

RESOLUTION

PLANNING BOARD

TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: August 5, 2014

Memorialized: September 9, 2014

Re: Application No. 2014-48-PFSPV
Applicant: DSW, Inc.
Premises: 530 West Mt. Pleasant Avenue, Livingston, NJ
Block: 100; Lots: 17 & 18
Zone: CI

SUMMARY OF CASE

1. The Applicant is a proposed tenant of the subject premises in which it intends to lease and operate a shoe and footwear retail store in an existing retail mall currently undergoing an expansion previously approved by this Board. The Application requests approval of proposed signage for the Applicant's business operation.
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 notice and publication requirements have been met.
3. The Applicant was represented by its attorney, Allyson M. Kesetta, Esq. of the firm Connell Foley, LLP.
4. A public hearing was heard before the Board on August 5, 2014 with regard to the Application.
6. Alex Galeano, of CAD Signs, was admitted as an expert in signage design and installation.

7. The Applicant submitted a sign package prepared by Sign Innovation of Harmony, Pennsylvania, dated May 12, 2014, that sets forth the proposed signage for which the Applicant requested approval.
8. No Members of the public had questions for the witness or appeared to testify either for or against the Application.

FINDINGS OF FACT

1. The Applicant proposes the following:

A: Three wall signs to be erected at the subject property as follows:

- a): A sign over the store entrance facing the rear parking lot and measuring 6 feet 10.7 inches in height by 24 feet 10.75 inches in width, for a total of 172 square feet, which exceeds the dimensional limits in the Township Code;
- b) A corner sign on the building tower side facing Daven Avenue and measuring 16 feet 8.5 inches wide by 4 feet 7.25 inches high, for a total of 77 square feet;
- c) A sign on the screen wall facing West Mt. Pleasant Avenue and measuring 16 feet 8.5 inches in width by 4 feet 7.25 inches in height, for a total of 77 square feet.

B: Of the storefront windows, one would have 100% frosted vinyl covering that would include a DSW logo, whereas Township Code Section 170-92.F.(1)(e) requires that all such windows be of transparent glass with signage not exceeding 25%, resulting in a window sign variance of 100%.

- C: The aggregate percentage of screen wall cover with the addition of the Applicant's proposed sign would exceed the limit of 5% established by Township Code Section 170-90.L.(1)(g), resulting in a total coverage of 12.48%, so that a variance of 7.48% is requested.
- D. The proposed sign above the main entrance to the store that faces the rear parking area exceeds the dimensional limits of Township Code Section 170-90.L.(2) in width, height and total square footage, so that variance is requested of 4 feet 10.75 inches in length, 1 foot 10.75 inches in height, and 72 square feet in total area.
- E: Township Code Section 170-90.L.(2)(i) requires uniformity of size, design and color of all signage on a wall when there is more than one establishment in the building. A variance is requested in that the various signs existing and proposed for the screen wall and the building façade with the store entrance represent different national retail merchants who each have their own independent signage design, coloring and appearance.

2. The signage expert testifying for the Applicant indicated that the proposed wall sign variances are necessary to comply with the requirements of the existing corporate sign identification, and with respect to the size and location on the screen wall and corner tower were necessary to provide adequate visibility to customers arriving at the Site which consists of two separate buildings with neither having storefronts facing West Mt. Pleasant Avenue. The variances would therefore promote public safety and would not be detrimental to the Zone Plan or Zoning Ordinance and the benefits would outweigh any detriment. The signage at the store entrance would not be visible from the highway and is not inconsistent with similar signage on

the property, while the signage facing West Mt. Pleasant Avenue is consistent with signage elsewhere on that street. He also testified that the 100% vinyl screening of a single window is necessary because there will be an interior wall behind the window.

CONCLUSIONS OF THE BOARD

1. The Board finds that the variances requested should be granted for the reasons set forth on the record by the Applicant and are consistent with prior findings of the Board. The Board determines that the variances will not create any substantial or significant detriment to the public good and will not have a negative impact on the Zone Plan or Zoning Ordinance, will promote the reopening and viability of a stagnant large shopping center, will have improved esthetic effects, and will serve to promote proper traffic safety. The variances are therefore justified pursuant to the provisions of N.J.S. 40:55D-70.c.(2).

2. The Board hereby grants the Application as amended during the course of the hearing to approve the proposed signage in accordance with the provisions as set forth herein as to size, dimension and location of said signage.

3. The Board approves the variances requested by the Applicant for the reasons set forth herein and consistent with the findings herein as follows:

A. The Board approves the proposed sign over the store entrance facing the rear parking lot and measuring 6 feet 10.7 inches in height by 24 feet 10.75 inches in width, for a total of 172 square feet, by granting a variance from Code Section 170-90.L.(2) of 1ft. 10.7 inches in height, 4 ft. 10.7 inches in width, and 72 sq. ft. in total area.

- B. A variance is approved from the requirements of Township Code Section 170-90.L.(2)(i) to permit the proposed screen wall sign to differ in design, color, size and appearance from the other existing screen wall signage.
- C. A variance is approved from the provisions Township Code Section 170-90.L.(1)(g) limiting total wall coverage to 5%, permitting the total screen wall sign coverage for all establishments to be a total coverage of 12.48%, so that a variance of 7.48% is granted.
- D. The 100% frosted vinyl covering of one window of the storefront containing a DSW logo consists of a sign on 100% of the window's area, whereas Township Code Section 170-92.F.(1)(e) requires that a window sign not exceed 25% of the glazing; so that a variance of 100% for the single window is granted.
4. The Board finds that the corner sign of the Applicant to be installed on the tower face toward Daven Avenue is the only sign to be permitted at said location and does not establish any right of or obligation on behalf of any future applicant to erect a sign on that tower face.
5. The Board continues in full force and effect the provisions and conditions of all prior Resolutions adopted in connection with this property, except as specifically modified herein, including but not limited to the Resolutions memorialized by this Board on May 3, 2011, November 3, 2013 and January 7, 2014.
6. Any temporary signs shall comply with the provisions of the Township Code, and shall be removed no later than the installation of the permanent signs.
7. The Board retains jurisdiction as to any future signage proposed by the Applicant or the property owner, or their respective successors or assigns, on the subject premises.

This Resolution is a memorialization of the decision of the Planning Board of the Township of Livingston made on August 5, 2014 wherein Board Members Anthony, Dinar, Kalishman, Kimmel, Leopold, Meade, Ratner, Santola and Klein voted to approve the Application in accordance with the action memorialized herein; they being all of the Members.



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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 in Open Conference Meeting on September 9, 2014 memorializing the decision of the Planning Board made on August 5, 2014.



A handwritten signature in black ink, appearing to read 'Jackie Coombs-Hollis', written over a horizontal line.

Jackie Coombs-Hollis, Secretary