

**APPLICATION OF GRANITE STATE CONVENIENCE, LLC**  
**2255 Lafayette Road, Portsmouth, Tax Map 272, Lot 003**

**APPLICANT'S NARRATIVE**

**I. THE PROPERTY:**

The applicant, Granite State Convenience, LLC , seeks to redevelop the existing dormant Burger King site located at 2255 Lafayette Road into a Common Man Roadside convenience store/gas station facility. This will consist of approximately 5,555 square feet of retail/food service space with drive thru, and a retail fueling area with five (5) fuel dispenser islands and an overhead canopy, along with associated parking, travel lanes and related improvements.

According to City tax records, the present Burger King structure was built in 1990. The property has wetlands at its southeastern corner, and the 100-foot wetlands buffer bisects the lot's buildable area. A substantial amount of impervious pavement as well as the dumpster pad currently exist within the wetlands buffer. Existing storage tanks will be removed from the buffer, as will a significant amount of pavement. Stormwater runoff on the site is presently not treated but will be if this project is approved. Fast food construction from this period simply does not lend itself to any kind of realistic adaptive re-use. Accordingly, a fully redeveloped site is desirable.

The property is within the G-1 Gateway Corridor District and Sign District 5. The project requires the following variances from the zoning ordinance:

10.5B33.20 – 0% front lot line buildout where 75% for commercial required and 0 % exists.

10.5B22.40 – building canopy is located 120' from the centerline of Lafayette Road and the convenience store/sandwich shop is located 203' from centerline of Lafayette Road where maximum of 90' is permitted and 151' exists.

10.1113.20 – location of parking between principal building and a street;

10.1114.31 – to allow more than one driveway;

10.835.32 – to allow the bypass lane for a drive thru to be set back 24' from the lot line where 30' is required.

The applicant proposes to install an internally lit freestanding sign with a gross sign area of 160 feet where 100 is the maximum permitted. 10.1251.20.

**II. CRITERIA:**

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.



**Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest.** The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. This property is surrounded by similar and compatible commercial uses within the Gateway zone where the uses here proposed are permitted by right. As it is, the existing built environment on this site is grossly non-compliant with the ordinance provisions the applicant seeks relief from, and the project as proposed will bring the property into closer compliance and ameliorate many of the negative affects it presently has on the wetlands buffer.

The health, safety and welfare of the public will not be threatened, nor will the essential characteristics of the neighborhood change in any way by virtue of the size of the signs here proposed or the relief being requested. The project must proceed through full site review, where the interests of the public will be further protected.

**Substantial justice would be done by granting the variance.** Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. Here, the existing configuration of buildings, parking and travel lanes are more non-compliant than the applicant’s proposed replacement, and the project will improve the environmental impact of the site.

The property as it exists is nonconforming as to the front lot line buildout and Lafayette Road setback requirements. It has two driveways and parking between the principal structure and the roadway. The proposal will not change those nonconformities. There is no benefit to the public that is not outweighed by the loss to the applicant should the variances be denied

It would be an injustice to the applicant to deny the variances here requested.

**The values of surrounding properties will not be diminished by granting the variance.** The surrounding properties and those in the vicinity will not be negatively affected in any way by this relief. The property as it exists is nonconforming as to the front lot line buildout Lafayette Road setback, driveway and parking requirements from which relief is sought. This is a commercial use that is compatible with the surrounding and permitted uses in this zone.



**There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship.** The property for which relief is sought is unique. It is burdened by the wetlands in the southeast corner and the wetlands buffer which bisects the lot. The existing structures, pavement and other improvements are significantly non-conforming to the current zoning.

These are special conditions of the property which counsel for thoughtful redevelopment which will result in closer compliance with the ordinance and enhanced protection of the wetlands.

**The use is a reasonable use.** The uses proposed are permitted within this district and are compatible with the surrounding retail and commercial enterprises and uses.

**There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.** The front lot line buildout requirement would be met if the principal retail structure was used for measurement. There is no proposed parking between the gas pump canopy and the road. A second driveway is desirable to maintain safe and efficient navigation through as well as access to and from the site. The purpose of the sign ordinance is to maintain and enhance the character of the city's commercial districts and to protect the public from hazardous and distracting displays. Section 10.1211. The proposed new sign does nothing to distract from the character of this district and there is nothing hazardous or distracting about it. There is no fair and substantial relationship between purposes of these restrictions and their application to this property.

