

**VILLAGE OF MARCELLUS**

6 Slocombe Avenue, Marcellus, NY 13108  
(315) 673-3112 / Fax: (315) 673-3217

**ZONING APPEAL/ INTERPRETATION APPLICATION**

All applicable sections of this application must be completed - incomplete applications will be returned.

Applicant Name: Stewart's Shops Corp. Day Time Phone: (518) 581-1201 ext 4435

Applicant Address: P.O. Box 435, Saratoga Springs, NY, 12866 E-mail: cmarshall@stewartsshops.com

The undersigned hereby makes application for:  Area Variance  Use Variance  Interpretation

**Complete this Section for an Area or Use Variance:**

The undersigned hereby appeals the decision of the Code Official whereby he/she did:  Grant  Deny

Under Zoning Law: Article: 202<sup>86</sup> Section: 8<sup>2</sup> Subsection: a<sup>B</sup> Paragraph: i<sup>3</sup>

Owner Name: Richard J Nojaim and Grocer, LLC Project Address/ Tax Map #: 004.-01-10.1,12.0 and 13.0

Permit Type: Building Permit Number: \_\_\_\_\_ Dated: \_\_\_\_\_

Description of project: Construction of new Stewart's Shop (convenience store) with self-serve gasoling filling

**Basis for requesting an Area Variance** (Check all that apply):

- An undesirable change will NOT be produced in the character of the neighborhood or a detriment to nearby properties will NOT be created by the granting of the area variance;
- The benefit sought by the applicant CANNOT be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- The requested area variance is NOT substantial;
- The proposed variance will NOT have an adverse effect of impact on the physical or environmental conditions in the neighborhood or district; and
- The alleged difficulty was NOT self-created

**Basis for requesting a Use Variance** (Check all that apply):

- The applicant cannot realize a reasonable return. Provided that lack of return is substantial as demonstrated by competent financial evidence;
- The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- The requested use variance, if granted, will not alter the essential character of the neighborhood; and
- The alleged hardship has NOT been self-created.

**Complete this Section for a Zoning Law Interpretation:**

I hereby request an interpretation of the Zoning Law. Reason for interpretation: (provide on separate page)

Article: \_\_\_\_\_ Section: \_\_\_\_\_ Subsection: \_\_\_\_\_ Paragraph: \_\_\_\_\_

**Applicant Certification:** I hereby certify that this application is true and correct to the best of my knowledge.

**Consent to Enter Property:** By signing this application I agree to allow representatives of the Village access to the above referenced property at reasonable times for the purpose of obtaining information relevant to the processing of this application.

**SIGNATURE OF OWNER OF PREMISES: X**

**DATE:**

Official Use Only                      Official Use Only                      Official Use Only                      Official Use Only                      Official Use Only

Application Number: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Action of the Zoning Board: \_\_\_\_\_ Granted (  ) Denied (  ) Date: \_\_\_\_\_

Chairperson Signature: \_\_\_\_\_ Date: \_\_\_\_\_



June 6, 2024

Mr. Jeffrey Averill, Chair  
Zoning Board of Appeals  
Village of Marcellus  
6 Slocombe Ave.  
Marcellus, New York 13108

Chairman Averill and Members of the Marcellus Zoning Board of Appeals,

As you're likely aware, Stewart's is currently seeking Site Plan approval through the Planning Board and favorable referral to the Village Board of Trustees for their issuance of a Special Use Permit. In reviewing the code for the Village, there are currently two areas of relief Stewart's needs from the Zoning Board of Appeals (ZBA) to proceed. The current areas of relief are:

1. Section 86-2(b)(3) for fences/hedges higher than 6 feet, and;
2. Section 202-8(a)(i) for signs with an area greater than six feet per side.

Below are the balancing tests for pursuit of each area of relief.

Section 86-2(b)(3): No fence shall be constructed or maintained or hedge planted or maintained which is otherwise higher than six (6) feet

