

Board of Adjustment

Canterbury, NH

Minutes of Hearing

25 June 2025

Case No. 2025-3 Variance

Present were: Chairman Jim Wieck, Christopher Evans, Scott Herrick, Web Stout (via zoom) and Lisa Carlson (Alternate). Also present were: Attorney John Arnold, Judith Patterson and Heather Cassavaugh and Kal McKay.

Chairman Wieck advised those present there are two applications from GRJH, Inc being presented by Attorney John Arnold tonight. One is a special exception, the other a variance. The applications involve Tax Map 248, lot 16, located at 125 West Road, located in the Commercial zone. The special exception proposed use states "More than 1 sign, more than 10sf of signage, and a freestanding sign measuring approximately 20' tall". The application references Article 2, Section 2.6. The variance proposed use states "Internal illumination and electronic price display for gas station signage". The application references Article 2, Section 2.6A & B. The conduct of hearing procedure continues as with the special exception hearing heard prior to this variance hearing.

Attorney Arnold noted the ordinance prohibits electronic message center signs and internally illuminated signs and it doesn't define what electronic message center signs are. The issue for the applicant relates to the price display. The question is whether that type of price display constitutes an electronic message sign. If you believe that it does, then they have applied for a variance. Discussion about it being a scrolling or static price display that is lit. Scott views it as a static, illuminated sign. Jim concurred. Chris weighed in as "devil's advocate" saying it is electronic, and it is conveying a message or otherwise it wouldn't be electronic and it's providing information. Jim asked but it is a message center. Chris stated it is a static piece of information versus scrolling warehouse of information. Attorney Arnold agreed it constitutes the frequency of the changing of information. Most towns don't want those scrolling, changing flashing messages. So, if you have a static price display that is static and changes once a week or every few days its not really what the ordinance was intended to prevent. Web agreed with the board, it is not an electronic message center, it is static. Chairman Wieck made a motion to say "the boards' opinion is the static, lit display, which is not flashing does not constitute an electronic message center and therefore a variance is not required for that". The board vote was a unanimous decision in agreement.

Attorney Arnold went on to address the variance request for internal illumination with regards to 2.6A of the ordinance saying he will talk about the first two together:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance will be observed.

Under both of these criteria, the test is whether a variance would alter the essential character of the locality or whether it would threaten the public safety, health and welfare. Allowing internal illumination of these signs is not going to alter the essential character of the locality. The signage that is out there today at least with respect to the pylon and possibly again with respect to the

building signage, is already internally illuminated. The appearance of how a sign looks that is externally illuminated, with lights shining on it from the ground up or from the top down, or internally illuminated sign, visually it is a little bit different, but not dramatically different enough to change the character of the locality given that there has been internal illumination there for several decades. The site where it is located next to a highway off ramp is next to a park and ride, next to the DOT shed, there are a few residences across the street, those are all very heavily screened from the road with a lot of natural vegetation to prevent any kind of light pollution whether it's from internal or external illumination. There wouldn't be any threat to public health or safety or welfare. In the industry, it is thought to provide a better lit and safer sign. The lighting structures themselves are protected inside the cabinet of the light. So, by not having ground lighting getting hit by plows or

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covered by snow or somehow getting damaged by weather, an internally illuminated sign is thought to be more visible and to provide better notification for motorists.

3. Under substantial justice criteria, again this is a balancing test whether a variance would cause more public harm than benefits the applicant. He does not believe that internal illumination causes any harm here largely for the same reasons. It has been on this site for several decades. The signs will be slightly larger, but it's already been a characteristic of the site. It is not in the town center or Shaker Village or any of the more historic parts of the town. The benefit to the applicant is substantial. The signage is part of Gulf's general sign package. They prefer internal illumination, they find it is more reliable, it is more visible, it is safer, and this is their preference for this site. Being able to secure an operator like that who does have a reputation, and a track record is a good thing not just for the property owner, but for the longevity of business there and for the town.
4. On property values, there won't be any adverse impact there. Looking at surrounding properties and historic use of the site, the residential properties across the street are well screened so they will not be impacted by illuminations.
5. Addressing the issue of hardship, the property is unique in a few respects. It has historically been operated as a gas station, it has historically had internally illuminated signs on it, as has been mentioned several times just the way the property is situated being adjacent to the highway, DOT property, it's not in more historic or rural areas of the town or heavily residential neighborhoods, there is not as much justification to say that there should not be internal illumination there. It doesn't have the same kind of effect and consequences that the town would rightly be concerned about in a lot of other locations in town.

