

25 January 2019

Sent via E-mail (sbc@toronto.ca)

Chair and Members of the Sign Variance Committee
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Ms. Dela Ting, Deputy Secretary

Dear Chair and Members of the Sign Variance Committee:

**Re: 1275 Kennedy Road Sign Variance Appeal
Item SB28.4, Sign Variance Committee Meeting on 27 November 2018
Applicant's Justification Submission**

We are counsel to the owner of 1275 Kennedy Road with respect to their application and appeal of a sign variance decision for a First Party Electronic Ground Sign at 1275 Kennedy Road (the "Appeal").

On behalf of our client, we enclose for your consideration our detailed submissions, the Justification Submission, regarding the variances requested.

For the reasons provided in the Justification Submission, we hereby request the Sign Variance Committee grant the 4 variances requested to permit the proposed electronic ground sign.

Yours very truly,

Wood Bull LLP



Dennis H. Wood

DHW/af

c. Client

29 January 2019



Sign Variance Justification Submission

1275 Kennedy Road, City of Toronto

Appeal Respecting One First Party Electronic Ground Sign

Item No. SB1.1

Sign Variance Committee, Meeting 1, 29 January 2019

OVERVIEW

- **The character of the area in the immediate proximity** to the appellant's premises is comprised of commercial uses (retail/office) in buildings which are set back from the road with deep vehicle parking areas in front of the buildings in a typical strip retail format. Ground signage is predominantly on the front edge of the parking lots to catch the eye of vehicles and pedestrians travelling along Kennedy Road. There is also an abundance of signage on the fronts of buildings and temporary signage along the street edge (see image #1, aerial photo). The blue circle indicates the proposed sign and the red circles indicate existing signs within the immediate area along Kennedy Rd. Examples of signs indicating the character of this area are shown in images #2 to #4 below.



Image #2, 1279 Kennedy Rd, immediately north of the subject property, looking north:



Image #3, view looking south of 1275 Kennedy Rd, east side of Kennedy Rd:



Image #4, 1291 Kennedy Rd:



- **The proposed height of the sign** (4.72 m) is much lower than the height of an electronic ground sign permitted by regulation (10 m). It is even less than the permitted height of a ground sign (7.5 m per s.694-21 I(3)(c)). By observation of the surrounding area, a sign of the proposed height is similar to existing ground signs in the area and is not a physically dominant component of the landscape. It is compatible in height with signs in the surrounding area.
- **The proposed sign face of the sign** (5.57 m²) is much smaller than the maximum permitted sign face area of an electronic ground sign permitted by regulation (20 m²). It is smaller than the maximum permitted sign face area of a ground sign located on a 20.31 m frontage property (6.1 m² per s.694-21 I(3)(b)). By observation of the surrounding area, a sign with the proposed sign face area is similar in sign face area to existing ground signs in the area and is not a physically dominant component of the landscape.
- **Compatible** does not mean “the same”; rather it means “similar”.

- **If the proposed sign is visually distinctive from other non-electronic ground signs** in the surrounding area because it has an electronic aspect, this is consistent with the regulatory framework of the Sign By-law which contemplates that electronic and non-electronic ground sign are both permitted in an E Sign District. The important point is that the proposed sign is not physically out-sized in comparison with its sign neighbours. It is compatible in size with signs in the surrounding area. (see photos attached).
- **Public interest and complaint** - Despite the wide area, a 250 m radius, within which the notice of hearing was given, no member of the public has indicated a concern about the proposed electronic ground sign. Staff have advised us that the reference in the staff report to a complaint is a reference to an observation made by a staff member of the sign unit while driving by the premises who then took enforcement action, ultimately resulting in this application for variances. Furthermore, staff have concluded that the proposed sign does not adversely affect adjacent premises in applying criterion in section 694-30(A)(5).
- **Relevance of the construction of the sign without permit** - Enforcement/punishment for a failure to comply with the Chapter 694 of the Municipal Code is within the jurisdiction of the Chief Building Official. In that regard, a Notice of Violation was served on the appellant and is in abeyance pending the results of this variance process. Furthermore, the appellant has been required to pay an administrative fee of \$1745.34 for erecting a sign without a permit, and submitting an “after the fact” application. While not seeking to defend the illegal conduct, it should be noted that the issue of proceeding to construct the sign without the proper approvals is a matter which is not within the jurisdiction of the Sign Variance Committee and should not be a factor in the Committee deliberations as to whether the requested variances should be granted.
- **Compliance of variances with nine criteria** - The table within the Justification Submission reflects the staff conclusion that the 5 variances meet 4 of the 9 criteria. This Submission addresses 4 of the 5 variances in the context of the remaining 3 criteria. The appellant withdraws its variance request in regard to section 694-21 I(7)(j) as it intends to redesign the proposed sign to comply with this regulation.
- **The remaining 4 variances are all related to the location** of the legally sized sign within the property.
- **In summary**, the detailed analysis in this Justification Submission indicates that the remaining 4 location-related variances meet the remaining 3 criteria with the result that the 4 variances meet all 9 criteria and should be granted for the reasons discussed in the Submission.
- **Request for Relief** - Grant the 4 variances requested to permit the proposed electronic ground sign.

