

Town of Brownsburg Board of Zoning Appeals Project Synopsis

TO: Board of Zoning Appeals; Tricia Leminger
FROM: Todd A. Barker, AICP
DATE: September 28, 2011
RE: CASE # BZDV-9-11-1086/ 2011-08BZA

GENERAL INFORMATION:

APPLICANT: GSW/ Apex Electric and Sign Co INC

STATUS OF APPLICATION: Pending action before the Board of Zoning Appeals

REQUESTED ACTION: Development Standards Variance

DATE OF APPLICATION: September 28, 2011

PURPOSE: To exceed the maximum number of signs permitted on a lot.

ORDINANCE: §155.297(B)(3) of the Brownsburg Zoning Ordinance, entitled "Regulations by district classification"

PROPERTY ADDRESS: 21 W. Main Street

PARCEL ID: 32-07-11-305-024.000-016

EXISTING ZONING: C-3

UTILITIES:

WATER:	Town of Brownsburg
SANITARY:	Town of Brownsburg
STORMWATER:	Town of Brownsburg

EXISTING SURROUNDING ZONING:

NORTH:	C-3
SOUTH:	C-3
EAST:	C-3
WEST:	C-3

EXISTING USES:

NORTH:	Commerical
SOUTH:	Commercial
EAST:	Commercial
WEST:	Commercial

NEIGHBORHOOD CHARACTERISTICS: This property is in the heart of Brownsburg's downtown as one of the four properties that is located at the intersection of Green Street / SR 267 and Main Street / US 136. Downtown is currently a mixed use district including commercial, industrial, residential, and institutional/governmental uses. Brownsburg's traditional core

downtown is the area surrounding the intersection of Green Street / SR 267 and Main Street / US 136 although the physical appearance of this area has changed in the last fifteen years with the loss of two buildings that included early 20th century architecture and site layout. Even with change of physical appearance as the iconic center of Brownsburg the intersection of Green Street / SR 267 and Main Street / US 136 remains the "center" of Town.

TOTAL PARCEL SIZE: 1.07 Acres

COMPREHENSIVE PLAN DESIGNATION: The Future Land Use map in the Brownsburg 2020 Comprehensive Plan recommends this area for Office/Commercial development.

THOROUGHFARE PLAN: Green Street / SR 267 and Main Street / US 136 are listed as Primary Arterial in Town of Brownsburg 2020 Thoroughfare Plan.

GREENWAYS MASTER PLAN: These stretches of Green Street / SR 267 and Main Street / US 136 are recommended to be an Urban Trail Corridor.

PUBLIC NOTICE: Hendricks County Flyer November 19, 2011

PUBLIC HEARING DATES: December 12, 2011 - 7 p.m.

PUBLIC COMMENTS: No written comments received as of December 5, 2011.

STATUTORY REQUIREMENTS/ FACTORS TO BE CONSIDERED:

The requirements for issuing a Developments Standards Variance are outlined in the zoning ordinance and by Indiana Code §36-7-4-918.5. It is the responsibility of the petitioner to provide evidence that proves their request complies with the three points listed below.

DEVELOPMENTS STANDARDS VARIANCE

Variances of use from the terms of this Ordinance may be approved only upon a determination in writing that the following apply:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
4. The strict application of the terms of this Ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought.

PREVIOUS ACTIONS ON-SITE:

1. 1998-15P Site Development Plan Approval for CVS

PREVIOUS ACTION- SURROUNDING AREA:

1. 1999-23P Walgreens Replat
2. 2001-15P Walgreens Replat

SUPPLEMENTARY DOCUMENTATION INSERT:

- | | |
|--------------------------------|-------------|
| ▪ APPLICATION | EXHIBIT - A |
| ▪ DETAILED STATEMENT OF REASON | EXHIBIT - B |
| ▪ PROPOSED SIGNS & LAYOUT | EXHIBIT - C |
| ▪ ZONING MAP | EXHIBIT - D |
| ▪ AERIAL INSERTS | EXHIBIT - E |
| ▪ SITE PHOTOS | EXHIBIT - F |

