

TOWN OF MILFORD

Office of Community Development

Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects



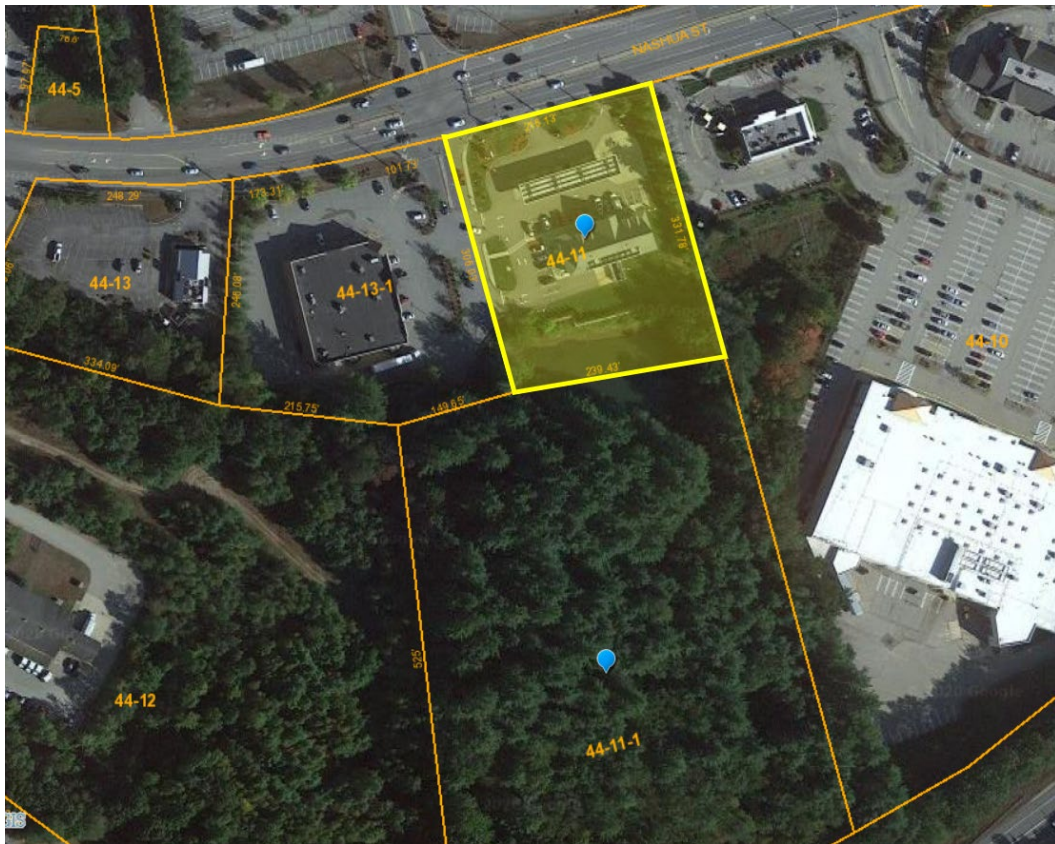
Administrative Review

Date: October 8, 2020
To: Jason Plourde, Chair - Zoning Board of Adjustment
From: Lincoln Daley, Community Development Director
Subject: **Case #2020-26:** Classic Signs Inc. and ASRT, LLC., 583 Nashua Street, Milford Tax Map 44, Lot 11 – Variance Application