INDEX & SUMMARY OF VARIANCES

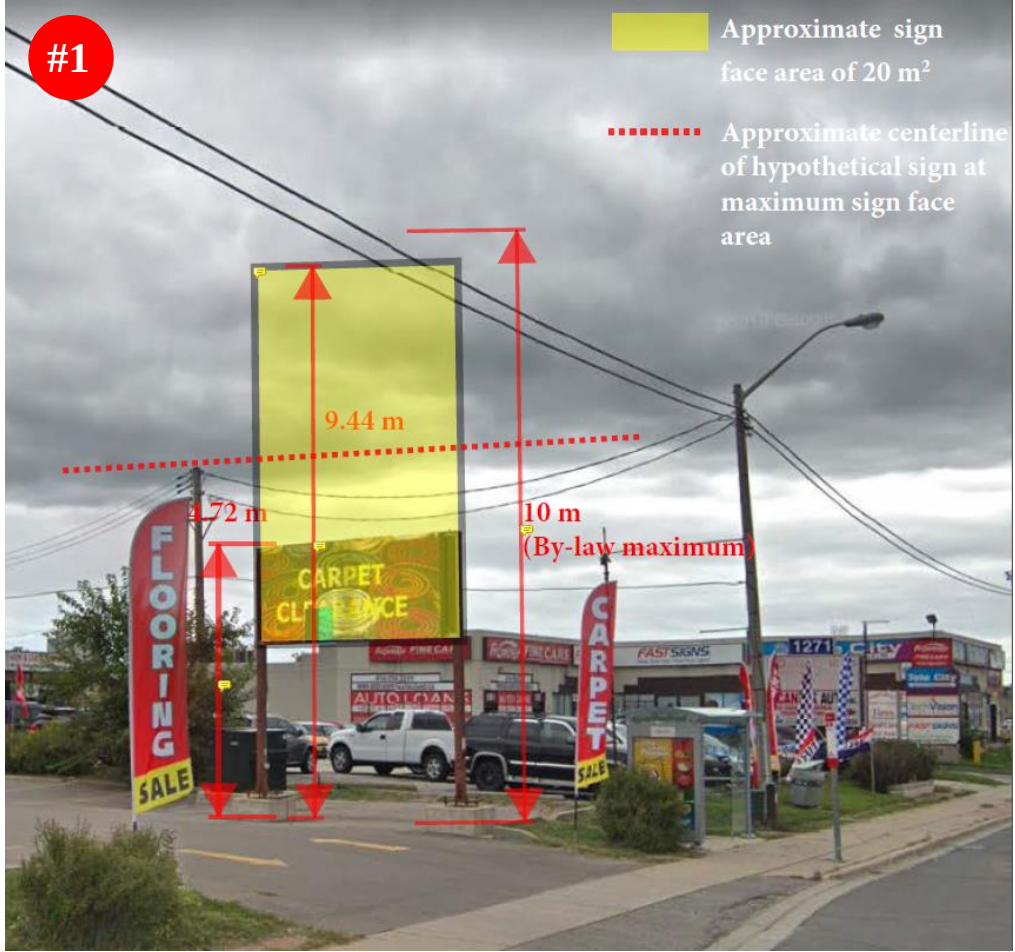
#	Sign By-law Section	By-law Requirement	Proposal	Revised Proposal	Page #
1.	694-21I(7)(j)	In an E-Employment Sign District, an electronic ground sign is permitted, provided, amongst other things, the electronic copy height does not exceed the vertical distance between grade and the center line of the sign face upon which any electronic static copy is displayed.	The proposed height of the electronic copy exceeds the vertical distance between grade and the centre line of the sign face.	The proposed sign has been re-designed so that the electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face (i.e. the electronic static copy display is restricted to the bottom half of the proposed sign). As such, this variance is no longer being requested. This means that the size of the proposed sign and the copy display within that size could meet all of the regulatory requirements. The owner also intends to make design changes to the sign in order to comply with the electronic copy provisions, in particular sections 694-20(A) and (L).	6
2.	694-14R	No sign shall be located in a Visibility Zone.	The Proposed Sign would be located in a Visibility Zone.	No change	12
3.	694-21I(7)(e)	In an E-Employment Sign District, an electronic ground sign is permitted, provided the sign shall not be erected within 2.0 metres of any property line.	The Proposed Sign would have a 0.0 metre setback from the western property line.	No change	16
4.	694-21I(7)(k)	In an E-Employment Sign District, an electronic ground sign is permitted, provided the sign shall not be erected within 60.0 metres of any R, RA, CR, I or OS Sign District.	The Proposed Sign is located approximately 20.0 metres from a CR Sign District.	No change	20
5.	694-21I(7)(m)	In an E-Employment Sign District, an electronic ground sign is permitted, provided the sign shall not be erected at a frontage of less than 100 metres.	The Proposed Sign would be erected on a property with a frontage of approximately 20.31 metres.	No change	24

Variance #1:

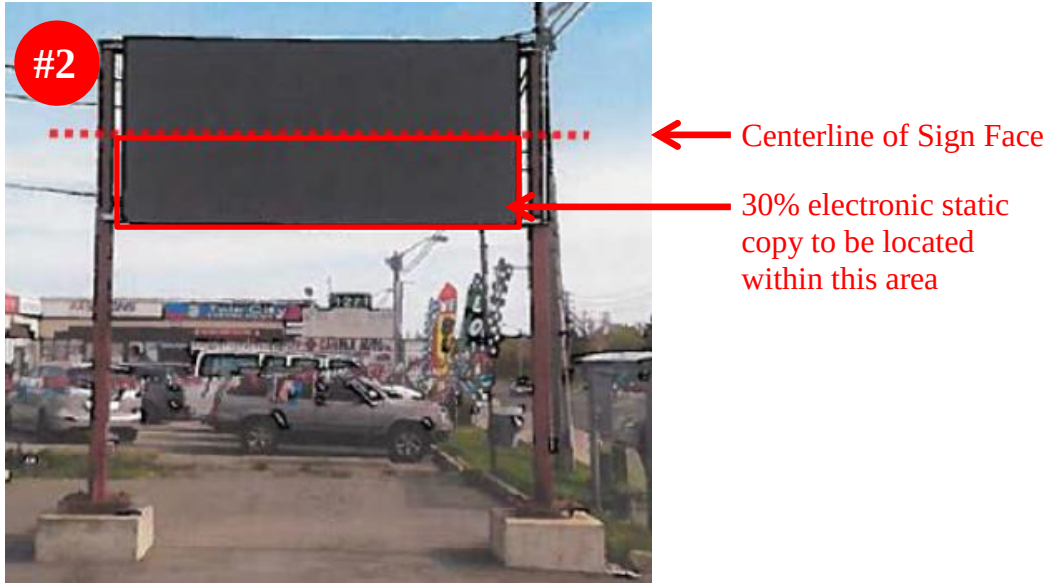
The electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face upon which any electronic static copy is displayed.