Attorney Arnold reminded the Board of the existing pylon at the current site that was internally illuminated and other signage. Chairman Wieck asked about hours of operation. That is not known at present. The town ordinance states if you are within 100 feet of a residential structure an illuminated sign cannot be lit between the hours of midnight and six am. That is not the case here. It could be twenty-four hours. Scott said when you speak of vegetation screening homes, this time of year, does that include January as well? Attorney Arnold replied we probably have a better idea of that than he. There is a mix of deciduous and coniferous trees. Scott asked if there was a previous canopy. There was, but it did not have any signage on it. Scott noted the difference of light exposure for something with an east/west face versus something facing south toward residences with the canopy banner. Attorney Arnold acknowledged this. Chris asked for

more clarification about what constitutes their hardship. Attorney Arnold responded, noting the first thing to look at is unique characteristics about the property. The first is it is an existing gas station. It does have existing internally illuminated signage. It is situated next to a highway off ramp, a park and ride and the DOT maintenance shed, not tucked into a residential neighborhood. It is zoned commercially. It has been approved for use as a gas station. Once you look at those unique factors, the second hardship criteria is whether there is a substantial relationship between the purpose of the ordinance and its specific application to this property. The argument there is based on those characteristics, based on it's a gas station, based that there is some expectation that there be a bit of signage and historically internally illuminated signs there and next to the DOT shed, park and ride, highway, that there really isn't a very strong relationship between the purpose of prohibiting internal illumination and the specific application here. That was where he was making the comparison of a business in the center or at Shaker Village, or a residential neighborhood. Then there is a substantial relationship between the purpose and the application because you don't want internally illuminated signs being in those areas where they have a very detrimental impact on surroundings. The final part is looking at whether or not the use is reasonable. Chris said if he understands what he is saying, the hardship is in if not illuminated, it would put the venture at a disadvantage from what it previously was. Attorney Arnold responded, that's the tricky thing about the hardship criteria. The legal standard is not how you typically make the hardship, like what hardship is the applicant going to suffer. It touches on that when it gets there in a roundabout way of the uniqueness of the property and whether there is a substantial relationship between the purpose of the ordinance and its application here. Review of previously stated points made. Jim asked for clarification that you are really arguing for the criteria for hardship A and not B correct? Yes.

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Chairman Wieck asked if anyone wished to speak in favor. Heather Cassavaugh, 130 West Road spoke saying she is in favor of it. There has been internally illuminated signage there previously and in the wintertime the foliage canopy does not cover that. There is already a very bright streetlight, so this is not going to affect them. She would rather see internal illumination than external illumination because for the height of the sign they are proposing, the external illumination would have to be on top of it and one of those lights would shine right in her bedroom. The only other residence is 118 West Road, the Frenches. The internal lighting is a much better idea. Gary Spaulding spoke saying the redevelopment and use is important to the town than what is sitting there now. His only question to the Board would be to consider limiting the illumination when the business is closed so that in addition to light pollution in addition to the already existing bright streetlight. The Board could consider limiting the hours or requiring the lights to be dimmed during off business hours. Randi Johnson spoke saying she would also be in favor but would ask the Board to consider as well. Is this 24x36 foot canopy, which is larger than the one there currently, if you look at the Gulf branding kit, note there are also LED branding bars that run along it (as shown on Ms. Johnson's laptop internet Gulf site). In addition, there are Gulf signs. That is whole lot of signage on a small area. So, she too would ask the Board to consider limiting the lighting. Chairman Wieck asked if the applicant had anything further to add. He did not. He asked for questions from the Board. Web stated he is in agreement the exterior lights should be turned off except for maybe some lighting for security reasons. This is a commercial zone. Chairman Wieck asked for the last time if anyone wished to speak in favor. No one spoke. In opposition? No one spoke. Gary asked if the use of

abutting properties changed in the future to commercial, could the applicant come back to the Board requesting additional hours of open business and lighting. Yes, they could. Scott asked is the signage all around the sides of the canopy. Attorney Arnold clarified the signage. The testimony portion of the hearing was closed at 8:30 PM and discussion ensued.

Chris thinks Gulf or any operator must have a light scheme for when they are in operation and for when they are closed, especially for gasoline. You don't want people pulling in there and the pumps are closed unless you are going to have 24-hour pumps, but the store would be closed. Discussion of hours and lighting. Either the lights get dimmed or turned off for the pumps. Maybe some lighting stays on for the building. Scott said the lighting is advertising for the business whether they are open or not. More discussion.

Scott made a motion for Case No. 2025-3 based upon the applicant's ability to fulfill the requirements for the variance as presented to be granted. Chris seconded the motion with no conditions attached. Chairman Wieck clarified for all those present the Board would be voting to approve the illuminated signs that were described for operation without restriction of hours. Chris restated we don't know the hours, so basically what we are approving is 24-hour operation, full illumination with no restriction. Lisa asked why we can't qualify it by saying....I suggest that we consider some language about hours, if the hours are not 24 hours. Or illumination during working hours and reduced or lesser illumination during closed business hours as a condition. Whatever that means...if it is 24-hours, then it's not on the docket. Chris suggested saying the applicant agrees to reduce the illumination when the station is closed. More discussion about definitions. Chairman Wieck called for the vote. The Board vote was a unanimous decision to **GRANT** the variance with no conditions. Chairman Wieck explained the thirty-day appeal process. The hearing ended at 8:45 PM.

Respectfully submitted,

Lisa Carlson, Clerk

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