**Stewart's Proposal : 8' fence and plantings**

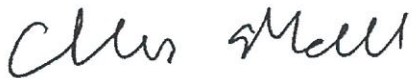
1. An undesirable change will NOT be produced in the character of the neighborhood or a detriment to nearby properties will NOT be created by the granting of the area variance;  
**Stewart's Response:** the subject property includes 27 East Main St which is zoned Village Center (VC) where the northern and eastern boundaries of the parcel border 3 Orange St which is in the Two-Family Residential (RB) district. A fence of lower height will not adequately screen the residential use from the commercial activity and the same true for plantings.
2. The benefit sought by the applicant CANNOT be achieved by some method, feasible for the applicant to pursue, other than an area variance,  
**Stewart's Response:** in reviewing layout alternatives with the Planning Board, the proposed layout is the most desirable and this screening mechanism preferred alternative.
3. The requested area variance is NOT substantial,  
**Stewart's Response:** Stewart's proposed deviation from the code is 2 feet or 33%, making the remainder 67% in compliance.
4. The proposed variance will NOT have an adverse effect of impact on the physical or environmental conditions in the neighborhood or district; and  
**Stewart's Response:** the proposed fence location is along the northern and eastern boundaries of the property where the property borders the RB zone and not along the property frontage where it would be more detrimental.
5. The alleged difficulty was NOT self-created  
**Stewart's Response:** relief is being sought to prevent the hardship from being self-created. Additionally, the code was enacted prior to Stewart's pursuit of the contract to purchase and seeking these approvals.

Section 202-8(a)(i): No ground sign shall exceed a height of six (6) feet nor an area of six (6) feet per side

1. An undesirable change will NOT be produced in the character of the neighborhood or a detriment to nearby properties will NOT be created by the granting of the area variance;  
Stewart's Response: the proposed ground sign location is permitted in the district and in review with the Planning Board, the sign type and location deemed most appropriate. The proposed sign currently under consideration reflects a reduction from a sign that was forty (40) square feet or 14% larger.
2. The benefit sought by the applicant CANNOT be achieved by some method, feasible for the applicant to pursue, other than an area variance,  
Stewart's Response: Stewart's reviewed alternatives with the Planning Board and this approach was most desirable. As indicated above, Stewart's reduced the original sign for the one currently under consideration.
3. The requested area variance is NOT substantial,  
Stewart's Response: when you look at substantiality from a number perspective the request is large however the number must be put in perspective as the code is very restrictive. As an example the, LED price signage would be the only permissive element of the sign.
4. The proposed variance will NOT have an adverse effect of impact on the physical or environmental conditions in the neighborhood or district; and  
Stewart's Response: the proposed location of the sign is surrounded by commercial properties and will not had an adverse effect on the physical environment. Because the business is driven by need for sign to be visible, argument could be made that square footage helps drivers with recognizing business in advance to make decision to enter.
5. The alleged difficulty was NOT self-created  
Stewart's Response: relief is being sought to prevent the hardship from being self-created. Additionally, the code was enacted prior to Stewart's pursuit of the contract to purchase and seeking these approvals.

Stewart's is appreciative of the ZBA's consideration of these elements and requests an appearance on the next available agenda. If you have questions or need additional information, please don't hesitate to reach me at (518) 581-1201 ext 4435 or cmarshall@stewartshops.com.

Respectfully submitted,



Charles "Chuck" Marshall  
Stewart's Shops Corp.

