VARIANCE #2 from PZO 10.1251.10 and PZO Section 10.1252.40

Relief Requested

The Applicant (*Colbea, LLC)* request a variance from the ***Portsmouth Zoning Ordinance ("PZO") Section*** **PZO 10.1251.10**, to allow for a greater aggregate sign area than the maximum area of 1.5' per linear foot of the building frontage per establishment (Sign District #5). Under the PZO, 240 Square Feet ("SF") is allowed and the Applicant requests relief to allow for an aggregate sign area of 789.39 SF.

Acknowledging that the requested square footage seems quite high, the number is, nonetheless, deceiving for the reasons that follow and is being requested out of an abundance of caution.

The amount of requested square footage is due to calculating 'light spillage' from the colored areas of the Canopy Sign Area. Stated more particularly below, the light spillage will likely be less than what is being requested, however, it is nearly impossible to calculate the square footage when the 1" LED Red/Yellow Stripe ("Stripe(s)") is illuminated. Illuminating the Stripes is the impetus for this request. If the calculation were only based on the size of the 1" Stripe, the sign would otherwise comply with the PZO.

In fact, if the Applicant were to exclude the Stripe all together but calculate the aggregate signage of the pectens and, all other signage for the Property, the total aggregate signage would 135.75 SF, which is well below the allowed 240 SF.

Property Background/Facts

The Applicant is the owner of 90 Gosling Road (*formerly 1980 Woodbury Avenue*) in Portsmouth, NH, which is sometimes referred to as Tax Map 239, Lot 11 (the "Property").

The Property is zoned Gateway Corridor ("G1" (*a Mixed Residential District*)) and sits right on the border of Portsmouth and Newington, NH.

The Applicant has secured all permitting to begin construction of its own brand of fueling station, *Season's Corner Market*.

The Property is a corner lot with ingress/egress along both Gosling Road, as well as Woodbury Avenue.

Current Approved Sign Permit

The Applicant has secured a sign permit that is allowed under the PZO, however, for reasons stated below the approved signage is far larger and more intensive than what the Applicant would prefer and, consequently, the PZO permits the 'larger' ask but does not permit the preferred *smaller* ask.

Currently, the approved permit (*Permit attached as* Exhibit "A") allows the Applicant to have a Canopy sign that nets 142.75 SF that counts towards the total aggregate sign area for the Property.

The approved sign permit, includes 4 Pectens, as well as a total of 4 separate illuminated Stripes. *See* Exhibit "B" (*Sign Plan as currently allowed*). The Stripes are 'broken up' in order to comply with PZO's aggregate sign area requirement of a maximum of 240 SF. Likewise, to fill in the space between said breaks, additional Pectens were added (totaling 4), which also comply with the PZO.

The Applicant would prefer to have a longer contiguous Stripe, as well as only 2 Pectens. Thus, a less intensive sign. *See* Exhibit "C" (*Sign Plan as proposed*).

However, if the Stripe were permitted as the Applicant desires, the longest band would be 460.74 SF and the shorter band would be 192.90 SF, thus increasing the aggregate sign area to 789.39 SF[1] – even though this alternative plan equals 2 Pectens with 2 longer Stripes *v*. 4 Pectens with 4 broken up Stripes.

Furthermore, relief is also needed relative to the *illuminated area* as per PZO Section 10.1252.40 (Canopy Sign Area). The Stripe is illuminated and, thus, the City considers it part of the aggregate sign area. *See* Exhibit "D" (*Example of sign at night*).

Illumination is understandably difficult to measure. The Applicant has added a dimmer in an effort to reduce light 'spillage.' However, it is near impossible to measure the size – or the square footage – of ambient light and its spillage. Indeed, even as a layperson understands that light spillage is impacted by so many exterior factors such as cloud cover, sun/moon light, other signage light in the vicinity, street lights, etc.

Thus, the Applicant is requesting relief from having PZO Section 10.1252.40's provisions relative to "illuminated areas" being counted against any of the Canopy Sign Area's size calculations.

Variance Criteria

Portsmouth Zoning Ordinance ("PZO") Sections

PZO 10.1251.10 and PZO Section 10.1252.40

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

[1] This figure is conservatively based on calculating the entire face of the Fascia Board when illuminated.

The standard for prongs one and two of the variance criteria is whether the requested relief, if granted, will ***alter the essential character of the neighborhood*** or ***negatively impact the health, welfare, and safety of the surrounding area*** and ***mere conflict with the terms of the ordinance is insufficient*** as all variance requests are somewhat averse to an ordinance, hence why the relief is sought in the first instance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011).

Furthermore, it important to note that prong 1 is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is IN the public interest, but only to prove that it is NOT CONTRARY TO the public interest.

Here, the immediate ask is to allow for a maximum aggregate sign area of 789.39 SF feet where 240 SF is allowed.

The surrounding area contains many commercial properties and, likewise, many signs. The proposed project contains within it several businesses such as the co-brand food/beverage service, fuel pumps, and a convenience store.

The proposed sign is the Applicant's standard sign.

The proposed sign will be appropriate for the Zone and it will not alter the overall esthetic of the area since the area is commercial. Moreover, the proposed sign herein will be a less intensive use than what is already permitted. *See* Exhibit "A."

Consequently, there is no reason to believe that by granting this variance it would *alter the essential character of the neighborhood* since a fueling station/convenience store has been in place for so many years and there are many large signs in the area.

Similarly, given that the same use has been active on this Property for so many years there is no reason to suspect or to conclude that an approval would *negatively impact the health, welfare,*

and safety of the surrounding area. Indeed, there is simply no evidence to point to that would suggest the public is at any risk.

