

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF LIVINGSTON
NEW JERSEY**

Case # APPEAL/2013-29-V

Motion by: Mr. Ozarow

Second by: Mr. Hochberg

FINDINGS AND CONCLUSIONS

The Zoning Board of Adjustment of the Township of Livingston, having considered the appeal filed in this matter, and the legal argument presented at the hearing on June 25, 2013, the following findings of fact and conclusions are made:

1. The applicant is Livingston Home Store.
2. The property is commonly known as 113 South Livingston Avenue and is taxed as Block 3500, Lot 23. The property is in the B-1/R-4 Split Zone.
3. The applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrears.
4. The applicant is appealing administrative decision of the Zoning Officer. Violation of section 170-90C that provides "only signs accessory to the business...if erected on any entrance wall or wall facing on a street or on a canopy facia..." Subsection (3) provides that "all signs on the face of the storefront shall not exceed 10% of the area of the face of the storefront."
5. The existing conditions are that there are two existing signs, one facing the street and one facing the parking area (over the entrance). In addition, there are two additional signs giving the address of the building on the facing the street and parking lot of the same design as the sign identifying the business.
6. The Zoning Officer interpreted the Ordinance to permit only one sign based on the use of "or" twice in Section 170-90C. The Applicant appeals believing that the correct interpretation of the Ordinance would permit two signs, one facing the street and one facing the parking lot over the entrance.
7. The Zoning Officer included in the calculation of the size of the sign, the sign that identified the property as "113 South Livingston Avenue" of the same color and design as the sign with the name of the business. The applicant believes this is incorrect as such a sign is not a sign as defined by the Ordinance.
8. The applicant was represented by Stephen Geffner, Esq. of Schenk Price Smith & King, Morristown, NJ.

9. The Board heard argument from counsel for the applicant and from Thomas Potere, the Zoning Officer.

10. The Board voted five to one in favor of the interpretation that only one sign was permitted at such location, either facing the street or over the entrance facing the parking lot. Further the Board held that including the address sign in the calculation was appropriate in this instance as it was on a sign of the same color and design as the name of the business and it was used twice.

The Resolution is a memorialization of the interpretation of the Board of Adjustment of the Township of Livingston made on June 25, 2013 in which Board voted with five votes cast in favor and one opposed to provide the above interpretation.

CHAIRMAN:



ALAN OZAROW

Dated: July 23, 2013

Prepared by: HERBERT S. FORD, ESQ.