



**TOWN OF VESTAL
ZONING BOARD OF APPEALS**
605 Vestal Parkway West
Vestal • New York • 13850-1486
Telephone (607) 786-0980 Ext. 201
Fax (607) 786-0984

ZBA BOARD MEMBERS:
Chairman - Mark S. Johnson
Mark Tomko
Tom Smallcomb
Paul Houle
Ross Geoghegan
Attorney - Matt Butler, ESQ.
Alternate: George Gerner

DEC 23 2019

VESTAL CODE

Sign Review Board Decision.

Hearing Date: October 10, 2019 and November 14, 2019 Hearing Time: 6:00 PM & 6:03 PM

Business / Applicant Name: Randy Stutzman, Chucksters at Vestal

Person(s) appearing on behalf of applicant: Randy Stutzman and Joseph Underwood

Business Address: 1915 Vestal Parkway West, Vestal, NY 13850

BCTM#: 172.11-3-15.1

Town Code Section Appealed: Chapter 5, Article V, Division 1, Section 5-111 and Chapter 5, Article V, Division 3, Section 5-124(k)

Narrative of the Code: Definition of Changeable Sign means a sign with the capacity of content change by means of manual or remote input, including the following types:

- (1) Manually activated is a changeable sign whose message copy or content can be changed manually on a display surface.
- (2) Electrically activated is a changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations or alphabetic or pictographic components arranged on a display surface. For the purpose of this article, on-off switching shall not be less than five (5) minutes in duration.

And

Except as specifically allowed in this article, no sign shall be a changeable sign, flashing sign, or electronic message sign. In addition:

- (1) No sign shall be actually in motion.
- (2) No sign shall be environmentally activated.
- (3) No sign shall be mechanically activated.

TOWN OF VESTAL ZONING BOARD OF APPEALS

Current Permitted Sq. Footage: Current on site Sq. Ft.:

Requested Sq. Footage Increase: Total Sq. Ft. Requested:

Other Change Requested:

Requested Variance: The applicant is requesting an interpretation of, and possible variance to, the code of the Town of Vestal, Chapter 5, Article V, Division 1, Section 5-111 Definitions, pertaining to the time frames outlined in the definition of “Changeable sign” and “Flashing/blinking sign” and, also an interpretation of, and possible variance to, the Code of the Town of Vestal, Chapter 5, Article V, Division 3, Section 5-124(k) stating, “Except as specifically allowed in this article, no sign shall be a changeable sign, flashing sign or electronic message sign.

Points of discussion by Board Members: The applicant presented their request for their desire to use their new LED sign located on the premise to display messages and pictures as a form of advertisement for their business. They would like to use the sign to be allowed to change the messages and pictures more frequently than the allowed time frame of five (5) minutes. The type of messaging they would like to display is:

- ◆ Words that scroll on the sign, similar to the school sign
- ◆ Short video (a person going down the zip line)
- ◆ Pictures with captions showing the attractions they have on site
- ◆ Pictures with captions of food they have available on site
- ◆ Hours of operation

The time frame of the different messages and pictures they want to show would vary from 3 seconds for a short video to 30 seconds or more for a message or picture. The applicants presented time frames that are currently allowed on other “motion” signs within the Town to include the Gateway signs that change every 8 seconds, the School sign which change every 3 seconds and have scrolling text, and the Vestal Fire Dept. sign on route 26 which flashes. Based on this, they would like to show motion/video with a person going down a zipline or a flag “waving” on Veterans Day thanking our vets.

The applicants were questioned as to the time frame they thought were appropriate when compared to other “motion” signs and they were open to what the Board would allow. They stated that they recently advertised an ice cream sale at \$3 a pint and they had people lined up to purchase. They also brought up that the Town should come into the “modern age” of signs like other towns. The applicants also thought that the Gateway signs and school/town signs should be governed by the

TOWN OF VESTAL ZONING BOARD OF APPEALS

same standards as the rest of the signs at 5 minutes between changes and no motion or flashing. The applicants used Transit Road in Williamsville, NY as a model that is similar to the Vestal Parkway and they allow motion and blinking/scrolling signs. The Board members questioned the time frame on those signs, as well as if any other towns in the area allowed motion and what their timeframes were. The applicants did not have the times for or code for the other towns and municipalities they had brought up or any further details.

