

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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GARDNER MA

NAME: C. Anthony Fruchtl, P.E. for Ayoub Engineering, Inc.
ADDRESS: 414 Benefit Street, Pawtucket, RI 02861

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:

264 Timpany Boulevard
Parcel ID #R17-11-24, R17-11-25, R17-11-26 and R17-12-1

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

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ON APPLICATION DATED December 17, 2013 FOR A **Variance** TO:
Operate/construct a motor vehicle – light service and restaurant with drive through at 264 Timpany Boulevard, Gardner, MA. Parcel ID #R17-11-24, R17-11-25, R17-11-26 and R17-12-1. (Denied a building permit by the Building Commissioner because it does not comply with Section 9, 916 Signs Permitted in the Commercial or Industrial Districts, #1 and #2 in Commercial 2 zoning district of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its February 18, 2014 meeting voted unanimously to grant with condition a Variance to Ayoub Engineering agent for Nouria Energy Corp to operate/construct a motor vehicle – light service and restaurant with drive through at 264 Timpany Boulevard, Gardner, MA.

The Public Hearing held on January 21, 2014 and continued to February 18, 2014. The Board being familiar with the site did not see the need for a site visit.

The Applicant owns and/or operates the existing self-service Shell station located at the intersection of Timpany Boulevard and West Broadway. The Applicant proposes the complete replacement of the facility, to include the razing of the existing building on the property and construction of a new 3,050 square foot building with five fuel pumps and canopy. Also proposed is a drive through window. An existing car wash bay is to be removed. As part of the project, an abutting single family home, that is currently vacant, is to be razed concurrent with the razing of the existing store. The underground storage tanks are proposed to be replaced as part of this project as well. Once the new building is constructed, the Applicant desires new improved signage to comply with current corporate logos and branding. The renovated station is proposed to be operated 24/7.

The existing facility received a Variance from this Board on December 18, 1990 for signage. The existing signage totals 252 square feet. The Applicant proposes total signage of 222.5 square feet. The approved signs are as detailed in the Proposed Sign Schedule As provided to the Board on a plan entitled "Proposed Signage Plan, prepared for Nouria Energy Corporation, by Ayoub Engineering, dated 12/20/2013, with revision date 1/23/2014. Signs are as summarized below:

<u>Description</u>	<u>Area</u>	<u>Quantity</u>	<u>Size</u>
ID Sign	106	1	106
Canopy	15.5	2	31
Building	20	1	20
Co Brand Sign	17.5	1	17.5
POS Sign	10	1	10
Menu Board	38	1	38
Total			222.5

The signage proposed is to be static, i.e. not digital, with the exception of the gas price display ID sign. The numbers for the price of fuel will be electronic but will not change more than once daily.

The granting of the Variance does not create or aggravate a safety hazard. Improvising signage to improve visibility, in the opinion of the Board improved safety.

The granting of the Variance does derogate from the intent of the Zoning Ordinance in that the amount of signage exceeds what is permitted by the Ordinance. The Applicant is reducing the total square footage of the signage for what currently exists on the property.

In the issuance of this Variance, a hardship related to shape, topography or soil conditions of the property is a not applicable in this case. A literal interpretation of the Ordinance would be a detriment to this project. The Applicant is expending significant dollars to improve the property and to also remove a distressed property on West Broadway to overall betterment of the area.

This Variance is granted subject to the following condition:

- This Variance supercedes and replaces the previously granted Variance for signage granted by this Zoning Board of Appeals on December 18, 1990.

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 28th DAY OF February, 2014

Raymond F. LaFond *RL*
Raymond F. LaFond, Chairman

Randall W. Heglin *RH*
Randall W. Heglin, Clerk

Michael D. Gerry *MG*
Michael D. Gerry, Third Member