

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: **Douglas & Camille Swanson**

Applicant(s) Mailing Address: Agent **Robert Fisher, Fisher & Fisher, P.O. Box 621, Brattleboro, VT 05302**

Address of the entity to be served: **18 Coldbrook Road, Wilmington, VT 05363**

Tax Map #**002-04-052.000**

A copy of the request is filed in the office of the Board and is referred to as: **Case #: 2013-014-S**

Description of Case per Public Notice:

Application # 2013-014-S; owner: Douglas & Camille Swanson;
Application being made for Sign Variance to allow installation of a Plaza Sign of more than 64 sq. ft.; Sign Ordinance Section 6 & 10; location: 18 Coldbrook Road.

Notice for a public hearing was published in the Valley News on: **3/15/2013**

Notice was posted in three public places on: **3/15/2013**

A copy of the notice was mailed to the applicant on: **3/15/2013**

A copy of the notice was mailed to the abutters on: **3/15/2013**

The public hearing was held on: **4/1/2013**

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.)

Robert Rubin, The Hermitage Club at Haystack Mountain, Witness for Applicant
Alice Herrick, Sign Board Administrator

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Section 10 of the Wilmington Sign Ordinance. Said appeal shall be made to the Vermont Superior Court.

Appeal period for this Case expires on: May 10, 2013

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 (3 pages)
 - A Existing signs – 3 photos
 - B Proposed Plaza sign – 1 photo with inserted proposal
 - C Pole Sign at Gate house Trail – 1 photo
 - D List of additional proposed signs
 - E Abutters List
 - F Case Summary
1. The subject property is in the Commercial District of the Town of Wilmington. The property is known as Tax Map 002-04-052.000. Applicant is applying for a Variance concerning its already existing plaza sign in order to make changes to the plaza sign and rename the plaza. It is also seeking approval of proposed changes to an existing wall sign and an existing entrance sign.
 2. This Board has approved Applicant's existing signs in prior decisions, the last being July 19, 2006. On July 18, 2011, the Town of Wilmington adopted a new Sign Ordinance which states, in Section 8.B., that "A permit is required prior to making a change to any existing sign when: 1. The sign remains the same size but the graphics or text is altered. [and/or] 2. A different sized sign is replacing a permitted sign."
 3. Applicant's existing plaza sign lists the occupants of the building located on the subject property and also includes a "header" containing the name of the plaza – Hayloft Meadows - as well as a depiction of two hayforks and a drawing of a cart loaded with hay. Applicant intends to continue to list the building's occupants, but would like to replace the Hayloft Meadows header with one with the words "The Hermitage Club at Haystack Mountain" and a representation of a stag head. The proposed header sign measures 135 inches by 33 inches (approximately 31 square feet) and the stag head measures 32 inches tall and 20 inches wide. The wrought iron stag head is the logo for the Hermitage Club. The present sizes of the three existing sign panels are either 7 feet by 22 inches (approximately 12 square feet) or 7 feet by 1.5 feet (10.5 square feet.) These sign panels are located between two stone piers.
 4. Applicant is retaining an existing wall sign with updated building occupant information. It is also seeking to retain a 3 foot by 2 foot entrance sign and change the text of the entrance sign to "The Hermitage Club at Haystack Mountain – Administrative Office".
 5. The parcel is a corner lot with one side bordering Vermont Route 100. The speed

limit is 50 miles an hour. The plaza sign is perpendicular to Route 100. Another side of the parcel borders Coldbrook Road. The driveway entrance to the building is on the Coldbrook Road side of the parcel.

6. Although an exact measurement was not available, the Applicant estimated that the plaza sign's height does not exceed 16 feet.

II. The Board CONCLUDES:

Applications in Wilmington which request more than one pole sign, more than 64 square feet of signs or more than 32 square feet of area on one side of a sign, require that a Variance be granted before a permit may be issued. A plaza sign is defined as "A special type of Freestanding or Pole Sign that displays signs for multiple businesses". Section 6 of the Wilmington Sign Ordinance provides that:

A. Each business is allowed four (4) signs in the manner described below, provided that the total area of the signs for the business does not exceed sixty-four (64) square feet.

1. **Pole Signs. No lot is allowed more than one (1) pole sign, which shall not exceed sixteen (16) square feet for each business. The sign shall be set back at least ten (10) feet from any non-street property line.**
2. **Wall Signs. Two (2) wall signs are allowed for each business provided they do not exceed a total of forty-eight (48) square feet in area.**
3. **Projecting Signs. Each business may have one (1) projecting sign. The sign shall not exceed eight (8) square feet in area and it shall meet the requirements below:**
 - a. **It shall not extend within or above the traveled portion of a public road.**
 - b. **It shall not be less than eight (8) feet above the surface of a public walkway.**

And:

B. Plaza Signs are allowed as follows:

1. **No lot is allowed more than one (1) pole or plaza sign. The sign shall be set back ten (10) feet from any non-street property line.**
2. **Each business is allowed one (1) sign panel of up to sixteen (16) square feet to be mounted on the plaza sign specified above.**

And:

C. No sign may contain more than thirty-two (32) square feet of area on one side.

Section 11.B.2 provides for Variances. The Sign Board of Adjustment has the duties and powers prescribed by law including but not limited to the following:

To authorize upon appeal in specific cases such variance from the terms of this ordinance:

- a. where owing to special considerations the literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and
- b. where such hardship is not created by the appellant, and
- c. where the variance will not alter the essential character of the neighborhood, and
- d. so that the relief granted will be the minimum variance from the bylaw and
- e. where there are unique physical consideration, such as exceptional topography, location of buildings on the lot, sight lines, speed limits and driveway cuts, and the hardship is due to these conditions.

