



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

January 22, 2013

IN ATTENDANCE: Stephen Karll, Chairman
Jack Gauthier, Member
Michael Calder, Member
Michael Ford, Member

ALSO PRESENT: Russ Forsberg, Inspector of Buildings
Carolyn Murray, Town Solicitor

Mr. Karll called the meeting to order at 7:00pm.

NEW BUSINESS:

- 1) Petition Number 13-1**
MetroPCS Massachusetts
RE: 100 Grandview Road

Present Attorney Ricardo Sousa of Prince Lobel Tye LLP of Boston representing petitioner.

This is a petition filed by MetroPCS Massachusetts, 285 Billerica Road, Chelmsford, MA regarding the property located at 100 Grandview Road, Braintree, MA. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135-403, 407, and 1603. The applicant seeks a permit, variance and/or finding to modify an existing wireless communication facility located on the existing building, all in accordance with the plans of record. The property is located in a Highway Business Zoning District as shown on Assessors Plan No. 2053B, Block 0, Plot 1T and contains +/-4.59 acres of land.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on January 22, 2013 before the Zoning Board of Appeals at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder, with alternate, Michael Ford.

Evidence

Attorney Ricardo Sousa of Prince Lobel Tye LLP of Boston represented MetroPCS. Attorney Sousa explained that MetroPCS previously received relief in the form of a special permit from the Board to install a wireless communication facility on this site. That previously approved installation consists of six building mounted antennas in clusters of two in three different locations on the roof. The current installations are mounted on the screen wall along the penthouse of this building. The existing building has a height of 50 feet and the screen wall brings the height up to 61.3 feet. The Zoning By-law limits the height of a non-habitable building to 50 feet in a Highway Business Zoning District. The current MetroPCS installation on the penthouse extends beyond the screen wall by 17.9 feet for an overall building height of 67.9 feet, as per the prior special permit.

MetroPCS proposes to modify its existing installation to add one wireless backhaul dish antenna that is one foot in diameter and will also be mounted to the outside of the screen wall on the northerly side of the building. The proposed dish antenna will be painted to match the screen wall and therefore minimize any aesthetic impact. The proposed antenna will be located 8.5 feet above the height of the building but will not exceed the maximum height relief previously granted by the Board to MetroPCS. Since the relief requested will alter a pre-existing nonconforming structure, a finding is required under G.L. Chapter 40A, §6.

As grounds for the finding, the petitioner explained that MetroPCS already has a special permit to locate equipment on this building. The single one foot diameter dish will be added below the height of the screen wall, and therefore, will not increase the overall height of the existing structure. The dish will be mounted to the outside of the screen wall in order to accommodate the line of site needed for data transmission. However, Attorney Sousa emphasized that the proposed antenna will be painted to match the screen wall and will blend in and minimize any visual impact. Further, the dish antenna will enhance voice and data communications capabilities for MetroPCS customers, in terms of speed, capacity and bandwidth to support 4G capability.

In addition to the packet of information entitled "Application for a Special permit for a Modification of an Existing Wireless Communication Facility," the petitioner submitted a copy of their FCC License, Massachusetts Public Health letter, and six plans entitled "MetroPCS, BOS0327C, Corcoran Building Grandview Braintree, 100 Grandview Road, Braintree, MA 02184, Norfolk County," with sheets numbered T-1 (Title Sheet), G-1 (General Notes), C-1 (Roof Plan and RF Schedule), C-2 (West Elevation), C-3 (Construction Details), and C-4 (Grounding Details), all dated September 26, 2012, prepared by Patrick P. Barry, RPE of Dewberry Engineers, Inc., of Boston, MA. The applicant also submitted nine color photos, taken on December 6, 2012 by Dewberry Engineers, depicting the current site conditions, an aerial view, the proposed view of the building with the added dish antenna from different elevations of the building, and two close-up photos of the roof screen wall with the existing and proposed installations.

No one else spoke in favor of or opposition to the petition. By a vote of 3-0-0, the Planning Board recommended favorable action on the requested relief.

Findings

The Board found that the requested relief was necessary in order to enhance voice and data transmission and to provide the Town with the most recent wireless communications technology. Further, the Board found that installing a single one foot diameter backhaul dish antenna on the northerly side of the screen wall, painted to match the screen wall below the height of the screen wall, and below the height of the previously granted installations on this roof would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure on the lot. Finally, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plans presented.

