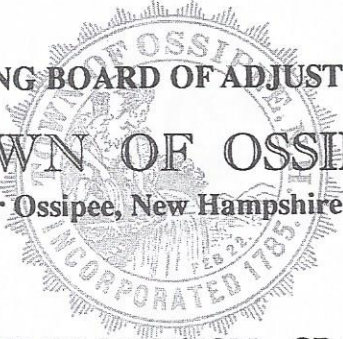


ZONING BOARD OF ADJUSTMENT
TOWN OF OSS�PEE
Center Ossipee, New Hampshire 03814



NOTICE OF DECISION - GRANTED

Case No: 15-4-V

You are hereby notified that the appeal of Four Long Pond Realty Trust,
property located at 2400 Route 16, Tax map 7, Lot 11.

for a variance from Article 20 regarding
section 2.1, f and 2.2a has been **GRANTED**, subject to
the conditions listed below, by the affirmative vote of at least three members of the zoning board of
adjustment.

Conditions:

1. That all state and local regulations will be met.
2. _____
3. _____

Xann Horn
Board Secretary

7/18/15
Date

Note: The selectmen, any party to the action or any person directly affected has a right to appeal this
decisions. See New Hampshire revised Statutes Annotated, Chapter 677, available at the Ossipee
Town Hall. This notice has been placed on file and made available for public inspection in the records
of the ZBA on 7-18-15 and has been published in the Carroll County Independent
on 7-23-15. Copies of this notice have been distributed to the applicant, Planning
Board, Board of Selectmen, Town Clerk, Property Tax Assessor, Code Enforcement Officer.

Selectmen
Main Office & Assessing
(603) 539-4181
Water/Sewer Department
(603) 539-7150
Town Clerk/Tax Collector
(603) 539-2008



Recreation Department
(603) 539-1307
Incinerator
(603) 539-4121
TDD (Hearing Impaired)
(603) 539-2856

55 Main Street • P. O. Box 67
Center Ossipee, New Hampshire 03814-0067
FAX (603) 539-4183

TOWN OF OSS�PEE
CERTIFICATE OF DENIAL OF BUILDING PERMIT

Date: 4/22/15

Applicant's Name: Four Long Pond Realty Trust Phone: _____
Thurley Mtn Ent Inc

Mailing Address: PO Box 910

West Ossipee NH 03890

Address of Property: 2400 Rt 16

Map 7 Lot 11

Request to: have gas station with underground
tanks in Water Resource District

has been denied by the Zoning Officer for the following reason or reasons:

Article 20.21F
20.22a of the Ossipee Zoning Ordinance.

needs Variance for both Articles

Applicant must present this certificate of denial, along with an application for a Variance or Special Exception, to the Zoning Board of Adjustment before any consideration of a request for Variance or Special Exception from the above action.

Ronald Rousseau

Authorized Signature

REQUEST FOR VARIANCE APPLICATION

(To be prepared by Applicant)

Date: 4-20-15

NOTE: Additional information may be supplied on separate sheet if the space provided is not inadequate.

TO: Zoning Board of Adjustment
Town of Ossipee
P.O. Box 67
Center Ossipee, New Hampshire 03814

1. Having been denied a permit by the Ossipee Building Official for the reason specified in the Ossipee Building Official's denial letter (copy attached). I hereby appeal the decision and request the Board of Adjustment to schedule a public hearing to consider this appeal.
2. I realize that providing the complete information requested below is the responsibility of the undersigned applicant and must be provided before a public hearing can be scheduled by the Board. I understand that it is my responsibility to present this appeal to the Board.

a. Type of Appeal: Variance

b. Basis for Appeal is Article XX, Section 20.2.1, f AND 20.2.2, a of the Ossipee Zoning Ordinance.

c. Location of property in question: 2400 ROUTE 16

d. Tax Map number: 7 Lot Number: 11 Sub Lot: _____

e. Zoning District: COMMERCIAL NODE DISTRICT
WATER RESOURCE PROTECTION DISTRICT

f. Name of Applicant(s): FOUR LONG POND REALTY TRUST

g. Mailing Address of Applicant(s): 61 CAMELOT DRIVE
PLYMOUTH, MA 02360

h. Phone Number of Applicant: (508) 559-8348

i. E-mail Address of Applicant: kingstowncorp@msn.com

j. Name of Company (if applicable): N/A

k. Legal Owner of the Property: THURLEY MOUNTAIN ENTERPRISES, INC.

