

TOWN OF WILMINGTON
SIGN BOARD OF ADJUSTMENT
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Mary Jane Finnegan & John Lyddy,
Agents for Old Ark Properties,LLC**

Applicant(s) Mailing Address: PO Box 1094
Wilmington, Vermont 05363

Address of the entity to be served: **716 Route 100 N**
Wilmington, Vermont 05363

A copy of the request is filed in the office of the Board and is referred to as **Case #: 163**

Description of Case Application is made by Mary Jane Finnegan and John Lyddy,
per Public Notice: Agents for Old Ark Properties, LLC for signage on property
located at 716 Route 100 N (formerly known as the North Country
Fair). Change in Signage previously approved. Signage on
subject property exceeds the number of signs allowed by the
Sign Ordinance and requires a Variance.

Notice for a public hearing was published in the Valley News on: June 3, 2004
June 10, 2004
Notice was posted in one public place on: June 1, 2004

A copy was mailed to the appellant on :____ June 1, 2004

The public hearing was held on: June 21, 2004

Action taken on this application may be appealed by anyone identified as an interested party,
pursuant to Vermont Statutes Annotated.

Appeal period for this Case expires on:	July 30, 2004
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A copy of these findings was sent Certified Mail to the appellant on: **June 30, 2004**

Copies were mailed to those persons listed below as having been heard.

The following persons were heard by the Board in connection with this request

Agents:

Mary Jane Finnegan

John Lyddy

Cindy Wiesner

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent investigation.

The applicants are requesting variances for allowable square footage and number of signs.

A letter of agency was received from Brien Engler for Mary Jane Finnegan, John Lyddy and Cindy Wiesner. (Exhibit A)

The property has frontage on both Old Ark Road and Route 100. There is a stream that bisects the property. On the north side of the stream is a large building that houses a retail operation called "Twice Blessed" and a senior center. There are also special events such as bingo, an outdoor flea market and other gatherings and meetings, some open to the public. There is a small parking lot which is for people going into the building. The access to this building is off of Rte 100. On the southern side of the stream there is a large parking lot. This lot is accessed from Old Ark Road. There is also a small footbridge across the stream which allows people to go between the building and the large parking lot. Permission has been granted for two food carts in the large parking lot, one serving ice cream and one serving food. (Exhibit E)

There is presently a **roadside marquee sign** along Route 100. It is constructed with two vertical posts approximately 12 feet high with a gap between them and a horizontal crossbar that projects approximately 8 feet toward Rte 100. (Exhibit B) They propose to have a **8 ft. wide by 4 ft. tall, double sided** sign hanging from this crossbar. (Exhibit F) They also propose to have two additional signs hanging below this sign. They would each be **3.5 ft. wide by 1.5 ft. high** and would hang side by side. They would both be double-sided. There would be approximately a one foot gap between the large sign and the two side-by-side signs. The top sign would advertise "Twice Blessed" and the senior center. It would also be used for special events, as it has changeable letters. One of the lower signs would be for the food cart and the other would be for the ice cream cart. The "for sale" sign shown in Exhibit B has been removed and, if replaced, will be at ground level and meet the criteria of the Sign Ordinance. There are two existing spot lights on the framework with one spotlight aimed at each side of the large sign. No additional lighting is proposed for this sign.

There was a sign saying "Twice Blessed" on the large building. This has been removed and will not be replaced. There is no signage proposed for the large building.

There is also a request for a **3.5 ft. wide by 3 ft. high single sided sign (10.5 sq. ft.)** proposed for the food cart. (Exhibit C) This sign would be placed on the food cart on the south side, facing the parking lot as shown in Exhibit D.

Also proposed is a **sandwich sign**. This would be a **double-sided** sign, **two ft. wide by four ft. high (16 sq. ft.)** This sign would be placed 20 to 30 ft. off of Rte 100 and would be taken in when the food cart is closed. This sign was not listed on the application but was presented

during testimony. No drawing was supplied, although it was stated that it would show hours of operation and list food from the menu.

Also not on the application but presented during testimony is a proposed **double-sided** sandwich sign. This sign would be **two ft. by four ft. (16 sq. ft.)** and would be put out periodically to advertise special events such as bingo. It would be placed along Rte 100, north of the stream.

The applicants stated that there are multiple businesses and events that take place on this one property. Each business and/or activity needs to have signage that is visible from Rte 100, that shows when businesses are open and that indicates when events are taking place.

No interested parties were present so testimony either for or against was received.

It shall be noted that this property is also part of SBA Case #162 that requests additional signage for the ice cream cart. The hearings were held at the same time.

II. The Board CONCLUDES:

That since SBA Cases #162 and 163 are concerning the same property and the hearings were on the same night that consideration of the requests in both cases shall be considered by the Board when making the decision for each individual case.

The Wilmington Sign Ordinance allows for a total of 64 sq. ft. for each premise, with no one side having more than 35 sq ft. It also states that there shall be no more than two signs on the premises, although there are some stated exemptions to that section such as temporary signs for special events. The Ordinance also does not allow signs to be placed above the eaves. The applicant has requested variances for all four of these sections.