2) Petition Number 13-2
John J. Walsh
RE: 10 Livoli Avenue

Present: John J. Walsh, petitioner

This is a petition filed by John J. Walsh of 10 Livoli Avenue, Braintree, MA regarding the same property, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws under Chapter 135, Sections 135-403, 407, and 701. The applicant seeks a permit, variance and/or finding to demolish an existing single family home and to construct a new single family home, all in accordance with the plans of record. The property is located within a Residential B Watershed Zoning District as shown on Assessors' Map 1071, Plot 41, which contains a land area of +/- 10,500 Sq. Ft.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on January 22, 2013 before the Zoning Board of Appeals at 7 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Steve Karll, and members Jack Gauthier and Michael Calder, with alternate, Michael Ford.

Evidence

The petitioner, John Walsh, represented himself and explained that the existing single family house on the lot is 900 SF in area, and structurally, the applicant claims that the existing dwelling cannot support a second story. The applicant proposes to raze the existing dwelling and to construct a 2 ½ story Colonial style house. Although, the applicant failed to provide any dimensional information as to the existing structure, the applicant claims that the proposed house will be within the same footprint of the proposed house with respect to the front and side yard setbacks; however, the applicant proposes to extend the footprint of the house in the rear by an additional 8 foot deep two story addition. The applicant also proposes to construct a 12 foot x 24 foot deck to the rear of the property.

The applicant's lot is pre-existing nonconforming in that the lot contains only 10,500 SF of area, while the Watershed Protection Overlay District requires a minimum lot size of one acre. The lot also lack the required 100 feet of width, as it contains only 70.01 feet of width. Since the construction of a new house will alter the pre-existing nonconforming lot, a finding is required under General Laws Chapter 40A, Section 6.

The proposed dwelling will comply with rear, side and front yard setbacks. However, Section 135-609(c) of the Zoning By-laws provides that residential structure constructed prior to 1982 and located within the Watershed Protection District may be expanded, provided the total area of the lot covered by impervious surface will not exceed 50% of total lot area. According to the Zoning Computation Form submitted by the applicant, the maximum lot coverage will be 18.6%.

The petitioner submitted a plan entitled "Plan of Land in Braintree, Massachusetts, 10 Livoli Ave.," dated November 19, 2012, prepared by C.S. Kelley, Land Surveyors, Pembroke, MA.

No one else spoke in favor of or opposition to the petition. By a vote of 4-0-0, the Planning Board voted to take no action on the petition due to lack of information.

Findings

The Board found that the proposed demolition of the existing dwelling and construction of a new dwelling that satisfies all dimensional requirements of the Zoning By-law will not be more detrimental to the neighborhood than the existing dwelling. Finally, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

3) Petition Number 13-3

Cumberland Farms

RE: 833-844 Washington Street

Present: Carolyn Parker of Carolyn Parker Consulting on behalf of Cumberland Farms.

This is a petition filed by Carolyn Parker Consulting on behalf of the lessee, Cumberland Farms, 3 Lorian Avenue, Worcester, MA 01606 regarding the property located at 833-843 Washington Street in Braintree. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, 904 and 905 to replace a 65 foot high pylon sign with manual gasoline price panels with a 48 foot high pylon sign with a digital gasoline price panel, all in accordance with the plans submitted. The property is located in a General Business Zoning District and the Village Overlay District and contains +/- .356 acres of land, as shown on Assessors' Map No. 1011, Plot 33.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on January 22, 2013 at 7 p.m. at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder, with alternate, Michael Ford.

Evidence

The petition was presented by Carolyn Parker of Carolyn Parker Consulting on behalf of Cumberland Farms. Ms. Parker explained that Cumberland Farms is in the process of converting all manual gasoline price panels to digital LED price panels. Cumberland Farms has an existing pylon sign at this location which is 65 feet high and consists of a 4 ft. diameter "Gulf" sign atop a "Cumberland Farms" panel, a 2 ft. 6 in. high x 6 ft. long manual price panel for gasoline and a 2 ft. high x 6 ft. long blank panel. Each of the panels on this sign, including the Gulf sign, is double-sided. Cumberland Farms proposes to remove the "Gulf" disk and the blank

panel and to replace the manual price panel with a 4 ft. high x 6 ft. long digital LED price panel. Ms. Parker explained that the proposed LED panel dims and brightens automatically, depending upon daylight.

