

June 20th
noon

ZBA Case No.: 929A

Address 25 King St

**TOWN OF LITTLETON
BOARD OF APPEALS**

37 Shattuck Street
P.O. Box 1305
Littleton, MA 01460
Tel: 978-540-2420



APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning Bylaws

TOWN USE ONLY

Received by the Town Clerk Office

received
6/20/2019 Noon

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 450 Check # 3411

Pursuant to the provisions of Chapter 40, §57 of the Massachusetts General Laws as adopted by Town Meeting 2003, this document must be signed by the Tax Collector verifying payment of taxes.

Deborah A. Richards
Signature of Tax Collector

The undersigned hereby submits this petition for the following action (check all that apply):

- ☐ Appeal of Decision of Building Inspector or other administrative official (see page 2)
- ☐ Special Permit (40A) (see page 2)
- ☒ Variance (see page 3)
- ☐ Comprehensive Permit (40B) Complete additional application (see page 2)

PETITIONER: Signature

Date:

Print Name

Address

Town, State, Zip

Phone #

Email Address

Deed Reference: Bk

Page

PROPERTY OWNER: include authorization of Owner for Petitioner to represent Owner, if unsigned

Signature

Date

Phone #

Print Name (if different from petitioner)

Email

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER

ZONING DISTRICT: R VC B IA IB (Circle all that apply)

Check box if applicable

☐ AQUIFER DISTRICT

☐ WATER RESOURCE DISTRICT

FEES
Residential Property: \$200 filing fee + \$75 recording fee + \$25 document list = \$300
Commercial Property: \$350 filing fee + \$75 recording fee + \$25 document list = \$450
Comprehensive Permit: \$1000 + \$100/unit over 10 units
ADDITIONAL FEES: ALL APPLICATIONS
Legal Notice publication fee to be paid prior to opening the hearing

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Variance

Under MGL c. 40A §. 10

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to vary, in the manner and for the reasons hereinafter set forth, the applicable provisions of the Zoning By-law.

1. Specifically, from what Zoning bylaw section are you seeking relief? 173-35

2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?

Attach a written statement that specifically describes existing conditions and your objectives, along with plans, specifications, certified plot plan and any documentation necessary to support your request.

3. Show evidence that you meet the minimum requirements of a variance under section 173-6 B (2) of the Littleton Zoning Bylaws.

Attach a written statement which specifically includes why, owing to conditions (soil, shape, or topography) especially affecting the premises, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-law would result in a substantial hardship to you. Applicant must clearly demonstrate the lack of alternative remedies.

4. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

Signature

Print name

PETER MARCH

Filing Instructions

1. IMPORTANT: SEE THE BUILDING COMMISSIONER/ZONING ENFORCEMENT OFFICER BEFORE YOU FILL OUT THIS APPLICATION. He will assist you with the proper zoning sections and application request(s). His review may save time by preventing delays in the hearing process.

2. Apply for a certified abutters list with the Assessors office (request for certified list of abutters form enclosed)

3. Bring the completed application packet to the Administrative Assistant to the Building Commissioner who will assist you in filing with the Town Clerk.

Necessary Exhibits— provide 3 hard copies and an electronic copy of the following with the completed application:

- X 1. A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show;
 - A) metes and bounds of the subject land
 - B) adjacent streets and other names and readily identifiable landmarks and fixed objects
 - C) dimensional layout of all buildings
 - D) distances and setbacks from the various boundaries
 - E) exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
 - F) direction of North
 - G) the name of each abutting property owner
- X 2. Copy of the latest recorded deed
- X 3. A written statement which details the basis for your petition
- X 4. Pictures, plans, maps, drawings and models are always helpful in explaining the problem
- X 5. In cases pertaining to signs, a scale print of the sign lettering and colors
6. In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor
7. In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system
8. The date of the building construction and the history of ownership are useful in finding facts about the case

Completed applications filed with the Town Clerk by the third Thursday of the month will be considered at the next regularly scheduled Zoning Board of Appeals meeting, held on the third Thursday of the following month.

