

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: **Ken Linesman of Newland Development Associates, LLC for George & Elaine Belba and James & Diane Schipke**

Applicant(s) Mailing Address: **210 Commerce Way, Suite 100, Portsmouth NH, 03801**

Address of the entity to be served: **1 Country Club Way, Wilmington**

Tax Map #**021-22-042.000**

A copy of the request is filed in the office of the Board and is referred to as: **Case #: SBA 2007-044**

Description of Case per Public Notice: Request for Variance to allow installation of Signs in the Commercial District.

Application # 2007-044; owners: George & Elaine Belba and James & Diane Schipke; agent: Ken Linsman of Newland Development Associates, LLC; Section of Sign Ordinance: 6.B.1, 6.C, 7.C, and 8.B.2; Application being made for Variance request to allow installation of wall, directional and pylon signs at a Retail structure; location: 1 Country Club Road.

Notice for a public hearing was published in the Valley News on: **06/14/07**

Notice was posted in three public places on: **06/13/07**

A copy was mailed to the applicant on: **06/11/07**

The public hearing was held on: **07/02/07.**

Appeal period for this Case expires on: _____

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Interested Persons: Robert and Evelyn Greene, abutters

Alice Herrick, Zoning 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.

EXHIBITS:

- Application
- A Summary of Signage and Variance Request, 4 pages
- B Pylon Sign design
- C Site Map
- D Building Elevation D and Corner
- E Building Elevations A & B
- F Pylon wiring and construction
- G Wall Sign design - "Rite Aid"
- H Wall Sign design – "Pharmacy"
- I Secondary Wall Sign designs
- J Other Wall Sign designs
- K Exempt and Directional Sign designs
- L Freestanding Sign designs
- M Abutter's list
- N none
- O-1 Owner's Authorization from Belbas
- O-2 Qwner's Authorization from Schipkees
- P Summary of Requested Signage
- Q Options for Pylon Sign – 4 pp

The subject property is in the Commercial District of the Town of Wilmington. The property is known as Tax Map 021-22-042.000. The subject property was approved for a Rite Aid Pharmacy (retail sales) in DRB Case #2007-004

Mr. Tony Stout, Senior Planner, spoke for the application.

Mr. Stout stated that the description of the signs as shown in Exhibits A through L is what Rite Aid proposes for all their stores and that the corporation is aware that towns will apply their own regulations to the signage request. As presented, the total square footage requested is 314.9 sq. ft. The number of signs requested is 13 and there are three signs that have one side greater than 35 sq. ft. There are two informational signs that are less than two sq. ft. and are exempt under section 7.C of the Wilmington Sign Ordinance.

If all the requested signs were approved, the Applicant would need variances for number of signs, total square footage and signs with a single side exceeding 35 square feet.

Exhibit Q shows three alternatives for the main pylon sign (ID #3) ranging from Option 1 20 feet high with an LED panel, Option 2 without the LED panel (58.8 square feet for one side) and Option 3 that is 15 feet tall and 33 sq. ft. on one side. The base of the pylon

sign is approximately one and a half feet above road grade. Mr. Stout does not believe that any of the options would obscure the pylon sign on the Greene property. The approved height of the sign on the Greene property is 18 feet.

Other signs in the area such as the Shaws Plaza and the Mobil station are moderate in height.

Mr. Stout is concerned with the pylon sign not looking too small in comparison with the building. The top of the ridge of the building is 29 feet 10 inches above grade and the base of the building is about four and a half feet above road grade. Exhibit Q shows the different pylon sign options compared to the building.

Signs identified as #1, 2, 2A, 2B, 3, and possibly 4 will be internally illuminated. All illuminated signs will be turned off within a half hour of closing.

It is important to the company that there be both the pylon sign (#3) and the signage above the entrance to the store (#1 & 2). The Applicant stated that the signage on the store is important for “branding”, it indicates the entrance and it welcomes customers to the store. As the entrance to the store is at an angle to the road, the signage above the entrance will be primarily visible to vehicles coming from the village.