Moreover, this ask is only in *mere conflict* with the PZO.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because</u>:

As a matter of law, the analysis for both prongs one and two of the Variance criteria are the same. As such, the Applicant incorporates and repeats the narrative of Prong 1 (above) and reiterates the same for Prong 2. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011).

3. <u>Granting the variance would do substantial justice because</u>:

Perhaps the only guiding rule [on this standard] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. <u>Malachy Glen Assocs. v. Town of Chichester</u>, 155 N.H. 102, 109 (2007).

Here, the loss to the Applicant in not approving this variance would far outweigh any benefit to the general public.

The ask here results in a slightly larger Canopy Sign Area that, likewise, adds to the overall aggregate sign area – despite that the proposal is more subdued than what is approved.

The proposed Canopy Sign will help bring in customers to the Property and it will not obstruct any views and/or sightlines.

If denied, the public gains nothing, as this Proposal will be less intensive than what is already permitted.

4. **<u>If the variance were granted, the values of the surrounding properties would not be diminished because</u>:**

The surrounding area is zoned to allow for the fueling station and there has been a convenience store in site for decades and, moreover, there is another convenience store/fueling station directly across the street on the Newington side of Gosling Road. As such, this is an appropriate use for the area.

Very plainly, there is no evidence to suggest that granting this relief would negatively impact the surrounding property values.

5. **<u>Unnecessary Hardship</u>:**

"Hardship," under NH RSA 674:33, I (b) (1) (A) and (B) is a straight forward three step analyses;

a. What are the special conditions of the property, if any;
b. '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,' **<u>which can be said another way that if the variance is granted *would it unreasonably frustrate the purpose ordinance*</u>**; and,
c. Is the proposed use reasonable?

First, the special conditions (a) are satisfied due to the small size of the Property and the use that has historically existed at this location for decades.

The Property is a corner lot that is well suited for the in/out traffic that is inherit of a fueling station/convenience store.

What is being proposed is less intensive than what the Applicant is already permitted to do and furthermore, there is no objective manner to measure the ambient light from the illuminated Stripe. As such, the PZO's objective measurement requirement as to illuminated areas resulting in light spillage, in essence, becomes the hardship.

To the extent that any residential areas will be impacted by the Proposal there is already adequate screening. This Property is quite literally the Gateway from Newington into Portsmouth and is surrounded by several other commercial properties that would be expected to be in the vicinity of a fueling station.

Next is (b), whether "[n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property." *See* NH RSA 674:33, *et seq*. Or, again, if the variance is granted will it ***unreasonably frustrate the purpose of the PZO***.

The purpose and goals of the applicable ordinance is to ensure that signage does not get too large, too many, too unsightly, or cause any too many distractions.

Here, recognizing that a request for 789.39 SF would appear to be a large ask, the extra square footage, the signage will not be abnormally large in comparison to many signs in the area. Furthermore, the proposal will appear smaller than what is approved even if the technical SF measures greater than what is allowed. We contend the sign will be attractive as the Applicant has several similar businesses located throughout New England.

Overall, we contend that what the Applicant is asking for with respect to this relief will not unreasonably frustrate the purpose of the PZO and is, indeed, appropriate for a fueling station.

Lastly (c), the proposed use for the Property is for a fueling station and the applicable Zone allows for that use and, to the extent further relief is needed for the convenience store piece, such a use has been present for so long that the proposed use is reasonable.

Exhibit "A"

City of Portsmouth
Sign Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
SIGN-26-47
Date of Issue:
September 11, 2026
Expires:
September 11, 2027

Owner: COLBEA ENTERPRISES LLC
Applicant: Megan Monday
Contractor: , Advanced Signs **Phone #:**
Location: 1980 WOODBURY AVE
Description of Project:
Signage for Shell "Seasons" Gas Station & Convenience Store, 1980 Woodbury Avenue

Signage to Include:

Install Seven (7) Signs as per plan by TFM, Labeled Sign Plan Proposed Gas Station & Convenience Store, 1980 Woodbury Avenue, dated November 17, 2025, REV 4: 3/11/2026. **(Total SF of 13 Signs= 195.8)**

Sign A: New Monument Sign: Install One (1) Internally Illuminated 78" x 96-3/8" "Shell Logo, Seasons Logo and digital pricing section as per plan by Federal Heath, labeled Shell- 1980 Woodbury Ave, Sheet S-1 & S-2, dated 23Mar26, REV D- 04JUN26. (first foot of monument sign not included in sign area) **(52.17 SF)**

Sign C: New Wall Sign: Install One (1) Internally Illuminated 288" (W) x 42" (H) Wall Sign "SEASONS" Logo used as "O" **(84 SF)**

Sign D: New Wall Sign: Install One (1) Non-Illuminated, 188" (W) x 10-5/8" (H) "Corner Market" **(13.83 SF)**

Sign E: New Wall Sign: Install One (1) Internally Illuminated 85" (W) x 30" (H) "Co-Brand Sign" **(17.70 SF)**

Sign F: New Canopy Signs: See revised renderings for updated measurements

- Install four (4) Internally Illuminated 37.38" (H) x 34.76" (W) " Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Install two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Install two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

Sign G: New Wall Sign: Install One (1) Non-Illuminated 6" (H) x 51" (W) "Welcome" **(2.13SF)**

Monument and wall signage for rebuild of gas station/c-store for Colbea Enterprises

Total Sign Area: 195.8
Total Number of New Signs: 13

Sign Type(s):

- Free-Standing
Wall / Attached
Wall / Attached
Wall / Attached
Canopy
Canopy
Wall / Attached
Canopy
Canopy
Canopy
Canopy
Canopy
Canopy

Remarks:

-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project.

