



**TOWN OF FREETOWN**  
MASSACHUSETTS  
*Office of the Town Clerk*

Cheryl C.A. Estrella, CMC  
*Town Clerk*

Timothy J. McIntosh  
*Assistant Town Clerk*

3 North Main Street  
P.O. Box 438  
Assonet, MA 02702  
Phone: 508-644-2201, ext. 2  
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[www.freetownma.gov](http://www.freetownma.gov)

March 14, 2024

Mr. Nicolas Velozo, Chairman  
Board of Appeals  
Town of Freetown  
3 North Main Street  
Assonet, MA 02702

**SUBJECT: CASE #605**

Dear Chairman and Board of Appeals:

A petition for an appeal was submitted to the Town Clerk's Office on Thursday, March 14, 2024 by Delta Realty, LLC, for the property located at 52 County Road in Freetown (East Freetown), Map 245, Lot 133.

I am therefore submitting a copy of the petition dated March 11, 2024 to the Zoning Board of Appeals to schedule a hearing.

Sincerely,

Cheryl C.A. Estrella, CMC  
Town Clerk

cc: Planning Board  
Building Commissioner  
Assistant Assessor  
Town Administrator



**TOWN OF FREETOWN**  
**COMMONWEALTH OF MASSACHUSETTS**

March 11 . 2024

- Submit two original copies (original signatures) to the Town Clerk's office -

**To the Board of Appeals:**

**The undersigned hereby petitions the Board of Appeals as follows:**

Name of Petitioner: Delta Realty, LLC

Mailing Address: 280 Ayer Road, Harvard, MA 01451

Property Owner: Delta Realty, LLC

Mailing Address: (see above for Delta Realty)

Property Address: 52 County Road, E. Freetown, MA 02717

Zone: General Use      Reg.of Deeds: Book 6748 Page 209  
(Attached)

Assessors Map #245 Lots 133 Lot Area 16,153 Square Feet

Total Frontage: 290 feet

**Nature of Relief Sought:**

x Variance from Article/Section 11.3 G of the Zoning By-Laws of the Town of Freetown, setbacks

Provide a brief description of your proposal/request:

See attached Project Description.

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If your request is for a variance, you must indicate what your hardship is. A hardship may be based on the soil conditions or topography of your property, the shape of your property, or the locations of existing structures, wells, or septic systems on your property. Simply wanting something that is not allowed under the by-laws does not constitute a hardship. Please describe your hardship(s) below:

Due to the unique, slender and triangular shape of this lot, a literal enforcement of the setback requirements set forth in the Town of Freetown Zoning Bylaws Article 11 Section 3G would result in a prohibition of any property on the site given a 50' front setback and 40' side and rear setbacks.


The Applicant has and continues to suffer a substantial hardship as the current use of the property as a gas station operated out of a small kiosk is neither financially nor practically feasible. The proposed convenience store is necessary to operate a viable, first class gas station at the subject premises.

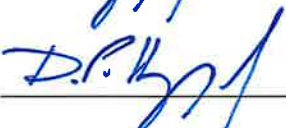
For a background regarding the previous permitting of the subject premises and the current variance which was granted by the Zoning Board of Appeals, see materials attached hereto.

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I hereby request a hearing before the Zoning Board of Appeals with reference to the above petition or appeal. All of the information on this petition, to the best of my knowledge, is complete and accurate. I understand that I will be responsible for paying the cost of newspaper advertisements for my hearing, and for the cost of notifying the abutters to my property of the hearing by certified mail, return receipt, with notices provided to me by the Board. I also understand that I will be responsible for paying the costs of any engineering, architectural, legal or other consultants deemed necessary by the Zoning Board of Appeals to assist in its consideration of this application, pursuant to G.L. c.44, §53G and that failure to timely pay such costs shall constitute grounds for denial of this application.

