

**Town of Somers**  
**Zoning Board of Appeals**  
**Public Hearing 1/14/2014**  
**7:30 p.m. Town Hall**

***I. CALL TO ORDER***

The meeting was called to order at 7:34 p.m. by Chairman Robert Minch. Secretary Dean Hills did the roll call. Also attending were Vice-Chair Barbara Flebotte, members Doug Stebbins, B.J. Ferro and Jerome Young. Member Lucas Cherry recused himself.

***II. PUBLIC HEARING***

***1. 11 South Road; 558, 590, 592 Main Street-G.B. New England 2, LLC***

Speaking for the town was attorney Carl Landolina. Attorney Landolina was invited by Chairman Minch to announce the parameters of the hearing. Additionally, he shared there are 30 days to conduct the public hearing and 65 days, once the public hearing is closed, for a decision to be made by the Z.B.A. The legal notice was read by secretary Hills.

Speaking for the applicant was attorney Dory Famiglietti as well as the applicant's Director of Land Development, Shannon Rutherford. Attorney Famiglietti discussed the need for variances, concerning parking, signage and landscape. The applicant, *CVS Pharmacy*, was seeking a landscape reduction of a *landscape buffer*, as well as the allowance of a dumpster and parking variances. She discussed a "two pronged test". One aspect being that the retail use does not adversely affect the *comprehensive plan*, the other prong proving hardship to the business. Ms. Rutherford addressed the audience by showing a schematic map of the 13,225 square feet CVS proposal. Director Rutherford stated that the proposed square footage of the CVS building is similar to the combined square footage that is at the location site currently.

Chairman Minch asked attorney Famiglietti what the specific hardship was. He stated that he did not feel that there was a hardship and stated that his vote would reflect this. Member Jerome Young asked how the proposed wall would affect entrances. Attorney Landolina explained what the board was charged with, specifically variances. Member Ferro asked whether or not there have been studies concerning car size. Director Rutherford stated that the parking space requested is an industry standard. Member Ferro asked if the requested parking spaces accommodate the projected traffic. Member Flebotte asked if the parking stall size was similar to what other CVS locations had. Member Young asked that if the building size was reduced, wouldn't the variances be no longer needed. Attorney Famiglietti suggested that other businesses may work within a smaller building size, but CVS was not such a business. Member Ferro inquired about alternate placement of where the sign is placed. Attorney Landolina asked about the total square footage of building from a "footprint" perspective; currently 75.8% to the proposed 80.1%.

Chairman Minch asked Secretary Hills to read two letters into the record;

- *R. Hutton, 213 Pinney Rd.* - speaking about the impact on current other businesses.
- *P. Broer, 74 Hampden Rd.* - stating the current pharmacy meets the needs of the town.

#### AUDIENCE

- *K. Mashiak, 54 Springfield Rd.* - spoke for Pat Jones, 596 Main Street, Somers As well on her own behalf concerning her property, that abuts the proposed CVS. Both were opposed to the proposal.
- *D. Reed Chairman of the Economic Development Commission, 32 Mountain View Road* - spoke for the commission in their support of the current pharmacy.
- *C. Pyne, 46 Sunset Drive* – stated she was not in supported of the variances.
- *Barry Moynihan, 119 Maple Street* – stated that 588 Main Street and 596 Main Street are registered and protected for their historical significance.
- *C. Stebbins, 7 Turnpike Road* – spoke in opposition to the proposed variances.
- *E. Fedorowich, 232 Stafford Road* - spoke in opposition to the proposed variances.
- *R. Williams, 42 Springfield Road* – expressed concern over property values near this proposal. Also mentioned other CVS locations nearby that are smaller, suggesting the size of the proposed building is what is causing the hardship.
- *E. Palacko, 46 Kibbe Drive*- stated that the CVS in Glastonbury, which was offered as a comparison, was too large and not appropriate for the proposed location in town.
- *Paul Arcari, 72 Mountain View Road* - had issue with the transformer in relation to the baseball fields.
- *P. Trumbull, 26 Maple Ridge* - recounted the last attempt CVS made a proposal and was opposed to the current proposal.
- *R. Smith, 86 South Road* – was opposed and shared concerns if CVS allowed.
- *P. Carson, 6 Camp Road* - gave background including her role as former Town Planner and working with the town's Zoning Commission and Planning Commission, then offered a report to the board, giving her professional opinion that the demonstrated hardship of the proposal was insufficient.
- *G. Panciera, 10 Franklin Road Drive* – not in support of variances, stated that the proposed building is simply too big.
- *A. Sosha, 95 Franklin Woods Road* - concerned about the small lot and complication with proposed parking with snow removal and the like.
- *D. Arnold, 9 Dillenback Road* - stated that a good percentage of cars are too long for the proposed parking space. Also, the sign, being across from the church, is in bad taste.
- *C. Aleks, 159 Turnpike Road* – not in support of variances, cited Joni Mitchell's lyric from Big Yellow Taxi "they paved paradise, and put up a parking lot".  
*N. Abramson, 192 Scully Road* – shared experience of being a business owner with similar sized businesses. He stated that zoning regulations are necessary, and that CVS should be thinking about being a part of the community and working within the existing zoning regulations.

