

RESOLUTION
PLANNING BOARD
TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: September 10, 2013
Memorialized: October 15, 2013

Re: Application No. 2013-5-PFSPV
Applicant: RX Team, Inc., t/a Livingston Pharmacy
Premises: 91 East Mt. Pleasant Avenue, Livingston, New Jersey
Block: 1512; Lot: 12
B-1 Zone

SUMMARY OF THE CASE

1. This Application was filed by RX Team, Inc. (hereinafter referred to as the “Applicant”) a tenant in the building located on the subject premises. The Applicant operates a pharmacy business trading under the name of “Livingston Pharmacy”.
2. A hearing was held before the Livingston Planning Board (hereinafter the “Board”) on September 10, 2013 with respect to the Application.
3. The Applicant was represented by Stephen A. Geffner, Esq., of Schenck, Price, Smith & King, LLP, Florham Park, New Jersey, who provided documentation that all taxes have been paid, all necessary parties have been served, notice of publication has been provided, and all statutory requirements have been met.
4. The shop occupied by the Applicant was previously occupied by a nail salon. The building has several retail and restaurant uses on the ground floor and has other

business uses on the second floor. The Applicant's pharmacy is located in the south-easterly corner of the building and faces onto East Mount Pleasant Avenue (State Highway Route 10).

5. The Applicant currently has an illuminated sign on the front of the building directly facing East Mount Pleasant Avenue, and requests a variance so as to be able to install a second illuminated sign on the westerly side of the building. Applicant's shop has a second entrance there that faces a parking area and driveway.
6. Township Code Section 170-90.C.(3) permits a sign on such an entrance wall, but only provided that it is not illuminated.
7. The Applicant presented the testimony of:
 - A: Gerry Greenberger, the manufacturer and designer of the sign.
 - B: John McDonough, admitted as an expert in Planning.
8. The proposed sign, which has already been fabricated by the sign manufacturer, measures 30 inches in height by 26 feet in length. The lettering height is 24 inches. A logo, between the words "Livingston" and "Pharmacy", is 30 inches in height. The sign would have internally illuminated channel letters and logo. As proposed, the sign would have an area of 80.6 square feet when measured as required by the Township Code.

9. During the course of the hearing, the Applicant reduced the proposed size of the logo to the same 24-inch height as the lettering. That change would reduce the area of the sign to 52 square feet. The area of the side wall constituting a store front of the Applicant is 570 square feet. Under Township Code Section 170-90.C.(3), Applicant's signage on that wall cannot exceed 10% of that store front. That is 57 square feet. The reduced size sign would measure 52 square feet; which conforms to the size limitations in the Township Code.

10. Mr. Greenberger testified that illumination of the sign is essential for the benefit of persons driving from the west and seeking the pharmacy to fill a prescription needed after dark. Mr. McDonough testified that the sign would be visible to those motorists when they are approximately 300 feet from the building. The witnesses testified that such advance sighting would reduce the risk of sudden vehicle stops.

11. No members of the public appeared either in support of or in opposition to the Application.

CONCLUSIONS & FINDINGS OF FACT

1. The Application for Preliminary and Final Site approval is hereby approved as stated on the record and as set forth herein.

2. The Board grants a variance from Township Code Section 170-90.C.(3) to allow the Applicant a store front wall sign on the westerly side of the building, facing the parking lot and driveway, with a height of 24 inches, including logo, and a maximum width of 26 feet, with internally illuminated channel letters and logo.
3. Illumination of that sign would provide necessary identification of the pharmacy location at night for traffic proceeding in an easterly direction on East Mt. Pleasant Avenue. The speed limit on East Mt. Pleasant Avenue is 35 mph. Vehicle occupants coming from the west would have approximately a 300-foot line of sight to the sign. The absence of illumination could result in insufficient time for a motorist to identify the pharmacy at night; thus causing last minute braking and sudden stops.
4. Grant of the variance is consistent with the provisions of N.J.S. 40:55D-70.c.(2) in that it provides a better alternative to the strict application of the Zoning Ordinance. The purposes of zoning would be advanced in that it would allow for appropriate identification of the pharmacy location at night, would assist in traffic safety, and would not be a detriment to the surrounding neighborhood. There are no residential properties that would have a view of the proposed sign. The benefits from a grant of the variance would clearly outweigh any detriment. There would be no negative impact on the Zone Ordinance or impairment of the Zoning Plan.

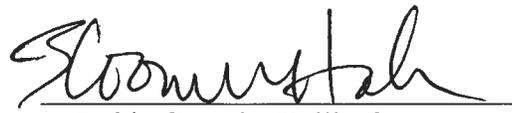
NOW, THEREFORE, for the reasons set forth herein and as stated on the record by the Members of the Planning Board of the Township of Livingston, it is resolved that Preliminary and Final Site Plan approval, with a variance, be and hereby is granted and approved.

This Resolution is a memorialization of the decision of the Livingston Planning Board made on September 10, 2013 wherein Board Members, Dinar, Kalishman, Meade, Anthony, Leopold, Klein, Alternate No. 1 Alvarez (for absent Member Ratner), and Alternate No. 2 Wishnew (for absent Member Kimmel) voted in accordance with the action memorialized; they being all the Members then present.



Peter M. Klein, Chairperson

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 October 15, 2013 memorializing the decision of the Planning Board made on September 10, 2013



Jackie Coombs Hollis, Secretary