

**Zoning Board of Adjustment
27 School Street
HILLSBOROUGH, NH
November 10, 2025**

DATE APPROVED: 12/08/25

TIME: 6:00 p.m. –6:28 p.m.

CHAIRPERSON: Chairman Larry Baker

VICE CHAIRPERSON: Keith Cobbett

MEMBERS: David N. Fullerton, Shawn Kelley, Michael Schamel

PLANNING DIRECTOR: Robyn Payson

ALTERNATES: Frank Malinoski

EXCUSED:

Public Present: Patty Sweeney, David Frothingham, Judith Malinoski, Alan and Brenda Hillsgrove, Mayank Patel, Bhavesh Patel, Previn Patel

CALL TO ORDER:

Chairman Larry Baker called the meeting to order at 6:00 pm. All regular members were present.

Minutes

September 16, 2025

Michael Shamel made a motion to approve the minutes. Dave Fullerton seconded the motion. The motion carried unanimously.

Public Hearing

Variance

281 Second NH Turnpike
Mayank Patel

Chairman Larry Baker said that this variance was for the side setbacks only. No Planning Board issues will be discussed.

Mr. Patel was asked to give an overview of the project. He said the application was to locate a gas station on his property. He said he had his engineer present, and the plans had been updated to show all of the state requirements have been met.

Mr. Patel's design engineer David Frothingham of Wilcox and Barton was present. He said they were looking to re-establish the fuel system that was previously located on this parcel. It was located out front but given changes to state regulations and some adjacent wells that were

installed after the previous system was removed it had to be moved to another location on the parcel. He said this was actually a front yard setback that they are looking for a waiver from because this lot is a corner lot and it has two front yards. It is a 50 ft front yard setback which encumbers the vast majority of the front of the parcel. Mr. Frothingham pointed out the well radii of the wells that encumber the majority of the property. Which is why the system cannot be installed there based on the type of water supply and where it has to be. There is no other place on the property to locate the gas station.

Chairman Larry Baker asked why the radius of one of the wells is larger than the other.

Mr. Frothingham said the previous underground storage system was removed in 2006 so there is basically three different radiuses that we have to comply with. There are public water supply radiuses, there are private well radiuses and then there are the setbacks. We can't reduce the setbacks from the original system to any wells that existed at the time.

Michael Shamel asked if this includes the roundabout that hasn't been built yet?

Mr. Frothingham said he believes this is why the setback is so far back that they have done some of the land taking for that. He said they did their research with DOT to confirm that their right of way is what they own. They have been well aware of this process.

Chairman Larry Baker said he knew that DOT had reached out to Robyn Payson, and she provided them with the plans for this project, so they were notified. He said if they were concerned, he would have expected a response.

Mr. Frothingham said there have definitely been some land takings and some land shifts in this area that have impacted this area. For example their septic system is on state land off the back because that is what the state took at the time.

Chairman Larry Baker moved on to the criteria.

A. Granting the proposed Variance will not be contrary to the public interest because:

Mr. Patel said it will not alter the essential character of the property and surrounding area. It is safer, welfare and existing use is reasonable observing the spirit of the Zoning Ordinance. It provides convenience to gas station, improving the property functionality and a benefit to the community.

The Board had no questions or comments.

B. Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because:

Mr. Patel said this aligns with the overall intent and purpose of the Zoning Ordinance. The variance won't conflict with the ordinances' goals, such as promoting public health, safety and welfare, and will not alter the neighborhoods' character. Gas station will be as per the regulations and will not impact surrounding properties.

Chairman Larry Baker said had the previous gas station be removed less and one year ago they would probably not be before us today. Grandfathering expires after one year. That is just because he mentioned the previous gas station that was there. The tanks were removed in 2006 so we are almost 20 years since the previous was removed.

The Board had no questions or comments.

C. Granting the proposed Variance will do substantial justice because:

Mr. Patel said it re-establishes a previous use, there is no harm to the general public and it is convenient to the public.

There were no questions or comments from the Board.

D. Granting the proposed Variance will not diminish the values of the surrounding properties because:

Mr. Patel said ne development will improve the surrounding area and refresh the surrounding area.

Mike Shamel said he read in the Planning Board minutes that there was some concern about the light, it looked like that was addressed and then it looked like there was concern about the septic. There are bathrooms there now and I think that was also addressed.

Chairman Larry Baker said that's a Planning Board issue.

E. Literal enforcement of the provisions of the ordinance will result in an "unnecessary hardship" because:

(1). Owing to special conditions of the property that distinguish it from other properties in the area: (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) The proposed use is a reasonable one because:

Mr. Patel said the tank location and canopy location best fits the layout and there is no other location to fit it in.

Chairman Larry Baker said coming into tonight when I was looking at the plans, his first response was why couldn't they move the pumps further away from the setback on the lot. He said thank you for clarifying that the wells can't really shift the location at all.

There were no other comments from the Board

Chairman Larry Baker asked the Board if they felt E (1) has been established. The consensus was that it was established.

Chairman Larry Baker opened up the public hearing. He reminded the public that they are only going to address the setback, nothing that is under the purview of the Planning Board.

Allan Hillsgrove said the locations of the wells on the plan weren't right.

Brenda Hillsgrove asked about a yellow dot on the plan that concerned her and asked if it was on Second NH Turnpike. She said her well was not pointed out correctly

Mr. Frothingham said yes, he had pointed out that well correctly and it was not a well that was put in after 2006. He showed Mr. and Mrs. Hillsgrove their well setback so it is much farther from the previous tank location. He said these are in the records that he found when doing his due diligence.

Chairman Larry Baker said this is a Planning Board issue unless you are arguing that the wells are closer.

Kieth Cobbett said with the wells and the setbacks it ends up being an issue with us just because it fits within the setback of the well that how do you approve a variance when it's within that gray area of the well.

Chairman Larry Baker asked if Mr. Frothingham had been to the Planning Board meeting as well.

Mr. Frothingham said he was not but would be at the next one, and we have been going through this with the state process

Chairman Larry Baker asked if this plan is going to be updated to confirm the well locations and the distances from the proposed installation.

Mr. Frothingham said he did quite a bit of work validating all of those distances and he had to do that before he went to the state. They are all accurate.

Chairman Larry Baker said so we believe these distances are accurate based upon that map. He said he would be nervous about the "green" one as far as its setback.

Patty Sweeney said the fact that it was a gas station before and they are taking more precautions by moving it further away from everybody's well is a good thing. The roundabout is not a guaranteed thing. She said she went to the meeting on that and it is not on the map. They took it off due to funding. She said her only concern is the right of way but that not even being on the plans I don't see that it matters.

Chairman Larry Baker closed the public hearing.

Chairman Larry Baker said he would like to continue this until after the next Planning Board meeting. There is a lot of unresolved questions on the Planning Board side. Nothing says we could not vote on the variance today but it was his opinion to continue to the December 8th meeting.

Chairman Larry Baker asked the Board for their thoughts.

Chairman Larry Baker asked if the Board thought a site walk was necessary. The consensus of

the Board was no.

The consensus of the Board was that they would like to wait until after the next time this is on the Planning Board agenda.

Keith Cobbett made a motion to continue the hearing to December 8th at 6:00 pm . Shawn Kelley seconded the motion. The motion carried unanimously.

There being no other business, Keith Cobbett made a motion to adjourn. Dave Fullerton seconded the motion.

Meeting adjourned at 6:28 pm

Respectfully Submitted,
Robyn Payson, Planning Director