

**MINUTES**  
**PEMBROKE ZONING BOARD OF ADJUSTMENT**  
**January 25, 2010      Approved 2/16/10**

**MEMBERS PRESENT:** William Bonney, Chair; Bruce Kudrick, Vice Chair; Dana Carlucci, Tom LoPizzo

**ALTERNATES PRESENT:** Paul Paradis

**EXCUSED:** Tom Hebert, Mick Pinard, Mark Simard

**STAFF PRESENT:** Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Chairman Bonney called the meeting to order at 7:00 p.m.

**PUBLIC HEARING**

Case 10-01-Z

Applicant:

Core States Group (Enrico Tamburri)  
379 Campus Drive Suite 150  
Somerset, NHJ 08873

Green Valley Oil, LLC  
9 Dexter Road  
East Providence, RI 02914

Property Owner(s):

Lee Milts Petro Inc., c/o Getty Petroleum Marketing  
1500 Hempstead Turnpike  
East Meadow, NY 11554  
RE: 219 Pembroke Street  
Pembroke, NH 03275

Property Address:

219 Pembroke Street  
Pembroke, NH 03275  
Tax Map 266 Lot 50 located in the R1 Medium Density-Residential Zoning  
District and the AD Architectural Design Zoning District

**Area Variance** under 143-58 G (2) of the Pembroke Zoning Ordinance. 114 . The applicant, Core States Group (Enrico Tamburri) is requesting permission to change the signage at the existing Getty/Luk Oil service station to the BP logo and to add a roof sign above the service bay.

Mr. Everett Hodge confirmed that all abutters were notified and that cards were received back from all abutters.

Chairman Bonney opened the public hearing at 7:05 p.m. Paul Paradis was designated to vote for Tom Hebert on Case #10-01-Z.

There were 4 regular members and 1 alternate member present; therefore, there was a full five member board present for this hearing. Chairman Bonney explained the rules of the hearing.

Copies of property assessment cards for 219 Pembroke Street and a notarized letter dated 11/19/09 from Green Valley Oil, LLC authorizing Core States Group to act as agent for Green Valley Oil to make the BP application and negotiate conditions for the Brand Re-Imaging Program of Getty/Luk Oil service stations to the current standards in Massachusetts, Connecticut, Rhode Island, and New Hampshire were included in the packet. Plans prepared by Florida Center Line Group Inc., 13219 Byrd Drive, Suite B, Odessa FL detailed the existing Getty sign and the proposed BP signage.

David Kelley, 1 Harris Street, Newburyport was present on behalf of the applicant. These are four areas the applicant proposes to rebrand”

The applicant proposes to do the following:

- 1) **Sign** - replace the existing free-standing sign from “GETTY” To “BP” on the same support column. Paint the poles BP pearl color, remove the Getty head and put on the square BP head. The pearl background does not light up. Only the helio logo is illuminated. A new price facer will have LED numbers.
- 2) **Canopy Sign** - replace canopy signs from “GETTY” to “BP” logo, The canopy will be painted BP pearl, a green sticker added to three sides and three 3-foot diameter internally illuminated helios will be placed on the north, south and west side of the canopy. The two Getty signs on the north and south will be removed.
- 3) **Building** - paint the building pearl, along with vent pipes and concrete bollards in front of the pumps and add building sign. The 8 foot ellipse will be mounted on the roof and replace the banner.
- 4) **Pump** - Rebrand the dispensers. The pump will have a BP and “Invigorate” logo.

There are no structural changes planned on the site.

David Kelley addressed the 5 points necessary for an Area Variance:

- 1) Granting the variance would not be contrary to the public interest because *the new signs are replacing existing signs in the same location.*
- 2 A) Explain why the area variance is needed to enable your proposed use of the property given the special conditions of the property. *The site is being changed from “GETTY” to BP” and therefore the signs must change.*
- 2B) Explain why the proposed use can not be achieved through some other reasonable method other than an area variance. *The signs must change due to brand change.*
- 3) How would granting the variance be consistent with the Spirit of the Ordinance? *Our new signs are replacing the existing signs.*
- 4) How would granting the variance ensure that substantial justice is done? *Since the owner is rebranding, this site would require a sign change.*
- 5) Granting the variance will not diminish surrounding property values because: *The new signs are replacing existing signs in the same location. Therefore, there is no change in property values.*

The current lighting shines into the windows of our home. If that occurred with the rebranded lighting, Everett Hodge as Code Enforcement Officer would be responsible for enforcement of conditions. David Kelley stated that not knowing the electrical setup of the station, it is possible that the operator may not shut off all the lights at the end of a business day. Some stations have all of the lighting set on a timer, some have a separate switch on the canopy lighting.

