

Approved: _____

Approved with changes: _____

Effingham Zoning Board of Adjustment
Meeting Minutes
July 20, 2021

Members Present: Theresa Swanick (chair), Tim White (vice chair), Jim Pittman, Nate Williams, Knute Ogren, and Mike Cahalane.

Others Present: Rebecca Boyden (Zoning Officer), Tom Hart (selectman), Matt Howe (executive director of Green Mt Conservation Group – GMCG), Eve Klotz, Billie Lunt, Chuck Fuller (selectman), Corey Lane (Porter, ME), David Bellinghiri, Mellisa and Chris Seamans, Erik Jones, Bill Elliot (Freedom), Charles and Harriett Greystone, Grace Fuller, Chris Williams (UST design engineer), Mark Winslow (UST installer), Mark and Jacob McConkey (applicant’s rep), Prince and Neha Garg (owner/applicant), Jim Doucette (owner’s real estate broker/representative).

Continuation of Meena Variance Public Hearing - 6:05pm

Chair explained the minute-taker is unavailable, please sign in on a sign in sheet and we will be recording the hearing. Chair introduced the board members. Asked the public to speak clearly for the recording.

Mr. Pittman made a point of order suggesting as Mr. Cahalane sat in on the last hearing which Mr. Ogren missed, that Mr. Cahalane should be seated in place of Mr. Ogren for continuity as he has been here for all the testimony thus far.

Chair asked Mr. Ogren, who recused himself as chair of the Green Mtn Conservation Group board, so that there is not even the appearance of bias on his part. Mr. Cahalane was seated.

Chair asked the applicant if there was any additional information to add. Mr. McConkey introduced the owner Mr. Garg, installer Mr. Winslow, real estate broker Mr. Doucette, Mr. Garg’s wife, and Mr. Williams the design engineer. He asked if we were going to first proceed with public comment.

Chair said the public comment from last meeting in the form of letters were attached to the minutes of that meeting. As of tonight, the board also received letter from Dr. Robert Newton, Nora Shwartz, Jeremy Miller, and Mark Dindorf which will be added to the minutes of this meeting.

Chair asked if there were abutters attending. Billie Lunt said she did not receive notice. She was not on the abutter list. She said she has right of way to Leavitt Rd. Clerk is not present who reviewed the abutter list. Board determined she was not a legal abutter.

Chair asked Mr. McConkey to proceed. He indicated that in every other town he dealt with there has been a building permit filed to begin the process that is ruled upon. He read an affidavit of real estate broker Jim Doucette stating that he had conversations with the zoning officer Boyden, specifically asking if there was any overlay district and was told there was only a residential zone and historic zones. There was also a conversation earlier the same day with Mark the installer with essentially the same questions about what would be needed.

At some point, it was decided we were going to need a Special Exception, which was applied for and approved. Then we moved on to the Planning Board for full Site Plan review and it was discovered that this application now has to comply with a groundwater ordinance that no one had alerted them to

earlier in the process. He noted Prince had made a financial decision to purchase the property, had done his due diligence, reached out to the selectmen's representative. Everyone from the buyer under impression it was a gas station, always had been, the new owner got approval from the state to reinstall the gas pumps. In that process, they had conversations with fire personnel in town, another representative of the town.

McConkey said after being directed to review the groundwater ordinance, he sees 2204 #9 there is exemption for Underground Storage Tanks (USTs) in compliance with all applicable local, state and federal requirements. They complied with the state, in consultation with local fire chief, they did that.

McConkey noted Boyles Market was in full compliance prior to removal of the gas station. The ordinance was not to put them out of business, it was in case another gas station came to town. In 2015, they took the tanks out of service, but most people still think of it as a gas station.

Compared to other gas stations in the area, a tank in the river, one in a swamp, and Boyles since the 90s sits in a gravel pit. He suggests the applicant caught in catch-22: I always come to a town and asked what to do, fill out application, given a denial; our denial was to go for a special exception, and to move on to site plan review. We are doing that process but some suggest applicant has erred or done something wrong. He noted he brought the relevant personnel to answer the board's questions.

