**TO:** Chair and Members  
Planning Committee

**COMMITTEE DATE:** February 4, 2014

**SUBJECT/REPORT NO:** Sign Variance Application SV-12-008 for the Property Known as 442 Millen Road (Stoney Creek), Denied by the Director, Planning Division, and Appealed by the Applicant (PED14023) (Ward 10)

**WARD(S) AFFECTED:** Ward 10

**PREPARED BY:** Danielle Stevens  
905-546-2424 Ext. 1285

**SUBMITTED BY:** Joe-Anne Priel  
Acting General Manager  
Planning and Economic Development Department

**SIGNATURE:**

**RECOMMENDATION**

That the Appeal of Sign Variance Application SV-12-008, by Calitor Group Ltd., to convert the existing sign structure with 100% electronic message display, whereas Hamilton Sign By-law No. 10-197 permits a maximum 50% of the sign face to be a readograph or electronic display, for the property located at 442 Millen Road (Stoney Creek), as shown on Appendix “A” to Report PED14023, be **DENIED** on the following basis:

(a) That the requested variance is not in keeping with the intent of Hamilton Sign By-law No. 10-197;

(b) That the requested variance does not meet the tests, as set out in Section 6.5 of Hamilton Sign By-law No. 10-197; and,

(c) That approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Hamilton Sign By-law.

**EXECUTIVE SUMMARY**

The applicant submitted Sign Variance Application SV-12-008, proposing to convert the existing sign structure with 100% electronic message display, whereas Hamilton Sign By-law No. 10-197 permits a maximum 50% of the sign face to be a readograph or
electronic display, provided that no copy displayed shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination. Further variances were applied for to recognize the existing location of the sign, including the front yard setback to the existing sign is 3.0 m., whereas Hamilton Sign By-law No. 10-197 requires a minimum 7.1 m.; the height of the existing sign is 9.5 m., whereas Hamilton Sign By-law No. 10-197 permits a maximum 7.5 m.; and the sign face is 23 sq. m., whereas Hamilton Sign By-law No. 10-197 permits a maximum 18 sq. m.

The variances respecting the location of the existing sign, the height of the existing sign, and the total sign face, were approved by the Director, Planning Division, on January 17, 2013. However, the variance respecting 100% electronic message display was denied. The reasons for refusal were that the proposed variance did not maintain the general intent and purpose of the Sign By-law, and did not meet the four tests for sign variances provided in Section 6.5. of By-law No. 10-197 (see Appendix “C”).

Pursuant to Section 6.6 of the Sign By-law, the applicant has appealed the decision of the Director, Planning Division, and has requested that the variance application be brought to the Planning Committee for their review (see Appendix “D”).

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None

Staffing: None

Legal: The application is under the Municipal Act, and there are no requirements for a Public Meeting. By-law No. 10-197 requires the City Clerk to notify the applicant once a hearing date before the Planning Committee, has been fixed.

HISTORICAL BACKGROUND

On August 12, 2010, Council approved Sign By-law No. 10-197. Part 6.0 of the By-law provides the regulations in dealing with variances, including the delegated approval authority, what the City of Hamilton shall have regard for when reviewing variance applications, and the process of appealing the variance application decision (see Appendix “C”).

Ground Signs are regulated under Section 5.2 of the Sign By-law. A Ground Sign is defined as “a sign that is free-standing and is supported by a structure secured to the
ground, and which is not supported by any building or other structure, but does not
include a Billboard" (see Appendix "B").

On June 25, 2012, staff received an application for a sign variance to convert the
existing Ground Sign for 100% electronic message display. The application also
requested variances respecting the existing front yard setback to the sign, the existing
height of the sign, and the existing sign face area. In addition to the variances to
Hamilton Sign By-law No. 10-197, a Minor Variance application would be required to
Hamilton Zoning By-law No. 05-200, to recognize the existing location of the Ground
Sign within a required landscape strip, whereas the By-law does not permit signage or
similar features/structures to be located within a required landscape strip.

On January 17, 2013, the variances respecting the existing height, existing location, and
existing sign face area were conditionally approved by the Director, Planning Division.
The condition of the approval of the above three requested variances was for a Minor
Variance application to be applied for and approved, to permit the location of the
existing Ground Sign within the required landscape strip.

In addition, on January 17, 2013, the variance respecting the 100% electronic (message
display) was denied by the Director, Planning Division, and notice sent to the applicant
advising them of the decision (see Appendix "I").

On February 4, 2013, the applicant sent an e-mail to Vanessa Robicheau, Office of the
City Clerk, appealing the decision respecting the denial of the 100% electronic (display
message) variance by the Director, Planning Division, requesting that the proposed sign
variance application be considered by the Planning Committee (see Appendix "D").

An appeal report was prepared and signed off by the General Manager (Tim McCabe).
The report was scheduled to be heard at the April 30, 2013, Planning Committee
meeting. Prior to Planning Committee, the owner contacted Clerks to table the
application due to conflicting information presented between the City’s Sign Variance
application and the Ministry of Transportation’s (MTO) Permit application.

On April 19, 2013, the MTO issued a letter stating the ground sign in question did not
have a valid permit, and either the correct permit must be obtained, or the sign must be
removed (see Appendix “J”). On October 27, 2013, staff received an email that the
permit had been reissued with an expiry date of May 6, 2014, reflecting the correct
information (see Appendix “K”).

