



STAFF REPORT THIRD PARTY SIGN VARIANCE

Application by Maxximum Outdoor Inc. for Four (4) Third Party Sign Variances with respect to the South-westerly Corner of 1581-1589 The Queensway

Date:	July 15, 2010
Ward:	Ward 5 – Etobicoke-Lakeshore
File No.:	TP-10-00001
IBMS File No.:	10-188846

PURPOSE OF THE APPLICATION

To obtain the four separate variances to Chapter 694, Signs, General, required to allow Maxximum Outdoor Inc. to make an application for a sign permit to allow the erection and display at the south-westerly corner of the premises with the legal description of Etobicoke Con 3 Pt Lot 9 RP 64R2634 Pt Part 1 RP 64R8802 Parts 1 TO 3, and known municipally as 1581-1589 The Queensway of one third party ground sign, which:

- is illuminated;
- is not erected within the required setback of a building from a street as regulated by the applicable Zoning By-law;
- is not erected within 100 metres of any other lawful third party sign;
- is not erected within 30.0 metres of the intersection of a major street with any other street;
- is not erected within 30.0 metres of any premises located, in whole or in part, in an R, RA, or OS sign district;
- is the only third party ground sign erected on the premises;
- is a height of 21 metres, and contains only two sign faces, each sign face being 14.6 metres long by 4.26 metres high for a sign face area of , and displaying electronic static sign copy.

REQUESTED VARIANCES

SECTION	REQUIREMENT	PROPOSAL
§694-22. A.	Third party signs are permitted to display only static copy or mechanical copy	The proposed third party ground sign will display electronic static copy.
§694-24. A. (1)	A third party sign shall not be erected and displayed within 400m of any limit of the F.G. Gardiner Expressway from Hwy. 427 to the Humber River.	The proposed third party ground sign is located approximately 17m from the Gardiner Expressway.
§694-25. B. (1) (a)	A third party ground sign is permitted in an E-Employment sign district provided the sign face area does not exceed 20m ² .	The proposed sign face area of each of the two sign faces on the third party ground sign is 62.43m ² .
§694-25. B. (1) (b)	A third party ground sign is permitted in an E-Employment sign district provided the height of the sign does not exceed 10m.	The proposed height of the third party ground sign is 21m.

RECOMMENDATIONS

The Chief Building Official and Executive Director, Toronto Building, recommends that:

1. The variances requested with respect to the purpose of the application, as described above, **BE REFUSED.**

COMMENTS

Chapter 694, Signs, General, of the City of Toronto Municipal Code came into force and effect on April 6, 2010. Chapter 694, Signs, General, delegates decision-making powers respecting third party sign variance applications to the Sign Variance Committee composed of citizen members. As such, this report outlines the position of the Chief Building Official concerning the proposed variances based on the established criteria provided in § 694-30A. It is the Chief Building Official's position that the proposed variances should be refused.

Applicant's Submission

A redacted version of the Applicant's submission package is provided as Attachment 1 to this report. Attachment 1 contains:

- A letter supporting the third party sign variance application and the need to request variances from the Sign Variance Committee, prepared by the applicant and dated June 2010;
- A Variance Application Timeline, prepared by the applicant and dated June 2010;

- An unsigned Survey Sketch showing existing third party sign locations in relation to the subject property and the proposed third party ground sign on the property, prepared by J.D. Barnes Ltd. and dated January 29, 2010;
- A Property Measurements drawing, not to scale, prepared by the applicant and dated June 2, 2010;
- A plan and elevation drawing of the proposed sign structure, prepared by Len Maile, P. Eng. and dated March 12, 2008;
- An “Illegal Signs, Etobicoke” drawing, prepared by the applicant and dated September 10, 2009.

