

Planning & Zoning  
Community Development  
Conservation Commission  
Historic District Commission

PLANNING AND DEVELOPMENT DEPARTMENT  
City Hall - Second Floor  
31 Wakefield Street  
Rochester, New Hampshire 03867-1917  
(603) 335-1338 • Fax (603) 335-7585  
[www.rochesternh.net](http://www.rochesternh.net)

RECEIVED  
JUN 20 2012  
Planning Dept.

### APPLICATION FOR A VARIANCE

TO: BOARD OF ADJUSTMENT  
CITY OF ROCHESTER

Phone No (508) 270-4000

DO NOT WRITE IN THIS SPACE

CASE NO. \_\_\_\_\_

DATE FILED \_\_\_\_\_

ZONING BOARD CLERK

Name of applicant Cumberland Farms, Inc.

Address 100 Crossing Boulevard, Framingham, MA 01702

Owner of property concerned: Same

(If the same as applicant, write "same")

Address Same

(If the same as applicant, write "same")

Location 299 North Main Street, Rochester, NH 03867

Map No. 115 Lot No. 41 Zone Business 2 (B2)

Description of property Retail motor fuel outlet which includes a 3,991 sq. ft. building consisting of convenience store and an AT&T Wireless retail store and a fuel dispensing area with 4 dispensers (8 fueling positions) and an overhead canopy.

Proposed use or existing use affected Retail motor fuel outlet which includes a 4,503 sq. ft. convenience store and fueling dispensing area with 4 dispensers (8 fueling positions) and an overhead canopy.

The undersigned hereby requests a variance to the terms of Article 42.8 Section (c)(3) and (c)(5) and asked that said terms be waived to permit a pylon sign located two (2) feet from the front property line and as to the size of the pylon sign, and to permit two (2) additional signs on the canopy in addition to the one (1) sign that is already permitted on the building.

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance.

Signed By: Cumberland Farms, Inc.  
Kathleen A. Sousa  
(Applicant)  
Kathleen A. Sousa, Land Planning Manager

## CRITERIA FOR VARIANCE

Case # \_\_\_\_\_

Date: \_\_\_\_\_

A Variance is requested by Cumberland Farms, Inc.

from Section 42.8, Subsection (c)(3) and (c)(5) of the Zoning Ordinance to permit a pylon sign located two (2) feet from the front property line that is 106 Sq. Ft. per side (75 Sq. Ft allowed), and to permit two (2) additional signs on the canopy and one (1) sign that is already permitted on the building.

at 299 North Main Street Map No. 115 Lot No. 41 Zone Business 2 (B2)

Facts supporting this request:

- 1.) The proposed use would not diminish surrounding property values because:

See attached

- 2.) Granting the variance is not contrary to the public interest because:

See attached

- 3.) Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property:

See attached

- 4.) Granting the variance would do substantial justice because:

See attached

- 5.) The use is not contrary to the spirit of the ordinance because:

See attached

Cumberland Farms, Inc.

Name By: Kathleen A. Sousa

Date: June 18, 2012

Kathleen A. Sousa, Land Planning Manager

**CUMBERLAND FARMS, INC.**  
299 North Main Street  
Map 115, Lot 41

**APPLICATION FOR VARIANCES**

**Introduction**

Cumberland Farms, Inc. is the current owner of the property located at 299 North Main Street in Rochester, New Hampshire. Cumberland Farms, Inc. operates an existing convenience store/gas station on the site. In addition, there currently exists a tenant on site, selling wireless phones. The property is depicted on the City of Rochester's tax maps at Map 115, Lot 41. The property consists of an existing building which contains 3,991 sq. ft. The property also includes gasoline dispensers, utilized for the sale of gasoline to the general public. The property is located in the Business-2 (B2) Zone. Retail sales and gas operations are permitted as a matter of right in the B2 Zone. As a result of a reciprocal easement previously granted to McDonald's, there exists shared access to the property between the Cumberland Farms, Inc. store and the McDonald's restaurant.

