

**RECOMMENDATION ON THE VARIANCE APPLICATION OF  
BRE/HV / Extended Stay America – Billboard/Variance  
File #13-432**

**I. INTRODUCTION**

An application for three bulk variances has been filed with the New Jersey Meadowlands Commission (NJMC) by Jeffrey W. Gerber, of Interstate Outdoor Advertising, LP, for the premises identified as 300 Route 3 East, Block 108.03, Lot 3, in the Borough of East Rutherford, New Jersey. Said premises is located in the Commission's Commercial Park zone. The bulk variances are sought in connection with the applicant's proposal to install a freestanding 14' x 48' single-faced digital LED billboard 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 ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof. The billboard is proposed to be located at a setback of 15 feet from the Route 3 East South Service Road, which does not have a posted speed limit. Additionally, the proposed billboard is located greater than 50 feet from the portion of the Route 3 East right-of-way (ROW) having a posted speed limit of 55 mph.
2. 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, whereas the applicant proposes to construct a billboard sign with a height of 60 feet above the grade level of the Route 3 East South Service Road.
3. N.J.A.C. 19:4-8.14(h) Table 8-5, which requires a minimum sign setback of fifteen feet from any property line, whereas the applicant proposes a minimum setback of five feet from the westerly side lot line, adjacent to

the property identified as One Meadowlands Plaza, Block 108.03, Lot 1.01, in the Borough of East Rutherford.

A public hearing was held at the Office of the Commission on Tuesday, February 25, 2014. Notice was given to the public and all interested parties as required by law. The public notice of this hearing was published in The Record newspaper. One written comment was received in a letter dated February 7, 2014, from Shannon W. Hill of KBS Capital Advisors, LLC, on behalf of KBS II One Meadowlands, LLC, the owner of the adjoining property at One Meadowlands Plaza, Block 108.03, Lot 1.01, in the Borough of East Rutherford. 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 subject property is located along the New Jersey State Highway Route 3 East South Service Road, which provides connections to and from Route 3, the New Jersey Turnpike, Route 120, and the New Jersey Sports and Exposition Authority (NJSEA) Sports Complex. The property in question contains approximately four acres and is currently improved with a three-story Extended Stay America hotel containing 139 rooms. The property in question is bounded to the west by the One Meadowlands Plaza office building, to the south by a Hilton hotel, and to the east by the New Jersey Turnpike ROW and maintenance facility. The NJSEA Sports Complex is located to the north across Route 3.

The applicant proposes to install a freestanding 14' x 48' single-faced digital LED billboard in the northwesterly corner of the subject property, at a minimum setback of five feet from the westerly side lot line and at a maximum height of 60

feet above the grade level of the Route 3 East South Service Road, necessitating bulk variances from the NJMC District Zoning Regulations.

**B. Response to the Public Notice**

Written comments were received in a letter dated February 7, 2014, from Shannon W. Hill of KBS Capital Advisors, LLC, on behalf of KBS II One Meadowlands, LLC, the owner of the adjoining property at One Meadowlands Plaza, Block 108.03, Lot 1.01, in the Borough of East Rutherford, stating they have no objections to the current plan.

**III. PUBLIC HEARING (February 25, 2014)**

A public hearing was held on Tuesday, February 25, 2014. NJMC staff in attendance were Sara J. 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; and Mia A. Petrou, P.P., AICP, Senior Planner.

**A. Exhibits**

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	Aerial prepared by John McDonough, L.A., P.P., AICP, John McDonough Associates, LLC.
A-2	Site plan (2 sheets) prepared by Daniel W. Caruso, P.E., Grybowski Group, P.C., dated 05/28/2013, and revised through 12/10/2013.
A-3	Site plan (2 sheets) prepared by Daniel W. Caruso, P.E., Grybowski Group, P.C., dated 05/28/2013, and revised through 08/22/2013.

