

SIGN VARIANCE APPLICATION – SV-17-007

ADDRESS: 1545 Stone Church Road East

Owner: Muslim Association of Hamilton
Agent: Pattison Outdoor Advertising
Date Application Received: April 21, 2017

Background and Description of Proposed Variances:

The requested variances are as follows:

1. That notwithstanding Section 5.1.1(f) of Hamilton Sign By-law No. 10-197, to permit a Digital Billboard Sign to be located within 285.0 metres of the right of way of the Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway or the Red Hill Valley Parkway that is visible from the travelled portion of the right of way, whereas Hamilton Sign By-law No. 10-197 prohibits any sign within 400.0 m of the right of way of Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway or the Red Hill Valley Parkway that is visible from the travelled portion of the right of way.
2. That notwithstanding Section 5.10.2(i) of Hamilton Sign By-law No. 10-197, to permit a Billboard Sign that will be 3.0 metres from the northerly property line, whereas the Hamilton Sign By-law No. 10-197 requires a minimum yard setback of 3.5 metres.
3. That notwithstanding Section 5.10A.2(l)(i) of Hamilton Sign By-law No. 10-197, to permit a Digital Billboard Sign be located approximately 290.0 metres from a residentially zoned property, whereas a Digital Billboard Sign shall not be located less than 300.0 m from any residentially zoned property.
4. That notwithstanding Section 5.10.2(j) of Hamilton Sign By-law No. 10-197 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.

Variance one refers to any sign in general regardless of the type being proposed, since no sign is permitted within 400 metres of the Lincoln Alexander Parkway or Red Hill Valley Parkway.

Additionally, variances two to four refer to the provisions of a Billboard Sign and as a Digital Billboard Sign is being proposed variances are required for relief from setbacks to the property line, setback from a residentially zoned property and proposing a Billboard Sign on developed industrial lands.

Plans/Drawings/Photos Submitted with Application:

Location Map (Appendix "A")
Site Plan (Appendix "B")
Sign Renderings (Appendix "C")
Viewshed Analysis (Appendix "D")

Background:

The subject property is located on the north side of Stone Church Road East and south of the Lincoln Alexander Parkway (LINC). The subject lands are developed with the existing Muslim Association of Hamilton Centre. The applicant is proposing to install a Billboard Sign to advertise the Muslim Association of Hamilton Centre with a digital component to advertise local programs, events and display real-time public announcements, facing the LINC and the Red Hill Valley Parkway, located 3.0 metres from the northerly property line.

Staff Assessment:

The proposed Sign is located to the rear of 1545 Stone Church Road East, adjacent to the Red Hill Valley Parkway. Staff note that the property is developed with the Muslim Association of Hamilton's facility. This facility has been the only use on the property.

Through Site Plan Application SPA-12-145, the applicant acquired lands located to the rear of the neighbouring commercial building, providing access and frontage on Arbour Road. The application received final approval on March 11, 2014. Since these lands were acquired and used by the Association prior to the implementation of industrial zoning, the property carries a legal non-conforming status. Additionally, an interpretation was made that the requirement for a landscape area and planting strip did not apply in this situation due to the grade differential between the LINC and the rear of the property and the inability to access the property from the LINC.

The applicant is proposing to install a Billboard Sign that is located 3.0 metres from the northerly property line, whereas 3.5 metres is required. Billboard Signs are only permitted on undeveloped lands and cannot be located within 300.00 metres of a residentially zoned property. The applicant is seeking relief from these provisions as there is a residentially zoned property approximately 290 metres north of the proposed location of the sign. The applicant is also seeking relief to permit the Digital Billbaord Sign to be located within 400 metres of the Red Hill Valley Parkway, whereas no sign is permitted to be located within 400.0 metres of the Lincoln Alexander Parkway or Red Hill Valley Parkway right of way.

Circulation

The application for the requested variances was circulated on May 8, 2017 to internal departments / divisions.

The Zoning Section, Building Services has reviewed the Sign Variance Application and note the following:

1. "The applicant is requesting variances to Sign By-law 10-197 to permit the installation of a digital billboard sign located within less than 400 metres of the Lincoln Alexander Parkway right-of-way, whereas the Sign By-law requires a minimum setback of 400 metres from a highway. In addition, the sign is proposed to be located within 3.0 metres from the northerly lot line, whereas a minimum setback of 3.5 metres from any property line is required for a sign.

2. Building Division records indicate the recognized use is a place of worship on the portion of the lot zoned "M3, 369", which is permitted.

The westerly portion of the property, located at the north (rear) side and abutting lands known municipally as 1525 Stone Church Road East, is zoned "M3-409". It appears that this portion of the lot provides access to the subject lands from Arbour Drive. The proposed sign is intended to be located on this parcel, which does not permit a place of worship.

3. The "M3" zone (pursuant to Hamilton Zoning By-law No. 05-200) requires a 6.0m wide landscaped area abutting a street.

According to the City of Hamilton's GIS air photo mapping, it appears that the area abutting the Lincoln Alexander Street line was landscaped up until approximately 2010 as the 2012 air photos show this area as being composed of either soil or gravel and the 2015 air photos show this area as now being paved.