Discussion points that were brought up also included how bright the LED signs were and that they might be too bright at night, was there a need for NYS DOT to be involved, like the Gateway signs, as they were advertising and had motion and if a 239 might be required. Since there were several unanswered questions that the applicants could not answer, and since the Board can grant the minimal relief sought to accomplish the means for the request, the Board asked the applicant to see if they would be willing to table the request while answers were sought to the questions and some more investigation could be done into other local codes, time frames and DOT questions could be found. The applicants agreed to table the request until the November 14, 2019 meeting and would do research on other local municipalities codes and if DOT needed to also be contacted. Code Enforcement officer, Lincoln Ellis also stated that he would look into the situation as well. The applicants then requested their application be tabled until November 14, 2019. The Board then tabled the request.

On November 14, 2019 at the next ZBA meeting date, the Board reconvened at 6:03 PM to continue the discussion and review the findings of the additional research requested and discovered. Lincoln Ellis presented his findings in regards to DOT needs for permits and brightness, as well as dwell time for messages. DOT approval would need to be required if the sign was promoting/advertising off premise sites and the maximum brightness was 5,000 cd (candela/sq. meter) for daytime and 280 cd for nighttime. The dwell time has a calculator based on speed limit and distance to first sight. Based on the signs location the dwell time would be 15.60 seconds between changes. The time would be different for other signs in other locations and would be less for many signs in lower speed limit zones and shorter sight distances. The applicants were able to find that on Transit Road that there were no minimum times between sign changes in the Town of Lancaster and 30 seconds minimum time in the Town of Clarence. As far as local ordinances and codes, no length of time could be found in the Town of Union, City of Binghamton or the Town of Owego. The Board then discussed the following issues which must be taken into account for the requested variances;

The sign Review Board must take into account the following:

- Are there other means to achieve the goal or benefit requested? The use of static signs is available to all businesses, however, the new trend are the LED signs due to their relatively low cost vs. static and the fact they can be easily and inexpensively changed for future needs.
- Is this difficulty self created? The difficulty is not really self created since signs change many times for some businesses, especially the letters underneath signs with manually changed letters/messages that are prevalent in the Town.
- Will the visual impact have an adverse effect on the environment? The visual impact to the nearby environment would not be harmed by signs, but could potentially be harmed by

TOWN OF VESTAL ZONING BOARD OF APPEALS

motion/flashing signs or signs that are too bright at night. Since the State has developed brightness standards, it could be concluded that what they have set as limits would be acceptable to have as minimal an impact as achievable. As far as motion, the motion/blinking signs would have an impact to the Town, especially as businesses put newer LED signs capable of motion up and down the Parkway. That could lead to a large visual impact on the environment.

- Is this a minimal or substantial request? The request for motion on signs of less than 5 minutes to a more likeable 15 to 30 seconds is a substantial request, however, after reviewing the current standards in other locals, and the dwell time formula which could allow for shorter times, the request is not really substantial.
- Will the variance produce an undesirable change for the neighbors? Since the request for shorter time between changes is in an area that has no nearby residential neighbors, this change should not produce an undesirable change to the neighbors. The showing of motion and/or motion/flashing would have an undesirable effect on the neighbors here and other potential locations.

Decision:

1st Motion by: Tom Smallcomb

2nd by: Tom Jackson

Motion: To allow Chucksters, BCTM #172.11-3-15.1 aka as 1915 Vestal Parkway West, Vestal NY, 13850 a variance of 4 minutes & 45 seconds to allow a 15 second minimal interval on changing LED sign as presented to the Board.

Conditions to Motion: Per DOT regulations on brightness, the sign shall not exceed 5,000 cd during the daylight hours and 280 cd at night.

Items of Discussion: No further discussion presented on this motion.

Vote:	Aye	Nay		
JK:	<u> X </u>	—		
MT:	<u> X </u>	—		
TS:	<u> X </u>	—		
TJ:	<u> X </u>	—		
EB:	<u> X </u>	—		
JT:	—	—	Passed: <u> X </u>	Failed: <u> </u>

Dated: 12/23/19

Affirmed by: 
(Acting Chair/ZBA)

**TOWN OF VESTAL
ZONING BOARD OF APPEALS**

2nd Motion by: Tom Smallcomb

2nd by: Tom Jackson

Motion: To deny Chucksters, BCTM #172.11-3-15.1 aka as 1915 Vestal Parkway West, Vestal NY, 13850 a variance request to allow motion or video display on their LED sign as presented to the Board.

Conditions to Motion:

Items of Discussion: No further discussion presented on this motion.

Vote:	Aye	Nay		
JK:	<u> X </u>	___		
MT:	<u> X </u>	___		
TS:	<u> X </u>	___		
TJ:	<u> X </u>	___		
EB:	<u> X </u>	___		
JT:	___	___	Passed: <u> X </u>	Failed: <u> </u>

Dated: 12/23/19

Affirmed by: *Mandy Taur*
(Acting Chair/ZBA)