Site Context

The subject property is located within Ward 5 in the former municipality of Etobicoke between the major streets of The Queensway to the north and the F.G. Gardiner Expressway to the south. Major streets east and west of the property include The East Mall and Kipling Avenue, respectively. Similar properties with similar industrial and commercial/retail uses lie to the immediate east and west. As provided by the Applicant, the property is irregularly shaped with a narrower frontage along The Queensway and a wider property line abutting the F.G. Gardiner Expressway.

The property as presented has been improved with three buildings. The building at the north-westerly portion of the property contains a “Lick’s” hamburger restaurant. The building immediately east at the north-easterly portion of the property contains a “Kia” automobile dealership and a “Wolesley” plumbing outlet. The large building at the southerly portion of the property contains a series of commercial and industrial uses including, but not limited to, a fitness gym, a “cash-and-carry” operation and import/export companies.

An aerial view of the subject property is provided as Attachment 2 to this report.

Transportation Services

In consideration of the proposal's proximity to the F.G. Gardiner Expressway, the Chief Building Official deemed it appropriate to circulate to and request comments from the Traffic Safety Unit of the City’s Transportation Services Division. The Manager of the Traffic Safety Unit has provided the following comments with respect to this proposal:

The segment of the F. G. Gardiner Expressway, directly adjacent to the proposed sign location has a daily traffic volume of over 170,000 vehicles resulting in the busiest roadway link within the City. The proposed sign is planned to be situated such that it is clearly visible to east and westbound traffic. Over 22 collisions have been reported during the 3-year period between 2007 and 2009. Analysis indicates that the vast majority of these collisions are attributable to driver distraction. Given these factors (very high traffic volume and well defined collision pattern) Transportation Services does not support the approval of any additional signage in this area (that fails to comply with the regulations contained in Chapter 694, Signs, General) as there is significant concern that additional

signs will further compromise the safety of the large number of road users which use the adjacent roadways on a daily basis.

Established Criteria

In order to review, consider and make recommendations on sign variance applications, criteria to evaluate an application for a variance is provided in Chapter 694. § 694-30A. states that an application for a variance from the provisions of Chapter 694 may only be granted where it is established that the proposed sign:

- (1) Is warranted based on physical circumstances applicable to the property or premises;
- (2) Is consistent with the architecture of the building or development of the property;
- (3) Is consistent with buildings and other features of properties or premises within 120 metres of the location of the proposed sign;
- (4) Will not alter the essential character of the area;
- (5) Will not adversely affect adjacent properties;
- (6) Will not adversely affect public safety;
- (7) Is, in the opinion of the decision maker, not contrary to the public interest;
- (8) Is of a sign class or a sign type that is permitted in the sign district where the premises is located; and
- (9) Is not expressly prohibited by § 694-15B.

The Chief Building Official provides the following comments with respect to each of the criteria, all of which must be established for a variance to be granted:

(1) *Physical circumstances applicable to the property or premises*

The proposal describes the erection and display of one third party ground sign containing two sign faces located at the rear south-westerly corner of the property. This proposed ground sign is complimented by another proposal for a similar sign to be located at the rear south-easterly corner of the same property. Should both these third party sign variance applications be granted by the Sign Variance Committee, an additional variance to Chapter 694, Signs, General, would be required to be sought. §694-25. B. (1) (f) requires that there be no more than one ground sign erected on a premises.

Attachment 3 provides a copy of the Applicant's rendering of the proposed third party ground sign.

The area of each of the two sign faces on the proposed third party ground sign is 62.43 square metres in lieu of the maximum permitted sign face area of 20 square metres. The applicant has not provided a rationale nor a commentary to explain the discrepancy between what is proposed and what the sign by-law permits. Other third party signs exist in the surroundings with a sign face area not exceeding 20 square metres. It should be further noted that the maximum sign face area of 20 square metres was established in the sign by-law at the request of the outdoor billboard advertising industry.

The height of the proposed third party ground sign is 21 metres in lieu of the maximum permitted height of 10 metres. The applicant has not provided a rationale nor a commentary to explain the discrepancy between what is proposed and what Chapter 694 permits.