- *D. Castro, 84 Hickory Hill Drive* – spoke against the proposed property.
- *D. Capuano, 687 Hall Hill Road*, - stated that the traffic on 190 might cause people to park at neighboring businesses.
- *M. Young, 447 Mountain Road* - asked why attorney Landolina was present. Attorney Landolina stated that Chairman Minch had requested his attendance.

### **III. PUBLIC HEARING/DISCUSSION**

*Chairman Minch asked if there were other comments from audience. Attorney Famiglietti stated that there were proposed plans that accommodate traffic conditions. Additionally, she restated case law concerning nonconforming proposals that can be given variances by the Z.B.A. She asked that the Z.B.A. seriously consider granting the variances. Vice-Chair Flebotte, seconded by member Ferro, made a motion to close the public hearing at 9:12 p.m.*

**Motion passed unanimously.**

*The board requested a break.*

*The meeting resumed at 9:29 p.m.*

Attorney Landolina stated under state law, four votes from the board in favor of approving the variance request is required for approval. He asked that each variance request be voted on individually, as well as clarifying for the board aspects of a hardship to consider when deliberating.

Chairman Minch asked for discussion on *Section 214-14; Building Lines, to permit structures within building line setbacks*. Secretary Hills opened discussion by stating that he felt CVS was creating hardships by the size of the proposed building. He also stated he cannot vote in favor of any of the variances, given the size of the proposed building.

Secretary Hills made a motion, seconded by Member Ferro, to approve *Section 214-14; Building Lines, to permit structures within building line setbacks*.

**No votes in favor, motion fails unanimously.**

Secretary Hills made a motion, seconded by member Ferro, to approve *Section 214-15; Corner Lots, to permit structures within 50' of two intersection street lines*.

**No votes in favor, motion fails unanimously.**

Secretary Hills made a motion, seconded by member Ferro, to approve *Section 214-16; Obstructions in yards, to permit structures within front and side yards*.

**No votes in favor, motion fails unanimously.**

Secretary Hills made a motion, seconded by member Ferro, to approve *Section 214-63; Parking Design Specifications, to reduce required parking stall size*.

**No votes in favor, motion fails unanimously.**

Secretary Hills made a motion, seconded by member Ferro, to approve *Section 214-64; Off Street Parking Requirements, to reduce required space count.*

***No votes in favor, motion fails unanimously.***

Secretary Hills made a motion, seconded by member Ferro, to approve *Section 214-98; Bulk Regulations, regarding total lot coverage.*

***No votes in favor, motion fails unanimously.***

Secretary Hills made a motion, seconded by member Ferro, to approve *Section 214-99; Buffers and Screening, to reduce required landscape buffers.*

***No votes in favor, motion fails unanimously.***

#### **IV. NEW BUSINESS**

*None.*

#### **V. UNFINISHED BUSINESS**

1. ZBA By-laws

2. Variance Time limits.

*Action postponed until next meeting*

#### **VI. CORRESPONDENCE AND BILLS**

*None*

#### **VII. Minutes Approval – November 12, 2013**

Areas in need of correction

- Public Hearing

paragraph verb tense "*stated*" verses "*state*"

-Unfinished business

"guide for ( insert *new*) members"

A motion to accept minutes as amended made by member Ferro and seconded by member Stebbins.

***All in favor, motion carried.***

#### **VIII. ADJOURNMENT**

Member Stebbins made a motion, seconded by member Young, to adjourn the meeting at 9; 54 p.m.

***All in favor, motion carried.***

**Respectfully Submitted,**

Stephanie Benson

*Recording Secretary*