The appeal was held in abeyance until now and the owner has subsequently retained
an agent, who contacted Clerks and requested that the Sign Variance appeal come
forward to Planning Committee in January 2014.
Lastly, the owner and agent applied for Minor Variance (SC/A-13:238) on November 7, 2013, to permit a ground sign to be located within a required landscape area and planting strip, whereas City of Hamilton By-law No. 05-200 does not permit signs to be located within required landscape areas or planting strips. The Minor Variance application was heard and approved on December 12, 2013. As no appeals were filed, the variance became final January 2, 2014 (see Appendix “L”).

**Details of Submitted Application:**

**Location:**  442 Millen Road (Stoney Creek)

**Owner:**  Calitor Group Ltd.

**Applicant:**  Calitor Group Ltd.

**Property Description:**

<table>
<thead>
<tr>
<th>Frontage</th>
<th>Millen Road: 46.129 m.</th>
<th>Belgarden Avenue: 44.121 m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth</td>
<td>220.9 m. (approximately)</td>
<td></td>
</tr>
</tbody>
</table>

**Area:**  19,127.7 sq. m. (approximately)

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

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

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

Section 5.1.1 specifies which signs are not to be displayed or permitted. Section 5.2 specifies the regulations in which a Ground Sign can be lawfully erected (see Appendix “B”). The existing Ground Sign is located 3.0 m. from the front yard, whereas a minimum 7.1 m. is required; is 9.5 m. high, whereas a maximum 7.5 m. is permitted; has a sign face of 23 sq. m., whereas a maximum 18 sq. m. per face is permitted; and is requesting 100% electronic (message display), whereas a maximum of 50% of the sign face is permitted to be a readograph or electronic message display, provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination, unless the property is used for an institutional use.

**Ministry of Transportation Permit:**

The applicant applied for a MTO permit in 2006 (see Appendix “G”) for a pylon sign advertising “South Shore Business Park” and the municipal address. Staff note that
directly on the permit it states that: “All municipal approvals/permits must be obtained”. The applicant applied for another MTO permit in 2012 (see Appendix “H”) for changeable messages on the pylon sign, where the sign can identify the property, occupant(s) or owner(s), or a business conducted on the property. In addition, the sign could advertise a product or service(s) available upon the property, or convey a message placed solely for guidance on the property. Staff note that the same note is provided on the permit, regarding municipal approvals/permits.

Staff note that on the back of the MTO permits, its states the Sign Permit Conditions. Condition No. 1 states that: “In addition to the conditions of this permit, the owner must meet all of the requirements of the local municipality and any other agency having jurisdiction”.

As noted above, the ground sign has received a reissued MTO permit, which expires May 6, 2014, and reflects the updated information regarding size, height, etc., provided in the City’s Sign Variance application.

RELEVANT CONSULTATION

Department/ Agencies having no comments or concerns:

- Community Planning Section.
- Zoning Section, Building Services Division.

Building Construction Section (Building Services Division):

1. According to Section 3.4 of Sign By-law No. 10-197, “Any sign that is lawfully displayed on the day this By-law comes into force may continue to be displayed provided it is not substantially altered in a manner that would bring it into non-compliance or increase the non-compliance with this By-law.” Increasing the electronic display from 50% to 100% would constitute a substantial alteration that would bring it into non-compliance.

2. Accordingly to Section 5.2 of the Sign By-law No. 10-197 “(g)(iii) and except a Ground Sign displayed on a property used for institutional use, may allocate a maximum 50% of the sign face to a readograph or electronic display provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination.” Considering that the existing sign is 9.5 m. in height, whereas the Sign By-law permits a maximum height of 7.5 m.; the existing sign is 23 sq. m., whereas the Sign By-law permits a maximum of 18 sq. m.; and the existing sign is 3 m. from the front lot line, whereas the Sign By-law requires a minimum of 7.1 m., to have an
electronic display that is 100% seems excessive by our Division. At 50%, 11.5 sq. m., the electronic display is almost at 63.8% of what the maximum permitted sign area is for 9.0 sq. m., which is more than adequate.

**Geomatics and Corridor Management Section (Engineering Services Division):**

With respect to your memo dated October 29, 2012, please be advised we have reviewed this application, and offer the following:

Comments from the Ministry of Transportation should be considered, as they may have specific requirements for signing in relation to the QEW.

Approval of this sign variance application, with its location, size, and message display not conforming to the By-law, would set a precedent for other business owners along South Service Road to install larger and more visible signage along this high volume highway corridor.

Should this application be considered for approval, confirmation of the dimensions of the sign in relation to the South Service Road road allowance limit, was requested. The submitted sketch denotes the location of the sign in a rectangular area measuring 1 m. x 6 m. in the grass strip, between the parking lot and the road allowance limit. Using the City’s GIS aerial photos, the grass strip between the parking lot and road allowance limit is at approximately 6.2 m. However, the sign detail sheets indicate that the sign will be 8 m. in length. It is difficult to determine if all portions of the sign are, or will be, on private property. We do advise that the entire sign must be on private property.

