

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: Rodney D. Caruso, Agent for Leigh Thomson

Applicant(s) Mailing Address: Leigh Thomson Rodney D. Caruso
106 Town Farm Rd. PO Box 185
Wilmington, VT 05363 Wilmington, VT 05363
Address of the entity to be served: **247 Rte. 9 East**
Tax Map # #021-22-071.000

A copy of the request is filed in the office of the Board and is referred to as **Case #: 168**

Description of Case **Owner(s):** Leigh Thomson, **Agent(s):** Rodney D. Caruso, **Section of**
per Public Notice: **Ordinance:** 8.B.2 Variance, **Property Address:** 247 VT RTE 9
E/RTE 100 S. Application made for signage in excess of Sign
Ordinance Regulations.

Notice for a public hearing was published in the Valley News on: March 2, 2006
March 9, 2006
Notice was posted in one public place on: February 27, 2006

A copy was mailed to the appellant on :____ February 27, 2006

The public hearing was held on: **March 20, 2006**

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:	May 4, 2006
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A copy of these findings was sent Certified Mail to the appellant on: **April 4, 2006**

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
Rodney and Holly Caruso, agents for Leigh Thomson
Bonnie Lorimer, Sign Administrator

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 following exhibits were entered:

- A. Letter of Agency
- B. Maps of property – 2 pages
- C. List of abutters
- D. Sign drawings and measurements – 2 pages
- E. Representation of sign
- F. Summary of signage sheet
- G. Photos and size information – 2 pages

Rod and Holly Caruso spoke for the Application.

The property is located in the Commercial District at the intersection of Vt. Routes 9 and 100 on the eastern side of the town. The property has three buildings that presently contain one business each. The largest building faces Route 9 just east of the intersection. It presently houses the Carusos' business, Spa Duck, a retail sales and service business. Sharing the same parking area is a small building which houses a take-out coffee shop. The third building is a large garage that houses a home maintenance business, plowing and landscaping business and wood processing . It is accessed from Route 100 South and has its own parking and storage areas.

In the parking lot that serves the main building and the coffee shop and abuts Route 9 there is an existing raised planter and sign frame. The planter is sited perpendicularly to Rte. 9, approximately 44 feet from the centerline. It measures 21 feet by 7 feet. (Ex. B) The frame is centered within the planter and is 11 ft. 10 in. tall and 12 ft. 6 in. wide. (Ex. D) The planter and frame have been there since at least the early 1970's when Coombs Sugarhouse was in the main building. There is presently no sign in the frame and there has been no sign for a number of months.

The property has been the subject of other SBA cases. In 1973 in SBA Case #16 there was a request to put a sign on the building and the findings made reference to the existing Coombs Sugarhouse sign. In 1994 in SBA Case #134 there was a request for variances for square footage and for number of signs on a property. In Case #134 the building that is accessed from Rte. 100 was granted a 4 ft. by 5 ft. double sided sign (40 sq. ft. total).

No other sign cases for this property were found by either the Applicant or the Zoning Administrator.

Existing signs on the property are (Ex. F):

1. Coffee Shop – This business has three single sided signs (51 sq. ft.) and a double sided sandwich board sign (12 sq. ft.) for a sum total for this business of four signs totaling 63 sq. ft.
2. Thomson and Son located in the garage has one single sided sign (2.5 sq. ft.) and one double-sided sign (5.32 sq. ft., not 5 sq. ft. listed in Ex. F). The total for this business is 2 signs with 7.82 sq. ft.

The Applicant is proposing to use the double-sided metal sign that has previously been used by businesses in the main building. That metal sign measures 135 inches by 42 inches for a total of 78.75 sq. ft. (Ex. D) The sign had been in the existing frame and would be placed in the same frame. Although this frame abuts Rte. 9, vehicles coming north on Rte. 100 can see the sign when turning either left or right onto Rte. 9. Therefore, the Applicant stated that this one double-sided sign for this business is adequate advertising for vehicles coming from any direction.

If this sign were approved, the total signage now the property (approved and not approved) would be 7 signs totaling 149.57 sq. ft.

The speed limit along Route 9 is 40 mph although it was noted both by the Applicant and the Board that cars regularly go faster than the posted limit.

The Agent stated that he does not rent the entire main building and that it is possible that other businesses could move into that building.

II. The Board CONCLUDES:

The Board finds that SBA Case #134 granted one double sided 4 ft. by 5 ft. sign to the garage building and that, although it is not clearly stated, this sign was granted in addition to a sign for the business in the main building at that time (Smitty's). The Smitty's sign was located in the frame that abuts Rte. 9.