Section 135-904.5 of the Zoning By-laws governs sign regulations for gasoline service stations. Specifically, Section 135-904.5.A (1) states that gasoline service stations may be permitted signs only as permitted by the Zoning Board of Appeals. Section 135-904.5A(1)(a)(i) allows one ground sign containing the logo of the business in a General Business district, provided the sign does not exceed 60 SF and is no higher than 20 feet above ground level. Once the "Gulf" disk is removed, the height of the ground sign will be 20 feet, and therefore, compliant with this provision. The remaining Cumberland Farms panel consists of 48 SF of area for its double-sided sign, which is also compliant with this provision. The proposed double-sided digital price panel will be 48 SF of area. Section 135-904.5A(1)(b)(i) permits one sign, not to exceed 30 SF of area per face, to display the prices of gasoline only; since the proposed price panels contain 24 SF of area per face, the price panels comply with this provision of the Zoning By-laws.

Section 135-904.6 further regulates signs within the Village Zoning Overlay District. Section 135-904.6(a) does not allow a ground sign to exceed 12 feet in height. The proposed sign is 20 feet high, and therefore, a variance is required. As grounds for the variance, Ms. Parker explained that Cumberland Farms is located at the intersection of Washington and Taylor Streets, and if the sign was lowered to 12 feet, it would obstruct visibility for cars exiting Taylor Street, and thus present a public safety issue. The higher sign is needed to maintain a line of sight at that intersection and promote public safety.

Section 135-905 of the Zoning By-law prohibits automatic "continuous changing message signs". The proposed price panel would digitally change the price of a gallon of gas as needed. In addition, Section 135-905 allows signs to be illuminated only by a white light with no neon or similar devices allowed. The proposed sign would be internally illuminated with red LED lights. A variance is required under this section. In support of this variance, Ms. Parker noted that red LED lights are the color of choice for these types of signs and pointed out that other gas stations in Braintree have similarly lit signs. Ms. Parker also explained that these digitally changing signs promote public safety, as they can be changed remotely by computer and not require personnel to scale a ladder to manually change the price. The lit signs also provide better visibility for the traveling public and assist the public in readily identifying that this Cumberland Farms location offers gasoline for sale. Finally, Ms. Parker argued that the proposed sign is not the type of sign the Zoning By-laws was designed to prohibit. Based on her interpretation of the Zoning By-law, this section aimed at prohibiting, as the proposed signs are not changing constantly or flashing or otherwise distracting; instead, the proposed sign changes only as gas prices change.

The petitioner submitted a packet of information including four sheets with two sheets of specifications for the price panel prepared by federal health Company of Jacksonville, TN dated February 4, 2010, each identified as drawing number CF2046TP_1LD, along with two sheets of color photos showing existing signage and proposed signage.

The Board questioned the need for such a large price panel, given that this property is located within the Village Overlay Zoning District. The proposed double-sided 24 SF sign under an existing 24 SF double-sided sign appears too large for the space so as to be overpowering. The Board asked if the size of the sign could be reduced to be less intrusive. After some discussion, Ms. Parker conceded that the sign could be reduced to 2 ft. 6 in. in height with 18 inch high numbers.

No one else spoke in favor of or opposition to the petition. The Planning Board voted 4-0-0 in favor of the requested relief.

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the proposed alteration of the existing ground sign is necessary to identify the price of gasoline for the traveling public and to direct the public safely to the site. The Board further found that the proposed sign would increase the business' visibility and improve traffic circulation which would lead to safer traffic conditions and greater public convenience in directing traffic to the site. The Board also found that the red LED lights have appeared in similar signs at other gas stations and do not appear to have a negative impact on the neighborhood. The Board also concluded that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating the intent and purpose of the Zoning By-law.

Decision

On motion made by Mr. Gauthier and seconded by Mr. Calder, it was unanimously voted (3-0) to grant relief for a double-sided price panel sign with dimensions of 2 ft. 6 inches in height by 6 ft. in length for an area of 15 SF per face, with 18 inch high numbers and red LED lights, consistent with the plans presented.