Chair noted it is not on the town to advise a purchaser of property of zoning implications of a purchase. McConkey said there is a shared responsibility here on advising applicants on what they should do. The zoning officer said there was no formal application ever made with this project. Chair asked to confirmed there had been no formal denial as there had been no formal application. Mr. McConkey confirmed.

Chair directed to proceed with questions from the board for the individuals attending. Chris Williams was asked to explain to lay people who might think gas stations create problems about the technology of 2021? He was asked to explain the design being proposing for this site?

Mr. Williams obtained the permit from DES. He's worked with Mark for 20-30 years, said Mark called to talked about a site, he wanted a plan developed to obtain a permit from DES. A permit is required in order to install USTs. He talked with Mark about what the owner wanted, surveyed area, designed plan for DES application. Some design review issues concerned the NH Fire Protection Code, copied to state fire marshal, and local fire department.

Mr. Williams described they installed two tanks – a 16,000 gal. tank, split compartment, 12k regular, 4k nonethanol, and a 15,000 gal. tank for 5k off-road, 5k on-road diesel, 5k super unleaded. Those are double-walled tanks, piping run to three dispensers.

Mr. Winslow the installer explained the double wall design means there in an inner wall and an outer wall with an interstitial space in between with electronic sensors that is electronically monitored 24/7 by a console inside the building. The design is containment within containment. If there is a leak inside a tank, it goes into containment and sets an alarm off, whether it is water getting in or gas getting out.

Mr. Winslow noted the double-wall piping, also electronically monitored, goes from tanks to the gas dispensers where you pump. Under the dispensers is a fiberglass sump with sensors in there, so that if water entered or gas entered, alarm would go off, a liquid alarm, monitored 24/7. He explained that the submersibles, product pressure lines, have electronic leak detection system so that if there happens to be a leak, it shuts that submersible down to prevent any more product going into the secondary containment. It's fail-proof.

Mr. Winslow has been in business 30 years, and assured this isn't like it was 30 years ago with steel tanks in the ground, single wall, no monitoring system, fittings and joints. There is only one fitting monitored at the tank and one fitting at containment, no fittings in between that could leak, all piping is UL approved by EPA, DES and tested. Very expensive. Rules come down from CA where they are very environmentally concerned. Technology better than 5 years ago. In the spill buckets where transport comes to drop a load, there are flapper valves that automatically shut off at 95%. You cannot put any more into a tank. We have 5-gallon spill buckets so if anything spills it is contained in spill bucket that is double-walled. There are annual inspections, where everything is opened up to make sure everything is clean. Town could require 6-month or 3-month inspections. Inspection console – checks everything on-site and remotely.

Mr. Garg said he is A and B certified level operator, training every year. Veeder-Root console with all the sensors – installed at head height of cashier. Tightness – in Conway when it was so hot, the pressure increase/decrease from night to day shut it down, he had to retest to get it to turn back on. He understands gasoline business is the dirtiest business in the country, grew up in it with his father got into it when he was 8 years old.

David Bellinghri asked if double-walled tank go across with double-walled pipes to pumps, and if there is anything under those? Mr. Garg affirmed, double-walled sumps underneath.

Mr. Winslow explained mechanical fitting on top of tank, continuous piping to the next fitting under the dispenser at the dispensing unit. That piping is double-walled so there is a little space in it so there is containment. If the inner wall leaks, it goes into containment which is pitched to go back to the sump where it sets off an alarm saying there is a leak. If there is more than a fraction of a leak, the pumping unit shuts down and doesn't allow pumping. If the product pressure in the line drops, it shuts down.

Mr. Bellinghri asked what about pumping gas, what if they spill? Mr. Garg assured no rain can compromise the cement pad due to canopy and there are catchment grooves - Positive Limiting Barriers. Mr. Winslow said the dispensing pad grooves designed for 5-gallon catchment per dispenser. When someone drives off with hose in car - Mr. Garg noted the breakaway is redesigned – as soon as breakaway happens: instant automatic shutdown.

Mr. Winslow explained there is a canopy for protection and those spills must be manually wiped up (absorbed with proper rags) per protocol and it has to be clean up immediately.

