

RECOMMENDATION ON THE VARIANCE APPLICATION OF

Gebritt Associates/Billboard & Variance

File #13-152

I. INTRODUCTION

An application for three bulk variances has been filed with the New Jersey Meadowlands Commission (NJMC) by Louis L. D'Arminio, Esq., of the firm Price, Meese, Shulman & D'Arminio, on behalf of Interstate Outdoor Advertising, L.P., for the premises located at 1183 West Side Avenue, Block 6202, Lot 9, in the City of Jersey City, Hudson County, New Jersey. Said premises is located in the Commission's Heavy Industrial zone. The variances are sought in connection with the applicant's proposal to install a free-standing billboard to be erected within and above the existing building on the subject property.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-8.14(h)7ii(1), which requires that a billboard be installed within a right-of-way having a posted speed limit of 55 mph or higher, or within 50 feet thereof. A billboard is proposed 31.15 feet from the Route US 1 & 9T right-of-way; however, the posted speed limit of the road at this location is 45 mph.
2. N.J.A.C. 19:4-8.14(h)7ii(2), which states that a billboard shall not be permitted within 500 feet of a residential zone or residence. There are numerous residences within 500 feet of the proposed billboard, including residences located along Lewis Avenue and St. Paul's Avenue within Block 6202 and within the Jersey City Marion Works Residential Overlay District (MWORD Zone).
3. N.J.A.C. 19:4-8.14(h)7v, which requires that the maximum permitted height of a billboard shall be 30 feet above the grade level of the adjacent

roadway surface. A billboard is proposed 45.11 feet above the roadway surface grade level of Route US 1 & 9T.

Notice was given to the public and all interested parties as required by law. Public notice of this application was published in The Jersey Journal newspaper. No written comments regarding this application were received by the Division of Land Use Management during the public comment period. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question contains approximately 0.70 acres, with frontage on both West Side Avenue and St. Paul's Avenue. The lot is improved with an existing industrial building that is set back zero feet from both front property lines and occupies 55 percent of the subject property. Direct access from West Side Avenue to the subject premises is provided by an existing driveway located on the easterly portion of the site. There are no known easements on the subject property.

The surrounding area is primarily industrial in nature. However, there are also several residences present in the vicinity of the subject property, including a multi-story, multifamily residential building located on St. Paul's Avenue. The subject property is also proximate to several regional roadways, including Route US 1 & 9, (inclusive of the Pulaski Skyway, an elevated north/south four-lane roadway with bridge crossing the Hackensack River), as well as Route US 1 & 9T (Truck Route 1 & 9).

The applicant proposes to construct a freestanding double-sided billboard, with each sign face measuring 14 feet by 48 feet, or 672 square feet per side, to be located above the roof level at the southerly building corner. The sign structure's

footing and support column are proposed to be constructed within the existing building. The height of the billboard is 45.11 feet above the surface grade of Truck Route 1 & 9, 47 feet above the roof level, and its overall height is 73 feet above the existing building floor.

B. Response to the Public Notice

No written comments were submitted to this Office regarding this application prior to the public hearing.

III. PUBLIC HEARING (October 29, 2013)

A public hearing was held on Tuesday, October 29, 2013. NJMC staff in attendance were Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; and Ronald Seelogy, P.E., P.P., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant to the NJMC regarding the variance request:

<u>Number</u>	<u>Description</u>
A-1	Photographic exhibit entitled, "Aerial View of Proposed Sign Location," prepared by Interstate Outdoor Advertising, L.P.
A-2	"Site Plan and Details of Outdoor Advertising Sign," Drawing Number 2 of 2, prepared by ENTEC Engineering & Technical Resources Inc., dated February 20, 2013, revised April 15, 2013.

- A-3 Photographic exhibit 01 through 18, prepared by Interstate Outdoor Advertising, L.P., depicting views of the proposed billboard from nearby residences located on Lewis Avenue, West Side Avenue and St. Paul's Avenue.
- A-4 Photographic exhibit Pole-13 through Pole-26, prepared by Interstate Outdoor Advertising, L.P., depicting views of the surrounding area from the location of the proposed billboard in various directions.
- A-5 Photographic exhibit A through F, prepared by Interstate Outdoor Advertising, L.P., depicting views of the proposed billboard from the northbound and southbound lanes of the Pulaski Skyway.
- A-6 Outdoor Advertising Permit issued by the New Jersey Department of Transportation to Cannon Media LLC, valid from May 16, 2013, through May 15, 2014.
- A-7 Curriculum vitae for Alex J. Zepponi, P.E., P.P., of ENTEC Engineering & Technical Resources Inc.
- A-8 Photographic exhibit indicating distance from proposed billboard to Canco Loft development, prepared by ENTEC Engineering & Technical Resources Inc.
- A-9 Photograph of LED module taken by ENTEC Engineering & Technical Resources Inc., received by email on November 5, 2013.
- A-10 "LED Sign Face Lighting Exhibit," prepared by ENTEC Engineering & Technical Resources Inc.
- A-11 Curriculum vitae for Hal Simoff, P.E., P.P., of Simoff Engineering Associates, Inc.
- A-12 "Safety, Environmental, and Visual Impacts for Outdoor Advertising Sign," prepared by Simoff Engineering