Cumberland Farms, Inc. intends to completely raze and rebuild the existing building with a new 4,513 sq. ft. convenience store. In addition, they will replace the canopy and gasoline dispensers. The property will also no longer have a tenant with a separate business on the parcel.

Copies of plans depicting the proposed project are attached hereto. The number of gas dispensers will remain the same with four (4) dispensers, containing eight (8) fueling positions. As a result of the improved site layout, the activity on the site will be moved further back from the frontage, thus facilitating the location of the required vegetative buffer, and increasing traffic flow within the property, resulting in a safer environment for members of the public utilizing the business. In addition, we have enclosed copies of elevations of the proposed new building and canopy. The façade will certainly result in an increased aesthetic presentation of the property, all of which is understood to be of importance to the City, as this area represents one of the gateways to the City of Rochester.

The Applicant has identified that it will require certain variances. Specifically, a pylon sign will be proposed to be located within the middle of the frontage. Currently, the Rochester Zoning Ordinance allows for pylons, but requires a ten (10) foot setback. The Applicant however, can only locate this sign within two (2) feet from the property line. However, the sign will actually be located ten (10) feet from the existing curb line along Route 11. In addition, the size of the sign will need to be addressed before the Zoning Board of Adjustment. Currently, the existing sign is 72 sq. ft. per side. At one time, the sign was actually greater than the existing sign, as it used to include a 4 ft. diameter gulf circle sign on top of the existing signage. Nonetheless, the proposed sign will be approximately 106 sq. ft. per side, where 75 sq. ft. per side is allowed. In addition, the Applicant proposes that two (2) signs be located upon the canopy in addition to the one (1) sign that is already permitted to be located on the building. Currently, the existing building contains three (3) wall signs. As the zoning regulations only provide for one (1) wall sign per lot, the Applicant will be seeking a variance to allow these two (2) small additional signs on the canopy.

As mentioned above, the following variances are required from the Zoning Board of Adjustment in order to proceed:

DESCRIPTION	PERMITTED	EXISTING	PROPOSED	ORDINANCE SECTION VARIANCE REQUESTED FROM
Wall Sign	(1) 5 SF Sign for each SF of building frontage x 18 in., or 520.85 SF Total	78 SF <sup>1</sup> <sup>1</sup> Includes (1) 4' x 12' Cumby's sign and (2) 3' x 5' Retail signs for AT & T store	<b>Building Wall Sign</b> 37.6 SF (permitted) <b>Canopy Signs</b> 11 SF x 2 signs = 22 SF Total (variances required)	Section 42.8 (c)(3)
Pole/Pylon Sign (as to size)	75 SF per side, or 150 SF Total	72 SF per side Sign <sup>2</sup> <sup>2</sup> Includes 4.5' x 6' Cumby's sign; 2.5' x 6' Price sign; & 5' x 6' Wireless sign	106 SF per side sign, or 212 SF Total (variance required)	Section 42.8 (c)(5)
Pole/Pylon Sign (as to location)	10 FT	14 FT	2 FT, and located 10 FT from existing curb line along Route 11 (variance required)	Section 42.8 (c)(5)

**Request for Variances**  
**Facts Supporting this Request**

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

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of structures already located upon the Applicant's property. In this instance, the location, modernization and aesthetic upgrades planned will have no negative affect upon any abutter, with respect to its property, as the use will be consistent with the existing and surrounding use. Granting the variances will not diminish the surrounding property values.

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

The Applicant respectfully submits that the proposed use and requested signage represents a reasonable use of the property in question. The requested wall signage on the canopy and the size and location of the pylon in the proposed location is in keeping with local uses and the character of the surrounding properties and is appropriately sized and designed to balance the interests of visibility while minimizing light spillage via internal illumination.

**3. Denial of the variance would result in unnecessary hardship to the owners because of the following special circumstances of the property:**

Some of the general purposes of the ordinance are to promote health and welfare and to encourage the most appropriate land uses in various parts of the City. For the reasons set forth above, the Applicant respectfully submits that the restrictions that cannot be met by the Applicant are not necessary to enforce in order to protect the purpose of the ordinance. Thus, there is no conflict between the general public purpose of the ordinance, and enforcing the restrictions for which the Applicant seeks the variances.