- A-4 Letter dated February 7, 2014, from Shannon W. Hill of KBS Capital Advisors, LLC, on behalf of KBS II One Meadowlands, LLC.
- A-5 NJDOT 2013 Active Permits listing proposed sign on subject property.
- A-6 "Traffic Safety, Environmental, and Visual Impact Study for Outdoor Advertising Sign," prepared by Hal Simoff, P.E., P.P., dated June 26, 2013.
- A-7 "Memo - Outdoor Advertising Sign, New Jersey State Highway Route 3, Block 108.03, Lot 3, East Rutherford, NJ," prepared by Hal Simoff, P.E., P.P., dated December 13, 2013.
- A-8 "Memo - Outdoor Advertising Sign, New Jersey State Highway Route 3, Block 108.03, Lot 3, East Rutherford, NJ," prepared by Hal Simoff, P.E., P.P., dated September 11, 2013.
- A-9 "Viewing Angle Study," prepared by Simoff Engineering Associates.
- A-10 Aerial and site photographs, prepared by Simoff Engineering Associates.
- A-11 Photo exhibit (2 sheets) prepared by John McDonough, L.A., P.P., AICP, John McDonough Associates, LLC, dated February 12, 2014.

**B. Testimony**

Louis L. D'Arminio, Esq., of the firm Price, Meese, Shulman & D'Arminio, represented Interstate Outdoor Advertising, LP, at the hearing. The following witnesses testified in support of the application:

1. Jeffrey W. Gerber, Interstate Outdoor Advertising, LP.
2. Z. Thomas Grybowski, P.E., Grybowski Group, P.C.
3. Hal Simoff, P.E., P.P., Simoff Engineering Associates, Inc.
4. John McDonough, LA, P.P., AICP, John McDonough Associates, LLC

Staff findings and recommendations are based on the entire record. The transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Court Reporter.

**C. Public Comment**

No members of the public were present to comment on the application.

#### 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 ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof.**

The NJMC Zoning Regulations at N.J.A.C. 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 NJMC regulations require that a billboard be installed within a ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof. The subject billboard is proposed to be located at a setback of 15 feet from the Route 3 East South Service Road, which does not have a posted speed limit. Additionally, the proposed billboard is located greater than 50 feet from the portion of the Route 3 East ROW having a posted speed limit of 55 mph.

The subject property is uniquely situated along Route 3, between two access roads and/or ramps leading to and from the New Jersey Turnpike, the NJSEA Sports Complex, and Route 120, with overpasses above Route 3 to the west and to the east of the site. There are only two properties, inclusive of the subject property, with frontage on the Route 3 East South Service Road between these two overpasses. However, the subject property is the only

property where the South Service Road runs parallel to the main travel lanes of Route 3. The proposed billboard sign is positioned to be visible to motorists along the main travel lanes of Route 3 East, and largely will not be visible to motorists on the South Service Road due to the curvature of the roadway and the location of existing trees to the west of the site. These are conditions unique to the property in question.

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

The granting of the requested variance to permit a billboard sign in a location not within a ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof, will not adversely affect the rights of neighboring property owners or residents.

The properties to the west, consisting of an office tower and a high-rise hotel, will not be adversely impacted. The immediately adjacent conditions on the neighboring property at Block 108.03, Lot 1.01, consist of a parking lot and landscaped area used in association with the office building at One Meadowlands Plaza. According to the analysis of the applicant's traffic engineer, the proposed sign will be located at a distance of approximately 369 feet from this office building, and the proposed angle of the billboard sign will be directed to the main travel lanes of Route 3. This positioning will minimize the visibility of the sign to occupants of the office space on the neighboring property. A letter was submitted by the adjoining property owner stating no objection to the proposed sign.

It is not anticipated there will be any adverse impacts to the NJSEA Sports Complex property to the north, across Route 3, which also contains a digital sign along the highway frontage.

There are currently no residences located in the vicinity of the proposed sign. However, a mid-rise residential development, consisting of four residential stories above two levels of parking, is under construction on Block 108.04, Lot 5, approximately 1,500 feet to the west of the proposed billboard sign. It is anticipated that the proposed billboard location will not adversely impact the future residents of this site due to the distance between the properties and the presence of the overpass above Route 3 that would obstruct the view of the proposed billboard.

*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.*

The strict application of the regulations requiring the placement of a billboard sign within a ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof, would result in exceptional practical difficulties and hardship as applied to the particular characteristics of the subject property.

The subject property contains frontage on the Route 3 ROW, which consists of both the main travel lanes and the South Service Road. Although the main travel lanes have a posted speed limit of 55 mph, the South Service Road does not have a posted speed limit,

which, according to the applicant's traffic engineer, infers that the service road's speed limit is less than 55 mph. The closest part of the proposed billboard is located approximately 78 feet from the portion of the Route 3 ROW having a posted speed limit of 55 mph.