Be advised that an interpretation allows signs within a landscaped area or planting strip.

4. The proposed sign does not appear to be located within the required parking spaces, manoeuvring spaces/aisles, access driveways or road allowance.
5. Zoning Examination staff does not review the proposed sign for compliance with Sign By-law 10-197. As such, the Building Construction Section should be contacted for their review of the proposal regarding Sign By-law 10-197.
6. Signage is subject to the issuance of a building permit in the normal manner.
7. The designer shall ensure that the fire access route conforms to the Ontario Building Code."

The Growth Management Section has reviewed the Sign Variance Application and has no concerns.

The Building Construction Section has reviewed the Sign Variance Application and note the following:

1. "According to Section 5.10.2(c) of the Sign By-law 10-197, **"(c) maximum height of 12.0 m."** The height of the proposed Digital Billboard is 7.62 m. Therefore it does conform to the Sign By-law 10-197.
2. According to Section 5.10.2(j) of the Sign By-law 10-197, **"(j) on vacant, undeveloped property zoned commercial or industrial."** This property is zoned 'M3' Prestige Business Park but the property is not vacant and undeveloped. Therefore it **does not** conform to the Sign By-law 10-197.
3. According to Section 5.10A.2(b)(i) of the Sign By-law 10-197, **"(i) maximum sign area of 18.6 m² for each sign face."** The proposed Digital Billboard area is 18.6 m². Therefore it does conform to the Sign By-law 10-197.

4. According to Section 5.10A.2(b)(ii) of the Sign By-law 10-197, “**(ii) maximum height of 6.1 m² for each sign face.**” The height of the proposed Digital Billboard has been calculated to be 3.05 m for each sign face. Therefore it does conform to the Sign By-law 10-197.
5. According to Section 5.10A.2(b)(iii) of the Sign By-law 10-197, “**(iii) maximum width of 10 m, except for a maximum width of 12 m for Digital Billboards facing the Lincoln M. Alexander Parkway.**” The width of the proposed Digital Billboard is 6.1 m. Therefore it does conform to the Sign By-law 10-197.
6. According to Section 5.10A.2(d) of the Sign By-law 10-197, “**(d) a maximum luminosity level of 300 candelas per m² at night and 6000 candelas per m² during the day.**” No information has been provided so staff cannot determine whether or not the proposed Digital Billboard conforms to the Sign By-law 10-197.
7. According to Section 5.10A.2(e)(i) of the Sign By-law 10-197, “**(i) equipped with a monitoring device to ensure that the light generated does not exceed 0.3 candles above ambient light levels at a distance of 41 m for Digital Billboards with a sign area of not more than 18.6 m².**” No information has been provided so staff cannot determine whether or not the proposed Digital Billboard conforms to the Sign By-law 10-197.
8. According to Section 5.10A.2(f) of the Sign By-law 10-197, “**(f) not operate between the hours of 12 a.m. and 6 a.m.**” No information has been provided so staff cannot determine whether or not the proposed Digital Billboard conforms to the Sign By-law 10-197.
9. According to Section 5.10A.2(g) of the Sign By-law 10-197, “**(g) maximum dwell time of 6 seconds.**” No information has been provided so staff cannot determine whether or not the proposed Digital Billboard conforms to the Sign By-law 10-197.
10. According to Section 5.10A.2(h) of the Sign By-law 10-197, “**(h) maximum transition time of 1 second.**” No information has been provided so staff cannot determine whether or not the proposed Digital Billboard conforms to the Sign By-law 10-197.
11. According to Section 5.10A.2(i) of the Sign By-law 10-197, “**(i) not on a property within the Downtown Community Improvement Project Area, the Waterdown Urban Area or the Waterdown Settlement Area.**” The proposed Digital Billboard is outside of all three of these areas. Therefore it does conform to the Sign By-law 10-197.
12. According to Section 5.10A.2(k) of the Sign By-law 10-197, “**(k) not less than 300.0 m from another Billboard.**” There is no other Digital Billboard that is located in this area. Therefore it does conform to the Sign By-law 10-197.

13. According to Section 5.10A.2(l)(i) of the Sign By-law 10-197, “**(h) not less than 300.0 m from any residentially zoned property.**” There is a residentially zoned property at 127 Arbour Rad that is located within 300.0 m of this location. Therefore it **does not** conform to the Sign By-law 10-197.
14. According to Section 5.10.2(i) of the Sign By-law 10-197, “**(i) not less than 3.5 m from any property line.**” The proposed Digital Billboard will be 3.0 m from the north property line. Therefore it **does not** conform to the Sign By-law 10-197.”

The applicant provided information addressing the functionality of the sign and confirmed that the sign is compliant with comments 6 to 10 noted above.

Evaluation:

The City of Hamilton may approve a Sign Variance Application if the general intent and purpose of the Sign By-law is maintained and if the proposal has regard for the four tests as set out in Section 6.5 of By-law No. 10-197.