4) Petition Number 13-4
Extended Stay Hotel c/o Saxton Sign Company
RE: 20 Rockdale Street

Present: Heather Dudko of Saxton Sign Company

This is a petition filed by Saxton Sign Company of 2 Phoebe Way, Worcester, MA acting as agent for Extended Stay Hotels of 11525 North Community House Road, Charlotte, NC regarding the property located at 20 Rockdale Street in Braintree. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 904 to replace existing signage for the hotel to reflect the new brand, all in accordance with the plans submitted. The property is located in a Highway Business District and contains +/- 2.6 acres of land, as shown on Assessors' Map No. 2057, Plot 6X.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on January 22, 2013 at 7 p.m. at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder, with alternate, Michael Ford.

Evidence

The petition was presented by Heather Dudko of Saxton Sign Company, who explained that Extended Stay Hotels has updated their brand to reflect a new logo, which includes a green star. Currently, Extended Stay has two wall signs on the tower of the building, with each sign measuring 58 inches ft. by 13.25 inches for a total of 53 SF. The hotel also has an existing ground sign that measures 60 inches by 64.125 inches for a total of 27 SF, with a height of 4 ft. 4 inches and a bottom capping of 9 inches. The applicant proposes to replace the existing wall signs with signs measuring 61 inches by 142 inches, for a total of 60 SF each, and to replace the ground sign with a new ground sign measuring 3 ft. 1 in. by 3 ft. 7 inc. for a total of 11 SF. The proposed signs will be located in the same locations as the existing signs. The new signs reflect the new brand logo and colors, which are a brown background with Extended Stay America on three lines next to a green star.

According to Section 135-904.2.A(1)(c), the bottom capping of any ground sign shall be 24 inches above ground level; the proposed ground sign will be 9 inches above the ground. Therefore, a variance is required.

In addition, Section 135-904.2.A (5) (b) limits wall signs to 4 feet in height. The proposed wall signs are 5.08 feet high; therefore, variances are required for the tow signs. Section 135-904.2.A (5) (c) states that no wall sign shall be visible to a major highway if a ground sign has been permitted. Since this application includes a wall sign visible to the Route 128/Route 97/Route 37 interchange, and a ground sign has been permitted, a variance is required.

Section 135-904.2.A (5) (g) states that no more than one wall sign shall be permitted for each business occupying a building and that the aggregate total of all signage allowed shall not exceed 150 SF in area. This application includes two wall signs for a single business, the hotel, for a total of 120 SF in aggregate area, and therefore a variance is required.

As grounds for the variances, Ms. Dudko explained that Extended Stay is simply replacing signs with signs of the same size and the same location. She further noted that the ground sign is only visible from Rockdale Street, as it is located at the curb cut to the hotel, and is not visible to a major highway. As a result, the wall signs on the tower are needed for visibility purposes, to allow the traveling public to identify the hotel and to travel safely to the site. All signs will maintain their internal illumination with white lights.

The petitioner submitted two color photos of the proposed signage as well as three sheets of specifications for the signs prepared by the InSite group of Knoxville, TN dated December 4, 2011.

No one else spoke in favor of or opposition to the petition. The Planning Board voted 4-0-0 in favor of the requested relief.

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the proposed alteration of the existing wall signs and the existing ground sign is necessary to identify the location of the re-branded business and to direct the public traveling to the site. The Board further found that the proposed wall signs would increase the business' visibility and improve traffic circulation which would lead to safer traffic conditions and greater public convenience in directing traffic to the site. The Board also concluded that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating the intent and purpose of the Zoning By-law.

Decision

On motion made by Mr. Gauthier and seconded by Mr. Calder, it was unanimously voted 3-0 to grant the requested relief, subject to the plans presented.

5) Petition Number 13-5

G.B. New England 2, LLC

RE: 90 Church Street, Braintree; 96 Church Street, Braintree; 178 Washington Street, Braintree

Present: Attorney Frank Marinelli, on behalf of G.B. New England 2, LLC, Gary McCoy of Poyant Signs.
Attorney Joseph Driscoll representing the property owner.

