

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
APPLICATION OF DRESSBARN, INC. : No. 2014-21

DECISION

I. FINDINGS OF FACT

1. Applicant is Dressbarn, Inc., 933 MacArthur Boulevard, Mahwah, New Jersey 07430 ("Applicant").

2. The property which is the subject of the instant application is 35 South Willowdale Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the C-2 Commercial District as shown on the Official Zoning Map of East Lampeter Township.

4. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and the Zoning Ordinance of East Lampeter Township (the "Zoning Ordinance").

5. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on July 24, 2014.

6. Testimony at the hearing was stenographically recorded.

7. Applicant was represented at the hearing by John Ryan, Esquire.

8. John Malin and Lois Daniel also appeared and testified at the hearing on behalf of Applicant.

9. Applicant initially requested: (i) a variance from Section 1605, Table 1, of the Zoning Ordinance with regard to the requirement that signs for individual businesses must be located so that they are identified with the individual business; and (ii) a variance from Section 1605, Table 1, of the Zoning Ordinance with regard to maximum area of building signage.

10. With regard to maximum area of building signage, Section 1605, Table 1, of the Zoning Ordinance provides that the maximum total area of all building signs on a lot shall be one and one-half square feet per linear foot of facade, up to a maximum of 200 square feet.

11. Applicant testified at the hearing that it would and could comply with the maximum sign size limitations set forth in Section 1605, Table 1, of the Zoning Ordinance. The variance request with regard to the maximum sign size limitations is deemed withdrawn.

12. The Property is improved with a shopping center.

13. Applicant leases and will lease a store within the shopping center, as more fully shown on the plans and materials (the "Plans") presented by Applicant.

14. Applicant's store is located towards the rear of the shopping center, as more fully shown on the Plans.

15. Applicant's store is unreasonably blocked with regard to line of sight issues.

16. Because of the line of sight issues, Applicant proposes to locate a building sign on a tower element located within the shopping center. The location is known as the "west" tower and is more fully shown on the Plans.

17. There is an existing Jones New York sign on the tower.

18. In the past, a Jockey sign was also located on the tower (it was removed approximately one to two years ago).

19. There is another tower within the shopping center which contains off-premises signs (Corningware / Corelle Revereware signage).

20. The sign will be located within the shopping center and will not be visible from Route 30.

## II. CONCLUSIONS OF LAW

1. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes-Barre, 117 Pa. Commonwealth Ct. 526, 543 A.2d 1282 (1988); MPC §910.2.

2. A variance, if granted "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).



3. Applicant has demonstrated evidence sufficient to warrant the granting of the variance requested for the installation of the signage on the west tower, and the variance is the minimum necessary to afford relief.

### **III. DECISION**

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of Dressbarn, Inc., for a variance from the terms Section 1605, Table 1, of the Zoning Ordinance with regard to location of signage. The variance granted herein shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code:

1. Applicant shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on July 24, 2014.

3. Applicant shall comply with the sign size limitations set forth in Section 1605, Table 1, of the Zoning Ordinance.

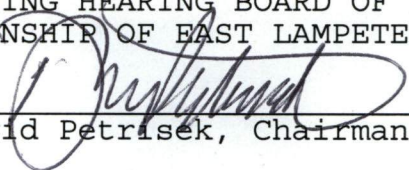
4. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

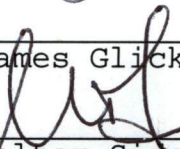
5. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) months

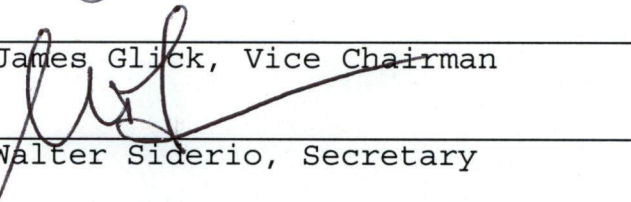
from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date of this Decision.

6. The foregoing Decision shall be binding upon the Applicant and its successors and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER


  
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David Petrisek, Chairman

  
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James Glick, Vice Chairman

  
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Walter Siderio, Secretary

Dated and filed August 14, 2014, after hearing held on July 24, 2014.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 15, 2014.

  
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