Coming from the east, the speed limit changes from 40 to 25 mph in front of the subject property. Coming from the west, the speed limit changes from 25 to 40 mph in front of the subject property.

Exhibit P lists all the requested signs and whether each sign is visible from the public way. It was noted in testimony that Sign #4 is on the western side of the building but approximately 200 back from the road right of way. Although it might be seen briefly from the public way, its intent is to inform customers who are on the property, not those traveling the public way.

Interested Persons Bob and Evelyn Greene stated that their questions had been answered and they had no concerns.

II. The Board CONCLUDES:

In the Commercial District, applications which request more than two signs, more than 64 sq. ft. of signs or more than 35 sq. ft. of area on one side of a sign, require that a Variance be granted before a permit may be issued. Section 6.B of the Wilmington Sign Ordinance provides that:

- 1. No premises shall contain more than two signs except as provided in Section VI. C. However, any such sign may designate more than one business or activity on the premises.**

- 2. No premises shall contain more than sixty-four (64) square feet of signs. When more than one side of a sign is used, the area of all sides shall be included in the total allowable area.**
- 3. No sign shall contain more than thirty-five (35) square feet of area on one side.**

Sections 8.B.2 – 4 provide for Variances. The Sign Board of Adjustment has the duties and powers prescribed by law including but not limited to the following:

- 2. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where owing to special considerations 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.**
- 3. Before decision on appeals, the Board shall take into consideration such factors as the effect on public highway safety, the convenience of the traveling public, custom of trade, the preservation of scenic beauty and the expressed opinions, desires or other evidence brought forward by interested persons. Scenic beauty shall be deemed to include but not be limited to location of signs in relation to other structures, shape of signs, colors of signs and other items related to the effect created**
- 4. In rendering a decision in favor of an appellant under this section, the Board of Adjustment may attach such conditions to such variance as it may consider necessary and appropriate under the circumstances to implement the purposes of the ordinance including but not limited to time limits on variances.**

The Board finds that this property is at the eastern side of the village and one of the first properties as one approaches the village that has a significant commercial use. It is important to limit the number and size of signs so that the approach to the village can retain some of its natural beauty. Variances should not be granted just because the Applicant has a “package” of signs for all its properties. Variances should represent the minimum that will afford relief. When reviewing the proposed signs, the Board has taken these factors into account.

The Board concludes that the request as outlined in Exhibit A far exceeds the allowable square footage and number of signs and will not be permitted as presented. For a number of years it has been the only pharmacy in town. The Board can find no hardship for the Applicant nor would the public interest be served by having such a large number of signs, many of which exceed the maximum square footage, especially since most of its customers will know its location.

However, the Board also concludes that signs identified as numbers 5, 6A, 6B, 6C, and 8 are not visible from the public way. Therefore, these signs do not need approval from the Board as this Board does not believe that its jurisdiction applies to signs not visible from the public way. Sign #4 may be briefly visible from the public way but as it will be about 200 ft. from the road and is intended to give information to those on the property. The Board concludes that sign #4 should also be considered a sign that does not need approval from this Board.

The Board finds that the back of the smaller pylon sign (identified as #7) that reads “Thank You for Shopping Rite Aid” is not visible from the public way and is not under the jurisdiction of this Board.

The front side of the smaller pylon sign (identified as #7) reads “Drive Thru Pharmacy” with an arrow pointing to the rear of the store. It will not be illuminated. The Board finds that this is informational in nature and visible from the public way. The Wilmington Sign Ordinance allows for the exemption of signs that are without advertising and informational in nature. However, to be exempt, the sign must be less than two square feet. This sign is four square feet. The Board concludes that this sign is important for public safety so that customers turning into the property may easily see where to go for the pharmacy and not block the driveway. **Therefore, the Board grants a variance of two square feet for a total of four square feet for a directional sign.**