Nate Williams asked about the presence of canopy over the diesel dispenser. Mr. Garg said no but still working on that part. Chair Swanick noted it would be something for site plan review.

Mr. Winslow spoke of tightness tests on everything installed: on tanks, on piping, on sumps on top of tanks, on sumps under dispensers – all results given to DES for review.

Mr. Garg notes DES required visual inspections monthly of all components on site. Annual testing by state. That's our insurance – we have to make sure. Mr. Cahalane asked if annual testing was done by outside agency? Done by DES per Mr. Garg.

Mr. White asked re spill cleanup – C class operational personnel on site, trained in operation and cleanup. DES required. Mr. Pittman asked how many stores does Mr. Garg runs now – six.

Mr. Cahalane thanked GMCG for making minutes available from when the groundwater ordinance was drafted back before it was adopted by the town. He said the links were sent to the board and he hope that deliberative process of two years becomes part of the record. He specifically noted discussions of prohibited uses and or gas stations in GMCG committee minutes of March 12, 2010, May 14, 2010, June 11, 2010 out of 24 meetings. In the March 12, 2020 mtg, it was suggested that lining bunkers, monitoring systems, etc. could be sufficient to allow this type of system in the aquifer. Mr. Cahalane asked the gentlemen present what is different today from the designs of 2010.

Mr. Winslow said fiberglass for one, double-walled, much more compatible with the gasoline product and does not corrode like old steel tanks. There are lesser expensive systems but this sensor system is highly sophisticated to monitor 24/7 remotely.

Chris Williams says DES has changed rules every two years; they are as strict as the federal rules.

Mr. Cahalane noted RSA 485-C:12 that the state groundwater protection act only prohibits 6 uses, not including as stations. Chair Swanick noted that groundwater overlays are an effort to add additional protection locally as an additional level of protection.

Mr. Pittman suggested to remain focused on the ordinance as it stands. He asked Mr. Winslow about the current installation, who said the DES inspection happened before the backfilling. He noted they even brought out the director of DES to see a properly installed site. Mr. Pittman asked about his proceeding without a building permit. He said he called Rebecca and she said it was not zoned for gas station and he would need to get a special exception from the ZBA. He said he called Mr. Garg and said he needed to call Rebecca to go forward. Mr. Garg was traveling and left things to Mr. Doucette. Mr. Doucette called her and said he decided to proceed to assume risk as they were going to lose subcontractors so they decided to proceed without a building permit.

Mr. Cahalane asked about the economics of the operation, was Boyles losing money and you got a great deal or why is gas required for survival of business. Mr. Garg said you have to have gas to attract customers to the convenience store. He said it's essential services even in national emergency.

Chris Williams noted what happens when a sensor fails: it shuts down the system. That didn't exist five years ago. Mr. Winslow added that issues can be diagnosed from afar via computer to diagnose.

Mr. Doucette noted there is a lot of fear based on old technology and old systems, and now, that stuff is all monitored. Mr. Garg affirmed he uses technology to make sure nothing bad happens.

Mr. Pittman noted the Closure report finding about contamination identified underneath the pump island. Do you take action on that? Mr. Winslow said there was not any cleanup issue. Chair Swanick noted that report insists the site must maintain safe drinking water standards. Mr. Garg affirmed that is required for their food services under different government regulations..

Mr. Seamans offered that his aunt was previous owner, sold to Mr. Boyle, who chose not to upgrade the tanks. If Mr. Boyle had upgraded, he would not have had to comply with the groundwater protection ordinance. Mr. Cahalane noted that the years without gas operation is the catch here, over two years without a use is considered abandoned by the zoning ordinance.

Chair Swanick asked about additional sump requirement from DES handout, to drastically reduce probability of releases by requiring all tank top connectors – fill, pump and automatic tank gauging (ATG) risers – occur within collared sumps, and by requiring double walled piping for the underground portion of vent pipes. She asked Mr. Winslow if this was what he installed?