Code Official:

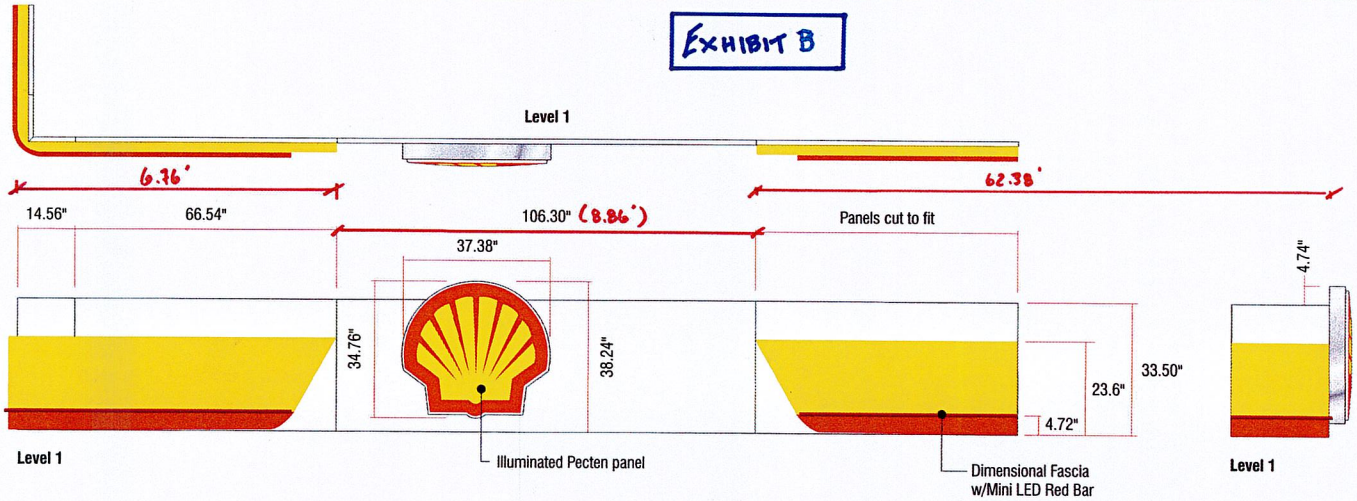
Paul Garand

This is an e-permit. To learn more, scan this barcode or

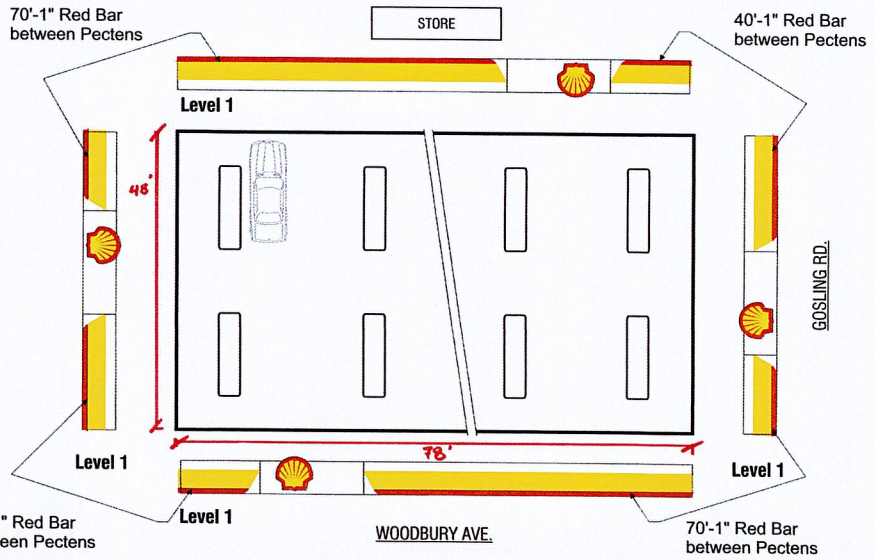
visit portsmouthnh.viewpointcloud.com/#/records/100469

Exhibit "B"

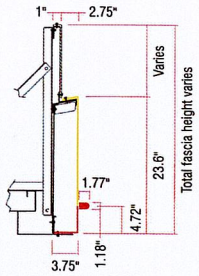
EXHIBIT B



Note: Red Bar to be dimmed 50% such that 3" of canopy fascia is illuminated



NO EXISTING PHOTO PROVIDED



Shell MVI Canopy Fascia - 48' X 78' X 33-1/2"HT Fascia

EXISTING

PROPOSED

FEDERAL HEATH SIGN COMPANY
www.FederalHeath.com
Building Quality Signage Since 1901

Manufacturing Facilities:
Oceanside - Estero - Jacksonville - Columbus
Office Locations:
Oceanside - Las Vegas - Laughlin - Idaho Falls
Estero - Jacksonville - Houston - San Antonio
Corpus Christi - Grafton - Milwaukee
Willowbrook - Louisville - Indianapolis - Columbus
Cincinnati - Westerville - Knoxville - Tunica
Atlanta - Tampa - Daytona Beach - Winter Park

Shell
MVI

Project / Location: 1980 WOODBURY AVE. PORTSMOUTH, NH

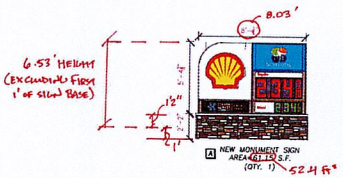
Project Manager: Nancy Vidrine
Drawn By: Brenda Lammers
PRO DESIGN: SV20260214.E

Underwriters Laboratories Inc (nec) ELECTRICAL TO USE UL LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS
ALL ELECTRICAL SIGNS ARE TO COMPLY WITH U.L. 48 AND ARTICLE 600 OF THE N.E.C. STANDARDS, INCLUDING THE PROPER GROUNDING AND BONDING OF ALL SIGNS.

