



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 20, 2018
SUBJECT/REPORT NO:	Appeal of Sign Variance Application SV-17-007 for the Property known as 1545 Stone Church Road East, Hamilton, Denied by the Director of Planning and Chief Planner (Ward 6) (PED18048)
WARD(S) AFFECTED:	Ward 6
PREPARED BY:	Anthony Cicchi (905) 546 - 2424 Ext. 2266
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Appeal of Sign Variance Application SV-17-007, by the **Muslim Association of Hamilton, Owner**, to permit a Digital Billboard Sign to be located 285 m from the Red Hill Valley Parkway right of way, 290 m from a residentially zoned property, 3.0 m from the northerly lot line, and being constructed on lands that are not vacant, on lands located at 1545 Stone Church Road East as shown on Appendix "A" to Report PED18048, be **Denied** on the following basis:

- (a) That the requested variances are not in keeping with the general intent and purpose of Sign By-law No. 10-197; and,
- (b) That the requested variances do not meet the tests of Sign By-law No. 10-197.

EXECUTIVE SUMMARY

The applicant submitted Sign Variance Application SV-17-007 on April 21, 2017, to permit a double faced Digital Billboard Sign, providing electronic message display for the purposes of advertising for the Muslim Association of Hamilton, located on the subject property. In addition, the sign also proposes to provide third-party advertising to advertise local programs, events and display real time public announcements. The variances applied for were to permit a Digital Billboard Sign to be located 285 m from the Red Hill Valley Parkway; to be 3.0 m from the northerly property line; 290 m from a

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residentially zoned property; and, to permit the construction of a Digital Billboard Sign on lands that are not vacant (see Appendices “B” and “C” to Report PED18048).

The variances were denied by the Director of Planning and Chief Planner on January 4, 2018. The applicant appealed the decision to deny the variances on January 4, 2018, and requested the proposed Sign Variance Application be considered by the Planning Committee.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None

Staffing: None

Legal: The application is subject to the *Municipal Act*, and there are no requirements for a Public Meeting. By-law No. 10-197 requires the City Clerk to notify the owner once a hearing date before the Planning Committee has been fixed to consider an appeal of the decision by the Director of Planning and Chief Planner to deny a sign variance application.

HISTORICAL BACKGROUND

On August 12, 2010, Council approved Sign By-law No. 10-197. Part 6.0 of By-law No. 10-197 establishes the parameters for dealing with Sign Variance Applications (section 6.5), and the process to appeal a decision on a Sign Variance Application (section 6.6) (see Appendix “D” to Report PED18048).

On April 21, 2017, staff received an application for a Sign Variance to permit the establishment of a new Digital Billboard Sign which did not conform to the applicable provisions of Sign By-law No. 10-197.

The following variances were applied for:

- 1) To permit a Digital Billboard Sign to be located within 285.0 m of the right of way of the Red Hill Valley Parkway that is visible from the travelled portion of the right of way, whereas Hamilton Sign By-law prohibits any sign within 400.0 m of the right of way;
- 2) To permit a Digital Billboard Sign that will be 3.0 m from the northerly property line, whereas the requirement is a minimum setback of 3.5 m from any property line;

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- 3) To permit a Digital Billboard Sign to be located approximately 290.0 m from a residentially zoned property, whereas the minimum distance is 300.0 m from any residentially zoned property; and,
- 4) To permit the construction of a Digital Billboard Sign on lands that are developed, whereas a Digital Billboard Sign may be located on vacant, undeveloped properties zoned commercial or industrial.

On January 4, 2018, the Sign Variance Application was denied by the Director of Planning and Chief Planner (see Appendix “E” to Report PED18048). Notice was subsequently sent to the owner advising of the decision. On January 4, 2018, the applicant appealed the decision by the Director of Planning and Chief Planner to deny the variances, and requested that the matter be considered by the Planning Committee (see Appendix “F” to Report PED18048). Pattison Outdoor Advertising is the applicant and they were advised at a pre-submission consultation meeting with staff that staff would not be in a position to support the application as the proposal was effectively for a third-party Digital Billboard Sign adjacent to the Red Hill Valley Parkway. The applicant proceeded to submit the application.

Details of Submitted Application

Location:	1545 Stone Church Road East, Hamilton
Owner	Muslim Association of Hamilton
Applicant:	Pattison Outdoor Advertising
Property Description:	<u>Frontage:</u> ± 76.5 m
	<u>Lot Depth:</u> Varies (± 141.5 - ± 170.5 m)
	<u>Area:</u> ± 14,504 sq m

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

City of Hamilton Sign By-law No. 10-197

By-law No. 10-197 provides regulations for signs and other advertising devices within the City of Hamilton.

Section 5.1.1 of the By-law specifies which signs are not to be displayed or permitted. Section 5.2 specifies the regulations in which a Ground Sign can be lawfully erected (see Appendix “H” to Report PED18048). The proposed variances, if approved, would

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permit a sign that is in contravention of four provisions of the Sign By-law and could set a precedent for other signs of a similar nature to be located within the City of Hamilton.

An explanation of the variances can be found in the Analysis and Rationale for Recommendation section below.

Hamilton Zoning By-law No. 05-200

The subject property is zoned Prestige Industrial (M3) Zone in the Hamilton Zoning By-law No. 05-200, which permits a range of industrial uses. The “M3” Zone (pursuant to Hamilton Zoning By-law No. 05-200) requires a 6.0 m wide landscaped area abutting a street. The proposed Digital Billboard Sign is permitted in the proposed location as an interpretation of Hamilton Zoning By-law No. 05-200 allows signs within a landscaped area or planting strip.