The Sign Ordinance does not address properties with more than one business or activity but it does allow the Board to approve variances. Some of the criteria that the Board must use are that the literal enforcement will create a hardship and that the variance will further the public interest. The Board must look at public highway safety, convenience of the traveling public, customs of the trade, preservation of scenic beauty and the opinions of interested parties. Also, a variance should reflect the minimum variance that will provide relief.

The Board concludes that when there are more than one business or activity on a premise it is a "custom of the trade" to have one marquee or plaza sign that lists the businesses or activities on that premise. The Board concludes that the proposed marquee sign serves that purpose. Since there are three businesses, a senior center and numerous activities, it would create a hardship to list all those businesses and activities within the allowable 64 sq. ft. Therefore, the Board grants variances for both the total square footage and the square footage of one side for the marquee sign.

It is also a "custom of the trade" to allow each business or activity on a premise with multiple activities to have each individual business or activity to have its location identified and/or to give further information regarding that business or activity. Since the Sign Ordinance allows a single business premise to have up to two signs, the Board concludes that it could create an unnecessary hardship for each business on the site not to be able to identify its location on the premise, especially for those businesses removed from the large permanent building. Therefore, the Board grants a variance for the

total number of signs on the site. Twice Blessed and the senior center did not request a second sign. The ice cream stand has made a request for a sign as part of the marquee sign (granted above) and for additional signage in SBA Case #162. The food cart has requested a sign as part of the marquee (granted above) and two additional signs for a total of three signs for one business. The Board concludes that the food cart shall be allowed one sign in addition to the marquee sign. That sign may be either the sign presented in Exhibit C or the sandwich sign presented in testimony.

The Sign Ordinance allows for one additional sign that indicates "...special entertainment or similar information." This sign shall be "no larger than twelve square feet" and shall not be displayed "more than ten consecutive days, nor for more than fifteen days in any calendar month, nor for more than forty-five days in any calendar year." Therefore, the Board concludes that the sandwich sign presented in testimony but not included on the application was intended to fit under this exemption. However, the Board concludes that the total square footage of 16 sq. ft. exceeds the 12 ft. allowed under this exemption.

In summary, The Board grants the following signs and variances for this premise. See also Case #162:

1. A marquee sign as conditioned below. **Double sided sign not to exceed 8 ft. by 6.5 ft for a total of 104 square feet.** (variances granted for total square footage on premise and for square footage for one side.)
2. One additional sign for the food cart. This sign shall be either a **single sided 3 ft. by 3.5 ft sign (10.5 sq. ft)** mounted on the cart OR a **double sided** sandwich sign with measurements of one side not to exceed **4 ft. by 2 ft. (16 sq. ft total)** (variance for square footage on premise)
3. One additional sign for the ice cream cart granted in Case #162. (variances for total square footage on premise, sign above the eaves and number of signs)
4. A special event sign as permitted in the Wilmington Sign Ordinance, Section 6.C.2.a. & b. (not to exceed a total of **12 sq. ft.**) No variance needed.

This is granted subject to the following restrictions, requirements, limitations or specifications:

1. The marquee sign shall consist of a top portion of no more than 8 ft. by 4 ft. There may be up to two individual signs hanging below this sign. They shall each measure no more than 3.5 ft wide by 1.5 ft. high and the top of these signs shall be no more than 1 ft. below the bottom of the 4 ft by 8 ft. sign. The smallest rectangle which contains all these elements of the marquee sign shall not exceed 8 ft. wide by 6.5 ft. high. Total square footage not to exceed 104 sq. ft.

2. Individual business signs hanging under the 8 ft. by 4 ft. part of the marquee sign shall be removed when that business or businesses are temporarily closed for longer than two weeks as part of a seasonal closure. It shall not be considered that "the sign use has been terminated" if the sign is taken down as part of a seasonal closing.

3. The food cart shall have either a sign on the cart that measures no more than 3.5 ft. by 3 ft (single sided) or a 2 ft. by 4 ft. double sided sandwich sign. The sandwich sign, if used, shall be placed outside of the highway right of way and on the parking lot side of the guard rail and shall be removed at the end of the business day and business is closed.

4. The sandwich sign intended to advertise special events, including bingo, shall have a total square footage of **not more than 12 sq. ft.** The use of

this sandwich sign shall conform to Sec. 6.C.2a & b of the Ordinance as stated above.

5. No additional sign lighting shall be permitted.

6. These variances, along with those granted in SBA Case #162, shall supercede any and all previous variances from the SBA. All other variances shall be null and void.

Thus, the Sign Board of Adjustment **approves** the application for variances listed above.

Sign variances *do not* run with the land. The sign(s) approved in this Case may not be replaced if the sign use is terminated. Any new sign(s) will require a new application.

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

This approval **does not relieve you**, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting *approval* FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Carl Boyd
Sherry Brissette
Louis Clard
Peter Libby
Polly (Nicki) Steel

OPPOSED: none

ABSTAINING:

ABSENT:

RECUSED:

_____	/	
For the Board		Date
Polly Steel		Chairperson