## Short Environmental Assessment Form

### Part 1 - Project Information

#### Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

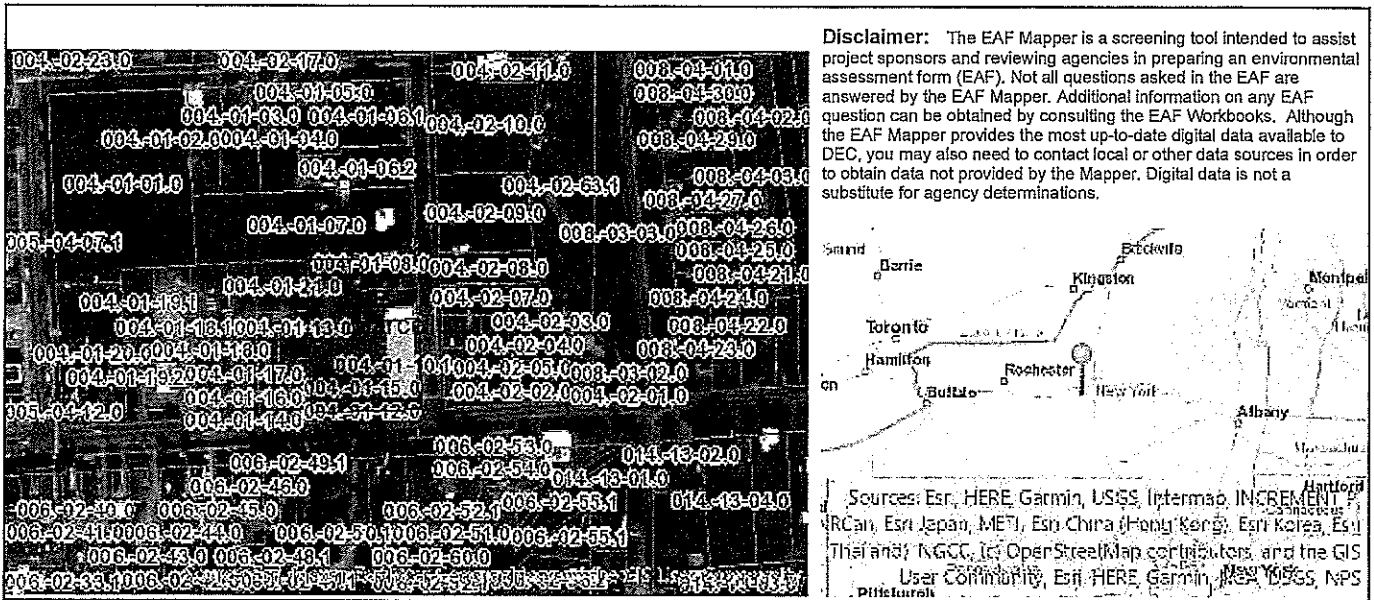
<b>Part 1 – Project and Sponsor Information</b>			
Stewart's Shops Corp.			
Name of Action or Project: Stewart's Shops - Marcellus			
Project Location (describe, and attach a location map): Main and Orange Street - Marcellus			
Brief Description of Proposed Action: Stewart's proposes the demolition of Nojaim Brothers of Marcellus approximately a 12,000 square foot grocery store. Upon demolition Stewart's proposes the construction of a new retail location of approximately 4,300 square feet and a stand alone gas canopy of 2,000 square feet.			
Name of Applicant or Sponsor: Stewart's Shops Corp.		Telephone: (518) 581-1201 ext 4435	
		E-Mail: cmarshall@stewartsshops.com	
Address: P.O. Box 435			
City/PO: Saratoga Springs		State: New York	Zip Code: 12866
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Village of Marcellus Planning Board and ONondaga County Planning Referral		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies:			
Meet but does not exceed _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
See attached memo regarding potential cultural impacts from Hudson Cultural	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____			
This is a NYSDEC geo-reference to the Nine Mile Creek _____ _____			

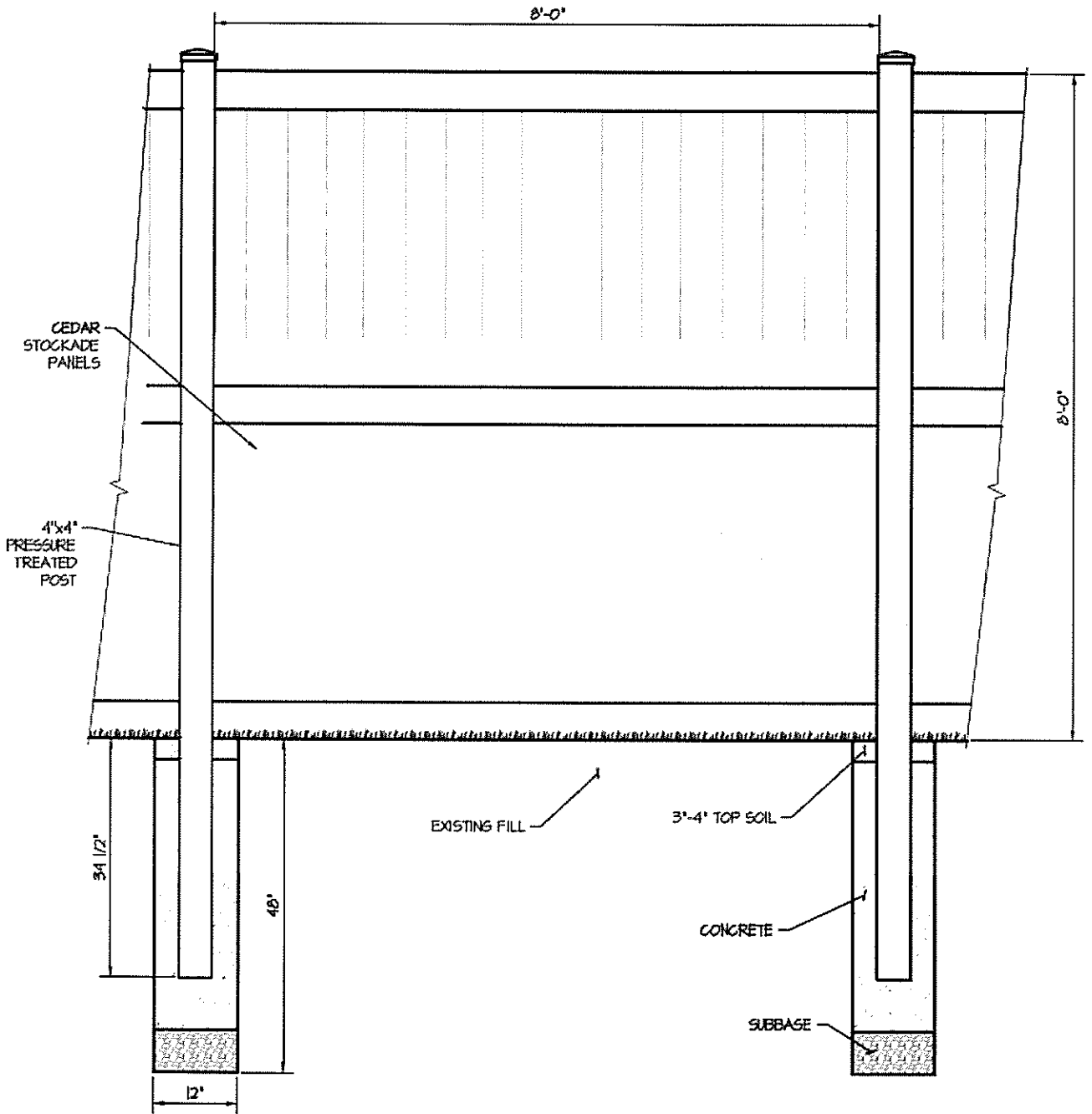
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe:		
Stewart's will install new stormwater infrastructure that will direct water to the north for temporary storage and ultimately and overflow discharge to Main or Orange Street upon further investigation		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Short term impoundment of water for stormwater handling.		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor/name: <u>Stewart's Shops Corp</u> Date: <u>1/8/24</u></p> <p>Signature: <u>Chris Mello (Charles Marshall)</u> Title: <u>Real Estate Rep</u></p>		

