

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
APRIL 5, 2012**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Kenneth Gordon, Vice Chair; Brian Gildea, Clerk; Jeffrey Cohen; Jeffrey Dearing; Stephen Henning

ABSENT: Carol Amick; Todd Crowley

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and ZBA assistant introduced themselves.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #022-12 – S. Carlough Faulkner-Carroll and Ian Carroll, at 6 School Way, seek a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct addition within front and rear yard setbacks.

The applicants greeted the Board, and Ms. Faulkner-Carroll stated that she and her husband were requesting a Special Permit to build an addition at the back of their house. She explained that the existing home is approximately 1,100 square feet, noting that that size was enough for her and her husband when they first bought the house, but since that time they have had one child and may have another, so they now need more space. She said that the first floor of the house currently has a living room, a three season porch, a dining room, and a kitchen; this addition would turn the current kitchen into a mudroom/entryway, and would add a new kitchen and a family room. She showed artistic renderings of several different angles of the proposed addition.

Mr. Cohen asked for confirmation that this addition would only affect the back of the house and would not be built any closer to School Way. Ms. Faulkner-Carroll confirmed that that was correct.

Mr. Colasante asked what the square footage of the proposed addition was. Mr. Carroll replied that the footprint is 370 square feet.

Mr. Gildea asked whether the current deck would be removed. Mr. Carroll said that was correct.

Mr. Cohen asked how much closer the new addition will be to the back property line than the existing deck. Mr. Carroll replied that it would be slightly less than two feet farther into the setback.

Mr. Cohen asked whether the back stairs would have a roof over them. Ms. Faulkner-Carroll responded that they would not.

The Board talked with the applicants about the plot plan and the dimensions of the proposed addition.

Mr. Colasante opened the hearing to the public.

Rich Daugherty, of 49 Elm Street, said that half of the applicants' front lawn is a utility easement owned by the Town, so the proposed addition is the only way they can feasibly add on to their house. He said that the lot is already legally non-conforming and felt that this will only make it more non-conforming by a couple feet, and it won't detract from his view of the neighborhood. He said he supports this application completely.

Janet Powers, of 10 School Way, said she is also in favor of the application. She said that anyone who lives in that house will need to make it larger, and this is a very modest addition compared to what some other people might propose. She said she is happy to see that the Carrolls want to stay in the neighborhood and she is grateful that this addition will allow them to do so.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said this project very clearly requires a Special Permit, and the two conditions of a Special Permit are that the project is in keeping with the intent and purpose of the By-Law and is not injurious or detrimental to the neighborhood. He said he always likes to hear input from neighbors, and thinks that input goes a long way in helping the Board determine whether any project is indeed not detrimental or injurious to the neighborhood. He stated that the support from the neighbors helps confirm his initial judgment that this proposal meets the requirements of a Special Permit. Mr. Gordon agreed.

Mr. Dearing said that this addition is very much in keeping with the neighborhood in which the Carrolls live, and he also feels the addition is in keeping with the spirit of the By-Law. He said he supports this application.

Mr. Gildea asked Mr. Daugherty whether he would object to this application if the proposed addition were two floors instead of one, as he always takes into consideration the notion of "incrementalism" and the possibility that it could be added onto in the future. Mr. Daugherty stated that it still would not affect the sight lines from his house so he would not object to a second floor, either. Mr. Dearing pointed out that the applicants would have to come back before the Zoning Board, were another addition ever proposed.

The other Board members agreed that this project met the criteria of a Special Permit.

MOTION:

Mr. Gildea moved to grant S. Carlough Faulkner-Carroll and Ian Carroll, at 6 School Way, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct addition within front and rear yard setbacks, as substantially showed on Exhibits A through E.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, and Dearing

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

The applicants thanked the Board members for their time, and Mr. Colasante wished them luck with their project.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #021-12 – Back Bay Sign, for CVS Pharmacy, at 199 Great Road, seeks a Special Sign Permit per Article 40.5 Section 3 of the Sign By-Law to illuminate existing wall and freestanding signs between the hours of 11:00 PM and 6:00 AM, seven days a week.

Jason Parillo, of Back Bay Sign, greeted the Board and introduced Melissa Kazilowski, the store manager of the Bedford CVS. Mr. Parillo explained that CVS is open for business 24 hours a day, seven days a week, and the store currently has two halo-illuminated wall signs and a small monument freestanding sign with a fluorescent fixture that shines down from above. He said this ZBA proposal tonight was to allow these signs to be illuminated between the hours of 11:00 PM and 6:00 AM. He stated that it is important for any business that is open 24 hours to make itself known to customers, but in the case of a store like CVS, it is even more important, since it caters to people in certain emergency situations, offering such items as prescriptions, medications, and first aid supplies. He referenced the application packet and the overhead photograph of the CVS site (see attached), noting that the three signs with proposed illumination are signs #1, #2, and #3.

