

# Site Design Associates

## Consulting Engineering and Land Planning

April 11, 2019

Zoning Board of Appeals  
Town of Windham  
8 School Road  
Windham, Maine 04062

**RE: C.N. Brown Company – Big Apple Expansion  
355 Roosevelt Trail**

Dear Board Members:

On behalf of C.N. Brown Company (CNB), Site Design Associates (SDA) is pleased to submit the enclosed Zoning Board of Appeals application and supporting documentation. In conjunction with the scheduled replacement of the existing underground fuel storage tanks, CNB is planning to demolish the existing retail store and canopy, and construct a new store and canopy at 355 Roosevelt Trail. The property is located in the Commercial District III (C3) zone.

We have included eight copies of the following information along with a check for the \$400 application fee:

- Application form
- Letter of Agent Authorization
- Letter from Peter Bailey
- Aerial photo
- Boundary and topographic survey
- Existing conditions plan
- Site plan

As a part of this process, the existing fuel dispensers will be replaced. There currently are three dispensers located on the site. CNB would like to replace those three and add an additional dispenser. Staff has advised us that the dispensers are considered an automobile gas station, with the store as an accessory retail sales use. Automobile gas stations are not a permitted use on the C3 zone. Retail sales use is permitted.

Staff referred us to section 203.2 of the Land Use Ordinance which states that a non-conforming non-residential use may be expanded as follows:

- (a) By ten percent (10%) of the size existing on July 8, 1976 with approval from the Code Enforcement Officer,
- (b) the Zoning Board of Appeals can approve an 11%-100% expansion of the size existing on July 8, 1976. They advised that we would need to provide

23 Whitney Way Topsham, Maine 04086  
Phone: (207) 449-4275 email: [info@sitedesignassociates.biz](mailto:info@sitedesignassociates.biz)

evidence of what existed as of that date to quantify the amount of expansion that is an additional gasoline dispenser island.

We have found evidence that indicates that there were four dispensers at the site on July 8, 1976, which is included with the application materials. Please refer to the aerial photograph and letter from Peter Bailey, whose father owned the property in the early to mid 1970's. Because there were four dispensers at that time, it is not clear that we need ZBA approval to add one dispenser to the existing three dispensers, since four dispensers apparently existed on July 8, 1976.

Following is a discussion which addresses each of the approval standards of section 203.2.(b), if ZBA approval is required:

(1) That the expanded use shall not reduce the Level of Service, as defined, on adjacent roadways or intersections,

Response: The addition of one dispenser will, not impact the level of service on Route 302/Roosevelt Trail. ITE Trip Generation Manual Indicates that one dispenser with two fueling positions would result in 35 additional am peak hour trips, and 38 additional pm peak hour trips. When compared to the traffic volume on Route 302, these increases will be negligible.

(2) That the property has adequate sight distance for the location and type of expanded use,

Response: The drives are existing and sight distance will not be impacted by adding an additional dispenser. Adequate sight distance is available in each direction from each drive.

(3) That the amount of parking required to meet the minimum ordinance requirements for the expanded use shall be provided,

Response: The additional dispenser will require two parking spaces, one on each side, which will be provided.

(4) That the amount of noise, odors, vibrations, smoke, dust and air discharges of the expanded use shall be equal to or less than the present use,

Response: There will be no additional noise, vibrations, smoke, dust or air discharges as a result of adding an additional dispenser.

(5) That the amount of surface water runoff from the site shall not be increased,

The additional dispenser would be located on an existing impervious surface. Therefore, the additional dispenser will not result in increased surface water runoff.

(6) That an adequate buffer has been provided to screen an expanded commercial or industrial use from any abutting residential use.

Response: Uses abutting the property are commercial.

(7) The Board of Appeals may impose conditions of approval that are specific to the standards in this Subsection 203.A.1.(b).

Response: As noted on the site plan included with this application, the additional dispenser would be located under a new canopy that is less non-conforming than the existing canopy.

We believe that adding one dispenser to the site, can be done while meeting the above standards, and request that the ZBA approve the additional dispenser, if approval is required.

CNB also proposes to construct a new canopy with this redevelopment project, whether it be for three or four dispensers. To accommodate an additional dispenser, the new canopy footprint would obviously be larger than the existing canopy footprint. We noted that land use code section 202.A states that the expansion of a non-conforming structure shall be attached to the original structure and 202.B states that the replacement or reconstruction of any nonconforming portion of the structure must be located within the original building footprint.

It is generally uncommon to connect a new canopy to an existing canopy, due to structural design requirements and code issues. Also, in order to improve circulation on the site, and to reduce the non-conforming front setback of the structure, a new canopy would not be located within the existing canopy footprint, but would be located as shown on the enclosed site plan. Our proposal would decrease the non-conformance by increasing the canopy front setback from 45 ft. to 51.2 ft. If ZBA approval is required to reconstruct the canopy and to locate the new canopy outside of the existing canopy footprint, resulting in a less non-conforming structure, we request that the board consider approving this aspect of the plan as well.

On behalf of C. N. Brown Company, we thank you for your consideration.

Sincerely,  
Site Design Associates



Tom Saucier, P.E.  
President

**APPLICATION FOR APPEAL  
TO WINDHAM ZONING BOARD OF APPEALS**

Fee Paid \$400.00 CK # \_\_\_\_\_ CASH \_\_\_\_\_ CHARGE \_\_\_\_\_ DATE \_\_\_\_\_

**APPLICANT**

NAME: C.N. Brown Company

ADDRESS: P.O. Box 200 South Paris, Maine 04281

TELEPHONE: 207-743-9212

**OWNER**

NAME: Applicant

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

ADDRESS OF PROPERTY OR LOCATION 355 Roosevelt Trail

MAP # 12 LOT # 67E PROPERTY IS ZONED C3

LOT WIDTH: 220 ft. +/- LOT DEPTH: 580 ft. +/- LOT AREA: 142,877 sq. ft.

EXISTING USE OF PROPERTY: Automobile Gas Station/Retail/Single Family

**TYPE OF APPLICATION**

<u>  X  </u>	Expansion of a Non-Conforming Use
<u>      </u>	Variance from Ordinance
<u>      </u>	Conditional Use
<u>      </u>	Appeal from decision of Code Enforcement Officer
<u>      </u>	Home Occupation 2

**PROPOSED USE:** Please describe in detail what you wish to do and what the use of any proposed structures will be. (Attach a letter of explanation if necessary :)

Automobile Gas Station/Retail/Single Family

Why is Board of Appeals approval required?

To increase the number of fuel dispensers, canopy size, and canopy layout

Amount of variance required, if any: \_\_\_\_\_ ft.

TYPE OF SEWAGE DISPOSAL SYSTEM: Present On site Proposed On site

STRUCTURAL DIMENSIONS: (Exterior length and width)

Existing: 80 ft. By 25 ft. Number of Stories \_\_\_\_\_

Proposed: 105 ft. By 24 ft. Number of Stories \_\_\_\_\_

NUMBER OF ROOMS IN PROPOSED STRUCTURE: \_\_\_\_\_

IS ADDITIONAL PLUMBING CONTEMPLATED? Yes \_\_\_\_\_ No X

If yes, please describe: \_\_\_\_\_

IF REQUIRED, HAS PLANNING BOARD APPROVAL BEEN OBTAINED?

Yes \_\_\_\_\_ No \_\_\_\_\_ Not Required X




A location map and a scaled site plan must accompany this application. The site plan must show dimensions of the property, location of all buildings, yards, parking spaces and septic systems, and all existing and proposed setbacks.

An application fee of \$400.00 for residential appeals as well as for non-residential or multi-family is required upon application submission. *If the Code Enforcement Office determines that ordinary and customary expenses associated with review of the development are higher than the \$400.00 fee, then the applicant shall be billed and shall pay to the Town prior to the final approval said expenses, including, but not limited to cost associated with notification of abutters, advertising of public meetings, and all the time dedicated to review of the development.*

NOTE: Applicant or his/her representatives must attend board meetings. If a request is needed to be tabled, the applicant or his/her representative must attend meeting to ask to be tabled. (11/21/91).