However, the proposed billboard is oriented to motorists on the main travel lanes of Route 3 East, and will not be visible to motorists on the South Service Road due to the curvature of the roadway as the sign is approached, as well as the existence of trees located within the sign's cone of vision on the South Service Road.

There are no alternative compliant locations available on the subject property. While moving the sign further to the north would reduce the distance to 63 feet from the main travel lanes, this location would place the sign within the required front yard setback, necessitating an additional variance. This location would also result in the increased visibility of the sign to motorists on the South Service Road, which may pose a potential public safety issue due to the vehicle movements associated with the various roadway and driveway connections on the South Service Road.

The subject application involves an application for a commercial improvement on a commercially-zoned and developed site along a heavily-traveled regional roadway, and is consistent with the intent of the NJMC billboard regulations to orient billboards to highway locations.

- 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 installation of the proposed billboard sign in a location that is not within 50 feet of a ROW having a posted speed limit of 55 mph or greater, will not cause substantial detriment to the public good and will not result in adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare.

The cone of vision of the proposed billboard is primarily within the viewshed of motorists along the main travel lanes of Route 3, which has a posted speed limit of 55 mph. The proposed sign will not be directed to motorists along the South Service Road, and will not be visible to motorists on the South Service Road until approaching the site. Additionally, the applicant has obtained a permit from the NJDOT, which reviews public safety requirements as part of the state permitting process. An NJDOT permit is required to be obtained prior to application to the NJMC for a zoning certificate.

The proposed single-sided digital billboard complies with the maximum permitted billboard sign area required by NJMC regulations, and will comply with NJMC regulations governing the safety of its operations, including automatic dimming technology to adapt to ambient illumination levels, and a minimum time lapse of eight seconds between message changes.

The subject property is fully developed and will not be hindered by the proposed billboard installation. The billboard is proposed to be

located on an open portion of the property and will not interfere with any structures or vehicular use areas. The proposed location will not result in any on-site or off-site impacts to circulation or traffic.

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

The granting of the requested variance to permit the installation of a billboard on the subject premises will not result in any substantial adverse environmental impacts. The billboard is proposed on a developed parcel which is located along a major highway corridor where other digital billboard signs are present. NJMC performance standards will not be exceeded for noise, vibration, airborne emissions, glare, hazardous and radioactive materials and wastewater.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. The requested variance balances the NJMC regulations with specific use and site conditions. The billboard sign is specifically directed to eastbound traffic along the main travel lanes of Route 3, which has a posted speed limit of 55 mph, and there are no other compliant locations available on the property. However, the particular and unique site conditions detailed above make the subject property an appropriate site to accommodate a billboard sign at the specified location, in a zone where billboard uses are permitted. The proposed billboard is

compatible with the improvements on the subject property and other commercial uses in the vicinity. As such, the requested variance represents the minimum deviation from the regulations that will afford relief.

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

The NJMC regulations require that a billboard be installed within a ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof. The subject billboard is proposed to be located at a setback of 15 feet from the Route 3 East South Service Road, which does not have a posted speed limit. Additionally, the proposed billboard is located greater than 50 feet from the portion of the Route 3 East ROW having a posted speed limit of 55 mph.

The intent of this regulation is to ensure that billboard uses are directed to highway sites in appropriate locations and in appropriate zones. The subject site is in the Commercial Park zone, where billboards are a permitted use. The proposed billboard on the site is oriented to motorists on the portion of the Route 3 East ROW having a posted speed limit of 55 mph or greater, and will not be directed toward eastbound motorists on the South Service Road or adjoining properties. No alternative compliant locations are available on the property.

The billboard is a passive use that will not interfere with the existing usage of the site or negatively impact circulation and traffic on the premises or on adjacent properties or roadways. Therefore,

the proposed billboard sign at this particular location will not substantially impair the intent and purposes of the regulations.

**B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7v, which requires the maximum permitted height of a billboard sign to be 30 feet above the grade level of the adjacent roadway surface, whereas the applicant proposes to construct a billboard sign with a height of 60 feet above the grade level of the Route 3 East South Service Road.**

The NJMC Zoning Regulations at N.J.A.C. 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 requested variance to permit the installation of a billboard sign with a height of 60 feet above the grade level of the eastbound lanes of the Route 3 East South Service Road, whereas a maximum height of 30 feet above the grade level of the roadway is permitted, arises from conditions that are unique to the site.