This is a petition filed by G.B. New England 2, LLC, c/o Gershman Brown Crowley, 14 Breakneck Hill Road, Lincoln, RI 02865, regarding the property located at 90 and 96 Church Street and 178 Washington Street in Braintree. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 407, and 904 to install wall, ground and directional signage for a new CVS Pharmacy to be built on the site, all in accordance with the plans submitted. The property is located in a General Business Zoning District and contains a land area of +/- 73,017 SF, as shown on Assessors' Map No. 2062, Plots 27, 27A, and 27B and Assessors Map 2064, Plot 5A.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on January 22, 2013 at 7 p.m. at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder, with alternate, Michael Ford.

Evidence

The petition was presented Attorney Frank Marinelli, on behalf of G.B. New England 2, LLC, along with Gary McCoy of Poyant Signs. The property owner was represented by Attorney Joseph Driscoll. Attorney Marinelli explained that G.B. New England, LLC is in the process of seeking all necessary permits to redevelop this property and construct a CVS Pharmacy on the site currently occupied by South Shore Auto Lines, a used car dealership with related repair services. The petitioner proposes to install five wall signs, four directional signs and one pylon sign described below.

Wall Signs

The applicant proposes to install five wall signs, three of which state "CVS/pharmacy" and two of which state "Drive-Thru Pharmacy", all in red letters.

The proposed "CVS/pharmacy" signs will each measure 3 feet high by 25 feet. 1 in. wide, for an area of 75.18 SF each or 225.54 SF in the aggregate. One of these signs will be placed on the north elevation of the proposed CVS, to the right of the entrance, facing Washington Street, and will be internally illuminated. The second will be located on the east elevation of the proposed CVS, facing Church Street, just around the corner from the main entrance; this sign will not be internally lit but will be illuminated by external gooseneck lights. The third CVS /pharmacy sign will be located on the west elevation of the proposed CVS, facing the railroad tracks, and will be internally illuminated.

One of the two proposed "Drive-Thru Pharmacy" signs measures 1 ft. 6 in. high by 16 ft. 10 in. wide, for a total area of 25 SF. This proposed sign will be located on the east elevation of the proposed CVS, facing Church Street, and will not be illuminated. The second "Drive-Thru Pharmacy" sign measures 9 inches high by 0.78 in. wide for a total area of 7 SF; this sign will be located on the northerly elevation of the proposed CVS, along the canopy covering the drive-thru and will be internally illuminated.

The total area of all proposed wall signs is 257.54 SF.

Section 135-904.1.A (5) (a) states that a wall sign shall not exceed the lesser of 150 SF or one square foot in area for each linear foot of frontage for each business. The linear frontage of the building along Church Street is 139.6 feet, which would limit wall signs to 139.6 SF of area. The wall signs proposed by the applicant exceed 139.6 SF, and therefore, a variance is required.

Section 135-904.1.A(5)(b) also limits each business to one exterior wall sign, except where the business has an entrance other than via the store front, and no more than two wall signs are permitted and those signs shall not exceed 50% of the maximum permissible area allowed. As stated above, the total area of all wall signs is five and exceeds the total area allowed. Therefore, a variance is required.

Directional Signs

The applicant proposes to install four directional signs. Three of these directional signs state "Drive-Thru Pharmacy" with an arrow in red letters on a white background and measures 1 ft. 3 in. high by 2 ft. 6 in. wide or 3 SF each, for a total of 9 SF. Each of these signs is elevated 3 ft. 4 in. above the ground. The fourth directional sign is a standard red "Do Not Enter" sign with "Thank you" on the reverse side, measuring 1 ft. 6 in. by 1 ft. 6 in. wide for a total of 2 SF of area. This sign is located 3 feet above the ground.

The total area of all directional signs is 11 SF.

The "Drive-Thru Pharmacy" signs are proposed to be located within the CVS parking lot within landscaped islands at the curb cut on Church Street, opposite Bushnell Terrace, with another within the landscaped island at the curb cut on Church Street, closer to the Washington Street intersection. The third "Drive-Thru Pharmacy" sign will be located within the parking area, closer to the railroad track side of the property, at the edge of the proposed CVS building, where the public would be directed to turn left along the back of the building to access the drive-thru.

The "Do Not Enter/Thank you" sign is proposed to be located along the railroad track property line, adjacent to the drive-thru canopy, to prevent people from entering the drive-thru from the wrong direction.

To the extent that the directional signs are ground signs under our Zoning By-law, Section 135-904.1.A(1)(a) of the Zoning By-laws states that the bottom capping of all ground signs shall be at least 30 inches above the ground. The proposed signs are 36 and 40 inches above the ground, and therefore, variances are required.

