

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** John W. Kinchla

**Date application filed with the Town Clerk:** March 18, 2009

**Nature of request:** Special Permit to install two (2) signs greater than 12 square feet under Section 8.101 of the Zoning Bylaw, at 199 Belchertown Road (Map 18A, Parcel 4, R-N Zoning District).

**Address:** 199 Belchertown Road (Map 18A, Parcel 4, R-N Zoning District)

**Legal notice:** Published March 18 and March 25, 2009 in the Daily Hampshire Gazette and sent to abutters on March 17, 2009

**Board members:** Thomas Simpson, Barbara Ford, Hilda Greenbaum

**Submissions:** The petitioner submitted with the following with the application:

- One (1) copy of memorandum ZBA FY2009-00029 prepared by Staff, dated March 6, 2009;
- One (1) copy of the ZBA application filed with the Town Clerk, March 18, 2009;
- One (1) copy of a Written Project Summary prepared by the applicant;
- One (1) copy of a Management Plan (submitted with the SPR application) addressing maintenance of the proposed sign;
- One (1) copy of the proposed Sign Plan, including elevation and overhead view, prepared by the applicant;
- One (1) copy of the Site Plan showing the location of the proposed sign, prepared by the applicant;
- One (1) copy of a series of photographs of existing signs along Belchertown Road, submitted by the applicant;
- One (1) copy of SPR 2008-00001 “to construct a barn to serve as a farm stand with parking”, submitted by staff;
- One (1) copy of ZBA FY1998-0034, ZBA FY2007-00002 & ZBA FY2008-00004 with approved sign plans attached, submitted by staff;
- One (1) copy of a memorandum, Preliminary review of existing signs on Belchertown Road, dated March 26, 2009, submitted by staff;
- One (1) copy of a Town GIS map showing Zoning Districts along Belchertown Road, submitted by staff.

**Site Visit:**

Tom Simpson & Barbara Ford (Hilda Greenbaum viewed the site separately) met with the applicant, John Kinchla, at the site. They observed the following:

- A large agricultural property situated on the west side of Belchertown Road;
- The two driveways onto the property, under construction;
- The parking area and barn under construction;
- The applicant prepared a mock sign of the approximate size and height of the proposed free standing sign and displayed it approximately 10 feet from the edge of Belchertown Road;
- The Board observed the mock sign from the entrances and along the property line adjacent to Belchertown Road;
- The approximate location of the proposed sign on the barn;
- The additional “attic door” on the barn that was not shown on the plans.

**Public Hearing:** April 2, 2009

The sign proposal was presented by the applicant, John Kinchla. He stated the following:

- He is asking for a Special Permit for two (2) signs that are larger than allowed in a residential zoning district;
- One (1) sign will be along the frontage, about 15 feet from the road. It will be 9’10” wide and eight feet tall, with a small 6” extension to replicate a tree;
- The sign will have an interchangeable letter board for display of products and specials. The letter board is an important aspect of the sign for communication and advertising;
- Above the letter board will be the manufactured sign showing the name of the business;
- There will be two (2) light fixtures mounted on the top of the sign facing to each side of the sign;
- The sign on the barn will probably be smaller than the three (3) feet high, as shown on the plans;
- The sign on the barn would be scaled to be aesthetically appropriate for the building;
- There will be lighting fixtures mounted to the barn and will shine down onto the sign and on the front of the building to provide security.

Mr. Simpson stated that the sign bylaw describes a sign as being directional or for identification and expressed concern with the interchangeable aspect of the sign. He referred to the memorandum provided by staff which depicts several existing signs along Belchertown Road and noted that all the signs in the R-N District, and most of the signs in the other Districts, show only the name and location of the establishment and are essentially identification signs.

Ms. Greenbaum asked the Board if they would consider allowing a wooden sign, hanging below the main sign, that had a fixed statement painted on it and that could be switched from time to time.

Mr. Simpson stated that he could see having the name of the establishment on the top of the sign with a fixed lettered statement such as “seasonable vegetables” below it. Mr. Kinchla asked if the fixed lettering would be the same as interchangeable lettering. Mr. Simpson replied that they would not be the same.