### **III. Conclusion.**

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated: January 26, 2022

By:

  
John K. Bosen, Esquire





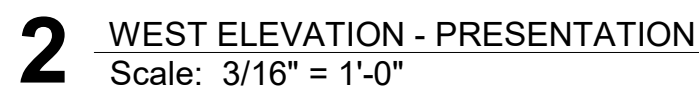
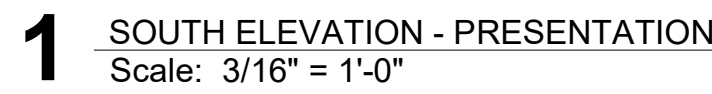












# P202

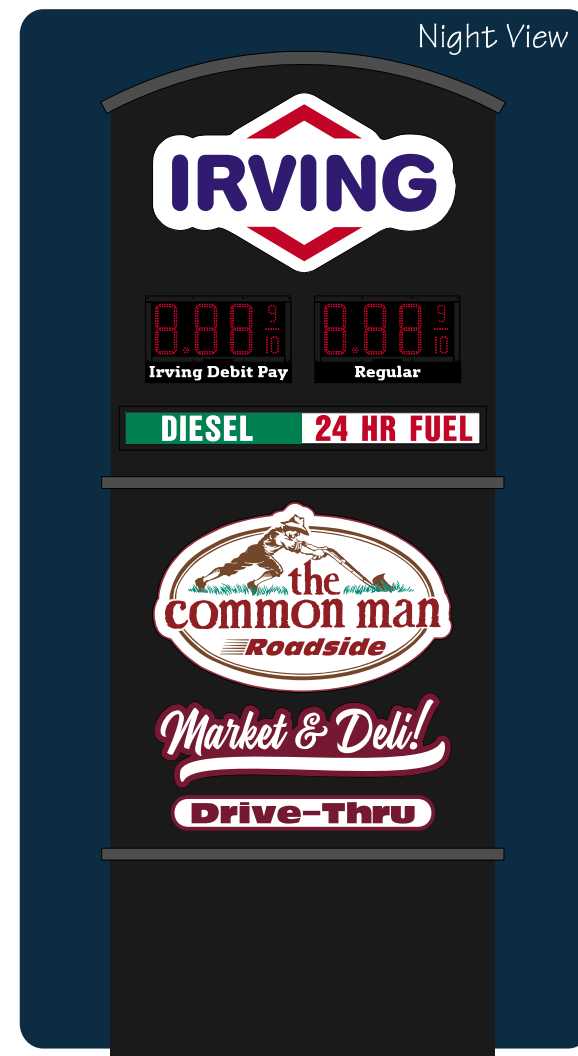


This layout is conceptual only, all details to be verified and subject to change



Proposed - P1

Option 1.5a



Total area of signage: 53.06 sq. ft.

DATE: 04-26-21

JOB NAME: Common Man Roadside - Irving - Epsom, NH

REP: J.S.