The four tests are:

a) Special circumstances or conditions applying to the land, building or use referred to in the application;

The site is irregular in shape and presents functional constraints for finding an appropriate location for the Billboard Sign. The applicant has provided justification regarding the location of the proposed Sign being located 3.0 metres from the northerly lot line, whereas any Billboard Sign shall be located 3.5 metres from any property line. Since the site is fully developed, if the Sign were located the minimum 3.5 metre setback, the applicant would either lose parking spaces or reduce the existing isle width, resulting in an alteration to the existing pavement.

The northerly portion of the property is within 300.0 metres of a residentially zoned property. As a portion of the Sign will be digital, the proposed Billboard Sign must to be located 300.0 metres from the nearest residential zone. The proposed Digital Billboard Sign is proposed 290.0 metres from the nearest residentially zone property. The Lincoln Alexander Parkway and mature vegetation provides a buffer to the residential property, but 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.

The sign is situated 285.0 metres of the Red Hill Valley Parkway and any new signage would be required to obtain a variance. The intent of the By-law is to avoid a proliferation of signs along the Red Hill Valley Parkway.

The subject lands are currently developed with the Muslin Association of Hamilton Facility. Being a property that is fully developed prohibits any Digital Billboard Sign from

being located on the property. Digital Billboard Signs are only permitted on vacant lands.

While staff understand the location constraints on the property in proximity to the LINC and Red Hill Valley Parkway, staff do not support the variances as they facilitate the construction of a Digital Billboard Sign which is not permitted on the subject lands since the property is developed.

b) Whether strict application of the provisions of this By-law in the context of the special circumstances applying to the land, building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;

Strict application of the By-law would not permit any Digital Billboard Sign to be located on the subject lands since the lands are fully developed. Currently the site is developed with a place of worship, being The Muslim Association of Hamilton. 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. In addition, discussions with the agent have confirmed the Digital portion of the sign will be used for advertising of local programs, events and more not provided on site.

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, the overall function of the sign as a Billboard Sign on a developed property is prohibited.

c) Whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant; and,

There are two pre-existing conditions which restrict the location of the proposed Billboard Sign. The existing property abuts the Red Hill Valley Parkway and is situated within the 400 metre buffer that the Sign By-law requires. In addition, a residentially zoned property is located less than 300 metres from the property which creates a pre-existing condition not created by the Owner. Staff do not support the location of the proposed Billboard Sign with respect to its proximity to the Red Hill Valley Parkway since the intent of this provision of the Sign By-law is to avoid a proliferation of signs along Provincial Highway 403, the Lincoln Alexander Parkway, Red Hill Valley Parkway and Queen Elizabeth Way.

There is a residentially zoned property that is situated within 300 metres of the subject lands. The proposed location of the Billboard Sign is to the rear of the property and is within the 300 metre buffer that is required under the Sign By-law. The applicant has provided a viewshed analysis as seen in Appendix 'D' which demonstrates the proposed Digital Billboard Sign will have a minimal effect of the residential property. Staff are supportive of the location of the Billboard Sign with respect to its proximity to residentially zoned property since the location of the site in relation to the feature makes

it impossible to comply with this provision of the By-law with respect to signage. The location proposed appears to have the least potential impact.

However, while staff may have no concerns with a sign in the proposed location to the residentially zoned property, staff have concerns with the Digital Billboard Sign that is proposed within the 400 metre setback of the Red Hill Valley Parkway.

d) Whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located.

The proposed Digital Billboard Sign will be the first located along the Lincoln Alexander Parkway and Red Hill Valley Parkway; Suds is another similar sign located near the Upper Wentworth exit; however the Suds Sign does not provide third party advertising.

The proposed sign location will alter the essential character of the area as multiple businesses have signage that face the Lincoln Alexander Parkway and Red Hill Valley Parkway but are not Billboard Signs. It is staff's opinion that the Digital Billboard Sign will alter the character of the existing neighbourhood and will have a negative impact on traffic on the Parkway as reading such advertising could potentially be distracting.

Based on the above, the variances requested do not have regard for the four tests and do not maintain the general intent and purpose of the Sign By-law.

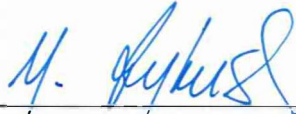
Recommendation:

That Variances 1 - 4 of Sign Variance Application SV-17-007, to permit the proposed Billboard Sign to be located 285 metres from the Red Hill Valley Parkway, 290 metres from a residentially zoned property, 3.0 metres from the northerly lot line, and being constructed on lands that are not vacant, whereas Hamilton Sign By-law No. 10-197 requires a 400 metre setback from the Red Hill Valley Parkway, 300 metre setback from a residentially zoned property, 3.5 metre setback from any property line and Billboard Sign be constructed on vacant lands be **denied** for the following reasons:

1. That the requested variances are not in keeping with the intent of Sign By-law No. 10-197; and,
2. That the requested variances do not meet the four tests of Sign By-law No. 0-197.

Approval:

Authorized:



Yvette Rybensky
Senior Project Manager – Suburban Team
Development Planning, Heritage and Design, Planning Division

Authorized:

Anita Fabac
Manager
Development Planning, Heritage and Design, Planning Division

for Authorized:



Steve Robichaud
Director and Chief Planner, Planning Division

YR
Attach. (4)