The subject property is uniquely situated along Route 3, between two access roads and/or ramps leading to and from the New Jersey Turnpike, the NJSEA Sports Complex, and Route 120, with overpasses above Route 3 to the west and to the east of the site. There are only two properties, inclusive of the subject property, with frontage on the Route 3 East South Service Road between

these two overpasses. However, the subject property is the only property where the South Service Road runs parallel to the main travel lanes of Route 3. The proposed billboard sign is positioned to be visible to motorists along the main travel lanes of Route 3 East, and largely will not be visible to motorists on the South Service Road due to the curvature of the roadway and the location of existing trees to the west of the site. The additional height is required to provide sufficient viewing time and an adequate cone of vision to allow the sign to be safely viewed by motorists on the main travel lanes of Route 3 East.

These conditions are unique to the property in question and were not created by any action of the property owner or applicant.

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

The granting of the requested variance to permit the installation of a billboard sign with a height of 60 feet above the grade level of the adjacent roadway will not adversely affect the rights of neighboring property owners.

The properties to the west, consisting of an office tower and a high-rise hotel, will not be adversely impacted. The immediately adjacent conditions on the neighboring property at Block 108.03, Lot 1.01, consist of a parking lot and landscaped area used in association with the office building at One Meadowlands Plaza. According to analysis by the applicant's traffic engineer, the proposed sign will be located at a distance of approximately 369

feet from this office building, and the proposed angle of the billboard sign will be directed to the main travel lanes of Route 3. This positioning will minimize the visibility of the sign to occupants of the office space on the neighboring property. A letter was submitted by the adjoining property owner stating no objection to the proposed sign. Additionally, the adjoining property owner has agreed to trim the height of the trees on their property to allow the subject billboard sign to be situated at a 60-foot height, whereas the original application proposed a 75-foot-high sign.

It is not anticipated there will be any adverse impacts to the NJSEA Sports Complex property to the north, across Route 3, which also contains a digital sign along the highway frontage.

There are currently no residences located in the vicinity of the proposed sign. However, a mid-rise residential development, consisting of four residential stories above two levels of parking, is under construction on Block 108.04, Lot 5, approximately 1,500 feet to the west of the proposed billboard sign. It is anticipated that the proposed billboard location will not adversely impact the future residents of this site due to the distance between the properties and the presence of the overpass above Route 3 that would obstruct the view of the proposed billboard.

*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.*

The strict application of the regulations permitting a maximum billboard height of 30 feet above the grade level of the Route 3 East South Service Road would result in practical difficulties and undue hardship upon the applicant and property owner.

The particular characteristics of the property present practical difficulties in the installation of the proposed billboard sign on the site, resulting in a proposed sign height that exceeds the maximum permitted height. In order to accommodate a billboard sign on the subject property, which is a permitted use in the Commercial Park zone, the billboard must be visible to its intended audience of motorists on Route 3 East. The applicant's traffic engineer provided a cone of vision that establishes the appropriate viewing angle and read time that would be required to safely view the sign. If the requested variance was not granted at the specified height, the sign would be obstructed by the presence of existing trees on the westerly property, as well as the existing 28-foot-high sign on the subject premises identifying the Extended Stay America hotel use. The proposed height is required to allow the sign to be safely visible above the existing sign on the premises and the adjoining tree line.

*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.*

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The billboard sign height is proposed at the minimum height required for visibility to motorists on the main travel lanes of Route 3 East, without compromising safety on the highway. The sign height will not impact traffic movement and circulation on or off the site.

The cone of vision of the proposed billboard is primarily within the viewshed of motorists along the main travel lanes of Route 3, which has a posted speed limit of 55 mph. The proposed sign will not be directed to motorists along the South Service Road, and will not be visible to motorists on the South Service Road until approaching the site. Additionally, the applicant has obtained a permit from the NJDOT, which reviews public safety requirements as part of the state permitting process. An NJDOT permit is required to be obtained prior to application to the NJMC for a zoning certificate.

The proposed single-sided digital billboard complies with the maximum permitted billboard sign area required by NJMC regulations, and will comply with NJMC regulations governing the safety of its operations, including automatic dimming technology to adapt to ambient illumination levels, and a minimum time lapse of eight seconds between message changes.