JOB LOCATION: Epsom Traffic Circle, Epsom, NH

CONTACT: Brad Pernaw (617) 821-5604

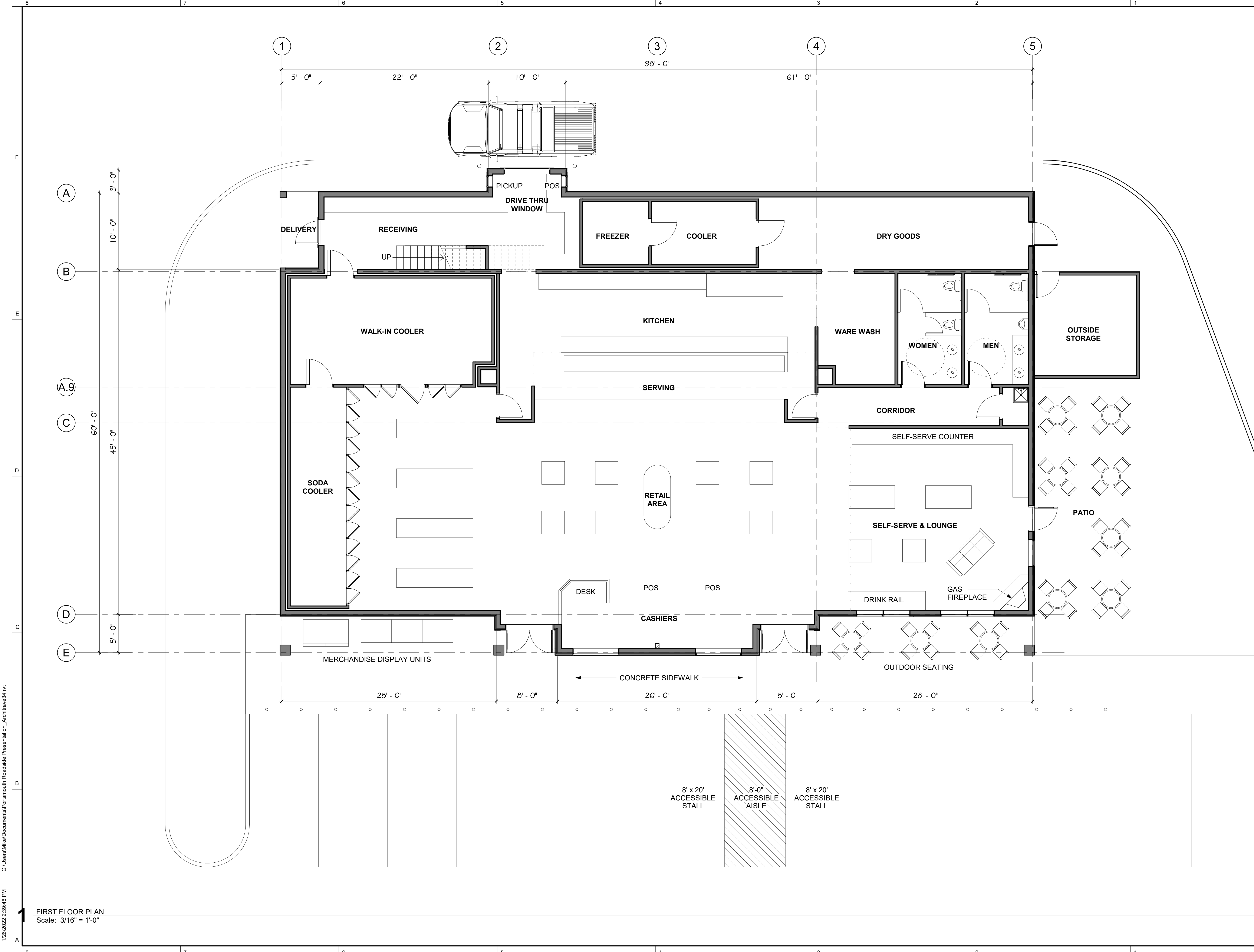
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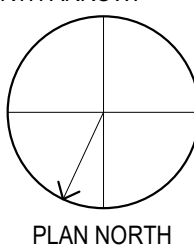
CONSULTANTS / DESIGN TEAM:  
**ARCHITECT:**  
SAMYN-D'ELIA ARCHITECTS, P.A.  
P.O. BOX 1259  
ASHLAND, NH 03217  
T: (603) 968-7133 F: (603) 968-3057

**STRUCTURAL ENGINEER:**  
Foley Buhl & Roberts  
500 Commercial Street  
Manchester, NH 03101  
T: (603) 622-4578

**HVAC, ELEC. & PLUMB. ENGINEER:**  
Charles P. Buckley, P.E.  
500 Depot Street  
Rumney, NH 03266  
T: (603) 786-9992

SCHEMATIC  
DESIGN  
1/26/2022

KEY PLAN & NORTH ARROW:



DRAWN BY:

MR

CHECKED BY:

WD

PROJECT:  
PORTSMOUTH ROADSIDE

PORTSMOUTH, NEW  
HAMPSHIRE

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SAMYN-D'ELIA ARCHITECTS

DRAWING TITLE:  
FIRST FLOOR PLAN

ISSUED:  
Schematic Design

PROJECT NO: 2130 DATE: Jan. 26, 2022

REVISION	DATE	COMMENTS

SHEET NUMBER:

A101



**ABUTTERS & NOTIFICATION LIST**  
**For**  
**GRANITE STATE CONVENIENCE**  
**2255 LAFAYETTE ROAD**  
**PARCEL ID: 0272-0003**  
**PORTSMOUTH, NH**  
**GPI # NEX-2021163**  
**AS OF 1/26/22**

<u>PARCEL ID #</u>	<u>NAME &amp; ADDRESS</u>
0272-0003 (SUBJECT PARCEL)	MASTORAN RESTAURANTS, INC. 822 LEXINGTON STREET 2 <sup>ND</sup> FLOOR WALTHAM, MA 02154
0272-0002	2225 LAFAYETTE LLC 125 AVIATION AVENUE # 202 PORTSMOUTH, NH 03801
0272-0001	2219 LAFAYETTE ROAD, LLC 549 US HIGHWAY 1 BYPASS PORTSMOUTH, NH 03801
0272-0004	RYE PORT PROPERTIES, LLC P.O. BOX 345 STRATHAM, NH 03885
0272-0006	SPRINGBROOK CIRCLE CONDOMINIUMS
OFFICERS:	DAVID WAJDA, PRESIDENT SPRINGBROOK CIRCLE CONDO ASSOCIATION 2000 SPRINGBROOK CIRCLE PORTSMOUTH, NH 03801  DEAN SAVRAMIS, VICE PRESIDENT SPRINGBROOK CIRCLE CONDO ASSOCIATION 2000 SPRINGBROOK CIRCLE PORTSMOUTH, NH 03801  JAMES MATTHEWS, TREASURER SPRINGBROOK CIRCLE CONDO ASSOCIATION 2000 SPRINGBROOK CIRCLE PORTSMOUTH, NH 03801  TOM PUIIA, TRUSTEE SPRINGBROOK CIRCLE CONDO ASSOCIATION 2000 SPRINGBROOK CIRCLE PORTSMOUTH, NH 03801