**EXHIBIT – A
APPLICATION**

PLANNING & BUILDING

SEP 28 2011

**APPLICATION TO
THE TOWN OF BROWNSBURG
BOARD OF ZONING APPEALS** **DEVELOPMENT STANDARD VARIANCE**

Docket #: 201108BZA / BZDV-9-11-1084 Date Received: 9/28/11
Application Fee: \$ 600.00 Receipt #: 2886

COMPLETE THE FOLLOWING

1. Applicant's Name: GSW/Apex Electric and Sign Co INC 2. Phone: (317) 326-1325
3. Mailing Address: 500 N Rangeline Rd Morristown, IN 46161
4. Email Address: JCarter@Apexelectricandsign.com
5. Owner's Name: CVS Pharmacy 6. Phone: (401) 765-1500
7. Mailing Address: One CVS Drive, Woonsocket, RI 02895
8. Email Address: _____
9. Applicant is (Check One) sole owner joint owner tenant
 agent other (specify) _____
10. Premises Affected:
 A. Address: 21 W Main St. Brownsburg, IN 46112
 B. Parcel Number(s): 32-07-11-305-024.000-016
11. Existing Zoning: C-3 12. Existing Use: Commercial
13. Surrounding Properties:

	North	South	East	West
Zoning:	<u>C-3</u>	<u>C-3</u>	<u>C-3</u>	<u>C-3</u>
Use:	<u>Commercial</u>	<u>Commercial</u>	<u>Commercial</u>	<u>Commercial</u>
14. Applicable section of the Zoning Ordinance: 155.297. (B) (3)
(one section per application)
15. Detailed Statement of Reasons for this request: (refer to § 155.036 of the zoning ordinance)
* Please see attached

16. Notarization:
The above information and attached exhibits, to my knowledge and belief, are true and correct.

Date: Sept. 22, 2011
 Signature of Applicant: [Signature]
Jason G. Carter
 Print

State of IN
 County of Shelby
 Subscribed and sworn to before me this 22nd day of Sept, 2011
 County of Residence: Hancock
 My Commission Expires: 11-18-2016

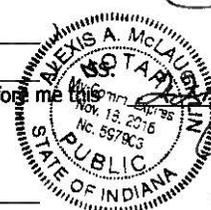

 Signature of Notary: [Signature]
Alexis Ann McLaughlin
 Print

EXHIBIT - A
APPLICATION *continued*

AFFIDAVIT AND CONSENT OF PROPERTY OWNER

I / (we) Ellyn W. Rogal, Managing Member/Langley Union LLC
and _____ after being first
duly sworn, depose and say:

1. That I / (we) are the owner(s) of the real estate located at: 21 W. MAIN ST.
BROWNSBURGH IN 46112
2. That I / (we) authorize GSW/APEX ELECTRIC SIGNS/PASON CARTER to act as my / (our)
agent for the variance request.
3. That I / (we) have read and examined the Application for a Development Standards Variance and
am / (are) familiar with its contents.
4. That I / (we) have no objection to, and consent to such request as set forth in the Application.
5. That such request being made by the Applicant is / (is not) a condition to the sale or lease of the
above-referenced property.

Ellyn W. Rogal
Signature of Affiant

Date: 9/27/2011

Ellyn Rogal
Print

State of Massachusetts)

County of Middlesex) SS:

Subscribed and sworn to before me this 27th day of September 2011

County of Residence: _____

Signature of Notary _____

Norfolk

Jonathan S. Helman

My Commission Expires: _____

Print

4/13/2014



EXHIBIT – B
DETAILED STATEMENT OF REASONS

DETAILED STATEMENT OF REASONS

This document is a part of the application for Variance to apply to the property located at

21 West Main Street

Brownsburg, IN.

I/we understand that the Board's findings shall be based upon the following statutory requirements:

Development Standard / Dimensional Variance - Variances from the development standards of the zoning ordinance may be approved only upon a determination in writing that:

- 1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- 2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- 3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

I hereby assert that this petition addresses the above criteria, to wit:

See Attached Statement: Dated

Your statement must do two things:

(1) explain in detail the variance you are requesting;

(2) explain how your request meets the criteria listed for your type of variance.