The application indicates that the sign will have a setback of 3.0 m., is that 3.0 m. measured from the South Service Road road allowance to the pole base, rather than the actual edge of the sign? It is the entire sign face with 100% electronic capability that would be visible to approaching drivers, and it appears that the setback would be minimal.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

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

The subject property is located between Millen Road and Belgarden Avenue, on the South Service Road in Stoney Creek (see Appendix “A”). The property has frontage along Millen Road of 46.129 m., and flankage along Belgarden Avenue of 44.121 m. The property also has flankage along South Service Road of 220.9 m. The Ground Sign's location, height, setback, and sign face area, are all existing. The existing sign
was constructed without approvals from the City of Hamilton; however, a MTO permit to construct a pylon sign on the subject lands, was originally issued on March 15, 2006, and then re-issued on February 6, 2012 (see Appendices “G” and “H”). If, at that time (2006), the applicant had applied for a City of Hamilton permit for the existing sign, it would have met the former provisions of City of Stoney Creek Sign By-law No. 3042-89. Section 3.4 (Existing Signs) of City of Hamilton Sign By-law No. 10-197 permits existing signs that are lawfully displayed, to continue to be displayed, provided that it is not substantially altered in a manner that would bring it into non-compliance. Increasing the maximum electronic message display from the permitted 50% to 100% would have constituted a substantial alteration that would bring the existing sign into non-compliance.

Although not lawfully displayed, the applicant is applying to permit the existing ground sign and to have 100% electronic message display, whereas the By-law permits a maximum 50% electronic message display, unless the sign is displayed on a property used for an institutional use. The existing sign face is 23 sq. m., which would permit 11.5 sq. m. of electronic message display, whereas the By-law permits a maximum sign face of 18 sq. m., which would permit 9 sq. m. of electronic display message. Staff are of the opinion that the 50% electronic message display, or 11.5 sq. m. per sign face, is adequate for advertising. This would effectively be 63.8% electronic message display for what the permitted sign face is under the By-law. Staff encourage the applicant to populate the sign face, as the existing structure is underutilized. However, staff cannot support the proposed increase in electronic message display.

The applicant has provided written correspondence regarding Policy No. 2.2.6 of the Hamilton Sign By-law. The provision states: “Notwithstanding Sub-section 2.2.4, the applicable regulations under this By-law shall apply with necessary modifications for signs displayed under a permit issued, in accordance with Section 34 or Section 38 of the Public Transportation and Highway Improvements Act, and a permit is required under this By-law for such signs.”

Policy No. 2.2.4 states: “This By-law does not apply to signs displayed, or permitted to be displayed, by Federal, Provincial, or Municipal Governments, a Conservation Authority, or other local board, as defined in the Municipal Act, 2001, including, but not limited to, signs required by a Federal or Provincial statute or regulation, or by a Municipal By-law, such as a traffic sign; a street name sign; a permanent sign displayed on a street to inform the public of the location of Business Improvement Areas, public buildings, hospitals, public libraries, institutions, Places of Worship, parks, recreation, or educational facilities; a sign designating a public library, a public community centre, a public arena; a sign required by the City to inform the public of planning applications submitted under the Planning Act; a Tourism Ontario Designation sign; a Trailblazer sign, and a sign displayed for the purposes of public safety or convenience.”
The existing building and businesses at the subject property do not fall under the above noted types of uses and, therefore, the aforementioned policies do not apply in this situation.

Pursuant to Section 6.5 of the City of Hamilton Sign By-law, in considering applications for sign variance, the following shall be considered:

- **Special circumstances or conditions applying to the land, building, or use referred to in the application;**

- **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;**

- **Whether such special circumstances or conditions are pre-existing and not created by the Sign owner or applicant; and,**

- **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.**

These four tests are evaluated in the following comments:

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

The existing sign location, height, setback, and sign face area are all existing. There are no special circumstances or conditions that contribute to the proposal's inability to meet the maximum 50% electronic message display, as required in the By-law.

The applicant is of the opinion that the property does have special circumstances or conditions that apply since the proposed renovations of the existing sign require approvals from the MTO. In this regard, the applicant was issued a Sign Permit by MTO on February 3, 2013, for a 6.40 m. high, 50.14 sq. m. pylon sign, with changeable message. However, the requirement of a MTO Permit and the requirements of the Public Transportation and Highway Improvement Act, do not supersede the requirements of the City of Hamilton, as any proposed development that falls under both jurisdictions is required to meet the provisions of both agencies. More specifically, the approved MTO Sign Permit includes a condition (see No. 4 - Page 1 of Appendix “H”) that: “All Municipal approvals/permits must be obtained.” Condition No. 1 on Page 2 of Appendix “H”, also specified that: “In addition to the conditions of this permit, the owner must meet all of the requirements of the local municipality and any other agency having jurisdiction.” Therefore, the issuance of a MTO Permit does not constitute a special circumstance.
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 require the relocation, height reduction, and sign face reduction of the existing sign. As staff have determined that the existing sign would have met the provisions of the former City of Stoney Creek Sign By-law No. 3042-89, the relocation, height reduction, and sign face of the existing sign is not warranted. Therefore, unnecessary and unusual hardships or practical difficulties are being eliminated. No justification has been provided regarding the proposed increase in electronic message display.

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

Although not lawfully displayed, the sign location, height, setback and sign face area are all existing. The applicant is proposing to repurpose the existing sign and to populate the sign face with 100% electronic message display. Accordingly, there are no special circumstances that contribute to the proposal's inability to meet the requirements of the By-law.

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 existing ground sign structure is erected; however, no advertisement or display has ever populated the sign. The signage of the surrounding industrial properties is summarized below:

- 324 South Service Road (Wajax Power Products Ltd.) - Ground Sign (no electronic display message);
- 330 South Service Road (Mack, Stoney Creek) - Ground Sign (no electronic display message, and wall signs);
- 364 - 390 South Service Road, Stoney Creek (multiple commercial/industrial units) - No ground sign, only wall signs; and,
- 460 South Service Road, Stoney Creek (Toromont Inc.) - Two Ground Signs (no electronic display message).