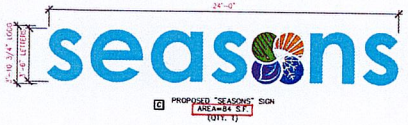
This original drawing is provided as part of a planned project and is not to be exhibited, copied or reproduced without the written permission of Federal Heath Sign Company, LLC or its authorized agent. © 2008

Exhibit "C"

EXHIBIT C



52.4 FT²



Note: Monument sign not included in aggregate sign area per Article 12

PROPOSED SIGN SCHEDULE

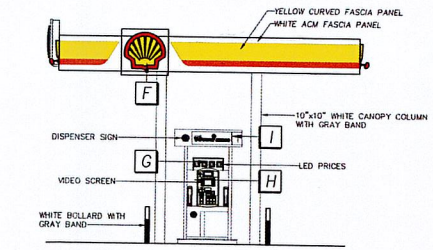
MARK	DESCRIPTION	SIZE	AREA (SF)	QUAN.	SIZE (SF)	ILLUMINATION	REMARKS	TYPE
		FREESTANDING SIGNS						
A	NEW MONUMENT SIGN	7'-7⅞" X 8'-0⅜"	61.15	1	52.4	INT	NEW	GROUND
	TOTAL FREESTANDING SIGNAGE: 52.4 S.F. (EXCLUDING FIRST 1' OF SIGN BASE)							
		WALL SIGNS						
C	"SEASONS" SIGN	24' X 3'-6"	84	1	84	INT	NEW	WALL
D	"CORNER MARKET" SIGN	15'-8" X 0'-10⅝"	13.95	1	13.95	NON	NEW	WALL
E	CO-BRAND SIGN	7'-1" X 2'-6"	17.7	1	17.7	INT	NEW	WALL
F	PECTEN SIGN	4' X 4'	9	2	18	INT	NEW	WALL
G	"WELCOME" SIGN	6" X 4'-3"	2.1	1	2.1	NON	NEW	WALL
	TOTAL WALL SIGNAGE: 135.75 S.F. (NOT INCLUDING CANOPY BAND - SEE BELOW)							

APPROVED CANOPY BAND: (2) 70'1" BANDS x 3" HEIGHT = 35.04 FT² (17.52 FT² EACH), AND (2) 40'1" BANDS x 3" HEIGHT = 20.04 FT² (10.02 FT² EACH)
TOTAL WALL SIGNAGE WITH CANOPY BAND IS 190.83 FT²

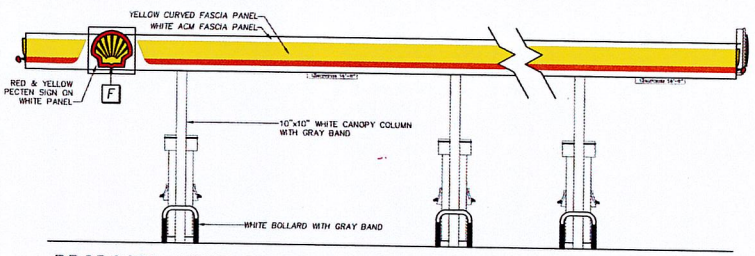
REQUESTED CANOPY BAND:
165.14' x 2.79' (ENTIRE HEIGHT OF FASCIA BOARD) = 460.74 FT², PLUS
69.14' x 2.79' = 192.90 FT²

TOTAL WALL SIGNAGE WITH REQUESTED CANOPY BAND (CONSERVATIVELY ASSUMING IT ILLUMINATES ALL OF FASCIA BOARD) = 789.39 FT²

ALLOWABLE AGGREGATE SIGN AREA: 1.5 x BUILDING FRONTAGE
- 1.5 x 110' (WOODBURY AVE FRONTAGE) + 1.5 x 50' (LOOSLEY ROAD FRONTAGE)
- 240 S.F. ALLOWED



PROPOSED SOUTH CANOPY ELEVATION
SCALE: 3/16"=1'-0"



PROPOSED WEST CANOPY ELEVATION
SCALE: 3/16"=1'-0"

TAX MAP 239 LOT 11
SIGN PLAN
PROPOSED GAS STATION & CONVENIENCE STORE
1980 WOODBURY AVENUE
PORTSMOUTH, NEW HAMPSHIRE
OWNED BY
COLBEA ENTERPRISES, LLC

SCALE: NTS
NOVEMBER 17, 2025

REV.	DATE	DESCRIPTION	BY
4	3/11/2026	REVISED GRADES NEAR CB-07 AND CB-08	JKC CRR
3	3/6/2026	REVISED PER MIDAS FUELING REQUIREMENTS	JKC CRR
2	2/3/2026	REVISED PER ADDRESS CHANGE REQUEST	JKC CRR
1	12/22/2025	REVISED PER TAC COMMENTS	JKC CRR

Seacoast Division
TFM
Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
www.tfmoran.com

DES.	JKC	FB
CK.	CRR	CADFILE: 46077-16_SIGN

46077.16

C-13

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Not plan is not effective unless signed by a duly authorized officer of TFMoran, Inc.

