



DEPARTMENT OF DEVELOPMENT SERVICES – PLANNING DIVISION
REPORT: Variance request at 923 Maple Ave
 for consideration May 3, 2022

STAFF REPORT

TO: Zoning Board of Appeals
PREPARED BY: Paul Ashworth, Senior Planner
paul.ashworth@hartford.gov

PROJECT: 923 Maple Avenue
PARCEL ID: 210-754-081
P&Z-COMM-2022-0584

ZONE: MS-3, Main Street

TYPE: Request for a variance from Section 4.20.4.F – Fuel Pumps & Canopies, to allow four (4) fuel pumps in the front yard

APPLICANT: John Bailey Kennelly

OWNER: A Broad Street, LLC



Overhead View – City of Hartford GIS 2022

BACKGROUND INFORMATION

The subject property is occupied by a nonconforming commercial center building and one (1) fuel pump and one (1) fueling canopy in the front yard. The applicant is proposing to increase the number of fuel pumps from one (1) to four (4) and increase the size of the fueling canopy. Fuel pumps and fueling canopies are required by the Hartford Zoning Regulations (the Regulations) to be located in the rear or internal side yard. The current pump and fuel canopy are located in the front yard and are therefore considered nonconforming. The proposed construction would expand both structures in the nonconforming location and constitute an expansion of a nonconforming characteristic. Expansion of a nonconforming use, structure or characteristic is prohibited by the Regulations; thus, the applicant has requested a variance to allow the fuel pumps and fueling canopy in the front yard by right.

In 1963 the site was approved for conversion from limited auto repair with parking for twenty (20) cars to limited auto repair and fueling station with parking for eight (8) cars. At that time the site was approved for two (2) pumps and two (2) separate fueling canopies. One fuel pump and canopy, or pump island, was to be located on the east side of the lot closer to Maple Avenue, and the other pump island was to be located on the north side of the lot closer to Linnmoore Street. Today, only the Maple Avenue adjacent fuel pump and canopy remain.

No previous action has been taken regarding the current request and the subject property is not designated historic or within a historic district.

STATEMENT OF HARDSHIP

The Applicant provided the following statement:

Site Plan and Variance Application 923 Maple Avenue Section 4C

State the particular hardship or unnecessary difficulty that prompts this application and cite the section of the zoning regulations that you are seeking relief from.

The parcel in question is irregular in shape and dimensions. It is utilized as a gas station and a food mart. Section 4.20.4F requires that the fueling pumps be located in the side or rear of the building. This is impossible due to the shape of the lot and the existing layout of the fueling system. Compliance with this regulation would require the applicant to raze the building in question and reorient it and the pumps in relation to Maple Avenue. These are conditions unique to this building and parcel and requiring that the building be leveled to conform with the regulations constitutes an unusual hardship.

The applicant's full supporting narrative can be found attached to this report as Attachment 1.

KEY APPLICATION TIMELINES

- Application Submission Date: February 28, 2022
- Date Application Accepted as Complete: February 28, 2022

- Application Date of Receipt: April 4, 2022 (sooner of either: date of next regularly scheduled meeting, or 35 days after acceptance of complete application)
- Public Hearing is scheduled to open on Tuesday, May 3, 2022; Open Hearing Deadline: June 8, 2022.
- Close Hearing Deadline (if opens May 3, 2022): (35 days after opening) Tuesday, June 7, 2022
- CT General Statutes Sec.8-7D allow that the applicant may consent to one or more extensions of time, provided the total extension of all time periods shall not be for longer than 65 days.

LEGAL STANDARD

Standard for Application Type:

The ZBA shall have the power under Chapter 124 of the Connecticut General Statutes to vary the application of the zoning laws, ordinances, or regulations when the conditions affecting a particular parcel but not the general district cause exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed. The board must take into consideration conserving the public health, safety, convenience, welfare, and property value solely with respect to the affected parcel. (City of Hartford Zoning Board of Appeals Bylaws, Article II, Sec. 3)

STANDARD SPECIFIC TO THE USE

Section 4.17.2.A Fuel Pumps & Canopies – Any fuel pumps and/or canopies shall be located in the rear or interior side yard per Section 4.20.4.F Accessory Structure: Fueling Pumps and Canopies.