Associates, Inc., dated February 14, 2013, revised May 7, 2013.

A-13 Photographic exhibit Pole-01 through Pole-12, prepared by Interstate Outdoor Advertising, L.P., providing a superimposition of the proposed billboard pole and its view from various residential areas.

B. Testimony

The applicant was represented at the hearing by Louis L. D'Arminio, Esq. The following four witnesses testified in support of the application:

1. Jeffrey W. Gerber, Interstate Outdoor Advertising, L.P.;
2. Alex J. Zeponi, P.E., P.P., ENTEC Engineering & Technical Resources, Inc.;
3. Hal Simoff, P.E., P.P., Simoff Engineering Associates; and
4. Brendon Haines, Cannon Media.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Darlene Kulesa, Certified Court Reporter.

IV. RECOMMENDATION

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7ii(1), which requires that a billboard be installed within a right-of-way having a posted speed limit of 55 mph or higher, or within 50 feet thereof. A billboard is proposed 31.15 feet from the Route US 1 & 9T right-of-way; however, the posted speed limit at this location is 45 mph.

The NJMC Zoning Regulations at N.J.A.C. Section 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject property is located in the Heavy Industrial zone on a corner lot with frontage on St. Paul's Avenue to the south and West Side Avenue to the east. It is improved with an approximately 30,000-square-foot industrial building that is set back zero feet from both front property lines. The existing building occupies approximately 55 percent of the subject property, whereas a maximum lot coverage of 50 percent is permitted in the Heavy Industrial zone. There is minimal open space on the subject premises, with on-site parking provided on the northerly portion of the site.

The subject property is located in the vicinity of the Pulaski Skyway and Truck Route 1 & 9, which are elevated highways proximate to

the subject property with limited points of access in the vicinity of the subject site. A billboard generally would be permitted on a property in the Heavy Industrial zone located within 50 feet of a highway; however, since the speed limit of the adjacent roadway is less than 55 mph, the proposed billboard requires a variance. While the posted speed limit of this particular stretch of Route 1 & 9T is set 45 mph by the NJDOT due to a combination of factors, including the physical geometry and urban setting of the highway with heavy truck traffic, the roadway is a regional transportation corridor. The intent of the regulation is to locate billboards along highway locations where their visual impact would be minimized and where their audience is more regional, as opposed to local, in nature. The subject property is uniquely situated to accommodate a billboard in a neighborhood location in a manner that allows it to serve a regional audience with minimal impact to its neighbors, as described in this report. Based on testimony, the subject property is the only location in the vicinity of Truck Route 1 & 9 that could best accommodate a billboard based on its proximity to the highway, and in balance with other governmental regulations that preclude the ability to locate a billboard on other properties in the vicinity of the highway.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The subject property is located within the Heavy Industrial zone, which permits and accommodates a variety of industrial, utility and commercial uses. Neighboring properties include light industrial facilities, public utility facilities, equipment yards, and a

number of residences. These residences are preexisting nonconforming uses located on West Side Avenue, Lewis Avenue, and St. Paul's Avenue adjacent to and in the vicinity of the site.

The proposed billboard, to be erected above the building on the subject property near its southerly corner, is a double-sided, V-shaped structure with sign dimensions of 14 feet by 48 feet. The easterly face of the billboard, directed to westbound traffic on Truck Route 1 & 9, will have a static sign face, while the westerly sign face, directed to eastbound traffic on Truck Route 1 & 9, will have a digital LED variable-message sign face. The height of the billboard is proposed at 45.11 feet above the surface grade of Truck Route 1 & 9, and its overall height is 73 feet above the first floor elevation of the existing building. The billboard's intended audience is drivers on Truck Route 1 & 9 and the nearby Pulaski Skyway, not the local community.

