

APPLICATION FOR APPEAL

To:
Zoning Board of Adjustment
Town of Greenville
Greenville, NH 03048



Do not write in this space
Case No _____
Date filed _____
(signed - ZBA)

Name of applicant Country Corner Mile Reality, LLC & H-COR, LLC.
Address PO Box 248, Amherst NH 03031
Owner Same
(if same as applicant, write "same")

Location of property 750 & 766 Fitchburg Rd
Map 1; Lot# 46D, 47, & 48 (number, street) Zoning District: C/I
(map number & lot number, zoning district)

NOTE: Fill in Section 1, 2, 3, or 4 as appropriate. This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate. Sign application at end.

Section 1. APPEAL FROM AN ADMINISTRATIVE DECISION

Relating to the interpretation and enforcement of the provisions of zoning ordinance.
Decision of the enforcement officer to be reviewed _____

_____ Number _____ Date _____
article _____ section _____ of the zoning ordinance in question: _____

Section 2. APPLICATION FOR A SPECIAL EXCEPTION

Description of proposed use showing justification for a special exception as specified in
the zoning ordinance article 5 section 4
See attached project narrative.

Section 3. APPLICATION FOR VARIANCE

A variance is requested from article _____ section _____ of the zoning ordinance to permit _____

Facts supporting this request:

1. The proposed use would not diminish surrounding property values because:

2. Granting the variance would not be contrary to public interest because:

3. Denial of the variance would result in "unnecessary hardship" to the owner. The applicant must either meet the criteria of I or II below.

I. Unnecessary hardship means owing to the special conditions of the property that distinguish it from other properties in the area:

a. No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and the specific application of that provision to the property; and

b. The proposed use is a reasonable one.

II. If the criteria for unnecessary hardship above are not met an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions on the property that distinguish it from other properties in the area, the property cannot be used in strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it.

I. Granting the variance would do substantial justice because:

II. The use is not contrary to the spirit of the ordinance because:

Section 4. APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of Dimensional Requirements is requested from article _____
Section _____ of the zoning ordinance to permit _____

1. Does the request involve a dimensional requirement, not a use restriction?
() yes () no
2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town _____

- or -

Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bonafide purchaser _____

And how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake _____

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area _____
4. Explain how the cost of correction far outweighs any public benefit to be gained _____

SIGNATURE

Applicant Joseph J. [Signature] Date 11/13/2020
(Signature)

INSTRUCTIONS TO APPLICANTS APPEALING TO THE BOARD OF ADJUSTMENT

IMPORTANT: READ ALL INSTRUCTIONS CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATION

The board strongly recommends that before making any appeal, you become familiar with the zoning ordinance and also with the New Hampshire Statutes TITLE LXIV, RSA Chapters 672- 678, covering planning and zoning.

Four types of appeals can be made to the board of adjustment:

Variance: A variance is an authorization which may be granted under special circumstances to use your property in a way that is not permitted under the strict terms of the zoning ordinance. For a variance to be legally granted, you must show that your proposed use meets **all five** of the following conditions:

1. Granting the variance must not be contrary to the **public interest**.
2. The proposed use is not contrary to the **spirit of the ordinance**.
3. Granting the variance would do **substantial justice**.
4. The proposed use would not diminish surrounding **property values**.
5. Denial of the variance would result in **unnecessary hardship** to the owner. Hardship, as the term applies to zoning, results if a restriction, when applied to a particular property, becomes arbitrary, confiscatory, or unduly oppressive because of conditions of the property that distinguish it from other properties under similar zoning restrictions. RSA 674:33, I(b)(5) provides the criteria for establishing unnecessary hardship:

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often this determination is a denial of a building permit. A copy of the determination must be attached to your application.

Appeal from an Administrative Decision: If you have been denied a building permit or are affected by some other decision regarding the administration of the Greenville zoning ordinance, and you believe that the decision was made in error under the provisions of the ordinance, you may appeal the decision to the board of adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

If you are appealing an administrative decision, a copy of the decision appealed from must be attached to your application.