Route 3 Getty station manager Elias Deraoui, stated that there is a separate switch on the canopy signs. Sometimes the signs are turned on to show pricing when the sun glares. With new digital LED pricing, consumers will be able to read the pricing all the time. Mr. Deraoui stated that the canopy and the brand sign cannot be on the same switch. The canopy signs are generally only turned on from 4-5 pm during non-sunny days. Mr. Deraoui confirmed that the hours of operation are 7 am to 7 pm weekdays, 7 am to 6 pm Saturday and 7 am to 5 pm Sunday. In the 14 years he has been the station manager, employees may have left the lights on once or twice by mistake. Mr. Deraoui agreed to put up a sign reminding employees to shut off all lights at the end of the business day.

Susan Burt stated that at a previous Getty hearing, the station proposed two brand signs at the north and south end of the lot, each black on the back to reduce illumination. This proposal was rejected as too much signage. Susan Burt stated that each LED number has 20 lights. David Kelley stated that the LED numbers are only on the price panel. There are no LED lights on the canopy. There are three internally lighted helios on the canopy. Susan Burt stated that the existing Getty sign is 16 feet high and the proposed BP sign is 2

feet 4 inches taller at 18 feet 4 inches. David Kelley clarified that while the pylon head area of the box is larger, the illuminated area is the same - 25 square feet.

Dana Carlucci noted that the existing banner is 9 feet wide and 2 feet high or 18 square feet. The proposed oval roof sign is 8 feet wide and 2 ½ feet high or 15.18 square feet. Paul Paradis asked if there was any other way to produce the same result without a roof sign. It was discussed that due to the architecture of the building, there is no other location for the roof sign. The “service” sign is not illuminated.

Susan Burt, 215 Pembroke Street asked if the service sign will ever be illuminated. David Kelley stated there are no plans to illuminate the ‘service’ sign. Susan Burt asked how the lights are controlled. Is there a manual switch for the pylon and canopy lights or are they on a timer?

Wayne Burt, 215 Pembroke Street, agreed it would be advantageous for them, as abutters, if there was a maximum limit on the time the lights may be on. In the past, the lights have been left on all night.

Tom LoPizzo asked if the internal illumination would only be on during the station’s hours of operation. Yes, the owner of the site will maintain the same hours of operation. These hours are 7 am to 7 pm weekdays, 7 am to 6 pm Saturday and 7 am to 5 pm Sunday. The property manager will ensure that the internally lit signs are only turned on when necessary during business hours. The lights are on a manual switch. The site operator agreed to put a sign up to remind employees to shut off all lights at closing time. The existing Getty sign is internally lit, and the proposed BP helios on the sign will also be internally lit by fluorescent bulbs.

Paul Paradis asked if the price sign will be disabled when the station is closed. This is correct.

It was discussed that the existing Getty sign is 16 feet high, while the proposed BP sign will be 18 feet 4 inches high. The BP sign will use the existing poles that now support the Getty sign. The difference in height is because the BP sign is square, not rectangular. BP requires that its helio logo be centered on a square sign.

Wayne Burt asked about how the ZBA goes about making the decision about the size of sign permitted. Chairman Bonney stated that the ZBA refers to the complete sign ordinance and makes sure the sign complies to the greatest extent possible. There are guidelines on illumination and outside dimensions. The ZBA considers each case individually. It was discussed that zoning has changed in the R1 zone. Current maximum sign size is 12 square feet in the R1 zone. Since the service station has a non-conforming sign, it must come to the ZBA for any proposed changes. The square BP sign is 35.58 square feet versus the rectangular Getty sign, which is about 32 square feet, a difference of approximately 4 square feet.

Wayne Burt asked if the price section will list three grades of gasoline. Susan Burt asked for clarification on the pricing sign. The operator stated there is no diesel offered at the station so the prices for regular and premium grade gasoline will appear as LED lights. David Kelley confirmed that even though the illumination area is approximately the same size on both signs, there is no difference in lumens and the BP sign will not be any brighter.

Chairman Bonney summarized the case. The applicant is proposing to replace the existing free standing sign from GETTY to BP, replace canopy signs from GETTY to BP logo, replace a banner with a “SERVICE” building sign. Two LED numbers will give the price of regular gas and two LED numbers will give the price of premium gas. The internally illuminated LED numbers are on the price panel. Only the helio symbols on the canopy and on the BP sign will be illuminated. The pearl color background will not be illuminated. The “Service” sign proposed is made of quarter inch metal mounted on the roof. This service sign replaces the existing banner, which will be removed. The canopy will be painted pearl and have three illuminated helio stickers on three sides (none facing the structure) replacing the 2 Getty signs. The concrete bollards in front

of the pumps will be repainted.

There being no further input, Chairman Bonney closed the public hearing at 8:52 p.m.