No electronic display message signs are located within the vicinity of the subject lands. Permitting 100% electronic (display messaging) would set a standard for other
properties and businesses to apply to permit 100% electronic display messaging which could alter the character of the area.

The existing sign location, height, setback, and sign face area do not alter the essential character of the area, as multiple businesses and properties surrounding the subject property have signs located along their frontage with similar massing and heights.

ALTERNATIVES FOR CONSIDERATION

**Option 1:**

Council may uphold the recommendation of the Director, Planning Division, to refuse the proposed variance, as it does not maintain the general intent and purpose of the By-law. The sign could be developed for 50% electronic (display message) in accordance with Hamilton Sign By-law No. 10-197.

**Option 2:**

Council may vary the recommendation of the Director, Planning Division, to approve the proposed variance, subject to a restriction on the percentage of the electronic (display message) and/or any other conditions or restrictions. However, it is staff’s opinion that this option does not maintain the general intent and purpose of the Sign By-law.

**Option 3:**

Council may deny the recommendation of the Director, Planning Division, and support the proposed variance, as submitted. However, it is staff’s opinion that this option does not maintain the general intent and purpose of the Sign By-law, and may encourage other similar applications which, if approved, would undermine the intent of the By-law.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

**Strategic Priority #1**
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

**Strategic Objective**
1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.
1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Definitions and Section 5.1 and 5.2 of Sign By-law No. 10-197
- Appendix “C”: Section 6.0 of Sign By-law No. 10-197
- Appendix “D”: Appeal Letter
- Appendix “E”: Site Plan
- Appendix “F”: Existing Sign Elevations
- Appendix “G”: 2006 MTO Permit
- Appendix “H”: 2012 MTO Permit
- Appendix “I”: Notice of Decision Sent to Applicant
- Appendix “J”: Letter from MTO
- Appendix “K”: Email from MTO

: DMS

Attachs. (12)
Sign and Other Advertising Devices By-law 10-197

1.1 DEFINITIONS

“Ground Sign” means a sign that is free standing and is supported by a structure secured to the ground, and which is not supported by any building or other structure, but does not include a Billboard;

5.1 PROHIBITED SIGNS

5.1.1 No person shall display or permit to be displayed:

a) Any sign with a video screen or flashing, kinetic, or illusionary motion except an electronic message display, as permitted under this By-law;

b) Any sign supported entirely or partly by the roof of a building or structure, and which projects above the roof;

c) Any sign displayed within a visibility triangle;

d) Any sign displayed on a vehicle, trailer, or truck which is parked or located on property in a manner that is unrelated to its normal use as a vehicle, and is more consistent with the use of the vehicle as a sign;

e) Any sign which obstructs or is displayed in a parking space required under the City’s Zoning By-law; or,

f) Any sign within 400m of the right-of-way of Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway, or the Red Hill Valley Parkway."

5.1.2 Where a sign is not expressly permitted by this By-law, it shall be deemed to be prohibited.

5.1.3 Where a type of a sign is not specifically permitted within a particular zone or on a property with a particular zoned use, it shall be deemed to be prohibited within that zone or on that property.

5.1.4 Notwithstanding Sub-sections 5.1.2 and 5.1.3, and subject to the approval of Council, signs on street furniture displayed pursuant to an agreement with the City are permitted.
5.2 GROUND SIGNS INCLUDING CONSTRUCTION INFORMATION GROUND SIGNS

5.2.1 No person shall display or permit to be displayed a Ground Sign, except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.2.2 No Ground Sign shall be displayed, except in accordance with the following regulations:

**Permit / Timing**

(a) Obtain a permit under this By-law;

(b) For a Construction Information Ground Sign, displayed after any applicable approval for the construction or development project under the Planning Act has been given;

(c) For a Construction Information Ground Sign, maximum display period of not more than 28 days after construction or development is completed;

**Structure**

(d) Embedded in a foundation in the ground to a depth of at least 1.2m or secured in an alternative manner that is satisfactory to the Chief Building Official;

(e) Maximum sign area of 0.3m² for every 1.0m of the frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0m² for a single-faced Ground Sign, or 36.0m² for a double or multi-faced Ground Sign;

(f) Maximum height of 7.5m;

**Content**

(g) For a Ground Sign, except a Construction Information Ground Sign:

(i) Includes the municipal address number of the property on which the Ground Sign is displayed, shown at the top or the bottom in numerals that are a minimum height of 15.0 cm;
(ii) Includes one or more of the following in copy that is a minimum height of 15.0 cm:

1. The name of the business;
2. The registered trademark of the business;
3. The ownership of the business; or,
4. The name of the activity, product, or service available;

(iii) And except a Ground Sign displayed on a property used for an institutional use, may allocate a maximum 50% of the sign face to a readograph or electronic message display, provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination;

(iv) Displayed on a property used for an institutional use, may allocate a maximum 75% of the sign face to a readograph or electronic message display, provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination;

(v) May advertise a business on the property on which the Ground Sign is displayed, or an activity, product, or service available on that property, or a charity's or community organization's activities;