Special Exception: Certain sections of the zoning ordinance provide that a particular use of property in a particular zone will be permitted by special exception if specified conditions are met. The necessary conditions for each special exception are given in the ordinance. Your appeal for a special exception will be granted if you can show that the conditions stated in the ordinance are met.

If you are applying for a special exception, you may also need site plan or subdivision approval, or both, from the planning board. Even in those cases where no planning board approval is needed, presenting a site plan to the planning board will assist in relating the proposal to the overall zoning. This should be done before you apply for a special exception.

Equitable Waiver of Dimensional Requirements: The board may grant an equitable waiver only for existing dimensional nonconformities, provided the applicant can meet the required standards.

1. The nonconformity was not discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser.
2. The nonconformity was not an outcome of ignorance of the law or bad faith, but was instead caused by a good faith error in measurement or calculation.

If these conditions are satisfied, the board can move on to the additional findings to grant the waiver:

3. The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with future uses of other property in the area; and
4. The cost of correction would far outweigh any public benefit to be gained.

In lieu of the requirements in paragraphs (1) and (2), the violation has existed for 10 years or more with no enforcement action, including written notice, commenced by the town.

For any appeal, the application form must be properly filled out. The application form is intended to be self-explanatory, but be sure that you show:

WHO owns the property. If the applicant is not the owner, this must be explained.

WHERE the property is located.

DESCRIBE the property. Give area, frontage, side and rear lines, slopes and natural features, etc.

WHAT do you propose to do? Attach sketches, plot plans, pictures, construction plans, or whatever may help explain the proposed use. Include copies of any prior applications concerning the property.

WHY does your proposed use require an appeal to the board of adjustment?

WHY should the appeal be granted?

Prepare a list of all abutting property owners, have it verified at the city/town office, and attach it to your application. If you have any difficulty, consult the assessor's office, but the accuracy of the list is your responsibility. Mail or deliver the completed application, with all attachments, to the clerk of the board or to the office of the board of selectmen. A fee is charged sufficient to cover the cost of preparing and mailing the legally-required notices. Make check payable to city/town of Greenville and remit with your application.

The board will promptly schedule a public hearing upon receipt of your properly completed application. Public notice of the hearing will be posted and printed in a newspaper and notice will be mailed to you and to all abutters, and to other parties whom the board may deem to have an interest, at least five days before the date of the hearing. You and all other parties will be invited to appear in person or by agent or counsel to state reasons why the appeal should or should not be granted.

After the public hearing, the board will reach a decision. You will be sent a notice of decision.

If you believe the board's decision is wrong, you have the right to appeal. The selectmen, or any party affected, have similar rights to appeal the decision in your case. To appeal, you must first ask the board for a rehearing. The Motion for Rehearing may be in the form of a letter to the board. The motion must be made within 30 days of the decision and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The board may grant such a rehearing if, in its opinion, good reason is stated in the motion. The board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before you can appeal to the courts. When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to abutters.

See RSA Chapter 677 for more detail on rehearing and appeal procedures.

Project Narrative

Project: The Country Mile Store
Address: 750 & 766 Fitchburg Rd, Greenville, NH 03048
Owner/Applicant: Country Corner Mile Realty, LLC & H-COR, LLC

The proposed project is for the removal of the existing gasoline dispensing system and the construction of a new dispensing system in the center of the existing parking lot. Construction activities proposed for the project is anticipated to impact three lots connected by shared parking lots: 1/46D, 1/47, and 1/48. The subject lots are in the C/I – Commercial/Industrial zoning district and have areas of 2.350, 0.975, and 2.700 acres, respectively. Lot 1/46D contains a stand-alone Dunkin' Donuts building of approximately 2,900 square-feet in area, lot 1/48 contains The Country Mile Store – approximately 10,600 square-feet in area – and the current gasoline dispenser station with two dispenser under a 20-foot by 40-foot, and lot 1/47 contains a diesel dispenser station with a single dispenser under a 20-foot by 20-foot canopy. The applicant is the current owner of all three properties under the name of two limited liability companies. Additionally, the proposed project requires: a request for a waiver to provide a stormwater drainage plan in accordance with Section 8.B.7. of the town Site Plan Regulations (SPR); a request for a waiver to provide a landscape plan in accordance with Section 8.B.10. of the town SPR; and a request for a waiver to provide a Certified Erosion and Sediment Control Plan in accordance with Section 10.B. of the town SPR. The associated waiver requests for the proposed project are attached to this application. A Special Exception is also required for construction of the proposed gasoline dispenser station in accordance with Article 5.4 of the Zoning Regulations and Ordinances for Greenville, NH.