**The right of any variance from the terms of this chapter granted by the Board of Appeals shall expire if the work or change permitted under the variance is not begun within six (6) months or substantially completed within one (1) year of the date of the vote by the Board.**

***I CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND IN ITS SUPPLEMENTS IS TRUE AND CORRECT.***

Applicant's Signature  Date 04-11-19

## ***Statement to Town of Windham Board of Appeals***

I acknowledge submitting my application to the Board of Appeals and signing this statement that I the undersigned:

State the proposed plan is to scale and reflects the true representation of the proposal requested.

I further understand that if the Board finds that it does not, then the Board has the right to table my application until I have met the requirements.

*Applicants*  
*Signature*



*Date* 04-11-19



C. N. Brown Company

1 C.N. Brown Way  
P.O. Box 200  
South Paris, Maine 04281  
Phone: (207) 743-9212  
Fax: (207) 743-8357  
www.cnbrown.com

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*April 10, 2019*

*Mr. Tom Saucier, P.E.  
Site Design Associates  
23 Whitney Way  
Topsham, Maine 04086*

*To whom it may concern,*

*This letter authorizes Tom Saucier to serve as an agent for C. N. Brown Company for the purpose of permitting the proposed construction at 355 Roosevelt Trail, in Windham, Maine.*

*Sincerely,*

*Kevin Moore  
Maintenance Supervisor*

April 8, 2019

Mr. Kevin Moore  
C.N. Brown Company  
P.O. Box 200  
South Paris, Maine 04281

**RE: 355 Roosevelt Trail  
Windham, Maine**

Dear Kevin:

It is my understanding that C.N. Brown Company (CNB) intends to construct a new convenience store and canopy on your site adjacent to my property. It is also my understanding that you wish to increase the number of dispensers from the current three to four.

You have indicated to me that in order to increase the number of dispensers, you will need the approval of the Zoning Board of Appeals (ZBA), because the use is considered by the town to be an Automobile Gas Station, which is not permitted in the C-3 district, and is considered a nonconforming use. The retail store is accessory to this use, but is allowed as retail sales are a permitted use in the C-3 district.

In accordance with Section 203 of the Land Use Ordinance the Zoning Board of Appeals can approve an 11%-100% expansion of the size existing on July 8, 1976. In order to add the dispenser and file an application with the ZBA, you need to provide evidence of what existed as of that date to quantify the amount of expansion that is an additional gasoline dispenser island.

I am sure there were four dispensers on the site prior to and on July 8, 1976. I have attached an aerial photograph taken during that time which is evidence of the four dispensers.

If you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,

Peter Bailey

A handwritten signature in cursive script, appearing to read "P. Bailey", written in dark ink.





12/ 67/ E01/ /  
BAILEY DAVID C &  
BAILEY DAWN S  
PO BOX 968  
WINDHAM, ME 04062

Abutters of  
355 Roosevelt Trail

12/ 59/ A/ /  
ROBINSON PAUL A &  
ROBINSON SUSAN M  
354 ROOSEVELT TRAIL  
WINDHAM, ME 04062

12/ 72/ / /  
CUMMINGS EARLE M &  
CUMMINGS ELIZABETH RAY  
44 NASH ROAD  
WINDHAM, ME 04062

12/ 67/ D01/ /  
JENSEN DANA E &  
JENSEN LINDA L (TROTT)  
343 ROOSEVELT TRAIL  
WINDHAM, ME 04062

12/ 67/ D/ /  
WALLINGFORD MICHAEL H &  
WALLINGFORD DEBORAH E  
PO BOX 702  
RAYMOND, ME 04071

12/ 67/ E02/ /  
357 PROPERTIES LLC  
C/O JOSEPH MAINS  
64 FALMOUTH ROAD  
WINDHAM, ME 04062

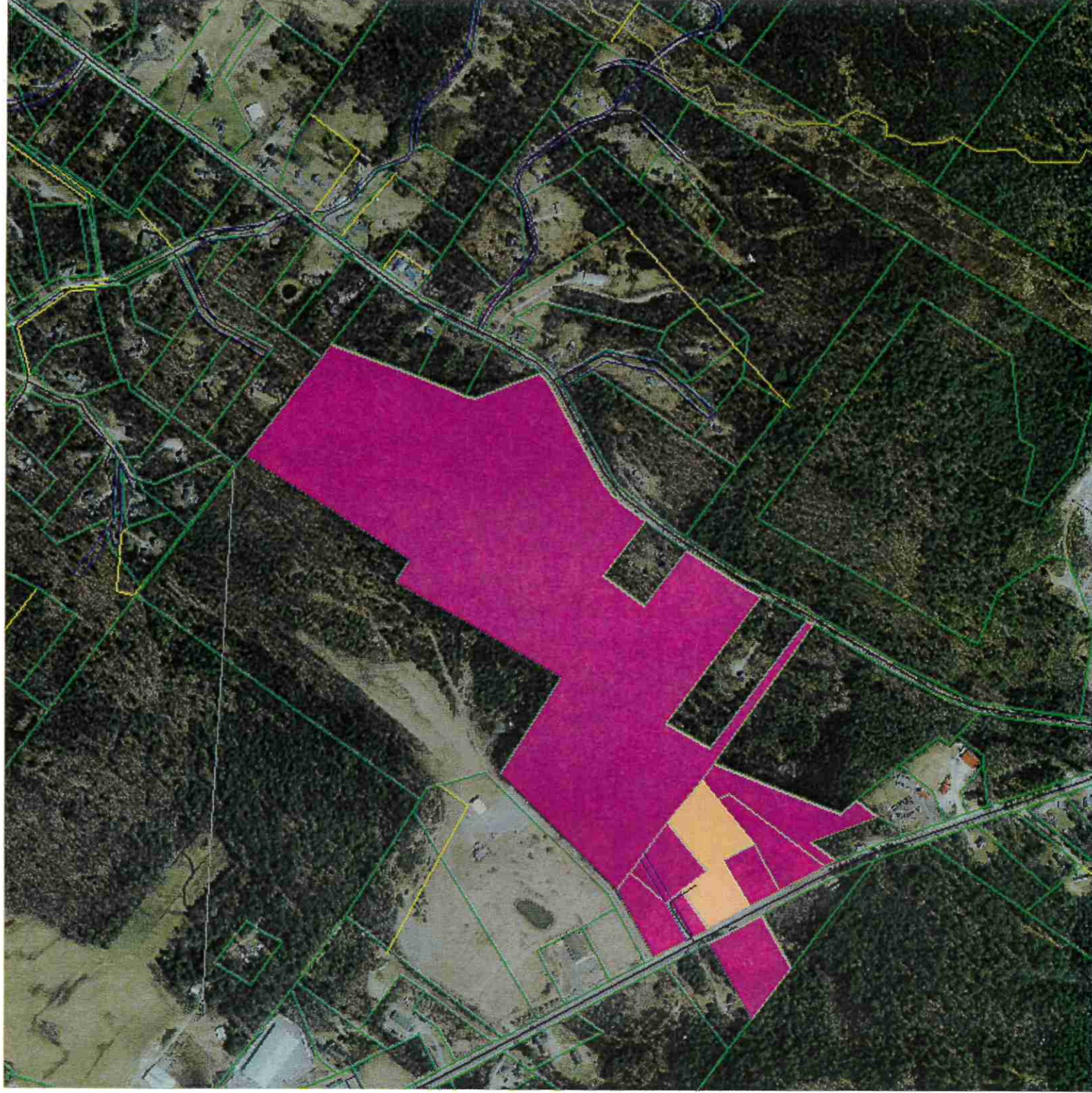
12/ 67/ A/ /  
BERZINIS REALTY LLC  
483 ROOSEVELT TRAIL  
WINDHAM, ME 04062

12/ 67/ B/ /  
KR HORIZONS LLC  
15 RUBEE RIDGE RD  
WINDHAM, ME 04062

12/ 67/ E/ /  
C N BROWN COMPANY  
PO BOX 200  
SOUTH PARIS, ME 04281



Abutters of  
355 Roosevelt Trail











SPIKE SET IN THE BASE OF  
THE EXISTING UTILITY POLE  
ELEVATION = 235.74

14" METAL CULVERT  
— INLET INV = 230.43  
OUTLET INV = 232.13

N29°23'30"W  
175.00'