# EAF Mapper Summary Report

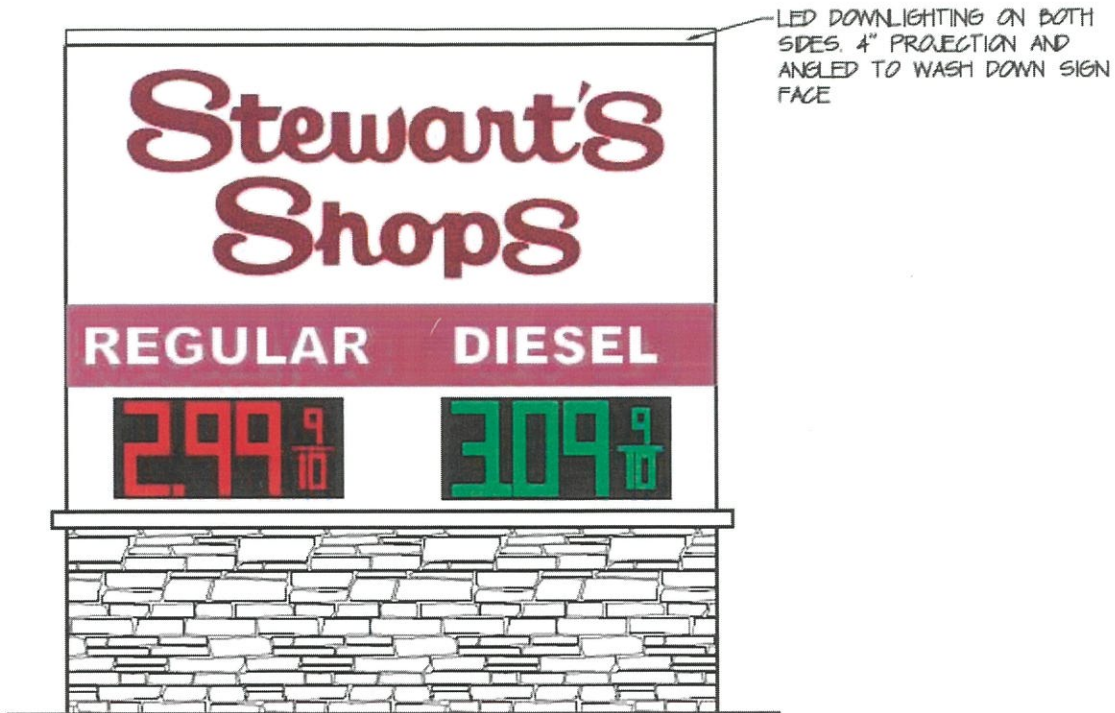
Saturday, January 6, 2024 11:40 AM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	Yes
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No