Mr. Gordon asked whether there was currently any sign illumination at night. Mr. Parillo said there is not. Mr. Gordon asked whether the parking lot lights were illuminated.

Mr. Parillo said that they are, which was the only way that anyone driving by would know they were open, besides looking in through the store windows.

Mr. Gildea asked whether the pharmacy is open 24 hours. Ms. Kazilowski responded that it is not, and is only open until 10:00 PM and re-opens at 8:00 AM.

There was conversation about the illumination of the parking lot and how much of that illumination sheds light on the signage.

The Board talked with the applicant about the photographs shown in the application packet.

Mr. Dearing asked whether it would be possible to illuminate only the “CVS” wording all night and not “Pharmacy,” since the pharmacy is closed at night. Ms. Kazilowski stated that the company name is technically CVS Pharmacy, so they would never want to illuminate part of the name.

Mr. Colasante opened the hearing to the public.

As part of the public hearing, Mr. Colasante read into the record an email from James O’Neil, of 21 Clark Road, dated April 3, 2012 (see attached).

Christopher Weisz, of 22 Loomis Street, stated that he is an amateur astronomer and enjoys looking at the night sky. He said that the lighting at CVS sometimes makes it difficult to see the stars at night, and, while he does not want to limit the store’s business, he would like to see the Board make some kind of ruling that would help limit the illumination.

Mr. Colasante asked Mr. Weisz whether he sees a significant decrease after 11:00 PM when the CVS sign lights go off and the streetlights remain on. Mr. Weisz said he does see a significant decrease after 11 pm when businesses across town turn their lights off, and midnight is the best time to see stars. He said that CVS has always been a good tenant but he would like to see cut-off lighting, and would also like to see some kind of provision written into the Sign By-Law allowing only full cut-off lighting, and not allowing cobra head lighting. Mr. Cohen stated that the pole-mounted parking lot lights at CVS are cut-off lights and there was already a requirement in the Sign By-Law limiting overspill, which was written with the same frame of mind in which Mr. Weisz is speaking. He said he will also bring it up at a future Sign By-Law Review Committee meeting.

Mr. Gordon asked Ms. Kazilowski whether she has ever had a customer tell her that they did not stop at the CVS store at night because they didn’t know it was open. Ms. Kazilowski stated that she has never heard anyone tell her that directly but she imagines that it has probably happened.

Mr. Weisz added that he has spoken with his neighbors on either side, and they both agreed that they didn't want to see a lot of extra lights on the CVS building either, as it could greatly change the feeling of a residential neighborhood.

Mr. Cohen asked the applicants if they had to pick any one of the three illuminated signs shown in the photographs to remain illuminated between 11 pm and 6 am in order to identify the entrance to the establishment to facilitate the safe access or egress, which one would they select. After considering the options, the applicants said the wall sign facing Great Road, Sign #2, would be the sign that they believed offered the best visibility to the public traveling eastbound or westbound on Great Road to identify the entrance to the establishment and facilitate the safe access or egress.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said it is his opinion that the Board does have the power to grant this lighting, although perhaps not the entire scope of which the applicants are asking. He said he can understand the need for signage to be illuminated for a 24-hour business, not only to alert customers that the store is open but also for safety. He said he agreed with comments from other Board members that the freestanding sign by Great Road should not be approved, which in his mind leaves the two wall signs to be determined.

Mr. Cohen said he doesn't recall many instances of the Board allowing 24/7 illumination for many businesses, but he does specifically recall that the Board granted a Special Permit to Nova, on Burlington Road, because it was established that the illumination not only lit the sign but specifically identified the driveway. He said that if the Board can determine that either an entrance or a driveway is identified as the result of sign illumination, then a Special Permit can be granted here as well.

There was extensive discussion regarding Article 40.5 Section 3 of the Sign By-Law, which states:

No sign shall be illuminated between the hours of 11:00 PM and 6:00 AM. A Special Permit from the Board of Appeals may be granted to allow illumination at establishments that are normally open to the public during those hours, and the requirements of Section 1, Overspill, are met. Such element shall be permitted only as required to identify the entrance(s) of the establishment and to facilitate the safe access or egress.

There was discussion about the placement of the two curb cuts to the CVS parking lot and whether they counted as "entrances" under the Sign By-Law's provision. Mr. Gordon said he wasn't convinced that any of the signs in question signify an entrance, because they aren't exactly over the door.