3 N/F  
KR HORIZONS, LLC  
BOOK 32438, PAGE 56

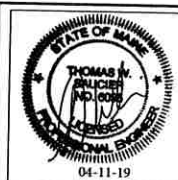
1. THE CONTRACTOR SHALL NOTIFY DCSAFE PRIOR TO ANY DEMOLITION AND CONSTRUCTION ACTIVITIES.
2. THE LOCATIONS OF UNDERGROUND UTILITIES ARE APPROXIMATE AND NOT GUARANTEED BY THE OWNER OR THE ENGINEER. IT IS THE CONTRACTORS RESPONSIBILITY TO LOCATE ALL UTILITIES, ANTICIPATE CONFLICTS, AND REPAIR EXISTING UTILITIES AS REQUIRED TO COMPLETE THE WORK.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DEMOLITION AND OFF-SITE DISPOSAL OF MATERIALS REQUIRED TO COMPLETE THE WORK, EXCEPT FOR WORK NOTED TO BE COMPLETED BY OTHERS.
4. ANY EXISTING PROPERTY DAMAGED BY THE CONTRACTOR SHALL BE REPAIRED OR REPLACED TO MATCH ITS ORIGINAL EXISTING CONDITIONS BY THE CONTRACTOR AT NO CHARGE TO THE OWNER OR ENGINEER.
5. THE CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL EXISTING STRUCTURES, UTILITIES, LANDSCAPE AND PAVEMENT ON THE SITE WITHIN THE AREAS DESIGNATED FOR DEMOLITION UNLESS SPECIFICALLY IDENTIFIED TO REMAIN. ITEMS TO BE REMOVED INCLUDE, BUT ARE NOT LIMITED TO PAVEMENT, CURBING, LIGHT POLES & BASES, CONCRETE PADS, STAIRS, RETAINING WALLS, MANHOLES, MONITORING WELLS, SIGNAGE AND LANDSCAPING.
6. ALL MATERIALS DESIGNATED FOR REMOVAL/DEMOLITION SHALL BECOME THE PROPERTY OF THE CONTRACTOR UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL DISPOSE OF ALL MATERIALS OFF-SITE IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS, ORDINANCES AND CODES.
7. PAVEMENT REMOVAL LIMITS ARE SHOWN FOR THE CONTRACTORS CONVENIENCE ONLY. ADDITIONAL PAVEMENT REMOVAL MAY BE REQUIRED DEPENDING ON THE CONTRACTOR'S OPERATION. CONTRACTOR SHALL VERIFY FULL LIMITS OF PAVEMENT PRIOR TO BIDDING.
8. THE CONTRACTOR SHALL COORDINATE THE REMOVAL, RELOCATION AND DISPOSAL OR SALVAGE OF UTILITIES WITH THE OWNER AND APPROPRIATE UTILITY COMPANY.
9. THE CONTRACTOR SHALL VERIFY THAT ABATEMENT OF THE EXISTING BUILDING AREAS TO BE DEMOLISHED HAS BEEN COMPLETED PRIOR TO DEMOLITION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL MEANS, METHODS AND TECHNIQUES TO COMPLETE THE BUILDING DEMOLITION.
10. ALL MATERIALS DESIGNATED FOR STOCKPILING OR RELOCATION SHALL BE CLEANED, STOCKPILED AND PROTECTED IN AN AREA APPROVED BY THE ARCHITECT UNTIL RELOCATION TAKES PLACE.
11. SAWCUT AND REMOVE PAVEMENT ONE FOOT OFF PROPOSED EDGE OF PAVEMENT OR CURB LINE IN ALL AREAS WHERE PAVEMENT TO BE REMOVED ABUTS EXISTING PAVEMENT TO REMAIN.
12. SCREENED IMAGES REPRESENT EXISTING CONDITIONS.

( IN FEET )  
1 inch = 20 ft

ULVERT  
= 227.10

36" PLASTIC CULVERT  
OUTLET INV = 224.53

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SITE DESIGN ASSOCIATES, ANY ALTERATIONS, OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SITE DESIGN ASSOCIATES

[illegible]

**Site Design Associates**  
Consulting Engineering & Land Planning

23 Whitney Way Topsham, Maine 04086 Tel: (207) 449-4275

**C.N. BROWN COMPANY**  
P.O. BOX 200 SOUTH PARIS, MAINE

DESIGN: DEPT.
DRAWN: DEPT.
CHKD: TWS

DATE: MARCH 2019

SCALE: 1" = 20 FT

PROJECT: CONVENIENCE STORE RECONSTRUCTION  
355 ROOSEVELT TRAIL WINDHAM, MAINE

### EXISTING CONDITIONS PLAN

18-208-03	REV
C-100	A

WINDHAM BOARD OF APPEALS  
NOTICE OF DECISION


DATE: January 2, 1992

TO: Mr. Peter A. Bailey  
357 Roosevelt Trail  
N. Windham, ME

Dear Mr. Bailey:

The Board of Appeals has voted to approve your request for Expansion of a Non-conforming Use to be operated as a repair garage on Lot 67E, Map 12.

Please see Roger Timmons if you have any questions.

  
Chairman, Board of Appeals

WBA 1/2/92

WINDHAM BOARD OF APPEALS  
JANUARY 2, 1992  
MINUTES

PRESENT: Chairman Frank Koenig, Fred Panico, Dick Larrivee,  
Bob Wake, Bill Bailey, Roger Timmons, CEO

Chairman Koenig declared a quorum, introduced members of the Board, and called the meeting to order at 7:40 p.m.

The Board reviewed the minutes of the previous meeting.

Mr. Larrivee moved to accept the minutes of the Dec. 19th meeting. Mr. Wake seconded. The motion carried unanimously, with Mr. Bailey abstaining as he had not been present at said meeting.

OLD BUSINESS:

Andrea Moore - Variance

Brought back from the table was an application by Andrea Moore for rear and sideline setback variances to relocate a residence at 29 Kennard Road (ref. Property Tax Map 74 - Lot 29).

The Chairman noted that at a previous meeting it had been voted to table the appeal, for the fourth time, until the present meeting, with the understanding that if the applicant did not appear the Board would dismiss the appeal without prejudice. Ms. Moore's absence at the present meeting was noted. Mr. Wake moved to dismiss the appeal without prejudice. Mr. Bailey seconded. The motion carried unanimously. Mr. Timmons agreed to advise Ms. Moore of said action.

PUBLIC HEARINGS:

Peter Bailey - Expansion of Conditional Use

The Chairman read the application of Peter A. Bailey, 357 Roosevelt Trail, (ref. Tax Map 12 - Lot 67E). Owner is Mr. Bailey. Lot size is 320' x 470' approximately 15,000 sq. feet, zoned C-3. This is a request for a conditional use approval to use a new building as part of a repair garage. Board of Appeals approval is necessary as this is a non-conforming use in zone C-3. Existing structure is 30' x 40', proposed structure is 30' x 40'. Number of rooms is two repair bays. There is no additional plumbing. Planning Board approval is not necessary.

The Chairman then read a letter from the applicant to the



Board dated December 13, and supporting the application, which stated:

"On January 7, 1988 I came before this board for a special exception use permit to operate a repair garage. Approval was granted on this date. At this time I was told I could not expand the building more than 100% which I agreed to. In June 1991 I finished site work, ordered trusses and other materials with delivery in mid-July; ordered concrete work with floor to be poured on June 17th. I went to the town office to get the necessary permit. I was told that I had to go before the Appeals Board again. All preparation was made, garage work was slow, concrete work was ready to be done. My three sons and my sons' partner had time to build the garage. I asked if I could get a permit to put a store so I could get started but I was told I would have to go before the Appeals Board before I could use [it] for a repair shop. Outside of the building is completed, driveway paved, 15 foot green strip is complete. Inside is not complete, no lights, heat, insulation or wiring have been done. I am using the building for storage, but would like to finish it."

