

**RESOLUTION**  
**PLANNING BOARD**  
**TOWNSHIP OF LIVINGSTON, NEW JERSEY**

Decided: November 7, 2013  
Memorialized: January 7, 2014

Re: Application No. 2011-6-PFSPV- Amendment  
Applicant: 343 Livingston Circle, LLC  
Premises: 343 West Mt. Pleasant Avenue  
Block: 4000; Lots: 1, 2, 4, 14 & 15  
Zone: B-1

**SUMMARY OF THE CASE**

1. This Application was filed by 343 Livingston Circle, LLC, (hereinafter referred to as "Applicant"), seeking an Amendment to the Resolution adopted by this Board on July 31, 2012 regarding the premises (hereinafter referred to as "Site"). The Application seeks to amend provisions of the Site Plan approved by said Resolution, specifically to allow: a flagpole 60 feet in height at a location other than the location at which a 45-foot flag pole was approved; to increase the size of the wall signs for the "Bottle King" store; addition of two "directional" signs; elimination of the approved monument sign; and, addition of an illuminated sign on a retaining wall in place of said monument sign. The Applicant also requests a modification to the approved parking to reduce the number of spaces from 128

spaces to 126; which would still exceed Township Code requirements of 125 parking spaces.

2. The Site is currently under construction in accordance with the provisions of the Site Plan approved by this Board in the Resolution dated July 31, 2012.
3. The Applicant was represented by Khoren Bandazian, Esq., of Brach Eichler, LLC, Roseland, New Jersey. The fees required by the Township Code have been paid, and all taxes are paid to date. The Applicant presented proof that proper notice was given, and all statutory requirements for invoking the jurisdiction and powers of this Board have been met.
4. A hearing was held with respect to this Application on November 7, 2013.
5. Appearing on behalf of the Applicant were the following witnesses:
  - A: Stephen Schwartz, admitted as an expert in architecture.
  - B: Kenneth Friedman, a principal of the Applicant entity.
  - C: Michael Lanzafama, of Casey & Keller, admitted as an expert in engineering and planning;

## **FINDINGS OF FACT**

1. The Applicant submitted an Amended Site Plan Drawing No. 4 prepared by Michael T. Lanzafama, of Casey & Keller, dated 09-09-10 with a final revision date of 10-03-13.
  
2. The Site is a corner property at the intersection of West Northfield Road and West Mt. Pleasant Avenue, and is currently under construction for a building that will have two principal tenants, a CVS Pharmacy and a Bottle King liquor store. The Applicant requests certain modifications to the Site Plan that was approved by this Board on July 31, 2012.
  
3. The Applicant requested, pursuant to an elevation plan submitted by SWS Architects, dated 15 OCT 2013 and signed by Stephen W. Schwartz, AIA Architect, that the wall signs on the street frontages of the Bottle King store be increased from the approved 2.5-foot letter height, with a taller crown logo, to lettering 4 feet in height with no logo. The length of the signs as shown on said plan would increase to 37 feet 6 inches. The signs would have internally illuminated channel letters and would then be the same height as the signs approved for the CVS Pharmacy. A question arose as to whether the lattice on which the signage is mounted should be included in determining the overall size of the sign. The consensus of the Board was that the lattice is not a part of the sign, but is a portion of the building on which the sign is mounted.

4. The Applicant also requested an increase in the size of the flagpole from the 45-foot height as approved to 60 feet and relocation of the flagpole to a higher location that is in the parking area. Township Code Section 170-87.S.(2) limits a flagpole to a maximum height of 45 feet. The proposed flagpole would be used to fly only an American Flag and would be illuminated at night. The Applicant, during the course of the proceeding, amended the Application to reduce the request to a 50-foot high flagpole and to limit the size of the flag to 10 feet by 15 feet. The Applicant indicated that the additional pole height would permit a patriotic display of the American Flag that would be visible to approaching motorists at an intersection that serves as a gateway to Livingston, and will provide an aesthetic presence without any significant impact to the Zoning Plan. The flagpole itself is not an imposing or massive structure. The benefits of permitting this structure outweigh any potential detriment.

5. The Applicant also requested the addition of two more “directional” signs in relation to the Harvest Lane driveway. A sign at the Harvest Lane driveway entrance would measure 2 feet by 4 feet, would be elevated 2 feet above ground, and would bear the names of the tenants with a directional arrow. Because the names of the tenants are listed it cannot be classified as an exit, entrance or conditions of use sign permitted by Township Code Section 170-90.A.(3) and a variance is required. The second proposed, sign would be at the intersection of that driveway with the southbound aisle of the parking area, would contain a directional arrow and the lettering “Exit to Route 10”. It would measure 3 feet in

width by 2 feet in height and would also be mounted 2 feet above grade. The Board determined that this sign does qualify as a directional sign so that a variance is not required. Each sign would have ground lighting that would be shielded to prevent light from spilling past the sign.