l. Mailing Address of Legal Owner: PO BOX 910

WEST OSS�PEE, NH 03890-0910

m. Proposed use of property or modification of existing use: GASOLINE &
RETAIL SALES

n. Directions to the property from the Ossipee Town Hall: FOLLOW MAIN ST
TO FOLSOM RD.; FOLSOM ROAD TO RT 16 B. HEAD NORTH
ON RT. 16 B TO RT 16. FOLLOW RT 16 NORTH TO THE
INTERSECTION OF RT 41. THE SITE IS ON THE RIGHT.

o. Are there any current zoning violations on the property other than those that may be listed on this Application? (If yes, please fully describe below).

NOT TO MY KNOWLEDGE

I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide all of the information required to the secretary of the Board of Adjustment before a hearing can be scheduled.

WMS&E, INC.
by: James J. Bruce 4-20-15
Signature of Applicant(s) AGENT Date
" " PROPERTY OWNER'S AGENT

The undersigned hereby requests a Variance from Article XX Section 20.2.1, f AND 20.2.2, a :
and asks that said terms of the Zoning Ordinance be waived to permit the following:

SEE ATTACHED SHEETS

The undersigned alleges that the following circumstances exist to support this variance request.
Note: Use the area in the boxes following each criteria to write or type your response. Attach additional pages if necessary.

1. The variance will not be contrary to the public interest because:

SEE ATTACHED SHEETS

2. The spirit of the ordinance is observed because:

SEE ATTACHED SHEETS

3. Substantial justice is done because:

SEE ATTACHED SHEETS

4. The values of surrounding properties will not be diminished because:

SEE ATTACHED SHEETS

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

SEE ATTACHED SHEETS

USE (A) or (B):

(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

SEE ATTACHED SHEETS

AND

(ii) The proposed use is a reasonable one because:

SEE ATTACHED SHEETS

OR, if the criteria in subparagraph (A) are NOT established, an unnecessary hardship will be deemed to exist, if and only if:

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

N/A

The undersigned acknowledge that to the best of their knowledge all the above information is true and correct. I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide the information required to the Secretary of the Board of Adjustment before a hearing can be scheduled.

WMS&E, INC.

Applicant(s): by: James F. Rine Date: 4-20-15
& PROPERTY
OWNER'S AGENT.



WHITE MOUNTAIN SURVEY & ENGINEERING, INC.

1270 ROUTE 16, POST OFFICE BOX 440

OSSIPEE, NH 03864-0440

TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912

WEB ADDRESS: www.whitemountainsurvey.com

APPLICATION FOR A VARIANCE

The undersigned hereby requests a Variance from Article XX Section 20.2.1, f. and 20.2.2, a.: and asks that said terms of the Zoning Ordinance to be waived to permit the following:

To allow the applicant to construct a gasoline station and convenience retail facility, complete with underground storage tanks as the vessels to store the product for sale on the subject parcel.

Facts to support this request:

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

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated November 2014 states that:

"(f)or the variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?"

By this test, the requested variance will not alter the essential character of the neighborhood. Historically, this property has been a property that sold and repaired vehicles and dispensed gasoline since the dawn of the automobile until 1993 when the prior underground gasoline storage tank was removed. Most notably, it was White's Garage for nearly 50 years, then an Isuzu Dealership. Most recently, has been a commercial facility that has served as a Propane/Oil business. These historic uses are similar to and compatible with the proposed use and for that reason, we believe we will not alter the essential character of the neighborhood. Because this new facility proposes underground storage tanks (UST's) which will implement all of the latest safety requirements including double walled tanks with cathodic protection and interstitial alarms to reduce the chance of leaks and to ensure prompt leak detection, this proposal will not threaten the health, safety or general welfare of the public.

