



## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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RICHARD L. SEEGEL

ZBA 2020-62

Petition of 199 Worcester Street, LLC  
199 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Tuesday, November 17, 2020 at 7:30 pm on the petition of 199 Worcester St., LLC requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for construction of a new canopy over the existing pump island with less than required front yard setbacks and a Special Permit pursuant to the provisions of Section 16G and Section 25 of the Zoning Bylaw for installation of six flush mounted lighting fixtures under the proposed canopy, at 199 Worcester Street, in a Business District.

On September 14, 2020, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication. In accordance with Chapter 53 of the Acts of 2020, the hearing was scheduled for November 17, 2020.

Present at the public hearing was Stanley Brooks, Esq., representing 199 Worcester St., LLC, the Petitioner. He said that also present were Gary Aharonian, Manager of 199 Worcester Street, LLC, the property owner, and Mark Smith, Project Manager, CNG Environmental.

The Chairman displayed an aerial photograph of the property with the property lines shown in red and the canopy in 1997. He said that the property line is south of the edge of the canopy. He said that he had similar maps from 2004, 2010 and 2017 that show the canopy eventually overlapping the boundary line and eventually going away. Mr. Brooks said that the canopy was demolished in 2012. He said that the service building is subject to 30 foot front yard setbacks and is compliant. He said that the proposed canopy clearly encroaches into the front yard setback. He said that he had no explanation as to why the lot lines changed over the years. The Chairman said that the length of the lot lines did not change. He said that the canopy is an accessory structure.

Mr. Brooks said that the request is for a variance for the canopy. He said that there is an easement that runs behind the building at the rear 10.5 feet of the lot. He said that without having to dig up the tanks and demolish and relocate the building, they could not make it compliant. He said that there is no other place for the canopy to go and have any useful purpose. He said that they are stuck because of the shape and the dimensions of the lot. He said that the canopy will provide public safety, convenience, protect the equipment and be more energy efficient. He said that due to the existing site specific conditions that are present on this particular lot but not generally in this district, compliance with the bylaw is impossible. He said that they are seeking relief to allow the canopy to be installed. He said that the size and the shape of the lot does not allow the business to operate within the letter and spirit of the bylaw. He said that the requested relief can be granted without any substantial detriment to the public good, for the reasons outlined the memorandum that was submitted. He said that the installation of the canopy will not substantially derogate from the intent or purpose of the bylaw and literal enforcement of the bylaw will

involve a substantial hardship, financial and otherwise, to the owner of the property because it leaves him at a competitive disadvantage with other stations.

The Chairman said that the request is for the Board to grant a variance for the location of the canopy and to grant a special permit to allow spillover of light on the south side beyond that which is required by the lighting bylaw. Mr. Brooks said that the spillage is in the range of what is allowed in a residential district under Section 16G of the Zoning Bylaw. He said that they went back to the lighting company several times and asked them to dial it down until they reached a level of lighting that was operationally safe and enhances the public safety but did not overstep the bounds. He said that there will be spillage of approximately one foot candle into the travel lane. He said that there is a sidewalk on the south side of the property line and a breakdown lane. He said that at the gutter at the curb, it is 14 feet to the canopy. He said that light spillage into that 14 feet provides a public service because it lights the sidewalk area. He said that adding seven to eight feet at the easterly entrance, it lowers to approximately three feet. He said that there is significant distance between the light and the actual travel lane. He said that the small amount of downward directed light will make travel on the exit ramp to Cedar Street north safer.

A Board member said that in addition to keeping people dry while they are pumping gas, the canopy serves a significant fire protection safety element. He said that it would be helpful to have a document related to that. Mr. Brooks said that this will be a service station where attendants come out to pump gas, so customers will not pump their own gas here. Mr. Smith said that he is an oil engineer who has been doing filling station projects for over 20 years. He said that if that station has a fire suppression system, it does work better with a canopy. He said that a canopy is considered to be a heat collector and reduces wind. He said that if the station is not self-serve, Massachusetts does not require a fire suppression system.

A Board member discussed criteria to justify granting a variance. He said that it is a small lot and lot shape plays into that finding. He said that it is an existing fill station that had a canopy at one time. The Chairman said that the Board could consider the shape of the lot because of the curve at the other side.

