

RESOLUTION

PLANNING BOARD

TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: May 16, 2017

Memorialized: June 20, 2017

Re: Application No. 2017-30-PFSPV
Applicant: Saber Livingston, L.L.C.
Premises: 372 West Mt. Pleasant Avenue & 276-290 Eisenhower Parkway
Block: 600; Lots: 1, 2.01, and 3.01
Zone: B-1

SUMMARY OF CASE

1. The Applicant requests Preliminary and Final Site Plan approval with variances for a sign package relating to the subject premises that were previously granted subdivision approval under Application Number 2015-18-MSV and Preliminary and Final Site Plan approval under Application Number 2015-18-PFSPV on November 3, 2015.
2. The Applicant was represented by Stephen A. Geffner, Esq., of Schenck Price Smith & King, LLP of Florham Park, New Jersey.
3. The Applicant submitted documentation that all jurisdictional requirements have been met including service and publication of notice, and confirming that all applicable taxes and municipal charges are paid to date.
4. A public hearing on this matter was heard on May 16, 2017.

5. The Applicant is a developer and in the process of constructing a shopping complex on the subject premises. The Applicant did not seek or obtain approval for the signage that is in the current application in the prior proceedings and now seeks such approval from the Board. Proposed signage would require variances as set forth more particularly herein.

6. Testifying on behalf of the Applicant were:
 - A: Bruce Fish, Principal of Signal Sign Company, who designed much of the proposed signage.
 - B: Michael Lanzafama, P.P., P.E. and Land Surveyor, of Casey & Keller, accepted as an expert in planning, surveying and engineering.
 - C: Chris Klersy, project manager of construction, mid-Atlantic for Starbucks.
 - D: Chelsea Dekis, a senior construction project manager for Shake Shack.

7. The Board considered the following Plans and specifications submitted:
 - A: Three (3) signage drawings and renderings prepared by Jones Sign, for the Shake Shack tenant, bearing handwritten date of 12/28/16;
 - B. An elevation of the proposed Shake Shack store and signage, prepared by HBC and bearing handwritten date 12/28/16;
 - C. A fifteen (15) page set of Shake Shack photographs, signage drawings and renderings, prepared by Jones Sign and dated 09.02.2016;
 - D: A three (3) page set of signage drawings and renderings for the Sprint Communications tenant, bearing handwritten date of 5.4.17;

- E: A ten (10) page set of elevations, signage drawings and renderings for all three (3) buildings on the premises, and the proposed monument signs, submitted by Signal Sign Co., dated 03/05/16 revised 03/21/17 and March 31, 201; together with a drawing showing elevations of all three buildings with proposed signage that was prepared by Signal Sign Co. and dated 03/31/17 revised 04/10/17;
- F: A set of two (2) drawings and renderings prepared for tenant Starbucks by Hilton Displays, bearing date 10-17-16 revised through 3-29-17.
- G. A single-page graphic, with specifications, for signage for tenant Blaze Pizza, prepared by Visible Graphics and dated 03-30-2017;
- H. A single-page graphic of signage for tenant European Wax Center, prepared by Signal Sign Co., dated 03/14/17 revised through 03/22/17.

8. The shopping complex under construction will consist of three separate buildings as follows:

- A: Building A will be the northernmost building and will contain 2 separate retail tenants: the contracted tenant Starbucks and an undetermined tenant, possibly a bank.
- B: Building B will be centrally located on the site and will consist of up to seven (7) separate tenants, which would include contracted tenants: Sprint, Shake Shack, Blaze Pizza, and European Wax Center.
- C: Building C will be at the southerly end of the premises and will be occupied solely by The Container Store.

9. During the course of the hearing the Applicant withdrew requests for the following variances:

A: A variance for signage on the west and south façades of Building B, so as to include the Shake Shack band of letters indicating menu offerings on each sign; and

B: A variance for a drive-thru sign, identified as Starbucks sign C, on the north façade of Building A.

10. The Applicant agreed to several modifications to its Application during the course of the hearing as follows:

A. Starbucks sign C was eliminated

B. Starbucks sign B's south face will be changed from "Exit Only" to "Do Not Enter"

C. Logos will be removed from all Starbucks ground signs.

D. Starbucks ground signs will be added to an amended Site Plan.

E. Starbucks clearance bar with a clearance height is a separate structure and will be added to an amended Site Plan.

11. No Members of the public appeared either in support of or in opposition to the Application or to pose any questions to the witnesses.

FINDINGS OF FACT

1. The Applicant requests a modification of the prior Resolution with respect to three (3) approved monument signs. The size of the signs will remain the same, but the Applicant seeks permission to include up to ten (10) individual sign panels rather than the fixed number of nine (9) panels previously approved.