2. The spirit of the ordinance is observed because:

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated November 2014 states this in regard to public interest and spirit of the ordinance:

"As held in *Farrar v. Keene*, 158 N.H. 68 [2009], the two elements are related. For a variance to be contrary to the public interest and inconsistent with the spirit of the



ordinance, its grant must violate the ordinance's basic zoning objectives. There are two methods to answer this question:

- 1. Examine whether granting the variance would alter the essential character of the neighborhood; or**
- 2. Examine whether granting the variance would threaten the public health, safety or welfare.**

It is our opinion that, based on these two tests that the courts have used, the essential character of the neighborhood will not be altered as expressed in the paragraph above nor will the granting of the variance threaten the public health, safety or welfare. In fact, the health, safety and welfare of the public will be enhanced by improvements to the configuration and locations of the access points to the property on both Route 41 and Route 16 which will improve the safety of the Route 16/41 intersection.

3. Substantial justice is done because:

Granting the requested variance will allow for redevelopment of the lot in a manner that is completely consistent with the historic uses on the property. It will also implement improved controls on the access points from Route 41 and Route 16 which will in turn, improve the safety of the Route 16/41 intersection. Redevelopment of the site will also allow for a planned and specified access way to the abutting cemetery, which is something the Cemetery Trustees have requested.

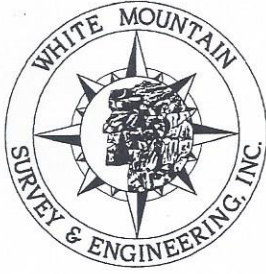
The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated November 2014 states that:

Any loss to the individual which is not outweighed by a gain to the general public is an injustice.

By this test, it is clear that the loss to the applicant and the property owner if they were not able to obtain this use, consistent with the historical uses, would be an injustice. Therefore, by granting the variance, substantial justice is done.

4. The values of the surrounding properties will not be diminished because:

Allowing the applicant to create a new facility that is consistent with and similar to the historic uses, should have a neutral impact on surrounding properties. The improvements the access and circulation onto the site, which will in turn improve the safety of the Route 16/41 intersection will likely enhance the values of surrounding properties. For these reasons, the requested variance will not diminish property values.



5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

This test is the one that is the greatest challenge for a land owner to demonstrate they have met. The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated November 2014 has this to say about the hardship question:

"When the hardship so imposed is shared equally by all property owners, no grounds for a variance exist. Only when some characteristic of the particular land in question makes it different from others can unnecessary hardship be claimed."

In the case at hand, this property has sold and dispensed gasoline for well over 70 years. It has historically had uses identical to and similar to the requested use. It is this historic use that creates the "special condition" of this property that is different from other properties in the area.

(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated November 2014 has this to say about this paragraph:

Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Is the full application of the ordinance to this particular property necessary to promote a valid public purpose? Once the purposes of the ordinance provision have been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to his property would not advance the purposes of the ordinance provision in any "fair and substantial" way.

According to Article I - the following is the Purpose and Authority of the Ossipee Zoning Ordinance:

"In order to help retain the natural beauty of Ossipee, to encourage the most appropriate use of land, to conserve its natural resources, to stabilize the value of land and buildings, to prevent overcrowding of land and undue concentrations of population and to facilitate the economical provision of future required utilities and facilities; the following Ordinance is enacted in accordance with the authority



provided by Chapter 674, Sections 16-23 and 30-32, New Hampshire Revised Statutes."

Based on my reading of the Zoning Ordinance Purpose and Authority, it is our position that granting the requested relief to permit a historic use on the property will not jeopardize that purpose and that due to the "special circumstances" listed, adherence to the specific provisions of the zoning ordinance will not advance the purposes of the ordinance provisions in any fair and substantial way.

I state this because granting the requested relief will not result in overcrowding of land or increase concentrations of population. It will not destabilize the value of land and buildings. Also, implementing the latest UST technologies and leak detection systems, we will be enhancing the protection of the natural resources over and above the historical situation.

Therefore, it is our position that we satisfy this criteria required for the granting of the requested relief.