Mar 24, 2026 - 11:06am
F:\MSC Projects\46077 - Woodbury Ave, Portsmouth\46077-16 Colbea Ent LLC- 1980 Woodbury Ave, Portsmouth, NH\Design\PRODUCTION DRAWINGS\46077-16_Sign.dwg

Exhibit "D"


seasons
corner • market
seasons
3.63
3.73
4.63
4.73

VARIANCE #1 from PZO 10.1252.20 and PZO Section 10.1252.40

Relief Requested

The Applicant (*Colbea, LLC)* request a variance from the ***Portsmouth Zoning Ordinance ("PZO") Section* 10.1252.20**, to allow for a greater aggregate Canopy sign area than 20 Square Feet (SF), where the PZO limits the square footage of a Canopy sign area in (*Sign District #5*) to 20 SF.

Relief is also need from ***PZO Section 10.1252.40***, which defines the sign area of a canopy sign to "…include all text and symbols, whether or not illuminated, ***and all illuminated areas***; but shall not include non-illuminated areas that are distinguished from the background only by color stripes." (emphasis added).

Property Background/Facts

The Applicant is the owner of 90 Gosling Road (*formerly 1980 Woodbury Avenue*) in Portsmouth, NH, which is sometimes referred to as Tax Map 239, Lot 11 (the "Property").

The Property is zoned Gateway Corridor ("G1" (*a Mixed Residential District*)) and sits right on the border of Portsmouth and Newington, NH.

The Applicant has secured all permitting to begin construction of its own brand of fueling station, *Season's Corner Market*.

The Property is a corner lot with ingress/egress along both Gosling Road, as well as Woodbury Avenue.

Current Approved Sign Permit

The Applicant has secured a sign permit that is allowed under the PZO, however, for reasons stated below the approved signage is far larger and more intensive than what the Applicant would prefer and, consequently, the PZO permits the 'larger' ask but does not permit the preferred *smaller* ask.

Currently, the approved permit (*Permit attached as* Exhibit "A") allows the Applicant to have a Canopy sign with:

- Four (4) Internally Illuminated 37.38" (H) x 34.76" (W) "Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

In sum, the terms of the above sign permit, as applied to the Canopy sign, include 4 Pectens, as well as a total of 4 separate illuminated Red/Yellow Stripes ("Stripe(s)"). *See* Exhibit "B" (*Sign Plan as currently allowed*). The Stripes are 'broken up' in order to comply with PZO's requirement of a maximum of 20 SF – as each Stripe is less than 20 SF. Likewise, to fill in the space between said breaks, additional Pectens were added (totaling 4), which also comply with the PZO.

The Applicant would prefer to have a longer contiguous Stripe, as well as only 2 Pectens. Thus, a less intensive and seemingly smaller sign. *See* Exhibit "C" (*Sign Plan as proposed*).

However, if the Stripe were permitted as the Applicant desires, the longest band would be 460.74 SF and the shorter band would be 192.90 SF, thus exceeding the required 20 SF – even

though this alternative plan equals 2 Pectens with 2 longer Stipes *v*. 4 Pectens with 4 broken up Stripes.

Furthermore, relief is also needed relative to the *illuminated area* as per PZO Section 10.1252.40 (Canopy Sign Area). The Stripe is illuminated and, thus, the City considers it part of the Canopy Sign Area. *See* Exhibit "D" (*Example of sign at night*).

Illumination is understandably difficult to measure. The Applicant has added a dimmer in an effort to reduce light 'spillage.' However, it is near impossible to measure the size – or the square footage – of ambient light and its spillage. Indeed, even as a layperson understands that light spillage is impacted by so many exterior factors such as cloud cover, sun/moon light, other signage light in the vicinity, street lights, etc.

Thus, the Applicant is requesting relief from having PZO Section 10.1252.40's provisions relative to "illuminated areas" being counted against any of the Canopy Sign Area's size calculations.

Variance Criteria

Portsmouth Zoning Ordinance ("PZO") Sections

PZO 10.1252.20 and PZO Section 10.1252.40

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

The standard for prongs one and two of the variance criteria is whether the requested relief, if granted, will ***alter the essential character of the neighborhood*** or ***negatively impact the health, welfare, and safety of the surrounding area*** and ***mere conflict with the terms of the ordinance is insufficient*** as all variance requests are somewhat averse to an ordinance, hence why the relief

is sought in the first instance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011).

Furthermore, it important to note that prong 1 is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is IN the public interest, but only to prove that it is NOT CONTRARY TO the public interest.

Here, the immediate ask is to allow for the Canopy Sign Area, specifically, the Stripe to exceed the allowable 20 SF. Furthermore, to waive PZO Section 10.1252.40's provisions relative to "illuminated areas" as being counted against any of the Stripe's size calculations because there is no way to accurately measure ambient light against a square footage requirement as to the applicable area. Again, the net result if relief is granted, is a less intensive sign.

The surrounding area contains many commercial properties and, likewise, many signs. The proposed project contains within it several businesses such as the co-brand food/beverage service, fuel pumps, and a convenience store.

The proposed signage is the Applicant's standard sign.

The proposed sign will be appropriate for the Zone and it will not alter the overall esthetic of the area since the area is commercial. Moreover, the proposed sign herein will be a less intensive use than what is already permitted. *See* Exhibit "A" and Exhibit "B."

Consequently, there is no reason to believe that by granting this variance it would *alter the essential character of the neighborhood* since a fueling station/convenience store has been in place for so many years and there are many commercial signs in the area.

Similarly, given that the same use has been active on this Property for so many years there is no reason to suspect or to conclude that an approval would *negatively impact the health, welfare,*

and safety of the surrounding area. Indeed, there is simply no evidence to point to that would suggest the public is at any risk.