Petitioner Signature:  Date: 03/11/24

Property Owner Signature:  Date: 03/11/24

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

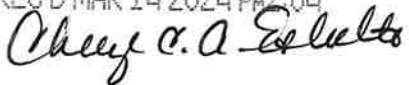
Petitioner Telephone Number: 978-697-9122

Petitioner E-mail Address: mhiggins@SouthCoastDevelopment.com

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All applications for variances should be accompanied by two copies of a site plan, and one additional copy that must be 11" x 17" in size, all prepared by an engineer. **Be sure you provide enough copies that BOTH the Town Clerk's office AND the Board of Appeals receive copies.** Your site plan should include the following:

- (a) Existing and proposed street lines and names.
- (b) Existing and/or proposed buildings, including accessory buildings.
- (c) Existing and/or proposed driveways.
- (d) General locations of wetlands and waterways, if any.
- (e) Locations of wells and septic systems.
- (f) Soil types and conditions and groundwater table, if applicable.
- (g) Setback distances from streets and abutters.
- (h) Footage for all lines of the property and total area (in acres or square feet).

FREETOWN CLERK  
REC'D MAR 14 2024 PM 2:04  


All applications for special permits for accessory apartments should be accompanied by two copies of a plan for the apartment, at least one of which must be 11" x 17" in size. **Be sure you provide enough copies that BOTH the Town Clerk's office AND the Board of Appeals receive copies.** Your plan should include the following:

- (a) Layout of the apartment in relation to the existing house.
- (b) Dimensions of rooms, and dimensions and overall square footage of the apartment.
- (c) If the apartment will require an addition to the home, the setback distances from streets and abutters.

**Project Description**  
**Zoning Board Variance Application**  
**52 County Road, Freetown, MA**

The subject premises at 52 County Road (Assessors Map 245 Lot 133) consists of a one story 200 square foot commercial building with an existing fuel canopy being used as a gas station. The building located on the lot is setback 35 feet 8 inches from Middleborough Road, 32 feet 6 inches from County Street and 45 feet from the side/rear lot line. Such lot consists of 16,153 square feet of land and has 290 feet of frontage on Middleborough Road and 290 feet of frontage on County Road.

The Zoning By-Laws of the Town of Freetown require a minimum lot area of 70,000 square feet, frontage of 175 feet, a front setback of 50 feet and side/rear setbacks of 40 feet.

The property is located in the General Use Zoning District.

As currently constituted, the premises at 52 County Road meets the minimum frontage requirement, but does not meet the area requirements nor the front/side/rear setback requirements. As such, the building is a pre-existing non-conforming structure/use whose constructing was allowed via a previous variance granted by the Town of Freetown Zoning Board of Appeals.

Article 11.3G(4) of the Zoning By-Laws of the Town of Freetown provides that "construction of new structures, additions, or expansions of existing structures within these setbacks will require a variance or special permit from the Board of Appeals."

The Applicant is proposing to building located at 52 County Road and to construct a new 1,300 square foot convenience store. The proposed 1,300 square foot convenience store will be in compliance with the frontage requirements, but will not comply with the frontage setback requirements as a setback of 20' off Middleborough Road and 20' off of County Road nor will such convenience store comply with the side/rear setback as it will be setback 15' off such rear lot line. The existing fuel canopy and septic system will remain in place.

The project as constructed and operated as a first class gas station and convenience store will be significantly more attractive, well designed, functional and beneficial to the Town of Freetown.

As indicated in the Petitioner's application, the standard for a variance is clearly met in this circumstance due to the unique triangular shape of the lots in question. If strict enforcement of the setback requirements under the Town of Freetown Zoning By Laws were applied, it would not be possible to construct any building/structure at the site.

