

## **CVS Original Variance Request, KPCA response and Zoning Board of Appeals following recommendations**

### **CVS Variance Request**

- **Variance** to reduce minimum number of parking spaces from 249 to 155 spaces
- **Variance** to reduce minimum parking setback to residential district from 10 ft. to 6 ft. (existing).
- **Variance** to increase the maximum area of a ground sign from 32 sq. ft. to 300 sq. ft.
- **Variance** to increase the maximum height of a wall sign (North elevation) from 15 ft. to 23 ft.
- **Variance** to increase the maximum height of a wall sign (East elevation) from 15 ft. to 23 ft.
- **Variance** to increase the maximum number of wall signs from 1 to 4 signs
- **Variance** to increase the maximum number of ground signs per parcel from 1 to 11 (eleven).

### **KPCA Opposition to CVS Variance**



## **Opposition to Variances for Proposed CVS Pharmacy**

The Kings Park Civic Association wishes to go on record opposing the requested variances for the property currently leased by Waldbaum's supermarket located at Route 25A and Saint Johnland Road in Kings Park. We believe the granting of these variances will have a negative impact on the surrounding community and will adversely affect the quality of life of the residents who live near the proposed CVS Drug Store. Our opposition is based on the following:

State law requires the zoning board to consider 5 criteria when reviewing a variance application.

1) Is variance detrimental to surrounding area?

Yes, we believe it is. Current signage effectively identifies the current businesses on the site as well as the entrances and exits to the property both day and night. Increasing the signage so significantly in both size and number will adversely affect the character of the surrounding area and negatively impact the integrity of the community. Also, the excess light emanating from all these signs will be an irritant to homeowners surrounding this location in the hours of darkness.

In addition, significantly reducing the number of parking spaces and reducing the parking set back by half to make room for a drive-thru window will have a negative impact on property values. The homes that are located directly to the south of the window will be affected the most. Other pharmacies and banks in Kings Park have strategically positioned their drive-thru windows in order to avoid having a negative impact on adjacent residential communities. For example - Rite-Aid Pharmacy's drive-thru window faces a parking lot in a commercial center and has no impact on the surrounding residential community; the Bank of Smithtown's drive-thru is below grade and has no affect on residential neighborhoods; and Chase Bank's drive-thru faces a gas station. Conversely, the positioning of the drive-thru on CVS's proposed plan totally disregards the impact it will have on homeowners along the southern perimeter of the property. These homeowners will have to contend with additional lighting around the drive-thru area as well as headlights, exhaust fumes, vehicular engine noise and noise from business transactions occurring at the window.

2) Is request substantial or minimal?

Significantly reducing the number of parking spaces and reducing the parking set back by half in order to create room for a proposed drive thru window is excessive. Adding 11 signs to the property is substantial, unnecessary and out of character with the neighborhood.

3) Is there a feasible alternative to applicant to meet the objective without a variance?

Yes, they should comply with current zoning.

4) Would there be a physical impact on conditions of the neighborhood?

Yes, 11 additional signs and the addition of a drive thru window will have a physical impact on the character of the area, and contribute to light, noise and air pollution in the surrounding neighborhoods.

5) Is alleged difficulty self created?

Yes, the applicant is choosing to alter the property for their own personal benefit without considering the consequences to the local neighborhoods.

The KPCA believes that the granting of these variances will have a serious negative impact on the homeowners surrounding the proposed facility. The Kings Park Civic Association takes pride in representing and protecting the best interests of our community. Therefore, we respectfully request the denial of these variances in order to maintain the quality of life, integrity and character of our community and to also protect the property values of our homeowners.

Sincerely,

Kings Park Civic Association

**Smithtown BZA Recommendations to CVS**



# TOWN OF SMITHTOWN

631-360-7540

FRANK DeRUBEIS  
DIRECTOR OF PLANNING

BOARD OF ZONING APPEALS  
ADRIENNE GIANNADEO  
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April 28, 2009

Vincent J. Trimarco, Esq.  
1038 W. Jericho Tpke.  
Smithtown, NY 11787

Re: Case#: 15909  
Basser-Kaufman Development Co, Inc./CVS Pharmacy  
SW/c East Main St. & St. Johnland Rd.,  
Kings Park, SCB District  
SCTM: 32-7-18  
BP #: 126794

Dear Mr. Trimarco:

