

May 18, 2023

City of Hamilton**Planning and Economic Development Department – Development Planning, Heritage and Design****Re: Forge & Foster - 360-410 Lewis Road – Stoney Creek, ON – Sign Variance Appeal**

Ms. Lisa Kelsey, Dipl.M.A.
Legislative Coordinator

This **Letter of Appeal** is in support of Pride Signs' request for a variance (# SV-22-004) that was **DENIED** on May 5th, 2023. As per your request we are filing this appeal within the 21-day requirement.

Summary of Sections of Sign By-law 10-197 Requiring Variances and Relief Requested

- 5.2.2 (e) – To permit sign 1 and sign 2 a sign area larger than the maximum allowed of 36m² (18m² per side).
- 5.2.2 (f) – To permit sign 1 and sign 2 a height of 8.458m when maximum allowed is 7.5m.
- 5.2.2. (g) (iii) – To permit sign 1 to have 54.58% of the sign area to be electronic digital message display whereas the by-law only permits a maximum of 50% of the sign to be electronic message display.
- 5.2.2 (i) – To permit sign 2 to have a setback of 1.94m when a minimum of 6.34m (75% of the height of ground sign) is required.

We applied for this sign variance in February of 2022. Since the initial application 16 months ago we have reached out to the city on many occasions to try to secure a variance and subsequently a permit. I have attached Appendix as a reference showing our due diligence with respect to follow-up.

The denial letter refers to two similar signs near our client's. These were approved, permits released, and the signage installed. These sign variance applications were filed under SV-17-001 and SV-16-020:

SV-17-001 – Losani Homes Ltd - 430 McNeilly Road:

Request from this applicant back in December of 2016 was to permit a double sided, electronic message display Ground Sign, with a proposed increased sign face area; increased height; and 87% electronic message display. Proposed to construct an 8.53m tall double-faced Ground Sign, having a total sign face area of 55.2m². This sign was constructed prior to a permit from the City of Hamilton.

A variance application was subsequently denied.

Photo below:



Google Street View image of similar signs on QEW frontage in the surrounding area exceeding the allowable Digital Sign ratio of 50%

SV-16-020 – Calitor Group Limited - 442 Millen Road

Request from this applicant back in October of 2016 was to permit the existing sign face area of 50.14m² for a double-sided sign; and, to permit third party advertising on 100% of the electronic message display. In addition to the proposed variance to permit 100% electronic message display, the existing location of the Ground Sign required additional variances. The front yard setback to the existing Ground Sign is 3.0m, whereas Hamilton Sign By-law No. 10-197 requires a minimum of 7.1m. The height of the existing sign is 9.5m, whereas Hamilton Sign By-law No. 10-197 permits a maximum of 7.5m. Lastly, the sign face area is 23m², whereas Hamilton Sign By-law No. 10-197 permits a maximum 18m². This application was denied, and the committee presented the council with two options. The sign has since been erected. Photo of installed sign below:



Sign with 100% digital screen exceeding the allowable Digital Sign ratio of 50%

Within the denial report released to Pride Signs, it is noted that the majority of the staff that reviewed our variance application concluded no comments or no issues with the proposed sign. Specifically:

1. **The Legislative Approvals / Staging of Development Section** indicated that they have no concerns or objections to the approval of the proposed Sign Variance application.
2. The **Development Engineering Approvals Section** indicated the following:
As the proposed signs will be installed using the existing bases, it is not anticipated to have any impact on drainage, servicing, grading, or utilities within the site. From a drainage and servicing perspective, Development Engineering has no objections to the Sign Variance application.
3. The **Transportation Planning Section** indicated that they have no concerns or objections to the approval of the proposed Sign Variance application.
4. The **Ministry of Transportation (MTO)** has reviewed the application and has issued a Sign Permit in accordance with the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, P50.

The Zoning and Committee of Adjustment Section reviewed the application and identified four non-conformances.

- 1) The maximum sign area based on frontage.
 - ✓ However, the existing signs are actually slightly larger than the proposed signage
- 2) The maximum height of the structure is taller than the current by-law.
 - ✓ However, the proposed signs are slightly shorter in height than the current signage
- 3) The electronic message center is greater than 50% of the sign area for sign 1
 - ✓ This is true, however the Losani Homes and Calitor signs are greater than the proposed signage in our application
- 4) The setback does not conform to the current by-law
 - ✓ This is true, however the existing signs were permitted in the same location and the existing bases are to be reused

We are aware that the sign area is larger than what is allowed by the city, this led us to apply for a variance originally.