The applicant is before the Board of Adjustment seeking a VARIANCE from the Milford Zoning Ordinance, Article VII, Sections 7.06.9.E.1.e.iii and iv. to construct a 87 square foot free standing sign with a total height of 18.5 feet on the subject property located in the Commercial Zoning District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
 - a. The subject property is approximately 1.65 acres and is fully developed. The property contains the Cumberland Farms convenience store and filling station.
 - b. Access and egress to the property is from Nashua Street and a shared private drive servicing 571 Nashua Street, Map 44 Lot 13-1 (Walgreen's Pharmacy) and the recently approved MVC Eye Care development located on Map 44 Lot 11-1 to the South.
 - c. The subject property contains one 66 square foot free standing monument sign 15 feet in height.
 - d. The subject property lies within the Commercial 'C' Zoning district and is situated among the established Nashua Street commercial corridor. .
2. The proposal calls for adding an additional 21 square feet of signage area to the existing monument sign (to total 87 square feet) and increasing the overall height of said sign by 3 feet (18 total feet). The purpose and intent is to provide an opportunity for off site signage for the MVC Eye Care business located in Map 44 Lot 11-1. Said property contains no street frontage on Nashua Street.
3. The style and location of the existing monument sign would not change from the approved Cumberland Farms site plan. The requested height and area increase would allow the placement of a 3.5' by 6' MVE Eye Car sign at the lower section of the pillars while maintaining the existing visibility for vehicles to enter and leave the site.
4. According to the applicant, the property owner has agreed to the proposed changes.
5. Pursuant to Section Sections 7.06.9.E.1.e.iii and iv, a monument sign in the Commercial District cannot exceed 75 square feet and 15 feet in height. As such, the proposed 87 square sign 18.5 feet in height requires a Variance.
6. As part of the Board deliberation, the applicant should be prepared to discuss the following:
 - a. Reasons, rationale, and alternatives considered for location of the proposed addition.
 - b. Impact to abutting properties and possible visual mitigation.

Aerial Photo(s) of Subject Property :



Street Photo(s) of Subject Property:





ZBA Application
MILFORD ZONING BOARD OF ADJUSTMENT
GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

TOWN OF MILFORD
 RECEIVED
 SEP 17 2020
 PB _____ ZBA _____ Office _____

Date Received: 9-17-2020
 Case Number: 2020-76
 Application Number: 20201206
 Hearing Date: 10-15-2020
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION

Street Address: 583 Nashua Street
 Tax Map / Parcel #: 44 lot 11 Lot Size: _____

PROPERTY CURRENTLY USED AS

Non developed and under review

If the application involves multiple lots with different owners, attach additional copies of this page.

PROPERTY OWNER

Name: John Samonas ASRT, llc.
 Address: 111 Bow Street
 City/State/Zip: Portsmouth N H 03801
 Phone: () 603 234 3900
 Email: john@samonasgroup.com

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

APPLICANT/ REPRESENTATIVE

SAME AS OWNER
 Name: Cliff Conti - Classic Signs Inc.
 Address: 13 Columbia Drive unit 16
 City/State/Zip: Amherst, NH
 Email: cliff@classicsignsnh.com
 Phone: () 603 883-0384 Cell: () 603 440 5848

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Please see signed affidavit

Property Owner's signature _____ Date: _____

Zoning District (check one):

- Residence A
- Residence B Residence R
- Commercial
- Limited Commercial
- Industrial
- Integrated Commercial-Industrial
- Integrated Commercial-Industrial-2

Overlay District (check any that apply):

- West Elm Street Overlay
- Nashua/Elm Street Overlay
- Commerce & Community Overlay
- Open Space & Conservation
- Wetlands Conservation
- Groundwater Protection
- Floodplain Management

APPLICATION FEES

Application Fee:	\$75.00
Abutters Fee: \$4 x ⁶	24.00
Amount received:	99.00
Date Received:	

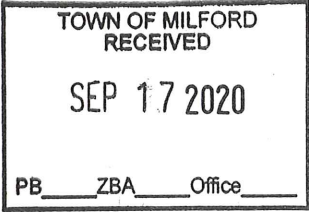
Check Cash _____
CK# 31566
 THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.