AND

(ii) The proposed use is a reasonable one because:

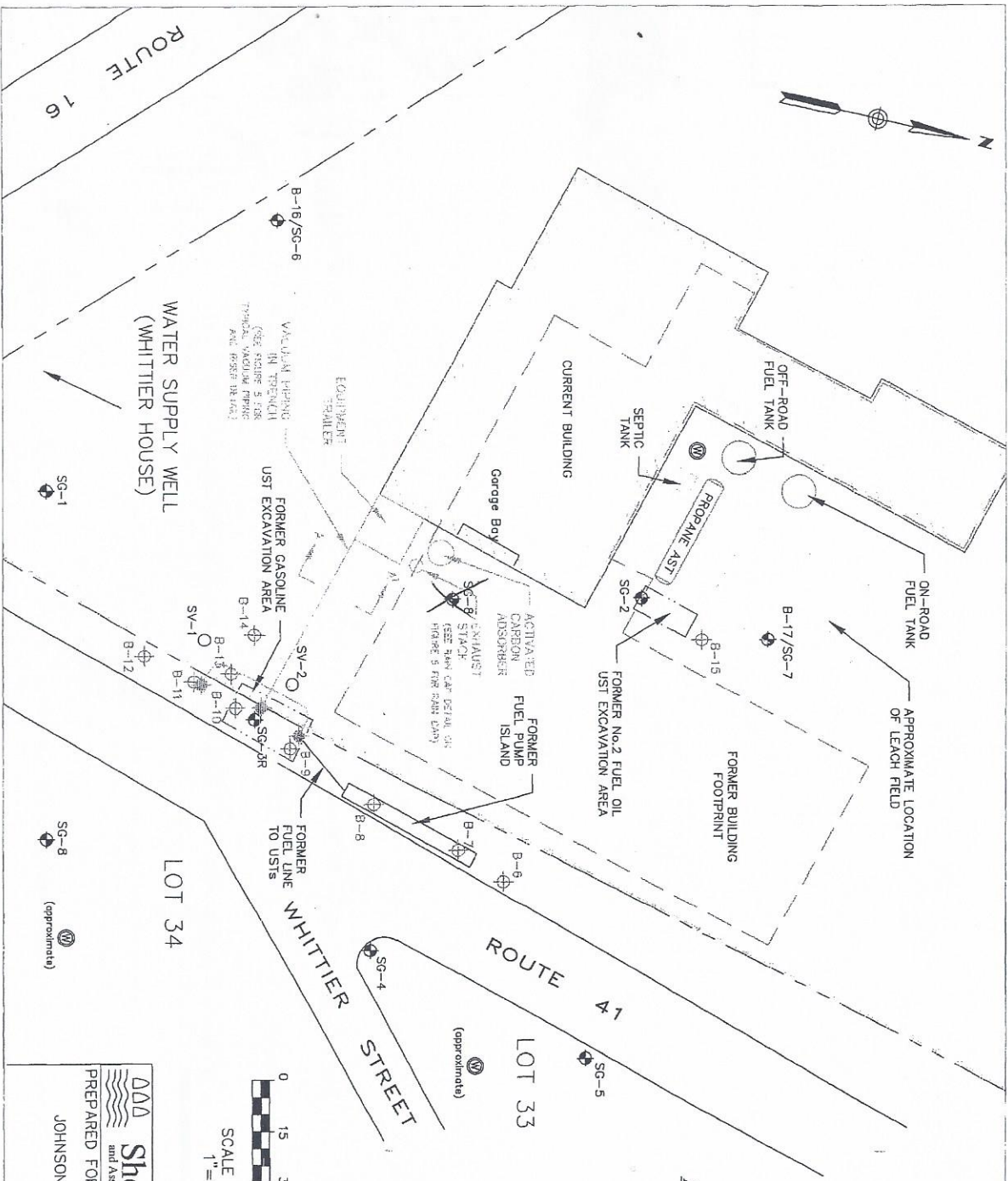
Because the proposed use is commercial retail, which is an allowed use in the Commercial Node zone and one consistent with the historical uses of the property, the use is a reasonable one.

