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**Subject:** Pattison Outdoor Advertising Request for Variance to Regional Sign By-law 122-2013

**Report to:** Public Works Committee

**Report date:** Tuesday, March 10, 2020

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## Recommendations

1. That Council **GRANT** a minor variance pursuant to section 24 from the requirements of Sign By-law No. 122-2013 to allow Pattison Outdoor Advertising to install a two-panel billboard sign with a digital panel at the property of 652 River Road, City of Welland at a 7m setback from the Woodlawn Road street line, subject to the condition that Pattison Outdoor Advertising agrees to remove and relocate the sign to comply with By-law at its sole cost upon notice from the Region if required in the event of a future road widening or expansion of Woodlawn Road or otherwise for municipal purposes.

## Key Facts

- Regional Sign By-Law 122-2013 requires a 10m setback from the edge of the street line to the sign. Pattison Outdoor Advertising is seeking a variance for the installation of a two-panel billboard sign at 652 River Road in the City of Welland with a 7m setback.
- Part IX (Administration and Enforcement) section 24 of Regional Sign By-Law 122-2013 permits Regional Council to authorize a minor variance from the requirements within the By-Law.
- The proposed sign would be more than 22m away from the traveled portion of the roadway but 7m away from the Regional property line/street line of Woodlawn Road.
- The sign facing east will contain a digital method of display with no moving animation, while the sign facing west will be a static paper based sign.
- There is currently no billboard sign at 652 River Road in the City of Welland, however, one did previously exist but was removed by Pattison Outdoor Advertising in April of 2015.

- The property where sign is proposed is zoned as commercial, with no residential properties close by. Prior to 2015 when a billboard owned by Pattison Outdoor Advertising was in place, there is no history of complaints by the general public.

## **Financial Considerations**

There are no financial implications.

## **Governmental Partners**

Pattison Outdoor Advertising will be required to obtain approvals from the City of Welland with regards to section 7.6.2 of the Welland By-Law stipulating setbacks from a property.

## **Analysis**

Section 11.(a) of The Regional Municipality of Niagara By-Law No. 122-2013 permits the Commissioner to issue a sign permit for a billboard sign provided it is placed a minimum distance of 10.0 m from the street line. Section 24 of the By-Law permits Regional Council to authorize a minor variance from the requirements within the By-Law. A copy of the by-law is attached as Appendix 1.

Staff met with Pattison Outdoor Advertising on site to observe the proposed location of the billboard and informed them that the Sign By-Law prohibits any sign structures within a 10m setback from the street line. Pattison Outdoor Advertising is requesting a variance to the by-law due to the inability to move the structure further into private property. A copy of the letter from Pattison Outdoor Advertising requesting the variance is attached as Appendix 2.

Pattison Outdoor Advertising previously installed a double-sided (paper posted) billboard at 652 River Road, however, it was removed in April 2015. They are now requesting a new installation with a 7m setback from the street line, which would still provide a 22m setback from the travelled portion of the roadway, and a 45m setback from the center median.

The current regional property line in this section of roadway stretches 22m from the edge of traveled portion of the roadway, thus removing any potential conflict with the sign. In discussion with Staff, Pattison Outdoor Advertising have indicated that they would be prepared to agree to remove and relocate the sign to comply with the by-law

at their sole cost in future if required for purposes of any future widening or road expansion. Staff are prepared to support their request as a minor variance from the requirements of the By-law subject to this condition.

### **Alternatives Reviewed**

Pattison Outdoor advertising has stated that moving the sign further into private property is not a favourable solution for them.

### **Relationship to Council Strategic Priorities**

This report is being brought forth as a request by Pattison Outdoor Advertising as the proposed sign provides a medium for local and national businesses to promote themselves in a digital manner and support economic development. The recommendation relates to council's strategic plan to provide sustainable and engaging government by promoting an organizational culture that values continuous improvement, collaboration, and innovation.