The Board members agreed that Sign #3 as shown on the overhead photograph would not qualify for the above-referenced section of the Sign By-Law and therefore could not be approved. Mr. Cohen said he would be inclined to vote in favor of Sign #2, over the Great Road entrance because there is an entrance to the establishment under this sign. In addition, it faces the main street and a commercial property, not a residential district. There's less impact to the residential abutters on Loomis Street and Great Road. Mr. Dearing said he would be more in favor of illuminating the sign on Loomis Street, because it will stand out much easier since there is not as much lighting around it. He said that the Great Road sign might not stand out nearly as much with all the surrounding illumination. He added that he would, however, vote in favor of either sign, not only out of respect for the neighbor but also because he would like to help the business.

Mr. Gildea said that he could understand illuminating either Sign #1 or Sign #2, but is more concerned about paying attention to the abutter's comment and keeping the Loomis Street side dimmer. He said he agreed with Mr. Cohen that Great Road is the commercial side of the property and Loomis Street is the residential side, so he would be inclined to vote in favor of illuminating a sign on the former rather than the latter.

After further discussion about the interpretation of the Sign By-Law wording, Mr. Gordon said that he now feels the Board does have the power to grant the sign on the Great Road side of the building. He said he would vote in favor of Sign #1. Mr. Henning agreed that he initially didn't feel the Board had much leeway in this matter but now also realizes that the wording may be deliberately vague to allow the Board to interpret an "entrance" in multiple ways, such as illumination identifying a driveway.

Mr. Colasante said that the majority of traffic at that time of night will be along Great Road, not Loomis Street, so if that sign is illuminated and fully visible it may actually be safer, as drivers will readily see that it is open and not have to hit the brakes hard or make any illegal maneuvers.

Mr. Colasante explained to the applicants that the Board appears to be ready to vote in the affirmative for only one of the three proposed signs. He indicated that he'd allow the applicants to withdraw their application without prejudice or ask the Board to move forward with a vote for one sign. Mr. Parillo and Ms. Kazilowski agreed that they would like to have a vote for the one sign, in particular the sign on Great Road (Sign #2 in the drawings submitted to the Board).

MOTION:

Mr. Gildea moved to grant to CVS Pharmacy, 199 Great Road, a Special Sign Permit to illuminate existing wall sign on Great Road between the hours of 11:00 PM and 6:00 AM, seven days a week, substantially as shown on Exhibit A, the permissible sign being sign #2.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, and Dearing
Voting against: None
Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Sign Permit at the Code Enforcement Department.

Mr. Parillo and Ms. Kazilowski thanked the Board members for their time.

BUSINESS MEETING:

Mr. Colasante called for a motion to approve the minutes of the March 22 meeting.

MOTION:

Mr. Gordon moved to approve the minutes of the March 22, 2012 Zoning Board of Appeals meeting.

Mr. Gildea seconded the motion.

Mr. Cohen and Mr. Henning stated that they would abstain from voting, as they were not present at the meeting.

Voting in favor: Colasante, Gordon, Gildea, and Dearing
Voting against: None
Abstained: Cohen and Henning

The motion carried, 4-0-2.

MOTION:

Mr. Gildea moved to adjourn the meeting.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, and Henning
Voting against: None
Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 9:25 PM.