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

The granting of the requested variance will not result in any substantial adverse environmental impacts. The height of the billboard will not cause the NJMC's performance standards for noise, vibration, airborne emissions, glare, or hazardous materials to be exceeded. Illumination of the sign will meet all NJMC requirements. The billboard is proposed on a developed parcel which is located along a major highway corridor where other digital billboard signs are present.

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

The billboard height of 60 feet above the grade level of the Route 3 East South Service Road is the minimum necessary to be legible and visible to motorists, without compromising driver safety. The initial application for the subject billboard proposed a height of 75 feet above the adjacent roadway surface. The applicant and the adjoining property owner agreed to trim the height of the trees on the adjoining property to the west, at Block 108.03, Lot 1.01, which allowed the application to be amended to provide for a lower sign height of 60 feet.

As such, the requested variance represents the minimum deviation from the regulations that will afford relief.

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

The requested variance will not substantially impair the intent and purpose of the regulations. Although the sign is proposed to be higher than the maximum permitted height of 30 feet above the surface of the Route 3 East South Service Road, the proposed height does not cause any negative visual impact for the surrounding community. The sign is directed toward drivers on the main travel lanes of Route 3 East, and is required to establish a safe viewing condition to the proposed billboard sign. The appearance of the surrounding area is not compromised, as the billboard will have minimal visual impact to adjoining properties or travelers on the South Service Road.

**C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h) Table 8-5, which requires the minimum sign setback to be 15 feet from any property line, whereas the applicant proposes a minimum setback of five feet from the westerly side lot line, adjacent to the property identified as One Meadowlands Plaza, Block 108.03, Lot 1.01, in the Borough of East Rutherford.**

The NJMC Zoning Regulations at N.J.A.C. 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 uniquely situated along Route 3, between two access roads and/or ramps leading to and from the New Jersey Turnpike, the NJSEA Sports Complex, and Route 120, with overpasses above Route 3 to the west and to the east of the site. There are only two properties, inclusive of the subject property, with frontage on the Route 3 East South Service Road between these two overpasses. However, the subject property is the only property where the South Service Road runs parallel to the main travel lanes of Route 3. The proposed billboard sign is positioned to be visible to motorists along the main travel lanes of Route 3 East, and largely will not be visible to motorists on the South Service Road due to the curvature of the roadway and the location of existing trees to the west of the site.

The requested variance to permit a billboard sign setback of five feet, whereas 15 feet is the minimum required side yard setback for a proposed billboard sign, arises from these conditions, which are unique to the property in question and were not created by any action of the property owner or applicant. The proposed setback is required to allow the sign to be optimally positioned, in a manner that would provide sufficient viewing time and an adequate cone of vision to allow the sign to be safely viewed by motorists on the main travel lanes of Route 3 East.

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

The granting of the requested variance to permit a billboard sign within five feet of the westerly property line will not adversely affect the rights of neighboring property owners.

The properties to the west, consisting of an office tower and a high-rise hotel, will not be adversely impacted. The immediately adjacent conditions on the neighboring property at Block 108.03, Lot 1.01, consist of a parking lot and landscaped area used in association with the office building at One Meadowlands Plaza. According to analysis by the applicant's traffic engineer, the proposed sign will be located at a distance of approximately 369 feet from this office building, and the proposed angle of the billboard sign will be directed to the main travel lanes of Route 3. This positioning will minimize the visibility of the sign to occupants of the office space on the neighboring property. A letter was submitted by the adjoining property owner stating no objection to the proposed sign.

*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.*

The strict application of the regulations requiring the billboard sign to be set back fifteen feet from the westerly property line would result in practical difficulties and undue hardship upon the applicant and property owner.

The location of existing improvements on the site impacts the applicant's ability to provide a conforming setback. The majority of

the subject property's frontage along the Route 3 East South Service Road contains the site's drainage facilities, including a detention basin and ditches. The billboard sign is proposed at the property's northwesterly frontage, to the west of the detention basin, which brings the sign face to within five feet of the westerly property line. The proposed location is the most suitable location to accommodate the proposed billboard sign, as it avoids interference with the site's drainage features and other improvements, including the access driveways, existing trees and landscaping, and the existing 28-foot-high sign identifying the Extended Stay America hotel use on the property. Therefore, alternative compliant locations that are suitable to accommodate a billboard sign are not available.