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#### **Prepared by:**

Petar Vujic  
Road Safety and Permits Program Manager  
Public Works Department

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#### **Recommended and Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer /  
Commissioner Public Works Department

*This report was prepared in consultation with Carolyn Ryall, Director Transportation Services.*

### **Appendices**

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|------------|--|
| Appendix 1 | The Region of Niagara Sign By Law No. 122-2013 |
| Appendix 2 | Correspondence from Applicant                  |

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 122-2013

SIGN BY-LAW

WHEREAS Section 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25, authorizes the Regional Municipality of Niagara to pass by-laws respecting Regional roads;

AND WHEREAS Section 4(7)(i) of *Municipal Act*, 2001, S.O. 2001, c. 25, authorizes the Regional Municipality of Niagara to prohibit or regulate the placement or erection of any sign or advertising device within 400 metres of the limit of a Regional road;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF NIAGARA ENACTS AS FOLLOWS:

**PART I – DEFINITIONS**

1. The following terms are defined for the purposes of this By-law:
  - a) “Area municipality” means any one of the municipality or corporation of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, or Township of West Lincoln;
  - b) “Awning” means a light detachable structure with a skin of flexible material, which is entirely supported from a building;
  - c) “Banner sign” means a sign made of cloth, plastic or similar light weight non-rigid material containing copy relating to a charitable, community or municipal matter or event and placed within the limits of a Regional road with the approval of the Commissioner;
  - d) “Billboard sign” means an outdoor sign placed and maintained on a property by a person engaged in the sale or rental of the space on the sign to a client, upon which space is displayed copy that advertises a business, goods, products, or services not necessarily sold or offered or conducted on the property, but does not include a temporary sign;
  - e) “Canopy” means a rigid roof-like structure which is entirely supported from a building;

- f) “Commissioner” means the Commissioner of Public Works or his/her designate;
- g) “Copy” means the wording, letters, numerals, symbols, graphics, images and artwork on a sign;
- h) “Driveway” means that portion of a lot designed to provide vehicles access from the lot to the travelled portion of a Regional road;
- i) “Election sign” means a sign advertising any person or political party participating in an election for public office;
- j) “Electronic sign” means a sign that displays and changes copy by electronic means;
- k) “Facia sign” means a sign attached to or affixed to the wall of a building or structure and includes a sign attached to or affixed to the surface of an awning or canopy;
- l) “Grade” means the elevation of the ground directly beneath a sign;
- m) “Ground sign” means a sign permanently affixed to the ground by structure;
- n) “Interior sign” means a sign placed inside a building or on a lot or building and is not visible from or intended to be visible from the Regional road;
- o) “Lot” means a parcel of land having specific boundaries, which is capable of legal transfer;
- p) “Municipal law enforcement officer” means a by-law enforcement officer appointed by the Region or an area municipality;
- q) “Official sign” means a sign placed:
  - i. By or under the jurisdiction of the Commissioner; or
  - ii. Under the authority of a statute, by-law, or provincial or federal authority to regulate or prohibit the movement of pedestrians, cyclists or vehicles or to warn or guide pedestrians, cyclists, or the drivers of vehicles;
- r) “Owner” means any person described on the sign, or whose name or address or telephone number appears on the sign, or who installed the sign, or who is in lawful control of the sign, or who benefits from the

message on the sign, and for the purposes of this By-law there may be more than one owner of a sign;

- s) “Person” includes but is not limited to an individual, sole proprietorship, partnership, association or corporation;
- t) “Place” when used as a verb means to attach, install, erect, locate, build, construct, reconstruct, move, display, paint, inscribe or affix;
- u) “Premises” means a lot or building;
- v) “Projecting sign” means a sign attached at one end to a building or structure and generally extending perpendicular outward there from, but shall not be a facia sign;
- w) “Region” means The Regional Municipality of Niagara;
- x) “Regional road” means a road under the jurisdiction of the Region;
- y) “Road” includes but is not limited to a common and public highway or street, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- z) “Sign” means any device, object or thing that is designed to convey a message that is placed for the purposes of advertising, identifying, announcing, directing or promoting any idea, event, activity, product, service or facility, identifying any business or enterprise, or conveying any other type of message;
- aa) “Street line” means the boundary of a lot dividing the lot from a Regional road or a road under the jurisdiction of an area municipality;
- bb) “Temporary sign” means a sign displayed for a specific limited period of time on the untraveled portion of a Regional road.