The Chairman noted a plan accompanying the application. Fee has been paid, abutters notified, notice of meeting published and the site inspected by members of the Board.

The Chairman then commented that the application is for expansion of a non-conforming use, a repair garage on Roosevelt Trail in the C-3 zone; site inspection reveals that the proposed addition has been built and is in use. The Chairman then cited Mr. Bailey's Dec. 13th letter to the Board, specifically the reference to 100% expansion. The Chairman commented further that: review of the Notice of Decision and pertinent minutes (meeting of Jan. 7, 1988) shows no mention of any expansion of the non-conforming use. The Chairman concluded that Mr. Bailey must have misunderstood something said at the meeting, as it was his (the Chairman's) opinion that no member of the Board would state that Mr. Bailey could expand up to 100% without Board approval. The Chairman further noted that the permit to expand was granted for a store which is allowed in the C-3 zone. He asked Mr. Bailey to explain his request for change of use noting that the permit would not have been granted for use as a repair garage without prior Board Approval. Lastly the Chairman noted that in order for the Board to grant an expansion of a non-conforming use, the applicant must meet all requirements for conditional use.

Mr. Bailey then testified that it had been his understanding that he could expand up to 100% simply by obtaining a permit. He noted that the building is not complete, being finished on the outside only, with nothing having been done on the inside. He noted further that he had not

deliberately attempted to "go against" any town ordinance, but had simply relied on misinformation.

Mr. Timmons offered further clarification, noting that Mr. Bailey had acted on information which may have previously been accurate; but that due to changes in the language of the zoning ordinance, Mr. Bailey cannot now do what he wishes without coming before the Board.

The Chairman reiterated that neither the Notice of Decision nor the pertinent minutes indicated that Mr. Bailey had been told he could expand up to 100% without Board approval. Mr. Bailey again indicated that such had been his belief. Mr. Wake inquired as to whether the applicant had secured a permit to expand the building by 100%. The applicant responded that he had. Mr. Wake then inquired of the CEO as to how the permit had been granted. It was explained that the permit is for a conforming use, namely private storage, for which it is currently being used; and that said permit was sought in light of the applicant's schedule and construction timetables; and that the applicant had stated his intent to apply to the Zoning Board for an expansion of non-conforming use at a later date. It was further clarified that the applicant had met all procedural requirements and meets all the requirements (setbacks, bulk, space etc.) of the ordinance; that the permit was secured with no misrepresentation, for private storage use and that the applicant is now seeking approval for expansion of non-conforming use. Mr. Timmons noted that applicant has installed a state approved septic system to serve his entire complex.

There being no further questions from the Board, the Chairman then read from the ordinance regarding Conditional Use requirements. The applicant indicated his ability to meet all listed requirements. The Chairman questioned the applicant as to additional curb cuts planned. Applicant responded that such would remain unchanged.

There was no public testimony offered and the public hearing was closed.

Mr. Larrivee moved to approve the request for an expansion of a non-conforming use to be operated as a repair garage. Mr. Wake seconded, stating that this is not an appeal or a variance, but an expansion within the limits of the ordinance of a use whose character the Board had already approved in 1988 and that this is not granting a variance or relaxing the zoning ordinance in granting this conditional use. The motion carried unanimously and the hearing was closed.

Carroll Gilliam - Variance



The Chairman read the application of Carroll Gilliam seeking a 14' front setback variance to put an addition on an existing dwelling at 44 Beach Road (ref. Tax Map 31 - Lot 96) Property is zoned farm residential, is 100' x 280'. Board of Appeals approval is required as the proposed addition would not conform to the required front setback. Existing building is 22' x 32', one story. Proposed addition is 22' x 12', one and one half rooms with no additional plumbing. Planning board approval is not required. A plan and two letters accompany the application.

The Chairman read the following letter dated Dec. 18 from Carroll Gilliam to the Board:

"...I am requesting a variance change to add on a 12' addition to the front of my home. The existing bedroom measures 8' x 10' and my bed measures 4', 6" x 6', 6"...there is just room for my bed. The rest of my bedroom set is in my living room. By adding 12' to my home I can have a full bedroom. I have had back surgery in the past and ... it bothers me to climb steps [etc.]. The house next to mine sets 12' from our private road, so with the addition to my home it would still set back 16' from the road. With this addition in place I can go on to redo the complete exterior and roof damaged from Hurricane Bob. I need to build on the front to take advantage of the small areas, thus making the area large enough to have all of my bedroom furniture in one room rather than in my living room as well. As I am not adding in the total of my rooms, the sewerage system need not be altered. Also there are fewer people living here than in the past. By building out on the front it will not affect the neighborhood."

The Chairman then read the following letter dated Dec. 18, from Eugene Gilliam to the Board:

"Carroll would like to have a nice home on one floor. He intends to update his home, comfort and his neighborhood. This can be accomplished by building a small addition to the front of his home. That is the most practical, cost-wise and structure-wise, place to put it. It will maintain the one level floor. Going up and down stairs bothers Carroll's back. Any other place is a physical and burdensome hardship. Any other place would not be practical to construct because it will require more foundation support and steps down to a lower level. The addition cannot be built on the sides and be the same as the rest of the floors. The height is not there to pitch the roof and again steps would be needed. Steps are painfully damaging to Carroll's well-being. At the same time the house next door is closer to the private road than Carroll's proposed addition would be. The road will never be public because it would mean more carloads of hell-raisers tearing up and down the road than the day I was helping him clear the trees from

his roof after Hurricane Bob. The road next to his was blocked causing more traffic on his dead-end road. Common sense shows that the street end is the only place to put the addition to Carroll's house. It is possible to meet the building requirements, good pitch, good size rafters and joists and wall studs and the rafters properly secured to the existing side wall, keeping the floors all on one level..."

The Chairman noted that fee has been paid, abutters notified, notice of meeting published and the site has been inspected by members of the board.

The applicant then testified, describing the present layout of the existing building, plans for construction of the addition and winterizing an existing sun porch to be converted to a bedroom. He reiterated the problems relating to his back surgery, and his inability to climb stairs and maneuver in small areas. He described damage to the dwelling from Hurricane Bob and repairs and improvements since done. He described damage to the roof and plans for its repair and indicated his wish to combine the repairs and construction of the addition into one job in the spring.

The Chairman then questioned the applicant as to possible alternative locations for the addition. The applicant indicated he did not feel such alternatives exist. Members of the Board questioned the applicant and discussion ensued as to the size of the sun porch in relation to the dwelling, location of the existing bedroom and location of septic tank in relation to the structure. The applicant outlined the layout of rooms in the structure, noted a partition between the sun porch and present bedroom and indicated that all interior walls are load-bearing walls. It was the applicant's opinion that, without the addition as proposed and due to the present layout of rooms in the building, anything larger than a 7' wide bedroom would not be possible.

Applicant's brother, Eugene Carroll, then testified regarding various aspects of construction of the proposed addition. The Chairman questioned the possibility of constructing the addition on the side or back of the building. Mr. Carroll responded that this would entail extra expense and would not be as favorable a design as a front addition. He noted also the location of the driveway on one side and septic system on the other. Mr. Larriuee noted the possibility of putting the addition on the rear of the building.

The Chairman read the requirements for undue hardship. Applicant responded that the property would still have value and could yield "reasonable return" but could not be used as he wishes without the variance. As to "unique



circumstances" applicant indicated that although alternatives to the proposed addition exist they are not as favorable. He agreed that the character of the neighborhood would not be changed with the granting of the variance. Applicant was unclear as to the hardship being caused by present or prior owners but stated that previous owners had used the building as a summer dwelling and that the small lot limited the size of the building.

There were no further questions from the Board; no opposing testimony from the audience. Mr. Peter Bailey inquired as to limitations on proximity of septic system to dwelling and discussion ensued regarding same.