Section 4.20.4.F Fuel Pumps & Canopies – Facility associated with a commercial or industrial use that distributes fuel.

- (1) **Yard.** Permitted in side and rear yards.
- (2) Areas outside the drive, access, parking and pashing areas shall not be paved (refer to 7.3 Parking Design Standards).
- (3) A frontage Buffer is required (refer to 6.8 Frontage Buffer).
- (4) **Height.** The height of the structure shall not exceed 18 feet at its highest point from any single finished grade location.

Section 1.5.4 Nonconforming Structures: A building or structure that was lawfully established but that no longer complies with applicable regulations.

Section 1.5.4.E – No nonconforming structure shall be enlarged or structurally altered except to make it a conforming structure or to comply with requirements of health and safety laws or ordinances or regulations.

Section 4.5 Commercial center Building Type

Chapter 6 Sitework & Landscape

Chapter 7 Parking

FINDING OF FACTS

Building & Veranda Lines

Maple Ave – Building line at 18', Veranda line is at 9.5' from the right-of-way.

Linnmoore St – Building line at 20', Veranda line at 12' from the right-of-way.

Existing Conditions

Fueling Pumps & Canopy

- One (1) pump aligned parallel to Maple Ave.
- Fuel pump is located approximately 25' from the front property line (Maple Ave) and ~40' from the corner side property line (Linnmoore St).
- The canopy is ~20' by ~20' or 400 sf.
- The canopy extends to ~15.5' from the property line along Maple Ave.

Site Conditions

- Lot is 0.39 acres or 16,966 sf.
- Current impervious surface ratio is 84%.
- Eight (8) marked parking spots.
- Four (4) curb cuts, two on each frontage.



