

Town of Allenstown  
Zoning Board of Adjustment

Application for Appeal

Applicant Name Niyati Realty, LLC Phone (603) 490-7350  
Address 239 Steam Mill Road, Auburn NH 03032 Home Work  
Owner of Property Concerned Niyati Realty, LLC Map # 409 Lot # 32  
Address of Property Concerned 289 Pinewood Road Zoning District Open Space & Farming  
Description of Property - Frontage 242 Side 993 Side 1070 Rear 450 Acres/SF 8.28 A SF  
Proposed Use filling station, convenience store and restaurant

COMPLETE SECTION 1, 2, OR 3. DO NOT COMPLETE MORE THAN ONE SECTION

Section 1 - APPEAL FROM AN ADMINISTRATIVE DECISION

The undersigned alleges that an error has been made in the decision, determination or requirement by the Building

Inspector/Code Enforcement Officer on \_\_\_\_\_, relative to Article \_\_\_\_\_, Section \_\_\_\_\_ of the zoning  
date ordinance.

Section 2 - APPEAL FOR A SPECIAL EXCEPTION

The undersigned hereby requests a special exception as provided in Article VI, Section 602.1 of the zoning ordinance.

Section 3 - APPEAL FOR A VARIANCE

The undersigned hereby requests a variance to the terms of Article VI, Section 601 and asks that said terms be waived to permit the construction and operation of a convenience store, filling station, and restaurant in the Open Space and Farming District, where these uses are not permitted.

Applicant Signature [Signature] Date AUG 18, 2015

PLEASE LIST ABUTTERS TO BE NOTIFIED ON REVERSE SIDE OF THIS APPLICATION

Received Stamp

August 17, 2015

Shaun Mulholland  
Town Administrator  
16 School Street  
Allenstown NH 03275

Mr. Mulholland:

This letter acknowledges that we grant permission to George Fredette and SFC Engineering Partnership, Inc. to represent Niyati Realty, LLC, through the permitting and approval process for our proposed development at 289 Pinewood Road in Allenstown NH.

Thank you.

A handwritten signature in blue ink, appearing to read "Niyati", with a stylized flourish underneath.

**Niyati Realty LLC**

August 18, 2015

Eric Feustel, Chair  
Zoning Board of Adjustment  
16 School Street  
Allentown NH 03275

RE: Map 409 Lot 32, 289 Pinewood Road  
Variance Application

SFC project # 611001

Mr. Feustel:

On behalf of Niyati Realty, LLC, SFC Engineering Partnership, Inc. submits this APPLICATION FOR APPEAL for commercial development at 289 Pinewood Road for inclusion on the next available Zoning Board of Adjustment hearing.

This application for appeal includes a request for consideration of a variance to the terms of Article VI section 601 of the Zoning Ordinance of the Town of Allentown, to permit the construction and operation of a convenience store, filling station and restaurant in the Open Space and Farming Zone, where these uses are not permitted.

This submittal includes one paper copy of the application packet and the application fee of \$136 (\$16.00/abutter for 6 abutters (includes engineer and landowner) plus \$40 for the publication fee).

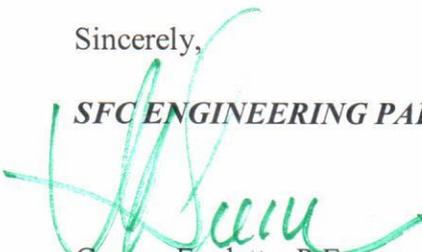
The application packet includes this letter and the following material:

- Application for Appeal form – completed and signed
- Variance arguments
- List of abutters (also included with the application is one set of mailing labels printed on Avery 5160 labels)
- Site development plan
- Signed letter of authorization from owner

A pdf file containing a complete copy of the application packet is submitted by electronic mail to Dana Pendergast.

Sincerely,

**SFC ENGINEERING PARTNERSHIP INC.**

  
George Fredette, P.E.

**ARGUMENTS RELATIVE TO VARIANCE REQUEST FOR  
COMMERCIAL DEVELOPMENT ON LAND OWNED BY  
NIYATI REALTY, LLC**

**MAP 409 LOT 32, 289 PINWOOD ROAD**

On behalf of Niyati Realty, LLC, we present the following arguments in support of a request for a variance from Article VI, Section 601 of the Zoning Ordinance of the Town of Allenstown, to permit the construction and operation of a convenience store, filling station and restaurant in the Open Space and Farming Zone, where these uses are not permitted.