(vi) For a Ground Sign that is not within the Downtown Community Improvement Project Area, a Business Improvement Area, the Ancaster Village Core Area, or within the Glanbrook Village Core Area, may allocate a maximum 25% of the sign area or 1.2m², whichever is lesser, except for an electronic message display, to advertising a business that is not on the property on which the Ground Sign is displayed, or an activity, product, or service that is not available on that property;

(vii) For a Ground Sign that is within the Downtown Community Improvement Project Area, a Business Improvement Area, the Ancaster Village Core Area, or within the Glanbrook Village Core Area not advertising a business that is not on the property on which the Ground Sign is displayed, or an activity, product, or service that is not available on that property;
Location

(h) Not within 15.0m of a traffic signal or traffic control device;

(i) Not within 1.5m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line;

(j) Along the same frontage used to calculate the maximum sign area;

(k) Where more than 1 Ground Sign is displayed along a frontage, not displayed within 200m of another Ground Sign along the same frontage;

(l) notwithstanding (k), 1 Ground Sign which provides courtesy or directional information only, such as a menu board or clearance sign, is permitted;

(m) For a Construction Information Ground Sign, on vacant property in Residential and Commercial Zones;

(n) For a Construction Information Ground Sign, maximum of 2 for any single development or construction project;

(o) For a Ground Sign, except a Construction Information Ground Sign, permitted in all zones, except where the use of the property is for one or more of the following uses:

(i) A Single Detached Dwelling;
(ii) A Semi Detached Dwelling;
(iii) A Duplex;
(iv) A Triplex;
(v) A Fourplex or Quadruplex;
(vi) A Street Townhouse;
(vii) A Mobile Home;
(viii) A Residential Care Facility for 6 or less residents;
(ix) A Lodging House for 6 or less lodgers;
(x) A Retirement Home for 6 or less residents; or,
(xi) An Emergency Shelter for 6 or less residents.

5.2.3 No person shall display a Ground Sign on a property that ceases to be vacant or undeveloped, and where any Billboard displayed on the property has not been removed.
6.0 VARIANCES

6.1 Any Person may apply for a variance from this By-law or any provision thereof.

6.2 An application for variance shall be made on the form prescribed by the City of Hamilton, and shall be accompanied by the applicable fee, as set out in Schedule “A”.

6.3 Variances may be authorized by the Director of Development and Real Estate or his designate.

6.4 The City of Hamilton may authorize a variance if, in its opinion, the general intent and purpose of the By-law are maintained.

6.5 In considering an application for a variance, the City of Hamilton shall have regard for:

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

(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;

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

(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.

6.6 An applicant may appeal the variance application decision of the Director of Development and Real Estate to the Planning and Economic Development Committee.

6.7 The City Clerk shall notify the applicant once a hearing date before the Planning and Economic Development Committee has been fixed, and if the applicant does not attend at the appointed time and place, the Committee may proceed in the absence of the applicant, and the applicant shall not be entitled to further notice in the proceeding.

6.8 Council may uphold or vary the recommendations of the Planning and Economic Development Committee, or do any act or make any decision that it might have done had it conducted the hearing itself, and the applicant shall not be entitled to a further hearing on the matter before Council, and the decision of Council shall be final.
February 4, 2013

City of Hamilton
71 Main St. W.
Hamilton, Ontario
L8P 4Y5

Att: Planning Committee
c/o Vanessa Robicheau, Co-ordinator

Re: Sign Variance Application
File No. SV-12-008

Dear Ms. Robicheau,

In consideration of the above referenced Sign Variance Application, I wish to give written notice that I am appealing the Director of Planning’s decision to deny me an electronic message display to 100% of the sign face of my ground sign.

Thank you,

Domenic Marini

Cc: Danielle Stevens
    Maria Pearson
SIGN, 8229MM X 3048MM HIGH, MAXIMUM WEIGHT NOT TO EXCEED 3000 LBS
TOP OF SIGN
EL. 9448
U/S OF BOT. CHORD
EL. 6095
U/S OF BASE PLATE
EL. 0

INFRASTRUCTURE DESIGN
AND MANAGEMENT
CONSULTANTS
5115 HARVESTER ROAD UNIT 10
BURLINGTON ONTARIO
L7L 0A3
TEL. 905-928-2542

SOUTHSORE BUSINESS
COMPLEX SIGN
STONEY CREEK, ONTARIO

DATE: 28 MAY/12
REF. Dwg.
JOB No.
DRAWN BY: J.S. CHECKED BY: P.T. SCALE: N.T.S DRAWING No. CSK1
Appendix "G" to Report PED14023 (Page 1 of 2)

Ministry
of
Transportation

ISSUED TO: Southshore Business Centre Corp
319 Alvin Ave, Suite 101
Stoney Creek, ON, L8E 2M3

APPLICANT NAME: Carson Sign & Design
265 Barton Street, Unit 47
Stoney Creek, ON, L8E 2R4

PERMIT CONDITIONS:
(1) No flashing, intermittent or actuated lighting of any kind.
(2) No electronic messages are allowed.
(3) All municipal approvals/permits must be obtained.
(4) Any changes or additional signage will require further MTO approval and permits prior to their placement.
(5) Please remit a copy of this permit to the municipality.

TYPE OF SIGN: Location - Pylon Sign

DISTANCE FROM HIGHWAY CENTRE LINE: 0.00 m

MESSAGE ON SIGN:
Pylon sign, South Shore Business Park, municipal address 442 Millen Ave.