Angelo Colasante, Chair

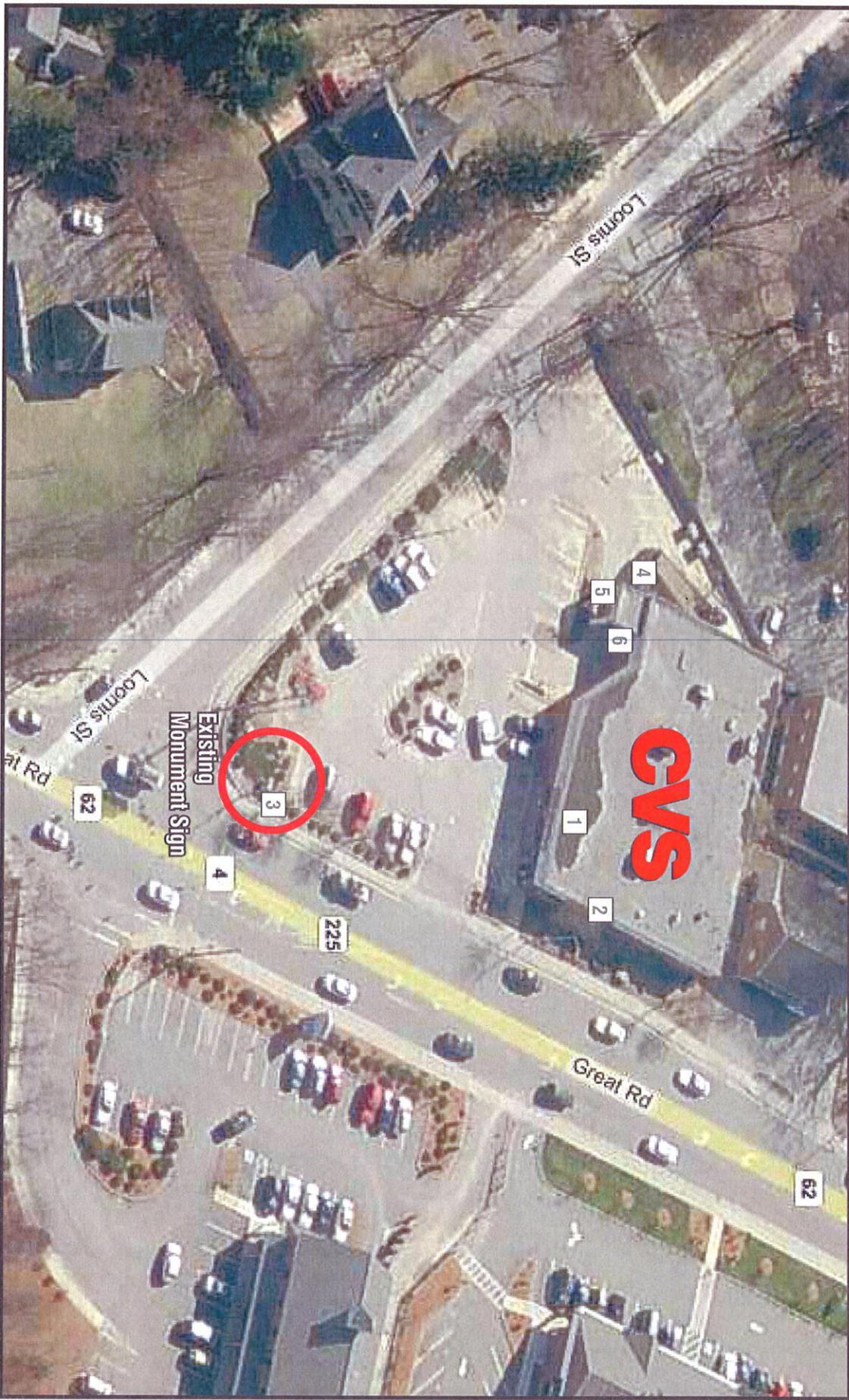
5-24-12
Date

Respectfully Submitted,

Scott Gould
ZBA Assistant

Attachments:

- Overhead photograph of the CVS site
- Email from James O'Neil, of 21 Clark Road, dated April 3, 2012



Sign #: 1

Photo #: 00
(Indicates facing)

CVS Store: CVS

Building: _____
(when applicable)



SITE PLAN

ADDRESS: 199 Great Road
CITY/STATE: Bedford, Massachusetts
ZIP: 01730-2713

PROJECT #:
0751

SUBMITTAL IS:

APPROVED
 APPROVED AS NOTED
 REVISED AND RESUBMIT

CLIENT CONTRACTOR
DATE

DATE: 04/27/11
Rev. 1: 02/24/12
Rev. 2: 00/00/00
Rev. 3: 00/00/00
Rev. 4: 00/00/00
Rev. 5: 00/00/00

SCALE:
As Noted

DRAWN BY:
PHF

PAGE #:
1

LOCATION #:
0736

FILE PATH:
..:\CVS pharmacy\Locations 2011\Project 751\751-0736 Bedford MA.cdr

Drawings are the exclusive property of Icon Identity Solutions Inc. Any unauthorized use or duplication is not permitted.

DRAWINGS PREPARED BY:



Gould, Scott

From: James O'Neil
Sent: Tuesday, April 03, 2012 11:12 AM
To: Gould, Scott
Subject: Input on ZBA CVS hearing April 4, 2012

I am not able to attend the meeting to discuss the application for CVS on Thursday April 5, 2012. I would appreciate my notes being entered into the meeting record.

I would expect that the present permit issued to CVS was written to meet the requirements of 39.5 Illumination Section 3 Hours. The present By-law allows illumination to "identify the entrance of the establishment and to facilitate safe access or egress." Any additional lighting between 11 PM and 6 am is not permitted.

Jim O'Neil

Total Control Panel

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Message Score: 2
My Spam Blocking Level: Medium

High (60): Pass
Medium (75): Pass
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