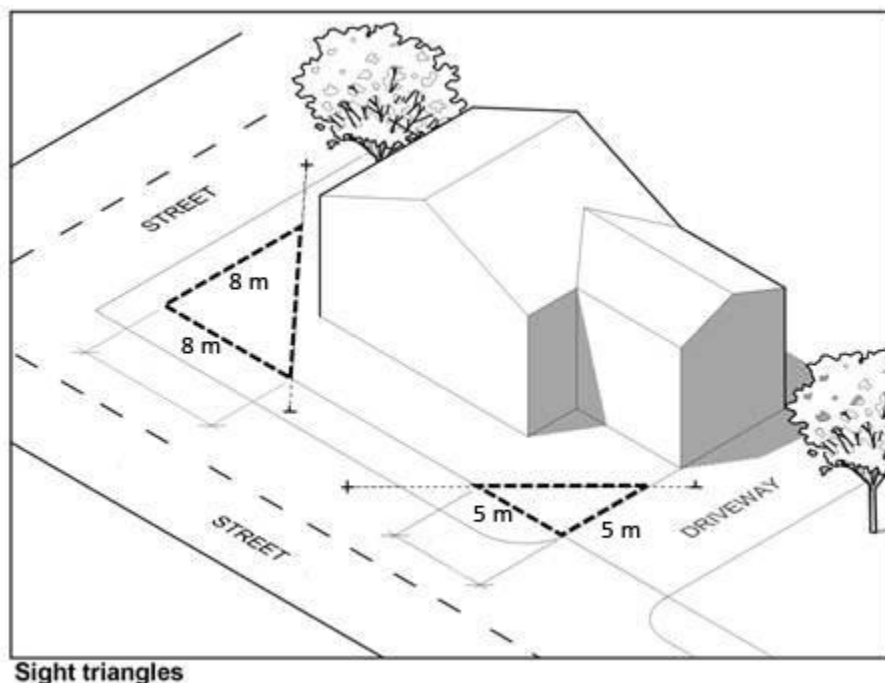
## **Part II**

- 2. No person shall place or permit to be placed on a Regional road a sign other than an official sign or a sign permitted by this By-law.
- 3. No person shall place or permit to be placed on a Regional road a sign that is not an official sign and that:
  - a) Has any part of the sign located within a roadway, shoulder, median, planning bed, drain, ditch or watercourse;

- b) Resembles an official sign or a traffic control signal or device in colour, shape, wording, content, operation, or location;
  - c) Impacts the function of the road by:
    - i. Creating a safety hazard;
    - ii. Impeding or obstructing municipal maintenance or construction operations;
    - iii. Impeding access to or obstructing a fire hydrant;
    - iv. Impeding or obstructing the passage of pedestrians where they are reasonably expected to walk;
    - v. Impairing or obstructing the visibility of vehicular or pedestrian traffic or a railway crossing;
    - vi. Obscuring or detracting from the visibility or effectiveness of an official sign or a traffic control signal;
  - d) Is painted onto, affixed by an adhesive, tape or wire onto:
    - i. A tree, shrub or any other natural object;
    - ii. A utility box, traffic signal control box, bridge, guiderail or any other road structure;
    - iii. A transit shelter or any other piece of street furniture;
    - iv. An official sign;
    - v. The support of a luminaire, official sign, or any other traffic control device.
4. No person shall place or allow an election sign to be placed on a Regional road.
5. On a lot adjacent to a Regional road, no person shall place a ground sign within 1.0 metre of the street line.
6. On a lot adjacent to a Regional road, no person shall place a sign within a visibility triangle determined as follows:
- a) In the case of a driveway, the visibility triangle shall be the area enclosed by a line along the limits of the driveway and the street line measured to a

point 5.0 metres back from the intersection of the street line and the limit of the driveway;

- b) Notwithstanding section 6.(a), a sign that does not exceed 1.2 metres in height may be placed in the visibility triangle provided it is placed a minimum distance of 2.0 metres from the street line;
- c) In the case of an intersection of a road with a Regional road, the visibility triangle shall be the area enclosed by each of the street lines measured to a point 8.0 metres back from the intersection of the street lines.



### Part III – Signs Requiring Permits

- 7. Except as provided in Part IV of this By-law, no person shall place a sign on a Regional road or within 20.0 metres of the centre line of a Regional road without first having obtained a permit for the sign from the Commissioner.
- 8. Every application for a permit under this By-law shall be made on the form provided by the Commissioner and shall be accompanied by any plans, drawings and other information as the form may prescribe.
- 9. Every person applying for a permit shall pay the application fee approved by Regional Council.