ZBA Application - Variance
MILFORD ZONING BOARD OF ADJUSTMENT

Date Received: 9-17-2020
 Case Number: 2020-26
 Application #: _____
 Date Complete: _____
 Hearing Date: 10-15-2020
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION
Street Address: 583 Nashua Street
Tax Map / Parcel #: map 44 lot 11
<i>A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.</i>
What section of the Zoning Ordinance are you asking to be varied? Article _____ Section _____ Describe the variance you are requesting under the above section of the Ordinance. Location of an off site sign on the above property _____ Total combined sign 87 sq. ft where 75 sq. ft is allowed. Overall height of 18.5' above grade is requested where 15' is allowed. _____ _____



General Criteria Section 10.01

Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.1

- Granting the Variance would not be contrary to the public interest because:
 It will allow the best placement of an off premise sign if combined with the existing freestanding sign. The visual characteristics of the property will remain as they are.
- If the Variance were granted, the spirit of the ordinance would be observed because:
 The sign will offer visibility from Nashua Street for the back property. It will help with wayfinding and traffic decision for prospective MVC Eyecare business property. Off site signs are allowed, the proposed version would have the least visual impact and minimal relief from the code restrictions.
- Granting the Variance would do substantial justice because:
 It will make development of this property more viable for the prospective purchaser. If the off site sign is allowed then it will enhance property value of the now undeveloped lot.
- Granting the Variance would not diminish the value of surrounding properties because:
 The change as illustrated will be almost seamless as all aesthetics with stone columns and scale are the same.
- Unnecessary Hardship:
This section is the central portion of your argument and is the critical factor that the Zoning Board of Adjustment will need to determine what is unique to your property and not generally applicable to other properties in the area or in town.



ZBA Application – Variance
MILFORD ZONING BOARD OF ADJUSTMENT

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:
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 because :
MVC Eyecare considers the off site sign with street exposure imperative to the purchase and development of their business on this property base on many years experience in their growing business.It will improve the property to be developed.
AND
ii. The proposed use is a reasonable one because:
It is a minimal relief of 21 sq. ft. additional requested of added size and 36" added height. Cumberland Farms and property owner have approved the changes requested. The added height is required to add the lower sign and allow visibility below and during snow conditions.
(B) Explain how, if the criteria in paragraph (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:
The back property needs to be included in a visible way with adjoining properties. The agreement with landowner and Cumberland Farms is the best option for a simple sign that will identify the back property and will not require a separate ground sign.
(C) Notwithstanding paragraph (B) above, a Variance may be granted without finding a hardship arising from the terms of the Zoning Ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:
The person can reasonably find the back property by use of the off premise sign proposed.
1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:
It will be aesthetically appropriate to the current surroundings and physical features.
In addition, Variances may have extra criteria that must be met. This includes, but is not limited to: 6.03.5 Floodplain Management: The criteria for evaluation is listed in 6.03.5:B General Conditions and the applicable conditions are listed in 6.03.5:C. If your project is covered by this regulation, include your answers to the required criteria as specified in the referenced Section of the Milford Zoning Ordinance as an attachment under Section 3 C. of this application.
ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition. A. A plan of the property and all buildings, drawn to scale, is required. B. A Building Permit Application as needed (to be determined by the building official.) C. Additional explanations, justification, abutters' statements, letters, etc.



ZBA Application – Variance **MILFORD ZONING BOARD OF ADJUSTMENT**

Please read the following information that is designed to help you understand the unique nature of a Variance petition.

Town of Milford Zoning Ordinance can be found at:

[http://planning.milfordnh.info/DOCUMENTS/ZONING%20ORDINANCE%20MASTER%20\(2011\).pdf](http://planning.milfordnh.info/DOCUMENTS/ZONING%20ORDINANCE%20MASTER%20(2011).pdf)

NH RSAs, Chapters 672-677 can be found at:

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIV.htm>

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. 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.

For a variance to be legally granted, you must show that your proposed use meets all five (5) of the following conditions:

- a. Granting the Variance would not be contrary to the public interest.

A variance would be considered contrary to the public interest if it unduly and to a marked degree violated the basic zoning objectives of the Zoning Ordinance. Will the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?

- b. Granting the Variance would observe the spirit of the ordinance.

This requires that the effect of the variance be evaluated in light of the goals of the zoning ordinance.

- c. Substantial justice would be done by granting the Variance.

Substantial justice is done when any loss to the individual is not outweighed by a gain to the general public.