The Board in its discretion may dismiss an application or petition for failure to comply with any of the foregoing rules



Date: 5-17-19

To whom it may concern:

This letter authorizes Indaba Holdings, dba NH Signs of 66 Gold Ledge Ave., Auburn, NH, to act as an authorized agent for Energy North Inc. property owner of 25 KING ST, LITTON, MA with respect to the submission of applications for sign permits, sign waiver requests, variances or other permit related documents to the Town of LITTON.

As an authorized agent of the owner, NH Signs is allowed to sign and submit all forms necessary for the aforementioned application.

Regards,

A handwritten signature in blue ink that reads "Pat O'Connell". The signature is stylized with a large, looping "P" and "O".

Patrick O'Connell
Vice President

Energy North Group
ABS Fuel Systems, LLC

2 International Way
Lawrence, MA 01843
T: 978-640-1100
F: 978-640-1101
www.energynorthgroup.com

Application for a Variance

This request for a Variance to allow the addition of 15 sq. ft of signage to a pre-existing Main ID at 25 King St Littleton, MA

The property is 2.5 acres, and is Zoned B.

Background:

The sign is an ID sign that serves the Mobil station with a C Store that offers 3 grades of fuel as well as diesel, as well as a Car wash, Dunkin Donuts and a Sal's Pizza outlet.

It fronts onto King St, Rt2A, but also fronts onto Kimball St and essentially Ayer Road where it becomes King St.

We requested permits to re-face the sign and increase the area by 15 sq. ft to accommodate an additional tenant and an additional price unit, and we were denied under this section of the code:

§ 173-35. On-premises signs in business and industrial districts.

C. Sign areas. (1) Principal freestanding signs shall not exceed fifty (50) square feet in area.

We would have been allowed a secondary sign under the following part of the code:

(2) Secondary signs. (For lots with remove secondary access, one (1) secondary freestanding sign so arranged as to be not less than three hundred (300) feet measured horizontally from the principal freestanding sign.

(2) Secondary freestanding signs shall not exceed twenty-five (25) square feet in area. (3) No group of attached signs on any single face of the building on which they are viewed shall exceed fifteen percent (15%) of that exterior surface wall area. No attached sign shall exceed (50) square feet.

This would have meant the following:

1. Relocating the existing ID sign further away from the site (essentially towards rt 495) to achieve the 300ft required
2. Adding more signage and thus more clutter to the site

In order to find in our favor, the board needs to consider:

1. That a literal enforcement of the provisions of this chapter would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

This site is unusual in several respects:

1. It hosts multiple businesses- Mobil station with a C Store that offers 3 grades of fuel as well as diesel, as well as a Car wash, Dunkin Donuts and a Sal's Pizza outlet.

- a. Each of these businesses are separate and distinct from one another, and have separate needs for promotion, and in some cases, different clientele. For example, not everyone buying gas wants a Pizza, and not everyone using the car wash will purchase coffee from Dunkin Donuts. Each part of the business thus requires some form of promotion.
 - b. We are able to re-use most of the current sign, and at a reasonable cost, add one price unit and one additional sign cabinet for Sal's.
 - c. Since the current sign is near the 50 sq. ft limit, if we used the current sign to advertise each business, the space allotted without major modification to the sign would be very small, to the point of being unreadable.
2. A secondary sign, as allowed in the code, would require moving the ID sign to accommodate the 300ft rule.
 - a. Adding a second sign would cost in the neighborhood of \$15-20k. The project cost could exceed \$30,000 once power needs are accounted for.
 - b. It would add unnecessary clutter, and yet would not be as effective as adding to the current sign.