Figure 1. Existing Conditions Aerial Photo – Eagleview 2022

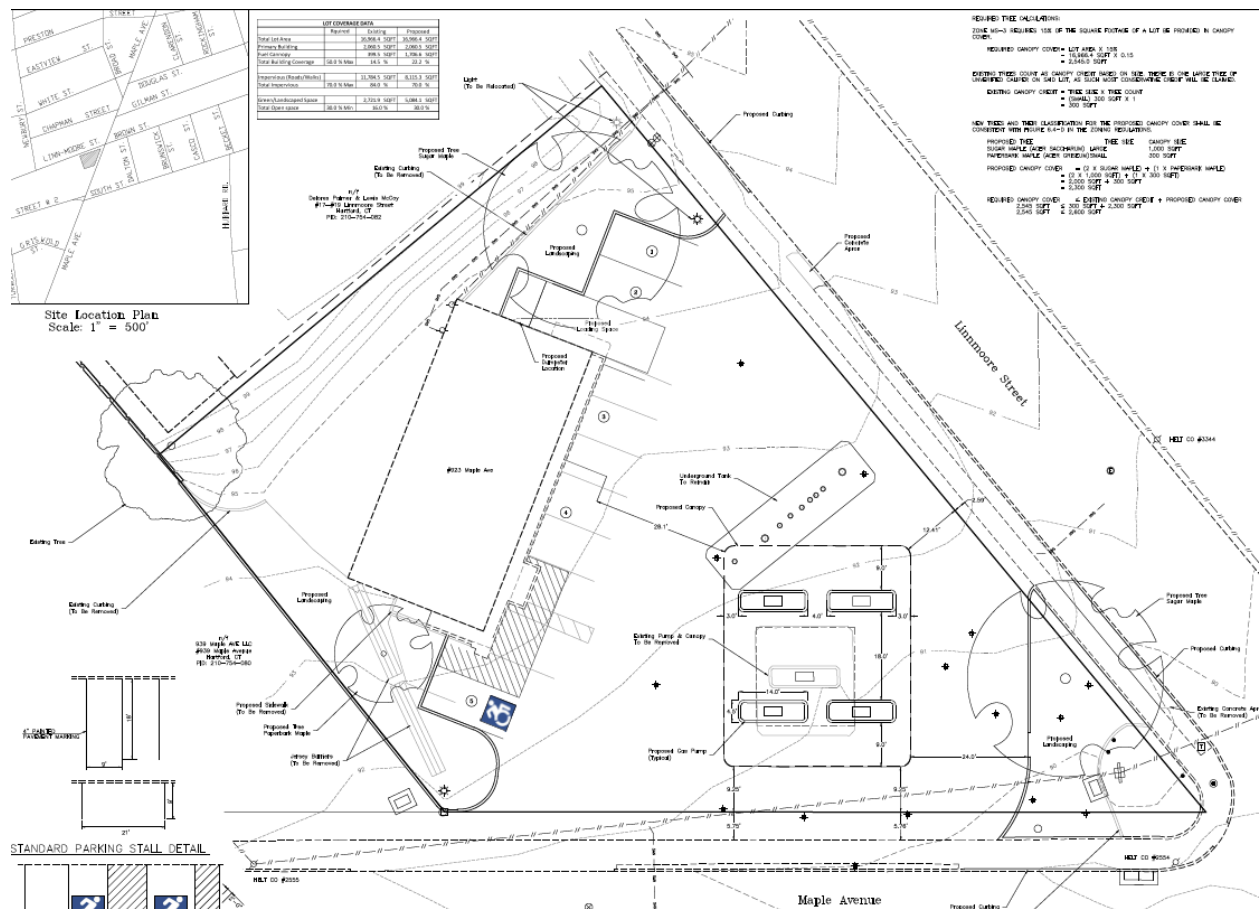
Proposed Conditions

Fuel Pumps & Canopy

- Four (4) fuel pumps aligned parallel to Maple Avenue.
- Fuel pumps to be located 18' from the front (Maple Ave) property line and ~18' from the corner side property line (Linnmoore St).
- The proposed canopy is 45' by 38' or 1,710 sf.
- The proposed canopy will extend to 9.25' from the property line along Maple Ave and 12.41' from the property line along Linnmoore St.

Site Conditions

- Impervious surface ratio would be reduced to 70%.
- The existing landscape island in the northeast corner of the site is proposed to be enlarged and will include one (1) tree.
- Two (2) more trees are proposed in the parking adjacent landscape areas.
- The applicant has proposed to close the curb cut closest to the intersection on Maple Ave leaving three (3) operational curb cuts.
- Proposed conditions are detailed on the site plan titled "Proposed Improvements Land of A Broad St LLC" by Juliano Associates, last revised 02/25/2022 (see Attachment 2 for the entire plan).



COMMENTS RECEIVED (DEPARTMENTS, AGENCIES, NRZs, PUBLIC)

The Maple Avenue Revitalization Group (MARG NRZ) was notified of the subject request on March 23, 2022. As of this writing no official response has been received by staff.

Staff also received a letter from a community member laying out their opposition to the subject request. That letter is attached to this report as Attachment 3.

The Hartford Department of Public works reviewed the proposed plan and expressed concern over vehicle circulation. They noted that the proposed pump in the northeast position may require cars to be located such that turns out of the space would require the vehicle to cross the sidewalk. The root concern being that this may create a pedestrian hazard. Please find DPW's markup below as Figure 3.