Pylon Sign

The applicant proposes to install one pylon (ground) sign at the "nose", meaning the intersection of Washington and Church Streets. The pylon sign is proposed to be 24 feet high at its ornamental peak and internally illuminated with red lights to be consistent with CVS' brand color. The face of the proposed pylon sign measures 9 ft. 7 in. x 5 ft. 6 in. or 52.70 SF per side, for a total area of 105.4 SF. The sign will state "CVS", "Pharmacy," and "Drive-Thru Pharmacy" on three lines. "CVS" and "Pharmacy" appear as red letters on a white field while "Drive-Thru Pharmacy" consists of white letters on a red field.

According to Section 135-904.1.A (1) (a) of the Zoning By-laws, no ground sign shall exceed 60 SF in area or 20 feet in height. The proposed ground sign is double-faced and exceeds the 60 SF limit. In addition, the ornamental peak of the sign is greater than 20 feet in height. Therefore, variances are required.

As grounds for the variances, Attorney Marinelli noted that the proposed redevelopment of this site will be a dramatic improvement to the neighborhood over the existing used car dealership. Specifically, Attorney Marinelli explained that open space on the site will almost triple to 23%, the significant lighting associated with the car dealership will be reduced and replaced with shoebox fixtures with no light spillage or gooseneck fixtures, a subsurface infiltration system will be installed to control water run-off, and the number of curb cuts will be diminished. In addition, Attorney Marinelli highlighted the gooseneck light fixtures on the Church Street side which is more aesthetically appealing and produces less glare to the residential neighborhood.

Attorney Marinelli also explained physical features of the lot as a basis for hardship warranting the variances. The lot is irregularly shaped, as it is 4 ½ times as wide as it is long and tapers to a curve towards Washington Street, which reflects the governmental takings associated with this property. In addition, the topography slopes east to west.

Attorney Marinelli explained that the number and location of signs proposed is necessary to identify the business and to direct the traveling public safely to the site. Further, the interior directional signs are necessary to promote consistent site circulation and to direct the public safely to the drive-thru.

With respect to questions from the Board as to the internal light source being red, rather than white, as required under the Town's by-law, Gary McCoy explained that the red internal lights have been tested by CVS to achieve the deep cranberry red associated with the CVS brand. Mr. McCoy also explained that the red LED lights are more environmentally friendly, as they use less voltage, last longer, emit less sodium vapor, and present fewer disposal issues.

The Board also discussed at what times the lights would be shut off and confirmed that the lights on the Church Street/residential side would go off one hour after the store closes.

The petitioner submitted two renderings, one of which was the proposed site plan for the CVS showing where the various signs would be located on the site. The other plan is entitled "Proposed Sign package," prepared by Poyant Signs of New Bedford, MA dated November 7, 2011 and revised December 6, 2012.

No one else spoke in favor of or opposition to the petition. The Planning Board voted 4-0-0 in favor of the requested relief with the condition that the internal and gooseneck lighting for the external signs on the Church Street and Washington Street elevations be turned off when the store closes..

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the irregular shape of the lot, the sloping topography of the lot and the setback of the building from the Washington Street intersection warrants the proposed signage. The Board also found that the use of red internal LED lights behind a plastic sign face to be consistent with the CVS brand would not derogate from the intent of the by-law. The Board also found that wall signs, internal directional signs and the ground sign are necessary to identify the location of the business and to direct the public traveling to the site. The Board further found that the proposed signs would increase the business' visibility and improve traffic circulation which would lead to safer traffic conditions and greater public convenience in directing traffic to the site. The Board also concluded that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating the intent and purpose of the Zoning By-law.

Decision

On motion made by Mr. Gauthier and seconded by Mr. Calder, it was unanimously voted 3-0 to grant the requested relief, subject to the plans presented, with the condition that the internally lit signs on the Washington Street elevation and the gooseneck lit signs on the Church Street elevation be shut off one hour after the store closes and with the understanding that the ground sign and the signs on the railroad track elevation may remain on at the operator's discretion.

APPROVAL OF MINUTES:

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to accept the meeting minutes of December 18, 2012.

The Board adjourned the meeting at 8:42 pm.