LOT: 18
CON: 1
PT/BLK: 623-12478

GEOGRAPHIC TOWNSHIP: Saltfleet
MUNICIPALITY: Hamilton
COUNTY/DIST/REG: Hamilton-Wentworth
EXPIRY DATE: September 30, 2006

PLN: 623-12478
HEIGHT OF SIGN: 0.00

AREA: 46.47 Sq. m
HWY: QEW
FEE: $929.00

*The sign(s) must be installed within six (6) months of the date of issue or this permit shall be void.

THIS PERMIT IS ISSUED UNDER THE AUTHORITY VESTED IN THE MINISTER BY THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT AND THE REGULATIONS PURSUANT THERETO AND IS SUBJECT TO THE CONDITIONS ON THE BACK HEREOF

DATED AT: Downsview
ON: March 08, 2006

Head, Corridor Management Section
SIGN PERMIT CONDITIONS

This permit is subject to the following conditions and any supplementary conditions established by the Ministry.

1. In addition to the conditions of this permit, the owner must meet all of the requirements of the local municipality and any other agency having jurisdiction.

2. The sign for which this permit is issued must be installed within 6 months of the date that the permit is issued or the permit shall be void and cancelled by the Ministry.

3. All work related to the sign installation authorized by this permit shall be carried out in accordance with the approved plans, specifications and agreements and subject to the approval of the Ministry. The owner must bear all expense related thereto.

4. Vegetation on the right-of-way must not be cut or trimmed without the written permission of the Ministry. Any cutting or trimming permitted must only be done under the supervision of the Ministry or its authorized agent at the expense of the owner. Any cutting or trimming of vegetation adjacent to the highway right of way requires the permission of the land owner.

5. Each sign authorized by this permit shall be maintained in a condition satisfactory to the Ministry. Failure to maintain the sign(s) in a satisfactory condition shall result in the cancellation of this permit.

6. Each sign shall be subject to the payment of fees as set by the Ministry from time to time. Failure to pay the prescribed fee shall result in the cancellation of this permit.

7. During construction of the sign the owner shall ensure that the operation of the highway is not interfered with and that the right-of-way remains free of debris, earth or other material.

8. The permit for a Billboard sign located on the highway right-of-way expires 5 years from the date of issue at which time a new application must be made.

9. If there is an expiry date named on this permit and a further term is required, an application for renewal of the permit shall be made to the Ministry before the expiry date of this permit. An extension of the expiry date may be approved or approved with additional conditions or denied by the Ministry.

10. If this permit expires and is not renewed, all works constructed, maintained or operated under this permit, if the Ministry so requests, shall be removed at no cost to the Ministry.

11. A sign permit may be cancelled at any time for breach of the regulations or conditions of this permit or for such other reasons as the Ministry at its sole discretion deems proper.

12. If during the life of this permit any Acts are passed or regulations adopted which affect the rights herein granted, the said Acts and regulations shall be applicable to this permit from the date on which they come into force.

13. The owner holds harmless the Ministry for all damages and liabilities caused as a result of the works undertaken pursuant to this permit.

14. Billboard or Personal/Private signs must not be assigned or transferred from one owner to another. If the owner of the permit changes hands, then the new owner must apply for a new sign permit. Each new permit is subject to the conditions at the time of applying.

15. Where the bush line is cleared after the sign permit has been issued, the permit holder is responsible for moving the sign back on the new bush line and obtains any other approvals, associated with the relocation.

16. The Ministry has the right to adjust its annual fee rates for Billboard and Personal/Private Signs.
Appendix "H" to Report PED14023 (Page 1 of 2)

SIGN PERMIT

ISSUING OFFICE:
Ministry of Transportation

Applicant Name:
Calitor Group Ltd.
319 Arvin Ave, Suite 101
Stoney Creek, On, L8E 2N3

Permit Conditions:
1. No flashing, intermittent or actuated lighting of any kind.
2. Minimum dwell time and maximum transition time (MTO standards) must be adhered to.
3. MTO changeable message sign (location sign) must be adhered to.
4. All municipal approvals/permits must be obtained.
5. Any changes or additional signage will require further MTO approval and permits prior to their placement.
6. Please remit a copy of this permit to the municipality.
7. No third party advertising is allowed.

Type of Sign: Location - Pylon Sign
Distance from Highway Property Line: 35.00 m

Message on Sign:
Changeable Messages - Sign can identify the property, occupants(s) or owner(s) or a business conducted on the property, or advertises a product or service(s) available upon the property, or conveys a message placed solely for guidance on the property. Located at 442 Millen Road, Stoney Creek.

Geographic Township: Saltfleet
Municipality: Hamilton
County/Dist/Reg: Hamilton-Wentworth

Expiry Date: 2012

The sign(s) must be installed within six (6) months of the date of issue or this permit shall be void.

This permit is issued under the authority vested in the minister by the public transportation and highway improvement act and the regulations pursuant thereto and is subject to the conditions on the back hereof.

DATED AT: Downsview ON: February 03, 2012

[Signature] Head, Corridor Management Section
SIGN PERMIT CONDITIONS

THIS PERMIT IS SUBJECT TO THE FOLLOWING CONDITIONS AND ANY SUPPLEMENTARY CONDITIONS
ESTABLISHED BY THE MINISTRY

1. In addition to the conditions of this permit, the owner must meet all of the requirements of the local municipality and any other agency having jurisdiction.

2. The sign for which this permit is issued must be installed within 6 months of the date that the permit is issued or the permit shall be void and cancelled by the Ministry.

