot 031. Case # 2016-16.

The following information is provided to aid in your consideration of the above referenced cases. Additional background and application materials are included in your packet.

Background:

Map 4D, Lot 031 is located at 392 Daniel Webster Highway in the C2 (General Commercial) and Aquifer Protection Districts. The parcel is approximately 1.27 acres in size. This property is the location of the former "New World Gas" fueling station, and is serviced by municipal water (MVD) and sewer.

Abutting the property is a private residence to the northwest, Neat Auto Sales to the north, Classic Motorsports to the southwest & south. Across Daniel Webster Highway are Advantage Insurance and a commercial condo housing several businesses.

The petitioner is seeking a variance to permit the construction of a new canopy 30 feet from Daniel Webster Highway whereas 50 feet is required. The proposal calls for a new 44' x 48' canopy to be constructed with a 30 foot setback from DW Highway. The existing canopy is approximately 22' x 48' and 29 feet from DW Highway. The applicant notes that the larger canopy will cover two additional gas pumps that are being proposed (only two pumps exist at present).

Part of the driving force behind the site improvements are recent New Hampshire Department of Environmental Services rule changes which require the replacement and upgrading of underground tanks and fueling equipment for all non-compliant gas stations across New Hampshire. The subject property is one of the stations affected by the change.

Standard of Review:

It is the burden of the petitioner to demonstrate that the five criteria for the granting of the variance under Section 3.02, Note 6 of the Zoning Ordinance have been met to permit the construction of the proposed canopy 30 feet from the front property line whereas 50 feet is required.

Should the Board vote to grant the variance, staff recommends that the following condition be attached:

- The petitioner shall obtain site plan approval from the Planning Board for the proposed canopy and other site improvements as referenced on the provided plan.

Cc: Zoning Board File
Correspondence

Ec: Samir Patel, Applicant/Owner (dipbhagat@yahoo.com)
Building Department Staff
Captain John Manuele, Merrimack Fire Department
Kyle Fox, Interim Public Works Director