Secondly, we need to prove that:

(b) That the hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

As stated above, this site is unusual in that it:

1. Hosts a number of distinct, different businesses, each with different promotional needs and different busy periods. Dunkin is busy in the mornings, Sal's at lunch and in the evenings for example.
2. It fronts roads on 3 sides, King St/Ayer Rd on 2 sides, and Kimball St on the 3rd. It is also at a busy intersection with a traffic light, and a far amount of confusing visual distractions present themselves to an average driver.
3. Traffic speeds are high past the site- it is posted as 35mph, but traffic seems to flow at this speed or faster.
4. The Car wash, C Store and Gas canopy are 3 distinct, somewhat disjointed structures. Keeping one sign that identifies them as an entity helps reduce confusion and clutter.

These elements make this site unique in the area. Thus, if we were granted this variance, it would be unlikely that other sites would conform to this unique situation.

Finally, we need to show desirable relief may be granted:

[1] Without substantial detriment to the public good; or

[2] Without nullifying or substantially derogating from the intent or purpose of this chapter.

In general, the purpose of a sign code is to limit clutter, improve the appearance of signage and to provide businesses the means to effectively promote their wares. If we were to follow the code, we would be allowed to add a second sign. This would:

1. Add to the clutter of the area
2. Not be as effective as adding minimally to the existing sign
3. Be expensive.

This provision serves aesthetic rather than functional or dimensional goals. It is intended to prevent excessive, or discordant signage. Modifying an existing sign is consistent with many of the values and goals of the Ordinance.

It seems that adding to the existing sign is an effective, economical approach that would serve the area and the public good better than adding an additional sign.

QUITCLAIM DEED

MIKADA ASSOCIATES, INC., a Massachusetts Corporation with a principal place of business at 25 King Street, Littleton, Middlesex County, Massachusetts,

for consideration paid and in full consideration of **ONE MILLION FIVE HUNDRED SEVENTY THOUSAND AND 00/100 (\$1,570,000.00) DOLLARS**

grants to **ENI 25 KING STREET, LLC**, a Massachusetts Limited Liability Company with a principal place of business at 2 International Way, Lawrence, Essex County, Massachusetts 01843

with Quitclaim Covenants

The land in said Littleton, Middlesex County, Massachusetts, with the buildings thereon, and being Lot "A" as shown on a plan of "Land in Littleton, Mass." surveyed for Robert W. Wilson, November, 1977, Charles A. Perkins Co., Inc., Civil Engineers & Surveyors, being plan no. M-3184, and recorded with Middlesex South Districts Deeds on April 4, 1978, as Plan Number 296 of 1978 in Book 13416 at the end. Said Lot "A" bounded and described as follows:

NORTHWESTERLY by King St. or Depot Rd., by a curved line 230 feet;
NORTHEASTERLY by Route 2A & 110 (King Street) by two lines, a curved line, 150 feet, and 186.75 feet;
EASTERLY by Lot "B" as shown on said plan, by four lines, 46.51 feet, 66.06 feet, 102.48 feet and 77.77 feet;
SOUTHEASTERLY by Kimball Street 253.91 feet; and
SOUTHWESTERLY by land now or formerly of Russell I. & Esther L. Lawrence 447.00 feet.

Said Lot "A" containing according to said plan 2.5 acres more or less.

This is not homestead property of the Grantor and therefore no one is entitled to a homestead exemption on this property.

Being the same premises conveyed to Grantor by Deed dated February 24, 1993 and recorded with the Middlesex South District Registry of Deeds in Book 22941, Page 113.



BM: 70147 Pg: 206

Middlesex South Registry of Deeds Electronically Recorded Document

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Recording Information

Document Number	175152
Document Type	DEED
Recorded Date	October 27, 2017
Recorded Time	03:48:53 PM
Recorded Book and Page	70147 / 285
Number of Pages (including cover sheet)	3
Receipt Number	2144138
Recording Fee (including excise)	\$7,284.20

 MASSACHUSETTS EXCISE TAX
 Southern Middlesex District ROD # 001
 Date 10/27/2017 03:48 PM
 Cit# 272286 10861 Doc# 00175152
 Fee \$7,158.20 Com: \$1,570,000.00

