

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: **Gordon & Carolyn Lucas (River Valley Market)**

Applicant(s) Mailing Address: **661 VT Rte. 100 North, Wilmington VT, 05363**

Address of the entity to be served: **661 VT Rte. 100 North, Wilmington VT, 05363**

Tax Map #**002-04-027.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2009-005

Description of Case per Public Notice:

Application # 2009-005-S; owner: Gordon R & Carolyn M Lucas;
Application being made for Variance review to allow installation of an
additional Wall Sign of 12 sq. ft. at an existing Retail with Deli; Sign
Ordinance Section 6.A & B and Section 8; location: 661 VT Rte. 100
North.

Notice for a public hearing was published in the Valley News on: **2/27/09**

Notice was posted in three public places on: **2/25/09**

A copy was mailed to the applicant on: **2/24/09**

The public hearing was held on: **3/16/09**

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.)

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.

1. The subject property is approved for Retail with a Delicatessen and is in the Commercial District of the Town of Wilmington.
2. Existing signs consist of a double-sided pole sign consisting of two panels of 24 square feet per side and 27.33 square feet per side, for a total of 102.66 square feet. These signs had been in existence for many years under previous owners and were approved in 2005 in SBA Case #166.
3. Applicant is now seeking permission for an additional wall sign measuring 3 feet by 4 feet (12 square feet). The sign is to publicize the opening of its delicatessen in an area which previously had been used for the display of garden supplies and plants. The sign will not be illuminated.
4. Inasmuch as the Wilmington Sign Ordinance limits the number of signs (2) and the square footage of signs (64 square feet) for businesses in the Commercial District, Applicant is requesting a Variance for the wall sign.

EXHIBITS:

- Application (3 pages)
- A Sign design
- B Abutters List
- C Case Summary
- D List of previously approved / existing signs
- E Findings for SBA Case #166

The property is known as Tax Map 002-04-027.000.

II. The Board CONCLUDES:

Applications in the Commercial District which request more than two signs, more than 64 square feet of signs or more than 35 square feet 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.**

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.

The Board continues to find “that the River Valley Market is located at the intersection of heavily traveled Vt. Rte. 100 and Higley Hill Road. Because the road is straight and flat in this area the estimated average speed of thru traffic at this location is around 50 miles per hour.” [SBA Case No. 166]. The Board also notes the special circumstance of the opening of what might be considered a new business (a separate delicatessen) in an area which had not been previously used for food preparation or the sale of food.

The Board finds that granting a Variance for the additional wall sign will not be contrary to the public interest. It further finds that the additional wall sign will not have an effect on public highway safety or on scenic beauty and that the proposed sign, both in shape and size, relates well to the structure as well as to existing signs.

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

1. The Variances hereby granted are for the number of signs (now 3) and the total

square footage (now 114.66 square feet).

2. There shall be no illumination of the wall sign.
3. Any additional signage will require a new permit.

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 or the sign is modified. Any new sign(s) will require a new application.

Thus, the Development Review Board does **approve** the Variance for **Signs consisting of a wall sign of 12 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:

Andrew Schindel
David Kuhnert
Jason Crawford
Thomas Consolino

OPPOSED:

ABSTAINING:

ABSENT:

RECUSED: Polly (Nicki) Steel, Gerald Goodman

For the Board: Andrew Schindel, Vice Chairperson

Date: _____