The applicant presented several exhibits showing views of the proposed billboard from various locations in the vicinity of the subject site, and indicated that most properties and residences with sight lines in the direction of the billboard are screened by the presence of other buildings and existing vegetation. While the proposed billboard will not create significant negative visual impacts to most neighboring properties, three residences (identified as 1239 West Side Avenue, 418 St. Paul's Avenue, and 420-422 St. Paul's Avenue) will be able to view a portion of the supporting pole and/or part of the sign face as well. The open side of the V-shaped sign is located on the north side of the billboard, in the

direction of those properties located on West Side Avenue and Lewis Avenue.

NJMC regulations do not permit signs to be illuminated between the hours of 10:00 pm and 6:00 am where such signs are located on a lot adjacent to, or across a right-of-way from, any permitted residential use. There are a number of residences located in the vicinity of the subject property, including on adjoining properties. . The static face side of the sign faces Jersey City's Marion Works Residential Overlay District (MWORD) zone, therefore it is a recommended condition of approval that the static face of the billboard sign not be illuminated between 10:00 PM and 6:00 AM, in accordance with N.J.A.C. 19:4-8.14(g)5. The residences nearest the west facing digital sign face are located in the Heavy Industrial zone. Although these residences are considered pre-existing nonconforming uses, they are not permitted uses in the Heavy Industrial zone, and, as such, would not be subject to N.J.A.C. 19:4-8.14(g)5. The quality of life for these residents, particularly those residing closest to the sign, would not be significantly adversely impacted by the illumination of the proposed billboard sign during the overnight hours. NJMC regulations require digital billboard signs to have auto-dimming capabilities to ensure illumination levels are not excessive in response to ambient lighting conditions. In addition, per the applicant's testimony regarding the digital sign, the structure of the LED is such that most of the light is projected forward rather than in a downward direction. Louvers will be installed between each cluster of three LED's. In testimony provided by Mr. Zepponi, the louvers, besides providing physical protection, project the light even more forward than the LED does.

Due to their close proximity to the billboard sign and the dimming effect of the louvers, the LED face of the digital billboard sign should not be visible to those residences located 416, 418 and 420-422 St. Paul's Avenue. These characteristics will minimize any potential impact from glare from the digital sign.

Therefore, with a condition restricting the illumination of the static face of the billboard between 10:00 PM and 6:00 AM, the proposed billboard will not significantly impact neighboring properties, and their usage will be able to continue unimpeded.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

Billboards are a permitted use in the Heavy Industrial zone, and the proposed billboard sign area conforms to NJMC regulations. The billboard has been positioned in its location for maximum visibility from Truck Route 1 & 9 and the Pulaski Skyway, and for minimal visibility from surrounding properties. Mr. Jeffrey W. Gerber of Interstate Outdoor Advertising testified that the billboard will operate with no interference to the operation of the existing building on the site.

Practical difficulties exist in siting the proposed billboard in a conforming location. Alternative locations for the proposed sign were investigated along the northerly side of Truck Route 1 & 9 and the southerly side of the Pulaski Skyway. However, those locations were not feasible alternatives due to the distance of other

properties from the elevated roadways; New Jersey Department of Transportation (NJDOT) concerns that erecting a billboard along Truck Route 1 & 9 would conflict with the construction of the new New Jersey Route 7 bridge over the Hackensack River; and the residential zoning in place under the Jersey City zoning jurisdiction to the south of the Pulaski Skyway. The subject property, located in a zone where billboards are permitted, was determined to be the best available location for a billboard sign.

- iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.*

The granting of the requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare at this particular location adjacent to a roadway having a speed limit below the required 55 miles per hour. The billboard will be located in the Heavy Industrial zone and will be directed toward regional arterial roadways, Truck Route 1 & 9 and the Pulaski Skyway. The sign will be located in a manner to be safely readable to passing motorists on both roadways, and will not cause a significant adverse impact to scenic viewsheds in the area. Rather, Mr. Hal Simoff of Simoff Engineering Associates, testified that the reduced speed limit provides additional read time to the sign than a permitted 55 mph location, which provides for added safety.

As the sign will be oriented towards Truck Route 1 & 9 and the Pulaski Skyway, residential properties along West Side Avenue,

Lewis Avenue and St. Paul's Avenue will not experience significant adverse effects due to the physical characteristics of the LED's and associated louvers that will minimize any potential impact from glare from the digital sign. The nearest residential properties located outside of the Hackensack Meadowlands District, in Jersey City's MWORD zone, will not be negatively affected by the proposed static-face sign as illumination of the billboard is recommended to be restricted during overnight hours. In addition, while the NJMC does not regulate signage content, the applicant offered testimony that the City of Jersey City would be provided an opportunity to post public service messages upon the western changeable LED face of the billboard.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance will not have any adverse environmental impacts. The proposed billboard is to be located within and over an existing building that occupies approximately 55 percent of the subject property. There will be no additional land disturbance resulting from to the installation of the foundation of the supporting sign pole, which will be located within the existing building. The subject property does not contain any known environmentally sensitive areas.