The signs that Pride Signs would be replacing are the exact same size as the signs that we are proposing.

The intention of Pride Signs is to remove the existing pylons and replace them with brand new pylons.

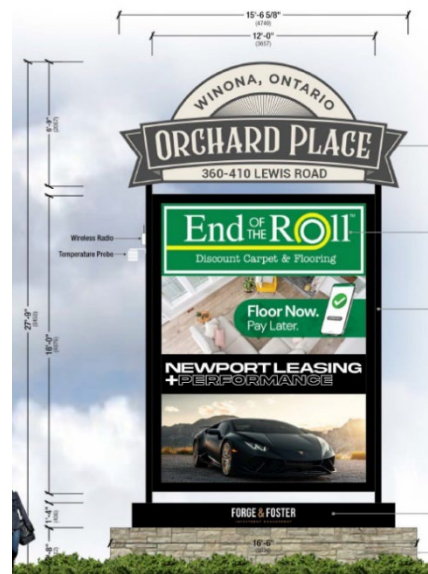
The existing signs were permitted as constructed and will be maintained on existing bases at a shorter height. The current sign at the property is 29'0" and we are proposing 27'9" and as per the sign area that will remain the same with the proposed.

The size of this large property is 57,872m² (14.3 Acres) and currently only has 2 existing ground signs. If this appeal is denied the signs will remain outdated with the exact setback and the same sign area as what we are proposing.

Replacing these signs with the proposed does not make any changes to the area and would be similar to the above-mentioned ground signs nearby with larger digital screens. It would be in the best interest to update the current signs to add a refreshed look to the current updates that our client is looking to achieve at the property and building. Investing in Hamilton is something our client has been involved with many other properties in Hamilton and requesting a more modern ground to replace the existing signs with modern technology for their tenants is not a large request being that the current signs have similar dimension.



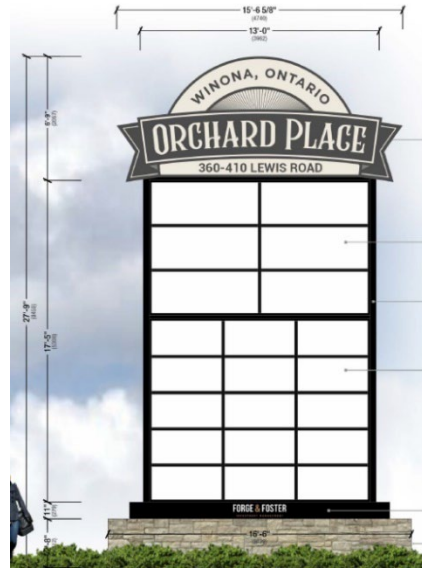
Existing sign at South Service Road



Proposed SIGN 1



Existing ground signs sign at Lewis Road signs.



Proposed SIGN 2

We would like to advise Council that:

- (1) the fact that the new signage would be an increase to the city's vitality as it would be refurbished to create a more aesthetically pleasing outcome, resulting in the improvement to the neighborhood and increase in property value and tax base.
- (2) the location currently has an existing sign and would simply be replaced with the proposed sign at the same height; therefore, the proposed sign is on par with the existing neighborhood.
- (3) we are not proposing screen video movement or motion and are maintaining the sign static which was originally requested by the city. The digital messages will comply with the cities transitioning times for the change between static images; and
- (4) Only one of the signs being proposed will have a digital screen. Sign 2, which is further back within the property is being proposed as acrylic faces with vinyl and decals.
- (5) the proposed style will create no undue burden on any neighboring properties.

Conclusion:

Pride Signs Ltd formally requests your support for the Appeal of Sign Variance SV0-22-004. The signage program represents a significant investment into the site and enhances the on-site experience for patrons and visitors to the city. The signs will not have a detrimental impact on the surrounding areas or streetscape due to no change in illuminated sign area from the existing. The sign meets the intent of the Sign By-law, as well as the Urban Design Guidelines which relate to signage. I thank the committee for

their consideration of this proposal, and should anyone have any questions regarding the specifics, please feel free to contact me at any time. Thank you for your consideration.