**A variance for the relief requested above was previously approved by the Town of Freetown Zoning Board of Appeals by Notice of Decision dated January 19, 2023 and recorded at the Bristol County F.R. District Registry of Deeds in Book 11240 Page 44. A special permit and site plan approval for the above proposal was also granted by the Town of Freetown Planning Board subsequent to the approval by the Zoning Board of Appeals. This variance is being requested as a Building Permit for the above proposal was not applied for prior to the one year exercise period called for under M.G.L. Chapter 40A Section 10. However, the Applicant is still within the two year exercise period called for under M.G.L. Chapter 40A Section 9.**



Carl Bizarro  
Building Commissioner

**TOWN OF FREETOWN**  
MASSACHUSETTS  
*Office of the Building Commissioner*

3 North Main Street  
P.O. Box 438  
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[Building@freetownma.gov](mailto:Building@freetownma.gov)

March 11, 2024

Craig Medeiros  
98 E. Grove Street  
Suite 201  
Middleboro, Ma 02346

Re: Zoning Determination Letter Lot: 133 Plot: 134 (52-54 County Road)

Dear Craig Medeiros,

My office has received your application for a zoning determination relative to constructing a new gas filling/convenience store in a General Use Zone in accordance with The Town of Freetown Zoning By-Law Article 11 (11.3 continued)- (setbacks from property lines). According to the information provided, plans submitted, additional documentation and our records research, I have made the following determination that to the best of my knowledge and understanding the proposal to build on a preexisting non-conforming lot does not meet the minimum requirements set forth in the **The Town of Freetown Zoning By-Laws including Article 11 (11.3 continued) § A (Lot Sizes & Setbacks), D (Lot -Sizes and Existing lots.** You may appeal my decision to Zoning Board of Appeals in accordance with Article 11, Section 11.5 of the By-Laws of the Town of Freetown.

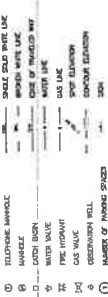
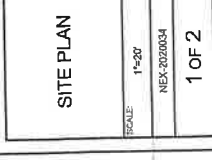
Nothing in our research suggests any violations past or present related to this particulate parcel of land. The zoning verification is made as of the date of this letter and does not constitute any representation of assurance that the property will remain in the same zoning classification for any specified period of time.

Respectfully,

Carl Bizarro

Building Commissioner, Zoning Officer

Cc: Town Clerk  
Planning Board  
Board of Health









TOWN OF FREETOWN  
**ZONING BOARD OF APPEALS**

Town Hall, P. O. Box 438 Assonet, Massachusetts 02702

Case #598

January 19, 2023

Notice of Decision  
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Freetown hereby certifies that a decision has been rendered on the application of:

Delta Realty, LLC

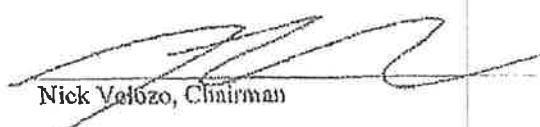
affecting the rights of the owner with respect to land or buildings at:


52 County Road, East Freetown, MA 02717, Map 245 Lot 133

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision, and that copies of said decision, and of all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws Chapter 40A, Section 11 (last paragraph) provides that no variance, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, the it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.



  
Nick Vaflozo, Chairman

  
Victoria D'Antoni, Planning and Land Use Administrator

February 17, 2023 - I, Cheryl C. A. Estrella, Town Clerk, Town of Freetown, hereby certify that the Board of Appeals approved this petition; said petition was filed in this office on January 25, 2023. No appeals have been filed.

Attest:  Town Clerk

52 County Road  
2023 JAN 25 PM 5:58  
Cheryl C. Estrella



# TOWN OF FREETOWN ZONING BOARD OF APPEALS

Town Hall, P. O. Box 438 Assonet, Massachusetts 02702

## VARIANCE DECISION

Case #598

**Petitioner/Owner:** Delta Realty, LLC  
**Address:** 280 Ayer Road, Harvard, MA 01451  
**Map & Lot:** Map 245, Lot 133  
**Deed Reference:** Book 6748, Page 209  
**Plan Reference:** N/A  
**Zone:** General

The Board of Appeals has rendered a decision under Article 11, Section 3G of the Town of Freetown Protective By-laws to **Delta Realty, LLC**, the petitioner, regarding the property located **52 County Road, East Freetown, MA 02717**, the property affected by this decision.