There were no further questions and the public hearing was closed.

Mr. Larrivee moved to deny the request for a 14' front setback variance as the lot size affords other expansion alternatives and the request does not meet the criteria of numbers 1, 2 and 4 for undue hardship. Mr. Bailey seconded and the motion carried unanimously. The hearing was closed.

There being no further business to come before the Board, Mr. Bailey moved to adjourn. Mr. Wake seconded. Motion carried unanimously. The meeting adjourned at 8:35 P.M.

Respectfully submitted,

Virginia Fowles

(Transcription from tape and notes)

APPLICATION FOR VARIANCE OR APPEAL  
TO WINDHAM ZONING BOARD OF APPEALS  
LAND USE APPLICATION

APPLICANT

NAME: CARROLL GILLIAM

ADDRESS: 44 BEACH ROAD, WINDHAM, MAINE

TELEPHONE # 892-7250

892-4770

OWNER

NAME: SAME

ADDRESS: \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

ADDRESS OF PROPERTY OR LOCATION \_\_\_\_\_

MAP # 31 LOT # 96 PROPERTY IS ZONED FR

LOT WIDTH: 100 ft. LOT DEPTH: 280 LOT AREA: \_\_\_\_\_ sq.ft

EXISTING USE OF PROPERTY: dwelling

TYPE OF APPLICATION

- ☒ Variance from Ordinance  
☐ Conditional Use  
☐ Special Exception  
☐ Appeal from decision of Code Enforcement Office  
☐ Interpretation of a home occupation

PROPOSED USE: Please describe in detail what you wish to do and what the use of any proposed structures will be. (Attach letter of explanation, if necessary:) \_\_\_\_\_

Why is Board of Appeals approval required? Proposed addition would not conform to required front setback.

Amount of variance required, if any: 14 ft. ft

TYPE OF SEWAGE DISPOSAL SYSTEM: Present \_\_\_\_\_ Proposed \_\_\_\_\_

STRUCTURE DIMENSIONS: (Exterior length and width)

Existing: 22 ft. by 32 ft. Number of Stories 1

Proposed: 22wx12 deep ft. by \_\_\_\_\_ ft. Number of Stories \_\_\_\_\_

NUMBER OF ROOMS IN PROPOSED STRUCTURE: 1 1/2

IS ADDITIONAL PLUMBING CONTEMPLATED? Yes \_\_\_\_\_ No X

If yes, please describe : \_\_\_\_\_

IF REQUIRED, HAS PLANNING BOARD APPROVAL BEEN OBTAINED?

Yes \_\_\_\_\_ No \_\_\_\_\_ Not Required X

A location map and a scaled site plan must accompany this application. The site plan must show dimensions of the property, the location of all buildings, yards, parking spaces and septic systems, and all existing and proposed setbacks.

An application fee of \$100.00 for a residential appeal, \$125.00 for non-residential or multi-family, is required upon application submission.

If a variance is requested, the applicant must demonstrate to the Board that the following are true:

1. Strict application of the Ordinance would result in undue hardship to the applicant.
2. Said hardship is not the result of action taken by the applicant or a prior owner since the effective date of the Ordinance.
3. Said hardship is not solely an economic hardship.
4. The land in question cannot yield a reasonable return unless a variance is granted.
5. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
6. The granting of a variance will not alter the essential character of the locality nor be detrimental to the public health, safety and welfare.

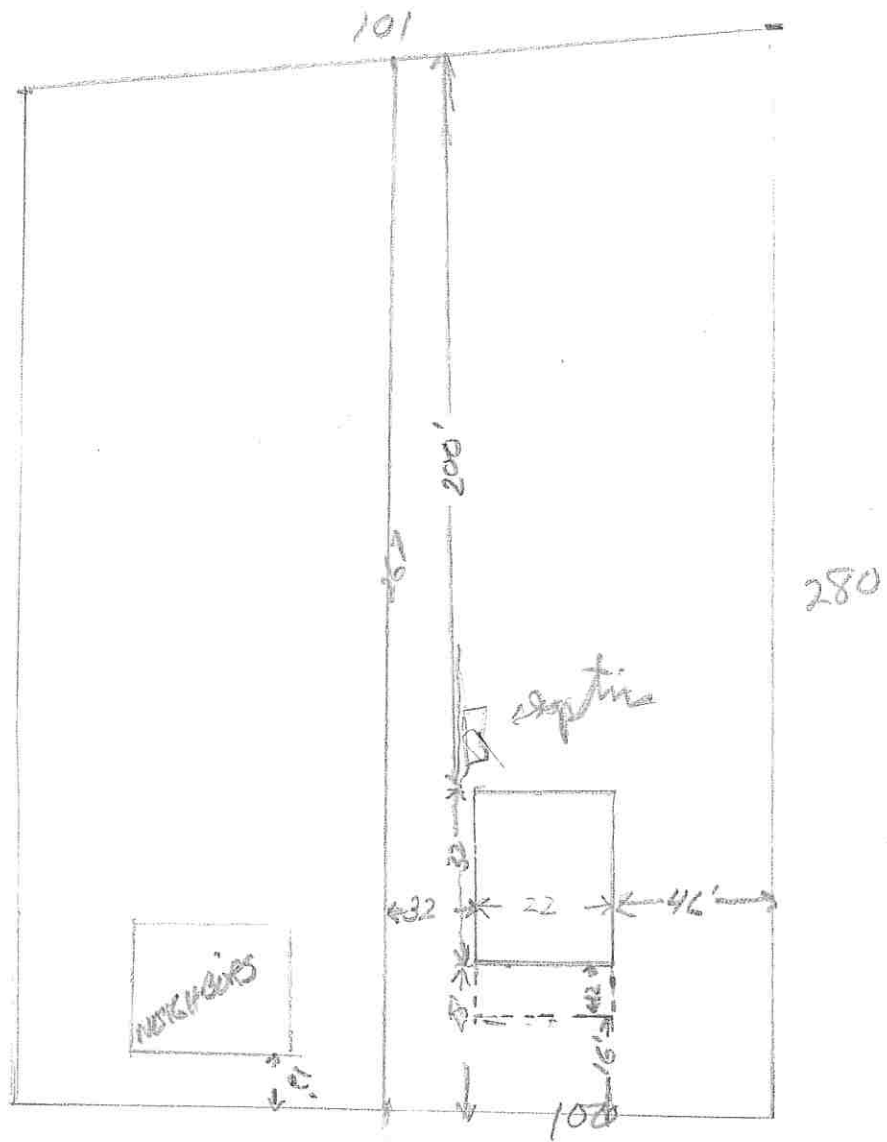
\* *Applicant needs to attend meeting if requested to be tabled.*  
NOTE: Any right secured by approval of the Board of Appeals shall expire if the work or change involved has not begun within six months of the date on which the appeal is granted, or if the work is not substantially completed within one year of this date.

Any decision made by the Board of Appeals may be appealed to Superior Court within thirty (30) days after the decision.

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND IN ITS SUPPLEMENTS IS TRUE AND CORRECT.

Date 12-19-91 Applicant's Signature Carroll Williams





Beverly Rd

1-25'

MAP 31 LOT 96

December 18, 1991

Board of Zoning Appeals  
Windham, Maine  
04062

Re: Carroll Gilliam  
44 Beach Road  
Windham, Maine

Ladies and Gentlemen:

Carroll would like to have a nice home on one floor. He intends to update his home, comfort and his neighborhood. This can be accomplished by building a small addition to the front of his home; that is the most practical, cost-wise and structure-wise place to put it. It will maintain the one level floor; going up and down stairs bothers Carroll's back.

Any other place is a physical and burdensome hardship. Any other place would not be practical to construct, because it will require more foundation support and steps down to a lower level.

The addition cannot be build on the sides and be the same as the rest of the floors. The height is not there to pitch the roof and, again, steps would be needed. Steps are painfully damaging to Carroll's well-being.