The current gasoline dispenser station consists of two dispensers, supporting four vehicle fueling positions and connected to a 6,000-gal underground storage tank (UST) and 5,000-gal / 10,000-gal split UST, providing multiple grades of fuel to the station. The current station with associated USTs, fuel lines, concrete pads, and structures would be removed after completion of construction of the proposed gasoline dispenser station upgrade and replaced with pavement to provide parking and expanded drive aisle space for The Country Mile Store. The proposed dispenser station would be centrally located in the parking lot on lot 1/47 and consists of four dispensers, supporting eight vehicle fueling positions under a 48-foot by 48-foot canopy that is 18-feet-tall with 15 feet of clear space underneath. The proposed dispenser would be connected to a proposed 6,000-gal UST for premium grade gasoline and 25,000-gal UST for supreme / regular grade gasoline. Additionally, to improve traffic interactions with the adjacent Route 31 corridor and allow parking in front of the store, the northern driveway entrance on lot 1/48 is proposed to be removed and replaced with an expanded green space area in the corridor. The driveway removal will require an NHDOT construction permit.

Based on the available Institute of Transportation Engineers (ITE) trip generation analysis data, the increase in the number of average daily trips resulting in the increased number of dispensing positions proposed gasoline dispenser station is anticipated to generate 822 additional trips. It is important to note that each visit results in two additional trips. However, the increase in fueling positions is proposed to meet existing demands, and the number of trips is limited by the existing vehicle traffic volumes on the adjacent Route 31. Some increases in the average daily trips from the proposed project are due to an increase in accessibility to and higher capacity of vehicle fueling at the dispenser station, but the relocated dispenser station is not a primary destination for trip generation on the subject site – the dispenser station is accessory to the site's total trip generation and the traffic on Route 31.

Special Exception Approval Requirements

The proposed development has been planned to improve the functions of access and use of the subject properties, and the proposed use is not expected to create excessive traffic, congestion, noise or odors, is not expected to reduce the value of surrounding properties, has adequate sewage and water facilities and sufficient off-street parking, and is designed to preserve the attractiveness of the Town. The following outline addresses the approval requirements for the requested Special Exception in accordance with Article 5.4 of the Zoning Regulations and Ordinances for Greenville, NH.

- a. The subject lots are situated at least 200 feet, as measured along the public street or road, from all of the following:
 1. A public school or duly organized school other than a public school,
 2. A hospital, convalescent or nursing home,
 3. A place of worship,
 4. A theatre, and
 5. A public library.

- b. The applicant shall submit a site plan showing the location and size of the building(s), site boundaries, location of office spaces, number of vehicles bays, proposed parking spaces, driveways, entrance and exit drives, service areas, proposed advertising signs and accessory buildings, and any other factors affecting the construction and operation of the facility such as existing and proposed contours, drainage, water supply and sewage disposal facilities, proposed site lighting, and plans for storage and disposal of hazardous substances as they apply to the proposed project. Plans for the proposed development shall conform to any applicable design standards and development requirements in accordance with Section 7 of the Town of Greenville Site Plan Regulations.