Applicant Signature

Jason G. Carter

Print Name

September 12, 2011

Date

EXHIBIT – B
DETAILED STATEMENT OF REASONS *continued*

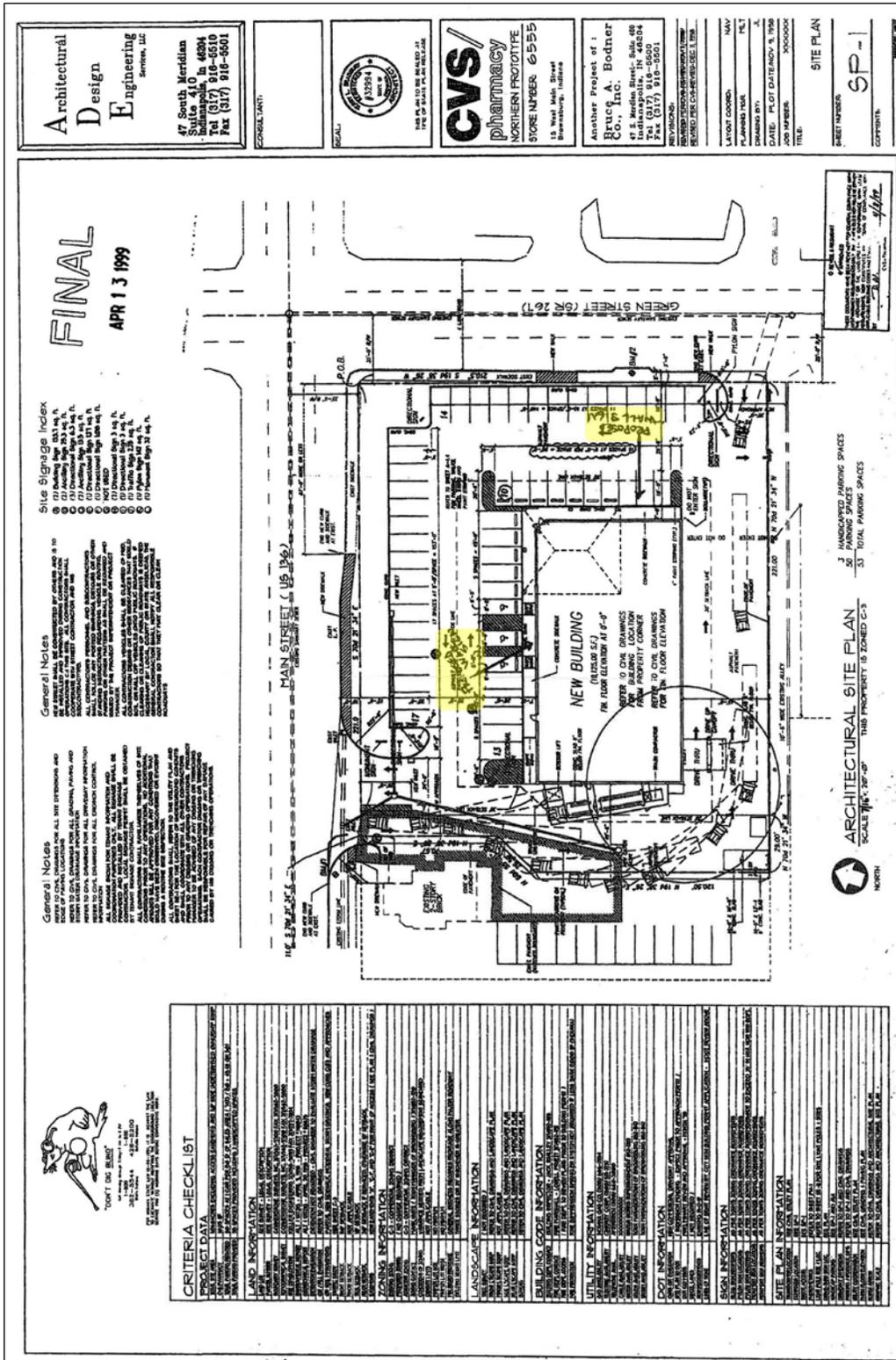
Petitioner request this variance for the following reasons.