RELEVANT CONSULTATION

For comments received, refer to Appendix “E” to Report PED18048, Pages 2 to 5.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City of Hamilton may approve a Sign Variance Application if the general intent and purpose of By-law No. 10-197 is maintained and the proposal has regard for the four tests, as set out in Section 6.5 of By-law No. 10-197 (see Appendix “D” to Report PED18048).

The Sign Variance Application was denied by the Director of Planning and Chief Planner, on January 4, 2018. The reasons for the refusal were that the proposed sign variances did not maintain the general intent and purpose of Sign By-law No. 10-197, and did not meet the four tests for sign variances provided in Section 6.5 of By-law No. 10-197 (see Appendix “D” to Report PED18048).

The following variances were requested by the applicant:

- 1) To permit a Digital Billboard Sign to be located within 285.0 m of the right of way of the Red Hill Valley Parkway that is visible from the travelled portion of the right of way, whereas Hamilton Sign By-law prohibits any sign within 400.0 m of the right of way;
- 2) To permit a Digital Billboard Sign that will be 3.0 m from the northerly property line, whereas the minimum requirement is a yard setback of 3.5 m;

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- 3) To permit a Digital Billboard Sign to be located approximately 290.0 m from a residentially zoned property, whereas the minimum distance is 300.0 m from any residentially zoned property; and,
- 4) To permit the construction of a Digital Billboard Sign on lands that are developed, whereas a Digital Billboard Sign may be located on vacant, undeveloped properties zoned commercial or industrial.

Setback from Provincial Highway

The proposed Digital Billboard Sign is located approximately 285.0 m from the Red Hill Valley Parkway access. The intent of this provision of the Sign By-law is to avoid a proliferation of signs along the Red Hill Valley Parkway. Due to the proximity of the subject lands from the Red Hill Valley Parkway, any proposed Digital Billboard Sign would require relief from this provision, as the entire lands are located within 400 m of the right of way of the Highway. As outlined in further detail in Appendix “E” to Report PED18048, staff did not support this variance.

Minimum Setback Requirement

The proposed Digital Billboard Sign is to be constructed with a 3.0 m setback from the northerly property line. Due to the developed nature of the subject lands, the proposed Digital Billboard Sign would require relief from this provision in order to avoid the loss of current parking and maneuvering space offered on this portion of the subject lands. While the requested location of the proposed Digital Billboard Sign does not conform to Section 5.1.1 (f) of Hamilton Sign By-law No. 10-197, staff understand the constraints for this proposal. However, staff were not in support of the variance since it facilitated construction of the sign, as outlined in Appendix “E” to Report PED18048.

Setback from Residentially Zoned Property

The proposed Digital Billboard Sign is located approximately 290.0 m from a residentially zoned property. The proposed location of the Digital Billboard Sign is to the rear of the property and is within the 300 m buffer that is required under the Sign By-law. The applicant provided a Viewshield Analysis as seen in Appendix ‘G’ to Report PED18048 which demonstrates the proposed Digital Billboard Sign will have a minimal effect on the residential property. Due to the proximity of the subject lands from the residentially zoned property, the proposed Digital Billboard Sign would require relief from this provision as the proposed location of the Digital Billboard Sign is within 300.0 m of the residentially zoned property. The requested location of the Digital Billboard Sign does not conform to Section 5.10A.2 (l) (i) of Hamilton Sign By-law No. 10-197, as outlined in Appendix “E” to Report PED18048.

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The Red Hill Valley Parkway and mature vegetation provides a buffer to the residential property, however the applicant has failed to satisfactorily demonstrate that there will be no adverse impacts on the residentially zoned lands. The proximity of the existing development to a residential zone is an existing condition that presents an additional constraint for signage location. While staff understand the locational constraints, staff do not support the variances as they facilitate a sign which is not permitted on the subject lands since the property is developed.

Lands Permitting Billboard Signs

The Digital Billboard Sign is proposed on lands zoned Prestige Business Park (M3) Zone, which has been developed for the Muslim Association of Hamilton Facility. As the property is developed and is not vacant and undeveloped, it does not conform to the Sign By-law No. 10-197. Staff are not supportive of the variances requested to establish the proposed Digital Billboard Sign on developed lands as the Sign By-law prohibits any Digital Billboard Sign from being constructed on developed property. The By-law explicitly states that the lands must be undeveloped in order to construct a Billboard Sign regardless of whether it is digital or not.

Staff do not support the variances to facilitate the construction of a Digital Billboard Sign since the Sign By-law strictly prohibits Billboard Signs on fully developed lands. Although the applicant has provided some justification for the location within the site, a Billboard Sign on a developed property is prohibited.

ALTERNATIVES FOR CONSIDERATION

Option 1

Council may uphold the recommendation of the Director of Planning and Chief Planner, Planning Division, to refuse the proposed variances as they do not maintain the general intent and purpose of the Sign By-law. The applicant would not be able to establish the proposed electronic message display Billboard Sign, which proposes to be constructed within 400 m of the Red Hill Valley Parkway and within 300 m of a residentially zoned area. Instead, the owner would be able to construct a new Ground Sign that meets the requirements of Hamilton Sign By-law No. 10-197 and receive a permit from the City of Hamilton.

Option 2

Council may deny the recommendation of the Director of Planning and Chief Planner, Planning Division, and support the proposed variances, as submitted. However, it is staff's opinion that this option does not maintain the general intent and purpose of the Hamilton Sign By-law No. 10-197.

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ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Site Plan
- Appendix “C”: Renderings of proposed Billboard Sign
- Appendix “D”: Section 6.5 of Sign By-law No. 10-197
- Appendix “E”: Sign Variance Application Report SV-17-007
- Appendix “F”: Appeal Letter
- Appendix “G”: Viewshield Analysis
- Appendix “H”: Definitions and Excerpts of Section 5.1 and 5.2 of Sign By-law No.10-197

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