The following arguments are formatted in conformance with the provisions of NH RSA 674:33.I.

**1. The proposed use would not diminish surrounding property values.**

- The proposed use is adjacent to other commercial uses within this transportation corridor;
- The architectural style of the proposed development will be in the character of the other uses in the area;
- Storm water management systems will protect the storm water runoff quality that contributes to the Suncook River
- Adjacent residential uses will be adequately protected by vegetated screen and topography created by site construction.

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

- It will allow for expansion of retail facilities within the town to serve the needs of Allenstown's community and visitors;
- The area of the proposed project has many commercial uses
- It will increase the tax base of Allenstown;
- The project will meet or exceed other site design criteria; i.e., open space, and yard setbacks;
- The proposed driveway entrance onto Pinewood Road to service this lot provides adequate sight distance in both directions;
- Water supply and sanitary sewer infrastructure will be designed to support this proposed development;
- Storm water management systems will protect the storm water runoff quality that contributes to Suncook River.

**3. Three tests for unnecessary hardship:**

**[a] As applied to the petitioners property, the ordinance will interfere with the petitioner's reasonable use of their property, considering the unique setting of the property in its environment for the following reasons:**

- This area along Route 28 no longer portrays the rural character which may be envisioned by the very name of the Open Space and Farming District, or by what is prescribed by the allowed uses in the district.
- The traffic along the roadway and the existing uses on nearby parcels are indicators of a more commercial environment.

**[b] As specifically applied to the petitioner's property the ordinance [restriction] has no fair and substantial relationship to the general purposes of the zoning ordinance for the following reasons:**

- Many surrounding parcels along Route 28 enjoy commercial use
- This location is not well suited for the primary uses permitted in the Open Space and Farming District;

**[c] If relieved by a variance, will not injure the public or private rights of others for the following reasons:**

- The proposed use will serve the needs of the Allenstown community and visitors to the community.
- The location of this facility will be convenient to the more than 150 households at Catamount Hill Cooperative.
- Driveway access will be designed to be safe and in accordance with New Hampshire Department of Transportation guidelines and regulations.
- Adjacent residential uses will be adequately protected by vegetated buffer and topography created by site construction

**4. Granting the variance would do substantial justice.**

- It will increase the tax base in Allenstown;
- It will allow for the highest and best use of this property;
- This location is not well suited for the primary uses permitted in the Open Space and Farming District;
- A local business owner will be allowed to develop the property.
- This project represents economic development in Allenstown.

**5. The proposed use is not contrary to the spirit of the Ordinance.**

- This will allow this proposed commercial use to be developed within a transportation corridor that has like uses;
- This development will protect and promote the public health, convenience, safety and general welfare of the residents of the town through the use of best management practices; and
- Fire protection systems will be provided to adequately protect the community.

## ABUTTERS LIST

Niyati Realty, LLC  
SFC Project # 611001  
August 18, 2015

	<u>MAP</u>	<u>LOT</u>	<u>OWNER</u>
<u>OWNER</u>	409	32	Niyati Realty, LLC 239 Steam Mill Road Auburn, NH 03032
<u>ABUTTERS</u>	409	33	Catamount Hill Cooperative Inc. 275 Pinewood Road Allenstown, NH 03275
	409	14	Therese L. & Robert J. Fortin 276 Pinewood Road Allenstown, NH 03275
	409	15.1	Victor Perin C/O Randy Perin 286 Pinewood Road Allenstown, NH 03275
	409	15	Anna Perin 45A Mountain Street Woburn, MA 01801
	409	32.1	William J. & Sharon A. Gelinis 185 River Road Epsom, NH 03234
	409	31	William Gelinis 185 River Road Epsom, NH 03234
<u>ENGINEER</u>			SFC Engineering Partnership, Inc. 66 Gold Ledge Avenue Auburn, NH 03032
<u>WETLAND SCIENTIST</u>			Gove Environmental Services Luke Hurley 8 Continental Drive, Unit H Exeter, NH 03833