

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: **Mount Snow Shopping Center LLC**

Agent(s) Mailing Address: **Crosspoint Associates, P.O. Box 1149, Waitsfield, VT 05673**

Owner/Applicant(s) Mailing Address: **300 Third Avenue, Suite 2, Waltham, MA 02451**

Address of the subject property: **95 East Main Street, Wilmington, VT 05363**

Tax Map #**021-22-040.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-064-S

Description of Case per Public Notice:

Application # 2013-064S; owner: Mount Snow Shopping Center LLC;
Application being made for Sign Variance to allow installation of a 32 sq.
ft. pole sign; Sign Ordinance Section 5, 6 & 10; location: 95 East Main
Street.

Notice for a public hearing was published in the Valley News on: **8/2/2013**

Notice was posted in three public places on: **8/2/2013**

A copy of the notice was mailed to the applicant on: **8/2/2013**

A copy of the notice was mailed to the abutters on: **8/2/2013**

The public hearing was held on: **8/19/2013**

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

Appeal period for this Case expires on: September 25, 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.)

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 evaluation.

EXHIBITS:

Application (three pages)

A Authorization letter for Ben Cudd, Agent for Crosspoint.

B Sign view

C Sign design

D Map showing proposed sign location

E Abutters List

1. The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map 021-22-040.000.
2. The lot is a small 0.4 acre non-conforming lot. It is located on the southern side of Route 9 on the eastern side of town. The speed limit is 25 mph. The road is straight in front of the property and extending out in both directions. There is a turning lane for the shopping center that runs in front of the lot. At this point, there is no building on the property. (Ex. D) The owner would like to either rent or sell the property and is planning to place a sign that would indicate its intentions.
3. The Application is for two signs, each four foot by four foot. The signs would be made of alumilite (metal) and would have a vinyl covering and letters. The vinyl would have the appearance of a lettered signs and would advertise the availability of the lot. (Exhibit C) The signs would be supported by three seven-to-eight foot tall posts. The two signs would share one post and form a V shape. See Exhibit B. The signs would be set back from the highway right of way and be about 45 feet from the easterly property line.
4. The Applicant stated that it should be able to have a pole sign, rather than a “for sale” sign as its business is selling and renting property. It needs a large sign to generate more interest. A two-sided sign would not be visible enough and so it is requesting the V shape configuration of the two signs.

II. The Board CONCLUDES:

Section 5.K of the Wilmington Sign Ordinance states:

One “real estate for sale” sign (may) be posted on the subject property for each twelve hundred (1200) feet of frontage, or parts thereof, on a public road, provided that such signs do not exceed an area of six (6) feet each.

The Board concludes that based on the information on the sign and the testimony given by the Agent the property is for sale or lease and therefore falls under Section 5.K of the Ordinance. Because the Applicant does not have a business on the subject property a pole sign is not allowed. The Applicant is allowed a sign that does not exceed six square feet.

In order to have a “for sale” sign that exceeds six square feet the Applicant would need a Variance.

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:

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

a. Where, owing to special considerations, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and

The property is located in a 25 mph zone on a straight stretch of road. Many vehicles turn into the shopping center and slow down even more. There is no unnecessary hardship.

b. Where such hardship is not created by the appellant.

The Board concludes that there is no hardship.

c. Where the variance will not alter the essential character of the neighborhood.

There are other large signs in the area but the signs are for businesses that are located on the neighboring properties. A four by four foot sign would not alter the character of the neighborhood but it would far exceed the six square feet allowed by the Ordinance.

d. So that the relief granted will be the minimum variance from the bylaw and

A six square foot for sale sign is adequate for its purpose.

e. Where there are unique physical considerations, 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.

There are no unique physical considerations that would require a variance. There are no buildings on the property or on neighboring properties that

obstruct the view of a sign. The speed limit is very low. The sight lines are ample and the driveway cut for the neighboring shopping center actually slows vehicles down so that the visibility of the sign is even greater.

It shall be noted that a “for sale” sign that does not exceed six square feet does not require a permit. If a sign has the same message on both sides and the sides are parallel and no more than 12 inches apart only the square footage of one side count towards the allowable area. Therefore, the Applicant may erect a double-sided sign that meets the above criteria and that does not exceed six square feet without applying for a permit.

It shall also be noted that, “Signs shall not prevent a clear and unobstructed view of official signs and approaching or merging traffic or of existing approved signs on abutting properties.” The Applicant shall ensure that the placement of any sign does not obstruct the view of vehicles exiting abutting properties.

Thus, the Development Review Board **does not approve** the Variance for a **Sign indicating that a property is for sale that exceeds six square feet in the Commercial District.**

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:
None

OPPOSED:

Nicki (Polly) Steel
Andrew Schindel
Gil Oxley
Sheila Osler
Frank Sprague

For the Board: Polly Steel, Chairperson

Date: 8/26/2013

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long.
This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.