3. All work related to the sign installation authorized by this permit shall be carried out in accordance with the approved plans, specifications and agreements and subject to the approval of the Ministry. The owner must bear all expense related thereeto.

4. Vegetation on the right-of-way must not be cut or trimmed without the written permission of the Ministry. Any cutting or trimming permitted must only be done under the supervision of the Ministry or its authorized agent at the expense of the owner. Any cutting or trimming of vegetation adjacent to the highway right of way requires the permission of the land owner.

5. Each sign authorized by this permit shall be maintained in a condition satisfactory to the Ministry. Failure to maintain the sign(s) in a satisfactory condition shall result in the cancellation of this permit.

6. Each sign shall be subject to the payment of fees as set by the Ministry from time to time. Failure to pay the prescribed fee shall result in the cancellation of this permit.

7. During construction of the sign the owner shall ensure that the operation of the highway is not interfered with and that the right-of-way remains free of debris, earth or other material.

8. The permit for a Billboard sign located on the highway right-of-way expires 5 years from the date of issue at which time a new application must be made.

9. If there is an expiry date named on this permit and a further term is required, an application for renewal of the permit shall be made to the Ministry before the expiry date of his permit. An extension of the expiry date may be approved or approved with additional conditions or denied by the Ministry.

10. If this permit expires and is not renewed, all works constructed, maintained or operated under this permit, if the Ministry so requests, shall be removed at no cost to the Ministry.

11. A sign permit may be cancelled at any time for breach of the regulations or conditions of this permit or for such other reasons as the Ministry at its sole discretion deems proper.

12. If during the life of this permit any Acts are passed or regulations adopted which affect the rights herein granted, the said Acts and regulations shall be applicable to this permit from the date on which they come into force.

13. The owner holds harmless the Ministry for all damages and liabilities caused as a result of the works undertaken pursuant to this permit.

14. Billboard or Personal/Private signs must not be assigned or transferred from one owner to another. If the owner of the permit changes hands, then the new owner must apply for a new sign permit. Each new permit is subject to the conditions at the time of applying.

15. Where the bush line is crossed after the sign permit has been issued, the permit holder is responsible for moving the sign back on the new bush line and obtains any other approvals, associated with the relocation.

16. The ministry has the right to adjust its annual fee rates for Billboard and Personal/Private Signs.
January 17, 2013

Calitor Group Ltd
319 Arvin Avenue, Suite 101
Stoney Creek, ON  L8E 2M3

Dear Sir/Madam:

RE: Sign Variance Application, 442 Millen Road, Stoney Creek (Ward 10)

Please be advised that pursuant to By-law No. 10-197, which regulates signs and other advertising devices pursuant to the provisions of the Municipal Act and which delegates the approval of variances from the provisions of the By-law to the Director of Planning, I hereby conditionally approve the following variances for Sign Variance Application (SV-12-008):

1. Notwithstanding Subsection 5.2.2(e) of Hamilton Sign By-law No. 10-197, the existing ground sign will have a maximum sign area of 23 square metres per sign face, whereas Hamilton Sign By-law No. 10-197 permits a maximum sign area of 0.3 square metres for every 1.0 metres of the frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0 square metres for a single-faced Ground Sign or 36.0 square metres for a double or multi-faced Ground Sign.

2. Notwithstanding Subsection 5.2.2(l) of Hamilton Sign By-law No. 10-197, the existing ground sign will have a maximum height of 9.5 metres, whereas Hamilton Sign By-law No. 10-197 permits a maximum height of 7.5 metres.

3. Notwithstanding Subsection 5.2.2(l) of Hamilton Sign By-law No. 10-197, the existing ground sign will be located 3.0 metres from the front lot line, whereas Hamilton Sign By-law No. 10-197 requires a Ground sign to be located not within 1.5 metres or a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line (i.e. 7.1 metres).

Subject to the following condition:

1. That the owner apply for and receive final approval of a minor variance application to Zoning By-law No. 05-200 to permit the existing sign to be located within a required landscape strip to the satisfaction of the Director of Planning.

The approval of the variances under By-law No. 10-197 should not be considered a waiver of any of the provisions of any other By-law of the City of Hamilton, the requirements of the Building Code Act, the Planning Act, or any other applicable legislation. Any departure from the By-law as varied is prohibited and could result in financial penalties, as provided for in By-law No. 10-197. Please note that this approval is only for the existing ground sign specified in the above-noted Sign Variance Application SV-12-008. Any further changes will require additional applications and approvals.

Furthermore, I hereby deny the following variance for Sign Variance Application (SV-12-008):

1. Notwithstanding Subsection 5.3.2(g)(iii) of Hamilton Sign By-law No. 10-197, a ground sign will have 100% electronic (message display), whereas Hamilton Sign By-law No. 10-197 only permits
Re: Sign Variance Application, 442 Millen Road, Stoney Creek (Ward 10)

January 17, 2013

January 17, 2013

a maximum 50% of the sign face to be a readograph or electronic message display provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination unless the property is used for an institutional use.

The reason for the refusal is that the proposed variance is not in keeping with the general intent of the By-law and does not meet the tests for sign variance provided in Section 5.5 of By-law No. 10-197. Any departure from the By-law is prohibited and could result in financial penalties, as provided for in By-law No. 10-197.

