

February 2, 2022

Via Electronic Mail Only –  
natefogg@effinghamnh.net

Town of Effingham Planning Board  
c/o Theresa Swanick, Chair  
68 School Street  
Effingham, N.H. 03882

**Re: Meena, LLC – Site Plan Review Process**

Dear Planning Board

I and my office represent the applicant, Meena, LLC (“Meena”), relative to its request for Planning Board approval for its Site Plan Application that is currently pending before the Board. I write in response to the January 28, 2022 correspondence from Attorney Bedard, a copy of which I only received today.

Attorney Bedard raises arguments that have no bearing on or relevance to the Site Plan review approval process. Attorney Bedard stresses that the application is incomplete but does not provide any details relative to why Meena’s application could be considered incomplete. He makes vague allegations regarding review of documents but without any specificity. There is no need for the Planning Board to engage a third-party engineer for this review given the focused nature of the contemplated project and the fact that this property historically operated as a gas station. This argument appears to be nothing more than an effort to try to raise the costs for Meena to seek Planning Board approval.

The issue relative to the cease and desist order is irrelevant to the Planning Board’s analysis. Meena has sought and obtained a variance from the Zoning Board, so it is in full compliance with the zoning regulations at this time. It is Attorney Bedard’s clients that are seeking to appeal that variance approval.

Meena also takes issue with Attorney Bedard’s characterization of the ZBA decision. We believe the ZBA decision was fully and appropriately decided and believe the Superior Court will agree with us. Meena has no opposition to making site plan approval conditional on obtaining all of the necessary permits, which is a standard and customary requirement.

There is no basis to seek a regional impact analysis for this project. Attorney Bedard's argument is classic bootstrapping. Attorney Bedard suggests without any empirical or scientific evidence that the gas station will cause a leak into the aquifer. However, there is zero evidence that has been presented that there is any meaningful risk of this occurring. Rather, there is a greater risk of a spill into the lake from a boat refueling on the lake or a tanker accident on the highway. The analysis and concern about a hypothetical spill appears predicated on a gross misunderstanding of the technological evolution that has taken place in safely designing gas stations to prevent leaks. The applicant has obtained approval from all relevant state agencies to be able to operate the facility. The tanks and all piping are double-walled and the tanks and lines have built in leak sensors. These are just some of the safety features. The entire facility will be regularly monitored and inspected. Thus, there is simply no quantifiable risk that a spill would occur, and even if a spill did occur, there is even less risk that it could enter into the aquifer given the robust measures in place as mandated by both the state regulations and the Zoning Board of Adjustment decision.

Finally, Meena objects to the apparent bullying effort by Attorney Bedard to try to convince Ms. Swanick to recuse herself. We are aware of no objective facts that would support such a recusal process. It is Ms. Swanick per statute that is authorized to determine whether she needs to recuse herself. To our knowledge there is no factual basis for such a recusal and this appears to be motivated less by concerns over any alleged conflicts of interest and more about concerns that Ms. Swanick does not agree with Attorney Bedard's client's perspective.

For all these reasons, the Planning Board should deem the Site Plan Application complete and then move forward on the approval process expeditiously.

Very truly yours,

*/s/ Matthew R. Johnson*

Matthew R. Johnson  
MRJ/dmp

cc: Biron L. Bedard, Esq. ([bbedard@ranspell.com](mailto:bbedard@ranspell.com))