The Board of Zoning Appeals at its last regularly scheduled meeting held on April 28, 2009 considered your request for an area variance.  
After due study and deliberation, the Board decided the following:

<u>Request</u>	<u>Decision</u>
Variance to reduce minimum parking spaces from 249 to 155;	Approved to 206 stalls only w/conditions
Reduce minimum parking setback to residential district lines from 10 ft. to 6 ft. (existing);	Approved to 9 ft. only
Increase the maximum area of a ground sign from 32 sq. ft. to 300 sq. ft.;	Approved/2 ground signs (6x4 sq.ft.) only w/conditions
Increase the maximum height of a wall sign (north elevation) from 15 ft. to 23 ft.;	Approved to 16 ft. only
Increase the number of wall signs from a maximum of one sign to four signs;	Approved w/conditions

Increase the maximum height of a wall sign (east elevation) from 15 ft. to 23 ft.;

Approved to 16 ft. only

Increase the number of ground signs from one per parcel to 11 per parcel.

Approved to 3 only w/conditions

Conditions:

1. To mitigate the impact of numerous signs, no existing trees or landscaped areas shall be removed.
2. The existing fence along the south and west property lines shall be replaced with a 6 ft. high noise absorbing wood fence (according to the specifications of the Board of Site Plan Review (BSPR) to reduce noise impacts.
3. An evergreen buffer consisting of one row of Leyland Cypress, 6 ft. high, 6 ft. on-center and one row of upright yew, 4 ft. high, 2 ft. on-center, or equal as determined by the BSPR, shall be planted on the south and west property lines.
4. Only one drive-thru window shall be permitted, and at least 4 queue spaces shall be provided.
5. To avoid noise and glare impacts, the drive-thru window shall be located on the east elevation.
6. The encroachments (a transformer, and two stoops) on the aisle south of the building shall be removed.
7. The entrances of the drug store and the sublet tenant space shall be located in alcoves to facilitate pedestrian safety and convenience.
8. All exterior lighting shall not exceed 16 ft. in height and shall be directed down and toward center of property.
9. All existing exterior lighting shall be removed or modified to be completely shielded on the tops and sides by opaque shields, shall be directed straight down, and shall not exceed 16 ft. above grade.
10. The ground signs shall be limited to the following:
  - (a) one 32 sq.ft. sign, not exceeding 5 ft. in height, located at least 200 ft. from adjoining residential lots.
  - (b) one existing non-illuminated 24 sq.ft. wood sign, or equal as determined by the Board of Site Plan Review (BSPR), located north of the northeast corner of the building.

11. To mitigate adverse impact the high wall signs would have on the character of the neighborhood, the proposed facade shall conform to the following:
- (a) the height of the existing building shall not be increased in any portion of any elevation.
  - (b) the proposed fire door and ramp shall be re-designed to match the rest of the facade.

The applicant requests a total of seven variances. The Planning Department has divided them into 3 parts: parking spaces (one variance), parking setbacks (one variance), and sign variances (5 variances). Using the 5 area variance considerations described in §267-b 3 of the New York State Town Law, the Planning Department offered the following for the Board's consideration, which were discussed and adopted by the Board at a meeting on April 28, 2009:

**Variance Requests:**

- 1. Reduce minimum parking spaces from 249 to 155 spaces.
- 2. Reduce the minimum-parking setback to residential district lines from 10 ft to 6 ft (existing).
- 3. Increase the maximum area of a ground sign from 32 sq ft to 300 sq ft.
- 4. Increase the maximum height of a wall sign (north) from 15 ft to 23 ft.
- 5. Increase the number of wall signs from a maximum of one sign to four signs.
- 6. Increase the maximum height of a wall sign (east) from 15 ft to 23 ft.
- 7. Increase the number of ground signs from one per parcel to 11 per parcel.

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**Area Variance Considerations:**

**PART 1/PARKING SPACES**

Request: Reduce minimum parking spaces from 249 to 155.

**1. Impact**

**a. Undesirable change in character of neighborhood.**

The proposal does not create an undesirable change in the character of the neighborhood in that both existing and proposed uses are retail.

**b. Detriment to nearby properties**

No further detriment to nearby properties would result from a grant as the use is the same and site will be improved. Improvements to buffer adjacent to residents are proposed.

**2. Alternative feasible method for applicant to achieve objective, but not needing a variance.**

We approve a redesign to provide more spaces, per a sketch dated March 2009 by the Planning Department.