Ms. Ford asked how large the changeable lettering would be, as proposed, and expressed concern as to whether they would be readable from the road. Mr. Kinchla stated that the letters would either be 6” or 8” tall and should be readable from vehicles on Belchertown Road.

Mr. Simpson stated that he doesn't believe that the location is an appropriate place for that type of sign. He stated that the sign may contain too much information to read due to speed and volume of vehicles on Belchertown Road. He added that four (4) changeable lines, as proposed, may be a distraction to motorists.

Ms. Greenbaum stated that the sign design has too much information and is too cluttered. She added that the sizes of the different texts are not different enough adding to the clutter and rendering it difficult for passing motorists to read and understand.

Ms. Ford stated that they are objecting to having sentences on the sign, but she would agree to allow one (1) line of interchangeable lettering.

Mr. Kinchla responded by stating that a roadside sign may actually allow motorists to know what is happening without slowing down or looking all the way into the property towards the barn. He added that his property contains nearly 600 feet of frontage and the sign should be readable, without distracting drivers.

Mr. Kinchla stated that he had worked with a sign company initially, but was not happy with what they presented to him. He stated that the application for the Special Permit does not require that plans be prepared by a sign company.

Ms. Ford stated that they would want a definitive plan, so the lettering, colors and materials are clearly identified, whether or not it was prepared by a sign company.

Mr. Simpson stated that he would consider allowing a design that includes one "hanging" sign under the main sign that might list a product or other information. He added that the sign might contain one line and may be changed at certain intervals.

Mr. Kinchla stated that a design such as the "hanging" sign is very limiting, and means that he would have to have a lot of signs to display the information he would like to communicate. He added that the "hanging" signs are usually smaller and more difficult to read by motorists than the large block letters used in interchangeable signs.

Ms. Weeks stated that the sign should be positioned so that there is a clear sight triangle between the two driveways. She added that the Board may wish to consider allowing one (1) line of interchangeable lettering.

Mr. Kinchla asked the Board if reducing the overall size of the sign and reducing the number of changeable letter lines from 3 to 2 would eliminate their concerns.

Mr. Simpson replied that the Board is concerned with the amount of information that is being presented to motorists. He stated that the Zoning Bylaw allows for an identification or directional sign and that three lines of interchangeable lettering goes beyond that in scope.

Ms. Greenbaum asked whether the lights on the sign would be on 24 hours per day. Mr. Kinchla said that the lights will not be on 24 hours a day, and will probably be turned off at midnight each day.

Mr. Simpson stated that he is satisfied with the proposed location of the sign and that the size is not out of scale with the others in the area. He stated that he would like the height of the sign, including the tree design, to not exceed 8 feet and that the width of the sign is fine. The Board stated that they would like to have color samples or a color rendering of the sign and that the plan should clearly identify what it will be made of.

Mr. Simpson stated that he would be agreeable to one (1) descriptive line and that it would be up to the applicant to propose something. He stated that he understands that the applicant would like it to be readable from the road.

Mr. Kinchla stated that he believed the lettering would be about 8" tall and that he would like to keep it so that it is interchangeable.

Mr. Simpson added that it could be a board with letters painted on it that slides into place or something that hangs from hooks, for example.

Mr. Kinchla noted that he would like to keep the address line as it is important for receiving product deliveries, and asked the Board if the descriptive line would be in addition to the address line.

The Board agreed that a descriptive line would be in addition to the address.

Mr. Simpson reiterated that the property is in a residential neighborhood and that an identification or directional sign is allowed. He added that it is supposed to be identification sign, not a menu, and that the Board needs to balance the needs of the applicant with the requirements of the Zoning Bylaw.

Ms. Greenbaum suggested that the Board continue the hearing and request the applicant work with a sign company to prepare a more formal plan.

Mr. Simpson made a motion to continue the public hearing to a date certain, Tuesday, April 14, at 6:00 P.M. Ms. Ford seconded the motion. The Board voted to continue the public hearing to Tuesday, April 14, at 6:00 P.M.

**Continued Public Hearing:** April 14, 2009

For the continued public hearing, John Kinchla was accompanied by Duncan Ferguson of Ferguson Sign Company.