The proposed billboard will not exceed the NJMC environmental performance standards related to noise, airborne emissions, vibrations or hazardous materials. The proposed billboard will not result in glare to motorists on adjacent roadways, due to usage of bottom-mounted fixtures proposed for lighting the static face of the

billboard. The LED sign face of the proposed billboard will contain technology that will allow auto-dimming of the sign at dusk and brightening at dawn in gradual steps. In addition, the LED sign face can dim in response to overcast conditions during the daytime hours.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The variance represents the minimum deviation from the regulations that will afford relief. Billboards are permitted in the Heavy Industrial zone. The intent of the regulations has been met by locating the proposed billboard in close proximity to a major highway and by limiting visual impacts to specific corridors within the District. Several alternative locations were investigated by the applicant and their associates, and the subject property was determined to be the best available location to accommodate a billboard in the vicinity. There will be minimal impact to surrounding properties, subject to a condition restricting the illumination of the proposed static face of the billboard sign during the overnight hours.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The granting of the requested variance will not substantially impair the intent and purpose of these regulations. NJMC regulations recognize that there are major highways traversing the District where billboards, a commercial use with a regional audience, are typically constructed. The location of billboards along highway properties allows their visual impact to be minimized within a community.

Typically, a speed limit of 55 mph is attributed to major highways. Even though both Truck Route 1 & 9 and the Pulaski Skyway have a posted speed limit of 45 miles per hour, both roadways are state highways and part of a regional transportation corridor. The reduced speed limit applied to these highways is due to design features and characteristics, such as aging infrastructure, over capacity operating conditions and daily wear and tear from heavy truck traffic, and for public safety reasons. The subject property is uniquely situated to accommodate a billboard in a neighborhood location in a manner that allows it to serve a regional audience with minimal impact to its neighbors. The appearance of the surrounding area is not compromised, as the billboard will have minimal visual impact on the surrounding residential and industrial properties, with restriction on the overnight illumination of static face of the billboard.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7ii(2), which states that a billboard shall not be permitted within 500 feet of a residential zone or residence. There are numerous residences within 500 feet of the proposed billboard, including residences located along Lewis Avenue and St. Paul's Avenue within Block 6202 and within the Jersey City Marion Works Residential Overlay District (MWORD Zone).

The NJMC Zoning Regulations at N.J.A.C. Section 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject property is located in the Heavy Industrial zone on a corner lot with frontage on St. Paul's Avenue to the south and West Side Avenue to the east. It is improved with an approximately 30,000-square-foot industrial building.

The subject property is located in the vicinity of the Pulaski Skyway and Truck Route 1 & 9, which are elevated highways proximate to the subject property with limited points of access in the vicinity of the subject site. A billboard is generally permitted on a property in the Heavy Industrial zone; however, since the billboard is proposed within 500 feet of a residential zone or residence, the proposed billboard requires a variance. Pre-existing nonconforming residential structures are located in the vicinity of the site on West

Side Avenue, Lewis Avenue and St. Paul's Avenue. There are few existing residences located in areas zoned Heavy Industrial in the Hackensack Meadowlands District, and with few exceptions, most were constructed long before the formation of the NJMC. As such, nonconforming residential properties are unique to the zone. A portion of Jersey City's Marion Works Residential Overlay District (MWORD) zone is also located within 500 feet of the proposed billboard. This also constitutes a unique situation as the MWORD zone comprises, in part, former industrial properties that were located adjacent to the subject highways.

The subject property is also uniquely situated to accommodate a billboard in a neighborhood location in a manner that allows it to serve a regional audience with generally minimal impact to its neighbors, as described in this recommendation. Based on testimony, the subject property is the only location in the vicinity of Truck Route 1 & 9 that could best accommodate a billboard based on its proximity to the highway and in balance with other governmental regulations that preclude the ability to locate a billboard on other properties in the vicinity of the highway.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The subject property is located within the Heavy Industrial zone, which permits and accommodates a variety of industrial, utility and commercial uses. Neighboring properties include light industrial facilities, public utility facilities, equipment yards, and residences. Preexisting nonconforming residential structures are

located in the vicinity of the site on West Side Avenue, Lewis Avenue and St. Paul's Avenue.