At the same time, the house next door is closer to the private road then Carroll's proposed addition would be. The road will never be public because it would mean more carloads of hell raisers tearing up and down the road then the day I was helping him clear the trees from his roof after Hurricane Bob. The road next to his was blocked causing more traffic on his dead end road. Common sense shows that the street end is the only place to put the addition to Carroll's house.

It is possible to meet the building requirements, good pitch, good size rafters and joist and wall studs and the rafters properly secured to the existing side wall, keeping the floors all on one level.

What else do you need to know?  
Carroll is not asking for the world. Just a good size bedroom where he can stretch out.

Enclosed is the plot and lot and hope plan.

Sincerely,



Eugene Gilliam

December 18, 1991

Board of Zoning Appeals  
Windham, Maine  
04062

Ladies and Gentlemen:

My name is Carroll Gilliam and I am requesting a variance change to add on a 12'ft. addition to the front of my home.

The existing bedroom measures 8'x10' and my bed measures 4'6" x 6'6" so as you can see there is just room for my bed; the rest of my bedroom set is in my living room.

By adding 12' to my home, I can have a full bedroom. I've had back surgery in the past and the older I get, the more it bothers me to climb steps and things like that.

The house next to mine sets 12'ft. from our private road, so with the addition to my home, I would still set back 16'ft. from the road.

With this addition in place, I can go on to redo the complete exterior and roof damaged from Hurricane Bob. I need to build on the front to take advantage of the small areas, thus making the area large enough to have all of my bedroom furniture in one room rather than in my living room as well. As I am not adding in the total of my rooms, the sewerage system need not be altered. Also, there are fewer people living here than in the past.

By building out on the front, it will not effect the neighborhood any.

Sincerely,

Carroll Gilliam

A handwritten signature in cursive script that reads "Carroll Gilliam". The signature is written in dark ink and is positioned below the printed name.

Carroll Gilliam

31/96 Carroll M. Gilliam

44 Beach Rd. Inverness

31/95 Monica C. Patenaude

38 Beach Rd.

31/94 Phyllis Minersino

33 Beach Rd.

31/97 - no name -

31/3 Peter & Carolyn Jordan

39 Beach Rd.

TOWN OF WINDHAM

The Windham Appeals Board will hold a public hearing at the Windham Community Center on January 2, 1992 at 7:30 P.M. to hear information on the following Land Use Application:

Application by Carroll Gilliam requesting a front setback variance at 44 Beach Road (reference Property Tax Map 31 - Lot 96).

The Appeals Board Members will be meeting for on-site inspections on Monday, December 30th, beginning at 7: A.M.



TOWN OF WINDHAM

The Windham Appeals Board will hold a public hearing at the Windham Community Center on January 2, 1992 at 7:30 P.M. to hear information on the following Land Use Application:

Application by Carroll Gilliam requesting a front setback variance at 44 Beach Road (reference Property Tax Map 31 - Lot 96).

The Appeals Board Members will be meeting for on-site inspections on Monday, December 30th, beginning at 7: A.M.

WINDHAM BOARD OF APPEALS  
NOTICE OF DECISION

DATE: September 21, 1989

TO: Peter A. Bailey  
P. O. Box 968  
Windham, ME 04062

Dear Mr. Bailey:

The Board of Appeals has granted your request for expansion of a non-conforming use at Tax Map 12, Lot 67E, with the condition that the required 15' green strip be properly installed not later than 6/1/90.

This approval is granted under Sections 501 and 502 of the Land Use Ordinance.

Please see Roger Timmons or Bud Kellogg for necessary permits.

Frank Koenig (ml)  
Chairman, Windham Board of Appeals

APPLICATION FOR VARIANCE OR APPEAL  
TO WINDHAM ZONING BOARD OF APPEALS  
LAND USE APPLICATION

APPLICANT

NAME:

PETER A BAILEY

ADDRESS:

357 ROOSEVELT TRAIL WINDHAM  
Box 968, Windham 04062

TELEPHONE #

892-8263

OWNER

NAME:

PETER A BAILEY

ADDRESS:

357 ROOSEVELT TRAIL WINDHAM

TELEPHONE #

892-8263

ADDRESS OF PROPERTY OR LOCATION

SAME

MAP # 12

LOT # 67E

PROPERTY IS ZONED

R3

LOT WIDTH:

320

LOT DEPTH:

470

LOT AREA:

sq. ft

EXISTING USE OF PROPERTY:

REPAIR GARAGE

TYPE OF APPLICATION



Variance from Ordinance



Conditional Use



Special Exception



Appeal from decision of Code Enforcement Office



Interpretation of a home occupation

PROPOSED USE: Please describe in detail what you wish to do and what the use of any proposed structures will be. (Attach letter, of explanation, if necessary:)

CANOPY OVER GAS PUMPS

TO GET OUT OF WEATHER

SAFETY FACTOR

Why is Board of Appeals approval required?

Bill Dale states Peter  
Canopy is an expansion of a non-conforming  
use

Amount of variance required, if any:

1826 sq. ft. Prior 1968 proposed  
ft.

TYPE OF SEWAGE DISPOSAL SYSTEM: Present



Proposed

STRUCTURE DIMENSIONS:

(Exterior length and width)

Existing:

80

ft. by

42

ft.

Number of Stories

Proposed:

CANOPY 82

ft. by

24

ft.

Number of Stories

NUMBER OF ROOMS IN PROPOSED STRUCTURE:

NONE

IS ADDITIONAL PLUMBING CONTEMPLATED?

Yes

No



If yes, please describe :

IF REQUIRED, HAS PLANNING BOARD APPROVAL BEEN OBTAINED?

Yes

No

Not Required



A location map and a scaled site plan must accompany this application. The site plan must show dimensions of the property, the location of all buildings, yards, parking spaces and septic systems, and all existing and proposed setbacks.

An application fee of \$75.00 for a residential appeal, \$125.00 for non-residential or multi-family, is required upon application submission.

If a variance is requested, the applicant must demonstrate to the Board that the following are true:

1. Strict application of the Ordinance would result in undue hardship to the applicant.
2. Said hardship is not the result of action taken by the applicant or a prior owner since the effective date of the Ordinance.
3. Said hardship is not solely an economic hardship.
4. The land in question cannot yield a reasonable return unless a variance is granted.
5. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
6. The granting of a variance will not alter the essential character of the locality nor be detrimental to the public health, safety and welfare.

NOTE: Any right secured by approval of the Board of Appeals shall expire if the work or change involved has not begun within six months of the date on which the appeal is granted, or if the work is not substantially completed within one year of this date.

Any decision made by the Board of Appeals may be appealed to Superior Court within thirty (30) days after the decision.

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND IN ITS SUPPLEMENTS IS TRUE AND CORRECT.

Date 8-21-89

Applicant's Signature

Pete a Bailey



TOWN OF WINDHAM

The Windham Appeals Board will hold a public hearing on September 21, 1989 at the Windham Community Center at 7:30 PM to hear information on the following Land Use Application:

Application by Peter A. Bailey requesting an interpretation of expansion of a non-conforming structure. Property located at 357 Roosevelt Trail (reference Property Tax Map 12 - Lot 67E).

Peter A. Bailey

12/67 E Peter A. & Elisabeth Bailey  
P.O. Box 968 Mo. Inid. 04062

12/67 A Morrell Properties Inc.  
135 Bride St. West. 04092

12/72 Raymond Cummings  
76 Nash Rd. Inid.

12/67 B Jannetje P. Chase  
% Frank's Caps 353 Grosvenor Trail, Inid 04062

12/59 A Paul A. Robinson, 354 Grosvenor Trail  
Inid.

12/59 C Church of God, Trustees  
P.O. Box 619 Mo. Inid. 04062

12/67 D Stephen M. Bailey & Cynthia Edwards  
345 Grosvenor Trail, Inid. 04062

WINDHAM BOARD OF APPEALS  
MINUTES  
SEPTEMBER 21, 1989

PRESENT: Chairman Frank Koenig, David Davidson, Bill Bailey  
Alan Brigham, Dick Larrivee, Bud Kellogg, CEO

Excused: Fred Panico

Chairman Koenig declared a quorum and called the meeting to order at 7:30 p.m..

