

BOARD OF ZONING APPEALS

Docket # 357

APPLICATION FOR VARIANCE OR
APPEAL TO BOARD OF ZONING APPEALS

Name of Appellant SYLVIA HUDSON

Mailing Address 375 RIVERSIDE DR.

City AUGUSTA State ME Zip 04330 Tel. No. 626 3389

Name of Owner EX BROWN

Location of Subject Property if Different from Above 362 RIVERSIDE DR.

AUGUSTA, ME. Map 49 Lot 183

The undersigned requests that the Board of Zoning Appeals consider one of the following:

1. An Administrative Appeal: Relief from the decision, or lack of decision, of the Code Enforcement Office or Planning Board in regard to an application for a permit. The undersigned believes that (check one):

- an error was made in the denial of the permit
- the denial of the permit was based on the misinterpretation of the ordinance
- there has been a failure to approve or deny the permit within a reasonable period of time
- Other RELIEF FROM the DECISION of the PLANNING BOARD

Please explain, in more detail, the facts surrounding this appeal (please attach a separate piece of paper). You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

2. A Variance:

a. Nature of Variance: Describe generally the nature of the variance.

In addition, a sketch plan of the property to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing structures, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

b. Justification of Variance: In order for a variance to be granted, the appellant must demonstrate to the Board of Zoning Appeals that the strict application of the terms of the ordinance would cause undue hardship. There are four criteria which must be met before the BZA can find that a hardship exists. Please explain how your situation meets each of these criteria listed below:

i. The land in question cannot yield a reasonable return unless the variance is granted (Augusta Land Use Ordinance, Sec. 6.4.2.2.1 (b) i)

ii. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. (30 MRSA 4963, Subsec. 3B)

It must be shown that well-documented, exceptional conditions affect the particular land or building which do not generally affect other property in the district. (Augusta Land Use Ordinance, Sec. 6.4.2.2 1 (b) ii)

iii. The granting of a variance will not alter the essential character of the locality. (Augusta Land Use Ordinance, Sec. 6.4.2.2 1 (b) iii)

iv. The hardship is not the result of action taken by the appellant or a prior owner.

c. Additional Factors Applicable to Variances: Please address the following additional factors:

1. Explain how a variance from the particular terms of this ordinance can be granted without detriment to the public interest or the health, safety, or general welfare of the residents of the municipality, and without impairment of the integrity of the Comprehensive Plan for municipal development, or of the purpose and intent of this ordinance. (Augusta Land Use Ordinance, Sec. 6.4.2.2)

2. No variance shall be granted for placement of a structure less than five (5) feet from the property line unless the abutting owner gives a construction, maintenance and repair easement which shall be recorded with the Kennebec County Registry of Deeds. No variance shall be granted which does not provide for a snow storage area of a minimum of five (5) feet from the right-of-way line. In shore land areas, the minimum setback from the normal high water mark for subsurface sewage disposal facilities shall not be reduced by variance. (Augusta Land Use Ordinance, Sec. 6.4.2.2 (2))

3. The issuance of any variance shall be contingent upon the applicant's agreeing in writing to indemnify and save harmless the City against all loss, cost, damage or expense occurring by reason of the erection or maintenance of a structure and upon his or her filing with the City clerk a certificate of public liability insurance covering property damage up to one thousand dollars (\$1,000) and bodily damage with a coverage of ten thousand to twenty thousand dollars (\$10,000-\$20,000) minimum limits. (Augusta Land Use Ordinance, Section 6.4.2.5)

4. In shore land areas, the Board of Appeals shall not grant a variance unless it makes a finding, based on clear and convincing evidence presented to it, that the proposed use would meet the provisions of the following: (as listed in section 6.3.4 (5) a)

- a. If the proposal contains known sensitive areas such as erodible or shallow soils, wetlands, aquifers, aquifer recharge areas, floodplain or steep slopes (over 15%), what special engineering precautions will be taken to overcome these limitations?
- b. Does the proposal conform to applicable local, State DEP and Federal EPA air quality standards including, but not limited to odor, dues,

- fumes or gases which are noxious, toxic or corrosive, suspended solid or liquid particles, or any air contaminant which may obscure an observer's vision?
- c. Does the proposal conform to applicable local, State DEP, and Federal EPA water quality standards, including, but not limited to erosion and sedimentation, runoff control, and solid wastes and hazardous substances?
 - d. Will all sewage and industrial wastes be treated and disposed of in such a manner as to comply with applicable federal, state and local standards.
 - e. Shore land and Wetland Districts: Will the proposal:
 - i. Maintain safe and healthful conditions;
 - ii. Not result in water pollution, erosion, or sedimentation to surface waters;
 - iii. Adequately provide for the disposal of all wastewater;
 - iv. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - v. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;
 - vi. Protect archaeological and historic resources as designated in 1988 Growth Management Plan;
 - vii. Avoid problems associated with flood plain development and use; and
 - viii. Conform with the provisions of Section 5.3.1, Special Shore land Standards.