Moreover, this ask is only in *mere conflict* with the PZO.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because</u>:

As a matter of law, the analysis for both prongs one and two of the Variance criteria are the same. As such, the Applicant incorporates and repeats the narrative of Prong 1 (above) and reiterates the same for Prong 2. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011).

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Perhaps the only guiding rule [on this standard] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. <u>Malachy Glen Assocs. v. Town of Chichester</u>, 155 N.H. 102, 109 (2007).

Here, the loss to the Applicant in not approving this variance would far outweigh any benefit to the general public.

The ask here is fairly minimal – to allow for a slightly larger Canopy Sign Area – despite that the proposal is more subdued than what is approved.

The proposed Canopy Sign will help bring in customers to the Property and it will not obstruct any views and/or sightlines.

If denied, the public gains nothing, as this Proposal will be less intensive than what is already permitted.

4. **<u>If the variance were granted, the values of the surrounding properties would not be diminished because</u>:**

The surrounding area is zoned to allow for the fueling station and there has been a convenience store in site for decades and, moreover, there is another convenience store/fueling station directly across the street on the Newington side of Gosling Road. As such, this is an appropriate use for the area.

Very plainly, there is no evidence to suggest that granting this relief would negatively impact the surrounding property values.

5. **<u>Unnecessary Hardship</u>:**

"Hardship," under NH RSA 674:33, I (b) (1) (A) and (B) is a straight forward three step analyses;

a. What are the special conditions of the property, if any;
b. '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,' **<u>which can be said another way that if the variance is granted *would it unreasonably frustrate the purpose ordinance*</u>**; and,
c. Is the proposed use reasonable?

First, the special conditions (a) are satisfied due to the small size of the Property and the use that has historically existed at this location for decades.

The Property is a corner lot that is well suited for the in/out traffic that is inherit of a fueling station/convenience store.

What is being proposed is less intensive than what the Applicant is already permitted to do and furthermore, there is no objective manner to measure the ambient light from the illuminated Stripe.

To the extent that any residential areas will be impacted by the Proposal there is already adequate screening. This Property is quite literally the Gateway from Newington into Portsmouth and is surrounded by several other commercial properties that would be expected to be in the vicinity of a fueling station.

Next is (b), whether "[n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property." *See* NH RSA 674:33, *et seq*. Or, again, if the variance is granted will it ***unreasonably frustrate the purpose of the PZO***.

The purpose and goals of the applicable ordinance is to ensure that signage does not get too large, too many, too unsightly, or cause any too many distractions.

Here, despite the request for extra Canopy Sign square footage, the sign will not be abnormally large in comparison to many signs in the area. In fact, as has been stated, it will appear to be smaller with only 2 Pectens (as opposed to 4 Pectens) and the Stripe will be contiguous rather than broken up in 4 sections.

Overall, we contend that what the Applicant is asking for with respect to this relief will not unreasonably frustrate the purpose of the PZO and is, indeed, appropriate for a fueling station.

Lastly (c), the proposed use for the Property is for a fueling station and the applicable Zone allows for that use and, thus, the proposed use is reasonable.

Exhibit "A"

City of Portsmouth
Sign Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
SIGN-26-47
Date of Issue:
September 11, 2026
Expires:
September 11, 2027

Owner: COLBEA ENTERPRISES LLC
Applicant: Megan Monday
Contractor: , Advanced Signs **Phone #:**
Location: 1980 WOODBURY AVE
Description of Project:
Signage for Shell "Seasons" Gas Station & Convenience Store, 1980 Woodbury Avenue

Signage to Include:

Install Seven (7) Signs as per plan by TFM, Labeled Sign Plan Proposed Gas Station & Convenience Store, 1980 Woodbury Avenue, dated November 17, 2025, REV 4: 3/11/2026. **(Total SF of 13 Signs= 195.8)**

Sign A: New Monument Sign: Install One (1) Internally Illuminated 78" x 96-3/8" "Shell Logo, Seasons Logo and digital pricing section as per plan by Federal Heath, labeled Shell- 1980 Woodbury Ave, Sheet S-1 & S-2, dated 23Mar26, REV D- 04JUN26. (first foot of monument sign not included in sign area) **(52.17 SF)**

Sign C: New Wall Sign: Install One (1) Internally Illuminated 288" (W) x 42" (H) Wall Sign "SEASONS" Logo used as "O" **(84 SF)**

Sign D: New Wall Sign: Install One (1) Non-Illuminated, 188" (W) x 10-5/8" (H) "Corner Market" **(13.83 SF)**

Sign E: New Wall Sign: Install One (1) Internally Illuminated 85" (W) x 30" (H) "Co-Brand Sign" **(17.70 SF)**

Sign F: New Canopy Signs: See revised renderings for updated measurements

- Install four (4) Internally Illuminated 37.38" (H) x 34.76" (W) " Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Install two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Install two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

Sign G: New Wall Sign: Install One (1) Non-Illuminated 6" (H) x 51" (W) "Welcome" **(2.13SF)**

Monument and wall signage for rebuild of gas station/c-store for Colbea Enterprises

Total Sign Area: 195.8
Total Number of New Signs: 13

Sign Type(s):

- Free-Standing
Wall / Attached
Wall / Attached
Wall / Attached
Canopy
Canopy
Wall / Attached
Canopy
Canopy
Canopy
Canopy
Canopy
Canopy

Remarks:

-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project.