The Board finds that Options 1 and 2 for the large pylon sign (sign #3) far exceeds the Wilmington Sign Ordinance because one side exceeds 35 square feet and the total allowable 64 square feet. Option 3 does not require a variance for the square footage of single side as it is 33 sq. ft. At 15 feet in height, it will still be visible to potential customers and will be consistent with signs in the area. The speed limit changes at the subject property. The posted speed limit turns to 25 mph when traveling from the east and 40 mph from the west. Therefore, vehicles are not traveling at any great rate of speed. Option 3 will be more than adequate for the convenience of the traveling public. There is no public interest or hardship that would require a variance for square footage exceeding 35 square feet for a single side. **Therefore, the Board approves Option 3 for the large pylon sign identified as Sign #3.**

The Board concludes that signs identified as #1 (“Rite Aid”) and #2 (“Pharmacy”) are actually one sign as they are located on the same wall and are meant to be read as one sign. The definition of “sign” in the Wilmington Sign Ordinance states that “in computing the area of a sign... the area shall be the area of the smallest rectangle with a level base which can contain the sign...” The Board finds that a sign above the entry to the store that is more modest in size will still satisfy the customs of trade, will identify the entrance and will welcome customers to the store. There is no hardship to the Applicant or public interest that would require a variance for square footage exceeding 35 square feet for a single side. **Therefore, the Board regards signs #1 and #2 as one sign. This sign reading Rite Aid Pharmacy shall not exceed 35 square feet.**

The Board understands that there are “customs of the trade” that there be signage both

along the public way and on the building. **However, the Board finds that the requested signage identified as number 2A, 2B and 2C are unnecessary and no variance is granted.**

Summary:

| | | |
|---|--------------------------|---|
| ID # | | Approved sq. ft. |
| Signs #1 & #2 considered by DRB as one sign | | 35 sq. ft. |
| Sign #3 – Option 3 | 33 sq. ft – double sided | 66 sq. ft |
| | TOTAL | 101 sq. ft. |
| Signs #2A, 2B, 2C (16.3 sq. ft.) | | Denied |
| Signs #4, 5, 6A, 6B, 6C, 8 (40.5 sq. ft.) | | Exempt/Permitted (not visible from the public way) |
| Sign #7 – Front - Informational | | 4 sq. ft. |
| Variance of 2 sq. ft. granted | | |
| Sign #7 – Back (4 sq. ft.) | | Exempt/Permitted (not visible from the public way) |

A variance of 37 square feet for two signs on the property is granted. A two square foot variance for an informational sign is also granted. As there are only two approved signs (in addition to exempt/permitted signs), no variance is necessary for the number of signs on the property. As all approved signs are less than or equal to 35 square feet on one side, no Variance is necessary for the square footage for one side.

These variances are granted subject to the following restrictions, requirements, limitations or specifications.

1. All illuminated signs shall be turned off within a half hour of closing and shall not be turned on until within a half hour of opening.
2. Signs identified as numbers 4, 5, 6A, 6B, 6C, and 8 in the exhibits shall be located as presented so that they are not visible from the public way.
3. The smaller pylon sign (#7) shall be located as presented in Exhibit C. The back of this sign shall not be visible from the public way.
4. Sign #3 shall be as presented in Option 3 in Exhibit Q. The square footage on one side of this sign shall not exceed 35 square feet and the height shall not exceed 15 feet. It shall be located as presented.
5. The Applicant shall submit “As Built” plans to the Zoning Administrator before the opening of the store.

Thus, the Sign Board of Adjustment does **approve** the Variance of 37 square feet for total square footage on a property and a Variance of 2 square feet for one informational sign that exceeds two square feet in the Commercial District.

If unused, this Approval expires 1 year from the date of issue. A request for extension

may be made in writing to the Sign Board of Adjustment 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 the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Sherry Brissette
David Kuhnert
Tom Manton
Andy Schindel
Polly (Nicki) Steel

OPPOSED:

none

ABSTAINING:

none

ABSENT:

none

RECUSED:

none

For the Board: Polly Steel, Chairperson

Date: _____