Middlesex South Registry of Deeds

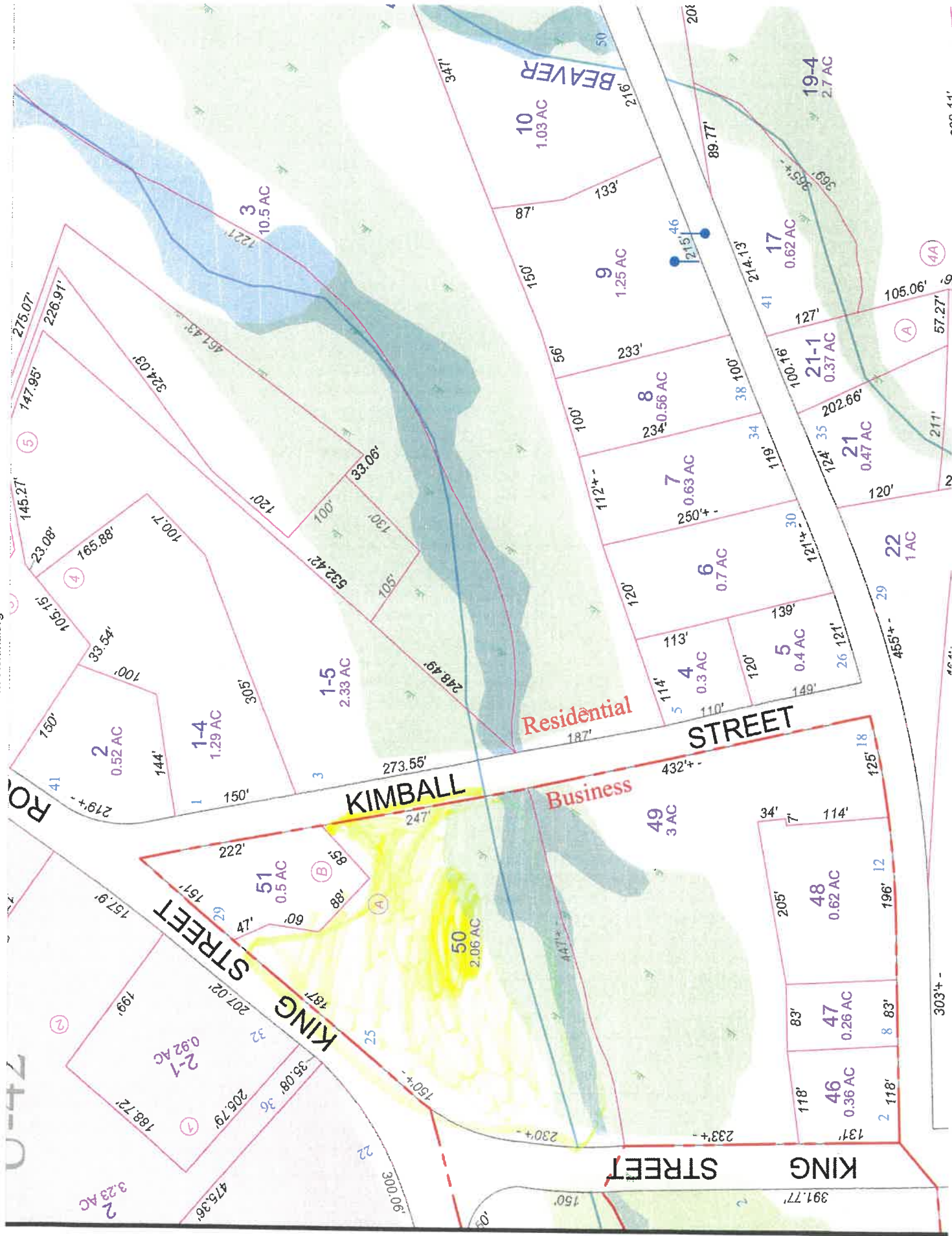
Marta C. Curtalone, Register

208 Cambridge Street

Cambridge, MA 02141