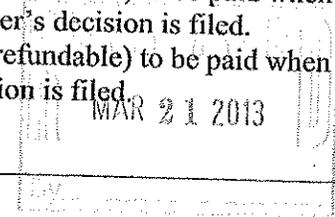
I certify that the information contained in this application and its supplement is true and correct.

Date: 3.20.13

Sylvia Hudson
Appellant

Note to the Appellant: This form should be returned to the Chairperson of the Board of Zoning Appeals, Bureau of Code Enforcement, City Center, 16 Cony Street, Augusta, ME 04330-5298. You will be notified of the date of the hearing on your appeal. Please submit 14 copies of application by 3 p.m.

FILING FEE: \$100.00 (non-refundable) to be paid when variance is filed.
 \$ 50.00 (non-refundable) to be paid when an appeal of the Code Enforcement Officer's decision is filed.
 \$100.00 (non-refundable) to be paid when an appeal of the Planning Board's decision is filed.



Date Fee Collected: _____

Code: (CSZONE) 10356531 531010

Applicant's Signature: _____

Effective: December 26, 2003

Council Order 160

We the Riverside Neighborhood (see attached petition signed by the neighborhood) are seeking a relief from decision based on neighborhood incompatibility for the project known as CN Brown:

- i. Land Use - There exists no other commercial business of this magnitude (13 pumps) projected 303 trips in either this neighborhood or the City of Augusta.
- ii. Architectural Design – No other neighborhood structure where everything is plastic/fake in some undetermined “style”.
- iii. Scale and Bulk – There no structures 105 feet long with a red roof that could guide airplanes at night with the runway lights off. Accompanied by an interior lit sign 25 feet high and 7 feet wide.
- iv. Visual Integrity-Observe the accompanying foam board showing the city scape on both sides of the proposed project.

b. elements of the site plan are not designed/ arranged to maximize privacy but rather to squeeze out the neighbor’s light and round them up and fence them in.

c. Proposal will not maintain safe/healthful conditions but rather place people particularly children at risk. Within 500 feet of the site is a neighborhood wide school bus stop. The creation of the third lane (turn out lane) will put these children at risk in an area of existing traffic consistently moving faster than the posted speed limit. Since MDOT continues to deny the lowering of the speed limit in our neighborhood we need to put in place crosswalks to protect our citizens, our children. There will be massive idling of both diesel trucks and oil trucks and if projections materialize a huge quantity car exhausts bellowing into our homes, our neighborhood.

d. Between the new bridge and the Vassalboro town line there are 155 residences. Is a recognizable, provable fact existing residential structures will lose 10% of their value. Augusta can ill afford, given the current economic climate, to withstand this dramatic hit to our tax base.

3. Traffic Pattern, Flow and Volume- A. Additional idling traffic will clog Riverside Drive, school buses idling to get to children, emergency vehicles needed to traverse 3 lanes of backed up traffic, emergency personnel blocked from getting to people in need. All witnessed by a recent accident in the vicinity of the trailer park.

D. with this plan vehicle drivers will have the temptation of “taking a short cut” and therefore placing others at risk.

4. See submitted well information, Sue Locsin, 6 Sanctuary Lane

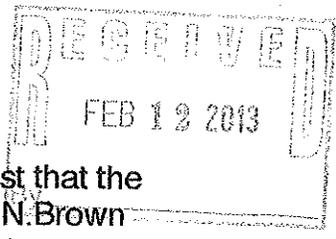
6. B. CN brown has stated that they would be filling up during the night if someone was out of oil. There are no 24/7 business in our neighborhood.

6. D. The 25 foot high by 7foot wide sign is not blocked from the neighborhood lying beneath it. Due to the curve in Riverside Drive the sign will only be seen by the neighborhood upon which it intrudes.

6. E. Landscaping- The size of the buckets/plants planted will not obscure the parking areas nor the fences.

Riverside Drive now exists now as a 44 foot wide road. With this plan Riverside Drive will become a 56 foot wide road. In order for this to occur an existing business Jellison Traders will for all intense purposes loose its useable frontage for parking. Why is it OK to take from an existing business, creating a financial hardship, to create another?