The applicant presented several exhibits showing views of the proposed billboard from various locations in the vicinity of the subject site, and indicated that most properties and residences with sight lines in the direction of the billboard are screened by the presence of other buildings and existing vegetation.

The height of the billboard is proposed at 45.11 feet above the surface grade of Truck Route 1 & 9, and its overall height is 73 feet above the first floor elevation of the existing building. The billboard is to be located 16.61 feet and 17.11 feet from the West Side Avenue and St. Paul's Avenue property lines, respectively, which exceed the minimum 15-foot setback required by NJMC regulations. The open side of the V-shaped sign structure is located on the north side of the billboard, in the direction of those properties located on West Side Avenue and Lewis Avenue. The base of the pole itself will be located within the building, providing an effective visual screen from surrounding properties at street level. While the proposed billboard will not create significant negative visual impacts to most neighboring properties, three residences (identified as 1239 West Side Avenue, 418 St. Paul's Avenue, and 420-422 St. Paul's Avenue) within the Heavy Industrial zone will be able to view a portion of the supporting pole and/or part of the digital sign face as well.

The applicant also stated during testimony that the location of the proposed billboard will be moved approximately one foot in a

northerly direction so that the proposed sign will be located more than 500 feet from residential development in the Jersey City Marion Works Residential Overlay District (MWORD Zone). Canco Lofts, a multi-structure, multi-story, multi-family development located on St. Paul's Avenue between Larch Avenue and Tonnelle Avenue, is located out of District in the MWORD Zone. The development consists of five mixed-use buildings containing residential and industrial/warehouse space. The visual impact of the proposed billboard on the three residential buildings, which are located furthest from the sign on the easterly portion of the development, will be negligible as any line of sight from these residential units in a northerly direction towards the static face of the proposed billboard will be screened by the remaining two buildings, which house industrial uses.

Furthermore, NJMC regulations do not permit signs to be illuminated between the hours of 10:00 PM and 6:00 AM, where such signs are located on a lot adjacent to, or across a right-of-way from, any permitted residential use. There are a number of residences located in the vicinity of the subject property, including on adjoining properties. The static face side of the sign faces Jersey City's Marion Works Residential Overlay District (MWORD) zone, therefore it is a recommended condition of approval that the static face of the billboard sign not be illuminated between 10:00 PM and 6:00 AM, in accordance with N.J.A.C. 19:4-8.14(g)5. The residences nearest the west facing digital sign face are located in the Heavy Industrial zone. Although these residences are considered pre-existing nonconforming uses, they are not permitted uses in the Heavy Industrial zone, and, as such, would not be subject to

N.J.A.C. 19:4-8.14(g)5.. The quality of life for these residents, particularly those residing closest to the sign, would not be significantly adversely impacted by the illumination of the proposed billboard sign during the overnight hours. NJMC regulations require digital billboard signs to have auto-dimming capabilities to ensure illumination levels are not excessive in response to ambient lighting conditions. In addition, per the applicant's testimony regarding the digital sign, the structure of the LED is such that most of the light is projected forward rather than in a downward direction. Louvers will be installed between each cluster of three LED's. In testimony provided by Mr. Zepponi, the louvers, besides providing physical protection, project the light even more forward than the LED does. Due to their close proximity to the billboard sign and the dimming effect of the louvers, the LED face of the digital billboard sign should not be visible to those residences located 416, 418 and 420-422 St. Paul's Avenue. These characteristics will minimize any potential impact from glare from the digital sign.

Therefore, with a condition restricting the illumination of the static face of the billboard sign between the hours of 10:00 PM and 6:00 AM, the proposed billboard will not significantly impact neighboring properties, and their uses will be able to continue unimpeded.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

Billboards are a permitted use in the Heavy Industrial zone, and the billboard sign area conforms to NJMC regulations. The billboard has been positioned in its proposed location for maximum visibility from Truck Route 1 & 9 and the Pulaski Skyway, and for minimal visibility from surrounding properties. The billboard will operate with no interference to the operation of the existing building on the site as per testimony provided by Mr. Jeffrey W. Gerber of Interstate Outdoor Advertising.