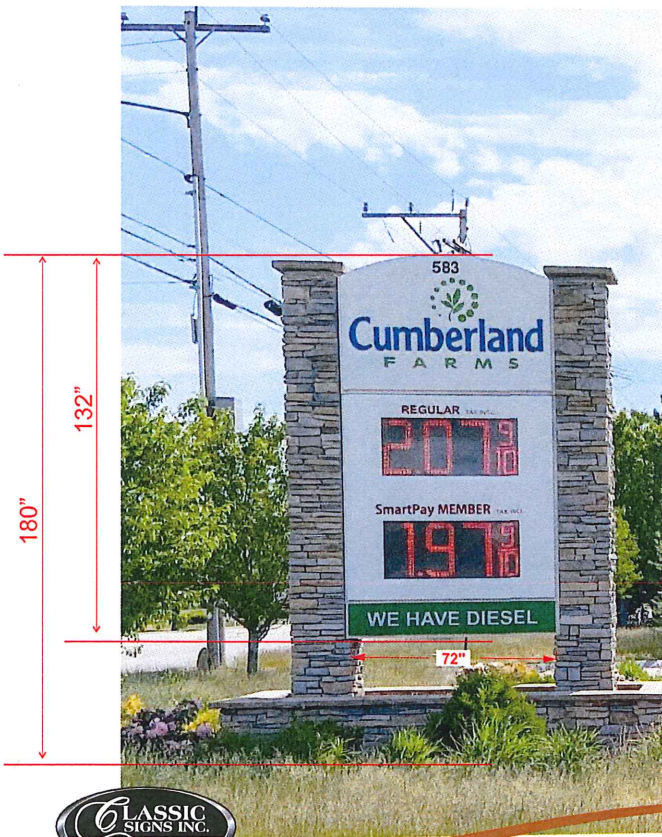
- d. Granting the Variance would not diminish the value of surrounding property.

The applicant, to convince the Zoning Board must explain that granting the variance will not decrease the value of surrounding property.

- e. Denial of the Variance would result in an unnecessary hardship.

The first requirement is that there are special conditions or characteristics applying to the property (such as, but not limited to, exceptional narrowness, shallowness, or shape of the property, or exceptional topographical conditions), that distinguish it from other properties in the area. Because of these special conditions, 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 finally, the proposed use must be a reasonable one. You must explain what makes the property unique and why a "hardship" would be created if the terms of the ordinance were strictly applied.

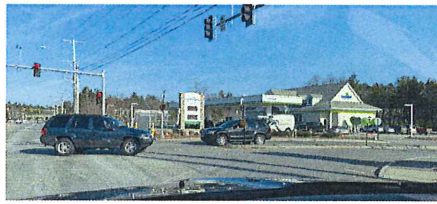
In lieu of a claim of unnecessary hardship, the Variance may be granted when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that any Variance sought shall be in harmony with the general purpose and intent of the zoning ordinance and the Variance shall survive only so long as the particular person or persons have a continuing need to use the premises. To meet this criterion, explain the accommodations that are necessary and identify the person or persons and provide evidence of their disability.



Measurements on this artistic rendering may vary slightly from the actual "AS BUILT" upon final engineering. Color and resolution in proofs are not representative of final projects due to individual monitor settings.