In this instance, the Applicant seeks to modernize the facility and to move the structures away from the frontage of the property. The signage proposal on the canopy is suitable given the small nature of the signage. Due to the unique characteristics of the property, to the extent that the variance is not provided with respect to a pylon sign, given the limited amount of space that would exist on site, a pylon sign would be unable to be located on the frontage at all, and would result in dramatically less public visibility, which would be a significant impediment to utilization of the property and could impair the public's safe and proper use of the site.

The proposed use is reasonable because it will allow the facility to be upgraded. The result will be that the building containing the convenience store and canopy that will be located further away from the frontage, thus increasing the safety of the patrons of the site, with a betterment of the internal traffic flow of the site, and the upgrade as to site egress and ingress from Route 11.

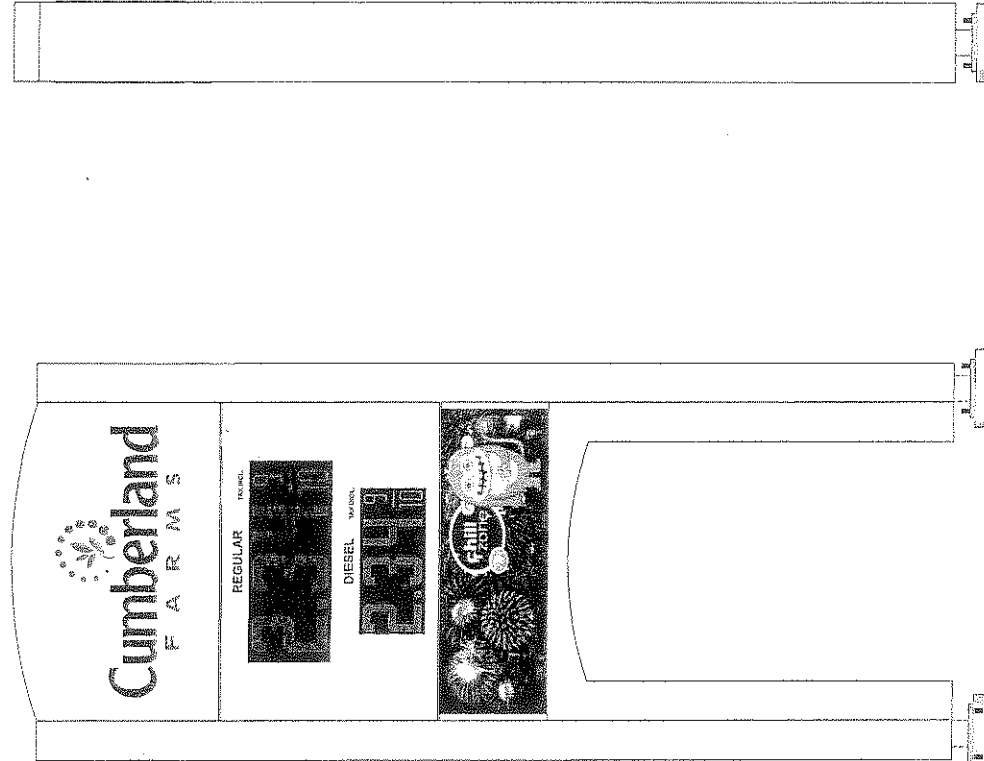
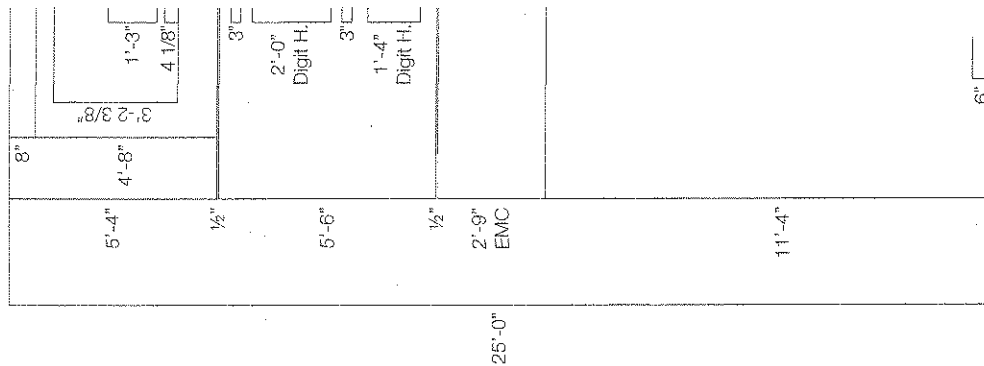
**4. Granting the variances would do substantial justice because:**

