

COPY

**DECISION
GRAFTON PLANNING BOARD**

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SPECIAL PERMIT (SP 2017-9)

2018 FEB 27 PM 1:10

**Relief from Size and Quantity Requirements for Signs
88 Worcester Street, North Grafton, MA**

**Petrogas Group New England, Inc. c/o Bowditch & Dewey, LLP (Applicant)
Leemilt's Petroleum, Inc. (Owner)**

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Petrogas Group New England, Inc. c/o Bowditch & Dewey, LLP (hereinafter the APPLICANT), for a Special Permit Approval under Section 4.4.4. (Special Cases / Relief) of the Grafton Zoning By-law for relief from the requirements for signs in a Community Business (CB) zoning district. Said petition seeks approval for the installing of two internally illuminated signs on fueling station canopy and relief from secondary wall sign size requirements. Said signs to be installed on property located at 88 Worcester Street, North Grafton (hereinafter the SITE), and shown on Grafton Assessor's Map 55, Lot 94 and owned by Leemilt's Petroleum, Inc. (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds in Book 30031, Page 98.

I. BACKGROUND

The application for the above referenced Special Permit (SP 2017-9) (hereinafter Application) was submitted on November 8, 2017. The public hearing on the Application was held on December 11, 2017 and continued to January 8, 2018. The public hearing for SP 2017-9 was held concurrently with the public hearing for SP 2000-11.1, Modification of Special Permit and Site Plan Review. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 24 and December 1, 2017 and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk J. Daniel Graham and Members Linda Hassinger and David Robbins.

At the hearing, Attorney Joshua Lee Smith of Bowditch & Dewey, LLP and Huseyin Sevincgil, P.E. of MHF Design Consultants, Inc. presented the application to the Board on behalf of the Applicant. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on January 8, 2018.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

1. Unbound application package submitted by the Applicant, received November 8, 2017, including the following:
 - Application for Special Permit, 1 page.
 - Application for Site Plan Approval, 1 page.

- Certificate of Good Standing signed by the Treasurer / Collector's Office, November 8, 2017, 1 page.
 - Certified Abutter's List, signed August 17, 2017, 1 page.
 - Statement of Support of Petrogas Group New England, Inc. for 88 Worcester Street, Grafton, MA; 5 pages.
 - Proposed Elevations; prepared by Upland Architects; dated October 24, 2017; 11"x17", color; 2 sheets.
2. Site Plan Set, prepared by MHF Design Consultants, Inc. & Harbinger, stamped by David Jordan, dated November 7, 2017; 22 sheets (11x17)
 3. Stormwater Management Report, prepared by MHF Design Consultants, Inc., stamped by David Jordan, dated November 7, 2017; 130 pages.
 4. Traffic Impact Study, prepared by GPI, Inc., stamped by Rebecca Brown, dated November 2017; 123 pages.
 5. Revised Plan Sheets No. 1, 2 & 4, prepared by MHF Design Consultants, Inc., stamped by David Jordan, dated November 8, 2017; 3 sheets (11x17).
 6. Revised Plan Sheet No. 4, prepared by MHF Design Consultants, Inc., stamped by David Jordan, dated November 13, 2017; 1 sheet (11x17).
 7. Email, Subject: 88 Worcester Street - Leemilt's Petroleum, from Nancy Connors (BoH), dated/received November 20, 2017; 1 page.
 8. Email, Subject: Mod. Special Permit 2000-11 & Special Permit 2017-9 – Leemilt's Petroleum – 88 Worcester St., from K. Koshivos (ZBA), dated/received November 20, 2017; 1 page.
 9. Email, Subject: Mod. Special Permit 2000-11 & Special Permit 2017-9 – Leemilt's Petroleum – 88 Worcester St., from Town Administrator's Office, dated/received November 20, 2017; 1 page.
 10. Email, Subject: Mod. Special Permit 2000-11 & Special Permit 2017-9 – Leemilt's Petroleum – 88 Worcester St., from N. Crepeau (Police Chief), dated/received November 22, 2017; 1 page.
 11. Peer Review, prepared by Graves Engineering, Inc., Subject: Proposed Site Improvements 88 Worcester Street, dated/received 11/29/17; 3 pages.
 12. Peer Review, prepared by MDM Transportation Consultants, Inc., Subject: Transportation Peer Review Comments, dated/received 12/8/17; 9 pages.
 13. Abutter Comments, Homefield CU, dated 12/7/17, received 12/11/17; 1 page.
 14. Email, Subject: Sign and Canopy Comments, from J. Laydon (Town Planner), dated/received December 11, 2017; 1 page.
 15. Plans - Canopy Sign Details; prepared by Federal Heath, dated December 6, 2017, received December 11, 2017; 2 pages (11x17).
 16. Photos – Typical finished signs, no date, received December 12, 2017; 2 pages.
 17. Email, Subject RE: Sign and Canopy Comments, from J. Smith (Bowditch & Dewey, LLP), dated/received December 11, 2017; 4 pages.