Petitioner is expanding their business which in the past has been primarily pharmaceuticals and convenience items and is now adding healthcare through their "Minute Clinic", Minute Clinic provides one stop health care for the surrounding community for all basic healthcare needs. This idea is still a little known idea and name recognition is key to the survival of this new service. While both businesses are in fact owned by the same company they are very much separate entities and feel as though they need signage for both in order to maintain there business. The petitioner has 2 roads of frontage and believes they should be able to use both for recognition of there business(s) as they have in the past. CVS/Caremark prides themselves in there convenience and accessibility and has continued this thought in implementing this new service. As stated earlier this is a separate entity but at the same time is imperative that it be placed in the same building to allow for the purpose of the service which is convenience to both healthcare and medicine in the same building. CVS believes that without the extra signage their ability to do business by such a plan will be directly and adversely affected. CVS further believes that they have a unique circumstance in their business model that should allow for this and will not set a precedent for approvals for surrounding properties or their own in the future. The zoning ordinances regarding signage on this property will directly affect the company's ability to do business and succeed in the future.

EXHIBIT – B
DETAILED STATEMENT OF REASONS *continued*

I, Jason Carter, an agent for CVS pharmacy am requesting a variance from development standards, to allow 1 extra wall signs which will total 3 wall signs for this property. The ordinance allows for only 2 wall signs. This property also contains 2 streets of frontage. The wall sign will be 1.5' by 13'-3 1/8". The approval will not be at all injurious to the public health, safety, morals or general welfare of the community. The signs, if permitted, will not obstruct or hinder any view from public ROW's, It will not be designed in any way as to interfere with the public well being. The approval of this sign will be only useful as it pertains to the public health and general welfare of the community. The use and value of surrounding properties will also not be affected in any manner. This sign will not be obtrusive or offensive in any manner. This sign will not provide for a competitive disadvantage for any business or surrounding businesses. Furthermore the sign will not be visible from any surrounding protected district in which property values should be adversely affected. CVS is starting their "Minute Clinics". These clinics while owned by the same company is a different entity and provides a different service than the traditional business conducted at CVS. This is a relatively new venture in business for CVS and they believe that the extra signage is necessary to allow for name recognition to the community, both for the advantage of CVS and the community to know that the new option for health care is available to them at this location. CVS believes that a practical difficulty will arise with the restrictions of this zoning ordinance as they will not be able to maintain the identity of their parent company in "CVS" and also receive the recognition needed to grow and expand the new business they have began in the "Minute Clinic" CVS believes there situation is unique and that the approval of this sign given the conditions will not set a precedent to allow for extra signage for themselves or others in the future.

EXHIBIT - C
PROPOSED SIGNS & LAYOUT *continued*



Architectural Design Engineering
 Services, LLC
 47 South Meridian
 Suite 410
 Indianapolis, IN 46204
 Tel (317) 816-5510
 Fax (317) 816-5501

CVS/pharmacy
 NORTHERN PROTOTYPE
 STORE NUMBER: 6555

Another Project of:
Boyer & Bodner Co., Inc.
 47 S. Meridian Street, Suite 400
 Indianapolis, IN 46204
 Tel (317) 816-5510
 Fax (317) 816-5501

DESIGNED BY: [Name]
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]
 TITLE: SITE PLAN

