



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

**Greene's Corner Market – Christopher J. Maroun, Reg. Agent
Tax Map 135, Lot 21**

November 3, 2021

Applicant: Christopher Maroun
Greene's Corner Market
PO Box 706
Moultonborough, NH 03254

Location: 346 Whittier Highway, Moultonborough, NH (Tax Map 135, Lot 21)

On November 3, 2021 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Christopher Maroun, Reg Agent for Greene's Corner Market (hereinafter referred to as the "Applicants" and/or "Owners") for a variance from Section 5.4.4 of the Moultonborough Zoning Ordinance to allow for the removal of the electronic message board and upgrade the existing main pylon sign to include digital pricers and LED as an internal source of illumination on their parcel located in the Commercial Zone A, within the Groundwater Protection District.

Based on the application, and testimony given at the hearing, the Board hereby makes the following findings of fact:

- 1) The property is located on 346 Whittier Highway (Tax Map 135, Lot 21).
- 2) Corner Lot Real Estate Holdings LLC is the owner of record for the lot.
- 3) The applicant was represented at the Public Hearing Rick Hanna, Irving Oil Construction Project Manager and Jason Mahon, Irving Oil Operations Manager for the State of NH.
- 4) The lot is located in the Commercial Zone A, within the Groundwater Protection District.
- 5) This Variance is for relief from MZO section 5.4.4 to allow for the removal of the electronic message board and upgrade the existing main pylon sign to include digital pricers and LED as an internal source of illumination.
- 6) The existing sign is 62 sq. ft. and will be replaced with a new size sign of 60.45 sq. ft. in the same location.

- 7) Members questioned the height of the proposed LED numerals on the sign.
- 8) One members of the public spoke in favor of the Variance request.
- 9) The Board determined that the proposal did not present a potential regional impact.
- 10) Granting the Variance would not be contrary to the public interest as it does not alter the essential character of the neighborhood and it would improve the readability of the prices and is removing the electronic message board making it safer for the price changer.
- 11) Granting the Variance would be consistent with the spirit of the Ordinance similarly, for the same reasons stated above.
- 12) By granting the Variance, substantial justice would be done there because there is no public benefit to be gained by denying the LED illuminated sign, while the loss to the applicant would be great because the ordinance language, when written, had no way of expressing the difference between what an LED type sign could do that was harmful and the type of technology, when properly employed, is ecofriendly.
- 13) Granting the Variance does not diminish the value of surrounding properties because the proposed LED sign will be displaying the same information in a different format.
- 14) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision because the use of LED lighting in this instance maintains the public purpose which is safety and general welfare from such things as may occur when employing electronic message centers such as flashing, animated, changing colors, intensities and videos when this proposal is limited to static numbers only, changed no more than twice a day. The proposed LED illumination is a reasonable use is standard for businesses of this type.

On November 3, 2021, the Zoning Board of Adjustment decided by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Mills, Stephens) and none (0) opposed to grant the request for the variance from Section 5.4.4 for Christopher Maroun, Reg. Agent – Greene's Corner Market, Tax Map 135, Lot 21 the removal of the electronic message board and upgrade the existing main pylon sign to include digital pricers and LED as an internal source of illumination with the following conditions:

1. LED prices shall change no more than twice in any 24-hour period.
2. Only numbers necessary for fuel pricing shall be used; no graphics, moving characters, flashing, intensity change or changing colors shall be employed.
3. The daytime intensity (nits) of the LED's shall be reduced at dusk to generally accepted levels established by the Illuminating Engineering Society of North America (IESNA) for LED sign illuminance. The daytime maximum being 5000 nits and the nighttime maximum being 500 nits which equates to 0.3-foot candles above ambient light. This shall be accomplished by installing an ambient light sensing mechanism (photocell) which automatically adjusts the sign's brightness based on current ambient light conditions.
4. All required state and local approvals, including a local sign permit and any required permissions from NH DOT shall be obtained.
5. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
6. The applicant and owner are solely responsible to comply with conditions of approval.
7. Per RSA 674:33, approval expires on 11/3/2023 if use is not substantially acted on.

Further, the Board voted to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on December 15, 2021, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision, send to the applicant and place same in the case file by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Mills, Stephens), none (0) opposed, and no (0).

The decision made to grant the variance on November 3, 2021, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

cc. Steve Zalewski (by email only at szalewski@moultonboroughnh.gov)
Map Lot Document File