**ABUTTERS & NOTIFICATION LIST**

**For**

**GRANITE STATE CONVENIENCE**

**2255 LAYFAYETTE ROAD**

**PARCEL ID: 0272-0003**

**PORTSMOUTH, NH**

**GPI # NEX-2021163**

**AS OF 1/26/22**

SABINE DESHAZO, TRUSTEE  
SPRINGBROOK CIRCLE CONDO ASSOCIATION  
2000 SPRINGBROOK CIRCLE  
PORTSMOUTH, NH 03801

0273-0007-0001

FESTIVAL FUN PARKS, LLC  
C/O PROPERTY TAX SERVICE CO.  
P.O. BOX 543185  
DALLAS, TX 75354

ENGINEER/SURVEYOR

GREENMAN-PEDERSEN, INC.  
44 STILES ROAD, SUITE ONE  
SALEM, NH 03079

WETLAND/SOIL SCIENTIST

MARK WEST  
WEST ENVIRONMENTAL, INC.  
48 STEVENS HILL ROAD  
NOTTINGHAM, NH 03290

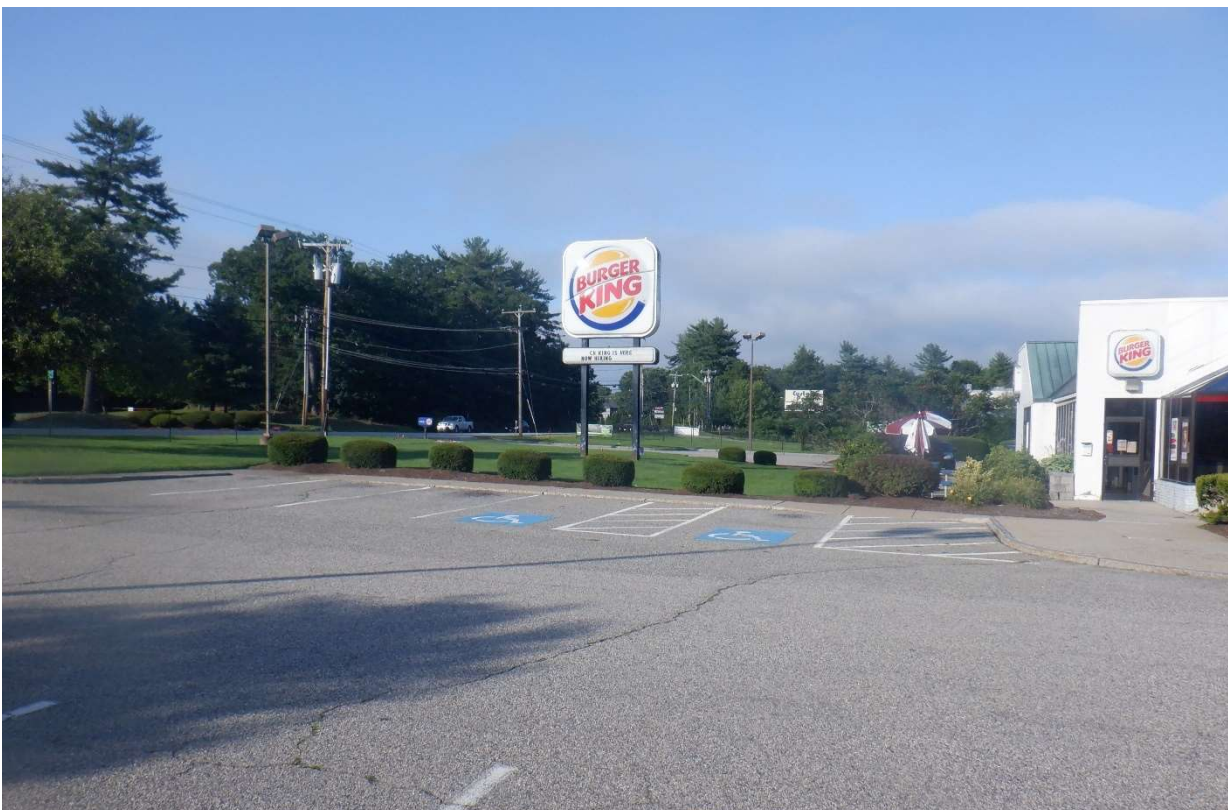
APPLICANT

GRANITE STATE CONVENIENCE  
25 SPRINGER ROAD  
HOOKSETT, NH 03106

ATTORNEY

JOHN K. BOSEN, ESQ  
