

RESOLUTION
PLANNING BOARD
TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: December 3, 2013
Memorialized: January 7, 2014

Re: Application No. 2010-25-PFSPV-AMENDED
Applicant: Daven Avenue, LLC, successor in title to G&S Livingston Realty, Inc.
Premises: 530 West Mt. Pleasant Avenue, Livingston, NJ
Block: 100; Lots: 17 & 18
Zone: C-I

SUMMARY OF CASE

1. The Applicant, Daven Avenue, LLC (hereinafter referred to as the “Applicant”), is the owner of the subject premises (hereinafter referred to as the “Site”), commonly known as 530 West Mt. Pleasant Avenue which avenue is also designated as New Jersey State Route 10. The Site is a shopping center originally approved by the Planning Board (hereinafter referred to as the “Board”) on January 7, 1997, and was the subject of a Resolution approving a revised Site Plan with variances granted on May 3, 2011. An Application to further amend was submitted and was partially heard by this Board on October 29, 2013; for which the Board adopted a Resolution memorialized on November 7, 2013 approving a portion of the Application and reserving jurisdiction as to the issues now resolved herein.
2. A completed Application has been filed and all fees required by the Township Code have been paid, and all taxes are paid to date. All jurisdictional requirements have been met.
3. The Applicant was represented by attorney, Kevin J. Coakley, Esq., of Connell Foley, LLP.
4. A public hearing was held before this Board on December 3, 2013 with regard to this portion of the Application.

5. Testifying on behalf of the Applicant at the hearing were:
 - A: Michael Lanzafama, of the firm Casey & Keller, admitted as an expert in planning and engineering, and
 - B: Mark Schaefer, of Federal Heath Sign Co., admitted as an expert in commercial sign design.
6. The Board took notice that this matter was a continuation of the Application previously heard and partially decided on October 29, 2013, and that any evidence presented and considered at that hearing would be accepted with respect to the remainder of the Application.
7. The Applicant submitted a sign package, prepared by Federal Heath Sign Company, dated November 13, 2013 and a supplemental package dated November 25, 2013 which was received in evidence as Applicant Exhibit A-3.
8. No members of the public appeared to testify for or against the Application, but one member of the public, Judy Kulik, did question the Applicant's witnesses as to the Application.

STATEMENT OF THE CASE

1. There are two buildings on the site. Both are presently vacant. The larger building is toward the front of the Site but backs on Route 10 and faces the parking field on the interior of the Site. It has a screen wall toward Route 10. The second building is at the rear of the Site, faces the interior access road and parking field and does not have frontage on Route 10. It is that building that will house two new tenants "buybuy Baby" and "Cost Plus World Market". The Applicant proposes wall signs for these tenants to be erected on the

screen wall, and also on the building that will be occupied by the two tenants. The tenants are national retail companies with standard designs for their signs. In the course of the hearing the Applicant, with concurrence of the tenants, made reductions in the dimensions of the proposed signs.

2. The proposed signage for the two tenants is:

A: “*buybuy Baby*” will have a screen wall sign 8 feet high by 16 feet long, for a total of 128 square feet. The sign would be in stacked format to match the tenant’s logo with “buybuy” at the top and “Baby” below. The upper letters would be 37 inches tall and the lower letters 45 inches tall. This tenant also would have a stacked format wall sign on the rear building’s front façade 9 feet high by 18 feet long, for a total of 162 square feet.

B: The “*Cost Plus World Market*” sign for the screen wall would be 7 feet 1.5 inches high by 26 feet 5.5 inches in length, for a total of 180.24 square feet over-all. “Cost Plus” would appear in a small banner form over “World Market”. The banner would have a height of 2.5 feet and “World Market” a height of 3.5 feet. “Gourmet Food · Furniture · Decor & Gifts” would be below “World Market” in a smaller size. The Site will be the first location of a shop of this tenant in New Jersey, and the proposed sign is designed to introduce the tenant’s offerings to the public. A wall sign on the front façade of that tenant’s shop in the rear building would be 6 feet 4 inches in height by 28 feet 5.5 inches in length, for a total of 180.24 square feet. It would only have the banner form and the “World Market”.

C: The proposed wall signs all would have internally illuminated lettering.

3. The existing monument sign would be refurbished but would not be relocated or increased in size.

4. The Applicant requested variances from the provisions of Code Section 170-90.L.(2) as follows:

A: Wall signs for a business are permitted only on an entrance wall or a wall of the building facing a street. The Applicant proposes signs on the screen wall of a different building facing Route 10. Accordingly, a variance is requested to permit the location of signs on that wall. The Applicant's planner testified that said signage is necessary since signs on the front of the tenants' building at the rear of the Site will not be visible to motorists on Route 10; the screen wall signs will promote proper identification of tenants, will help the viability of the Site, and will promote traffic safety; and, the unusual angle of the building, which is not directly parallel to Route 10 but is at an angle, and the design of the traffic intersection, make identification of the shopping center difficult for passing motorists and reinforces the necessity of the variance under the provisions of N.J.S:40:55D-70c.(1) and c.(2).

B: The Applicant proposes signs that require the following variances:

(1) Wall signs in the district are required to be on the building in which the establishment is located, and only one wall sign per establishment is permitted unless the building has more than one frontage on which a sign may be permitted. One additional wall sign for each of the two tenants is proposed to be placed on a building other than the one in which the establishments will be located.