Variance #1: The electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face upon which any electronic static copy is displayed.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(3)</u> Is it established that the proposed sign or signs will be compatible with the development of the premises and surrounding area	<i>The electronic portion of the Proposed Sign is to be used for advertising goods and services available on the Premises, which is inconsistent with other first party ground signs in the surrounding area used primarily for identification rather than for advertising.</i> <i>The Proposed Sign contains an electronic display <u>substantially larger than what is permitted in an E Sign District</u>, and would be erected at a height that would make the electronic portion a visually dominant component of the landscape.</i> <i>Signage in an E Sign District should complement the scale and nature of existing and planned uses.</i> <i>Other first party ground signs on adjacent premises that display static and electronic copy appear to be of a size and</i>	This variance is no longer requested due to the appellant's intention to re-design the sign so as to restrict the location on the sign face where electronic copy is displayed in order to comply with s. 694-21 I(7)(j); however, there are comments made in the staff report which require response in support of our submissions on the other variances. First party signs are permitted on the appellant's property. A First Party Sign is defined (694-1) as - "<i>A sign which identifies, <u>advertises</u>, promotes or directs attention to <u>a business, service or activity available at the premises</u> where the sign is located and shall include a Development Sign</i>". Contrary to the suggestion in the staff report, using the proposed sign to advertise goods and services at the appellant's premises is not a ground for alleging incompatibility, regardless as to what information is found on other ground signs in the surrounding area. The proposed height of the sign (4.72 m) is much lower than the permitted height of an electronic ground sign (10m) . It is even less than the permitted height of a ground sign (7.5 m per s.694-21 I(3)(c)). By observation of the surrounding area, a sign of the proposed height is similar to existing ground signs in the area and is not a physically dominant component of the landscape. The proposed sign face of the sign (5.57 m²) is much smaller than the maximum permitted sign face area of an electronic ground sign (20 m²). It is smaller than the maximum permitted sign face area of a ground sign located on a 20.31 m frontage property (6.1 m² per s.694-21 I(3)(b)). By observation of the surrounding area, a sign with the proposed sign face area is similar in size to existing ground signs in the area and is not a physically dominant component of the landscape. For example, the property immediately to the north at 1279 Kennedy Rd contains two ground signs of similar size as the proposed sign (see photos contained in Overview) Image #1 below illustrates a hypothetical sign that would be <u>permitted</u> within the maximum

Variance #1: The electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face upon which any electronic static copy is displayed.

Criteria	Staff Comments	Applicant's Comments
	<i>magnitude that is more consistent with the intended development of an E Sign District.</i>	sign face size and height requirements under the by-law. In this hypothetical scenario, the location of the electronic copy would be on the bottom 50% of the sign where it is shown on the proposed sign, thereby complying with this regulation.  #1 Approximate sign face area of 20 m² Approximate centerline of hypothetical sign at maximum sign face area 9.44 m 4.72 m 10 m (By-law maximum)

Variance #1: The electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face upon which any electronic static copy is displayed.

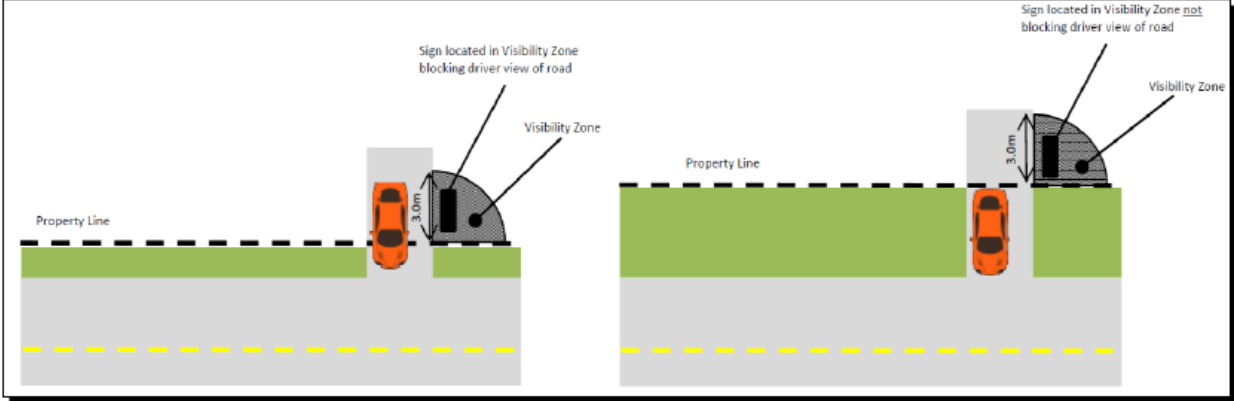
Criteria	Staff Comments	Applicant's Comments
		The original proposed electronic display is not “substantially larger than what is permitted” on the property (as alleged by staff). Rather than make the sign higher, the appellant has elected to reduce the amount of the existing proposed sign face area which is electronic to the lower half of the sign face area in order to comply with regulation 694-21 I(7)(j). Thus, the request for a variance for this regulation is withdrawn. The proposed revised electronic display will be substantially smaller than the maximum sign face area (display) permitted by this regulation. In order to comply with section 694-20L, the applicant has elected to reduce the amount of the area in the lower half of the sign face which is used for electronic static copy to 30% of the sign face area of the sign (see image #2 below), with the result that the amount of sign face area upon which electronic static copy is displayed is reduced to 1.67 m² (in comparison with the maximum permission of 5 m²). 

