

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: **Michael Henry agent for Sam St. John Trust, Gary St. John, Trustee**

Applicant(s) Mailing Address: **895 Putney Road, Brattleboro VT. 05301**

Address of the entity to be served: **53 East Main Street, Wilmington**

Tax Map #**021-22-033.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #2011-023-S

Description of Case per Public Notice:

Application # 2011-023-S; owner: Sam St. John Trust, Gary St. John, Trustee.
Application being made for Variance to allow installation of a two-sided Pole Sign
and two Wall signs at a Retail with Laundromat location; Sign Ordinance
Sections 6.B & D.12 and 8.B; location: 53 East Main Street.

Notice for a public hearing was published in the Valley News on: **5/20/2011**

Notice was posted in three public places on: **5/20/2011**

A copy of the notice was mailed to the applicant on: **5/20/2011**

A copy of the notice was mailed to the abutters on: **5/20/2011**

The public hearing was held on: **6/6/2011**

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
Harold and Lucille Rice, Interested Parties

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 evaluation.

EXHIBITS:

Application (three pages)

A St. John Project: Road Sign by Forever Green Laminates LLC 4/12/2011.

B Property Development of Family Dollar. AS 3/1/2010.

C Abutters List

D Family Dollar Design Drawings by Allen Industries, 1/25/211.

E Site Plan

F St. John: Building Elevations – Henry Support Sign, 3-1/10.

G St. John: Building Elevations – Henry Support Sign 2, 3-1/10.

1. The subject property is in the Commercial District of the Town of Wilmington. The property is known as Tax Map 021-22-033.000.
2. The Board originally approved signage for this Applicant in Case 2010–028-S. As part of an appeal of the corresponding DRB case for the same property to the Environmental Court Interested Parties Harold and Lucille Rice and Patricia Johnson and Applicant agreed on a modification to the originally approved signage regarding the large roadside sign. (see Sam St. John Trust Application, paragraph 6).
3. At the time of the Board’s decision in Case 2010-028-S, Applicant testified that it did not have specific plans for the new building it proposed to build, other than to say that the new building would occupy essentially the same footprint as the present structure and be one story. Nevertheless, Applicant requested approval for signage for the businesses that occupied the building at that time. Those businesses were True Value/V & S Variety and Bucket O’ Suds.
4. Subsequent to the Board decision, Applicant finalized building plans and changed the identity of one of the businesses that will occupy the new building. Family Dollar will replace True Value in the retail area of the building. The Applicant is asking for new Variances to make signage conform to the limitations of the building facade (Exhibit D) and reflect the new business on two of the signs.
5. Applicant proposes two 8 feet by 2 feet (16 square feet) signs on the building façade and one double-sided freestanding sign along Route 9 adjacent to the newly established main driveway cut. The freestanding sign would be 4 feet 1 inch by 7 feet 4 inches (approximately 30 square feet for one side/60 square feet for both sides). It would be made of wood, illuminated by overhead gooseneck fixtures and would be supported by two wooden posts. Above the sign would be a shingled decorative roof approximately 2.5 feet tall. The overall height of the entire structure would not exceed 12 feet and the sign is to be located no closer than 15 feet from the State highway right of way. There will be a landscaped area underneath the sign. This landscaping was outlined on the map for the DRB hearing. One of the signs on the building would be for Family Dollar Store and the other for the Bucket O’ Suds laundromat. Applicant proposes that the Family Dollar Store sign be internally

illuminated. It could be located either on the wall or above the door on the gable. If it is located above the door, the Applicant would like the sign to be 4 feet by 4 feet rather than two feet by eight feet for the same 16 square footage. The Bucket O' Suds sign would be illuminated by overhead gooseneck fixtures and located on the wall near the laundromat entrance.

6. After the Applicant had submitted its application but before the 6/6/11 hearing, the Wilmington Board of Selectman passed a new sign ordinance. This new ordinance prohibits any internal illumination of signs. There is a 60-day waiting period until the ordinance becomes official, which will be on July 18, 2011.

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.**

Therefore, the Applicant is requesting a Variance for the number of signs (three instead of two) and for square footage as the Applicant is requesting 92 square feet rather than the allowed 64 square feet.

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.** Because there are two separate businesses on the property, the Board concludes such Variance will not be contrary to the public interest. The two separate signs on the building serve to identify the

separate entrances. Therefore, one additional sign and additional square footage are reasonable.

- 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 such Variance will not impact public highway safety, convenience of the traveling public, custom of trade or scenic beauty. Further, Interested Persons and Applicant have agreed on acceptable signage for the main sign.
- 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 concludes that any Variance, if granted, shall be the minimum that will afford relief. Since, at the time of the hearing, the Town had banned internal illumination and that ban will take effect in less than one month after the signing of this decision and since the two wall signs are primarily to identify the separate entrances, there is no over-riding need for the Family Dollar Store wall sign to be internally illuminated.

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. The pole sign shall be constructed of wood, placed at least 15 feet off the Route 9 right of way, inside the sidewalk at the eastern end of the curb cut. The total structure shall be no more than 12 feet high with a 2 to 3 foot roof above the sign as shown in Exhibit A. The sign itself shall measure no more than 4 feet, 1 inch by 7 feet, 4 inches. It shall be illuminated by overhead gooseneck fixtures. Appropriate landscaping will be placed and maintained at the base of the sign.
2. The Bucket O' Suds sign shall be no greater than 8 feet by 2 feet on the wall near its entry and shall be illuminated by overhead gooseneck fixtures.
3. One wall sign is approved for the Family Dollar Store. Applicant may determine which one best fits its needs. If signage is to be placed on the roof gable, it shall be no greater than 4 feet by 4 feet; if it is to be placed on the wall, it shall be no greater than

8 feet by 2 feet. Internal illumination is not approved for either alternative. Illumination shall be overhead gooseneck fixtures.

4. The illumination of the signs shall be turned off within one hour of close of that business.

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 **Signs consisting of one additional sign for a total of three signs on the property and an additional 28 square feet for a total of 92 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:

David Kuhnert
Nicki (Polly) Steel
Andrew Schindel
Paul Tonon
Gil Oxley

OPPOSED:
None

For the Board: Polly Steel, Chairperson

Date: June 28, 2011