The grant of the variances would result in substantial justice as it would allow the Applicant's property to be utilized in a similar fashion as it is currently used. In addition, the aesthetic quality of the property would be far superior to the existing structures. Granting the variance would do substantial justice because the requested wall signage and the size and location of the pylon sign will promote safe and efficient access to the site by the public traveling on Route 11 and help ensure that the new store is not economically disadvantaged by inferior visibility to surrounding uses. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus resulting in substantial justice being done.

**5. The use is not contrary to the spirit of the ordinance because:**

The Applicant respectfully submits that if the variances are granted, the spirit of the ordinance would be observed as the use in question is suitable, considering the existing operation on the property. The use is not contrary to the spirit of the ordinance as, the requested wall signage and the size and location of the pylon sign is in keeping with the character, size and amount of signage for nearby commercial use. Granting the variances would therefore result in an encouragement of the most appropriate use of the land. Further, given the configuration of the lot, there would be no negative affect upon abutters and/or the public's health welfare or safety.

12" 8'-1 1/2" Cabinets 12" 2'-5/8"



(B) Sign Elevation - Side View  
Scale: 1/4" = 1'-0"

(A) Sign Elevation - Front View  
Scale: 1/4" = 1'-0"



[illegible]

NUMBER	PERCENT	DATE
1	OWNER REV	5/3/12

FOR REVIEW

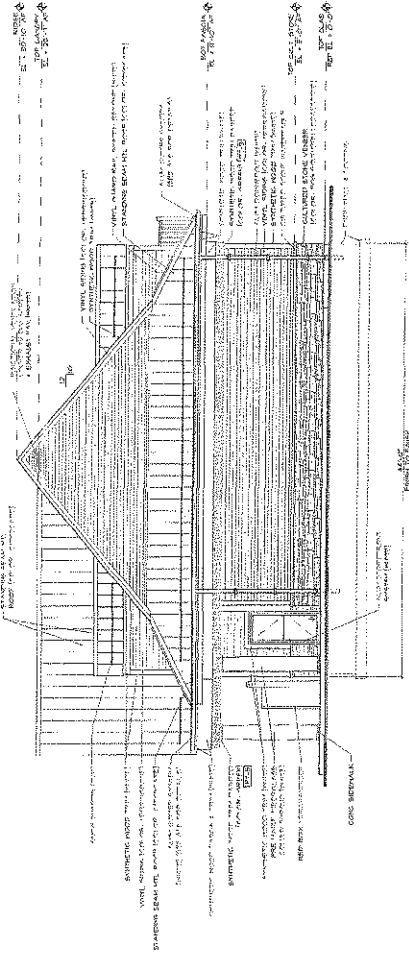


100 Dwyer Blvd., Framingham, Massachusetts  
STORE # 5434  
PROP # V1806  
299 & 301 N. MAIN STREET  
ROCHESTER, NH  
Strofford County