10. Banner Sign

- a) The Commissioner may issue a permit for a banner sign provided the sign:
  - i. Does not in any way obstruct or adversely affect the visibility or operation of a traffic control device;
  - ii. Is mounted and placed securely in accordance with any requirements and conditions the Commissioner may require.
- b) The Commissioner may issue a permit for a banner sign that contains an expiry date for the permit, after which time the banner must be removed.
- c) The applicant for a permit for a banner sign shall satisfy the insurance and liability requirements of the Region.

11. Billboard Sign

- a) The Commissioner may issue a permit for a billboard provided it is placed a minimum distance of 10.0 metres from the street line.

12. Electronic Sign

- a) The Commissioner may issue a permit for an electronic sign provided:
  - i. The individual copy is displayed by the sign for a minimum of 15 seconds without any change in the copy and the sign displays the copy without any motion, animation or other visual effect that creates the illusion of motion;
  - ii. The sign incorporates a sensor linked to the software controlling the sign's electronic display in order that the brightness of the sign is automatically adjusted in relation to ambient light conditions;
  - iii. The luminance from the sign shall not exceed 0.3 foot candles (3 lux) above the ambient light level as measured when the sign display goes to dark or black.

13. Projecting Sign

- a) The Commissioner may issue a permit for a projecting sign provided:
  - i. The projecting sign maintains a minimum vertical clearance of 2.5 metres from grade to the lowest part of the sign;

- ii. The owner of the sign satisfies the insurance and liability requirements of the Region.

#### **Part IV – Signs Exempt from Permits**

14. No person shall require a permit to place the following signs provided all other provisions of this By-law are complied with:
- a) A sign not exceeding 0.2 square metres in area that identifies the name, address and profession of the occupant ;
  - b) An interior sign;
  - c) A fascia sign that does not project more than 45 centimetres into a Regional road;
  - d) A temporary sign placed on a public sidewalk on a Regional road provided the following requirements are satisfied:
    - i. The size of the temporary sign is a maximum height of 0.9 metres and a maximum of 0.6 metres in width;
    - ii. The setback of the building containing the business the temporary sign from the street line is not greater than 0.6 metres;
    - iii. The temporary sign is only placed on the sidewalk in front of the premises where the business it is advertising operates;
    - iv. The temporary sign is placed on the sidewalk only during the actual hours of operation of the business it is advertising;
    - v. The temporary sign is not placed in a manner that restricts the free and safe movement for any pedestrian, vehicle or other conveyance on the sidewalk, or in any manner impedes vision and in no case shall less than 1.2 metres width of unobstructed sidewalk be maintained.
  - e) A sign advertising or providing directions to the on-farm sale of produce or any other thing grown on the farm provided such sign is in compliance with the applicable area municipality's sign by-law and is not placed on the Regional road;
  - f) A sign advertising the sale or lease of premises provided such sign is in compliance with the applicable area municipality's by-law and is not placed on the Regional road.

## **Part V – Existing Signs**

15. Nothing in this by-law applies to an existing sign that is lawfully placed on the day this by-law comes into force, so long as the sign is not in any way altered.
16. The maintenance and repair of the sign or change in copy shall not be deemed to constitute an alteration.

## **Part VI - Conflicts with Area Municipality By-laws**

17. In the event there is a conflict between any provision of this by-law and the provision of any by-law of an area municipality, the provisions of this by-law shall prevail, provided however, that no area municipality shall be prevented in any way from enforcement of those provisions of its by-law which exceed the requirements of this by-law or are more restrictive than the provisions of this by-law.

## **Part VII – Removal**

18. Any person or owner who places or permits to be placed a sign that does not comply with this By-law is required to modify the sign to comply with the By-law or remove the sign forthwith and restore the sign location to a condition satisfactory to the Commissioner.
19. If the person or owner required to modify or remove a sign under section 18 of this By-law fails to do so, then the Commissioner, a municipal law enforcement officer, or a police officer may immediately remove it, without notice or compensation to and at the risk of its owner.
20. If the person or owner required to restore a sign location under section 18 of this By-law fails to do so, then the Commissioner may restore the location.
21. The Region and a local municipality may recover the expense for the removal, transportation and disposal of a sign and for the restoration of the sign location from the owner under section 18 of this By-law by court action or in like manner as municipal taxes.