Mr. Kinchla stated the following:

- Based on the prior hearing, he had come up with a design and a logo;
- Mr. Ferguson has prepared some basic renderings of possible designs;

- He indicated that the sign on the barn will be 2 feet x 14 feet in size and will be mounted just above the barn doors and just below the decorative second story barn door and will be lit by three (3) gooseneck lighting fixtures;
- He stated that for the free standing roadside sign, he has considered scaling down its size and reduced the number of changeable lines;
- He stated that he would like to keep some changeable lines because it is important for his business to be able to inform people about the seasonal products he will be offering;

Mr. Ferguson showed the Board two (2) color renderings. In each of the renderings the sign will not be taller than eight (8) feet. One (1) of the renderings depicts the sign being 9' 10" wide and eight (8) feet tall with four (4) lines of changeable lettering. The other rendering depicted a smaller size sign containing two (2) lines of changeable lettering.

Ms. Greenbaum stated that the lettering on the sign would be more readable if it were black and that the sign design still seems cluttered.

Ms. Ford asked the applicant how the changeable lettering will work. Mr. Ferguson stated that the individual letters slide in and out of tracks along the top and bottom of the sign structure.

Ms. Ford stated that the sign, with four (4) lines of changeable lettering, looks more like an advertisement than a directional sign and the sign may function better if it is simple and readable.

Ms. Greenbaum suggested that the applicant consider either more than one sign or having sandwich board signs announcing special sale items next to the barn.

Mr. Ferguson replied that more than one (1) sign, or moveable signs, would not look as good and may not accomplish the goal of the applicant as well as one (1) sign.

Mr. Ferguson suggested, as a compromise, a sign design that would have the business name and logo on a top portion and a separate sign board below containing two (2) lines of changeable lettering.

Mr. Ferguson prepared a sketch depicting a two (2) part sign structure with the top showing the name, separated by an open air gap, with the lower section containing two (2) lines of interchangeable letter board.

Mr. Kinchla stated that he likes the design concept because it identifies the name of his business and also allows him the ability to quickly let people know that they will carry a variety of seasonal products.

Mr. Simpson stated that he had changed his mind regarding the design of the sign and how it may fit into the neighborhood. Mr. Simpson added that this area of Belchertown Road may be limited in its ability to have more residential uses and that additional commercial development may occur.

Mr. Simpson stated that in considering the design concepts presented and the location of the property, he would be agreeable to a sign consisting of two (2) parts, with a logo, business name and street address on the top and a separate sign board containing two (2) lines of interchangeable lettering below.

The Board agreed that the size of the lettering on the top must be proportionally larger than the changeable lettering below in order to create a more effective and readable sign.

Ms. Greenbaum made a motion to close the evidentiary portion of the public hearing. Ms. Ford seconded the motion. The Board VOTED to close the evidentiary portion of the public hearing.

**Public Meeting:**

The Board spent the remainder of the public meeting discussing the conditions of the permit.

The Board determined the following:

- The free standing sign shall not exceed eight (8) feet in height, whether or not the applicant chooses to include the silhouette of a tree as part of the design;
- The sign shall be made up of two (2) sign boards, the top being larger and containing the logo, business name and street address and a separate sign board with 6-12” of open space between, containing no more than two lines of changeable text;
- The changeable letters shall not exceed 4” in size and must be black on a white background;
- The scale and size of the lettering on the upper section must be proportionally larger than the text for the street address and changeable lettering;
- There shall be two (2) gooseneck lighting fixtures at the top of the sign, each facing down and facing each side of the sign.
- The sign shall be located in a landscaped area equal to 150% of the area of the sign.
- The sign on the barn shall not exceed 2’ x 14’ in size and shall be lit by gooseneck lighting fixtures;
- The applicant shall submit to the Board, at a public meeting, a scaled, color rendered sign plan showing the dimensions and materials for each sign prior to the issuance of a Building Permit.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, required of all Special Permits, that:

10.380 and 10.381 – The proposed signs are suitably located in the neighborhood in which it is proposed and are compatible with existing signs and other signs in the district. The Board determined that the proposed free standing sign, with the design modifications discussed, is compatible in size, proximity to the street and purpose and is suitably located in the neighborhood. The size of the sign is proportional to the size of the property and identifies the farm/nursery use that is allowed by right in the R-N Zoning District. The location of the free standing sign will be suitably located between the separate entrance and exit to the property and is setback from the road so that it does not obstruct the view of vehicles exiting the property. The sign attached to the barn is compatible to existing signs in the district because its size is proportional to the front façade of the barn and its location is set back significantly from all adjacent properties.

