

RESOLUTION
PLANNING BOARD
TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: June 16, 2015
Memorialized: July 21, 2015

Re: Application No. 2015-28-PFSPV
Applicant: Ulta Salon Cosmetics & Fragrance, Inc.
Premises: 530 West Mt. Pleasant Avenue, Livingston, NJ
Block: 100; Lots: 17 & 18
Zone: CI

SUMMARY OF CASE

1. The Applicant, Ulta Salon Cosmetics & Fragrance, Inc. (hereinafter referred to as the “Applicant”), is a proposed tenant of the subject premises in which it intends to lease and operate a retail cosmetic store in an existing retail shopping center.
2. A completed Application has been filed, all fees required by the Township Code have been paid and all taxes are paid to date. All notice and publication requirements have been met.
3. The Applicant was represented by its attorney, Allyson M. Kasetta, Esq., of the firm Connell Foley, LLP.
4. A public hearing was held before the Board on June 16, 2015 with regard to the Application.
5. The Applicant requests Site Plan approval for proposed signage for the Applicant’s business operation. The proposed signage consists of an illuminated wall sign on the storefront, an illuminated wall sign on the screen wall facing West Mt. Pleasant Avenue, signage on the valances of three awnings to be

installed on the storefront, and a blade sign for the storefront. The Applicant would also install an additional two-sided panel sign on the existing monument sign for which additional Board approval is not required.

6. The Applicant presented the testimony of Ivan Gertsen, an employee of EZ Signs and Service, the company that installs in Pennsylvania and New Jersey the Ultra signs designed by Kieffer & Co., Inc. No expert witnesses were presented, but the Board took notice of the several recent applications involving this property and the installation of the signage for its various tenants; in regard to which applications sufficient expert testimony had been given as to the utility and necessity of similar signage.
7. The Applicant presented a Signage Package prepared by Kieffer & Co., Inc, with original date of 7/8/14 revised through 3/18/15. In the course of the hearing Applicant presented 5/28/15 amendments to Sheets B67004A and B67004A-1 which together with appended Sheet B67004B-1 of 7/8/14 were accepted in evidence as Exhibit A-1.
8. No Members of the public appeared to ask questions of the witness or to testify either for or against the Application.

FINDINGS OF FACT

1. The Applicant requested Site Plan approval for the following signage, including variances related to proposed signage:

A: A wall sign consisting of internally illuminated channel letters and graphic applied directly onto the storefront wall. The sign would be 5 feet 2 inches

in height and 12 feet 10 inches in length; for a total of 66 square feet. The length and square footage are within the limits set in Township Code Section 170-90.L.(2). The height exceeds by 2 inches the Code limit of 5 feet.

B: The Applicant further proposed to install a wall sign consisting of internally illuminated channel letters and graphic directly on the screen wall facing West Mt. Pleasant Avenue. It would measure 4 feet 8 inches in height and 11 feet 7 ¼ inches in length; for a total of 54 square feet. The dimensions are all within the limits set by Township Code Section 170-90.L.(2).

C: The Applicant requested a variance from the provisions of Township Code Section 170-90.L.(2) which permits only one wall sign for each business, and the Applicant proposes to install two: one on the storefront wall and one on the screen wall. Accordingly, a variance of one sign is requested.

D: The Applicant also requested approval for signage on the valance of each of the three awnings to be mounted above the storefront windows. The Façades Ordinance permits the three awnings but only one is permitted a sign, which sign is not required to be in lieu of a wall sign. Accordingly, the Applicant requests a variance from the provisions of Code Section 170-90.F.(2)(c) to permit signs on the two additional valances. The lettering of each sign would measure 4 inches in height and 1 foot 1 inch in length and would consist of the name of the business.

E: The Applicant also requested one blade sign, to extend 3 feet 1 inch from the storefront wall, would measure 1 foot 7.5 inches in height and would be

mounted 10 feet from grade. Township Code Section 170-90.L does not permit blade signs, so that a variance is requested.

2. The sign installer testifying for the Applicant indicated that the design of the signs fits Ultra corporate standards and referred to photographs submitted with the Application demonstrating similar signs maintained by the Applicant at other stores.
3. The Applicant requested a variance from the provisions of Code Section 170-90.L.(1)(g) which would limit the gross square footage of all wall signage to 5% of the 11,270 square feet area of the screen wall as the main building elevation facing the street. The Applicant presented evidence that its proposed screen wall sign would be 54 square feet and its storefront sign 66 square feet. Added to all existing wall signage, this would result in a total area coverage of 14.24%. The Board has granted previous approvals of 13.18% coverage; so that an increase is requested for a total resultant variance request of 9.24%. This calculation was based on a certification of Steve Born of Kieffer Signs, submitted by the Applicant, at the request of the Board, subsequent to the hearing, and as verified by the Township Planner. These calculations established that the total area of the screen wall is 11,270 square feet and the total of all wall signage, including the Applicant's signs, amounts to 1,605.41 square feet.
4. The Board determined that witness Ivan Gertsen was not qualified to testify as an expert in signage design, but did permit fact testimony as to the methodology of the installation of the signs and their locations and sizes. The Board took notice of various previous hearings involving signage at this property as to both the