Practical difficulties exist in siting the proposed billboard in a conforming location. Alternative locations for the proposed sign were investigated along the northerly side of Truck Route 1 & 9 and the southerly side of the Pulaski Skyway. However, these locations were not feasible alternatives due to the distance of other properties from the elevated roadway, New Jersey Department of Transportation (NJDOT) concerns that erecting a billboard along Truck Route 1 & 9 would conflict with the construction of the new NJ Route 7 bridge over the Hackensack River, and the residential zoning in place in under the Jersey City zoning jurisdiction to the south of the Pulaski Skyway. The subject property, located in a zone where billboards are permitted, was determined to be the best available location for a billboard sign.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The proposed billboard will be located in an area zoned for Heavy Industrial usage and the intended audience of the sign will be motorists on Truck Route 1 & 9 and the Pulaski Skyway. The sign will be located in a manner to be safely readable to passing motorists on both roadways, and will not cause a significant adverse impact to scenic viewsheds in the area. Residential properties along West Side Avenue, Lewis Avenue and St. Paul's Avenue will not experience significant adverse effects due to the characteristics of the LED's and associated louvers that will minimize any potential impact from glare from the digital sign. The nearest residential properties located outside of the Hackensack Meadowlands District, in Jersey City's MWORD zone, will not be negatively affected by the proposed static-face sign as illumination of the billboard is recommended to be restricted during overnight hours.

In addition, while the NJMC does not regulate signage content, the applicant offered testimony that the City of Jersey City would be provided an opportunity to post public service messages upon the western changeable LED digital face of the billboard, which would serve as a public benefit.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance will not have any adverse environmental impacts. The proposed billboard is to be located within and over an existing building that occupies approximately 55 percent of the subject property. There will be no additional land disturbance due to the installation of the foundation of the supporting sign pole, which will be located within the existing building. The subject property does not contain any known environmentally sensitive areas.

The proposed billboard will not exceed the NJMC environmental performance standards related to noise, airborne emissions, vibrations or hazardous materials. The proposed billboard will not result in glare to motorists on adjacent roadways, due to usage of bottom-mounted fixtures proposed for lighting the static face of the billboard. The LED digital sign face of the proposed billboard will contain technology that will allow auto-dimming of the sign at dusk and brightening at dawn in gradual steps. In addition, the LED sign face can dim in response to overcast conditions during the daytime hours.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The variance represents the minimum deviation from the regulations that will afford relief. Billboards are permitted in the Heavy Industrial zone. Several alternative locations were investigated by the applicant and their associates, and the subject

property was determined to be the best available location to accommodate a billboard in the vicinity when balancing site conditions with the various government regulations governing billboards. The intent of the regulations will have been met by limiting visual impact to nearby residences with a condition restricting the illumination of the proposed static face of the billboard sign during the overnight hours. The proposed physical characteristics of the LED's and associated louvers will minimize any potential impact from glare from the digital sign. The billboard is to be located 16.61 feet and 17.11 feet from the West Side Avenue and St. Paul's Avenue property lines, respectively, which exceed the minimum 15-foot setback required by NJMC regulations.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The subject property is located in a portion of the Commission's Heavy Industrial zone where there are a number of preexisting nonconforming residential uses interspersed throughout a neighborhood of heavy industrial uses. Notwithstanding their nonconforming status, the potential impact of the proposed billboard to these residences is of paramount importance in the evaluation of the requested variance to permit a billboard within 500 feet of them. Negative impacts commonly associated with billboards include negative visual and aesthetic impacts, obstruction of scenic viewsheds, safety concerns attributed to driver distraction, and glare from illuminated signs.

These concerns have been addressed in the record of this matter, including an extensive analysis of viewsheds to the proposed sign from numerous locations in the vicinity of the proposed billboard sign showing the sign will not be visible from most locations in the neighborhood. The visibility of the sign beyond the immediate neighborhood will be minimized by distance and the presence of the elevated roadways to which the sign is directed. However, the impacts of the proposed billboard within the immediate neighborhood, proximate to residences (whether expressly permitted uses in a zone or existing as a legal nonconformity) is of the utmost concern in the evaluation of the requested variance. Therefore, the proposed characteristics of the LED's and associated louvers that will minimize any potential impact from glare from the digital sign in addition to the condition that prohibits the illumination of the proposed static face sign during the overnight hours, the intent of the regulation to protect residents from the negative impacts of billboards would be satisfied. The appearance of the surrounding area will not be significantly compromised, and will have minimal visual impact on the surrounding properties.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7v, which requires that the maximum permitted height of a billboard shall be 30 feet above the grade level of the adjacent roadway surface. A billboard is proposed 45.11 feet above the roadway surface grade level of Route US 1 & 9T.