**8' STOCKADE FENCE DETAIL**  
 SCALE: 3/8" = 1'-0"

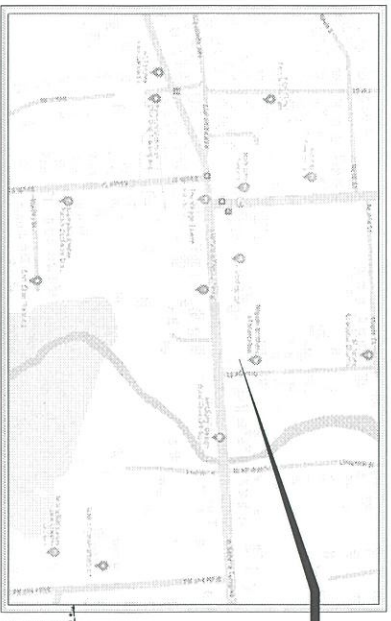


## PROPOSED MONUMENT SIGN

SCALE 3/8" = 1'-0"

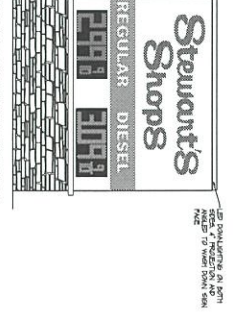
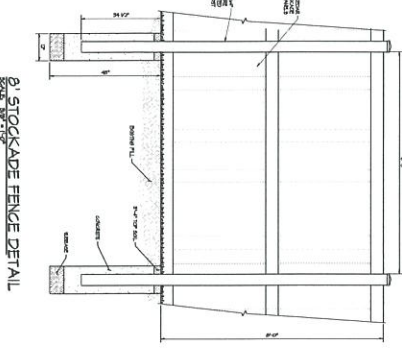
- SIZE:** - 5'-0"x7'-0" = 35 SQ. FT.
- LETTERS:** - 1/8" PLEXIGLASS FACE ON 4-1/2" THICK CAN
- ILLUMINATION:** - EXTERNALLY ILLUMINATED WITH DOWNLITE LED LIGHTING  
 - BURGUNDY LETTERS  
 - WHITE COLOR BACKGROUND  
 - 12' RED LED GAS PRICE NUMBERS  
 - 12' GREEN LED DIESEL PRICE NUMBERS






SITE LOCATION MAP

LEGEND	
PROPERTY LINE	---
FIRE HYDRANT	⊙
WATER VALVE	⊗
64.5 VALVE	⊗
SEWER MANHOLE	⊙
SEWER CLEANOUT	⊙
CATCH INLET	⊙
CATCH BASIN	⊙
GRV INLET	⊙
UTILITY POLE	⊙
STAKEPOST	⊙
TRAFFIC SIGNAL CONTROL BOX	⊙
PALE LIGHT	⊙
WELL	⊙
BOLLARD	⊙
REGULATION SERVICE	⊙
OVERHEAD UTILITIES	---
WATER SERVICE TO THE W. CENTER	---
SEWER SERVICE 4"	---
STORM PIPE	---
PROPOSED PIPE	---
STORM PIPE EXISTING	---
STOCKPILE FENCE	---
QUALITY FENCE	---
QUADRANT FENCE	---
UTILITY FENCE	---
USE ELECTRICAL/TELEPHONE SERVICE	---
USE ELECTRICAL CONDUIT	---
USE GAS LINE	---
USE CABLE CONDUIT SINGLE	---
USE CABLE CONDUIT WITH GUY	---
DETEL PRODUCT LINE	---
SUPER PRODUCT LINE	---
UNLEADED PRODUCT LINE	---
EXISTING MAJOR CONDUIT	---
EXISTING MAJOR CONDUIT	---
PROPOSED MAJOR CONDUIT	---
PROPOSED MAJOR CONDUIT	---
PROPOSED SPOT ELEVATION	⊕
EXISTING SPOT ELEVATION	⊕





STATE OF NEW YORK  
LICENSED PROFESSIONAL ENGINEER

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**MARCELLUS - MRC - 335**


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**27 EAST MAIN STREET - MARCELLUS, NY 13108**

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DATE	NO.	REVISIONS

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SHAWANO, SPAINIA, NY 13154  
TEL: 315-838-1200 FAX: 315-838-1209

DESIGNED BY: MA  
SCALE: 1" = 30'  
DATE: 6-5-2024  
DRAWING NO.: ZBA - 1

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**TITLE: PROPOSED SITE PLAN - ZBA**