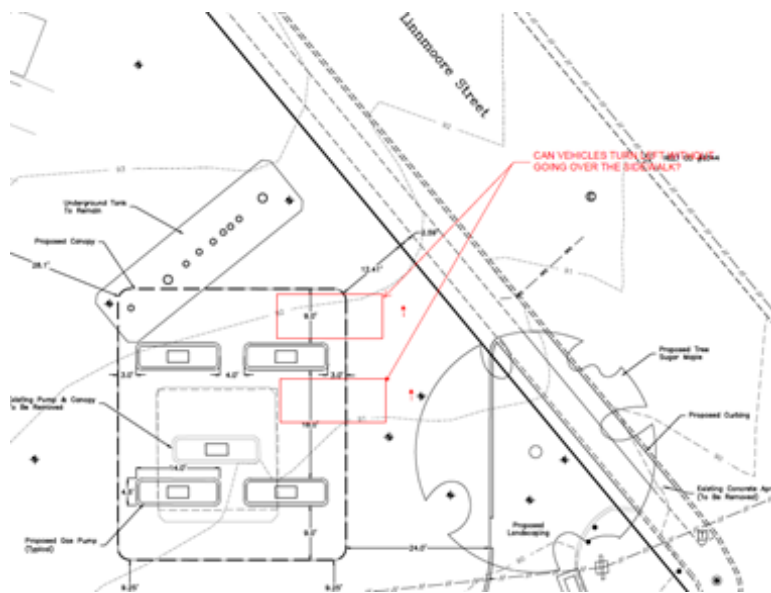


Figure 3. DPW Markup on Proposed Plan – DPW 2022

ANALYSIS

The applicant has argued that a hardship is present because of the odd shape of the lot and because the location of the existing building does not allow adequate space for fuel pumps or fueling canopies in the rear or internal side yard. The condition asserted by the applicant is indeed the case and the fuel pumps and fueling canopy would not function in the existing rear or side yards as defined in the Regulations. The existing building is located too close to the rear and internal corner of the property to allow this modification to be made. However, this condition does not sufficiently justify a hardship. Further, while the lot does have an acute angle in its northeast corner, the lot is of sufficient size that a redeveloped lot with a conforming layout would be functional as a fueling station. The property owner is not denied use of their property and the regulatory prohibition against expansion of a nonconforming structure is an established, well supported expression of the police powers.

The layout of the subject property, operating as a gas station, is not unique in the City of Hartford. The majority of gas stations in the City of Hartford are in a similar nonconforming layout with pumps in the front yard and a convenience store or principle structure in the rear. The intention of the Zoning Regulations to phase out this design is made clear in section 1.5 of the Regulations regarding nonconformities. Section 1.5 states that “no nonconforming structure shall be enlarged or structurally altered except to make it a conforming structure.” The design required by the Regulations with the building at the street and the auto-related accessory structures in the rear is also consistent with the overall pedestrian focus of the Regulations.

The intention of the commercial center type building is “to be both pedestrian-friendly and convenient for vehicular access.” The building should create a positive pedestrian oriented environment at the street and separate the automobile-centered uses by placing them in the rear yard behind the building. The pedestrian focus on the street-side of the building is partly accomplished through the build-to zone requirement and the required occupation of the corner. Proximity of the store entrance to the sidewalk has been shown to positively impact the pedestrian environment. The current request to permit expansion of the fuel pumps and canopy in the front yard is contrary to the intention of this building type and places increased vehicle activity between pedestrians and the commercial center.

The MS-3, Main Street district is more oriented towards automobiles than the MS-1 or MS-2 districts, but a balance between the general pedestrian focus of the overall Zoning Regulations and vehicle-oriented uses is maintained. For instance, the Regulations describe the MS-3 district as being the only Main Street district that “introduces a limited number of vehicle-oriented buildings and uses” (e.g. fueling stations) but further states that the district is “intended for commercial corridors that balance the needs of pedestrians and vehicles by limiting driveways and orienting building entrances to the sidewalk.” With this clear intention for vehicle-oriented uses to be kept well separate from pedestrian infrastructure, and buildings to face and abut the sidewalk, staff find the current request to be inconsistent with the overall intent of the Zoning Regulations.