The Plaza Sign

Applicant testified that a Deerfield Valley business, The Hermitage Club at Haystack Mountain, has rented space of approximately 12 feet by 20 feet in the Applicant's building to be used as administrative work space. (It should be noted that Applicant's application stated that the business name is Hermitage Inn Real Estate Holding Co. LLC.) There was testimony that this business would be listed as a sign panel on the plaza sign. Furthermore, Applicant is planning to change the plaza name to "The Hermitage Club at Haystack Mountain" and that the "header" portion of the existing plaza sign would be changed to reflect the new plaza name.

The new Sign Ordinance, for the first time, recognizes plaza signs as a separate category of pole signs. Each business on the premises is allowed a sign panel of no more than 16 square feet. No specific mention or allowance is made for a plaza "name" or "header". The Board finds that to allow the new name to be displayed on the header would constitute a second sign panel and would violate Section 6.B.2. The Board further finds that to display the requested name change on the header would be misleading to the traveling public as Haystack Mountain, as well as The Hermitage Club at Haystack Mountain, is in fact located several miles down the road and would therefore constitute an off-premise sign. The stag head is clearly the logo of the Hermitage Club (Exhibit C) and is also misleading. It would also constitute another sign.

Applicant has applied for a Variance from the Wilmington Sign Ordinance. However, inasmuch as the Board finds that testimony does not reflect that there exists "unnecessary hardship" and that "...such hardship is not created by the appellant" (Section 11.B.2.a. and b.) the Board concludes that this proposal *will not* conform to the requirements of the Wilmington Sign Ordinance and the Variance criteria.

The Board further concludes that the speed limit along the road closest to the plaza sign is 50 mph and, therefore, the sign may be up to 16 feet tall (Section 6.H.15 of the Ordinance).

The Board concludes that each business may have a panel sign not exceeding 16 square feet as an allowed part of the plaza sign.

The Wall Sign

Exhibit A contains a photograph of the existing wall sign and Exhibit D displays a rendering of the proposed replacement wall sign. While the existing wall sign does include a small rendering of the plaza name, the illustration of the proposed wall sign does not. The Board therefore finds that while the renter, The Hermitage Club at Haystack Mountain Administrative Office, can be listed along with the other businesses located in the building on the wall sign, Applicant has not requested that a plaza name be also displayed on the wall.

The Entrance Sign

An entrance sign containing the name of the plaza (Hayloft Meadows) is presently located at the property's only entrance (Exhibit A). Applicant is requesting that the text of this sign, measuring 36 by 24 inches (6 square feet), be changed to read "The Hermitage Club at Haystack Mountain – Administrative Office" (see Exhibit D).

The Wilmington Sign Ordinance classifies the entrance sign as a Pole Sign ("Any sign supported by structures or supports in or upon the ground and independent of support from any building"). Section 6.A.1. provides that "No lot is allowed more than one (1) pole sign..." and the Board finds that to allow the requested entrance sign would result in a second pole or plaza sign. The Board declines to grant a Variance from the Sign Ordinance in that testimony does not reflect that there exists "unnecessary hardship" and that "...such hardship is not created by the appellant" (Section 11.B.2.a. and b.).

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

1. The "header" of the plaza sign shall not display the requested name of the plaza and the Variance requested is not granted. The display of the wrought iron stag is also not granted.
2. The wall sign shall be allowed as shown in Exhibit D, without the new name of the plaza.
3. The proposed changed entrance sign shall not be permitted as it constitutes a second pole sign and the Variance request is not granted.
4. Each business that has space within the building may have a panel sign on the plaza sign. No individual sign panel shall exceed 16 square feet. The location of these signs shall be between the stone piers. The sign for the Hermitage Club shall indicate that it is for administrative offices.
5. The height of the plaza sign shall not exceed 16 feet.
6. A drawing of the sign panels and the supporting structure of the plaza sign shall be submitted to the Sign Board Administrator before a permit is issued. The drawing shall indicate the wording and size of each panel.

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 **not approve** the Variance for the requested plaza header and entrance signs in the Commercial District. It does approve individual business wall signs and individual business panel signs on the plaza sign.

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:

Nicki (Polly) Steel

Gil Oxley

Frank Sprague

OPPOSED:

Andrew Schindel

ABSTAINING:

None

For the Board: Polly Steel, Chairperson

Date: April 10, 2013