Thank you,



Bismarck Coca Jr

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Appendix

Pride Signs Due diligence with City of Hamilton

- February 23, 2022 - Application made to planning division
- March 4, 2022 - Received notification to make payment
- March 7, 2022 – Made payment to Alexandra Del Degan by phone
- March 30, 2022 - Advised that Aman Hansra was the planner assigned to the variance application
- March 30, 2022 - Aman advised the following

Hi Bismarck,

I received all positive comments from the Development Engineering, Legislative Approvals, Transportation Planning and Zoning.

Zoning does want you to confirm the following and provide a little more information;

Provision	Required by By-law	Section of By-law No. 10-197	Provided	Conforming/ Non-Conforming
Structure	Any sign with a video screen or flashing, kinetic, or illusionary motion, except an electronic message display as permitted under this By-law is prohibited.	5.1.1 (a)	Digital Display screens appear to be proposed on Sign #1. More information is needed in order to determine the content of the displays.	Unable to determine compliance

- June 8, 2022 - Responded to Aman that no video will be on the electronic message, and we would comply with the regulations of digital display from the city
- June 17, 2022 - Followed up with planner
- June 24, 2022 - Advised by Christine Fandrich that Aman was no longer the planner, and she was taking over the project. She was to investigate if the information I sent about the video was sufficient.
- July 14, 2022 - Followed up with Christine
- July 15, 2022 - Christine advised it was still under review
- July 18, 2022 - Christine asked again to clarify that there will be no illusionary motion or flashing
- July 22, 2022 - I responded and confirmed
- August 15, 2022 - Followed up
- September 8, 2022 - Followed up again
- September 16, 2022 - Was told still in review
- October 6, 2022 - Followed up again
- October 11, 2022 - Christine advised no updates yet
- October 24, 2022 - received this from Christine

Good Afternoon Bismarck,

I am sending my deepest apologies, I mixed this file up with another file. This has not gone for Manager review as of yet. The report is still in progress. We had a high number of files come through, which I understand isn't an excuse, however, it has meant we have been slower to process the Sign Variances.

Today is my last day, so this will be going back to Aman to finish.

- November 17, 2022 - Aman let me know the response from MTO. We needed to provide them with a different drawing showing the sign area for MTO.
- November 16, 2022 - I sent revised drawings to Aman
- November 18, 2022 - Aman confirmed she circulated the drawings to MTO
- December 7, 2022 - Followed up
- December 12, 2022 - Aman advised final report had been reviewed by the manager and wanted to know the status of the MTO permit
- December 16, 2022 - I responded that we do not normally get MTO because we do not have the approval yet from MTO and it would be a waste of time and money to get MTO
- January 11, 2023 - I followed up with asking for the approved variance so we can apply for MTO
- January 11, 2023 - Aman let me know that her senior project manager confirmed we need MTO first

- January 11, 2023 - I reached out to Tim getting clarification on why we need MTO if we have not received the approval
 - January 12, 2023 - Tim responded and let me know that is how they always did it. I couldn't find a time we have done that in the past, so we decided to make the MTO application.
 - January 18, 2023 - I asked for any written confirmation that once we received MTO the variance would be approved. We did not want to spend the money and time at MTO if this was going to be denied.
- Tim's response below

Hi Bismarck,

As Aman has noted below, the staff report has been prepared and is currently under review pending the MTO permit, however based on the comments received to date I do not foresee any issues at this time with the variances being approved once an MTO permit is issued.

- January 20, 2023 - Applied for MTO
- March 7, 2023 - MTO planner advised application was in final review
- March 10, 2023 - Sent the approved MTO permit to Aman and Tim
- March 13, 2023 - Aman let me know they received the MTO and asked again to clarify if there was going to be video
- March 13, 2023 - I responded and confirmed
- March 31, 2023 - Followed up with Aman
- April 3, 2023 - Aman advised it was in final review with management and because Anita Fabac was on vacation the file was given to Steve Robichaud. Apologized for the delay.
- April 12, 2023 - Followed up with Aman since Anita should have been back from vacation
- April 28, 2023 - Followed up with Aman and CC'd Anita Fabac
- May 3, 2023 - Aman sent me the Denial letter
- May 18, 2023 – prepared Letter of Appeal