A Board member said that there would be some safety improvement with a canopy. Mr. Brooks said that He said that Mr. Aharonian has owned the property for about 18 months. He said that this is all part of a modernization of the station. He said that the canopy protects the equipment. He said that the public has come to expect a well lit, safe and secure environment at fuel stations, whether they are getting out of their car or not. He said that the canopy is beneficial to the public and promotes public safety. He said that the shape of the lot, the location of the existing buildings, the infrastructure, the dispensers and the underground components make this a unique property. He said that none of this has been not self-created. He said that the shape of the lot constricts what can be done, how and where, and does not affect every property in this Zoning district. He said that literally enforcing the bylaw would cause significant substantial hardship to Mr. Aharonian.

A Board member said that the canopy becomes advertisement for the driver that there is a gas station there. He said that if there are card readers on the dispensers for after hours, the station will need a fire suppression system. The Chairman said that if this is a manned station, the dispensers can be disabled when the station is closed.

A Board member said that he had no objection to the lighting spillover, given the location on a major roadway and the fact that there no residences close by. Mr. Brooks said that Mr. Aharonian spoke with the abutters or their representatives and they indicated their support.

There was no one present at the public hearing who wished to speak to the petition.

#### Statement of Facts

The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for construction of a new canopy over the existing pump island with less than required front yard setbacks and a Special Permit pursuant to the provisions of Section 16G and Section 25 of the Zoning Bylaw for installation of six flush mounted lighting fixtures under the proposed canopy, at 199 Worcester Street, in a Business District.

Letter to Zoning Board of Appeals, dated 9/14/20, signed by Stanley A. Brooks, Esq., a Plot Plan, dated 8/14/20, stamped by Stephen P. DesRoche, Professional Land Surveyor, a Site Plan, dated 5/14/20, revised 7/20/20 & 10/26/20, and Canopy Renderings, dated 8/10/20, revised 10/26/20, prepared by CMG, a Lighting Proposal, dated 8/11/20, Manufacturer's Specifications for LED Canopy Light – Legacy (CRUS) and Encore 700 S Dispensers, Assessor's Map, Google Map, and photographs were submitted.

On October 14, 2020, the Design Review Board reviewed the project and voted unanimously to approve the project as presented.

On November 17, 2020, Planning Board reviewed and project and recommended that a Variance be approved.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted for construction of a new canopy over the existing pump island with less than required front yard setbacks, in accordance with the submitted plans.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

RECEIVED  
OWN CLERK OFFICE  
ELLESLEY HALL 22482  
2020 DEC - 1 2:11:57

ZBA 2020-62  
Petition of 199 Worcester Street, LLC  
199 Worcester Street

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If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

It is the opinion of this Authority that installation of six flush mounted lighting fixtures under the proposed canopy enhances or does not negatively impact community ambiance and character.

Therefore, a Special Permit is granted for installation of six flush mounted lighting fixtures under the proposed canopy, in accordance with the submitted plans.

The Inspector of Buildings is hereby authorized to issue a permit upon receipt and approval of an application and any other materials he may require.

RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY MA 02482  
2020 DEC -1 P 1:58

ZBA 2020-62  
Petition of 199 Worcester Street, LLC  
199 Worcester Street

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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

J. Randolph Becker (A.M.)  
J. Randolph Becker, Chairman

David G. Sheffield (A.M.)  
David G. Sheffield

Derek B. Redgate (A.M.)  
Derek B. Redgate

ZBA            2020-62  
Applicant    199 Worcester Street, LLC  
Address      199 Worcester Street

RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY MA 02481  
2020 DEC - 1 P 1:58

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest: \_\_\_\_\_  
Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm



ZONING: BUSINESS DISTRICT  
 EXISTING LOT COVERAGE - 1,847 S.F. (13.1%)  
 PROPOSED LOT COVERAGE - 2,747 S.F. (19.5%)