## **Part VIII – Penalty**

22. Every person or owner who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

## **Part IX – Administration and Enforcement**

23. The Commissioner is responsible for the administration of this By-law.

24. Regional Council may authorize a minor variance from the requirements of this By-law.
25. This By-law may be enforced by the Commissioner, a municipal law enforcement officer or a police officer.
26. Nothing in this by-law exempts a person from complying with any other by-law or requirement of a municipality, government or agency having the authority to deal with a matter related to a sign.
27. If any provision of this By-law is declared invalid for any reason by a court of competent jurisdiction, only that invalid portion of the By-law shall be severed and the remainder of this By-law shall be deemed to be separate and independent and shall continue in full force.
28. The short title of this By-law is the "Sign By-law".
29. This By-law shall come into force and effect on the date of passage by Regional Council.
30. By-law Number 2705-80 of the Region shall be repealed effective on the coming into force of this By-law.

THE REGIONAL MUNICIPALITY OF NIAGARA

*Original Signed By:*

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(Gary Burroughs, Regional Chair)

*Original Signed By:*

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(Janet Pilon, Regional Clerk)

Passed: October 10, 2013



November 19, 2019

Public Works Committee  
1815 Sir Isaac Brock Way  
Thorold ON, L2V 4T7

**RE: Sign Variance Application – 652 River Rd., Welland ON**

Dear Committee Members,

Please accept this letter as our formal application for a minor variance to the Regional Sign By-law 122-2013. Our application is seeking approval for one new billboard with two sign faces, located at 652 River Road. The sign face directed east will contain a digital method of display, while the sign face directed west will contain a static (paper posted) method of display. The property is zoned “Gateway Economic Centre” (GEC-14).

The sign will be directed towards traffic travelling along east and west along Woodlawn Road (Regional Road 41), with dimensions of 3.05 metres vertically by 6.1 metres horizontally (or approximately 10 feet by 20 feet). The height will be approximately 8.0 metres (or approximately 26 feet, 3 inches) from grade.

The property currently contains a one-storey building with multiple commercial tenants, as well as a gas station with associated parking spaces. The tenants include a Tim Horton’s, a gym and a convenience store.

We are seeking one variance from Section 11(a) of the By-law: *billboards must maintain a minimum distance from the regional street property line.*

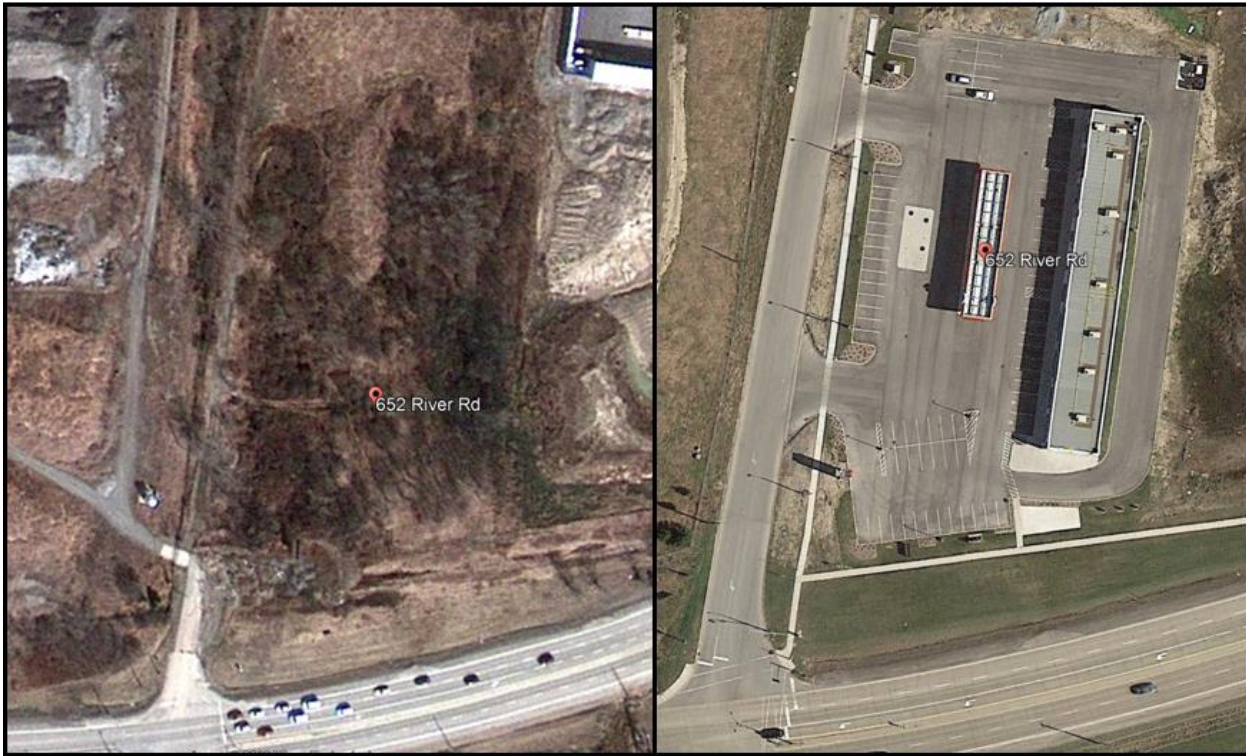
We believe the variance being requested is minor in nature, and can be granted because the proposed sign will have no negative impacts on the streetscape, the property or the surrounding uses. The electronic method of display is an effective communication tool for local and national businesses to promote goods, products and services, and will be managed responsibly to ensure it remains compatible with surrounding uses.