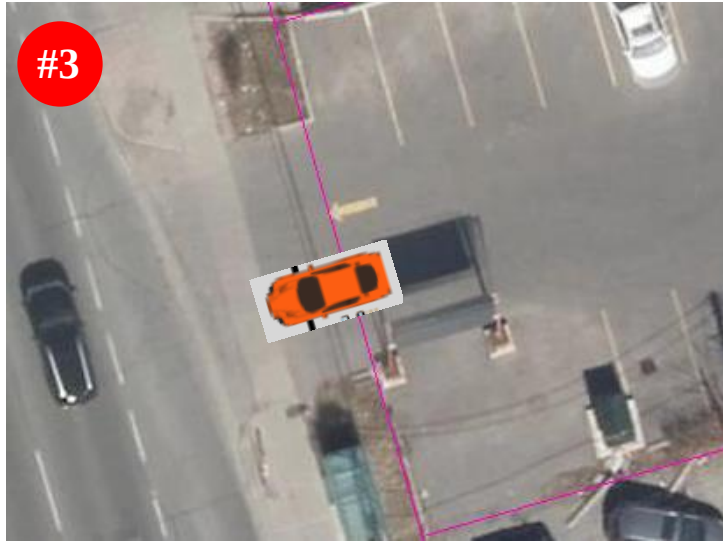
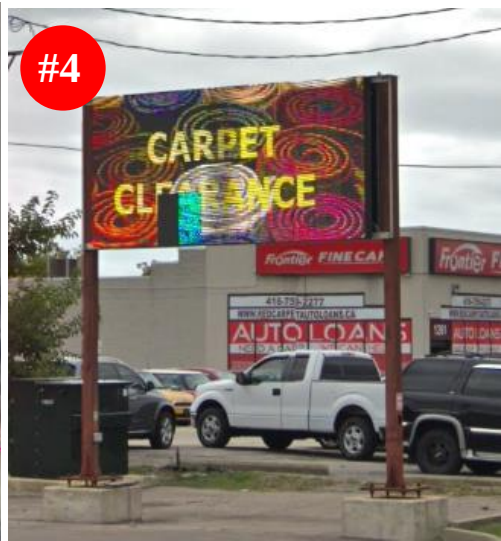
Variance #1: The electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face upon which any electronic static copy is displayed.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(8)</u> Is it established that the proposed sign or signs will not alter the character of the premises or surrounding area	<i>The size of the Proposed Sign compared with what the Sign By-law permits in an E Sign District, is out of scale with the Premise and with similar ground signs in the surrounding area. Therefore, the Chief Building Official (the "CBO") has concerns that the Proposed Sign will alter the character of the premises and surrounding area.</i>	Not required to be addressed as variance request withdrawn; however, the statement that the proposed sign is out of scale is incorrect as demonstrated above.
<u>s. 694-30A(9)</u> Is it established that the proposed sign or signs will not be, in the opinion of the decision maker, contrary to the public interest	<i>The Sign By-law provisions for first party electronic ground signs in E Sign Districts were designed to help ensure electronic ground signs <u>do not overwhelm the visual environment</u>, and that they would be <u>compatible with the character of the area</u>. These permissions included ... limiting the size of the electronic portion of the sign face to 5.0 square metres and ensuring the electronic copy is placed on the lower portion of the sign face.</i> <i>Also, this area along Kennedy Road already contains an abundance of various sign types and the addition of an electronic</i>	Not required to be addressed as variance request withdrawn; however, to the extent that staff suggest that incompatibility flows in part from the failure of the proposed sign to limit the size of the electronic portion of the sign face to 5.0 m² and limit the electronic copy to the lower portion of the sign face, the changes to the sign design intended by the applicant (see above) completely answers this concern. As noted above, as the proposed sign is similar in size and height (not larger than) existing signs in the area. See comment under Variance #5 on the inappropriate introduction of the criterion of "clutter" into consideration in this case. In any event, construction of a sign which is smaller than a non-electric ground which would be permitted as of right cannot be

Variance #1: The electronic copy height does not exceed the vertical distance between grade and the centre line of the sign face upon which any electronic static copy is displayed.		
Criteria	Staff Comments	Applicant's Comments
	<i>ground sign of this size and height will further add to sign clutter. For these reasons, in addition to a lack of sufficient information provided by the Applicant to demonstrate that the Proposed Sign is not contrary to the public interest, it appears this criteria has not been met.</i>	fairly construed as clutter.

Variance #2:

No sign shall be located in a Visibility Zone.