The proposal describes the use of electronic static copy to display third party messages and advertisements. Electronic static copy can be basically described as a “slide-show” or “powerpoint” representation of the sign copy where multiple images can be projected electronically and remotely, over time, on the same sign face. The definition of Electronic Static Copy, as provided for in Chapter 694 is:

Sign copy displayed utilizing electronic screens, televisions, computer video monitors, liquid crystal displays, light emitting diode displays, or any other similar electronic technology where the sign copy is fixed for a set period of time.

Chapter 694 only permits static copy or mechanical copy for a third party sign at this location and provides opportunity to use electronic static copy in other limited areas of the City such as Dundas Square and the Gardiner Gateway.

Conclusion: It is the Chief Building Official's opinion that it has NOT been established that the proposed sign requiring variances with respect to the sign's height, sign face area, and display technology are warranted based on the based on physical circumstances applicable to the premises.

(2) *Consistency with the architecture of the building or the development of the property*

The proposed third party ground sign, as per the regulations prescribed in Chapter 694, is required to be consistent with the applicable zoning standards for buildings and structures erected on the premises. Through a review by Sign By-law Unit staff, it has been determined that the proposed ground sign complies in all respects to these standards.

The buildings located on the property, as described above in the site context, are all one and two storeys in height – approximately 5 to 10 metres. Although the former City of Etobicoke Zoning By-law does not prescribe a maximum height limit for buildings on industrial-zoned properties, the architecture of the buildings and the development of the property is typical of many industrial-zoned properties. The maximum third party ground sign height of 10 metres as prescribed in Chapter 694, would provide a consistent approach to the property’s development. The proposed ground sign height of 21 metres is inconsistent with the architecture of the buildings and the development of the property.

Conclusion: It is the Chief Building Official's opinion that it has NOT been established that the proposed sign is consistent with the architecture of the building or development of the property.

- (3) *Consistency with buildings and other features of properties or premises within 120 metres of the location of the proposed signage*

Similar to the rationale provided immediately above, buildings used for industrial purposes are generally one and two storeys in height which equates to roughly 5 to 10 metres. The buildings and features of properties within 120 metres of the location of the proposed sign generally contain industrial uses. The height of the proposed third party ground sign is inconsistent with the buildings and features of these properties.

Conclusion: It is the Chief Building Official's opinion that it has NOT been established that the proposed sign is consistent with buildings and other features of properties or premises within 120 metres of the location of the proposed sign.

- (4) *Alteration of the essential character of the area*

Attachment 4 to this report provides an excerpt of the sign district map describing the sign district designations. The immediate area east and west along the F.G. Gardiner Expressway and north and south along Highway 427 is designated as an E-Employment sign district interspersed with smaller pockets of C-Commercial sign district, CR-Commercial Residential sign district and OS-Open Space sign district designated properties. Further east, on the opposite side of Kipling Avenue, The Queensway is classified as an Avenue in the Urban Structure Plan provided in the City's Official Plan. The Avenues classification denotes important corridors along major streets where reurbanization is anticipated and encouraged to create new housing and job opportunities while improving the pedestrian environment, the look of the street, shopping opportunities and transit service for community residents. To date, there has been a methodical transformation and redevelopment taking place along that portion of The Queensway.

Broadly speaking, the expectation is that the immediate area will remain Employment in nature, primarily supporting business and economic activities and functions, permitting a variety of uses including office, manufacturing, warehousing and distribution and excluding those uses that are incompatible and detract from the principle of economic function, namely those uses of a residential nature.

Conclusion: It is the Chief Building Official's opinion that it has been established that the proposed sign will not alter the essential character of the area.

- (5) *Adverse affect on adjacent properties*

The proposed third party ground sign will not adversely affect adjacent properties. The proposal complies with the requirement of Chapter 694 pertaining to separation distances between third party signs and there are no important view corridors being blocked.