There are several site characteristics that are nonconforming other than the arrangement of structures, including: the total impervious surface area, the lack of landscaping buffers or trees, and the number of curb cuts. The proposed plan represents an improvement over existing conditions and the applicant has expressed willingness to work with Staff. However, the current proposed plan does not meet all zoning requirements. Frontage buffers are not provided and some of the drive aisles exceed the maximum 22’ width as required by Sec.4.17.2.D.

Should the ZBA find that a hardship is present and move to approve the requested variance, Staff recommend that the ZBA include conditions to mitigate the negative impacts of the design. Staff recommend that the Board condition their approval with the requirement that above grade or otherwise protected pedestrian pathways be provided from the public sidewalk to the entrance of the existing commercial center building from each frontage. These pathways would emulate the pedestrian safety provided by a building at the build-to line. Further, should the existing building located ~14.5’ from the southwest property line and ~14.4 feet from the southeast property line ever be redeveloped or removed, the variance should be considered null and void. Staff find that at time of building redevelopment, the pumps and the fueling canopy should be moved to the rear yard and the building brought forward to a conforming location. Finally, Staff find that if the variance is approved, that with the proposed construction, all site characteristics should be brought into conformance with the current Zoning Regulations. If by adding the required landscape buffers the

applicant is unable to accommodate the proposed four (4) fueling pumps, then only those fuel pumps that can be accommodated shall be permitted.

Variance VS Text Amendment

When evaluating whether a hardship is caused by Section 4.20.4.F it is important to recognize that every gas station in the City of Hartford with the exception of one, is in a similar configuration to the subject property. It is further worth noting that the site configuration is common locally and has been established for several decades. Two important points can be derived from this commonality. The first is that the Connecticut General Statutes require each variance to be supported by a hardship caused by "...conditions especially affecting such parcel but not affecting generally the district in which it is situated...". The prevalence of these conditions throughout all districts therefore makes the burden of proof of a hardship more difficult. The second important point is that these conditions were common across the city at the time the subject regulations were adopted. It can therefore be surmised that the drafters of the Regulations intended for these properties to become nonconforming. The current difficulty caused by "...literal enforcement of [the] ordinance..." was at least in part, premeditated and intended, in hopes to encourage better design. However, it could be the case that the total impact caused by this element of the regulations is more burdensome than anticipated. If the regulation is overly burdensome, staff find that the most appropriate path to alleviate this burden may be to confer with the Planning & Zoning Commission to evaluate potential solutions. The text amendment process could mitigate the burden for all properties, as opposed to a variance for each individual property.

STAFF RECOMMENDATION

Staff recommends the Zoning Board of Appeals deny the subject request for a variance. However, should the ZBA find that a hardship is present and moves to approve the variance, staff recommend the ZBA include the following conditions of approval:

1. Should the existing nonconforming commercial center building located ~14.5' from the southwest property line and ~14.4 feet from the southeast property line ever be redeveloped, demolished, or significantly altered, or the property ever change to any use other than fueling station, that the variance be considered null & void.
2. The variance shall allow only those fuel pumps that can be accommodated when the buffers and all other regulatory requirements of the Zoning Regulations are met, not to exceed four (4) pumps.
3. Above grade or otherwise protected pedestrian pathways be provided from the public sidewalk to the entrance of the existing commercial center building from each frontage.

A draft resolution follows.

ATTACHMENTS

1. Applicant Narrative and Justification Statement
2. Site plan titled "Proposed Improvements Land of A Broad St LLC" by Juliano Associates, last revised 02/25/2022
3. Community Member Letter of Opposition dated April 28, 2022 (Alyssa Peterson)