2. The new signs proposed by the Applicant are as follows:

A: For Building A it requested:

- 1) Starbucks sign (A): 60” logo on the north façade
- 2) Starbucks sign (B): 46” ground “Thank You” sign
- 3) Starbucks sign (D): 46” illuminated “Drive-Thru” ground sign with logo
- 4) Starbucks sign (E): Drive-thru clearance bar with clearance height shown
- 5) Starbucks sign (F): 48” Drive-thru sign on west facade
- 6) Starbucks sign (G): 24” channel letters on canopy of west facade
- 7) Starbucks sign (I): 5-panel menu board for drive-thru
- 8) Starbucks sign (J): Pre-menu board for drive-thru
- 9) Starbucks sign (K): Digital order screen and control box with canopy
- 10) Two Sprint wall signs placed over the canopies

B: For Building B it requested:

- 1) Blaze Pizza: A two (2) line illuminated wall sign

- 2) Blaze Pizza: 16" by 16" Blade sign
- 3) European Wax: Illuminated wall sign
- 4) European Wax: 16" x 16" Blade sign
- 5) One 16" x 16" Blade sign for each additional tenant for the building as may come under contract.
- 6) On top of each of the west and south Shake Shack canopies a sign with the words Shake Shack in face lit channel letters with a push through lit hamburger logo.

C: For Building C, The Container Store, the Applicant requested

- 1) One 48" tall x 48' long illuminated wall sign on the west façade
- 2) One 54" tall x 54' long illuminated wall sign south facade
- 3) One 42" tall x 42' long illuminated wall sign on the north façade facing the interior parking area.

3. Variances from the Township Code will be required for the signage as follows:

A: Starbucks: A variance from Code Section 170-90.C which requires that a wall sign must face a street; whereas a sign on the northern side façade of Building A is requested.

B: Starbucks: A variance is requested from Code Section 170-90.C requiring a sign to be attached only on an entrance wall or canopy fascia; whereas Applicant requests signage at the top of a canopy.

C: Shake Shack: A variance from Code Section 170-90.C.(3) that permits only one illuminated sign; whereas Applicant requests two.

D: Shake Shack: A variance from the Code Section 170-90.C requirement that signs must be attached to the wall of the building or on a canopy fascia; whereas Applicant requests placing of signage on the top of the canopies.

E: Sprint: A variance from Code Section 170-90.C.(3) that permits only one illuminated sign; whereas two are requested.

F: Sprint: A variance from Code Section 170-90.C.(1) that requires signage to be attached to the wall of the building or a canopy fascia; whereas Applicant proposes to place signage on top of the canopies.

G: Sprint: A variance from Code Section 170-90.C that requires signs to face a street; whereas Applicant proposes a sign on a wall not having street frontage.

4. The Board heard testimony from the Applicant's planner Lanzafama that the off-street parking area shared by Buildings B & C is subject to an easement that would allow connection of the vehicle aisle to the office building to the east, so as to allow future vehicular traffic between that building and Eisenhower Parkway, and that the connection is expected to be made in the very near future. As a result, some signs would face what he was of opinion would become the equivalent of a public street in terms of relationship to signage. He also testified that there is an entrance to the Shake Shack on the south side of the building in addition to the entrance at the front facing west. The third sign for The Container Store and one sign for Shake Shack will each face that interior aisle and shared parking area. The Container Store sign is necessary to identify the only customer entrance to the building.

5. He also testified that the proposed blade signs on Building B will provide necessary identification of the specific location of each tenant, particularly for pedestrian traffic. The second illuminated sign for the Shake Shack is justified in his opinion because it is at what he would treat as if a corner location; so that Shake Shack faces Eisenhower Parkway while the southerly side faces the interior parking and the internal aisle that he would project to become the equivalent of a public street.

6. Starbucks signs G and F would both face Eisenhower Parkway. Only sign G would be illuminated, and the combined area of the two signs would not exceed 10% of the store front. Witness Lanzafama testified that the signage complies with the dimensional and coverage provisions in Code Section 170-90.C.(2). Since only one of the signs would be illuminated, the requirements of Code Section 170-90.C.(3) would be satisfied. Both Witness Lanzafama and Witness Fish testified that, with the exception of the blade signs, all signs on the buildings meet the dimensional and/or percentage requirements of the Township Code.

7. Lanzafama then testified that the proposed signage for which variances are requested will have no negative impact on the Zone Plan or Zoning Ordinance, or on the public good; but would in fact promote traffic safety by providing appropriate identification as motorists approach, and motorists and pedestrians navigate within, the property. In his opinion, the placement of signs atop the canopies as proposed would an important architectural element of Buildings A and B, and a combination of elements of c(1) and c(2) variances are met for the requested signage.

8. All Starbucks, Sprint, Shake Shack, Blaze Pizza and The Container Store illuminated signs would have LED internal lighting. The European Wax Center sign would have a combination of face lit and halo lit lettering. No neon signs are proposed.
9. All Check List waivers requested by the Applicant were granted by the Board in advance of the hearing.