Conclusion: It is the Chief Building Official's opinion that it has NOT been established that the proposed sign will not adversely affect adjacent properties.

(6) *Adverse affect on public safety*

The proposed sign will require both a building permit and a sign permit to be erected. This requirement and approval ensures that the erection methodology is consistent with the Ontario Building Code. There is also a concern for public safety with respect to the potential for driver distraction. As reported by the Traffic Safety Unit of the City's Transportation Services Division, many of the accidents which have occurred along this stretch of the F.G. Gardiner Expressway are attributable to driver distraction. A third party ground sign containing electronic static copy such as the one proposed may also contribute to driver distraction.

Conclusion: It is the Chief Building Official's opinion that it has NOT been established that the proposed sign will not adversely affect public safety.

(7) *Public interest*

The third party sign variance application process prescribed in Chapter 694 is a public process. The proponent is required to post a notice on the property for no less than 30 days prior to the hearing of the application by the Sign Variance Committee and a written notice of the proposal is mailed out to the local Ward Councillor and all the property owners of all properties and to the mailing addresses of residential and business tenancies within a 120 metre radius of the property. Sign By-law Unit staff have confirmed that a notice has been posted on the property and, to the date of this report, no comments have been received from the public.

Chapter 694 also expresses, through the provisions contained therein, many of the City's goals and objectives including, but not limited to:

- Support for the City's environmental goals including the promotion of energy efficiency; and
- Support for the establishment of a city with beautiful, comfortable, safe and attractive streets (the Beautiful City principle).

The proponent intends to comply with the prescribed regulations related to the purchase and use of renewable energy to operate the proposed third party ground sign. As well, the proposal is in compliance with the City's Private Tree Protection By-law. The proponent also intends to comply with the illumination requirements including:

- Only illuminating the sign between the hours of 7 a.m. and 11 p.m.;
- Avoiding "up-lighting" the sign to mitigate impacts on birds and the night sky; and
- Reducing the luminosity and brilliance of the sign, in relation to ambient light levels, at dusk and dawn.

That said, the proposed third party ground sign is generally out of scale with the surroundings. It is not in compliance with both the maximum height and the maximum sign face area requirements prescribed in the sign by-law and it is both visually and physically dominant because of its location, size and method of copy display.

Conclusion: It is the Chief Building Official's opinion that it has NOT been established that the proposed sign is not contrary to the public interest.

(8) *Sign class, sign type and sign district permissions*

Sign By-law Unit staff have reviewed the proposal and confirmed that the property is located in an E-Employment sign district where third party ground signs are permitted.

Conclusion: It is the Chief Building Official's opinion that it has been established that the proposed sign is of a sign class or a sign type that is permitted in the sign district where the premises is located.

(9) *Express prohibitions as per subsection 694-15B*

Through a review of the proposal, Sign By-law Unit staff have confirmed that the proposed signage is not expressly prohibited by §694-15B of Chapter 694, Signs, General, of the City of Toronto Municipal Code.

Conclusion: It is the Chief Building Official's opinion that it has been established that the proposed sign is not expressly prohibited by § 694-15B.

CONCLUSION

In consideration of the comments received from the Traffic Safety Unit of the City's Transportation Services Division and in consideration of the proposed size, height and method of copy display of the proposed sign and in consideration of the other similar third party signs (both existing and proposed) in the general vicinity, the sign as proposed, has not established compliance with all of the required criteria. Therefore, the Chief Building Official recommends that the Sign Variance Committee refuse to grant all of the requested variances.

