

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: **Frank Sprague, Appellant**

Applicant(s) Mailing Address: **22 Stowe Hill, Wilmington VT. 05363**

Address of the entity to be served: **22 Stowe Hill Road, Wilmington 05363**

Tax Map #**021-20-016.000**

A copy of the request is filed in the office of the Board and is referred to as: **Appeal**

Description of Case per Public Notice:

Appeal of Sign Administrator's decision; owner: Frank Sprague; Appeal of the Sign Administrator's decision that there is only one business; Sign Ordinance Section 6 & 11; location: 22 Stowe Hill Road.

Notice for a public hearing was published in the Valley News on: **2/20/2012**

Notice was posted in three public places on: **2/29/2012**

A copy of the notice was mailed to the appellant on: **2/28/2012**

A copy of the notice was mailed to the abutters on: **2/28/2012**

The public hearing was held on: **3/19/2012**

Appeal period for this Case expires on: April 23, 2012

In *addition* to the Appellant the following persons were heard by the Board in connection with this request:

Alice Herrick, Sign 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:

- Appeal Form P (3 pages)
- A Blank Trade Name Registration form

- B Abutter's List
- C Letter from Alice Herrick, Sign Administrator, February 7, 2012.
- D Certificate of Trade Name Registration for Frank Sprague Welding
- E Certificate of Trade Name Registration for Stonepuddles
- F Photo of Pole Sign at 130 VT Route 100 North

1. Appellant has recently erected a building at 22 Stowe Hill Road to replace a building severely damaged by Tropical Storm Irene located at 130 Route 100 North. The Stowe Hill Road property also abuts Route 100 North and Adams Lane. Appellant requested that the Sign Administrator permit double the sign allotment on the property, stating that it had two separate businesses, a welding business and a stone business. The Sign Administrator denied its request, deciding that "These operations are not separate businesses; therefore it is my decision that a double sign allotment may not be approved." (Exhibit C) Appellant hereby appeals the Sign Administrator's decision to this Board (Town of Wilmington Sign Ordinance, Section 11 B. 1.) The sole question before this Board is whether Appellant is operating one business or two.
2. The Wilmington Sign Ordinance defines "business" as "Any corporation, industry, sole proprietorship or entity engaged in the practice of making money, usually by producing goods or services". (Section 16)
3. In its letter to the Appellant, the Sign Administrator stated that "The operations that you propose function as a single business, having in common the tenancy of the building, proprietorship, hours of operation, permitting as a unit and shared signage at the current location." (Exhibit C)
4. Appellant, in its Appeal Form P, replied that it has "two businesses, that are totally different, registered separately with the VT secretary of state, & do not have anything in common, other than the address and owner...". It further stated that "my hours are different between the two, tools from one do not work in the other, [and] stone work has nothing to do with metal welding. Advertising is separate."
5. At the hearing, the Sign Administrator stated that at the previous location the Appellant used the same area for both of its operations and that separate businesses usually have different employees, cash registers, phones, etc. Furthermore, at the previous location a single sign advertised both operations, although using a different font (Exhibit F). The Sign Administrator also gave her opinion that permitting double signage in this situation would lead to potential abuses of the sign ordinance by others in the future.
6. Appellant testified that, for many reasons, it should be considered as now operating two separate businesses. Its welding trade name was registered as "Frank Sprague Welding" with the Vermont Secretary of State on March 13, 2007 (Exhibit D) while its stone business was registered as "Stonepuddles" on April 22, 2009 (Exhibit E). Each business has separate hours: welding is open weekdays while Stonepuddles is

also open weekends and holidays. Each business usually has separate customers (98 percent of the time): welding is used by industrial clients while stone items are usually sold at craft shows to consumer clients. The businesses have different letterheads and billing forms and keep separate books, although only one tax I.D. number. The new building has separate rooms dedicated to each business. Advertising, both in the phone book and in brochures and on business cards, are separate, although they share the same e-mail address. Each business has its own tools, and the only piece of equipment used in common is a front end loader.

The subject property is in the Commercial District of the Town of Wilmington. The property is known as Tax Map 021-20-016.000.

II. The Board CONCLUDES:

- 1. The Board is of the opinion that the definition of “business” contained in the Wilmington Sign Ordinance gives little guidance as to whether, in this situation, there exists one business or two.**
- 2. It is therefore necessary for the Board to weigh the totality of the evidence in order to reach its decision. While it is understandable that the Sign Administrator found that there was only one business, given the information initially made available to her, the Board finds that the testimony given at the hearing by the Appellant clearly shows that two separate businesses are being conducted by the Appellant on the Stowe Hill Road property. Therefore, the Board finds that double signage is permitted at this location.**

Thus, the Sign Board of Adjustment does **grant** the Appeal from the Sign Administrator’s decision for only one existing business.

IN FAVOR of granting the APPROVAL FOR the above referenced appeal, with whatever restrictions, requirements, limitations or specifications are contained herein:

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

OPPOSED:

None

For the Board: Polly Steel, Chairperson

Date: _____