FINAL
 APR 13 1999

- Site Signage Index**
- (1) Building Sign 10 ft x 4 ft
 - (2) Building Sign 10 ft x 4 ft
 - (3) Building Sign 10 ft x 4 ft
 - (4) Building Sign 10 ft x 4 ft
 - (5) Building Sign 10 ft x 4 ft
 - (6) Building Sign 10 ft x 4 ft
 - (7) Building Sign 10 ft x 4 ft
 - (8) Building Sign 10 ft x 4 ft
 - (9) Building Sign 10 ft x 4 ft
 - (10) Building Sign 10 ft x 4 ft
 - (11) Building Sign 10 ft x 4 ft
 - (12) Building Sign 10 ft x 4 ft
 - (13) Building Sign 10 ft x 4 ft
 - (14) Building Sign 10 ft x 4 ft
 - (15) Building Sign 10 ft x 4 ft
 - (16) Building Sign 10 ft x 4 ft
 - (17) Building Sign 10 ft x 4 ft
 - (18) Building Sign 10 ft x 4 ft
 - (19) Building Sign 10 ft x 4 ft
 - (20) Building Sign 10 ft x 4 ft

General Notes

1. ALL SIGNAGE SHALL BE CONSIDERED BY OWNER AND APPLICANT TO BE THE RESPONSIBILITY OF THE APPLICANT. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION.

General Notes

2. ALL SIGNAGE SHALL BE CONSIDERED BY OWNER AND APPLICANT TO BE THE RESPONSIBILITY OF THE APPLICANT. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION.

General Notes

3. ALL SIGNAGE SHALL BE CONSIDERED BY OWNER AND APPLICANT TO BE THE RESPONSIBILITY OF THE APPLICANT. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF INDIANAPOLIS AND THE INDIANA DEPARTMENT OF TRANSPORTATION.