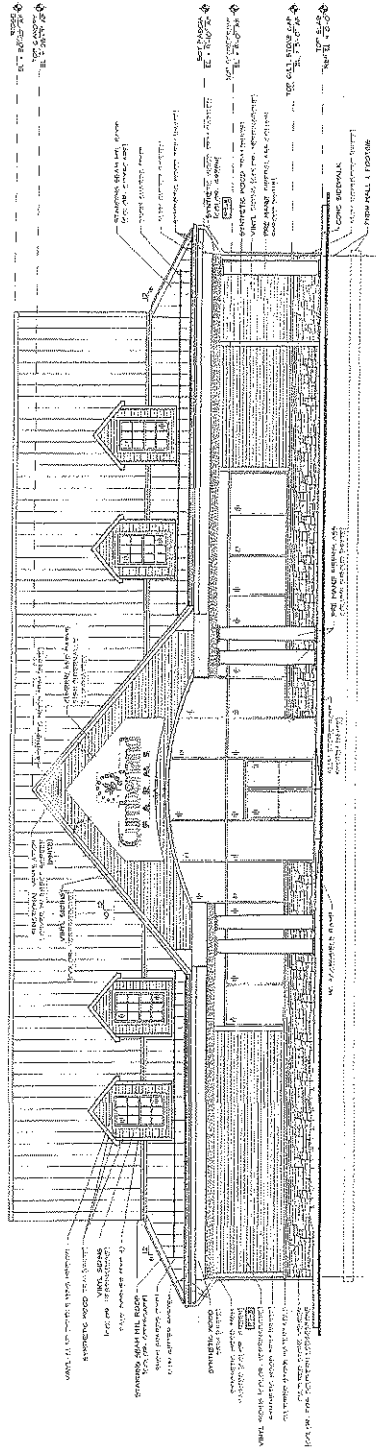
EXTERIOR ELEVATIONS

DATE	MAY 1, 2012	PRINT NO	1285
PAID BY		CHECK NO	AZ

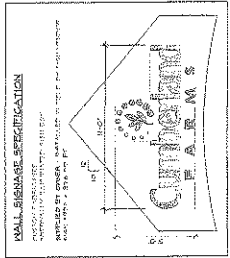
A3.1



2 SOUTH (SIDE) ELEVATION

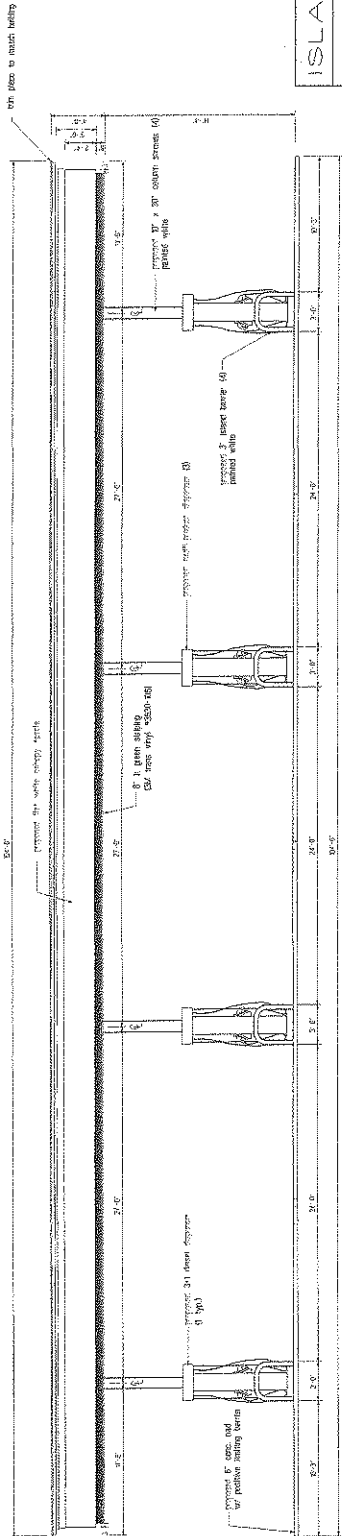


1 Wrist (Front) Elevation

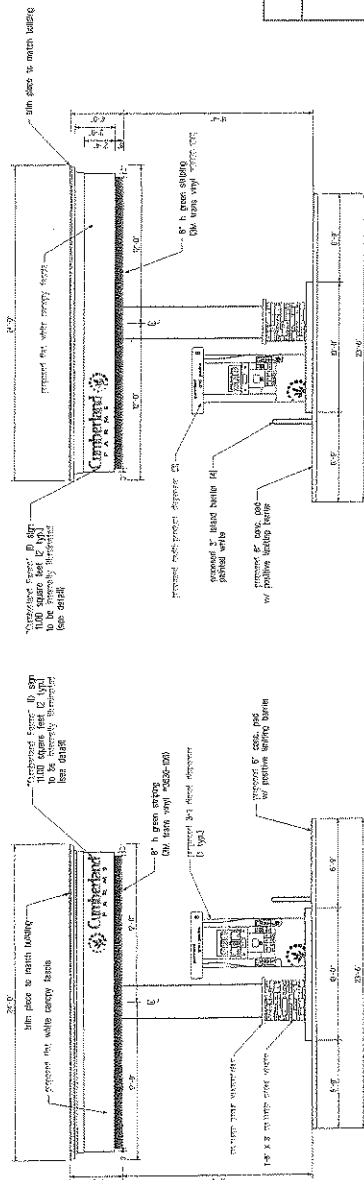


3 FRONT WALL SIGNAGE DETAIL



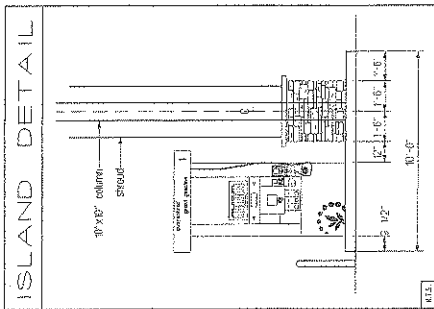
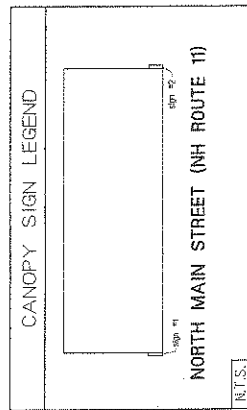


FRONT ELEVATION

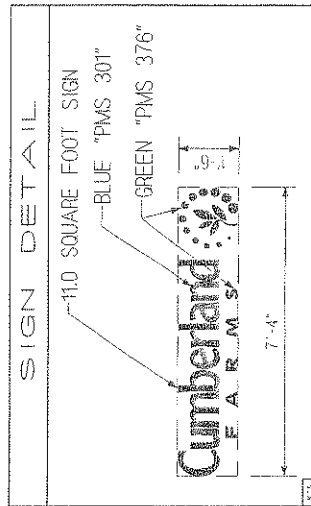


LEFT ELEVATION

RIGHT ELEVATION



ISLAND DETAIL



SIGN DETAIL

REVISIONS	DATE	BY	DESCRIPTION
1	05/11/11	VR	VR 0553
2	05/11/11	VR	VR 0553
3	05/11/11	VR	VR 0553
4	05/11/11	VR	VR 0553
5	05/11/11	VR	VR 0553
6	05/11/11	VR	VR 0553
7	05/11/11	VR	VR 0553
8	05/11/11	VR	VR 0553
9	05/11/11	VR	VR 0553
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99	05/11/11	VR	VR 0553
100	05/11/11	VR	VR 0553

PROPOSED CANOPY ELEVATIONS

309 E. 301 NORTH MAIN STREET  
ROCHESTER, NEW HAMPSHIRE  
Station# 5508  
Station# 65811

Cumberland  
FARM

GREEN PMS 376

BLUE PMS 301

110 SQUARE FOOT SIGN

7'-4"

10'-0"

8'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"



## Unofficial Property Record Card - Rochester, NH

### General Property Data

Parcel ID	0115-0041-0900	Account Number	27122
Prior Parcel ID	--	Property Location	290 NO MAIN ST
Property Owner	VSH REALTY INC V0853	Property Use	RETAIL/SVC
Mailing Address	100 CROSSING BLVD	Most Recent Sale Date	12/10/1991
City	FRAMINGHAM	Legal Reference	1993-600
Mailing State	MA	Grantor	GLIDDEN RICHARD T & NANCY J
Zip	01702	Sale Price	0
Parcel Zoning	B2	Land Area	0.520 acres