18. Request to Continue Public Hearing to January 8, 2018, signed by Huseyin Sevincgil, PE, dated December 11, 2017; 1 page.
19. Peer Review, prepared by Graves Engineering, Inc., Subject: Proposed Site Improvements, dated/received January 3, 2018, 4 pages.
20. Plan, entitled: Proposed Exterior Rendering, prepared by Upland Architects, dated December 27, 2017, received January 3, 2018.
21. Plan set, Subject: Proposed Site Improvement Plans, Prepared by MHF Design Consultants, Inc., revised December 28, 2017, Received January 3, 2018, 18 pages.
22. Letter from MHF Design Consultants, Inc., Subject: Response to Graves Engineering, dated December 28, 2017, received January 3, 2018, 2 pages.
23. Letter from MHF Design Consultants, Inc., Subject: Revised Site Plan submittal to Planning Board, dated December 29, 2017, received January 3, 2018, 2 pages.
24. Letter from MHF Design Consultants, Inc., Subject: Response to MDM Comments, dated December 29, 2017, received January 3, 2018, 2 pages.
25. Plan, Subject: Proposed Rendered Exterior Elevations, prepared by Upland Architects, dated December 27, 2017, received January 3, 2018.
26. Colored Drawing, Subject: Site Plan, Prepared by MHF Design Consultants, Inc., revised December 28, 2018, received January 8, 2018.
27. Colored Drawing, Subject: Retail Fuel Canopy Elevations, Prepared by MHF Design Consultants, Inc., revised December 28, 2018, received January 8, 2018.
28. Email, Subject: Restricting Circulation, Response from Robert Michaud, MDM Transportation Consultants, Inc. to Planner, dated/received January 8, 2018.

III. FINDINGS

At their meeting of February 26, 2018 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mrs. Hassinger, seconded by Mr. Robbins) voted 4-1, with Mr. Scully voting against, in favor of make the following Findings:

1. That the subject site is located at 88 Worcester Street and is being redeveloped per the Special Permit Application (SP 2000-11.1), the decision of which is separate from this decision.
2. That the subject site is located within the Community Business (CB) zoning district. The site is located within the Water Supply Protection Overlay District.
3. That the Applicant requested relief pursuant to Section 4.4.4 of the Zoning Bylaw to permit the following signs (Exhibit 1):
 - a. A primary wall sign facing the parking lot and on the southern elevation 85.3 sq. ft. in area, in excess of the 76 sq. ft. permitted by the By-law.

- b. A secondary wall sign is proposed on the western elevation facing Worcester Street 52.5 sq. ft. in area, in excess of the 6 sq. ft. permitted by the By-law.
 - c. A free-standing sign, 20 feet 8 inches in height, which is in excess of the 16 feet permitted by the By-law.
 - d. Two canopy signs, exceeding number of permitted free-standing signs.
4. That during the Public Hearing on December 11, 2017 the Board and the Applicant discussed the requested relief as proposed in Exhibit 1. During the hearing, the Applicant agreed that the primary wall sign and the free-standing sign could be brought into compliance with the requirements of the Zoning Bylaw. Regarding the secondary sign and the second free-standing sign (canopy sign), the Applicant stated that they would reconsider their request and provide information in advance of the January 9, 2018 meeting.
5. The Applicant submitted a letter dated December 29, 2017 (Exhibit 23) responding to Graves Engineering comments (Exhibit 11); responding to MDM Transportation comments (Exhibit 12); and revising the signage plan as follows:
 - a. Freestanding sign height reduced to 16 feet from 20 feet 8 inches.
 - b. Primary wall sign reduced to 44.5 sq. ft. from 85.3 sq. ft.
 - c. Secondary wall sign reduced to 16 sq. ft. from 52.5 sq. ft.
 - d. Canopy signage reduced to 20.5 sq. ft (two signs) from 66 sq. ft. (two signs). (See Exhibit 27)
6. That during the Public Hearing on January 8, 2018, the Board found the Applicant demonstrated that a special permit was no longer needed for the Freestanding sign and the primary wall sign and that both signs complied with the zoning bylaw.
7. That during the public hearing on January 8, 2018, the Applicant has revised their request for relief under Section 4.4.4.4 of the Zoning Bylaws for the secondary sign and the canopy signage.
8. That during the Public Hearing on January 8, 2018, the Board discussed the secondary wall sign. The Board found the building is at an angle to Worcester Street and that the primary wall sign is oriented towards north traveling traffic and is not visible to south travelling traffic. The Board found that due to the orientation of the building, that a secondary sign, sixteen square feet in area, while in excess of the six square feet permitted under the bylaw, was not detrimental to the character of the neighborhood.
9. That during the Public Hearing on January 8, 2018, the Board discussed the placement of the secondary sign on the building and found the visual impact of the sign would be reduced by lowering the sign on the western elevation of the building.