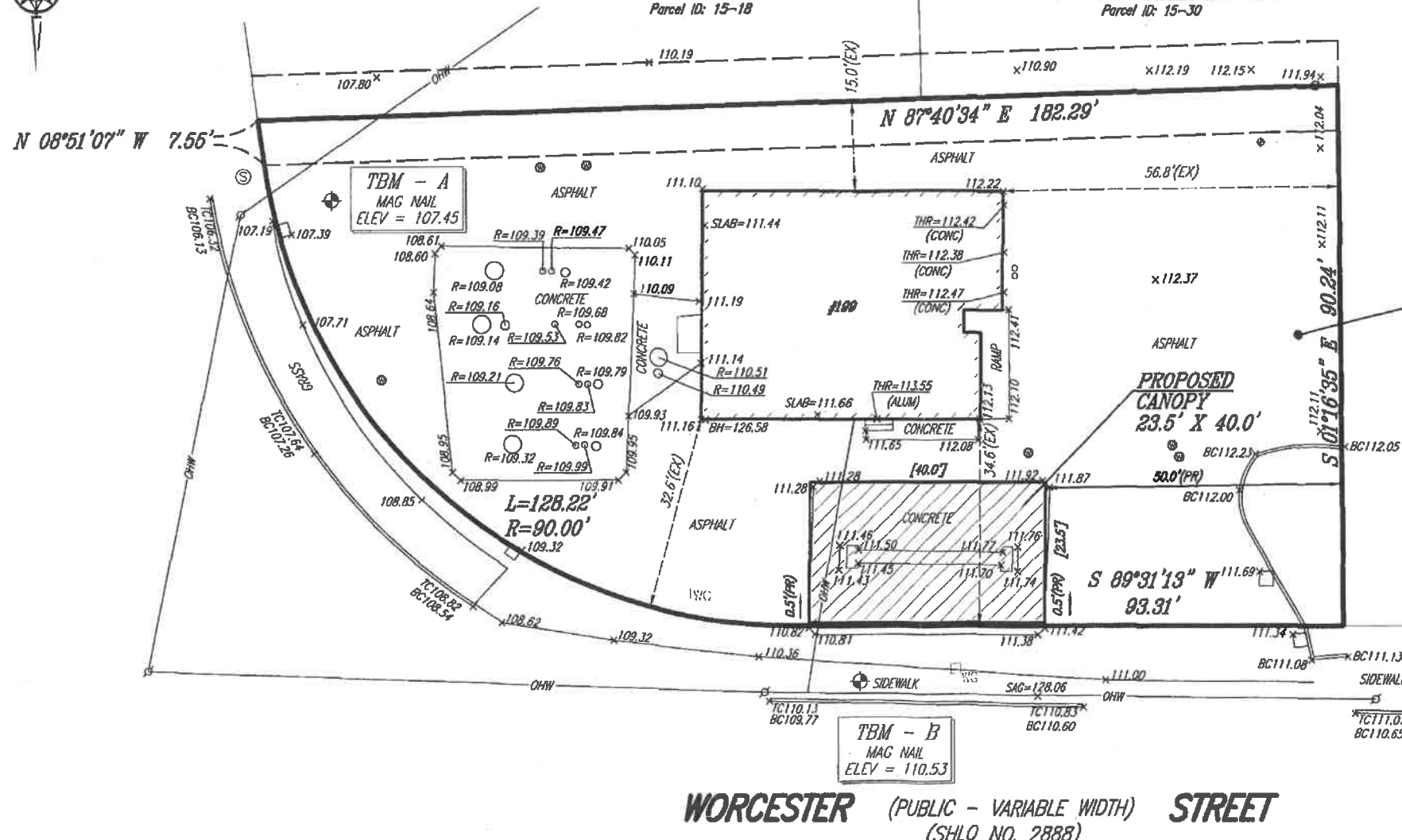
Now or Formerly  
 118 CEDAR REALTY LLC  
 Parcel ID: 15-18

Now or Formerly  
 195 WORCESTER STREET ASSOCIATES  
 Parcel ID: 15-30

# PLOT PLAN

AT  
 199 WORCESTER ROAD  
 IN  
 WELLESLEY, MASS.