Mr. Winslow explained fills have spill-buckets, are double-walled with sensors that are monitored, and also tank gauges have collared sumps. Each day spill buckets are checked per Mrs. Garg, and they are locked each night per Mr. Garg.

Eve Klotz expressed her concern that they proceeded with a highly engineered system without a building permit or due diligence and waiting for the proper process with the town. Mr. McConkey again said they weren't advised they needed a building permit.

Mr. Pittman thanked the owner and applicant's representatives for coming and testifying.

Chair Swanick asked about testing for leak detection as compared to 2012 DES handout that says they used to test down to low amount of leakage but then were unable to test to zero leakage.

Mr. Winslow said if there was a fraction of leakage, it would shut itself down but it would be contained. If there is a leak, it would run back to a sensor within piping and shut off.

Swanick asked how it is possible for there to be a release with this design? Mr. Winslow said it would shut down. There is containment with sensors that shut off automatically. New breakaways, auto shut off, and any gas still in hose is not coming out due to valve shutoff with plunger suction.

Swanick indicated in 2012 there could be a tiny leak continuing undetected. Mr. Winslow assured now that would be contained and sensor would detect. Mr. Cahalane asked would 12oz trip a sensor? The sensors are on the bottom on the containment.

Swanick asked about the interstitial sensors. Mr. Garg noted they are wrapped around the entire tank. Swanick asked, are you saying there could not be an undetected leak? That appears to be what you designed (to Mr. Williams) and have you done it? Yes, I have met DES permit requirements.

Swanick asked re public water well, 175' from the dispenser. Mr. Williams says because it is located in the same place as previously registered facility in the DES system, meets the rules, passed review.

Swanick read from an email that DES' Chad Hayes reviewed this project, wrote that the design is specifically to detect small quantity of liquid so any issue is caught before groundwater release.

Mr. Cahalane – what maintenance is required? Mr. Winslow visual inspections to check systems.

Mellisa Seamans spoke in support of the variance. One criteria is public interest – she thinks it would be a value to the community to rejuvenate the site. Theirs is the best system to protect our health and safety and our groundwater and their livelihood.

Mr. Pittman moved to close public comment. Mr. Cahalane seconded. All in favor, the motion passed 5-0, at 8:32pm.

Mr. Pittman moved to begin deliberation at another time and date certain, Mr. Cahalane seconded, all in favor, the motion passed 5-0.

Chair called a break for a few minutes.

Mr. Cahalane moved to Continue deliberation to July 29 at 7pm at the town offices, Mr. White seconded. All in favor, the motion passed 5-0.

Minutes of 7.8.21 - Motion by Mr. Pittman, seconded by Nate to approve as corrected, all in favor. 'Bought' should be 'brought' in 4th line from bottom of page 1.

Minutes of 6.15.21 - Motion by Mr. Pittman, seconded by Mr. White to approve with correction adding the word 'regulatory' before 'obligation' in the 3rd paragraph on the 3rd page. All in favor.

Minutes of 4.12.21 - Motion by Mr. Pittman, seconded by Mr. White to approve with corrections: misspelling in 5th paragraph from bottom on page 1, precedents (vs precedence) and correct typo, hyphen in place of zero in 4th paragraph from bottom on page 2.

The December 14 and 21st of 2020 minutes will be reviewed as homework and approved at next meeting.

Adjournment:

Motion to adjourn by Mr. Pittman, seconded by Mr. White, all in favor, the motion passed 5-0.

Adjourned at 9:10pm



Department of Geosciences
Smith College
Northampton, Massachusetts 01063
413-585-3946
newton@smith.edu

To: The Effingham Zoning Board

July 17, 2021

With Regard to: Variance Application for Meena LLC represented by Mark & Jacob McConkey, requesting a variance from Article 22 Section 2207(A)(8) to allow the owners to operate a gas station in the groundwater protection district

My name is Bob Newton. I am a professor emeritus of geosciences at Smith College in Northampton Massachusetts where I taught courses in groundwater hydrology and geomorphology. I have unique knowledge of the Ossipee Aquifer at the site of the proposed gas station as I mapped the surficial geology of the Ossipee Lake 15 minute quadrangle for the State of New Hampshire in 1974*. Since that time, I have been involved in a number of other groundwater studies of the Ossipee Aquifer done in cooperation with the Green Mountain Conservation Group.