Mr. Larrivee moved to waive reading of the 9/7/89 and 9/8/89 minutes and accept them with an amendment on Page 10 of the 9/7/89 minutes to change "Bill Bailey confirmed that" to "Bill Bailey asked if".

Mr. Davidson seconded and the motion carried unanimously.

PUBLIC HEARINGS:

Realvest, Inc. - Variance

Chairman Koenig read the application of Realvest on Route 302, for a variance to allow a 40' curb cut instead of the allowed 30' cut. The property is zoned C-1 and contains 190,000 square feet. A 40' curb cut was recommended by Jack Murphy, the traffic engineer. A letter dated 8/11/89 was read into the record explaining that the 10' variance was granted on 7/7/89 but work was not completed on the entrance and the approval expired. The traffic study was attached to the application, this has been reviewed and approved by the Planning Board. Fees are paid, abutters have been notified, notice of the hearing has been published, and the site has been inspected by members of the Board.

Richard Berman stated that two previous Board of Appeals approvals (6/5/87 and 7/7/88) lapsed because the 6 month time limit passed. Construction was held up because of the market conditions; a building permit was never applied for.

Traffic signalization is working and slowing traffic down, as well as allowing gaps for traffic to move out of the site. There will be 2 24' exit lanes, a 4' island and a 12' entrance lane to the project, with a 6' gravel shoulder. The deceleration lane of 100' with a 200' transition lane is shown on the plans.

Mr. Berman felt hardship would be due to the lack of safety with traffic not being able to get in and out of the lot, and traffic being backed up in the lot. Mr. Davidson cited the traffic study which stated that "if the business is successful, a second

driveway will be needed". He added that he did not know who would vote for another curb cut. Mr. Berman replied that the Planning Board did not want another curb cut and this is why a larger entrance was designed. The entrance has also been approved by MDOT.

David Davidson expressed concern about damage to Pettingill Pond from runoff from this development. Mr. Berman replied that they have hired hydrogeologists and geologists to design the detention system and the applicants are very sensitive to Pettingill Pond.

No members of the public spoke in favor or opposition of the appeal.

Chairman Koenig questioned the applicant with regard to the hardship criteria. The property is unique because it is on Route 302 with high summer traffic. Mr. Berman believed the traffic report substantiated the safety aspects of having a 40' driveway.

Mr. Davidson felt 30' would be safer because only one car would be coming out of the exit as opposed to two.

Mr. Bailey moved to approve the variance to increase the entrance for Realvest, Tax Map 18, Lot 14B, from 30' to 40' in the interest of safety. Mr. Brigham seconded and the motion carried 4-1 (Davidson opposed).

The appeal was closed.

#### Peter A. Bailey - Interpretation

Chairman Koenig read the application of Peter A. Bailey, who is seeking a variance for a canopy over gas pumps. Bill Dale, of the Town Attorney's office, considers the canopy as an expansion of a non-conforming structure. The property is zoned C-3, is 320' x 470', and contains an 80' x 42' building. The proposed canopy is 82' x 24'. There will be no additional plumbing.

Mr. Bailey explained that Mr. Timmons measured the square footage of the existing islands and the proposed square footage under the canopy to determine the amount of variance needed. The gas station has existed since 1972; pumps were removed one year ago in April due to water seeping into the tanks. Inspection of the site by the Board showed the first pump island approximately 25' from Route 302. The proposed plan shows gas pumps perpendicular to Route 302 and the canopy would be 45' from Route 302.

Mr. Bailey testified that there is no other practical way to locate the pumps; he would have to remove the building and set it back in order to meet setback requirements. Mr. Bailey wishes to convert the building into a small store with self-service gas pumps.



Charlie Sheehan of C. N. Brown explained that he helped lay out the pump islands to give them the visibility to be successful. Pictures presented show a typical canopy and several other stations C. N. Brown operates. 6 cars can pump gas at one time. The canopy gives protection from the elements, allows concentrated lighting and an area for fire extinguishers, and the sprinkler system is located under the canopy.

X Mr. Sheehan was informed that a 15' green strip is required between the entrances; Mr. Sheehan had no problem with this, and with reducing the existing entrance and exit to 30'. The curb cuts can be located wherever the applicant wishes as long as the green strip is maintained.

Proposed signs of about 90 square feet will not be on the State right of way. There is additional parking in the rear and side of the site, and this parking will not be paved. Measurements were taken from the property pins and not the right of way. It is 45' from the property line to the edge of the right of way.

Bill Bailey expressed concern about the distance between the pumps and the building in case of a car fire and the possibility of a car moving forward into the building. Mr. Sheehan felt the 3' curb in front of the building would prevent a car from going into the building.

No members of the public spoke in favor or opposition of the appeal.

Section 501, conditional use standards, were then reviewed. The applicant plans to start the project this year.

Mr. Bailey moved to approve the request for expansion of a non-conforming use for Peter A. Bailey, Tax Map 12, Lot 67E, with the condition that the required 15' green strip be properly installed not later than 6/1/90. Mr. Larrivee seconded and the motion carried unanimously.

The appeal was closed.

#### Francis Silun - Variance

Chairman Koenig read the application of Francis Silun requesting a variance to add a second floor to a non-conforming structure which is zoned LRR and contains approximately 18,000 sq. ft.; it is difficult to compute the square footage because of the odd shape of the lot. Mr. Silun thought the \$20,600 assessment had some correlation to the square footage, but could not confirm this. The lot is located on Collins Pond.

Mr. Bailey is seeking a variance because any addition over 30% of the structure requires Board of Appeals approvals. A variance of 200 square feet is being sought. The septic system is to be replaced pending the soils test. A second story of 24' x 32' is

proposed and the outside of the structure will be changed to a gambrel.

Mr. Silun explained that he and his wife have 6 children, and only 768 square feet of living area on the existing first floor. When the children come to visit, they must sleep on the floor and there is no room to move around. He hopes to improve the quality of living but not increase the number of occupants in the dwelling.

Plans accompany the application, fees are paid, abutters have been notified, and the site has been inspected by members of the Board. The application was submitted to DEP and Chairman Koenig read the report from the DEP which ended with the statement that the variance does not appear to meet the criteria for undue hardship under Title 30, and should be denied.

Chairman Koenig felt the DEP was overstepping its bounds and has no right to tell the Board of Appeals how to vote, but felt perhaps there was some misunderstanding by whomever got the report. Chairman Koenig added that he could understand if this structure would pollute the pond.

Mr. Bailey explained that it is impossible to add to the house in front, back or side because of the location of the septic, pond and road. He could add 634 square feet without a variance, but what kind of a structure would it be? Over 60% of the other structures in the area have second stories.

Mr. Bailey computed the square footage by adding up the first floor, basement, and porches as per Mr. Timmons' instructions. Mr. Silun provided the Board with his answers to the hardship criteria - that the existing home cannot facilitate the number of people in the family, there is no other location for expansion, and up is the only way to go. He agreed that the property would probably yield a reasonable return.

Chairman Koenig responded that, if the Board goes by the letter of the law, he doesn't feel the Board can approve this since he would have to go with the DEP's reasoning. Alan Brigham responded that there are some "reasonable returns" which have to do with quality of life. Bill Bailey felt the drawing did not represent what the Board saw at the site and felt there was not enough information for him to vote.

Mr. Davidson moved to approve a 200 square foot variance for Francis Silun, Tax Map 54, Lot 22A, based on testimony given. Mr. Larrivee seconded and the motion carried 3-1-1 (Koenig opposed, Bailey abstained).

The appeal was closed.

Reginald Butts - Interpretation



Chairman Koenig read the application of Reginald Butts, requesting interpretation of a grandfathered commercial use on Depot Street. The property contains 16,530 square feet, is zoned farm, and has been a construction, prefab, warehouse and machine work site. Mr. Butts would like to lease part of the building to a light manufacturing company such as a pallet manufacturer. There will be no change in sewage, no change in the 320' x 77'8", one story structure which has two rooms. Plumbing will be added (bathroom and drinking water). A copy of the deed was provided, fees are paid, abutters have been notified, the hearing date was published, and the site has been inspected by members of the Board.