Code Official:

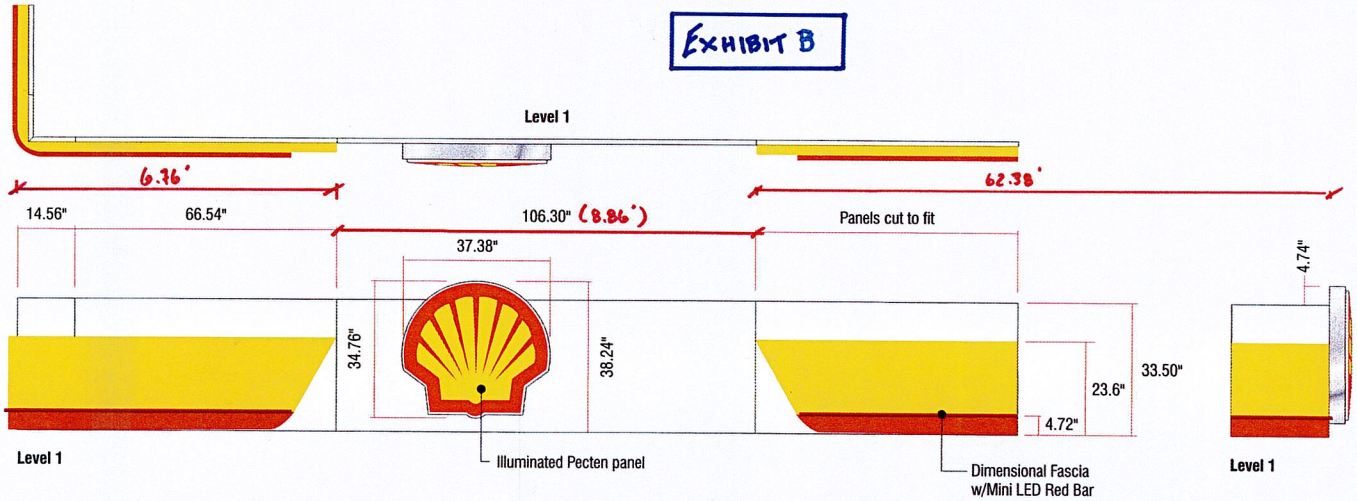
Paul Garand

This is an e-permit. To learn more, scan this barcode or

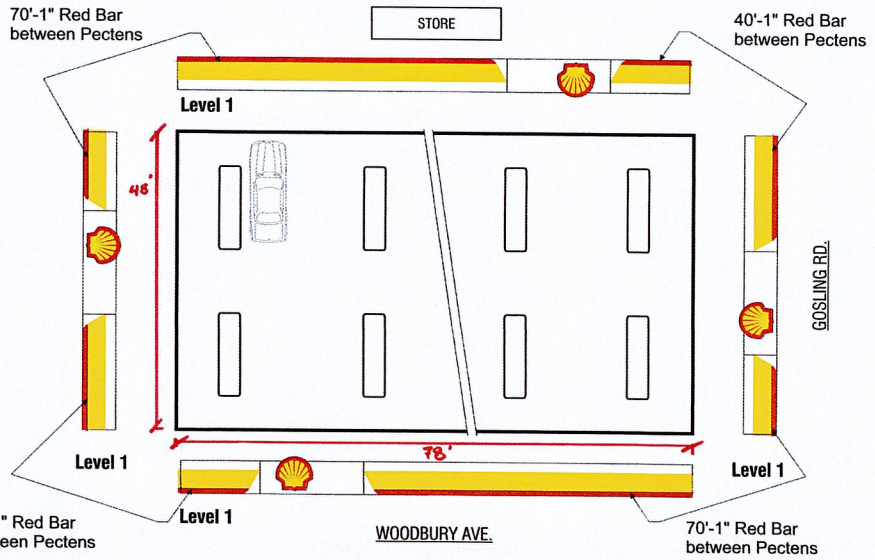
visit portsmouthnh.viewpointcloud.com/#/records/100469

Exhibit "B"

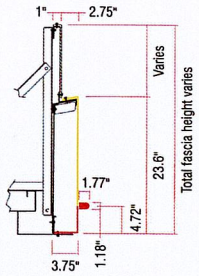
EXHIBIT B



Note: Red Bar to be dimmed 50% such that 3" of canopy fascia is illuminated



NO EXISTING PHOTO PROVIDED



Shell MVI Canopy Fascia - 48' X 78' X 33-1/2"HT Fascia

EXISTING

PROPOSED

FEDERAL HEATH SIGN COMPANY
www.FederalHeath.com
Building Quality Signage Since 1901

Manufacturing Facilities:
Oceanside - Estero - Jacksonville - Columbus
Office Locations:
Oceanside - Las Vegas - Laughlin - Idaho Falls
Estero - Jacksonville - Houston - San Antonio
Corpus Christi - Grafton - Milwaukee
Willowbrook - Louisville - Indianapolis - Columbus
Cincinnati - Westerville - Knoxville - Tunica
Atlanta - Tampa - Daytona Beach - Winter Park

Shell
MVI

Project / Location: 1980 WOODBURY AVE. PORTSMOUTH, NH

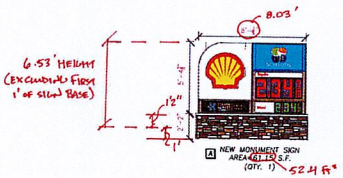
Project Manager: Nancy Vidrine
Drawn By: Brenda Lammers
PRO DESIGN: SV20260214.E

Underwriters Laboratories Inc (nec) ELECTRICAL TO USE UL LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS
ALL ELECTRICAL SIGNS ARE TO COMPLY WITH U.L. 48 AND ARTICLE 600 OF THE N.E.C. STANDARDS, INCLUDING THE PROPER GROUNDING AND BONDING OF ALL SIGNS.