screen wall and the storefronts. The Board determined that the various prior applications, including most recently the applications of TJX Companies for TJMaxx signage, Application Number 2014-62-PFSPV memorialized on October 7, 2014, and Nordstrom. Inc., Application Number 2014-61-PFSPV memorialized on October 21, 2014, have established by expert testimony and sufficient proof that signs on the screen wall present a better zoning alternative than required by the Code, that the signage is necessary for traffic safety to allow motorists to locate where the various businesses are since the fronts of the stores are not visible from the adjacent highway.

CONCLUSIONS OF THE BOARD

1. The Board finds that the amended Application for Site Plan approval with variances is hereby approved subject to the following denial and variances:
2. . The Board finds that sufficient proofs as to need for a blade sign at the storefront or as to the positive and negative criteria for grant of a variance have not been provided. The requested variance is denied. The Board approves the following variances as requested by the Applicant:
 - A: A variance is granted from the provisions of Code Section 170-90.L.(2), limiting the Applicant to one wall sign, so as to permit both one wall sign on the storefront and another on the screen wall facing the street.

B: A variance is granted from the provisions of Township Code Section 170-90.F.(2)(c) to permit lettering on all three valances of the awnings to be installed on the storefront, said lettering to measure no more than 4 inches in height and 1 foot 1 inch in length and shall consist only of the name of the Applicant, ULTA, as shown on page B67004-1 of the signage package submitted by the Applicant.

C: The Board grants an aggregate variance of 9.24% for all tenants from the provisions of Township Code Section 170-90.L.(1)(g) limiting total wall coverage by signs to 5% of the screen wall area. The Board finds that the Applicant has submitted adequate proof as verified by the Township Planner that the calculation of the total coverage is correct. The Board takes note of its prior approvals for signage on the screen wall which has included variances from this Code provision and that the variances are appropriate under N.J.S. 40:55D-70.c.(2) because the storefronts are not visible from the public roadway, and adequate identification on the screen wall is necessary in order to provide the identification of the store's location and to improve traffic safety for motorists who are unfamiliar with the location of the retail stores maintained on the property. The Board finds as it did in the prior applications that the grant of this variance will not impair the intent and purpose of the Zone Plan or Zoning Ordinance, will not have any detrimental impact on the public good, and that the grant of the variance represents a better planning alternative than provided by the applicable Code provisions.

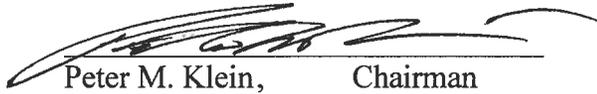
D: A variance is approved from the requirements of Township Code Section 170-90.L.(2)(G) to permit the proposed wall signs to differ in design, color, size, and appearance of other tenant signs.

E. A variance of 2 inches is provided from the provisions of Code Section 170-90.L.(2)(b) limiting the height of the storefront wall sign to 5 feet.

3. The Board finds that the variances approved herein can be granted pursuant to the provisions of N.J.S. 40:55D-70,c.(2) as appropriate use of the property providing necessary identification of the location of the retail establishment, particularly since the storefront does not face a street or public roadway. Approval will have no substantial detriment or impact on the Zone Plan or Zoning Ordinance and will have no detriment to the public good and will advance the purposes of the Master Plan. The Board notes that signage previously approved and installed on this property has been an esthetic improvement and serves to promote the visibility of the retail establishments and further promotes traffic safety for motorists maneuvering on the property. It finds that the Applicant's signs as approved herein will provide the same benefits.
4. The Board continues in full force and effect the provisions and conditions of all prior resolutions adopted in connection with this shopping center, except as specifically modified herein.

5. The Board retains jurisdiction over any future signage proposed by the property owner or any tenant.

NOW THEREFORE, for the reasons set forth herein and as stated on the record by the Members of the Planning Board of the Township of Livingston, and consistent with the proofs and testimony presented, it is resolved that the Board does hereby approve in part, and deny in part, the Application for Site Plan approval for proposed signage with variances, as set forth herein, subject to the terms and conditions of this Resolution.


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 July 21, 2014 by the affirmative votes of Members Anthony, Kalishman, Kimmel, Klein and Ratner; they being all of the Members and eligible to vote.


Jackie Coombs-Hollis, Secretary