- c. The proposed project will obtain all necessary permits and approvals required by this Zoning Ordinance, State regulations, and by all other State and Town regulations, Building Codes, and ordinances prior to construction. The project requires site plan approval from the Town Planning Board. Subject to approval of the Planning Board, the proposed project will comply with any and all conditions of approval set by the Planning Board, including acquiring the applicable construction permits through the Town Building Inspector & Code Enforcement department such as a Building permit, Demolition permit, Sign permit, etc. prior to construction. An Application for the Construction for a New or Substantially Modified Underground Storage Tank (UST) System was submitted October 12, 2020, and is pending the review of the New Hampshire Department of Environmental Services (NHDES) Oil Remediation and Compliance Bureau for the proposed USTs. The subject Facility ID is #011317, and the subject application material can be reviewed through a file review with NHDES. The project also requires a New Hampshire Department of Transportation Driveway Permit, which the applicant shall apply for and obtain after site plan approval from the Town and prior to construction.

Proposed Project Design Standards and Requirements

The proposed development plans have considered various design aspects in order to assure the orderly, safe, attractive, and proper design, use, and layout of the sites, consistent with the protection of the public health, convenience, and welfare of the Town of Greenville. The following outline addresses the project's design standards and development requirements in accordance with Section 7 of the Town of Greenville Site Plan Regulations (SPR).

- A. The proposed project meets the provisions of the Planning Ordinance and other regulations and ordinances of the Town of Greenville and meets the intent of the Master Plan. For the purpose of improving traffic circulation and increasing availability of vehicle fueling to match user-demand, the proposed project expands and relocates the gasoline dispenser station from lot 48 to the more open lot 47. This improves egress and ingress from Route 31, which is the central corridor of the town commercial/industrial district. This also improves separation of pedestrian traffic using the Country Mile Store from the vehicular traffic of the gasoline dispenser station. Furthermore, the proposed closing of the north entrance to lot 48 restores open, green space along the Route 31 corridor.
- B. The proposed project provides improvements to site safety and attractiveness. Relocation of the gasoline dispenser station and associated USTs reduces potential spread fire between the store and dispenser station and reduces obstructions in front of the store for clear fire line readily accessible to emergency services. Additionally, the regular fill services performed for the dispenser station would no longer occur in front of the store, which obstructs traffic flow.
- C. The proposed project adheres to the principals of good design and promotes safety improvements, economic advances in the expansion of available dispensers, and efficiency in accessibility to Route 31.
- D. The proposed project allows for a net increase in green space available on lot 48 along Route 31 and would not decrease green spaces on lots 46D nor 47, and all proposed structures and impervious pads are positioned in areas currently occupied impervious surfaces.
- E. The proposed gasoline dispenser station has been positioned in such a manner to allow clear space for more unimpeded vehicular traffic, reducing potential dangers from vehicle collisions.
- F. The proposed site improvements have been designed in such a manner that traffic access to the site and the circulation of traffic within the site would not create hazards to either vehicles or pedestrians. The proposed dispenser station is located away from the store's traffic in an open area allowing more free movement of passenger and semi-trailer vehicles. Furthermore, the drive aisle in front of the store would be free of structures and allow clear travel through the aisle. Overall, the proposed project increases the accessibility of the sites for customers, deliveries, and emergency services.

- G. The proposed site has been designed in such a manner that storm water drainage would not adversely affect surrounding properties, the public storm drainage system, or increase peak flows across the property boundary during both 10 year and 100 year frequency storms. The proposed dispenser station canopy shall direct storm water off the canopy via roof leaders to an independent drainage line, which would convey roof runoff directly to the existing stormwater pond. Since proposed construction activities would occur in already impervious areas, no increases in volume of runoff are expected on lot 47. The removal of the north driveway of lot 48 would result in a net increase of green space, and consequently, a reduction of peak flow and volume of runoff on lot 48. A request for a waiver to provide a stormwater drainage plan in accordance with Section 8.B.7. of the town SPR is attached to this application.
- H. Additional waste generation is not expected. As such, the proposed project would not change the existing waste management activities for the subject sites.
- I. The proposed project would not result in alterations to any existing landscaping areas on lots 46D nor 47. No additional screening on the sides of the existing parking lots are proposed. Proposed restoration of the green space over the removed north entrance driveway does not include provisions for additional screening in front of the proposed rearranged drive aisle and parking lot. The proposed restoration would be consistent with the existing green space area. A request for a waiver to provide a landscape plan in accordance with Section 8.B.10. of the town SPR is attached to this application.
- J. The proposed project provides additional outdoor lighting in the canopy of the dispenser station, which are shielded and positioned in such a manner that would not direct lighting on any adjacent residential property or cause glare to passing vehicles on Route 31. There are no proposed alterations to existing outdoor lighting.
- K. The proposed project would remove the existing canopy with associated signage on Lot 48 and construct a new canopy with associated signage on Lot 47. A separate application for new signage will be submitted to the Town Building Inspector.
- L. The proposed project would not impact the existing snow storage areas and procedures for the subject sites. Snow would continue to be stored on the eastern end of the parking lot above the storm water pond on lot 47.
- M. The proposed project requires minimum erosion and sediment controls. Most construction is proposed within paved areas. Potential erosion and sediment within the proposed areas of excavation are expected to be maintained within the excavation areas. Sediment track out is proposed to be swept within the excavation areas. Sediment controls are proposed over existing downgrade storm water inlets and at the edge of pavement downgrade of proposed excavation areas. These controls would reduce potential migration of sediment into these control areas from potential track out on to the pavement from excavation areas if not swept. Stockpiles of removed pavement and soil if left unattended outside of hours of construction are proposed to be surrounded by