## **PROCEDURAL HISTORY**

1. Application for a Variance for the front, rear, and side setbacks for a proposed convenience store, pursuant to Town of Freetown Protective By-Laws, Article 11, Section 3G, was made by the above referenced applicant. The application was dated October 27, 2022 and received by the Town Clerk's office on November 14, 2022, accompanied by a plan entitled "Special Permit Site Plan, Assessors Map 245 Lots 133 and 134, 52 & 54 County Road, Freetown, Massachusetts," prepared by Greenman-Pedersen, Inc., dated August 25, 2022. The application originally proposed combining both 52 & 54 County Road to create one lot. That portion of the project has since been removed and 54 County Road is no longer a part of the application.
2. The Notice of Public Hearing was posted on November 30, 2022. The first notice appeared in the Taunton Daily Gazette on November 22, 2022, and the second Notice appeared on November 29, 2022.
3. The Zoning Board of Appeals reviewed the application, the plan, and all other materials submitted prior to the close of the public hearing.
4. A public hearing, after proper notice was given, was opened on December 14, 2022, and closed on January 11, 2023. The Board voted on the application on January 11, 2023.
5. The Board took into consideration any testimony of town residents and abutters.

## **DOCUMENTS REFERENCED**

1. Variance Application dated October 27, 2022, that included the following:
  - a. Project Description

Case #598  
52 County Road  
Delta Realty, LLC



# TOWN OF FREETOWN ZONING BOARD OF APPEALS

Town Hall, P. O. Box 438 Assonet, Massachusetts 02702

FREETOWN  
2023 JAN 25 AM 9:57

- b. Municipal Lien Certificate
  - c. Certified Abutters List
  - d. Zoning Determination dated October 13, 2022
  - e. Special Permit dated March 12, 2009
  - f. Special Permit dated June 11, 2003
  - g. Copy of Deed
2. Plan entitled "Special Permit Site Plan, Assessors Map 245 Lots 133 and 134, 52 & 54 County Road, Freetown, Massachusetts," prepared by Greenman-Pedersen, Inc., dated August 25, 2022, and revised through January 9, 2023.
  3. Plan entitled "Existing Conditions Plan, Assessors Map 245 Lots 133 and 134, 52 & 54 County Road, Freetown, Massachusetts," prepared by Greenman-Pedersen, Inc., dated July 27, 2020.

## FACTS & FINDINGS

1. The proposed use would not be detrimental to the neighborhood.
2. The proposed use would not derogate from the intent and purposes of the Protective Bylaws.

## CONDITIONS

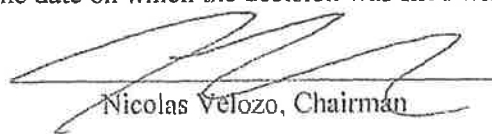
1. The existing site sign is to be surveyed and relocated if required.
2. The work described herein requires the approval of a site plan by the Planning Board pursuant to Article 11.23 of the Freetown Zoning Bylaw. Any conditions imposed in such a site plan approval shall also be conditions of this variance.

## CONCLUSION

The Zoning Board of Appeals concluded this hearing with a 3-0 vote in favor of granting the variance for the side setback from 40' to 20', rear setback from the 40' to the 15', and front setback from 50' to 20', with the above-mentioned conditions.

Members voting in favor were Nicolas Velozo, James Frates, and Swede Magnett.

Any person aggrieved by a decision of the Board of Appeals has the right to appeal such decision to a court of competent jurisdiction pursuant to Massachusetts General Laws Chapter 40A, Section 17, by filing such appeal within twenty days after the date on which the decision was filed with the Town Clerk.