### Current Property Assessment

Card 1 Value	Building Value	228,400	Yard Items Value	25,900	Land Value	174,800	Total Value	529,100
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### Building Description

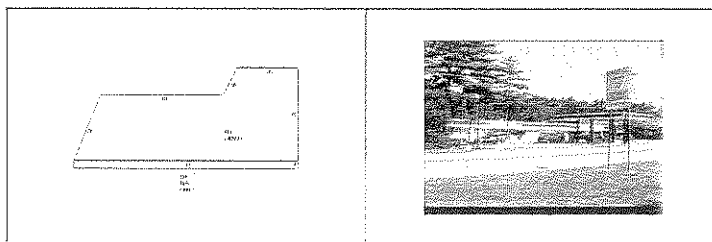
Building Style	MARKET	Foundation Type	CONCRETE	Flooring Type	AVERAGE
# of Living Units	2	Frame Type	WOOD	Basement Floor	N/A
Year Built	1975	Roof Structure	FLAT	Heating Type	FORCED H/A
Building Grade	AVG. (+)	Roof Cover	MEMBRANE	Heating Fuel	GAS
Building Condition	Good	Siding	CONC BLOCK	Air Conditioning	100%
Finished Area (SF)	4022	Interior Walls	AVERAGE	# of Bmt Garages	0
Number Rooms	0	# of Bedrooms	0	# of Full Baths	0
# of 3/4 Baths	0	# of 1/2 Baths	3	# of Other Fixtures	0

### Legal Description

### Narrative Description of Property

This property contains 0.520 acres of land mainly classified as RETAIL/SVC with a(n) MARKET style building, built about 1975, having CONC BLOCK exterior and MEMBRANE roof cover, with 2 unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 3 half bath(s).

### Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.

ABUTTER'S LIST  
CUMBERLAND FARMS, INC.  
299 NORTH MAIN STREET  
MAP 115 LOT 41  
ROCHESTER, NH  
AS OF 6/20/12

<u>MAP/LOT</u>	<u>NAME/ADDRESS</u>
115/41 (SUBJECT PARCEL)	CUMBERLAND FARMS, INC. 100 CROSSING BLVD. FRAMINGHAM, MA 01702
115/40	RLP REALTY, INC. NH CORP. P.O. BOX 1328 ROCHESTER, NH 03866
115/42	MACHRIE, LLC C/O COLLEY & MCCOY P.O. BOX 6300 AMHERST, NH 03031
115/29/1	HOME DEPOT USA, INC. # 3489 C/O ADVANTAGE IQMS 222 P.O. BOX 2440 SPOKANE, WA 99210
115/29	HANNAFORD BROTHERS CO. ATTN: REAL ESTATE P.O. BOX 1000 MS-6000 PORTLAND, ME 04104
115/31	BROCK PROPERTIES, LLC 298 NORTH MAIN STREET ROCHESTER, NH 03867
115/37	LEEMILTS PETROLEUM, INC C/O GETTY PETROLEUM MARKETING, INC. 1500 HEMPSTEAD TURNPIKE EAST MEADOW, NY 11554
SURVEYOR ENGINEER	CHRISTOPHER M. FRANCHER, L.L.S. FRANK C. MONTEIRO, P.E. MHF DESIGN CONSULTANTS, INC. 44 STILES ROAD, SUITE ONE SALEM, NH 03079
WETLAND SCIENTIST	JIM GOVE, CSS, CWS GOVE ENVIRONMENTAL SERVICES, INC. 8 CONTINENTAL DRIVE, BLDG 2, UNIT H EXETER, NH 03833
ATTORNEY	FRANCIS X. BRUTON, III, ESQUIRE BRUTON & BERUBE, PLLC 798 CENTRAL AVENUE DOVER, NH 03820