PREPARED BY:  
**NEPONSET VALLEY SURVEY ASSOC., INC.**  
 95 WHITE STREET QUINCY, MASS.  
 APRIL 29, 2020 SCALE 1"= 20'  
 AUGUST 14, 2020

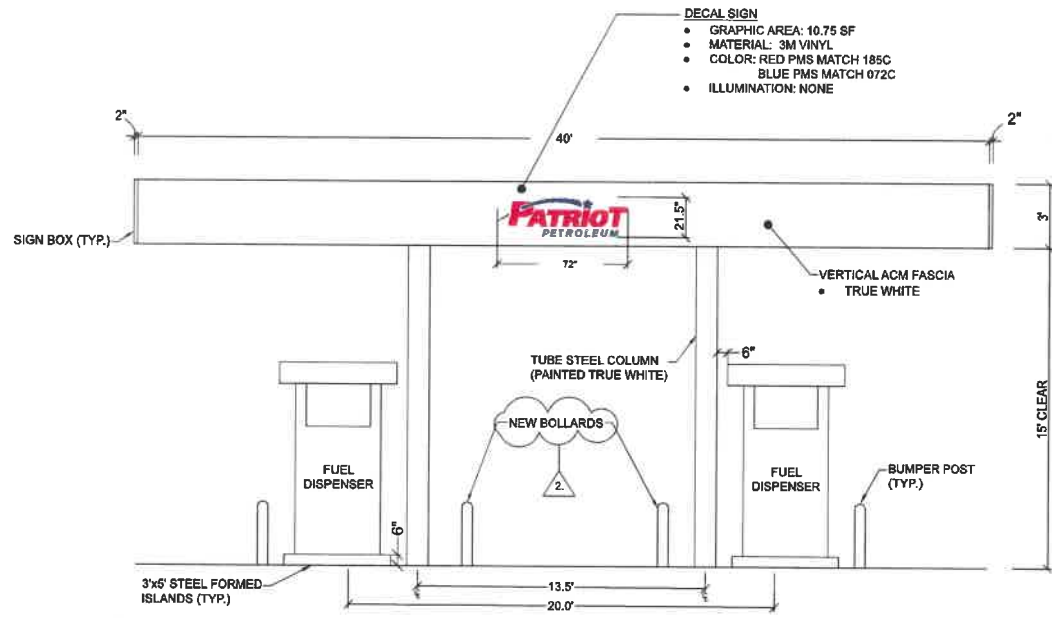


Now or Formerly  
 199 WORCESTER ST., LLC  
 Parcel ID: 15-17  
 BOOK 36882 - PAGE 595  
**AREA=14,117 S.F.**