compost filter socks and covered to reduce erosion and sedimentation of stockpiles. A request for a waiver to provide a Certified Erosion and Sediment Control Plan in accordance with Section 10.B. of the town SPR is attached to this application.

- N. The proposed project would allow more accessibility to the store and the emergency shut off to the gasoline dispenser station for the fire department without introducing any requirements for specialized equipment or training, and a devoted fire lane in front of the store for emergency vehicle use. Fire extinguishers are proposed to be provided in accordance with the extra (high) hazard requirements for Class B hazards, except that the maximum travel distance to a 80 B:C extinguisher shall be permitted to be 100 ft. Fire extinguishers shall be installed, inspected, and maintained in accordance with NFPA 10.
- O. The proposed project requires the storage of hazardous materials for the gasoline dispenser station. Storage of hazardous materials is proposed to be in double-walled underground storage tanks. The plans show the location and capacity of each of the underground storage tanks. The tanks are equipped with leak detection system, fuel level monitoring, overfill protection systems, and spill containment for both the tank and dispenser areas. A leak detection system triggers an alarm at the control panel when a leak is detected in the interstitial space of the tank, in the tank, or in dispenser sumps.
- P. The proposed project requires the certification from the town Fire Department, Highway Department, and Board of Selectmen. The applicant will meet all required criteria for the project as specified by the applicable town agencies. Additionally, the proposed project requires the approvals from the New Hampshire Department of Transportation for the proposed work within the Route 31 corridor and from New Hampshire Department of Environmental Services for the proposed UST and gasoline service station. The applicant will meet all required criteria for the project as specified by the applicable state agencies, and copies of the state approvals for the project are proposed to be provided to the town when obtained.

Abutter List

Site Plan Review for The Country Mile Store
750 & 766 Fitchburg Road, Greenville, NH 03048

Map	Block	Lot	Property Owner	Mailing Address
Owner/Applicant:				
1		46D	H-COR, LLC	PO Box 248 Amherst, NH 03031
1		47	Country Corner Mile Realty, LLC	PO Box 248 Amherst, NH 03031
1		48	Country Corner Mile Realty, LLC	PO Box 248 Amherst, NH 03031
Abutters:				
1		44-1	Fieldstone Farm Properties, LLC	38 Fieldstone Lane Rindge, NH 03461
1		44-8	HEG Seven Sophia's Way, LLC	2 International Way Lawrence, MA 01842
1		45	SNZ, LLC	12505 Quail Meadow Drive Auburn, CA 95603
1		46	Paul Cormier	670 Mass Avenue Lenenburg, MA 01462
1		46C	James & Robin Reissfelder	774 Fitchburg Road Greenville, NH 03048
Engineer			David L. Frothingham III	Wilcox & Barton, Inc. 2 Capital Plaza, Suite 305 Concord, NH 03301

Abutters list verified: 10/12/2020