Pursuant to Section 6.6 of Sign By-law No. 10-197, the applicant may appeal the variance application decision of the Director of Planning to the Planning Committee. To appeal the decision, a written response must be submitted to the Planning Committee (c/o Vanessa Robicheau, Co-ordinator, City Clerks) within 21 days of the date of this decision.

If you have any further questions, feel free to contact Danielle Stevens at 905-546-2424 ext. 1285, or via email at Danielle.Stevens@hamilton.ca.

Yours truly,

Paul Mallard, MCIP, RPP
Director of Planning

cc: Dio Ortiz, Manager, Building Engineering and Zoning
    Al Fletcher, Manager, Licensing and Permits
    Councillor Peerson, Ward 10
Calitor Group Ltd.
319 Arvin Ave, Suite 101,
Stoney Creek, ON
L8E 2M3

Dear Mr. Marini,

Re: Pylon Sign located at 443 Millen Road, Stoney Creek, ON, Lot 18, Con 1.

This letter is to advise you that a sign exists at the above noted location that does not have a valid Sign Permit from the Ministry of Transportation.

Under the authority of the Public Transportation and Highway improvement Act (Sections 34 and 38) the Ministry of Transportation controls all visible signing within 400 metres of the limit of the highway right-of-way.

The Ministry must apply its regulatory controls for provincial highway corridors in a consistent manner to ensure the safety of the travelling public, and to ensure the policy is applied fairly and equitably to all sign owners.

Please remove this sign or obtain the required permit on or before (May 31, 2013). Failure to comply may lead to further actions by the ministry for the removal of the sign at your expense.

Thank you in advance for your cooperation in this matter. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Alexandre Gitkow
Permit Officer, Central Region
Corridor Management Section
Tel: (416) 235-4387
Fax: (416) 235-4267
alexandre.gitkow@ontario.ca

cc. City of Hamilton
Good Morning—please see below email from MTO. The sign Permit has been extended until May 6, 2014. With the variance application pending and an anticipated zoning approval we are now ready to return before the Planning Committee to debate the size of the digital sign. As you know, I contacted Vanessa yesterday and hope to be on the agenda in January. Is there any merit to meet and discuss this matter in the hopes of either obtaining staff support or proceeding with a compromise?

Regards: John

From: Alexandre.Gitkow@ontario.ca
To: mimmo319@hotmail.com
Subject: RE: Pylon Sign located at 442 Millen Rd Permit No. SG-2011-20T-304
Date: Wed, 23 Oct 2013 18:59:37 +0000

Dear Mr. Marini,

With this email, the MTO is extending for 6 month the expiry date of the sign permit # SG-2011-20T-304. (The new expiry date is May 6, 2014)

Please do not hesitate to contact me should you require more information.

Sincerely Yours,

Alexandre Gitkow
Permits Officer, Central Region
Corridor Management Section
Tel: (416) 235-4387
Fax: (416)-235-4267
alexandre.gitkow@ontario.ca
Ministry of Transportation
Corridor Management Section
Central Region
7th Floor, Bldng D
1201 Wilson Avenue
Downsview, ON M3M 1J8

Att: Mr. Alexandre Gitkow

Re: Pylon Sign located at
442 Millen Rd, Stoney Creek, ON,
Sign Permit No. SG-2011-20T-304

Dear Sir,

Pursuant to our telephone conversation of September 16th last, and in accordance with your instructions, I wish to advise you that I have received notice regarding the hearing dates with respect to both my Sign Variance and Minor Variance Applications to the City of Hamilton regarding the above referenced sign.

The Minor Variance Application shall be heard on November 21, 2013 and my appeal regarding the City’s decision with respect to my Sign Variance Application will be heard on January 14, 2014.

Please note that the above referenced Sign Permit has an expiry date of November 6, 2013 and needs to be in good standing when I attend the hearing dates at the City chambers.

Having said the above, could you please re-issue a new permit as per detail structure drawing S1 of S2 and S2 of S2 by Burgess Engineering Inc. dated September 1999 as submitted and approved by the MTO, pursuant to the above referenced Sign Permit.

Your consideration towards this matter is greatly appreciated.

I remain respectfully yours,

Domenic Marini
APPLICATION NO. SC/A-13:238
SUBMISSION NO. A-238/13

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 3692-92, of the City of Hamilton (formerly Stoney Creek), Section 9.3, Amending By-Law Number 10-129.

AND IN THE MATTER OF the Premises known as Municipal number 442 Millen Road (Unit 17), formerly in the City of Stoney Creek, now in the City of Hamilton and in an "M3" (Prestige Business Park) district;

AND IN THE MATTER OF AN APPLICATION by the agent IBI Group on behalf of the owner Calltor Group Ltd., for relief from the provisions of the Zoning By-Law No. 3692-92, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the location of a ground sign to be in a required landscaped and planting strip area notwithstanding that a ground sign shall be located within a required 6.0m wide landscaped area and a 3.0m planting strip which is not permitted.

THE DECISION OF THE COMMITTEE IS:

That the variance, as set out in paragraph three above, is GRANTED for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief granted is of a minor nature.

2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.

3. The Committee having regard to the evidence is satisfied that there will be no adverse impact on any of the neighbouring lands.

DATED AT HAMILTON this 12th day of December, 2013.

M. Dedic (Chairman)

I. Dunlop

W. Pearce

D. Smith

D. Drury

K. Arrabba

V. Abraham

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS January 1st, 2014.

NOTE: This decision is not final and binding unless otherwise noted.