REVIEWED AND EDITED BY,

Aimee Chambers, Director



**CITY OF HARTFORD
ZONING BOARD OF APPEALS RESOLUTION
923 MAPLE AVENUE**

VARIANCE REQUEST FOR FUEL PUMPS AND A FUELING CANOPY IN THE FRONT YARD

- Whereas,** The City of Hartford Zoning Board of Appeals reviewed the application and attached documents regarding the request for a variance from Section 4.20.4.F – Fuel Pumps & Canopies, to allow four (4) fuel pumps and an expanded fueling canopy in the front yard; and
- Whereas,** The subject property is located in the MS-3, Main Street district; and
- Whereas,** Section 4.20.4.F requires that all fuel pumps and fueling canopies be located in the rear or internal side yard; and
- Whereas,** There is one (1) pump located in the front yard of the subject property and the current request would modify the existing pump’s location within the front yard and add three (3) new pumps; and
- Whereas,** The current request is to expand the existing fuel canopy located in the front yard from ~400 square feet to 1,710 square feet; and
- Whereas,** The subject property is occupied by an operational gas station consisting of a nonconforming commercial center building and one (1) fuel pump, fuel canopy and parking; and
- Whereas,** The existing commercial center building is located in the internal, rear corner of the property approximately ~14.5’ from the southwest property line and ~14.4 feet from the southeast property line, such that in order for the property to come into complete compliance, the entire site would need to be redeveloped; and
- Whereas,** The existing layout of the subject property is common in the City of Hartford for such uses in the MS-3 district; and
- Whereas,** The proposed variance to allow the expansion and alteration of fuel pumps and the fueling canopy in the front yard represents an expansion of a nonconforming

characteristic; and

Whereas, The location of the fuel pumps and fueling canopy between the principle structure and the public sidewalk creates conditions unfavorable to pedestrian circulation and safety; and

Now therefore Be It

Resolved, The City of Hartford Zoning Board of Appeals hereby **denies/approves** the request for a variance from Section 4.20.4.F – Fuel Pumps & Canopies, to allow four (4) fuel pumps and an expanded fueling canopy in the front yard:

IF ZBA MOVES TO APPROVE -

- 4. Should the existing nonconforming commercial center building located ~14.5’ from the southwest property line and ~14.4 feet from the southeast property line ever be redeveloped or significantly altered, or the property ever change to a use other than fueling station, that the variance be considered null & void.
- 5. The variance shall allow only those fuel pumps that can be accommodated when the buffers and all other regulatory requirements of the Zoning Regulations are met, not to exceed four (4) pumps.
- 6. Above grade or otherwise protected pedestrian pathways be provided from the public sidewalk to the entrance of the existing commercial center building from each frontage.

Be It Further,

Resolved, This 3rd day of May, 2022.

Attachment 1 – Applicant Narrative and Justification Statement

Site Plan and Variance Application 923 Maple Avenue Section 4C

State the particular hardship or unnecessary difficulty that prompts this application and cite the section of the zoning regulations that you are seeking relief from.

The parcel in question is irregular in shape and dimensions. It is utilized as a gas station and a food mart. Section 4.20.4F requires that the fueling pumps be located in the side or rear of the building. This is impossible due to the shape of the lot and the existing layout of the fueling system. Compliance with this regulation would require the applicant to raze the building in question and reorient it and the pumps in relation to Maple Avenue. These are conditions unique to this building and parcel and requiring that the building be leveled to conform with the regulations constitutes an unusual hardship.

Further, this use as a gas station is in accordance with the MS-3 zone and other work as a part of this application will bring the use into further conformance. Specifically, the applicant will be increasing the tree canopy cover to conform to City regulations. Second, the applicant will be eliminating one of its four curb cuts and additional landscaping with comply with the minimum percentage of commercial building impervious surface requirements. The Board and staff should note to create the additional greenspace will require that we eliminate a neighboring parcel's use of the applicant's land for driveway access. If staff does not want us to eliminate that driveway access, the applicant will also need a variance for impervious cover. If the applicant utilizes its land which the neighbor has been accessing the rear of its building, the applicant achieves a 70% impervious cover. If the neighbor is allowed to continue to use the driveway access, then the applicant can only achieve 74% impervious cover and would be seeking a variance on these grounds as well.