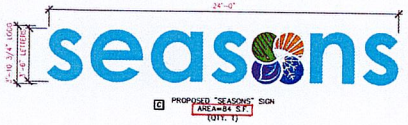
This original drawing is provided as part of a planned project and is not to be exhibited, copied or reproduced without the written permission of Federal Heath Sign Company, LLC or its authorized agent. © 2008

Exhibit "C"

EXHIBIT C



52.4 FT²



Note: Monument sign not included in aggregate sign area per Article 12

PROPOSED SIGN SCHEDULE

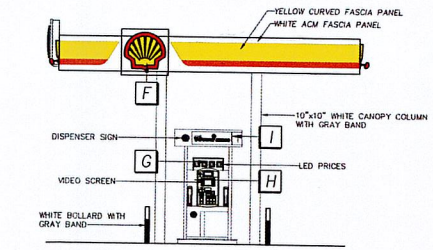
MARK	DESCRIPTION	SIZE	AREA (SF)	QUAN.	SIZE (SF)	ILLUMINATION	REMARKS	TYPE
		FREESTANDING SIGNS						
A	NEW MONUMENT SIGN	7'-7⅞" X 8'-0⅜"	61.15	1	52.4	INT	NEW	GROUND
	TOTAL FREESTANDING SIGNAGE: 52.4 S.F. (EXCLUDING FIRST 1' OF SIGN BASE)							
		WALL SIGNS						
C	"SEASONS" SIGN	24' X 3'-6"	84	1	84	INT	NEW	WALL
D	"CORNER MARKET" SIGN	15'-8" X 0'-10⅝"	13.95	1	13.95	NON	NEW	WALL
E	CO-BRAND SIGN	7'-1" X 2'-6"	17.7	1	17.7	INT	NEW	WALL
F	PECTEN SIGN	4' X 4'	9	2	18	INT	NEW	WALL
G	"WELCOME" SIGN	6" X 4'-3"	2.1	1	2.1	NON	NEW	WALL
	TOTAL WALL SIGNAGE: 135.75 S.F. (NOT INCLUDING CANOPY BAND - SEE BELOW)							

APPROVED CANOPY BAND: (2) 70'1" BANDS x 3" HEIGHT = 35.04 FT² (17.52 FT² EACH), AND (2) 40'1" BANDS x 3" HEIGHT = 20.04 FT² (10.02 FT² EACH)
TOTAL WALL SIGNAGE WITH CANOPY BAND IS 190.83 FT²

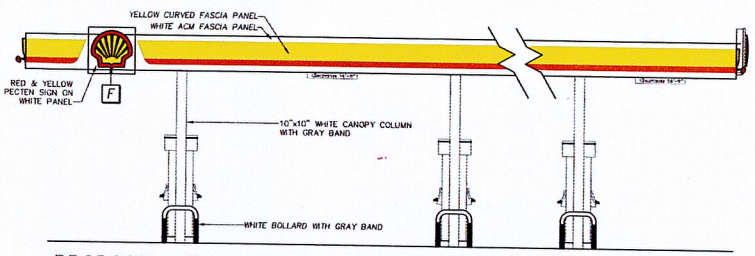
REQUESTED CANOPY BAND:
165.14' x 2.79' (ENTIRE HEIGHT OF FASCIA BOARD) = 460.74 FT², PLUS
69.14' x 2.79' = 192.90 FT²

TOTAL WALL SIGNAGE WITH REQUESTED CANOPY BAND (CONSERVATIVELY ASSUMING IT ILLUMINATES ALL OF FASCIA BOARD) = 789.39 FT²

ALLOWABLE AGGREGATE SIGN AREA: 1.5 x BUILDING FRONTAGE
- 1.5 x 110' (WOODBURY AVE FRONTAGE) + 1.5 x 50' (LOOSLEY ROAD FRONTAGE)
- 240 S.F. ALLOWED



PROPOSED SOUTH CANOPY ELEVATION
SCALE: 3/16"=1'-0"



PROPOSED WEST CANOPY ELEVATION
SCALE: 3/16"=1'-0"

TAX MAP 239 LOT 11
SIGN PLAN
PROPOSED GAS STATION & CONVENIENCE STORE
1980 WOODBURY AVENUE
PORTSMOUTH, NEW HAMPSHIRE
OWNED BY
COLBEA ENTERPRISES, LLC

SCALE: NTS
NOVEMBER 17, 2025

REV.	DATE	DESCRIPTION	BY
4	3/11/2026	REVISED GRADES NEAR CB-07 AND CB-08	JKC CRR
3	3/6/2026	REVISED PER MIDAS FUELING REQUIREMENTS	JKC CRR
2	2/3/2026	REVISED PER ADDRESS CHANGE REQUEST	JKC CRR
1	12/22/2025	REVISED PER TAC COMMENTS	JKC CRR

Seacoast Division
TFM
Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
www.tfmoran.com

DES.	JKC	FB
CK.	CRR	CADFILE: 46077-16_SIGN

46077.16

C-13

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Mar 24, 2026 - 11:06am
F:\MSC Projects\46077 - Woodbury Ave, Portsmouth\46077-16 Colbea Ent LLC- 1980 Woodbury Ave, Portsmouth, NH\Design\PRODUCTION DRAWINGS\46077-16_Sign.dwg

Exhibit "D"


seasons
corner • market
seasons
3.63
3.73
4.63
4.73