The Ossipee Aquifer is a highly productive groundwater resource, hosted by stratified drift deposits that were deposited by meltwater streams associated with the melting of the Laurentide Ice Sheet, approximately 15,000 years ago. These highly porous sand and gravel deposits are exposed at the surface in the area of the proposed gas station, making this part of the primary recharge area for the aquifer. Any contaminants that enter the ground in this area will rapidly infiltrate and move into the groundwater system. Gas stations have a long history of contaminating groundwater in New Hampshire and those located in primary recharge areas have resulted in significant aquifer contamination with large impacts to local residents.

One of the critical issues in this case is the nearby location of houses that rely on domestic wells for their water supply. There are approximately 20 houses located within 1000ft of the proposed gas station. There is no program for routine monitoring of the water quality of these wells. If contaminants were to enter the aquifer, residents would have no way of knowing that their water supply was contaminated until they developed health problems and benzene (a major component of gasoline) is a known carcinogen.

These risk factors are well known and this is precisely why most municipalities (including Effingham) have local ordinances that prevent the location of gas stations in primary recharge areas. To grant a variance in this case would show a wanton disregard for the health and safety of nearby residents.

I am sorry that I am unable to attend the meeting on July 20 but would be happy to answer any questions that you might have via email.

Sincerely,

Robert M. Newton PhD
Professor emeritus, Smith College

*Newton, R.M., 1974, Surficial geology of the Ossipee Lake Quadrangle, New Hampshire: New Hampshire Department of Resources and Economic Development, Concord, New Hampshire, 52 p.

From: Nora Schwarz <nmpschwarz@gmail.com>

Sent: Monday, July 19, 2021 12:12 AM

To: zba.admin@effingham.net

Subject: Variance Application for Meena LLC represented by Mark & Jacob McConkey, requesting a variance from Article 22, Section 2207(A)(8) to allow the owners to operate a gas station in the groundwater protection district. The property is listed as Tax Map 401-

To: The Effingham Zoning Board

From: Nora Schwarz, Fryeburg Resident, Fryeburg Water District Trustee, Saco River Corridor Commissioner, Saco Headwater Alliance Board Member

Please do not grant a Hardship Variance for a gas station in the Groundwater Protection District. Gas stations are a prohibited use in the groundwater protection district. Any contamination to the Ossipee Aquifer will undoubtedly impact the Ossipee River as well as water quality down river and it is incumbent upon you to use these specific criteria to evaluate the request for a variance:

The variance will not be contrary to the public interest; The standard has not been met because this variance is contrary to the public interest because there is no existing gas station on this site and the public voted to prohibit this use in the Groundwater Protection District to protect their groundwater, their health, and safety.

The spirit of the ordinance is observed; This standard has not been met because issuing this variance would violate the spirit of the Ordinance. The applicant acknowledged that this property has not been a gas station since 2015. The decision the citizens of Effingham made to protect their water should not be disregarded by allowing this prohibited use which will endanger their health and safety.

Substantial justice is done; This standard has not been met because the property owner will not be deprived of any rights as a result of this variance being denied because the property was purchased significantly after the Groundwater Protection District was approved and after the former owner of the property had long since discontinued the previously existing gas station. The application states "Develop/operate a gas station in the Groundwater Protection District" which is strictly prohibited. The applicant's not having done due diligence prior to purchasing a convenience store in the Groundwater Protection District does not mean that the Ordinance can be violated. The Ordinance exists for this reason.

The values of surrounding properties are not diminished; This standard has not been met because the surrounding property values could easily be diminished due to groundwater contamination. The previously existing gas station is irrelevant, it has not been in existence for many years.

Literal enforcement of provisions of the ordinance would result in an unnecessary hardship; This standard has not been met because there is no hardship in this application. The applicant did not do their due diligence and regardless if they were or were not advised that there was a local regulatory component that they needed to comply with it it their responsibility! Their mistake and not a hardship. The Ordinance states no tank standard for allowance so their using a "superior" tank is irrelevant. If the applicant wished/planned for a gas station at this location they should have consulted the Zoning Board before they purchased the property, hindsight is 20/20 but it does not offer a variance.