BOSEN & ASSOCIATES, P.L.L.C  
266 MIDDLE STREET  
PORTSMOUTH, NH 03801





**Burger King sign and building looking northeast**



**Parking lot and drive-thru lane signage**





**Edge of parking lot looking southeast towards drive-thru lane**



**Front Façade of Burger King building looking south**





**Front of Burger King restaurant looking south**



**Parking looking southeast**





**Corner of Burger King building looking south**



**Burger King Sign looking southwest**





**Drive-thru window looking south**



**Drive-thru Lane and Parking lot rear of site**





**Rear of Site looking west**

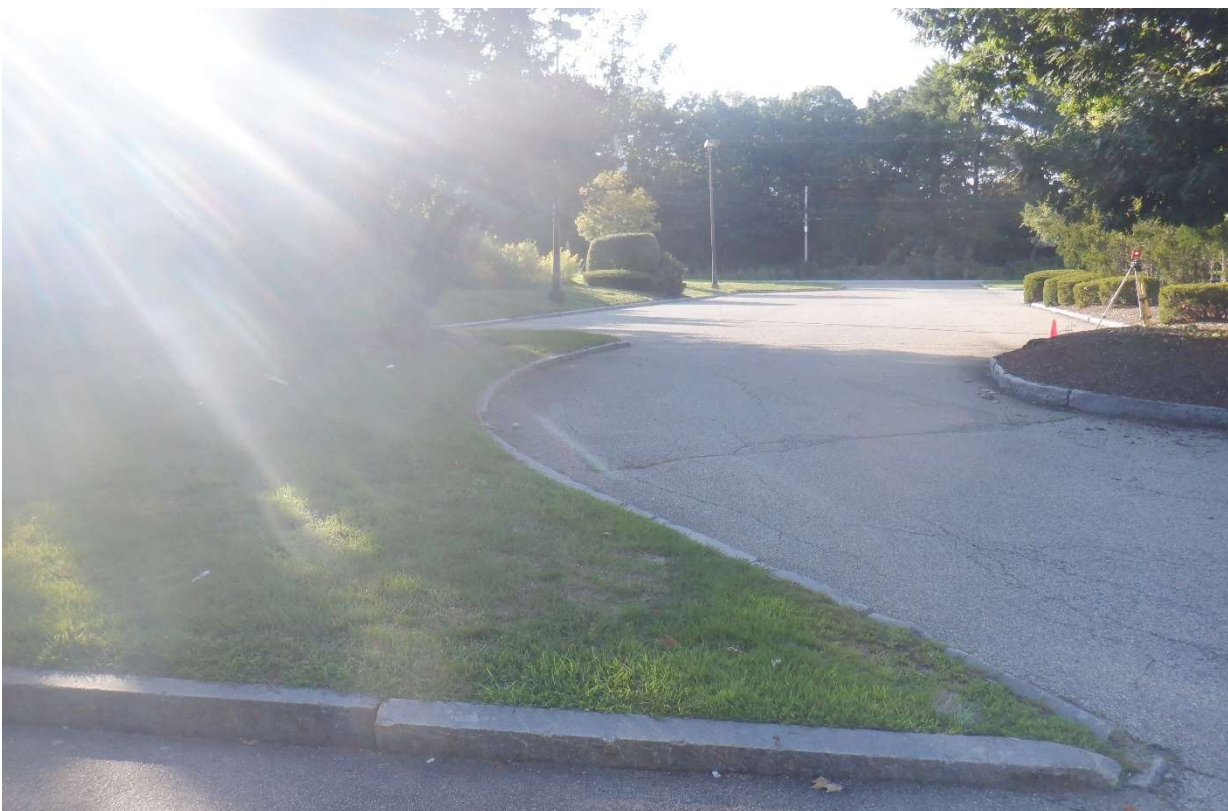


**Rear parking lot looking northwest towards Burger King**





**Entrance to Drive-Thru lane**



**Rear of site looking west**