6. The Resolution approved on July 31, 2012 granted a variance for a monument sign at the corner of the West Mt. Pleasant Avenue/West Northfield Road intersection that would identify the tenants. The Applicant now wishes to vacate that variance and replace the monument sign with a sign mounted on the face of the retaining wall at the intersection. The sign would contain the lettering "Livingston Circle" and a graphic in the shape of a large letter "C". It would be ground illuminated. Including the graphic, the sign would be 48 inches tall and approximately 8 feet wide. The graphic would extend above the top of the retaining wall. Evergreen shrubbery behind the wall would protect persons on the site from light spillover. This sign would be less imposing than the monument sign but would provide better identification of the Site itself for approaching motorists.
  
7. To accommodate the flagpole at the new location, the Applicant requested a modification to the approved parking to reduce the number of spaces from 128 spaces to 126; which would still exceed the Township Code requirement of 125 parking spaces.

8. The Applicant requested the following variances with respect to the Application:

A: The Applicant proposes a 50-foot high flagpole, whereas 45 feet is permitted under Code Section 170-87.S.(2); resulting in a request for a variance of 5 feet.

B: The Applicant proposes two additional free standing signs in relation to the Harvest Lane driveway, both of which would have ground illumination. The sign at the Harvest Lane entry to the driveway would contain the names of the tenants; which sign therefore violates the provisions of Code Section 170-90.A.(3) and the Applicant requests a variance to permit said sign.

C. The Applicant proposes a sign on the retaining wall to replace the approved monument sign at the intersection of West Mt. Pleasant Avenue and West Northfield Road; resulting in a request to vacate the variance for the monument sign and need for the grant of a variance for a sign on the retaining wall.

### **CONCLUSIONS OF THE BOARD**

1. The Board grants Preliminary and Final Site Plan approval for the Amended Application as requested by the Applicant and modified in the course of the hearing, and grants the variances as set forth further herein.
2. The Board finds that the 5-foot height variance from Township Code Section 170-87.S.(2) requested for the flagpole can be granted, pursuant to N.J.S.40:55D-

70.c.(2), in that it will allow appropriate patriotic display of the American Flag, will be an esthetic attraction identifying the Site, will not have any significant negative impact on neighbors or the Zone Plan or Zoning Ordinance, and that the benefits of a grant of the variance would substantially outweigh any detriment.

3. The Board finds that a variance from the restrictions of Township Code Section 170-90.A.(3) for the ground sign at the entrance from Harvest Lane will assist traffic entering the Site from Harvest Lane. This sign will improve traffic safety and will provide appropriate and adequate directional information for motorists. This will not have any negative impact on the Zone Plan or Zoning Ordinance and the benefits of granting the variance would substantially outweigh any detriment.
4. The Board finds that the proposed directional sign at the intersection of the Harvest Lane driveway with the southbound aisle of the parking area that would contain a directional arrow and the lettering "Exit to Route 10" is an appropriate directional sign.
5. The Board finds that the proposed lettering, without a logo, for the two Bottle King wall signs at 48 inches in height is permitted by the Township Code and that the lattice on which each sign is to be mounted is not part of the sign itself.
6. The Board finds that the proposed sign to be placed on the face of the retaining wall at the intersection of West Mt. Pleasant Avenue and West Northfield Road is

a sign for which a variance is required; as there is no provision of the Township Code that permits such a sign. The sign will serve the useful purpose of identifying the Site in a manner that is less obtrusive and imposing than the previously authorized monument sign. Grant of the variance would not have any negative impact on the Zone Plan or Zoning Ordinance, there would be no significant detriment and the benefit would substantially outweigh any detriment.

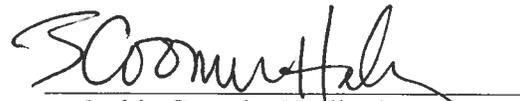
7. The variance permitting a monument sign on the Site at the intersection of West M. Pleasant Avenue and West Northfield Road is no longer required.
8. For the reasons described in the preceding paragraphs the requested variances described therein are hereby granted, and the variance for a monument sign is hereby vacated as requested by the Applicant.
9. The approvals contained herein are subject to the following conditions:
  - a. The flagpole shall be used only for the display of an American Flag, that such flag shall not be larger in size than 10 feet by 15 feet, and that appropriate illumination of the flag shall be shielded in such a manner as to prevent the light source from being a distraction to drivers or pedestrians.
  - b. All Conditions of the July 31, 2012 Resolution remain in full force and effect.

This is a memorialization of the decision of the Planning Board of the Township of Livingston made in a Meeting on November 7, 2013 wherein Board Members Kalishman, Santola, Ratner, Kimmel, Klein, Leopold, Meade and Alternate No. 1 Alvarez (in place and stead of Member Dinar), voted in favor of the Resolution; they being all of the Members, present and eligible to vote



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 January 7, 2014 memorializing the decision of the Planning Board made on November 7, 2013.



Jackie Coombs-Hollis, Secretary