10.382, 10.383 and 10.385 – The proposed signs will not constitute a nuisance due to air pollution, lights or visually offensive structures; will not be a substantial inconvenience or hazard to abutters; and reasonably protects adjoining premises. The proposal will not produce any air pollution. The free standing sign is not visually offensive because its size is compatible with other existing signs along Belchertown Road. The free standing sign is not a substantial hazard to abutter's because it will be setback from the road 15 feet to ensure vehicles entering and exiting the property have a clear line of sight. The free standing sign will be lit by two (2) external, downward cast lighting fixtures, to illuminate only the sign board. The sign attached to the barn will be lit by two (2) or three (3) external, downcast lighting fixtures illuminating the sign and front of the barn and will not shine onto any adjacent properties.

10.384 and 10.387 - Adequate and appropriate facilities will be provided for the proper operation of the use and will provide convenient and safe movement. The free standing sign will be setback from the road at least 10 feet in order to allow for the convenient and safe movement of vehicles on and off the property. The Board reduced the amount of interchangeable text on the free standing sign in order to enhance the ability of passing motorists to view the sign and therefore the sign would be more in line with the intent of the Zoning Bylaw which allows the Board to consider oversized identification and/or directional signs, not advertisements.

10.386 - The proposal is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. There are no requirements for parking as part of this proposal. The signs have been determined to be of a size and location that are compatible with other existing oversized signs on Belchertown Road that are permitted in accordance with Section 8.101 of the Zoning Bylaw.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw and promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The size and location of the free standing sign are compatible with other signs in the area and will not constitute a hazard or nuisance to patrons entering or exiting the subject property. Both signs shall be lit by exterior, downcast lighting fixtures to eliminate the casting of light onto adjacent properties.

**Public Meeting - Zoning Board Decision:**

Ms. Greenbaum made a motion to APPROVE the application, with the conditions as discussed. Ms. Ford seconded the motion.

For all the reasons above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2009-00029, to install two (2) signs consisting of a size greater than 12 square feet under Section 8.101 of the Zoning Bylaw, as applied for by John W. Kinchla, at 199 Belchertown Road (Map 18A, Parcel 4, R-N Zoning District), with conditions.

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THOMAS SIMPSON

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BARBARA FORD

\_\_\_\_\_  
HILDA GREENBAUM

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2009 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2009.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2009  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2009-00029, to install two (2) signs consisting of a size greater than 12 square feet under Section 8.101 of the Zoning Bylaw, as applied for by John W. Kinchla, at 199 Belchertown Road (Map 18A, Parcel 4, R-N Zoning District), with the following conditions:

1. A final sign plan including a color rendering, list of materials and dimensions shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
2. The free standing street side sign shall meet the following conditions:
  - a. Shall not exceed eight (8) feet in height;
  - b. Shall be made up of two sign boards, the top being larger and containing the logo, business name and street address and a separate sign board with 6-12" of open space between, containing no more than two (2) lines of changeable text;
  - c. Shall contain interchangeable lettering not to exceed 4" in height and shall be black on a white background;
  - d. Shall be located approximately 15 feet from the edge of pavement of Belchertown Road;
  - e. Shall be approximately centered between the entrance and exit as shown on the submitted site plan;
  - f. Shall contain two (2) gooseneck lighting fixtures at the top of the sign, each facing down and at one side of the sign.
3. An area equivalent to 150% of the total sign area shall be landscaped. All landscaping shall be permanently maintained.
4. The sign mounted on the barn shall not exceed 2 feet x 14 feet and shall contain the name of the business and shall be lit by exterior, gooseneck lighting fixtures.

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THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

\_\_\_\_\_  
DATE