ARCHITECTURAL SITE PLAN
 SCALE: 1/4" = 1'-0"
 THIS PROPERTY IS ZONED C-3

3 HANDICAPPED PARKING SPACES
 52 TOTAL PARKING SPACES

EXHIBIT - D
ZONING MAP

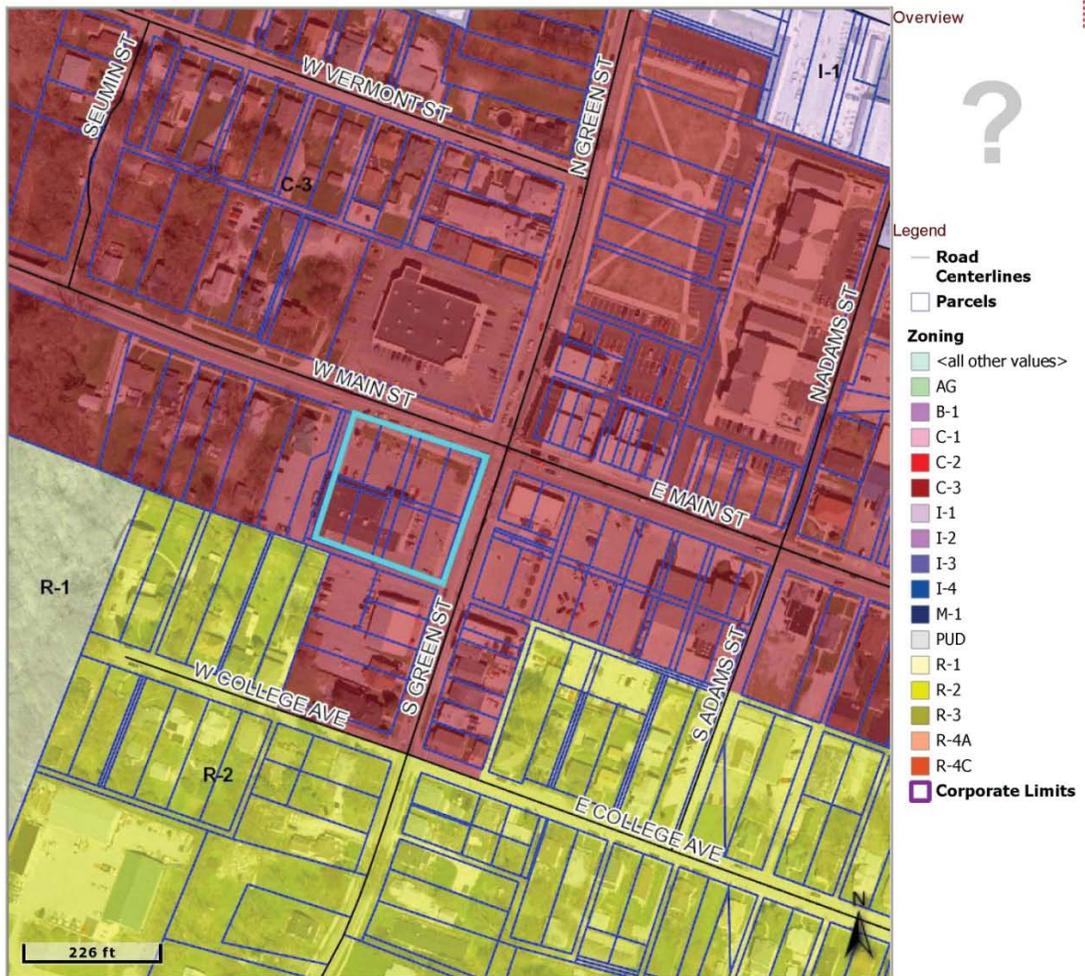
Town of Brownsburg, IN



BZDV-9-11-1086

Date Created: 12/5/2011

CVS/pharmacy



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EXHIBIT - E
AERIAL

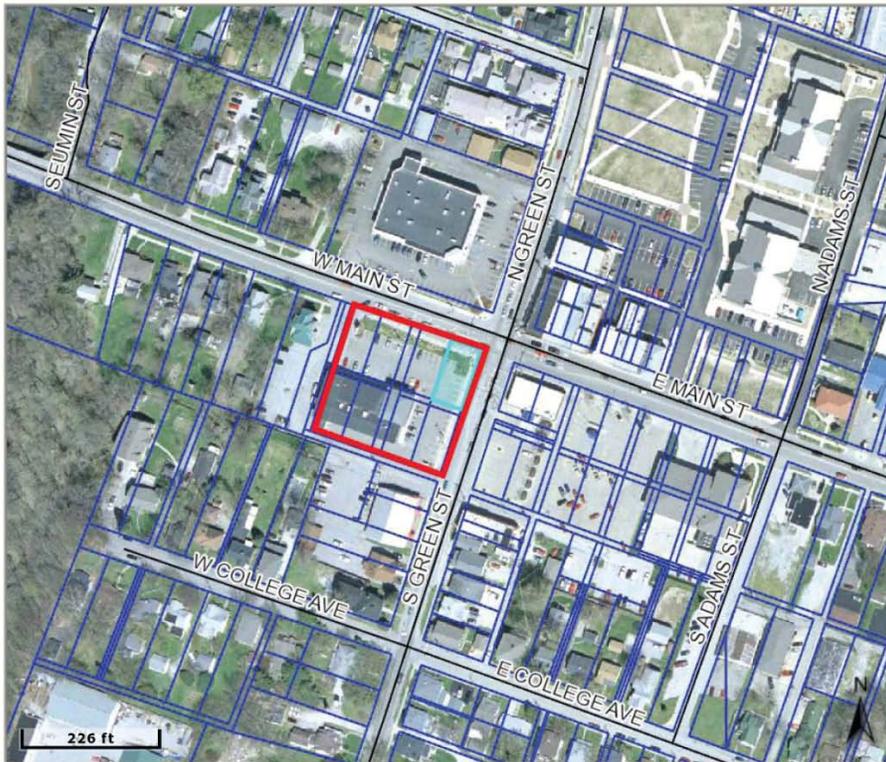
Town of Brownsburg, IN



BZDV-9-11-1086

Date Created: 12/5/2011

CVS/pharmacy



Overview



Legend

- Road Centerlines
- Parcels
- Corporate Limits

Parcel ID	32-07-11-305-024.000-016	Alternate ID	014-111611-305024	Owner Address	Langley/ Union LLC- CVS Pharmacy Inc C/o Eproperty Tax, Inc - Dept 123 Occupancy Expense Dept 6555-02 1 CVS Drive Woonsocket, RI 02895
Sec/Twp/Rng	11-16-1	Class	COMMERCIAL OTHER RETAIL STRUCTURES		
Property Address	21 W MAIN ST Brownsburg	Acreage	1.07		