Petition to Postpone



I, the undersigned resident of Riverside Drive neighborhood, would request that the Planning Board postpone/table it's decision about the expansion on the C.N. Brown property until further inquires into the design & impact on the neighborhood can be determined.

name

address

- Escher K. Gray 343 Riverside Dr.
- Patricia King 24 Brookside Avenue
- Laurane Bernier 349 Riverside Dr.
- Ruby H Skillings 349 Riverside Dr.
- [Signature] 16 Sanctuary Lane
- Melina [Signature] 355 Riverside Dr.
- Coell Ancira 355 Riverside Dr.
- Eric Luca 355 Riverside Dr.
- Ashley Woods 353 Riverside Dr.
- [Signature] 353 Riverside Dr.
- Sandra [Signature] 26 Brookside Ave
- Manda [Signature] 356 Riverside Drive
- Goss Brothers 356 Riverside Drive
- Margon D. Fuller 348 Riverside Drive
- [Signature] 348 Riverside Dr.
- Michael O'Parker 320 Riverside Dr
- Susan A. Lousier 16 Sanctuary Lane
- Thomas [Signature] 3 Sanctuary Lane
- Curt Huber 492 Riverside Drive
- Siraldine O'Huber 492 Riverside Drive

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name

address

Rina Hudson	375 Riverside Drive
Howe Liacos	394 Riverside Dr.
JJ Lee	394 Riverside Dr.
Cynthia Eubank	381 RIVERSIDE DR
Darryl [unclear]	381 Riverside Dr
Everett Barnard	380 Riverside Dr.
Sandra Barnard	380 Riverside Dr.
Adek True	385 Riverside Dr.
Colleen Allen 6-9	76 + 16 Piko St Augusta?
Gileen Wilber	16 Woodside Rd, Augusta
Star Cunningham	16 Woodside Rd. Augusta
Myra Longberg	350 Riverside Dr.
Dida Wana	386 Riverside Dr.
Kenneth E. [unclear]	381 RIVERSIDE DRIVE

Sample Identification

AQ00755
SB65412-01

Client Project #
13-056

Matrix
Drinking Water

Collection Date/Time
01-Mar-13 09:05

Received
05-Mar-13

CAS No.	Analyte(s)	Result	Flag	Units	*RDL	MDL	Dilution	Method Ref.	Prepared	Analyzed	Analyst	Batch	Cert.
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Volatile Organic Compounds

Volatile Organic Aromatics

Prepared by method SW846 5030 Water MS

1634-01-1	Methyl tert-butyl ether	1.4		µg/l	0.5	0.4	1	EPA 524.2	07-Mar-13	07-Mar-13	NAA	1305230	
<i>Surrogate recoveries:</i>													
460-00-4	4-Bromofluorobenzene	95			80-120 %								
2057-26-5	Toluene-d8	102			80-120 %								
17060-07-0	1,2-Dichloroethane-d4	103			80-120 %								
1868-53-7	Dibromofluoromethane	103			80-120 %								

Sample Identification

AQ00756
SB65412-02

~~filter~~ filter
before

Client Project #
13-056

Matrix
Drinking Water

Collection Date/Time
01-Mar-13 09:15

Received
05-Mar-13

CAS No.	Analyte(s)	Result	Flag	Units	*RDL	MDL	Dilution	Method Ref.	Prepared	Analyzed	Analyst	Batch	Cert.
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Volatile Organic Compounds

Volatile Organic Aromatics

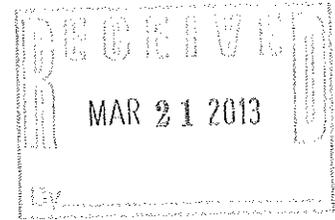
Prepared by method SW846 5030 Water MS

1634-01-1	Methyl tert-butyl ether	< 0.5		µg/l	0.5	0.4	1	EPA 524.2	07-Mar-13	07-Mar-13	NAA	1305230	
<i>Surrogate recoveries:</i>													
460-00-4	4-Bromofluorobenzene	94			80-120 %								
2057-26-5	Toluene-d8	101			80-120 %								
17060-07-0	1,2-Dichloroethane-d4	101			80-120 %								
1868-53-7	Dibromofluoromethane	104			80-120 %								

from well samples @ 16 Sanctuary have sent to Northeast Lab. Services, Waterville, Me client Susan A. Locien



STATE OF MAINE
 DEPARTMENT OF TRANSPORTATION
 16 STATE HOUSE STATION
 AUGUSTA, MAINE 04333-0016



Paul R. LePage
 GOVERNOR

David Bernhardt
 COMMISSIONER

Applicant: C.N. Brown Company
 Project Location: West Side of Riverside Drive, Augusta
 Augusta Tax Map 49, Lot 1 and Lot 3.
 Project: C.N. Brown Redevelopment
 Identification #: Reg. 02-00074-A-N
 Permit Category: 100- 200 PCE
 Traffic Engineer: Site Design Associates.
 Attn: Thomas W. Saucier, PE
 23 Whitney Way
 Topsham, Maine 040086
 (207) 657-6910

Pursuant to the provision of 23 M.R.S.A. § 704-A and Chapter 305 of MaineDOT's Regulations, the Department of Transportation has considered the application of C.N. Brown Company with supportive data, agency review and other related materials on file.