Thank you for your attention to this, please do not grant a variance, this gas station should not be permitted!

Sincerely,

Nora



SACO HEADWATERS ALLIANCE
496 POTTER ROAD
CENTER CONWAY, NH 03813

July 20, 2021

Zoning Board of Adjustment & Planning Board
Town of Effingham
68 School Street
Effingham, NH 03882

RE: Variance Application for Meena LLC represented by Mark & Jacob McConkey, requesting a variance from Article 22, Section 2207(A)(8) to allow the owners to operate a gas station in the groundwater protection district.

To the Honorable Members of the Effingham Zoning Board of Adjustment & Planning Board,

The Saco Headwaters Alliance, a 501c-3 nonprofit founded in NH in 2019 with a mission to Protect and Conserve abundant and clean ground and surface waters, and promote sustainability and resiliency in the watershed of the Saco River headwaters in New Hampshire and Maine, would like to add our voice in opposition to the proposed variance to allow the applicants to operate a gas station in the groundwater protection district of Effingham.

The citizens of Effingham wisely enacted the Groundwater Protection Ordinance over ten years ago to protect the water resources of its community and for the public health and wellbeing of its citizens and all who share in this vital natural resource. Pollution and contaminants do not recognize political boundaries, and any contamination of the watershed and its aquifers affects the public health and wellbeing of all citizens and all life within the watershed ecosystem.

To approve a variance to this ordinance for the benefit of a single commercial entity while ignoring the public health benefits that the groundwater protection ordinance represents is short sighted and does not meet the five statutory requirements to approve a variance.

The Saco Headwaters Alliance concurs with the many voices in opposition to this variance request. Corey Lane summed it up succinctly in her letter to the ZBA in opposition to the variance request:

"1) The variance will not be contrary to the public interest; *This requested variance IS contrary to the public interest because there is no existing gas station on this site and public voted to prohibit this use in the Groundwater Protection District to protect their groundwater, and in turn their health, safety and general welfare. This standard has not been met.*

2) The spirit of the ordinance is observed; *The issuance of this variance would clearly violate the spirit of the Ordinance. The applicant acknowledges that this property has not been a gas station since 2015. The decision the citizens of Effingham made to protect their water should not be disregarded. Allowing this prohibited use would not promote the health, safety and general welfare of the inhabitants of the town. This standard has not been met.*

3) Substantial justice is done; *The property owner will not be deprived of any rights when this variance is denied because the property was purchased long after the Groundwater Protection District was approved and long after the former owner of the property discontinued the previously existing gas station. The application states "Develop/operate a gas station in the Groundwater Protection District" which is strictly prohibited. Just because the applicant did not {do} their due diligence prior to purchasing a convenience store in the Groundwater Protection District does not mean that the Ordinance can be violated. The Ordinance is available to the public for this reason. This standard has not been met.*

4) The values of surrounding properties are not diminished; *The surrounding property values could easily be diminished due to groundwater contamination. The applicant again mentions the previously existing gas station, however, that has not been in existence for many years, so it is not relevant today. This standard has not been met.*



SACO HEADWATERS ALLIANCE
496 POTTER ROAD
CENTER CONWAY, NH 03813

5) and Literal enforcement of provisions of the ordinance would result in an unnecessary hardship. *There is no hardship in this application. The applicant did not do their due diligence and stated that "they were not advised that there was a local regulatory component that they needed to comply with". The applicant not having sufficient "advisors" does not create a hardship. If it did, the Ordinance would be useless. The applicant also states that they will have "superior tanks" which is irrelevant. The Ordinance states no tank standard for allowance and the applicant should have been consulted prior to the purchase if a gas station was desired at this location. This standard has not been met."*

The Saco Headwaters Alliance agrees with the letter written by Lorie Dunn of the Green Mountain Conservation Group:

Effingham was one of the towns that voted to adopt a Groundwater Protection Ordinance (GPO). As you know, the purpose of this ordinance, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater. These objectives are met by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

Gas stations are among a handful of activities recommended by NH DES as a prohibited use within sensitive drinking water zones. We would like to draw your attention to a 2020 document prepared by the NH Department of Environmental Services entitled "Preventing Groundwater Contamination at Gas Stations – What Municipalities and Water Suppliers Can Do," which elaborates the risk.