Variance #2: No sign shall be located in a Visibility Zone.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(3)</u> Is it established that the proposed sign or signs will be compatible with the development of the premises and surrounding area	<i>The Applicant has not provided sufficient information to explain how the Proposed Sign would be compatible with the development of the Premises and surrounding area, and therefore the CBO has determined that this criteria has not been established.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion. On 12 July 2016, Council enacted amendments to the Sign By-law regarding visibility zones in accordance with the staff report dated 18 May 2016 prepared by the Sign By-law Unit. This report states that: <i>The purpose of the visibility zone is to reduce or eliminate obstructed views for drivers when entering/exiting a property. (pg. 3 of staff report).</i> <i>As shown in Figure 9 below, there are circumstances where a sign can be placed in a visibility zone, and not obstruct the view that a driver would have of the street. (pg. 12 of staff report).</i> Figure 9 - Examples of Signs in Visibility Zones 

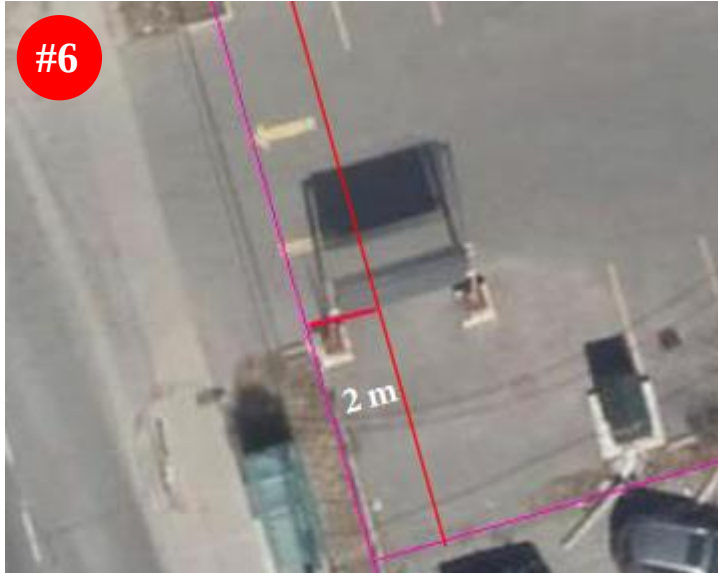
Variance #2: No sign shall be located in a Visibility Zone.		
Criteria	Staff Comments	Applicant's Comments
		The proposed sign is similar to the image on the right in Figure 9 above, where the sign is located within the visibility zone but does <u>not</u> block the driver's view of the road because the vehicle has a full vehicle length of land with a view up the street before entering the travelled part of the street. Even when the vehicle is beside the proposed sign, it does not obstruct views for drivers as the sign is above the height of a car (see photos #3 and 4 below). #3 #4 Granting this variance will not result in the proposed sign being incompatible (that is, not similar) with the character of the premises and surrounding area (see Overview for detailed analysis).

Variance #2: No sign shall be located in a Visibility Zone.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(8)</u> Is it established that the proposed sign or signs will not alter the character of the premises or surrounding area	<i>Furthermore, the Appellant has not provided sufficient information in order for the CBO to establish that the Proposed Sign would not alter the character of the premises and surrounding area, and therefore it appears this criteria has not been met.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion. See above comments re <u>694-30A(3) which are applicable to this criterion as well.</u> Granting this variance will not result in the proposed sign altering the character of the premises (which remains the same but with a more effective signage outreach to the public) or surrounding area. See Overview regarding the character of the surrounding area.
<u>s. 694-30A(9)</u> Is it established that the proposed sign or signs will not be, in the opinion of the decision maker, contrary to the public interest	<i>For these reasons, in addition to a lack of sufficient information provided by the Applicant to demonstrate that the Proposed Sign is not contrary to the public interest, it appears this criteria has not been met.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion. See above comments re <u>694-30A(3) which are applicable to this criterion as well.</u> Staff have concluded (in regard to criterion 694-30(A)(6)) that the proposed sign does not adversely affect public safety, including traffic and pedestrian safety. Granting this variance will not result in the proposed sign being contrary to the public interest.

Variance #3:

**The sign shall not be erected within 2.0 metres of
any property line**

Variance #3: The sign shall not be erected within 2.0 metres of any property line		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(3)</u> Is it established that the proposed sign or signs will be compatible with the development of the premises and surrounding area	<i>The Applicant has not provided sufficient information to explain how the Proposed Sign would be compatible with the development of the Premises and surrounding area, and therefore the CBO has determined that this criteria has not been established.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion; however, it is worth noting that staff concluded in applying criterion 694-30(5) that the proposed sign does not adversely affect adjacent properties. This regulation is the same as applies to non-electronic ground signs. It is not designed to address some characteristic unique to electronic ground signs. The location of the proposed sign with respect to the western property line does not alter the character of the premises or surrounding area. The surrounding area is developed with low-density employment and retail uses and associated first party signs identifying and advertising the uses on each of the properties. In the immediate area along Kennedy Rd surrounding the premises and proposed sign, the character of the area is predominately buildings set back further from the street, with surface parking between the building and street edge/sidewalk. All the existing ground signs in the immediate area on the east side of Kennedy Rd are located in the parking areas near the street edge (see photo montage #5 below). The premises and proposed sign contain the same conditions as described above with surface parking in the front portion of the property and the proposed sign located in this parking area. Most of the existing signs are located in similar proximity with similar setbacks as the proposed sign to Kennedy Rd, as they

Variance #3: The sign shall not be erected within 2.0 metres of any property line		
Criteria	Staff Comments	Applicant's Comments
		are mostly first party signs that require good visibility from the street to identify and advertise for business located on the properties. The proposed sign is compatible with the location of existing signs in the surrounding area. The location of the sign on the premises is compatible with the use of the property as a retail facility and with being located in a surface parking lot serving the retail facility. The sign is compatible with the surrounding area along both sides of Kennedy Rd as the uses are all employment or retail related uses, with first party signage on each property. The CR zone and sign district on the west side of Kennedy Rd is also occupied by retail and non-residential uses so there is no compatibility issue regarding those CR lands. The proposed sign does not impact the development of any surrounding properties. If the proposed sign were moved to be 2 m from the property line, as required by the sign by-law (thereby eliminating Variance #2), there would be no material difference in impact on the premises or the surrounding area or practical effect from the street and from the perspective of vehicles or pedestrians (see photo #6 below). 