*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.*

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The proposed sign setback of five feet from the westerly side yard, will not negatively impact the safety of drivers on Route 3. Additionally, the sign setback will not impact circulation or impede existing operations on the premises or adjoining properties. The proposed setback allows the sign to be optimally positioned toward the intended audience of motorists along the main travel lanes of Route 3 East. Additionally, the applicant has obtained a permit from the NJDOT, which reviews public safety requirements as part of the state permitting process.

An NJDOT permit is required to be obtained prior to application to the NJMC for a zoning certificate.

The proposed single-sided digital billboard complies with the maximum permitted billboard sign area required by NJMC regulations, and will comply with NJMC regulations governing the safety of its operations, including automatic dimming technology to adapt to ambient illumination levels, and a minimum time lapse of eight seconds between message changes.

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

The granting of the requested variance to permit a billboard sign within five feet of the westerly property line will not result in any substantial adverse environmental impacts. Rather, the proposed sign setback from the westerly property line avoids impacts to drainage features that occupy the majority of the site's frontage on the Route 3 East South Service Road. The proposed sign setback will not cause the NJMC's performance standards for noise, vibration, airborne emissions, glare, or hazardous materials to be exceeded. Illumination of the sign will meet all NJMC requirements. The billboard is proposed on a developed parcel which is located along a major highway corridor where other digital billboard signs are present.

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

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

Although the sign is proposed to be located within five feet of the side lot line, the total side yard setback of the sign ranges from five feet to 25 feet due to the angle of the sign required to establish the appropriate cone of vision for motorists to safely view the proposed sign. The proposed side yard setback of the billboard sign at the site's frontage is a compliant 25 feet, and the front yard setback also complies at 15 feet. The sign's support pole is set back approximately 12 feet from the side lot line.

The proposed setback does not create any negative visual impacts or conflicts with improvements on the subject site or adjacent properties, as the bottom of the sign face within the side yard setback is at a height of 47 feet above grade. While a conforming setback could be achieved by placing the sign within areas used for the site's drainage facilities, this is not a preferred alternative. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

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

The intent and purpose of the application of setback requirements to signage is to provide adequate separation of signage from rights-of-way in order to minimize visual impact and promote safety. The requested variance will not substantially impair this intent and purpose of the regulations.

Although the sign is proposed to be located closer to the westerly property line than permitted, the proposed setback does not negatively impact drivers on Route 3 or the South Service Road, as the side yard setback of the billboard sign at the site's frontage is a compliant 25 feet. The proposed setback does not create any negative visual impacts or conflicts with improvements on the subject property or adjacent properties, as the bottom of the sign face within the side yard setback is at a height of 47 feet above grade. Similarly, the setback does not negatively impact the aesthetic environment along Route 3, where other digital billboards are present. The appearance of the surrounding area will not be compromised by the proposed setback.

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 ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof.**

Based on the record in this matter, the bulk variance application to permit a billboard sign with a setback of 78 feet from the portion of the Route 3 ROW having a posted speed limit of 55 mph or higher, is hereby recommended for approval.

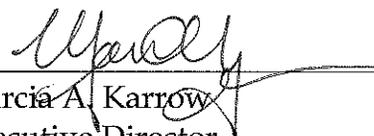
<u>APPROVAL</u>	<u>5.8.14</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>5-8-14</u>	
Recommendation on Variance Request	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)7v, which requires the maximum permitted height of a billboard sign to be 30 feet above the grade level of the adjacent roadway surface, whereas the applicant proposes to construct a billboard sign with a height of 60 feet above the grade level of the Route 3 East South Service Road.**

Based on the record in this matter, the bulk variance application to permit a billboard sign with a height of 60 feet above the grade level of the Route 3 East South Service Road is hereby recommended for approval.

<u>APPROVAL</u>	<u>5.8.14</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>5/8/14</u>	
Recommendation on Variance Request	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) Table 8-5, which requires the minimum sign setback to be fifteen feet from any property line, whereas the applicant proposes a minimum setback of five feet from the westerly side lot line, adjacent to the property identified as One Meadowlands Plaza, Block 108.03, Lot 1.01, in the Borough of East Rutherford.**

Based on the record in this matter, the bulk variance application to permit a minimum billboard setback of five feet from the westerly side property line is hereby recommended for approval.

APPROVAL

Recommendation on  
Variance Request

5-8-14

Date



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

Approval

Recommendation on  
Variance Request

5-8-14

Date



Marcia A. Karrow  
Executive Director