

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: **Adam & Karen Grinold of The Three Dogs, LLC (Wahoo's)**

Owner/Applicant(s) Mailing Address: **193 VT Rte. 9 East, Wilmington VT, 05363**

Address of the subject property: **2 White's Road, Wilmington, VT 05363**

Tax Map #**021-21-095.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2010-011-S

Description of Case per Public Notice:

Application # 2010-011-S; owner: Adam and Karen Grinold. Application being made for Sign Variance to allow installation of additional signs for a second use; Sign Ordinance Section 8.B; location: 2 White's Road.

Notice for a public hearing was published in the Valley News on: **3/19/2010**

Notice was posted in three public places on: **3/19/2010**

A copy was mailed to the applicant on: **3/18/2010**

The public hearing was held on: **4/5/2010**

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.

EXHIBITS:

- Application (three pages)
- A Photo of existing pole sign

- B Drawing of model food trailer with wall sign and two freestanding signs
- C Existing Wahoo's Eatery building with banner sign
- D Site Plan
- E Abutters List

1. The subject property is in the Commercial District of the Town of Wilmington. The property is known as Tax Map 021-21-095.000.
2. The subject property is approved for commercial use in the Commercial District. There is presently one approved business on the property and approval is being sought for a second business on the property.
3. The existing signs consist of two sixteen (16) square feet double-sided signs measuring 2' x 8'. The backsides of these signs have removable lettering. There is also a 2' x 8', sixteen (16) square feet, one sided temporary sign that displays this year, 2009-2010, as being Wahoo's anniversary year.
4. This temporary anniversary sign exceeds the allowable signage of sixty-four (64) square feet for a business by sixteen (16) square feet. The Applicant is intending to remove this sign at the end of this season (fall, 2010).
5. Applicant is now seeking permission for an additional 2' x 8', sixteen (16) square feet sign that would be displayed on the side of the proposed new mobile sales structure to be located on the property. The sign is to promote a new business on the property: the sale of mobile franchises of the eatery. The sign will not be illuminated.
6. The Wilmington Sign Ordinance limits the number of signs, two (2) and square footage of signage sixty-four (64) square feet on a single premise for businesses in the Commercial District under Ordinance section 6B.1 and 6B.2
7. Applicant also seeks two additional a-frame signs measuring 2' x 3' (6 square feet each). These signs are not intended to be viewed from the public way, and are only for those who have already entered the property. The information would include such information regarding the proposed franchise business, contact information and scheduling an appointment. These signs are to be taken inside at the closing of the eatery each night.
8. The total amount of signage the applicant is requesting is the 2' x 8' banner and the two 2' x 3' a-frame signs, which add up to a total of twenty-eight (28) additional square feet of signage on the premise.
9. The speed limit on Route 9 in front of the subject property is 40 mph.

II. The Board CONCLUDES:

Applications in the Commercial District which request more than two signs, more than sixty-four (64) square feet of signs or more than thirty-five (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.** Multiple businesses on one property often require additional signage and it is in the public interest that different businesses are easily distinguished.
- 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 speed limit is high enough that additional signage is needed so that the traveling public can identify the two separate businesses on one property.
- 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.** See the conditions listed below.

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 because the applicant is proposing a new business on the subject property in a separate structure, a separate new sign is necessary. Applicant is requesting an additional sixteen (16) square feet of signage to the approved sixty-four (64) square feet being used now by one business in order to promote their new business. This does not include the temporary sixteen (16) square foot anniversary sign. There are no signs on the premise that exceed thirty-five (35) square feet. All existing signage is to remain.

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

1. That the two proposed a-frame descriptive signs are between the trailer and the parking lot, and that they are considered not to be visible from the public way. Their approximate location shall be as indicated in Exhibit D.
2. That the temporary anniversary banner on the eatery shall be removed at the end of the 2010 season and not be re-erected.

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.

Thus, the Development Review Board does **approve** the Variance for an additional **Sign consisting of 16 square feet and a temporary banner of 16 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:

Sybil Idelkope
Andrew Schindel
Nicki (Polly) Steel
Gil Oxley
Dave Kuhnert

OPPOSED:

None

For the Board: Polly Steel, Chairperson

Date: _____