Variance #3: The sign shall not be erected within 2.0 metres of any property line		
Criteria	Staff Comments	Applicant's Comments
		Granting this variance will not result in the proposed sign being incompatible (that is, not similar) with the character of the premises and surrounding area.
<u>s. 694-30A(8)</u> Is it established that the proposed sign or signs will not alter the character of the premises or surrounding area	<i>Furthermore, the Appellant has not provided sufficient information in order for the CBO to establish that the Proposed Sign would not alter the character of the premises and surrounding area, and therefore it appears this criteria has not been met.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion; however, it is worth noting that staff concluded in applying criterion 694-30(5) that the proposed sign did not adversely affect adjacent properties. See above comments re <u>694-30A(3) which are applicable to this criterion as well.</u> The proposed location of the proposed sign in regard to the property line as would be facilitated by this variance has no measurable impact on the employment and retail character of the premises or surrounding area. The premises has been used for retail carpet sales for many years and the use complies with the Employment zone under the zoning by-law. The proposed first party sign is an appropriate addition to the premises for the purposes of the existing use and is thus compatible with the character of the premises and surrounding area. Granting this variance will not result in the proposed sign altering the character of the premises or surrounding area.
<u>s. 694-30A(9)</u> Is it established that the proposed sign or signs will not be, in the opinion of the decision maker, contrary to the public interest	<i>For these reasons, in addition to a lack of sufficient information provided by the Applicant to demonstrate that the Proposed Sign is not contrary to the public interest, it appears this criteria has not been met.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion; however, it is worth noting that staff concluded in applying criterion 694-30(5) that the proposed sign does not adversely affect adjacent properties. See above comments re <u>694-30A(3) which are applicable to this criterion as well.</u> Staff have concluded (in regard to criterion 694-30(A)(6)) that the proposed sign does not adversely affect public safety, including traffic and pedestrian safety. There is no public objection to the granting of the variances. Granting this variance will not result in the proposed sign being contrary to the public interest.

Variance #4:

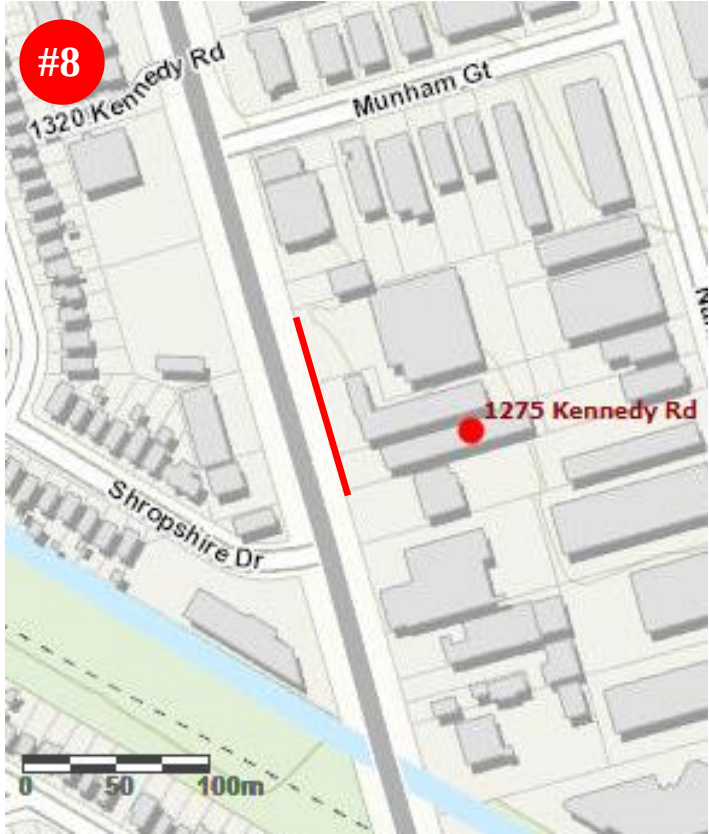
The sign shall not be erected within 60.0 metres of any R, RA, CR, I or OS sign district.

Variance #4: The sign shall not be erected within 60.0 metres of any R, RA, CR, I or OS sign district.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(3)</u> Is it established that the proposed sign or signs will be compatible with the development of the premises and surrounding area	<i>The Applicant has not provided sufficient information to explain how the Proposed Sign would be compatible with the development of the Premises and surrounding area, and therefore the CBO has determined that this criteria has not been established.</i>	Staff comment does not appear to explicitly address this variance; however in considering criterion 694-30(A)(5), staff concluded that that the proposed sign does not adversely affect adjacent premises. The staff report does not identify any adverse affect on properties on the west side of Kennedy Rd. The west side of Kennedy Rd across from the subject property is designated as a CR sign district. As shown in the below image #7, the blue line is the approximate 60 m setback from the centreline of Kennedy Rd (where the CR sign district ends). Compliance with the sign by-law is not feasible in this location because the existing buildings are located within this setback. Even if the building were not there, signs identifying and advertising for these buildings and businesses cannot serve their purpose while located at this distance from the road. Therefore, a variance is required to allow the location of an electronic sign on this property in a location near the street. Our review of the staff and consultant reports regarding the permission of electronic signs in various sign districts suggests to us that the distance regulation is related to the desire to mitigate the visual impact of electronic signs on vulnerable residential premises. The distance is also a function of the permitted height (up to 10 m) and sign face (up to 20 m²) of electronic signs. Signs of this size could have a significant affect on nearby residential uses thereby justifying a default distance separator of 60m. In this case, the sign size is similar to that of a non-electronic ground sign and with a relatively small electronic display area in comparison with the maximum which is contemplated for electronic ground signs. This suggests that a variance from the 60 m separation is appropriate as the visual impact of the proposed sign will be significantly less than that of a maximum sized permitted sign. In this case, this variance would allow the sign to remain approximately 20 m from the middle of Kennedy Road which is where the E and CR sign districts share the same boundary. On a wide street such as Kennedy Road and with the buildings across the street from the proposed sign set back from the street, the effective separation distance from sign to the closest building on the west side of Kennedy Road is approximately 40 m . It is 55 m from the furthest building (see red lines in image #7 below).

