

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: **Alfred Craven of Craven's Home Service for Brian Engler of Old Ark Properties, LLC**

Applicant(s) Mailing Address: **PO Box 524, Wilmington VT, 05363**

Owner(s) Mailing Address: **1771 Post Road E, Suite 322, Westport CT, 06880**

Address of the entity to be served: **716 VT Rte. 100 North, Wilmington, VT 05363**

Tax Map #**003-01-083.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2008-040-S

Description of Case per Public Notice: Request for Variances from the limit on the number of signs and the total area of signs on the premises to allow installation of an additional Sign consisting of a two sided Sign of 12 sq. ft. per side mounted on the Food Cart in the Commercial District.

Application # 2008-040-S; owner: Brian Engler of Old Ark Properties, LLC; Agent: Alfred Craven of Craven's Home Service. Application being made for Variance to allow installation of a 24 sq. ft. sign at a mixed use property; Sign Ordinance Section 6.B; location: 716 VT Rte. 100 North.

Notice for a public hearing was published in the Valley News on: **5/16/08**

Notice was posted in three public places on: **5/20/08**

A copy was mailed to the applicant on: **5/20/08**

The public hearing was held on: **6/2/08**

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.)

Mary Jane Finnegan, Agent for Brian Engler
Alice Herrick, Zoning Administrator

I. The Board FINDS:

EXHIBITS:

- Application (two pages)
- A Form S – Signs (2 pages)
- B Authorization letter for Mary Jane Finnegan and Cynthia Weisner, dated May 14, 2008
- C Sign design
- D Abutters List
- E Form S1

The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map 003-01-083.000.

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.

1. Applicant seeks a variance to install one double sided sign of 8 feet by 18 inches totaling 24 square feet facing south on the roof of his food cart on the subject property at the junction of Old Ark Road and Route 100. The sign would be in use from May 1 to October 31, then taken down for the winter (remaining) months when the food cart is not open for business. No additional lighting is required.
2. Presently, there is one other food concession on the property, a Creemee ice cream stand and the Twice Blessed consignment store in a building that also contains an apartment. Both food concessions operate out of vendor trailers which are located south of a stream which bisects the property. The Twice Blessed consignment store and apartment and parking area abuts the stream on the other side from the food concessions.
3. Signage on the property now consists of signage at the Creemee concession (12 square feet), a small double sided sign (10.5 sq. ft.) hanging from the main roadside sign identifying the Creemee and a 12 foot high, 8 ft. by 4 ft. (64 sq. ft.) roadside hanging sign for Twice Blessed. (Exhibit A) A variance for site property signage was granted by the Development Review Board in cases #162 and #163, both dated June 30, 2004, In both cases, signage requirements exceeded those permitted in the town ordinance.
4. In testimony, Applicant changed his application to be more consistent with signage already on the site. Instead of the double sided roof-top sign, applicant would have a double sided sign of 3 feet by 1.5 feet added to the present marquee sign and a single sided 8 ft. by 1.5 ft sign of 12 square feet on the roof of the food cart facing south. In cases #162 and #163 cited above, the board concluded 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 revised application would serve that purpose.

II. The Board CONCLUDES:

Applications in the Commercial District 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.** The Board concludes that the proposed additional signs will not be contrary to the public interest and will allow the public to easily identify the different businesses on one parcel.
- 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.** The Board concludes that, as there are multiple businesses located in different areas of the property and that the property is on a State highway with a speed limit of 50 mph, clear and additional signage is appropriate. The revised plan will allow all three businesses to have signage on the roadside marquee sign and the sign on the food cart will allow the traveling public to identify the

business. Placement of the south facing sign will lessen sign clutter for on-coming traffic.

- 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.** With regards to the criteria for a Variance, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Sign Ordinance and the Variance criteria.

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

1. A one sided 8 ft. by 1.5 ft. sign (12 square feet) to be placed on the roof of the food cart facing south and a double sided sign of 3.5 feet by 1.5 feet to be installed on the marquee sign already in place is approved.
2. The application for a double sided roof top sign is changed to include only the two signs in Condition #1 above.

Thus, the Sign Board of adjustment does **approve** the request for **Variations from the limit on the number of signs and the total area of signs on the premises to allow installation of two Signs, one on the Food Cart and one on the marquee already approved and in use on the site.**

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.

A Sign Permit *must* be issued prior to the commencement of any work requested in this application. Work may commence when the Sign Permit has been issued.

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:

Polly (Nicki) Steel
David Kuhnert
Jason Crawford
Jill Adams-Mancivalano
Gerry Goodman

OPPOSED: none

ABSTAINING: none

ABSENT: none

RECUSED: none

For the Board: Polly Steel, Chairperson

Date: _____