Mr. Butts explained that when he bought the building he purchased it as industrial, but this building was grandfathered as industrial use according to Steve Westra, and commercial use according to Mr. Timmons. The industrial zone surrounds this land.

Mr. Butts related previous uses taking place in this building over the past 30 years, including prefabbing of houses, machinery uses, storage, and shipping. The front portion of the building has not been used since July of this year; W. H. Nichols is using the rear for rebuilding machinery.

According to the ordinance, assembly is considered the same as manufacturing, according to Mr. Butts. The proposed tenant is a similar type of operation as Nichols, which is a type of manufacturing. The site contains almost three acres and mini-storage was built along the side of the property. Mr. Butts has had not complaints from residential neighbors.

Chairman Koenig explained that Roger Timmons turned this over to the Board because manufacturing is not a defined use in the C-1 zone. Manufacturing is a permitted use in the industrial district, special exceptions in the C-1 are permitted uses in the industrial district.

There were no public comments.

Bill Bailey was concerned about the potential of a pallet manufacturer producing dust. Mr. Butts thought the wood would be cut on-site, but explained that, at the company's Leeds location, they keep a trailer outside and blow the sawdust directly into the trailer. He assumed the same would be done here.

Bud Kellogg added that the State Fire Marshall sometimes gets involved in these types of uses.

Mr. Brigham moved to approve the request of Mr. Butts to allow manufacturing in the existing building on Tax Map 38, Lot 50, in the farm zone. Mr. Davidson seconded and the motion carried unanimously.

The appeal was closed.

Casco Northern Bank - Sign Variance

Chairman Koenig read the application of Casco Northern Bank requesting a special exception permit to combine entrance/exit and directional signs into two larger signs in the C-1 zone. The property contains over 60,000 square feet and a new building is under construction. Fees are paid, abutters have been notified, notice of the hearing was published, and members of the Board have visited the site.

Mr. Bob Cote explained that the bank doesn't own the road but has a right of way over it. Signalization at the intersection has been upgraded and the parking lot and entrances have been set back in anticipation of expansion of Route 302. There will be two entrances for the public, one which will go to the drive through and one for a manned teller. The front of the lot will contain customer parking, with screened employee parking in the rear. Two more parking spaces than required are provided.

The bank proposed to combine 6 directional signs into two 5'6" high signs with 3'6" x 2'8" faces. One sign will be at the first entry to the bank and the second will be located at the second entry. The ordinance allows directional signs of three square feet, and does not limit the number of such signs; the bank feels these signs would clutter up the lot and that combined directional signs will be neater and clearer.

It is also felt the road will eventually extend as the Manchester property is developed. Ed Bloomington of Coyne Signs explained that the permit for 150 square feet includes the two building signs and the pole sign. These will not exceed the 150 square feet, and the pole sign will not be over 20' in height.

Mr. Cote explained that where the plans show "Anytime Money" it will say ATM or 24 hour teller. Mr. Bloomington explained that the lettering on the signs is determined in order to be visible to a driver; the size of the sign might be able to be cut down but they do want the signage to be noticeable and want to have some room for future changes or additions.

Chairman Koenig reviewed the special exception criteria as applicable.

Mr. Larrivee moved to approve the request for Casco Northern Bank's sign variance on Tax Map 70, Lot 22, with the condition that these are the only two directional signs Casco Northern can have. Mr. Bailey seconded and the motion carried unanimously.

The appeal was closed.

Charles L. and Margaret O'Connell - Setback Variance



Chairman Koenig read the application of Charles and Margaret O'Connell requesting a 10' road setback variance and 8' shore variance to construct a 20' x 24' accessory building to be used as storage on their 50,750 square foot lot in Shoreland Zoning. No additional plumbing is planned, fees are paid, abutters have been notified, notice of the hearing has been published, and members of the Board have inspected the site.

Richard Thompson, attorney for the applicant, stated that Mr. and Mrs. O'Connell do not wish to ask for the variance from the brook; the building will be set back 75' from the brook. According to the surveyor, the applicants can place the 24' x 20' building and need only a 2' variance from the edge of the roadway. Though the town considers this to be a 50' right of way, the developer did not own the entire right of way which has recently become a town road. This parcel was conveyed prior to the subdivision and Brook Road being approved.

Bill Bailey thought it had been confirmed that the town has a 50' right of way, since he was present at a Council meeting where the Public Works director verified the 50' right of way. He questioned whether the Board can grant a variance in this type of instance? What if it turns out we are wrong in granting a variance from the edge of the road?

Mr. Thompson stated that he is asking for a variance to put this building 10' from the edge of the 50' right of way; even if there is a determination that the town owns it there would still be an approved variance. In actuality, the building would be 33' from the edge of the existing roadway, and Mr. Thompson felt this in essence is only a 2' variance because according to the title searches this land is owned by the applicant.

The application was amended and initialled to show no variance request from the brook and a 10' front yard setback.

Chairman Koenig stated that the Board rode the entire area and about every building is 35' or more from the property lines, in accordance with the ordinance, and this request is excessive.

Mr. Thompson replied that a larger front setback would encroach on the shore setback; this property is narrow and there are no ways to place a building and meet both setbacks. This will be a garage for a classic car; there is an existing garage on the property.

Undue hardship criteria was reviewed. Mr. Thompson reiterated that there is no place to put the structure on the lot and meet setbacks, due to the odd shape of the lot.

Mr. O'Connell added that there will be trees left standing on the northerly side of the building, between the proposed building and the road. Chairman Koenig added that this would still be allowing a building 10' from the property line. Mr. Thompson

reiterated that the applicant owns to the edge of the road and is asking for the variance from the edge of the right of way in case he ends up giving a portion of the land in the right of way to the town. His opinion is that they only need a 2' variance in actuality.

Mr. Bailey felt the Board should table this and consult the Town Attorney on this. He felt the Council meeting at which the town took over the road from Colonial Acres is in direct conflict with what is being said here.

Mr. Thompson replied that George Sawyer was the registered land surveyor who did the survey on the O'Connell lot.

Mr. Larrivee moved to deny the 25' front yard setback variance request of Charles L. and Margaret O'Connell, Tax Map 23A, Lot 16, on the grounds that the variance is excessive and there is not enough room on the lot. Mr. Bailey seconded and the motion carried 3-1-1 (Davidson opposed, Brigham abstained).

Chairman Koenig added that, if the road should be expanded there would be a building 10' from the edge of it and this is contrary to the ordinance. Alan Brigham felt the 25' was excessive, and would like to see definitization of where the right of way actually is; he might feel more strongly if there were not already a garage on the property.

The appeal was closed.

#### OLD BUSINESS:

##### George Wood - Revised Parking Plan


Chairman Koenig dispensed with the reading of the application since Mr. Wood has been before the Board several times on this issue. The site was again inspected by the Board. Mr. Wood explained that he wants to lift the building and put parking in the bottom for three units, six 10' x 20' parking spaces. A 1' foundation would allow 28' x 68' of internal parking; the back third of the building is already excavated 8' to 10'. Mr. Wood prefers to lift the building as little as possible. He would have an engineer design the parking area and drainage.

Chairman Koenig checked the ordinance and did not see any way in which the Board could grant anything on height variances; the building may already be higher than the permitted 35', but this is grandfathered as long as Mr. Wood does not make the building higher than it currently is.

Mr. Bailey moved to approve Mr. Wood's proposed 6 parking spaces for three residential units under the building at Tax Map 38, Lot 45, provided it meets the building requirements of the CEO. Mr. Davidson seconded and the motion carried unanimously.

Mr. Davidson moved to adjourn, Mr. Larrivee seconded and the meeting adjourned at 11:05 p.m..

Respectfully submitted,

A handwritten signature in cursive script, reading "Susan N. Thompson". The signature is written in dark ink and is positioned above the typed name.

Susan N. Thompson, Recorder