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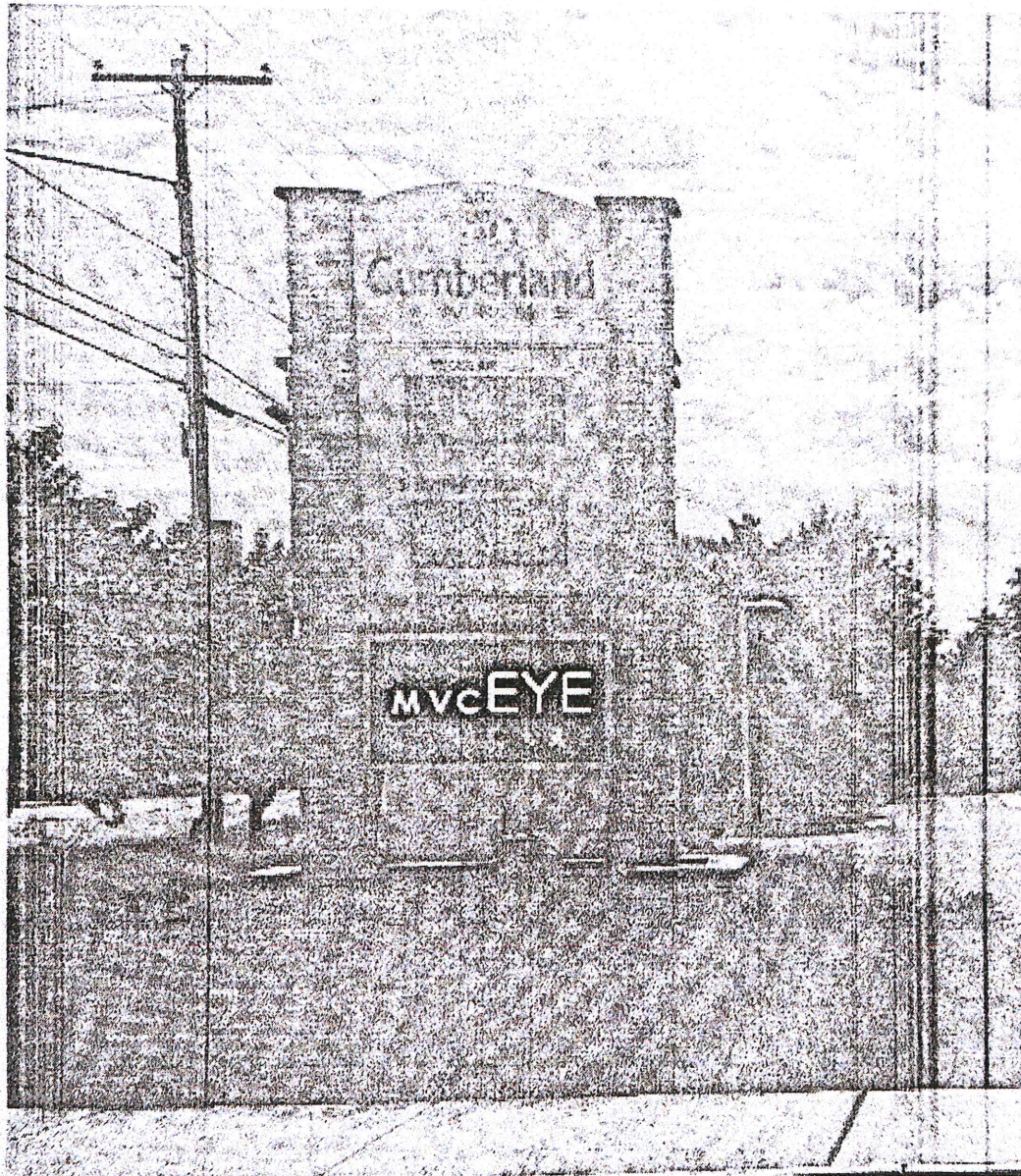


Measurements on this artistic rendering may vary slightly from the actual 'AS BUILT' upon final engineering.
Color and resolution in proofs are not representative of final projects due to individual monitor settings.

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J 9/15/20



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Measurements in this drawing may vary slightly from the actual "AS BUILT" signs that are used.
Color and materials or products are not guaranteed by this drawing due to technical, weather, or other changes.



APPROVED
 By Manny Paiva at 7:59 pm, Sep 16, 2020



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I, John Samonas of ASRT LLC
(property owner's name) (business name, when applicable)

located at 111 Bow Street, Portsmouth N.H. 03801
(owner's mailing address)

hereby authorize Classic Signs Inc. of Amherst, New Hampshire
to act as agent for the purpose of pursuing required sign permits or

variance for work to be completed at:

583 Nashua St., map 44-Lot 11 "offsite" from 0 Nashua St., map 44-Lot 11-1
(sign location street address)

Approved by: John Samonas 603-234-3900
(signature of property owner) (phone number)

Agent of Classic Signs: _____

Date: 9/15/20