It is important for the Board to note that the variance application will not substantially affect Hartford's comprehensive zoning plan. The accepted formulation for allowance of a variance is: (1) the variance does not substantially affect the comprehensive plan of zoning, and (2) adherence to the strict letter of the zoning regulation is shown to cause an unusual hardship unnecessary to the carrying out of the general purposes of the zoning plan. Smith v. ZBA, 174 Conn. 373 (1978). Requiring the demolition of the existing building to comply with back or side yard location of the fuel system does cause an unusual hardship which is unnecessary to achieve the purpose of our city's zoning plan. In fact, allowing this variance is directly in conformance with the existing goals of the MS-3 zone i.e. "vehicle-oriented services and uses."

Attachment 2 – Sheet C-1.0 “Site Plan” dated 02/08/2022 by Alfred Benesch & Company

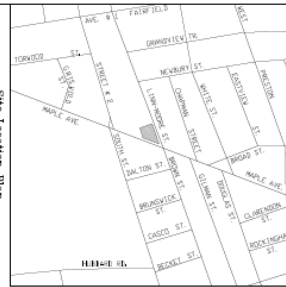
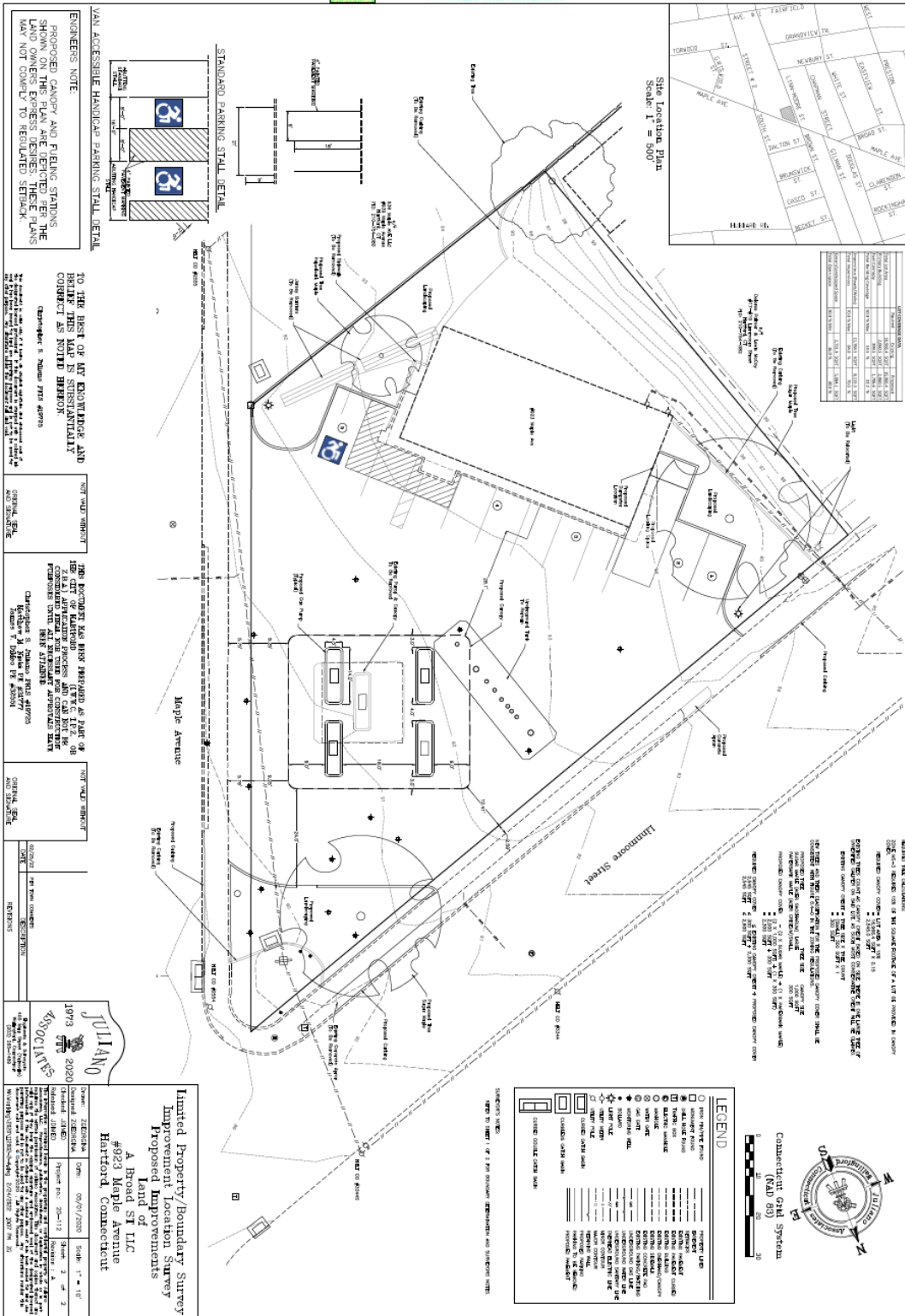
19th Century Service