July 15, 2015

I see no problem with having
a monument above and grade line station
on the site where White's garage
was, therefore I'm not against it,
I feel it is much safer than
the propane that was there
for years.

Shirahine Clivage
2 Covered Bridge Road
West Ossipee, NH 03880

RECEIVED
JUL 14 2015
WHITE MOUNTAIN SURVEY
& ENGINEERING, INC.



- LEGEND:**
- VAPOR EXTRACTION WELL
 - ⊕ MONITORING WELL
 - ⊕ SOIL BORING
 - ⊕ DRINKING WATER WELL
 - APPROXIMATE PROPERTY BOUNDARY
 - SOIL VAPOR MONITORING POINT

NOTES:

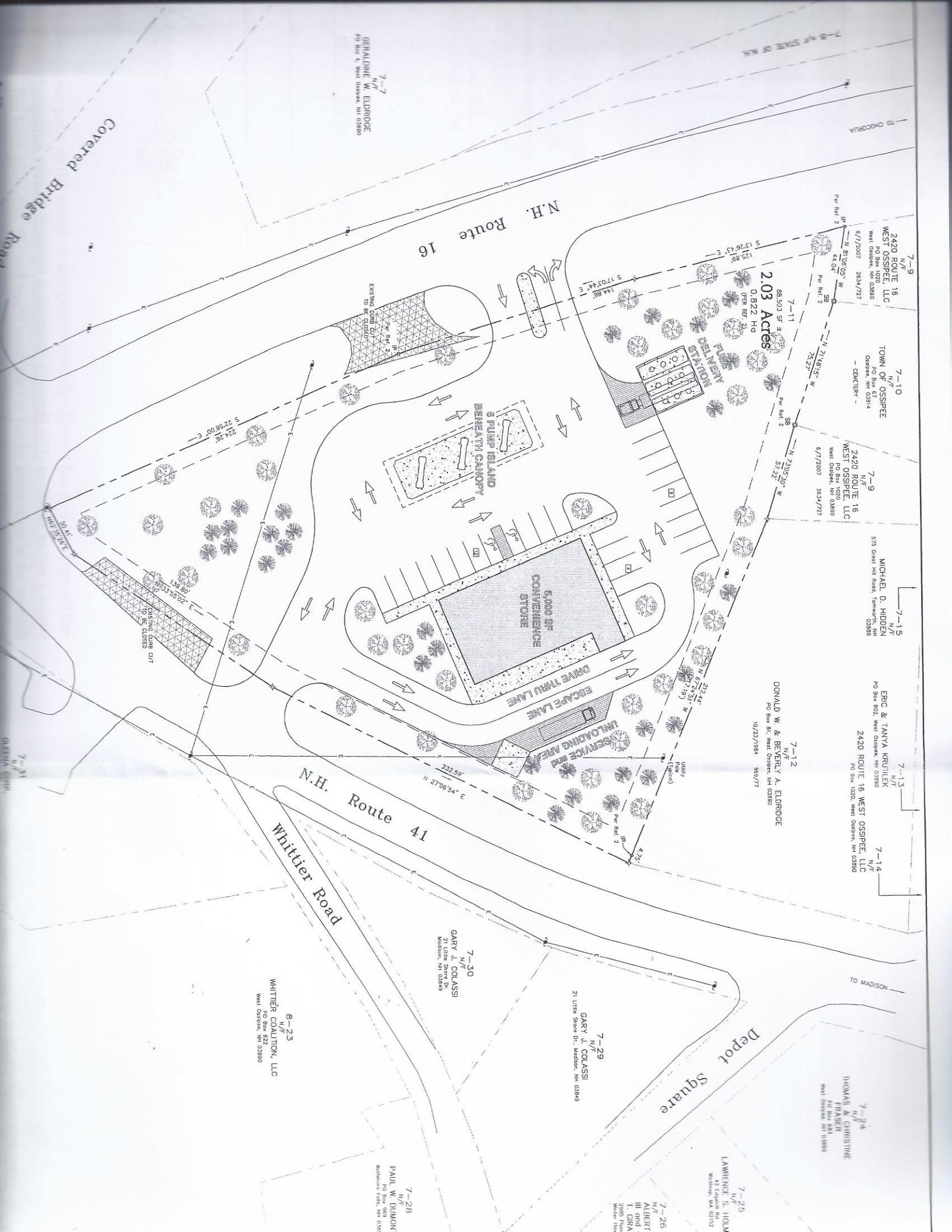
1. SITE PLAN BASED ON "SUBDIVISION OF LAND, WHITTES GARAGE, INC. DATED 1971, REVISED APRIL 1978 AND JUNE 1979 PREPARED BY ASSOCIATED SURVEYORS OF MEREDITH, NH, AND OBSERVATIONS MADE BY SHEVENELL-GALLEN AND ASSOCIATES, INC.
2. SOME FEATURES ARE APPROXIMATE IN LOCATION AND SCALE.
3. THIS PLAN HAS BEEN PREPARED FOR JOHNSON GAS CO. ALL OTHER USERS ARE NOT AUTHORIZED, UNLESS WRITTEN PERMISSION IS OBTAINED FROM SHEVENELL-GALLEN AND ASSOCIATES, INC.
4. VAPOR EXTRACTION WELLS WILL BE LOCATED OUTSIDE OF THE ROUTE 41 TRAVELED WAY.
5. SEE FIGURE 5 FOR CROSS-SECTION A-A1.