The NJMC Zoning Regulations at N.J.A.C. Section 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject property is located in the Heavy Industrial zone on a corner lot with frontage on St. Paul's Avenue to the south and West Side Avenue to the east. It is improved with an approximately 30,000-square-foot industrial building that is set back zero feet from both front property lines. The existing building occupies approximately 55 percent of the subject property, whereas a maximum lot coverage of 50 percent is permitted in the Heavy Industrial zone. There is minimal open space on the subject premises, with on-site parking provided on the northerly portion of the site.

The subject property is located in the vicinity of the Pulaski Skyway and Truck Route 1 & 9, which are elevated highways proximate to the subject property with limited points of access in the vicinity of the subject site. The subject property is uniquely situated to accommodate a billboard in a neighborhood location in a manner that allows it to serve a regional audience with minimal impact to its neighbors. Based on testimony, the subject property is the only location in the vicinity of Truck Route 1 & 9 that could best accommodate a billboard based on its proximity to the highway and in balance with other governmental regulations that precluded the ability to locate a billboard on other properties in the vicinity of the highway. In order to provide the appropriate view angle, the applicant proposes to install the proposed billboard sign where the

supporting pole is locating within the building on the property, a unique circumstance. The applicant presented several exhibits showing views of the proposed billboard from various locations in the vicinity of the subject site, and showed that, at the height proposed, most properties and residences with sight lines in the direction of the billboard are screened by the presence of other buildings and existing vegetation, while the sign is just visible over roadway structures and appurtenances.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The subject property is located within the Heavy Industrial zone, which permits and accommodates a variety of industrial, utility and commercial uses. Neighboring properties include light industrial facilities, public utility facilities, equipment yards, and numerous residences. Preexisting nonconforming residential structures are located in the vicinity of the site on West Side Avenue, Lewis Avenue, and St. Paul's Avenue.

The proposed billboard, to be erected above the building near its southerly corner, is a double-sided, V-shaped structure with sign dimensions of 14 feet by 48 feet. The east side of the billboard will have a static sign face, while the west side facing Truck Route 1 & 9 will have a digital LED variable-message sign face. The height of the billboard is proposed at 45.11 feet above the surface grade of Truck Route 1 & 9, and its overall height is 73 feet above the first floor elevation of the existing building.

The proposed billboard height will not create significant negative visual impacts to neighboring properties, and will not be visible to most residences and businesses in the surrounding area. The open side of the V-shaped sign is located on the north side of the billboard, in the direction of those properties located on West Side Avenue and Lewis Avenue. The applicant presented several exhibits showing views of the proposed billboard from various locations in the vicinity of the subject site, and showed that most properties and residences with sight lines in the direction of the billboard are screened by the presence of other buildings and existing vegetation. While the proposed billboard will not create significant negative visual impacts to most neighboring properties, three residences (identified as 1239 West Side Avenue, 418 St. Paul's Avenue, and 420-422 St. Paul's Avenue) will be able to view a portion of the supporting pole and/or part of the sign face as well. The proposed height of 45.11 feet above the adjacent roadway surface serves to minimize the visual impact to these adjacent residents. If the billboard were lowered to a conforming height, the sign would be more visible to these properties.

Additionally, the billboard faces will be directed to drivers on Truck Route 1 & 9 and the nearby Pulaski Skyway, not to the local community. Therefore, the granting of the requested variance to provide an increase in the permitted height of the billboard will not adversely affect the rights of neighboring property owners or residents.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

A denial of the variance request to provide for an increased height of the billboard would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. The proposed 45.11-foot height of the billboard above the pavement surface of Truck Route 1 & 9 is needed for the sign to be visible to motorists traveling along Truck Route 1 & 9 and the nearby Pulaski Skyway. Due to the height required of both elevated roadways to span the Hackensack River, a billboard erected at the maximum permitted height of 30 feet above the pavement surface would not be visible or readable to passing motorists on either Truck Route 1 & 9 or the Pulaski Skyway, and would be rendered ineffective. Although a billboard sign is permitted to be located on the subject property within 50 feet of the Truck Route 1 & 9 right-of-way, the permitted height of 30 feet above the pavement surface of Truck Route 1 & 9 would result in an unreadable sign.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The granting of the variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The billboard will be located in a Heavy Industrial zone and its message will be directed to motorists on Truck Route 1 & 9 and the Pulaski Skyway. The sign will be high enough to be visible and safely readable to passing motorists on both roadways. The readability of the sign by passing motorists was taken into consideration in the determination of an appropriate height. As the sign will be oriented toward Truck Route 1 & 9 and the Pulaski Skyway, residences along Lewis Avenue, West Side Avenue and St. Paul's Avenue will not experience any significant adverse effects. Rather, the added height serves to minimize visibility of the sign to adjoining properties.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance to increase the permitted height of the billboard will not have any adverse environmental impacts. The proposed billboard is to be located within and over an existing building that occupies approximately 55 percent of the subject property. There will be no additional land disturbance due to the installation of the foundation of the supporting sign pole, which will be located within the existing building. The subject

property does not contain any known environmentally sensitive areas.