Gas stations, given the inherently high risk of contamination from underground tanks, vapor release and surface spillage, should be prohibited from sensitive drinking water zones. The residents of Effingham recognized this risk and wisely adopted protective measures more than 10 years ago in the town's zoning ordinance. This is explicitly specified in Effingham's zoning ordinance in Article 22, section 2207, item 8 on page 53.

The Saco Headwaters Alliance joins the GMCG in respectfully asserting that it is the obligation of the Zoning Board of Adjustment and the Planning Board to uphold the town's existing Groundwater Protection Ordinance. A variance to allow a use that is expressly prohibited sets the stage for future prohibited uses to be allowed in sensitive drinking water protection areas. SHA & the GMCG request that the Zoning Board of Adjustment adhere to the town's zoning ordinance as written. This is the best way to safeguard critical drinking water supplies for present and future generations.

Thank you for your consideration and for doing the right thing for the watershed and the people of Effingham.

Sincerely,

Mark Dindorf
Executive Director,
Saco Headwaters Alliance

July 20, 2021

Dear members of the Effingham Planning Board and of the Effingham Community,

Hope this letter finds you all well. My name is Jeremy Miller and I am writing to express my strong concern regarding the recent decision to grant a hardship variance to allow the opening of a gas station within the groundwater resource protection zone, in Effingham NH.

I have spent the last 17 years working for the National Oceanic and Atmospheric Administration (NOAA) coordinating an environmental monitoring program here in Southern Maine at the Wells National Estuarine Research Reserve (www.wellsreserve.org). I am also part time faculty at the University of New England's Department of Environmental Studies where I earned a degree in Environmental Science with a minor in Marine Biology back in 2003. I am also a resident of Buxton, ME which borders the Saco River, downstream from the NH/Maine boarder, and am a commissioner on the Saco River Corridor Commission.

So instead of pointing out the obvious environmental concerns with installing underground gasoline tanks, (along with above ground discharge, runoff, etc.) within a groundwater protection district, I would instead like to focus on how the board was able/will be able to grant a hardship variance for this application, despite any evidence of a "hardship."

I am firm believer in following rules. I am also a super fun guy, I swear! I have a 6 and a 9 year old at home. Enough said. They must follow the rules at school, at home, and in public. There are rules and laws that govern what we can and cannot do within our communities. Those rules and laws are voted upon by your community members in the spirit of protecting and preserving the community you all share. In this instance, the town of Effingham voted to adopt a Groundwater Protection Ordinance (GPO). The purpose of this ordinance is in the interest of public health, and to preserve, maintain, **and protect from contamination** existing and potential groundwater supply areas and **to protect surface waters that are fed by groundwater**. Those are the key things or "provisions" of this ordinance that you as planning board members must uphold, in the absence of "extreme circumstances" or "hardships."

From my understanding of this application, there is no reason that a hardship variance should have been granted to the applicants. From what I understand, (from reading the minutes from previous meetings), the variance was based upon the applicants lack of "due diligence" in researching and understanding local regulations and zoning, before investing in this property. It is indeed a very unfortunate turn of events for the applicant, but these events are based upon their own lack of preparation/research/etc. Granting this variance sets a dangerous precedent for the town of Effingham moving forward in my humble opinion.

I would ask that the board reconsiders its decision to grant a hardship variance in this particular situation, unless the applicants can demonstrate some hardship that would exclude them from this ordinance. Otherwise, we demonstrate that these rules and laws, voted upon by your community members, and which you swore an oath to uphold, are meaningless.

Thank you very much for your consideration, and for your time and service as planning board members!

Sincerely,
Jeremy W. Miller
13 Seavey Drive.
Buxton, ME. 04093