**Deliberations:** Bruce Kudrick noted that the existing signage is grandfathered and is approximately 81 square feet. The total proposed signage adds 4 square feet for 85 square feet. The existing banner is approximately 18 square feet, and the roof “service” sign is 15.18 square feet. Overall the signage is 4 square feet more, but the service sign is 3 square feet less than the existing banner so the total signage on the lot is a wash. The existing business has been on the site since before zoning went into effect. Abutters are concerned about illumination, so there could be a condition that all illuminated signs be turned off when the business is not open. There is no expansion of the structure. It was discussed that roof signs are not listed in the sign ordinance because they are prohibited. Illuminated roof signs were proposed at the Meat House because the business is in a low spot. The “service” sign is proposed as an unlit roof sign.

The “service” sign is needed to advertise that service is available at the location, and the proposed oval sign does not go above the peak of the roof. Dana Carlucci noted that the signage at the property is at a disadvantage. The south side of the sign receives glare and is not visible in summer. The proposed signage has less total area of lighting than the previous signage. The station hours of operation are 7:00 a.m. to 5:00 p.m. The lights will generally not be on in the summertime. Considering the trees on the south side of the lot, the pearl color of the new signage won’t show as much as the Getty red color.

Chairman Bonney led the ZBA through a review of the five area variance criteria. Item 1, agree, 2A True, 2B True, 3) Yes , 4) The new signage provides the ability for the service station to continue selling gas and 5) There is no change in the business.

**Motion:** Bruce Kudrick moved to grant an Area Variance under 143-58 G (2) to make the change in signage from GETTY to BP logo and add a roof sign as proposed in the plans submitted with the application in the R1 Medium Density- Residential and AD Zoning Districts at 219 Pembroke Street, Map 266, Lot 50 with the following conditions:

1. All illuminated signs must be turned OFF at the end of the business day.

Dana Carlucci seconded.

**VOTE:** TOM L- Y BRUCE - Y PAUL- Y  
DANA - Y BILL - Y

MOTION TO GRANT AN AREA VARIANCE AT MAP 266 LOT 50, 219 PEMBROKE STREET TO REPLACE EXISTING FREE STANDING SIGN, REPLACE CANOPY SIGNS AND ADD A BUILDING SIGN AS PROPOSED IN THE PLANS PRESENTED, WITH CONDITIONS ON A 5-0 VOTE

### **MINUTES OF PREVIOUS MEETINGS**

**Motion:** Bruce Kudrick moved to approve the minutes of November 30, 2009 as amended. Dana Carlucci seconded.

**VOTE:** BRUCE - Y DANA - Y PAUL- Y  
TOM L Y BILL - Y

MINUTES OF NOVEMBER 30, 2009 APPROVED AS AMENDED ON A 5-0 VOTE.

### **OTHER**

**ZBA member reappointments** - Everett Hodge noted that the following terms expire 4/30/2010: William Bonney, Bruce Kudrick and Paul Paradis. All three members wish to be reappointed. Everett Hodge will submit a recommendation to the Board of Selectmen to reappoint William Bonney and Bruce Kudrick as ZBA members and Paul Paradis as Alternate ZBA member.

**Special Use Permits** - The Planning Board administers Special Use Permits, which are required when an application proposes activity in the Aquifer Protection zone. The Planning Board is formalizing this process

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in a new section 143-140 in the Pembroke Zoning Ordinance. The new section goes into effect now, and goes before a vote at Town Meeting in March 2010.

**Invitation to Pembroke Planning Board work session** - Everett Hodge, on behalf of the Planning Board, extended an invitation to all ZBA members to attend the Planning Board's February 9, 2010 work session.

**Review of ZBA fees** - Everett Hodge, on behalf of the Town Administrator, asked the ZBA to review their notification fees to be sure they cover the associated costs. The \$100 application fee, which is a separate fee, covers review of the application by the Code Enforcement Officer. The notification fee covers legal notice in the newspaper, and notice to abutters via certified mail. It costs between \$90 and \$113 to post a notice in the newspaper. Everett Hodge reviewed the notification costs of the 24 cases that went before the ZBA in 2009. The costs were \$2,170.01 and fee revenue was \$2,160, a difference of just \$10. The ZBA asked Everett Hodge to keep an eye on the cost of newspaper and certified mail notice. If those expenses go up, fees will need to be increased. The Board of Selectmen must approve fees charged by Boards.

**Possible future hearing** - Everett Hodge noted that New England Flower Farm recently lost 30% of their plants in a fire at their Loudon facility. They may propose the addition of a 56,196 square foot greenhouse on their Pembroke facility to help with spring growing.

**Date of next ZBA meeting** – The ZBA February 2010 meeting will be on TUESDAY, February 23, 2010 due to Presidents Day holiday.

**ADJOURN Motion:** Bruce Kudrick moved to adjourn. Dana Carlucci seconded. Vote was unanimous in favor of motion. Meeting adjourned at 8:37 p.m.

Respectfully submitted,

Susan P. Gifford  
Recording Secretary