JULIANO ASSOCIATES, LLC
 405 MAIN STREET (VALESVILLE)
 WALLINGFORD, CONNECTICUT
 Voice 203-265-1489 Fax 203-949-1528
 WWW.JULIANOASSOCIATES.COM

21st Century Technology

Project Name: 20-112
 A191



DESCRIPTION	DATE	BY	CHKD BY
DESIGN	02/08/2022	ALB	ALB
CHECKED	02/08/2022	ALB	ALB
APPROVED	02/08/2022	ALB	ALB

ENGINEER'S NOTE
 PROPOSED CANOPY AND PILING STATIONS SHOWN ON THIS PLAN ARE DESIGNED FOR THE LANDSCAPE DESIGNERS THESE PLANS CAN NOT BE USED TO REPLACE A DESIGN.

TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.
 I am not a professional engineer and do not intend to be held out as such.

NOT VALID SURVEY
 THE BOUNDARY HAS BEEN ESTABLISHED AS PART OF THE SET OF PLANS AND IS NOT TO BE CONSIDERED FINAL. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE BOUNDARY WITH A PROFESSIONAL SURVEYOR.

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United Property/Boundary Survey Improvement Location Survey Proposed Improvements
 A Land of LLC
 #923 Maple Avenue
 Hartford, Connecticut

Client: 20-112
 Date: 02/08/2022
 Project No: 20-112
 Sheet 2 of 2
 Scale: 1" = 10'

Attachment 3 – Community Member Letter of Opposition dated April 28, 2022

Sent via email to:

Commissioners, Hartford Zoning Board of Appeals
c/o City of Hartford Planning Dept.
Constitution Plaza
Hartford, CT

Commissioners,

I am sorry to have to write a negative letter in this manner, however, I feel misled by the conduct of some Maple Avenue NRZ Board members. I attended our monthly meeting several weeks ago at which it was reported that board members met with the owner of 923 Maple Avenue and approved the addition of a pump at the gas island, added vegetation, and curb cuts that would prevent perpetual cut-throughs by vehicles on this large corner property. That sounded reasonable, similar to the reconfiguration and concessions being made to 145 New Britain Avenue that benefited all parties (owner, neighborhood, City).

Instead, I see through the drawing submissions to meetinginfo.org that this property owner is adding a SECOND island with not much additional vegetation and ONE (1) curb cut, for a total of FOUR (4) pumps. This is UNACCEPTABLE and not the information conveyed to the group.

I object to this altered plan/drawing submitted, plus the reasons stated do not qualify this owner for a variance according to settled case law. I will be in attendance at next week's meeting to testify against the ill-conceived plan, false need for a variance, and will further object to the notice. The attorney for the applicant put up the sign at 12:55PM on Sunday, April 24th (was wearing a pink oxford and torn jeans), thus I believe the requisite notice provision is off by one day.

Respectfully,

Alyssa Peterson
297 Grandview Terrace
Hartford, CT 06114

cc: NRZ Chair under separate letter cover