ARRANGEMENT OF PROPOSED SOIL VAPOR EXTRACTION SYSTEM

DATE: DECEMBER 2001
 PROJECT: C-14229-15
 FIGURE: 3

Shevenell-Gallen
 and Associates Inc. Environmental Consultants
 PREPARED FOR: JOHNSON GAS CO.
 SITE: REMEDIAL DESIGN JOHNSON GAS PROPERTY ROUTE 16 AND ROUTE 41 WEST OSSISPEE, NEW HAMPSHIRE
 A WHOLLY OWNED SUBSIDIARY OF RANSOM ENVIRONMENTAL CONSULTANTS, INC.



2.03 Acres

5,000 SF CONVENIENCE STORE

6 PUMP ISLAND BENEATH CANOPY

DRIVE THRU LANE ESCAPE LANE SERVICE AREA UNLOADING AND

FIRE STATION

Covered Bridge Road

N.H. Route 16

N.H. Route 41

Whittier Road

7-9 N/F 2420 ROUTE 16 WEST OSSISPEE, LLC
West Ossipee, NH 03880
6/17/2007 2834/773

7-10 N/F TOWN OF OSSISPEE
PO Box 674
Ossipee, NH 03824
- CEMETERY -

7-9 N/F 2420 ROUTE 16 WEST OSSISPEE, LLC
West Ossipee, NH 03880
6/17/2007 2834/773

7-15 N/F MICHAEL D. HIDDEN
575 Great Hill Road, Townshill, NH
03885

7-12 N/F DONALD W. & BEVERLY A. ELDRIDGE
PO Box 81, West Ossipee, NH 03880
10/23/1984 989/77

7-13 N/F ERIC & TANYA KRUILEK
PO Box 802, West Ossipee, NH 03880
2420 ROUTE 16 WEST OSSISPEE, LLC
PO Box 1000, West Ossipee, NH 03880

7-14 N/F

7-24 N/F THOMAS & CHRISTINE FRASER
West Ossipee, NH 03880

7-25 N/F LAWRENCE S. HOLM
411 Central Hill
Whittier, NH 03882

7-26 N/F ALBERT III and T. CIRRA
2280 Hill
West Ossipee, NH 03880

7-29 N/F GARY J. COLASSI
21 Little Shore Dr., Madison, NH 03849

7-30 N/F GARY J. COLASSI
21 Little Shore Dr.
Madison, NH 03849

B-23 N/F WHITTIER COALITION, LLC
PO Box 822
West Ossipee, NH 03880

7-28 N/F PAUL W. DUDMON
PO Box 910
Madisonville Park, NH 03850

7-7 N/F DEVALDINE W. ELDRIDGE
PO Box 4, West Ossipee, NH 03880

7-31 N/F