Variance #4: The sign shall not be erected within 60.0 metres of any R, RA, CR, I or OS sign district.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(8)</u> Is it established that the proposed sign or signs will not alter the character of the premises or surrounding area	<i>Furthermore, the Appellant has not provided sufficient information in order for the CBO to establish that the Proposed Sign would not alter the character of the premises and surrounding area, and therefore it appears this criteria has not been met.</i>	Staff comment does not appear to explicitly address this variance. See above comments re <u>694-30A(3)</u> which are applicable to this criterion as well. Granting this variance will not result in the proposed sign altering the character of the premises or surrounding area.
<u>s. 694-30A(9)</u> Is it established that the proposed sign or signs will not be, in the opinion of the decision maker, contrary to the public interest	<i>For these reasons, in addition to a lack of sufficient information provided by the Applicant to demonstrate that the Proposed Sign is not contrary to the public interest, it appears this criteria has not been met.</i>	Staff comment does not appear to explicitly address this variance. See above comments re <u>694-30A(3)</u> which are applicable to this criterion as well. In addition, the City's notice requirements for first party electronic signs are a 250 m radius of the premises, which is substantially greater than the 60 m notice requirement for non-electronic signs. This 250 m radius includes many of the existing residential uses to the west and behind the commercial uses located on the west side of Kennedy Rd. To our knowledge, there are no objections from the public regarding the proposed sign (by way of oral or written submissions to the City and Sign Variance Committee). This indicates that the proposed sign is not contrary to the interest of the members of the public who were served notice and would have the greatest interest and concerns with respect to the application. Granting this variance will not result in the proposed sign being contrary to the public interest.

Variance #5:

The sign shall not be erected at a frontage of less than 100 metres

Variance #5: The sign shall not be erected at a frontage of less than 100 metres		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(3)</u> Is it established that the proposed sign or signs will be compatible with the development of the premises and surrounding area	<i>The Applicant has not provided sufficient information to explain how the Proposed Sign would be compatible with the development of the Premises and surrounding area, and therefore the CBO has determined that this criteria has not been established.</i>	Staff comment does not appear to explicitly address this variance in the context of this criterion; however, it is worth noting that staff concluded in applying criterion 694-30(5) that the proposed sign does not adversely affect adjacent properties. The properties along the eastern portion of Kennedy have narrow frontages and deep lots, and none of the properties in this immediate area along Kennedy Rd meet the required 100 m frontage (see image #8 below with scale and red line showing 100 m). 

Variance #5: The sign shall not be erected at a frontage of less than 100 metres		
Criteria	Staff Comments	Applicant's Comments
		There is no consistency between the lot frontages in this area along Kennedy Rd, and the lot frontages vary from approximately 15 m to 80 m. The red line in image #7 above shows what a 100 m frontage would look like along this portion of Kennedy Rd - i.e. 1-3 properties combined. All of the properties within this area along Kennedy Rd require a variance from this regulation in order to locate an electronic sign on their property. The regulation serves as a development control instrument which permits the Sign By-law Unit to review the merits of any application in the context of its surroundings as in this case, such as height of the sign, its proposed sign face size, and the amount of electronic static copy in the display, amongst other things. This process ensures that the introduction of electronic signs in this area will be carefully monitored by staff and the Committee. Our research indicates there do not appear to be any previous or pending applications for electronic signs from other owners in the surrounding area (since July 2015, when the permission for electronic signs was introduced into the sign by-law) and therefore pent-up demand does not appear to be an issue. This might be explained by the expense of an electronic sign. Granting this variance which will permit the proposed sign will not result in the proposed sign being incompatible (that is, not similar) with the character of the premises and surrounding area for reasons discussed previously.
<u>s. 694-30A(8)</u> Is it established that the proposed sign or signs will not alter the character of the premises	<i>The CBO has concerns that a first party electronic ground sign of this size and height, taking into account the small frontage of the Premises and comparable signs in the surrounding area, will alter the character of the premises and surrounding area.</i>	See above comments. As we noted in the Overview, the proposed electronic sign is considerably smaller in height and sign face size than is permitted by the regulations for an electronic ground sign; the proposed sign being of a size comparable to a non-electronic ground sign. The regulatory regime established by Chapter 694 would permit the approximate size and height of the proposed sign if it were a non-electronic sign without variance. The only additional feature of this sign is the modest part of it which will have electronic static copy which has been reduced in area to comply with the regulations.