District Town Of Brownsburg
Brief Tax Description Original Town Block 4
 1.07ac
 From 305-008,-009,-010,-011,-022
 Assess 01-02

(Note: Not to be used on legal documents)

Last Data Upload: 9/15/2010 8:50:20 AM



**EXHIBIT - F
SITE PHOTOS**



North elevation along Main Street/US 136



East elevation along Green Street/SR 267

STAFF ANALYSIS:

1. This property was originally developed as a CVS Pharmacy in 1998 prior to the existing sign standards. As a result, the signage onsite today could not be installed on an identical facility. To have the identical signage multiple variances would need to be approved by the Board of Zoning Appeals (e.g. *the maximum number of signs, the maximum sign area, type of freestanding signage, and the number of freestanding signs*).
2. An inventory of the existing onsite signage includes upwards of ten (10) signs on this lot. Some of the signs identified by the petitioner are not regulated signs under our zoning ordinance however, on the graphic below, we have utilized the petitioner's numbering system from Exhibit – 'C' to identify the locations of the existing and proposed signs. The aerial photo below identifies the eight (8) signs the petitioner mentioned in their application and also includes the two (2) freestanding signs onsite (*the pole sign on Main Street #9, and monument sign on Green Street #10*).



3. Section 155.295(G)(12) of the zoning ordinance exempts window signs from permits, therefore window signs do not count towards the number of signs or square footage of signs onsite. As a result, signs 4 and 8 (identified in Exhibit – 'C' Proposed Signs & Layout) and the illuminated "Open 24-Hours" signs, and "Beverage, Beauty, Photo, Pharmacy etc." signs (as seen in Exhibit – 'F' Site Photos) are not counted towards any of the sign standard requirements.
4. Based on a review of the submitted information the following is proposed for each of the eight (8) signs identified by the petitioner:
 - a. Sign #1 – this sign is a change from non-illuminated to illuminated
 - b. Sign #2 – is replacing an existing non-illuminated 24-Hours sign with an illuminated Minute Clinic sign
 - c. Sign #3 – no change is proposed
 - d. Sign #4 – window sign is not regulated in terms of the number of or area of the sign
 - e. Sign #5 – no change is proposed
 - f. Sign #6 – is replacing an existing non-illuminated 24-Hours sign with an illuminated Minute Clinic sign
 - g. Sign #7 – this sign is a change from non-illuminated to illuminated
 - h. Sign#8 – window sign is not regulated in terms of the number of and/or area of the sign
5. The petitioner is requesting a Development Standard Variance from §155.297(B)(3) of the zoning ordinance, which states:
 - a. *There shall be no more than three (3) signs located on any lot.*
6. If approved as submitted, this lot will have a total of eight (8) signs that are regulated by the zoning ordinance: six (6) wall signs and two (2) freestanding signs.

7. In the petitioners application they state the *“practical difficulty will arise with the restrictions of this zoning ordinance as they [CVS] will not be able to maintain the identity of their parent company in “CVS” and also receive recognition needed to grow and expand the new business[.]”* It is the staff’s opinion that the justification for this request should include an explanation from the petitioner as to why other alternatives have been investigated, and,that attempts of investigating alternatives such as reducing the existing CVS sign area to allow for additional signs is not an acceptable means of advertising both businesses (i.e. CVS and Minute Clinic).

RECOMMENDATIONS:

Based on the analysis of the submitted information by the petitioner, the Development Standard Variance sections of the Zoning Ordinance, and my comments above, it is my opinion that this request has NOT SATISFIED the requirements for the approval of a Development Standard Variance in accordance with the Zoning Ordinance and State Statute.

STAFF CONTACT:

NAME: Todd A. Barker, AICP

Jonathan K. Blake

TITLE: Director of Planning

Planning Technician

PHONE: 317-852-1128

317-852-1128

EMAIL: tbarker@brownsburg.org

jblake@brownsburg.org