10. That during the Public Hearing on January 8, 2018, the Board discussed the canopy and associated signage. The Board found Section 4.4.4 of the zoning bylaws does not address signs on gas station canopies. The Board found that the two of the three gas stations on Worcester Street, the current BP station is excluded, have signs on the canopy and that the recent Cumberland Farms gas station was approved with no logo on the canopy. The Board also found the existing canopy has three “BP” signs and that the Applicant’s proposal represents a reduction in the number of signs on the canopy. The Board found that the two signs on the canopy were not detrimental to the neighborhood, provided the signs do not extend beyond the dimensions of the canopy.
11. With regard to Section 1.5.5(a) of the ZBL that based upon the Findings stated within this Decision, ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate. In voting this Finding, the Board notes that this Special Permit is only for the sign identified in this Decision.
12. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory.
13. With regard to Section 1.5.5(c) of the ZBL that based upon the Findings stated within this Decision, refuse collection or disposal and service areas are not applicable to this application and covered by the decision for SP 2000-11.1.
14. With regard to Section 1.5.5(d) of the ZBL that based upon the Findings stated within this Decision screening and buffering with reference to type, dimensions and character are not applicable to this application and covered by the decision for SP 2000-11.1.
15. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district.
16. With regard to Section 1.5.5(f) of the ZBL that based upon the Findings stated within this Decision, the required yards and other open space requirements are not applicable to this application and covered by the decision for SP 2000-11.1.
17. With regard to Section 1.5.5(g) of the ZBL, that the proposed sign and its use (as presented in the EXHIBITS stated within this Decision and by the Applicant during the public hearing) is generally compatible with adjacent properties and properties in the district.
18. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply as is not applicable to this application and covered by the decision for SP 2000-11.1.

19. With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant or cumulative impact upon municipal water supplies as it is not applicable to this application and covered by the decision for SP 2000-11.1.
20. With regard to Section 1.5.5(j) of the ZBL that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory.
21. That Section 4.4.3.4.1.3.C.1 (Exterior Signs-Area) of the ZBL, allows for not more than one primary exterior wall sign a maximum of which shall be 1.25 sf per linear foot of wall. The Applicant is proposing one primary wall sign with a total area of forty-four and a half (44.5) square feet where seventy-six (76) would be allowed (61 linear feet of wall multiplied by 1.25 equals 76 sf) on the wall.
22. That Section 4.4.3.4.1.2 (Exterior Signs) of the ZBL, allows for a secondary wall sign when the store has a wall other than the store front that faces upon a street, the display surface of which shall not exceed six (6) square feet. The Applicant is proposing a secondary wall sign affixed to the Worcester Street side of the building an area of sixteen (16) square feet.
23. That Section 4.4.3.4.4.2 (Freestanding Signs) of the ZBL, would permit a maximum freestanding sign area of sixty-nine (69) square feet (sf) (one sf of area for each four linear feet of front lot distance; maximum of seventy-five feet). The Applicant is proposing a total freestanding sign area of sixty-four square feet ($275' / 4' = 64$ sf).
24. That Section 4.4.3.4.4.3 (Freestanding Signs) of the ZBL, would permit a freestanding sign height not to exceed sixteen (16) feet (10' height plus 1 additional foot per every 2 feet of setback distance). The Applicant is proposing a total height of sixteen (16) feet with a setback of twelve (12) feet.
25. That Section 4.4.4.4 of the ZBL, allows for the Board to grant relief from the requirements of Section 4.4 with respect to size, height, installation of signs pursuant to Section 4.4.2.5.9, minimum setback, location (on- / off-premises), or quantity of sign(s). The Board finds that the Applicant proposed two canopy signs, each being 10.2 sf. for a total of 20.4 sf and a secondary wall sign of 16 sq. ft.
26. That during the public hearing the Applicant reviewed the existing conditions of the site and proposed new signs. The Applicant is seeking to replace the existing free-standing signage with new signage that meets the specifications of Petrogas Group New England Inc. who sets sign requirements for their franchisees.
27. That Section 4.4.4.2 of the ZBL provides for certain types of relief from the requirements of Section 4.4 (*Signs*), as specified in said Section, and that such relief may only be obtained through the issuance of a Special Permit Approval granted by Planning Board. The Board also finds that Section 4.4.4.2 of the ZBL states the reasons and/or circumstances for which the Planning Board may consider granting relief from the requirements for signs, and that said section requires the Planning Board to make findings with regard to certain criteria defined in said Section. The Board further finds that this Application is being considered under subsection 4.4.4.2.4 of the ZBL, which

