



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 \_\_\_\_\_, Section \_\_\_\_\_ of the zoning ordinance.

Section 3 - APPEAL FOR A VARIANCE

The undersigned hereby requests a variance to the terms of Article XXIV, Section VIII-H. and asks that said terms be waived to permit the development and operation of a gas station. In the Groundwater Protection Overlay District, where this use is prohibited.

Applicant Signature [Signature] Date 1-17-17

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

Received Stamp

## ABUTTERS LIST

Niyati Realty, LLC  
SFC Project # 611001  
January 27, 2017

	<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 Allentown, NH 03275
	409	14	Therese L. & Robert J. Fortin 276 Pinewood Road Allentown, NH 03275
	409	15.1	Victor & Randy Perin 286 Pinewood Road Allentown, NH 03275
	409	15	Anna Perin 45A Mountain Street Woburn, MA 01801
	409	32.1	William J. & Sharon A. Gelinias 185 River Road Epsom, NH 03234
	409	31	William Gelinias 185 River Road Epsom, NH 03234
<u>ENGINEER</u>			SFC Engineering Partnership, Inc. One Industrial Drive Windham, NH 03087
<u>WETLAND SCIENTIST</u>			Gove Environmental Services Luke Hurley 8 Continental Drive, Unit H Exeter, NH 03833

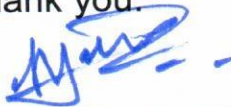
January 17, 2017

Shaun Mulholland  
Town Administrator  
16 School Street  
Allentown 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 Allentown NH.

Thank you.

A handwritten signature in blue ink, appearing to be 'Niyati', written over the 'Thank you.' text.

***Niyati Realty LLC***



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

**MAP 409 LOT 32  
289 PINEWOOD ROAD**

## **APPLICATION FOR VARIANCE**

On behalf of Niyati Realty, LLC, we present the following arguments in support of a request for a variance from Article XXIV, Section VIII-H of the Zoning Ordinance of the Town of Allenstown, to permit the development and operation of a gas station in the Groundwater Protection Overlay District, where this use is prohibited.

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

### **1. The Variance will not be contrary to the public interest because:**

- Proposed development exceeds minimum New Hampshire Department of Environmental Services (NHDES) water well setbacks and distance to State groundwater boundary GAA and GA2;
- Best Management Practices (BMPs) will be used to design the proposed development;
- Storm water management systems will be designed to protect the storm water runoff quality that contributes to the Suncook River;
- The proposed use is in keeping with local demand, providing northbound traffic with convenient access to a gas filling station.

### **2. The spirit of the Ordinance is observed because:**

- The project will develop and implement a stormwater management plan prepared in accordance with the Allenstown Permanent (Post-Construction) Stormwater Management Ordinance, as required by Article XXIV, Section V.B;
- The project will develop and implement a Pollution Prevention Plan, as required by Article XXIV, Section V.B;
- The project will develop and implement a Spill Prevention, Control and Countermeasure Plan (SPCC) as required under Article XXIV, Section VI;
- A Source Control Plan will be developed as required under Article XXIV, Section V.B.1 and that meets NHDES requirements of a land use activity such as a fuel dispensing area;
- The project will meet or exceed NHDES site design criteria;
- Proposed development exceeds minimum NHDES public water well setbacks and distance to State groundwater boundary GAA & GA2;

- Storm water management systems will protect the storm water runoff quality that contributes to Suncook River.

**3. Substantial justice is done because:**

- It will increase the tax base in Allenstown;
- It will allow for the highest and best use of this property;
- Similar use exists within the Groundwater Protection Overlay District with the Engen gas station nearby; and
- A local business owner will be allowed to develop the property that he purchased from the town and in accordance with the escrow agreement with the town dated September 19, 2014.

**4. The values of surrounding properties will not be diminished because:**

- The proposed use is in keeping with local demand, providing northbound traffic with convenient access to a gas filling station;
- The development will take advantage of an existing driveway access onto Route 28 and will not require any new curb cuts;
- The site meets minimum setback requirements to existing water wells;
- Storm water management systems will protect the storm water runoff quality;
- The Zoning Board of Adjustment granted a Variance to Article VI, Section 601 to allow a gas station within the underlying Open Space & Farming zoning district.

**5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because (A or B):**

**(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:**

The property is well suited for use as a gas station since no gas station currently exists on the northbound side of Route 28 within the immediate 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;**

The site meets required siting distances to existing public water supplies and State groundwater classification GAA & GA2. A stormwater management plan, BMPs, an SPCC and a Source Control Plan will be developed to protect groundwater.



**(ii) The proposed use is a reasonable one;**

The proposed gas station will be subject to strict environmental design and permitting standards to protect groundwater. Such standards include the requirement that the underground tanks and piping have secondary containment with a system of continuous monitoring of their interstitial space to alert of any leaks before the second wall of the containment is breached. The project will develop and implement an SPCC that will prevent, contain, and minimize releases from ordinary or catastrophic events. A Pollution Prevention Plan will also be developed to minimize the release of regulated substances into stormwater through development of a Source Control Plan that identifies pollution prevention measures.

**(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

Not applicable



January 27, 2017

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 XXIV Section VIII-H of the Zoning Ordinance of the Town of Allentown, to permit the development and operation of a gas station in the Groundwater Protection Overlay District, where this use is prohibited.

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. Please contact our office with any questions or comments.

Sincerely,  
*SFC ENGINEERING PARTNERSHIP, INC.*

A handwritten signature in blue ink, appearing to read "G. Fredette".

George Fredette, P.E.