CONCLUSIONS OF THE BOARD

- 1, The Board denies the following requests for variances:
 - A. The Starbucks sign A 46-inch logo proposed to be located on the northerly side of Building A; there being insufficient evidence of need or utility that would justify a sign on a façade that faces woods.
 - B. The Sprint sign, with illumination, proposed for the north façade of Building B; it not being a sign facing a street or on an entrance wall, and there being a tie vote on whether there was sufficient evidence of need or utility.
2. The Board hereby grants Preliminary and Final Site Plan approval, subject to the variances and conditions set forth further herein. Said Site Plan approval includes the ground and traffic directional signs proposed by the Applicant as modified on the record.
3. The Board hereby approves the following variances requested by the Applicant:
 - A: Starbucks: A variance is granted from Code Section 170-90.C. so as to permit placement of Starbucks sign G on the top of the canopy as shown in the exhibit.

B. Starbucks: A variance is granted from Code Section 170-92.F.(1)(h) so as to permit the pre-menu and menu digital signs for the drive-thru.

C. Shake Shack: Variances are granted from Code Section 170-90.C.(1), which requires a sign to be erected on a wall or on a canopy fascia, so as to permit two signs, (each consisting only of the words Shake Shack in LED face lit channel letters combined with a hamburger logo with push through green LED lighting) with one sign placed atop the westerly canopy and the other atop the southerly canopy of that shop as shown in the exhibit.

D. Shake Shack: A variance is granted from Code Section 170-90.C.(3) so as to permit the sign on the southerly side of the building to be illuminated in addition to the sign facing Eisenhower Parkway.

E. Sprint: A variance is granted from Code Section 170-90.C so as to permit placement of a sign atop the canopy facing Eisenhower Parkway as shown on the exhibit.

F. Building B Tenants: A variance is granted from Code Section 170-90.C.(1) so as to allow each tenant to have one (1) non-illuminated 16 inch by 16 inch (16" x 16") blade sign extending more than 15 (15) inches from the face of the building with the bottom of each such sign at least 8 feet from ground level below it.

G. The Container Store: A variance is granted from Code Section 170-90.C.(3) so as to permit the sign on the northerly façade of the building to be illuminated/

3. Since the signs approved to be placed atop canopies will not extend beyond the fascia of any such canopy, there would appear to be no need for a variance in respect of such signs

from the Code Section 170-90.C.(1) requirement that signs not extend more than 15 inches from the wall or canopy fascia to which attached. However, out of an abundance of caution, the Board grants such a variance for each sign that it has permitted, by variance, to be located atop a canopy.

4. The Board finds that the variances granted: (i) improve identification of specific tenants as seen from vehicles on Eisenhower Parkway or within the premises, and by pedestrians on the Eisenhower Parkway or internal sidewalks; (ii) facilitate safer traffic flow in respect of the Starbucks drive-thru; (iii) permit signs atop canopies consistent with and enhancing the aesthetics of the architecture; and, (iv) permit the proposed Starbucks digital pre-menu and menu boards to contribute to effective operation of the drive-thru facility that will be unique in the Township. The Board finds, therefore, pursuant to N.J.S. 40:55D-70.c.(2), that the purposes of the Township Code and the Municipal Land Use Law would be advanced by the granted deviations from the Township Land Use Code; and that the benefits of the deviations outweigh any detriments; no detriments having been shown.

5. This approval is subject to the following terms and conditions consented to by the Applicant:

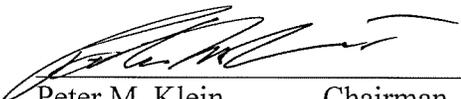
A: The previously approved Site Plans shall be amended and updated to include new elevations for all three buildings showing signage, as approved herein, and the ground, monument and clearance bar signs as agreed to on the record.

B: The Board retains jurisdiction over any future additional signage.

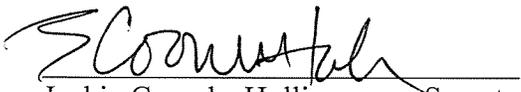
C: All terms and conditions of the Resolution of November 3, 2015 shall remain in full

force and effect unless specifically modified herein.

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 for the Application, with variances as set forth herein, be and is hereby granted and approved, subject to the terms and conditions as set forth herein.


Peter M. Klein, Chairman

I hereby certify that this Resolution is a memorialization on June 20, 2017 of the decision of the Planning Board of the Township of Livingston made on May 16, 2017 wherein Board Members Anthony, Dinar, Kalishman, Ratner, Santola, Alternate No. 1 Rieber (in place and stead of Member Silverman), Alternate No. 2 Wishnew (in place and stead of Member Leopold), and Member Klein voted to approve the Application in accordance with the action memorialized herein; they being all of the Members present and eligible to vote.


Jackie Coombs Hollis, Secretary