provides for the following: *Relief from the requirements of Section 4.4 with respect to size, minimum setback, location (on- or off-premises) or quantity of sign(s).*

28. That with regard to Section 4.4.4.2(b), the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest based on the Exhibits and Findings.
29. That with regard to Section 4.4.4.2(c), the sign will not cause visual confusion, glare, offensive lighting in the neighborhood or surrounding properties.
30. That with regard to Section 4.4.4.2(d), the signs requested pursuant to the Special Permit and Site Plan Approval application is necessary due to the topography or site conditions unique to the proposed location of the sign.
31. That with regard to Section 4.4.4.2(e), that the site does contain a unique and particular type of use that requires additional signage in order to identify the premises adequately.
32. That with regard to Section 4.4.4.2(f), the sign in question is appropriately located and reasonably adapted to the proper use.
33. That with regard to Section 4.4.4.2(g), the sign will not significantly alter the character of the zoning district or be a detriment to the surrounding area.
34. That with regard to Section 4.4.4.2(h), the sign will not be detrimental to the public safety and welfare.
35. That with regard to Section 4.4.4.2(i), the granting of the Special Permit and Site Plan Approval does not derogate substantially from, and will be in harmony with, the intent and purposes of the Bylaw.
36. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and materials submitted and presented in association with the Application.
37. That determinations regarding the following findings are also predicated upon satisfactory completion of the work shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.

IV. CONDITIONS

At their meeting of February 26, 2018 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mrs. Hassinger, seconded by Mr. Robbins) voted 4-1, with Mr. Scully voting against, in favor to **Approve** this Special Permit (SP 2017-9) Approval.

1. This Special Permit (SP 2017-9) specifically authorizes the following:

- Relief to allow one sign to exceed the maximum allowed square footage of six (6) square feet to be a total of sixteen (16) square feet. (See Exhibit 23)
 - To allow two signs totaling not more than 20.4 feet in area on the canopy (See Exhibit 23), subject to reduction in size such that same do not extend beyond the dimensions of the canopy.
2. The Applicant shall submit a revised elevation drawing of the western elevation demonstrating the secondary sign being installed at a lower height of the façade for review by the Planning Board and/or its Agent for determining compliance with this decision. (See Finding 9)
 3. Unless specifically modified by this Decision, the sign authorized by this Special Permit Approval shall be installed in accordance with, and maintained to conform to, the Conditions stated within this Decision, all applicable requirements of the Grafton Zoning Bylaw, and all applicable Federal, State and Local regulations.
 4. The sign authorized by this Special Permit Approval shall be installed and maintained so as not to create a nuisance or a hazard to vehicles and pedestrians.
 5. In accordance with Section 1.5.8 of the ZBL, this Special Permit Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
 6. This Special Permit Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number. Installation of the sign authorized by this Special Permit Approval shall not commence until the Applicant has recorded this Special Permit Approval Decision at the WDRD and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
 7. By recording this Special Permit Approval Decision in the WDRD, the Applicant agrees to and accepts the conditions set forth in this Special Permit Approval Decision.
 8. Any inability or failure or refusal by the Applicant to comply with the requirements of this Special Permit Approval, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

VI. RECORD OF VOTE

Constituting a majority of the Grafton Planning Board, the following members voted to Approve the Applicant's Special Permit (SP 2017-9) Approval application for sign relief as described in the Decision with Conditions at 88 Worcester Street, North Grafton, MA, based on the information received at the public hearing, submittals and the aforementioned Findings.

<u>Michael Scully, Chairman</u>	<u>NAY</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>J. Daniel Graham, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner Date 2-27-2018

cc: Applicant
 Owner
 Building Inspector

To Whom It May Concern: This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Interim Town Clerk

Date