(2) The buybuy Baby storefront sign will measure 9 feet in height by 18 feet long, for a total of 162 square feet. The Ordinance limits the height of a sign to 5 feet and a total dimension to 100 square feet; resulting in a variance request of 4 feet for the height and 62 square feet for the total sign dimension. The buybuy Baby wall sign facing Route

10 will measure 8 feet in height by 16 feet in length and will have a 128 square feet total dimension; resulting in a request for a variance of 3 feet as to height, and 28 square feet as to total sign dimension.

(3) The Cost Plus World Market wall sign above the entrance to that establishment will measure 6 feet 4 inches in height by 28 feet 5.5 inches in length and a total of 180.24 square feet; resulting in a variance request of 1 foot 4 inches for the height of the sign, 8 feet 5.5 inches for the length and an 80.24 square foot variance for overall sign dimension. The Cost Plus World Market screen wall sign will measure 7 feet 1.5 inches in height, 26 feet 5.5 inches in length, and will have a total dimension of 180.24 square feet; resulting in a variance request of 2 feet 1.5 inches in height, 6 feet 5.5 inches in length, and an 80.24 square foot variance for overall sign dimension.

(4) Each of the tenant's would have signs that are very different in their physical characteristics. The Ordinance requires that when a building contains more than one establishment the wall signs shall be uniform in terms of design, colors, height or background, style and height of lettering and position on the building wall.

5. The experts presented by the Applicant testified that:

A. The large size and the colors of the buybuy Baby sign on the rear building are required both to accommodate the stacked lettering and colors that coincide with its corporate logo and to provide adequate visibility for occupants of vehicles that are entering the parking area and seeking to navigate safely on the Site to that destination.

B. The size of the Cost Plus World Market sign on the rear building is required

for the same visibility and identification purposes.

- C. The building with the two establishments is not visible to motorists on Route 10 or Walnut Street. The location of a sign for each of the two tenants on the screen wall facing Route 10 will serve to identify the location of the two stores to motorists on those roads, and the size of the signs is not inconsistent with signs on Route 10 in the immediate area. The stacked design of the buybuy Baby sign will be consistent with the sign on its storefront.

6. The Board finds that the variances requested for the signs of the two tenants should be granted for the reasons set forth on the record by the Applicant's planner. The Board finds that the variances can be granted without significant detriment to the public, that they will not have a negative impact on the Zone Plan or Zoning Ordinance, that they will promote the reopening and viability of a stagnant large shopping center, will have an improved esthetic effect, and will serve to improve traffic safety. Any negative impacts are substantially outweighed by the positive effects to be gained by the grant of the variances and are justified pursuant to the provisions of N.J.S:40:55D-70(c).2.

CONCLUSIONS OF THE BOARD

1. The Board hereby grants the Application as amended during the hearing to approve the proposed signage in accordance with the provisions as further set forth herein as to the location, size, dimensions and non-uniformity.
2. The Board approves the variances requested by the Applicant from the provisions of Township Code Section 170-90.L.(2) as follows:

- a) The buybuy Baby storefront wall sign will measure 9 feet in height by 18 feet long, for a total of 162 square feet. The Ordinance limits the height of a sign to 5 feet and the total dimension to 100 square feet; resulting in a variance approval of 4 feet for the height and 62 square feet for the total sign dimension.
- b) The buybuy Baby wall sign on the screen wall facing Route 10 will measure 8 feet in height, 16 feet in length, and will have a 128 square feet total dimension; resulting in a variance approval of 3 feet as to height and 28 square feet as to total sign dimension.
- c) The Cost Plus World Market storefront wall sign will measure 6 feet 4 inches in height, 28 feet 5.5 inches in length, and have a total of 180.24 square feet in area; resulting in a variance approval of 1 foot 4 inches for the height of the sign, 8 feet 5.5 inches for the length, and 80.234square feet for overall sign dimension. The Cost Plus World Market screen wall sign will measure 7 feet 1.5 inches in height, 26 feet 5.5 inches in length, and will have a total dimension of 188.52 square feet; resulting in a variance of 2 feet 6 inches in height, 6 feet 1.5 inches in length, and 88.52 square feet for overall sign dimension.
- d) The differences in physical characteristic of the signs result in a variance from all the uniformity requirements.

3. The variances granted herein apply only to the described signs of the two named tenants and the Board retains jurisdiction as to any future signage on the Site.

4. The Board continues in full force and effect the provisions of all prior Resolutions adopted in connection with the Site, except as specifically modified therein or herein. This includes, but is

not limited to, the memorializing Resolution adopted by the Board on November 7, 2013 and the conditions therein.

This Resolution is a memorialization of the decision of the Livingston Planning Board of the Township of Livingston made on December 3, 2013 wherein Board Members Anthony, Dinar, Kalishman, Klein, Leopold, Meade, Ratner, Santola, and Alternate No. 1 Alvarez (in place and stead of Member Kimmel) voted to approve the Application as amended and set forth herein.


Peter M. Klein, Chairman

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Planning Board of the Township of Livingston on January 7, 2014 memorializing the decision of the Planning Board made on December 3, 2013.


Jackie Coombs-Hollis, Secretary