The proposed billboard will not exceed the NJMC environmental performance standards related to noise, airborne emissions, vibrations or hazardous materials. The proposed billboard will not result in glare to motorists on adjacent roadways, due to usage of bottom-mounted fixtures proposed for lighting the static face of the billboard. The LED sign face of the proposed billboard will contain technology that will allow auto-dimming of the sign at dusk and brightening at dawn in gradual steps. In addition, the LED sign face can dim in response to overcast conditions during the daytime hours.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The variance represents the minimum deviation from the regulations that will afford relief. The billboard must be located at an adequate height to be both visible and legible to a passing motorist within a certain cone of vision that provides for an adequate amount of read time. Due to the angle of visibility from the driver's eye to the billboard and the distance to the subject sign at this location, any billboard height less than 45.11 feet above the adjacent roadway surface would be ineffective. The amount of time a motorist would have to safely read the message on the billboard would be reduced if the sign were lower.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The granting of the variance will not impair the intent and purpose of these regulations. Although the billboard is proposed to be higher than the maximum permitted height of 30 feet above the adjacent roadway surface, billboards are otherwise permitted in the Heavy Industrial zone. The size and setback of the proposed billboard conform with NJMC regulations, and the additional height will not compromise the aesthetics of the surrounding area. The added height in this particular circumstance helps shield its visibility to surrounding properties, lessening the visual impact to the neighborhood, while also providing sufficient reading time for the passing motorist to be considered safe by industry standards.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7ii(1), which requires that a billboard be installed within a right-of-way having a posted speed limit of 55 mph or higher, or within 50 feet thereof. A billboard is proposed 31.15 feet from the Route US 1 & 9T right-of-way; however, the posted speed limit at this location is 45 mph.

Based on the record in this matter, the bulk variance application to install a free standing billboard within a right-of-way with a posted speed limit of 45 mph, whereas a speed limit of 55 mph or higher is required, is hereby recommended for approval subject to the following condition:

1. The static sign face of the proposed billboard sign shall not be illuminated between the hours of 10:00 PM and 6:00 AM.

CONDITIONAL APPROVAL 2-20-14

Recommendation on
Variance Request

Date



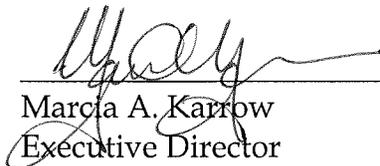
Sara J. Sundell, P.E., P.P.
Director of Land Use Management

conditional approval

Recommendation on
Variance Request

2/20/14

Date



Marcia A. Karrow
Executive Director

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7ii(2), which states that a billboard shall not be permitted within 500 feet of a residential zone or residence. There are numerous residences within 500 feet of the proposed billboard, including residences located along Lewis Avenue and St. Paul's Avenue within Block 6202, and the Jersey City Marion Works Residential Overlay District (MWORD Zone).

Based on the record in this matter, the bulk variance application to install a free standing billboard within 500 feet of a residential zone or residence is hereby recommended for approval subject to the following condition:

1. The easterly face of the billboard, i.e. the sign facing westbound traffic on Truck Route 1 & 9, shall be permitted only as a static sign face.
2. The static face of the proposed billboard sign shall not be illuminated between the hours of 10:00 PM and 6:00 AM.

CONDITIONAL APPROVAL

Recommendation on
Variance Request

2.20.14

Date



Sara J. Sundell, P.E., P.P.
Director of Land Use Management

Conditional approval

Recommendation on
Variance Request

2/20/14

Date

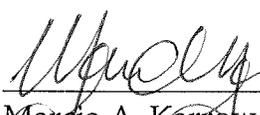


Marcia A. Karrow
Executive Director

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7v, which requires that the maximum permitted height of a billboard shall be 30 feet above the grade level of the adjacent roadway surface. A billboard is proposed 45.11 feet above the roadway surface grade level of Route US 1 & 9T.

Based on the record in this matter, the bulk variance application to install a free standing billboard 45.11 feet above the roadway surface grade level of Truck 1 and 9, whereas the maximum permitted height of a billboard shall be 30 feet above the grade level of the adjacent roadway surface, is hereby recommended for approval.

<u>Approval</u>	<u>2.20.14</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>2/20/14</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director