617-679-6300

www.middlesexsouthregistry.com



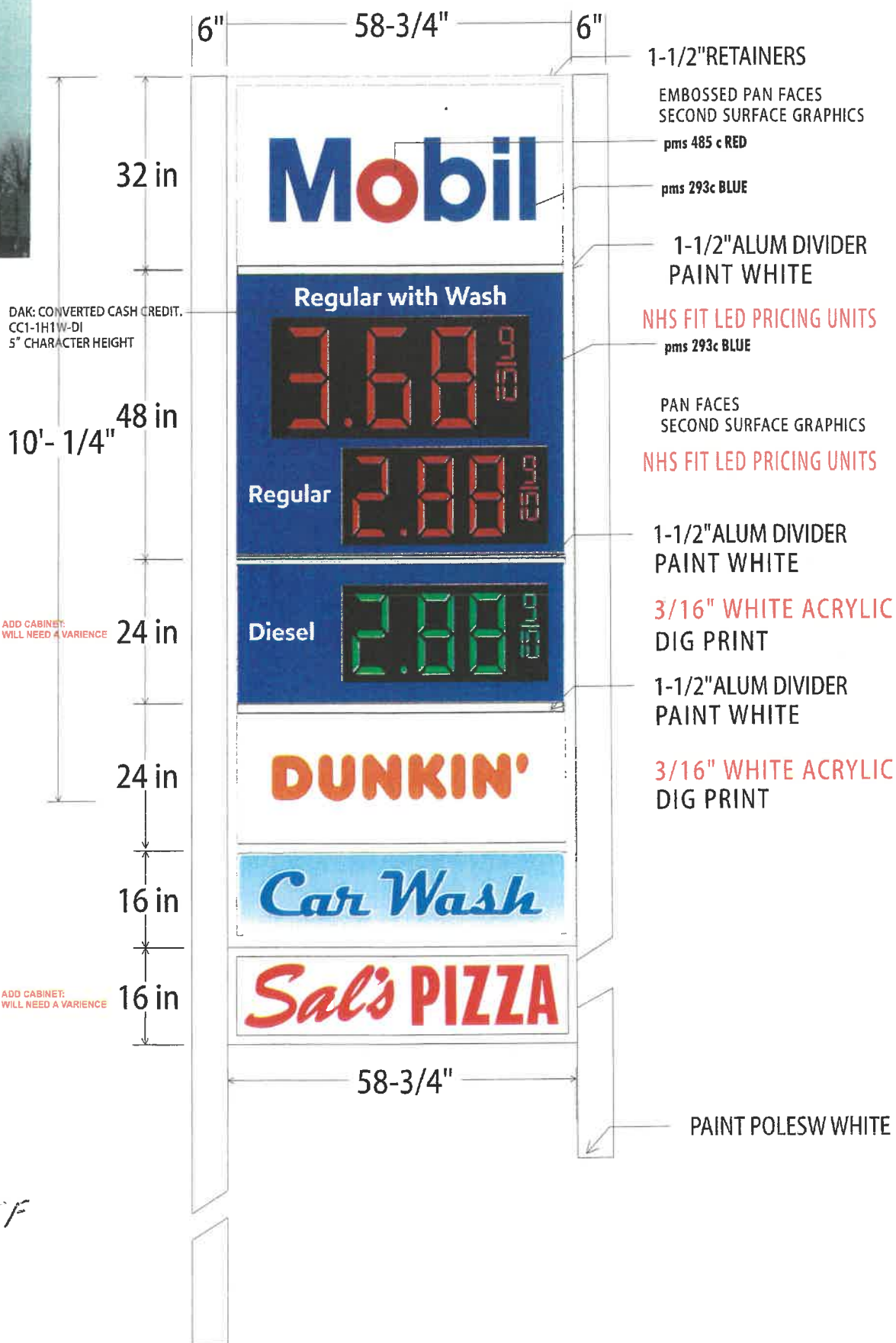


28 MA-2A

MA-2A



OPTION 3



65,25 SF