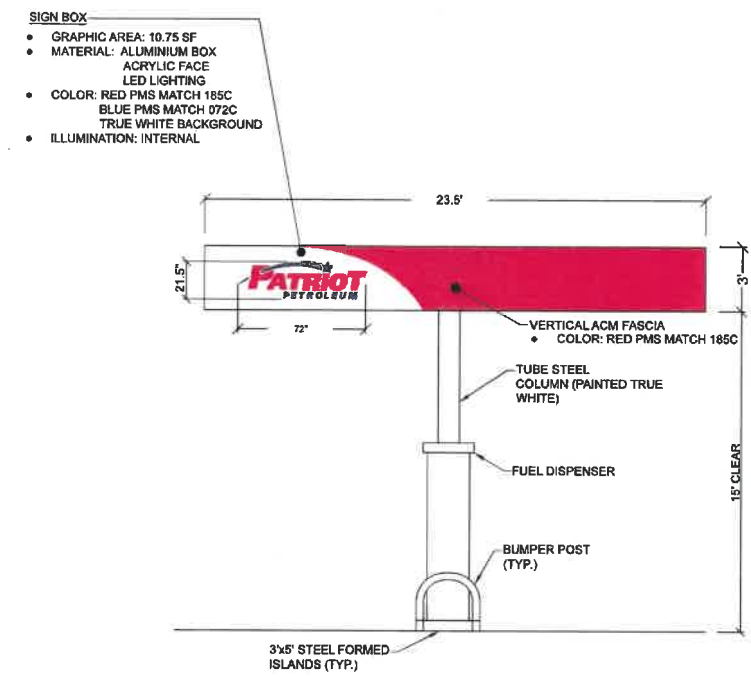


*Stephen P. Desroche*  
 STEPHEN P. DESROCHE PLS No. 27699

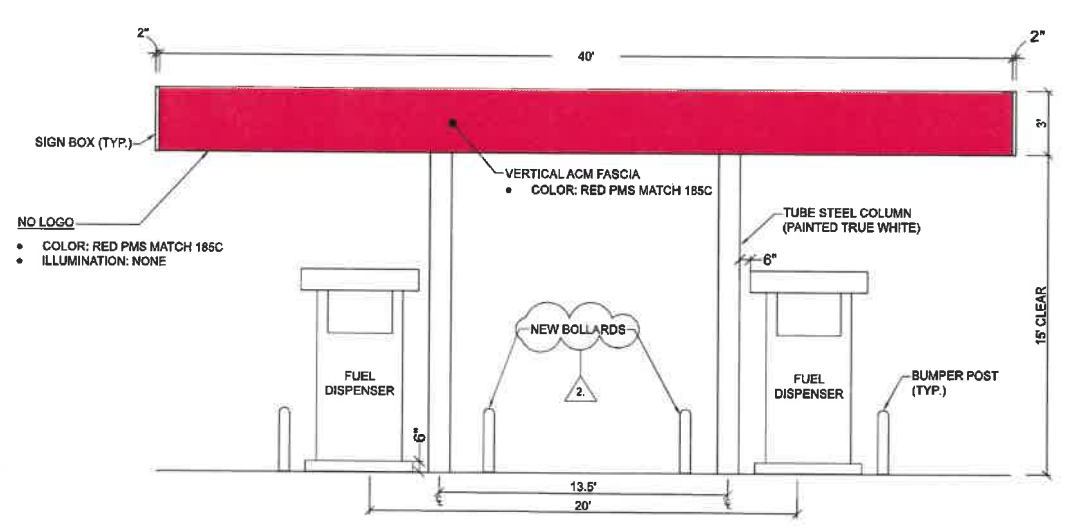




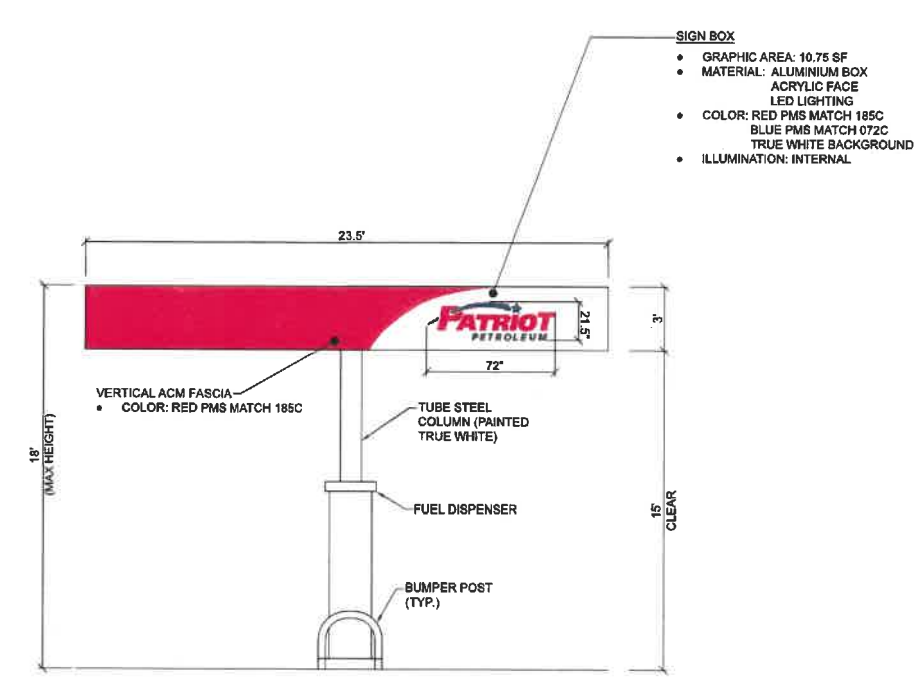
1 SOUTH CANOPY ELEVATION  
FIG-1.0 SCALE 1/4" = 1'