PROJECT DESCRIPTION

The applicant proposes to construct a combined facility consisting of a 3,850 square foot Convenience store with 13 fueling positions (10 gasoline and 3 diesel), a 750 square foot drive through Dunkin 'Donut store and a 400 square foot fuel delivery office. The existing 7,500 square foot building and 1,200 square foot storage building would be removed from the site. The site would be accessed by two full movement accesses (one 42 feet in width, one 36 feet in width) on Riverside Drive. The development is expected to generate 303 AM weekday peak hour trip ends.

Findings

Based on a review of the files and related information, MaineDOT approves the Traffic Movement Permit Application of C.N. Brown Company subject to the following conditions:

MITIGATION

The following mitigation is intended to describe that conceptually shown on: "Facility Renovation, 362 Riverside Drive" by Site Design Associates, dated 09-24-12. If the descriptions contained herein conflict with the plans, these descriptions shall take precedence over the plans. Not all of the mitigation discussed herein maybe shown on that or any plan. The following mitigation shall be constructed or implemented to MaineDOT's satisfaction prior to the opening of the facility, unless otherwise approved.

On-Site Mitigation

Riverside Drive



PRINTED ON RECYCLED PAPER

- A. Construct a 42 foot wide full-movement driveway. Install a "Stop" sign, stop line and lane use arrows.
- B. Construct a 36foot wide full-movement driveway. Install a "Stop" sign, stop line and lane use arrows.
- C. Construct a 480 foot long two way left turn lane with appropriate 270 foot long median islands, and maintaining a minimum shoulder with of 4 feet in areas with out curbing and a minimum of 5 feet in areas with curb.
- D. Overhead lighting shall be provided at the driveways, if not existing, to illuminate the entrances / intersections. Overhead lighting shall have an average of 0.6 to 1.0 foot candles, with the maximum to minimum lighting ratio of not more than 10:1 and an average to minimum light level of not more than 4:1.

Overall

- A. Provide all necessary auxiliary signs, striping and pavement markings to implement the improvements described herein according to State of Maine and/or National standards.
- B. All plantings and signs (existing and/or proposed; permanent and/or temporary) shall be placed and maintained such that they do not block available sight distances and do not violate the State's "Installations and Obstructions" law. No signage or plantings shall be allowed within the "clear zone" if they constitute a deadly fixed object as determined by MaineDOT. All signs shall meet MRSA Title 23, Chapter 21, Section 1914: "On-Premise Signs".
- C. If the specific uses identified in this permit are revised or the number of permitted uses is exceeded, the applicant shall request in writing from the department a decision of what impacts those changes will have on the permit. The applicant will then be required to submit those changes for review and approval and additional mitigation as a result of those changes may be required at the expense of the applicant. If the permitted uses are determined to generate less traffic than the permitted traffic, the applicant may request the required mitigation be reevaluated and potentially reduced in size and scope.
- D. Because the proposed project affects the state highway and drainage systems and requires improvement to that system, the applicant must obtain approval of the design plans and coordinate work through MaineDOT's State Traffic Engineer, who can be reached at (207)-624-3620 in Augusta.

By:


Stephen Landry, P.E.

Assistant State Traffic Engineer

Date: 10/23/12

CITY OF AUGUSTA
16 CONY STREET

MISCELLANEOUS PAYMENT RECPT#: 682728

DATE: 03/21/13 TIME: 14:10
CLERK: cheryl DEPT: CODE
CUSTOMER#: 0

PARCEL: M49/L1&3-362 RIVERSI

CHG: CSZONE ZONING PERMIT 100.00

PAID AMT

10 PAID BY NAME
KENNETH WARD PAY METHOD
CHECK
3849/KVFCU

AMT TENDERED: CN BROWN BZA
AMT APPLIED: 100.00
CHANGE: 100.00

RECEIPT		No. 812801	
DATE	March 21, 2013		
FROM	Kenneth Ward	\$ 100.00	
One Hundred and ⁰⁰ / ₁₀₀ DOLLARS			
<input type="radio"/> FOR RENT			
<input checked="" type="radio"/> FOR			
May 1 Board of Zoning Application #3849			
ACCT.		<input type="radio"/> CASH	
PAID		<input checked="" type="radio"/> CHECK	FROM TO
DUE		<input type="radio"/> MONEY ORDER	BY Cheryl Vachon
		<input type="radio"/> CREDIT CARD	2501 48820

Kenneth E. Ward, Jr.
Linda G. Ward
386 Riverside Dr.
Augusta, ME 04330

3849
52-8736/2112

3/20/2013 Date

Pay to the Order of City of Augusta
One Hundred and 00/100 Dollars \$ 100.00


Federal Credit Union
Augusta, ME 04330
For Board of Appeals fee

Linda Ward

⑆ 211287366⑆ 750053316 3⑈ 3849