

January 2, 2015

Three Ducks Carwash Corp.
c/o Michael F. Neves
5346 S.W. 11th Place
Cape Coral, FL 33914

Re: Tiverton Zoning Board Relief: Plat 113; Lot 497

Dear Mr. Neves:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on December 3, 2014 for a request for a special use permit to install three product LED gasoline price signs and replacing the 3 product gasoline price signs on the existing free-stranding sign (the "Proposal") pursuant to Article XII of the Tiverton Zoning Ordinance ("Zoning Ordinance") at property located at 400 Main Road, Tiverton, Rhode Island at Plat 113, Lot 497 (the "Premises").

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and after taking into consideration all of the testimony at the public hearing, makes the following findings:

1. That the Premises contains approximately 39,204 square feet of land area, more or less, in an Commercial II zoning district.
2. That the Premises is currently used as a gasoline pump station.
3. That the petitioner desires to act on the Proposal by replacing the existing free-standing gasoline price indicators with LED indicators.
4. That the petitioner testified that the proposed alterations are necessary to undertake the Proposal.
5. That the petitioner presented no expert witnesses concerning the Proposal. The petition offered no testimony or evidence to show that the Proposal was compatible with the surrounding area and the environment, that the Proposal would not adversely affect surrounding property values or negatively affect the area, that the Proposal complied with building and/or fire codes, or that the Proposal would not have an adverse effect on traffic conditions in the area.

6. That no objections were presented by abutters at the public hearing on this petition for relief.
7. That the Board discussed the evidence regarding the Proposal and determined that the petitioner failed to show that the proposed relief was the least relief necessary to allow for the Proposal, that the petition was based primarily on financial gain, including, but not limited to energy costs, and that the petitioner failed to provide sufficient, relevant evidence to meet their burden of proof as to the standards of review for the sought after relief. Other practical alternatives are possible to better comply with the zoning district requirements.

As to the special use permit, the Board made a motion to approve the sought after relief. After deliberations, the Board voted three in favor and two opposed to denying the petitioner's application for a special use permit. Voting in favor: Mr. Taylor, Mr. Collins and Ms. Gescheidt. Voting against: Mr. Jackson and Ms. Taylor-Humphrey. Since four positive votes are required to approve the petition, the Board found as follows:

- (1) The public convenience and welfare will not be served by allowing the establishment of the Proposal on the Premises.
- (2) The Proposal will be detrimental to the public health, safety, morals or welfare.
- (3) The Proposal will not be compatible with neighboring uses and will adversely affect the general character of the area.
- (4) The Proposal will create a nuisance in the neighborhood, and will hinder or endanger vehicular or pedestrian movement, especially since the sign would be lit during the day in addition to its current nighttime only operation.
- (5) The Proposal is not compatible with the comprehensive community plan of the Town of Tiverton.

Your petition is hereby denied by the Board. This decision will be recorded in the Land Evidence Records in the Town Clerk's Office. (Please note that the appeal period (20 days) begins when this decision is recorded and posted with the Town Clerk's Office).

Sincerely,


Lise J. Gescheidt, Chair
Tiverton Zoning Board of Review.