2 EAST CANOPY ELEVATION  
FIG-1.0 SCALE 1/4" = 1'



3 NORTH CANOPY ELEVATION  
FIG-1.0 SCALE 1/4" = 1'



4 WEST CANOPY ELEVATION  
FIG-1.0 SCALE 1/4" = 1'

NOTE:  
REFER TO PLANS PREPARED BY SUNSHINE  
SIGN OF NORTH GRAFTON, NH FOR  
ADDITIONAL SIGN DETAILS



REVISIONS	
NO.	DESCRIPTION
1.	CANOPY COLUMN LOCATION REVISED
2.	ADDITIONAL NEW BOLLARDS REVISED

PROJECT:  
**PROPOSED CANOPY REPLACEMENT  
199 WORCESTER STREET  
WELLESLEY, MA 02481**

PREPARED FOR:  
**199 WORCESTER ST, LLC.  
199 WORCESTER STREET  
WELLESLEY, MA 02481**

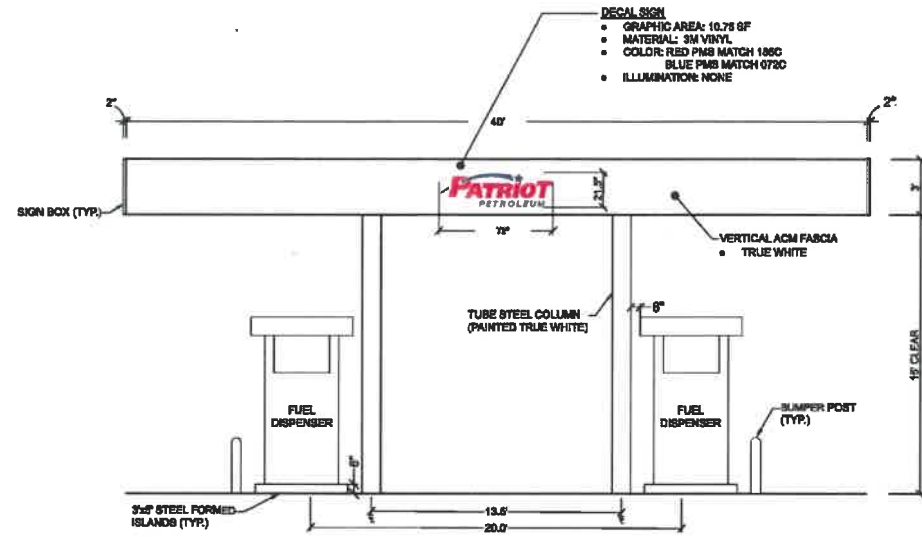
ENGINEERING SERVICES  
ENVIRONMENTAL SERVICES  
67 HALL ROAD  
STURBRIDGE, MA 01560  
PHONE: 774-241-0901  
FAX: 774-241-0906



ISSUE DATE: N/A (8/10/2020)  
DRAWN BY: RLCS CHECKED BY: MS  
SCALE: 1/4" = 1'  
PROJECT NO.: 2019-112  
SHEET NAME:

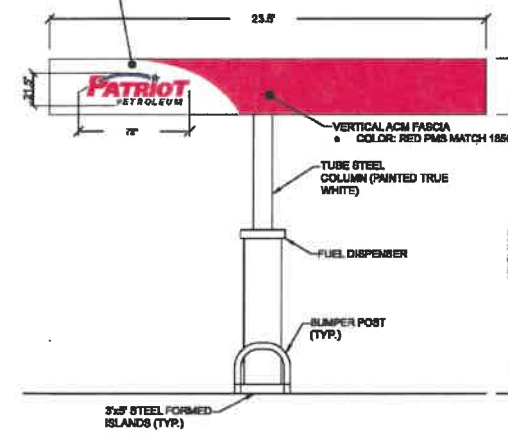
CANOPY  
RENDERINGS  
SHEET NO.:  
**FIG - 1.0**