Variance #5: The sign shall not be erected at a frontage of less than 100 metres		
Criteria	Staff Comments	Applicant's Comments
or surrounding area		Granting this variance will not result in the proposed sign altering the character of the premises or surrounding area.
<u>s. 694-30A(9)</u> Is it established that the proposed sign or signs will not be, in the opinion of the decision maker, contrary to the public interest	<i>The Sign By-law provisions for first party electronic ground signs in E Sign Districts were designed to help ensure electronic ground signs do not overwhelm the visual environment, and that they would be compatible with the character of the area. These permissions included requiring a minimum frontage of 100 metres, limiting the size of the electronic portion of the sign face to 5.0 square metres and ensuring the electronic copy is placed on the lower portion of the sign face.</i> <i>The Proposed Sign would not meet any of these requirements - the frontage of the Premise is approximately 20.31 metres; the sign face area would be 5.56 square metres; and the electronic portion would occupy the entire sign face area.</i> <i>Also, this area along Kennedy Road already contains an abundance of various sign types and the addition of an electronic ground sign of this size and height will further add to</i>	See above comments. As we noted in the Overview, the proposed electronic sign is considerably smaller in height and sign face size than is permitted by the regulations; the proposed sign being of a size comparable to a non-electronic ground sign. The regulatory regime established by Chapter 694 would permit the approximate size and height of the proposed sign if it were a non-electronic sign without variance. The only additional feature of this sign is the modest part of it which will have electronic static copy which has been reduced in area to comply with the regulations. The facts before the area of electronic copy was reduced are inconsistent with the characterization in the staff report “of “<i>an electronic ground sign of this size and height</i>’/”<i>large electronic ground sign</i>” on such a small frontage” as adding to sign clutter. They are even less helpful now that the area containing electronic copy has been reduced to comply with the regulations. To the extent that staff were concerned about the entire sign face being electronic, the appellant’s decision to comply with the regulations and restrict electronic type to the bottom half of the sign and to the 30% area restriction should provide an answer to this concern. There is no regulation which speaks to <i>reducing</i> sign clutter. To the contrary, criteria requiring that it be established that a “<i>proposed sign or signs will be compatible with the development of the premises and surrounding area</i>” and “<i>a proposed sign or signs not alter the character of the premises or surrounding area</i>” appear to require that if clutter exists, it be continued as part of the character of the area.

Variance #5: The sign shall not be erected at a frontage of less than 100 metres		
Criteria	Staff Comments	Applicant's Comments
	<i>sign clutter. For these reasons, in addition to a lack of sufficient information provided by the Applicant to demonstrate that the Proposed Sign is not contrary to the public interest, it appears this criteria has not been met.</i> <i>Currently, a large amount of various sign type exist in the area surrounding the Premises, and the CBO believes the addition of a large electronic ground sign on such a small frontage will further add to sign clutter. Because the Sign By-law regulations set out to reduce sign clutter, it appears that the Proposed Sign is contrary to the public interest.</i>	One person's clutter is another person's commercial vitality. Granting this variance will not result in the proposed sign being contrary to the public interest.

Additional Criteria:

Staff and Applicant agree that it is established that the requested variances permit a sign which meet these six criteria.

Additional Criteria: Staff and Applicant agree that it is established that the requested variances permit a sign which meet these six criteria.		
Criteria	Staff Comments	Applicant's Comments
<u>s. 694-30A(1)</u> Belong to a sign class permitted in the sign district where the premises is located	<i>The Proposed Sign is classified as a first party sign because it identifies a business on the Premises. The Premises is designated in an E Sign District, which allows first party signs. As such, it appears that this criteria has been established.</i>	Agree that the proposed sign meets this criterion.
<u>s. 694-30A(2)</u> In the case of a third party sign, be of a sign type that is permitted in the sign district, where the premises is located	<i>Signs can only belong to one sign class – either first party or third party. The Proposed Sign is classified as a first party sign because it identifies a business on the Premises. As such, the Proposed Sign is not a third party sign and it appears that this criteria has been established.</i>	Agree that the proposed sign meets this criterion.
<u>s. 694-30A(7)</u> Not be a sign prohibited by §694-15B	<i>Based on a review of materials submitted as part of the Sign Variance Appeal application, the CBO has determined that the Proposed Sign is not a prohibited sign type, and it appears that this criteria has been met.</i>	Agree that the proposed sign meets this criterion.
<u>s. 694-30A(4)</u> Support the Official Plan objectives for the subject premises and surrounding area	<i>The Premises and surrounding area are designated as an Employment Area in the Official Plan. The CBO's review of the Premises, and the City documentation establishing the Official Plan objectives for the area, has provided sufficient information to establish that the Proposed Sign would function to further the specific objectives for Employment Areas as places of business and economic activity established under the Official Plan. Therefore, it appears that this criteria has been established.</i>	Agree that the proposed sign meets this criterion.
<u>s. 694-30A(5)</u> Not adversely affect adjacent premises	<i>The Premises is located in an E Sign District, and the properties to the north, south and east are also designated as E Sign Districts. As the uses on adjacent properties consist mainly of office and retail</i>	Agree that the proposed sign meets this criterion. The lack of impact on adjacent properties also illustrates the compatibility of the sign with the surrounding area, as discussed

	<i>uses, it is the opinion of the CBO that the Proposed Sign would not adversely affect the adjacent properties, and it appears that this criteria has been established.</i>	under the criteria s. 694-20A(3).
<u>s. 694-30A(6)</u> Not adversely affect public safety, including traffic and pedestrian safety	<i>The Applicant has not provided any information on how the Proposed Sign would not adversely affect public safety. However, as the Proposed Sign would be installed in accordance with the requirements of the Ontario Building Code, it appears that this criteria has been established.</i>	Agree that the proposed sign meets this criterion. Furthermore, in 2015, City staff conducted and/or review a study regarding electronic and illuminated signs. In the staff report to Council dated 20 May 2015, staff summarize the conclusions of the Traffic Safety Study as follows: <i>The main conclusion of this research was that while electronic signs have been shown to contribute to driver distraction more than other types of signs (traditional, non-electronic signs), <u>no statistically significant effect on collisions has been identified.</u></i> [underlining added] Therefore, the proposed sign, while containing electronic copy, does not adversely affect public safety.