Nicolas Velozo, Chairman



# 300 feet Abutters List Report

Freetown, MA  
March 04, 2024

## Freetown Board of Assessors CERTIFIED ABUTTERS LIST

EXPIRATION DATE

APR 03 2024

### Subject Property:

Parcel Number: 245-133  
CAMA Number: 245-133  
Property Address: 52 COUNTY RD

Mailing Address: DELTA REALTY LLC C/O NEW ENGLAND  
FARMS  
P O BOX 893  
W WAREHAM, MA 02576

### Abutters:

Parcel Number: 245-043  
CAMA Number: 245-043  
Property Address: 16 MIDDLEBORO RD

Mailing Address: VEIGA TARSHA L  
16 MIDDLEBORO RD  
E FREETOWN, MA 02717

Parcel Number: 245-044  
CAMA Number: 245-044  
Property Address: 12 MIDDLEBORO RD

Mailing Address: MORIARTY PATRICK R & CHRISTINE  
207 COUNTY ST  
LAKEVILLE, MA 02347

Parcel Number: 245-045  
CAMA Number: 245-045  
Property Address: 10 MIDDLEBORO RD

Mailing Address: WHITNEY ACADEMY INC  
P O BOX 619  
E FREETOWN, MA 02717

Parcel Number: 245-046  
CAMA Number: 245-046  
Property Address: 8 MIDDLEBORO RD

Mailing Address: DALOMBA AUTILIO  
8 MIDDLEBORO ROAD  
E FREETOWN, MA 02717

Parcel Number: 245-048  
CAMA Number: 245-048  
Property Address: 2 -4-6 MIDDLEBORO RD

Mailing Address: NORTHEAST VETERINARY REAL  
ESTATE LLC  
235 W CENTRAL ST  
NATICK, MA 01760

Parcel Number: 245-049  
CAMA Number: 245-049  
Property Address: 46 COUNTY RD

Mailing Address: BARBOUR DANIEL M & JULIANNE  
MANSOUR H BARBOUR REVOC TRUST  
78 FLORAL ST  
TAUNTON, MA 02780

Parcel Number: 245-050  
CAMA Number: 245-050  
Property Address: 40 COUNTY RD

Mailing Address: RELIABLE POWER SERVICE LLC  
40 COUNTY RD  
E FREETOWN, MA 02717

Parcel Number: 245-119  
CAMA Number: 245-119  
Property Address: 43 COUNTY RD

Mailing Address: KOSCIUSZKO RENATA WRONA  
43 COUNTY RD  
EAST FREETOWN, MA 02717

Parcel Number: 245-120  
CAMA Number: 245-120  
Property Address: 45 COUNTY RD

Mailing Address: CRISPIM DANIEL G & BACKUS NANC  
DANIEL G CRISPIM FMLY REV TRST  
45 COUNTY RD  
E FREETOWN, MA 02717

Parcel Number: 245-121  
CAMA Number: 245-121  
Property Address: 47 COUNTY RD

Mailing Address: D & Z REAL ESTATE INVESTMENTS LLC  
42 BRIARWOOD CT  
NEW BEDFORD, MA 02745

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3/4/2024

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# 300 feet Abutters List Report

Freetown, MA

March 04, 2024

Parcel Number: 245-122  
CAMA Number: 245-122  
Property Address: 49 COUNTY RD

Mailing Address: DAROCHA ADAM F & SULLIVAN STACY  
49 COUNTY RD  
E FREETOWN, MA 02717