**History of the Property**

Pattison previously owned and operated a double-sided static (paper posted) billboard at 652 River Road since 1995, until the sign was removed April 30, 2015. Over this 20-year period, Pattison did not receive any complaints from commuters or members of the public. Pattison facilitated the removal of this sign to allow for development of the property, which has now been completed (See Figure 1 on the following page).



**Figure 1 – Property in 2010 (left) compared to 2018 (right)**



### **Variance Required for Setback from a Regional Road**

Section 11(a) of the Regional Sign By-Law requires a minimum setback from a regional road of 10 metres. We are requesting the proposed sign to have a setback of 7.0 metres from the adjacent regional road (Woodlawn Road).

We believe this variance can be granted because the setback of the proposed sign from the travelled portion of Woodlawn Road of 22 metres. This is much greater than the required 10-metre setback, and based on this distance, we believe that commuters travelling along Woodlawn Road will not be impacted. The 22 metres between the travelled portion of Woodlawn Road and the proposed sign provides ample space to expand Woodlawn Road, further demonstrating that the proposed sign have no negative impacts on the potential future development of Woodlawn Road.





Figure 2 – Setbacks from Woodlawn RD (Regional Rd 42)



As can be seen in Figure 2 above, the setback from the median of Woodlawn Road is approximately 45 metres (or 147 feet). Section 7 of the Regional Sign By-law requires signs to be a minimum of 20 metres (or approximately 65 feet) from the center line of a regional road. The proposed sign is more than double the required setback from the median of Woodlawn Road.

Another factor that does not allow for the proposed sign to meet the required setback of 10 metres is the recent development of the property. The new parking area is approximately 7.5 metres from the property line. Placing the proposed sign at 10 metres from the property line would locate the supporting pole in the parking area. This would represent a potential safety hazard for visitors and we believe this is another reason that the requested variance can be granted.

The proposed sign will comply with every other requirement set out in the Regional Sign By-Law, including the illumination provisions for electronic signs set out in Section 12(a)(i). The proposed sign will be monitored 24-7 by video camera.



The proposed sign will provide a medium for local and national businesses to promote themselves and advertise their goods and services, contributing to future economic growth. We note that there are no sensitive land uses at the property or within the surrounding area.

In summary, we truly believe that the proposed sign conforms to the general intent and purpose of the Regional Sign By-Law, and that the requested variances can be granted as they are minor in nature. Thank you for your time and consideration of this application. Please do not hesitate to contact me if you have any questions or comments about our proposal.

Regards,

Brandon Lincz  
Leasing Representative, Pattison Outdoor  
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