CONTACT

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SIGNATURE

Ted Van Vliet, Manager
Sign By-law Unit, Toronto Building

ATTACHMENTS

1. Redacted Version of Applicant's Submission Package
2. Aerial View of Subject Property
3. Applicant's Rendering of Proposed Third Party Ground Sign
4. Excerpt – Sign District Map

REDACTED VERSION OF APPLICANT'S SUBMISSION PACKAGE

Sign Variance Application

No. 10 152237 ZPR 00 ZR FolderRSN: 2588174
Non-Residential Building – Sign
Proposed Use: Industrial
At: 1589 QUEENSWAY BOULEVARD
Ward: Etobicoke-Lakeshore (05)

The following is a letter submitted with our application, supporting the need for a variance. Based on the Preliminary Project Review Number 10 152237 ZPR 00 ZR, of a non-residential building – sign, located at 1589 Queensway Blvd., Etobicoke.

Maxximum Outdoor Inc. has been in business for five (7) years. As upstanding corporate citizens, we have always been thorough when conducting business. We are respectfully requesting for your consideration of this variance approval, as we have stood loyally on the lines of integrity and by asking for permission, rather than forgiveness.

While other, larger companies are tiptoeing around proper building procedures, profiting and benefiting from illegal ads, smaller trustworthy companies like us are suffering consequences for abiding to government laws.

We continue to be an ethically-sound role model to our partners and are only asking for two (2) new double-sided digital display (static) video faces consisting of Light Emitting Diodes (LED), third-party ground signs – common characteristics found in past-approved illegally erected billboards in the surrounding area, approved by the city ward of Etobicoke-Lakeshore, Ward 5.

The proposed signs are in no way a nuisance to the proposed property owner, the community and neighboring area(s). We pride ourselves on our honest behavior and the manner in which we are seeking lawful approval for our sign locations.

We graciously ask you to consider our application for a variance on the basis of our loyal behavior, as this opportunity will bring greater benefits to businesses beyond our own.

Sincerely,

Jason Garnet



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Variance Application Timeline (2009 – 2010)

September 2008

Submitted Maximum's first PPR (No.: 10 152237 ZPR 00 ZR, FolderRSN: 2588174).

October 2008

October 1, 2009 – Submitted Building Review Package with original Site Survey.

October 12, 2009 – Received Examiner's Notice for PPR, needed to proceed with Variance Application.

December 2008

Went in to apply for the Variance with a similar package as submitted for our PPR and found out our Variance application could not be processed due to type of Site Survey, but this was not brought to our attention when we received the Examiner's Notice in October for our PPR application.

March 2010

March 3, 2010 – Received new Site Survey from J.D. Barnes, as per requested by Building Department.

March 12, 2010 – Made new Building Review Package with new Site Survey and Variance Application but were unable to attend the March committee meeting, due to city timelines. We couldn't apply to the April meeting because the meeting was fully booked. We were told our best opportunity would be to apply to the May 6th meeting but that meeting was full as well.

April 2010

April 1 – Visited Etobicoke Civic Centre to review our on-going Variance Application process, in hopes to apply again with our new Site Survey.

Last council meeting under the old bylaws was determined but not brought to our attention at any time during our visits or previous application process.

Were told at this time there were no more council meetings and no more Variances were being accepted under the old bylaws because of the new Sign Bylaw Project, initiating April 6th. At this point we were also told all further variances would be re-allocated to Toronto City Hall.

Visited Toronto City Hall and were told that no variances were being reviewed at this time, due to the new Sign Bylaw Project coming into play. Met Robert Bader, and was very helpful with the new Sign Bylaw Project process and then we proceeded to apply for a new PPR based on his comments regarding the new sign bylaws.

April 14 – Applied for new PPR and submitted new Building Review.

April 17 – Received Examiner's Notice rejecting Proposal due to non-compliance to particular bylaws.

May 2010

Creating most recent Building Review – 4th attempt made by Maximum.

Submitting Building Review Package in order to receive the next committee meeting date to review our Variance Application.

Currently waiting to participate at the next committee meeting being held in July 2010; Date of July meeting is to be determined early June 2010.



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AERIAL VIEW OF SUBJECT PROPERTY



APPLICANT'S RENDERING OF PROPOSED THIRD PARTY GROUND SIGN



EXCERPT – SIGN DISTRICT MAP