Parcel Number: 245-123  
CAMA Number: 245-123  
Property Address: 53 COUNTY RD

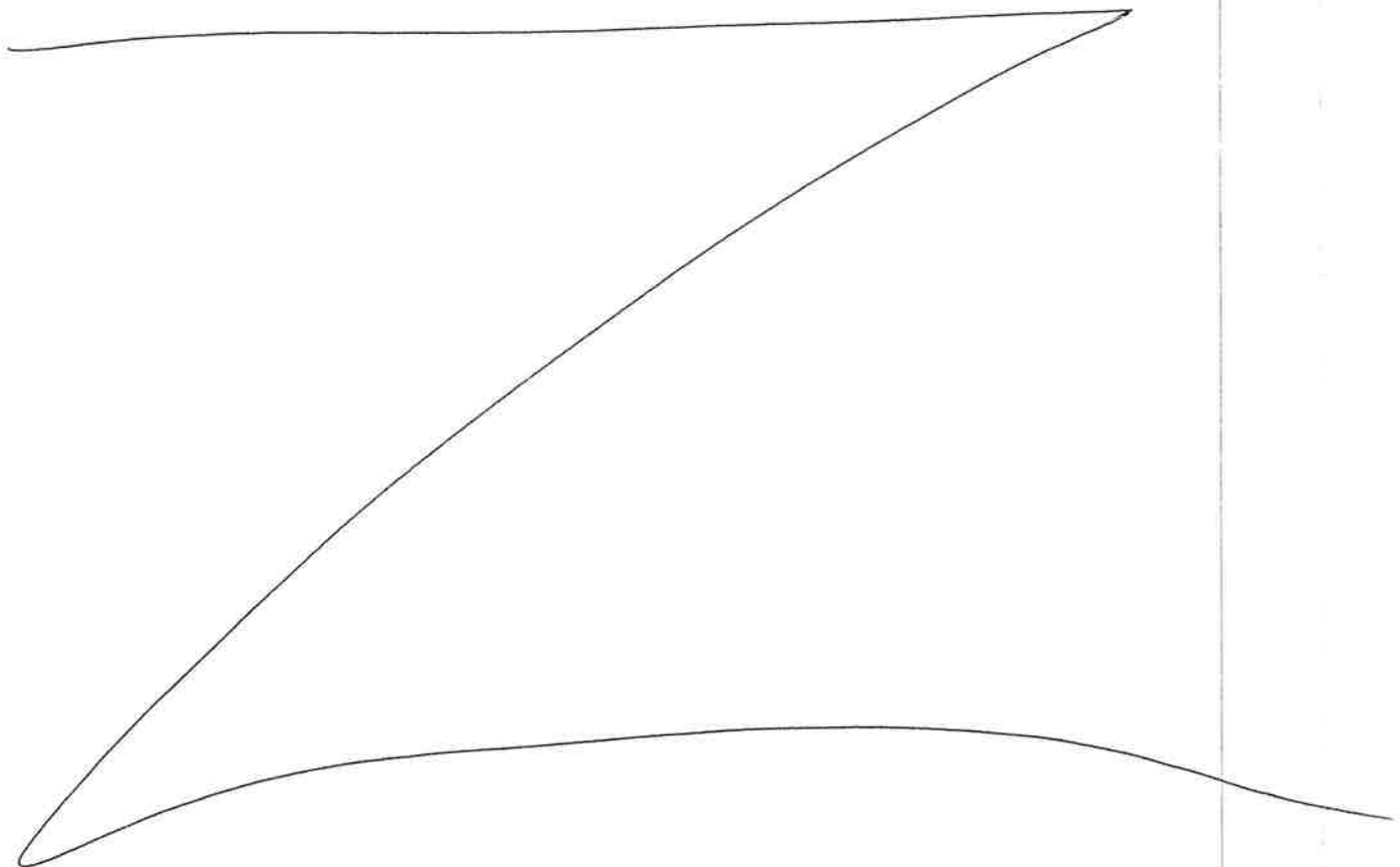
Mailing Address: FREDETTE MARIA C TR  
FIELDSTONE REALTY TRUST  
16 RENE STREET  
ACUSHNET, MA 02743

Parcel Number: 245-134  
CAMA Number: 245-134  
Property Address: 54 COUNTY RD

Mailing Address: ALPHA REALTY HOLDINGS LLC  
280 AYER RD  
HARVARD, MA 01451

Parcel Number: 245-135  
CAMA Number: 245-135  
Property Address: 17 MIDDLEBORO RD

Mailing Address: VEIGA JOHN J  
P O BOX 51  
E FREETOWN, MA 02717



3/4/2024

www.cai-tech.com

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