The Board finds that there is signage on this property that was never approved. The unapproved signs are on the coffee shop and on the garage. These unapproved signs on the coffee shop exceed both the number of signs allowed on a property and the total square footage allowed. (Section 6.B1 & 2) The Board finds that the unapproved signs on the garage are related to number of signs only, as only one double sided sign was approved for that building in Case #134. The double sided sign has less square footage than was approved in Case #134.

The Board finds that The Wilmington Sign Ordinance was adopted in 1972. Since SBA Case #16 makes reference to the existing planter and frame then used by Coombs Sugarhouse, the Board finds that the planter and frame were in existence before the adoption of the Sign Ordinance. It also finds that the placement of the frame allows for vehicles coming from all directions to view the sign. Since the sign itself has been removed for at least a year, the Board concludes that the sign itself is not considered "grandfathered".

The Applicant is applying under Section 8.B.2 that states that a "literal enforcement of the provisions of this ordinance will result in unnecessary hardship, or where the Board determines that variance from the provisions of the ordinance will result in furthering the public interest." The Ordinance allows for a maximum of 64 sq. ft. of signage on each premise, no sign containing more than 35 sq. ft. on one side and no more than 2 signs on a premise.

If the Board looks at all the signage (both approved and unapproved) presently on the property, the Applicant needs a variance for total square footage on the property and number of signs on the property. He would also need a variance for the allowable square footage on one side, as his

requested sign is 39.38 sq. ft. on one side.

If the Board only looks at approved signage that remains on the property, there is only one sign measuring 4 ft. by 5 ft. for the garage building.

Although there are presently three approved business on the property, the Board finds that it is possible that other businesses could move into the main building. Those businesses would require signage.

The Board finds that there are factors in this case that creates a general hardship for the property. Those factors include:

1. The property is located at the intersection of 2 busy State highways. Therefore, vehicles are approaching from three different directions.
2. The speed of vehicles driving by is often 40 mph or more.
3. There are multiple businesses on this property. It would create a hardship if each business did not have its own signage.
4. The garage is separated from the other two buildings, has access off of a different highway, and has a separate parking area. This makes the possibility of this business being included on a “plaza sign” type signage less practical.

When a request for a variance is before the Board, the Board must look at the Ordinance, the total number of businesses, the total number of signs and the total square footage. A variance, when granted, should represent the minimum variance that will afford relief.

With regard to the placement of the sign:

The Board finds that the frame, planter and their placement pre-existed the adoption of the Ordinance. In addition, the placement allows for visibility of the sign from all directions.

Therefore, the use and placement of the frame and planter are granted as presented.

With regard to the request for variances for the size of the proposed sign:

The sign as presented exceeds the allowable amount for one side. The additional square footage also exceeds the allowable amount for a property. While the Applicant would like to use a metal sign that he already has, the Board concludes that that does not constitute a hardship. A smaller size sign will not need a variance to exceed 35 feet on one side and will lower the total amount of signage approved for this property. **Therefore, the Boards grants a double-sided sign to be hung within the existing frame. This sign shall not exceed 30 square feet on one side for a total of not greater than 60 square feet. The Board grants a variance for total square footage on the property. The property has one existing sign not to exceed 40 sq. ft and the Applicant’s sign of 60 sq. ft. for a total square footage for the property of 100 square feet.** This represents a variance for square footage of 36 square feet. If the third business comes before the Board for signage, it would need to apply for a variance for total square footage on a property.

With regard to the request for a variance for total number of signs on the property:

The approval of the Applicant’s sign will bring the number of approved signs for this property to two. There is one approved sign (in Case #134) for the garage building and now one approved

sign for the main building. If the third business comes before the Board for signage, it would need to apply for a variance for number of signs on a property.

A variance for total square footage on the property is granted subject to the following restrictions, requirements, limitations or specifications:

1. The proposed sign shall not exceed 30 square feet on one side for a total of not more than 60 square feet.
2. Any other signage in addition to the one previously approved sign for the garage and this approved sign shall require an application to the Board.
3. The Applicant shall be allowed to place the sign in the pre-existing frame.

The Sign Board of Adjustment *does not need to rule on the number of signs* on the property, as the **approved** signage does not exceed the two allowed by the Ordinance.

Thus, the Sign Board of Adjustment **approves** the application for a variance to exceed the total square footage on a property by 36 sq. ft. for a total of 100 sq. ft.

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:

Sherry Brissette
Tom Consolino
Nona Monis
Andrew Schindel
Polly (Nicki) Steel

OPPOSED:
ABSTAINING:
ABSENT:
RECUSED:

/s/ Polly Steel

/April 4, 2006

For the Board
Polly Steel

Date
Chairperson