PROFESSIONAL SEAL

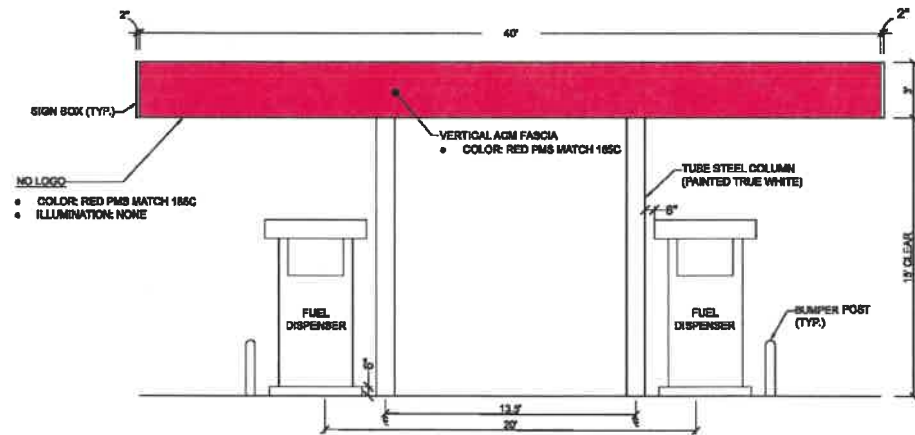


1 SOUTH CANOPY ELEVATION  
FIG-1.A SCALE 1/4" = 1'

- SIGN BOX**
- GRAPHIC AREA: 10.78 SF
  - MATERIAL: ALUMINUM BOX ACRYLIC FACE LED LIGHTING
  - COLOR: RED PMS MATCH 186C BLUE PMS MATCH 072C TRUE WHITE BACKGROUND
  - ILLUMINATION: INTERNAL

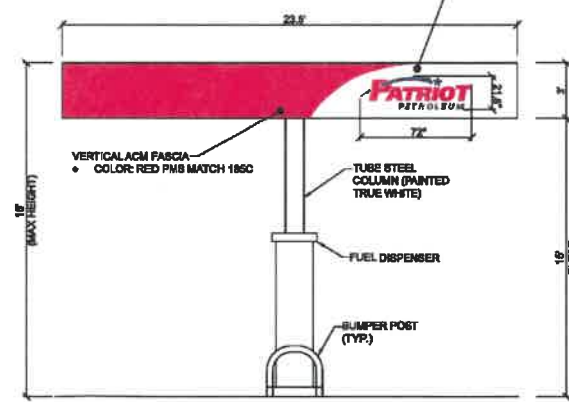


2 EAST CANOPY ELEVATION  
FIG-1.B SCALE 1/4" = 1'



3 NORTH CANOPY ELEVATION  
FIG-1.C SCALE 1/4" = 1'

- SIGN BOX**
- GRAPHIC AREA: 10.78 SF
  - MATERIAL: ALUMINUM BOX ACRYLIC FACE LED LIGHTING
  - COLOR: RED PMS MATCH 186C BLUE PMS MATCH 072C TRUE WHITE BACKGROUND
  - ILLUMINATION: INTERNAL



4 WEST CANOPY ELEVATION  
FIG-1.D SCALE 1/4" = 1'

NOTE:  
REFER TO PLANS PREPARED BY SUNSHINE SIGN OF NORTH GRAFTON, NH FOR ADDITIONAL SIGN DETAILS



NO.	DATE	DESCRIPTION	BY	CHKD

PROFESSIONAL SEAL

PROPOSED CANOPY REPLACEMENT  
199 WORCESTER STREET  
WELLESLEY, MA 02481

199 WORCESTER ST, LLC.  
199 WORCESTER STREET  
WELLESLEY, MA 02481

PROJECT:  
PREPARED FOR:

ENGINEERING SERVICES  
ENVIRONMENTAL SERVICES  
67 HALL ROAD  
STURBRIDGE, MA 01560  
PHONE: 774-241-0901  
FAX: 774-241-0906



DATE: N/A (8/10/2020)  
DRAWN BY: ELSA  
CHECKED BY: MS  
SCALE: 1/4" = 1'  
PROJECT NO.: 2019-013

SHEET NAME:  
CANOPY RENDERINGS

SHEET NO.:  
FIG - 1.0