

IAAT Services, LLC
41 Grand Avenue, River Edge
Block 1405, Lot 4

**BOROUGH OF RIVER EDGE
MUNICIPAL LAND USE BOARD
RESOLUTION
DENYING APPLICATION FOR AMENDED PRELIMINARY AND FINAL SITE PLAN
APPROVAL
TO IAAT SERVICES, LLC FOR
41 GRAND AVENUE, RIVER EDGE, NJ
BLOCK 1405, LOT 4**

WHEREAS, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

WHEREAS, IAAT Services, LLC (the "Applicant") filed an application with the Municipal Land Use Board of the Borough of River Edge (the "Board") for property known as Block 1405, Lot 4 on the tax map of the Borough of River Edge, located at 41 Grand Avenue (the "Property"), for preliminary and final site plan approval and variance relief to construct a 60' tall "V" shaped, two sided static Billboard with two signs measuring 14' by 48' (672 SF), and associated site improvements (the "Application"); and

WHEREAS, the Board deemed the Initial Application complete on May 28, 2025 and public hearings were conducted in accordance with the Municipal Land Use Law and the Open Public Meetings Act on July 9, 2025, September 24, 2025, December 10, 2025, January 28, 2026 and February 25, 2026; and

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WHEREAS, the Applicant was represented by The Law Office of Stephen P. Sinisi, Esq., LLC through Stephen P. Sinisi, Esq., and Robert L. Falkenstern, Esq., Two Sears Drive, 2nd Floor, Paramus, New Jersey 07653; and

WHEREAS, the Application requires bulk variances under N.J.S.A. 40:55D-70(c) for maximum lot coverage, 80% allowed, 95.4% existing, 95.55% proposed, front yard setback of 30' required and 10.78' proposed, minimum side yard setback of 15' required and 10' proposed, and minimum rear yard setback of 20' required and 17.86' proposed, 24/7 lighting which is prohibited by Ordinance 416-48.B which limits sign lighting after 11 p.m. or the close of business (whichever is later) and projection of signage into a required yard in violation of Ordinance 416-45.B; and

WHEREAS, the Application also requires a use variance, because billboards, which are defined under Ordinance 350-3, as "A sign which directs attention to a business, commodity, service, entertainment or attraction conducted, sold or offered elsewhere than upon the lot on which such sign is located" are not permitted under Ordinance 416-44 and are not expressly permitted in the C-2 Zone; and

WHEREAS, the proposed billboard would also constitute a second principal use and principal structure on the property

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which is not listed as permitted principal use in the C-2 Zone where the property is located, necessitating further variance relief; and

WHEREAS, the C-2 Zone has a maximum height allowance of 35' and the proposed billboard is 60' a variance under N.J.S.A. 40:55D-70(d)(6) is required; and

WHEREAS, several objectors appeared, represented by counsel, specifically:

- (a) Charles H. Sarlo, Esq., on behalf of Dark Star Development, LLC the owner of 335 Johnson Avenue and Let-It-Grow, Inc, the proposed tenant of said property,
- (b) Timothy Corrison, Esq. and Jeffrey Cheney, Esq., of Connell Foley, LLP, on behalf of Route 4- Main Street, LLC, the Estate of E. Tamburelli- Trust B, and 41 Grand Avenue, LLC, the owners of nearby properties, and
- (c) Robert Peckar, Esq., and Christopher Kinzel, Esq., of Pekar and Abramson, PC on behalf of Pekar and Abramson, PC which maintains offices in close proximity to the subject property at 70 Grand Avenue, River Edge, New Jersey; and

WHEREAS, the Applicant presented testimony of its Engineer, William R. Vogt, PE, who was sworn and accepted as an expert in

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his field at the hearings of July 9, 2025 and September 24, 2025; and

WHEREAS, the Applicant presented testimony of its Traffic Engineer, Hal Simoff, PE, who was sworn and accepted as an expert in his field at the hearing of September 24, 2025; and

WHEREAS, the Applicant presented testimony of its Professional Planner, John McDonough, PP, who was sworn and accepted as an expert in his field at the hearings of September 24, 2025 and January 28, 2026; and

WHEREAS, Charles Sarlo, Esq., on behalf of objectors Dark Star Development, LLC and Let-It-Grow, Inc presented testimony of their professional planner, Peter Steck, PP, PE, who was sworn and accepted as an expert in his field at the hearing of February 25, 2026, and

WHEREAS, Charles Sarlo, Esq., on behalf of objectors Dark Star Development, LLC and Let-It-Grow, Inc presented testimony of their professional architect, Victor Filletti, RA, who was sworn and accepted as an expert in his field at the hearing of February 25, 2026, and

WHEREAS, the Board's Planner, Thomas Behrens, PP, AICP ("Mr. Behrens") of Burgis Associates, Inc., 25 Westwood Avenue, Westwood, NJ 07675, was present at the each of the public

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hearings and provided commentary and offered questions to assist the Board; and

WHEREAS, the Borough Engineer, Robert L. Costa, P.E., P.P. & C.M.E. ("Mr. Costa") of Costa Engineering Corporation, 325 South River Street, Suite 302, Hackensack, NJ 07601, was present at public hearings and offered commentary and questions on behalf of the Board; and

WHEREAS, the public was given an opportunity to ask questions and/offer comments but none other than counsel referenced above appeared; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for the initial public hearings to all persons owning properties within 200 feet from the extreme limits of the subject property of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as amended and supplemented, and the Municipal Land Use Law (the "MLUL"), N.J.S.A. 40:55D-1 to -163; and

WHEREAS, the Applicant submitted proof that a copy of said notification was published at least 10 days prior to the date

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set forth for the initial public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented and the MLUL; and

WHEREAS, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

WHEREAS, the Applicant submitted an application package and the following plans, drawings and reports in support of its Application which included:

A-1 Letter dated May 21, 2025 from Applicant's counsel addressing constitutional issues;

A-2 Site Survey, prepared by William C. Buchok PLS, comprised of 1 page, dated January 1, 2025;

A-3 DOT Letter Permit dated December 26, 2024, expired May 15, 2025;

A-4 Site Plan, prepared by William R. Vogt, PE, consisting of 3 pages, revised April 21, 2025;

A-5 Arial image from Google Earth showing the subject property;

A-6 Arial image showing the subject property;

A-7 Updated Survey, 1 sheet, revised July 10, 2025;

A-8, 3 pages letter;

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A-8a Colorized site plan sheet C-02, dated September 2,
2025;

A-9 Lighting Exhibit;

A-10 Helmet Camera Video;

A-11 NJDEP Flood Hazard Determination;

A-12 Traffic Report from Hal Simoff, June 5, 2025; and

WHEREAS, in addition to the above, the Board considered
following documents and correspondence:

- Zoning Review dated April 12, 2025, issued by Stephan Depken, Construction Official/Zoning Officer of the Borough of River Edge, advising that per section 416-44 the proposed billboard is not a permitted use;
- Completed Application signed by Isabel Amado, Managing Member of IAAT Services LLC, dated April 22, 2025, with Rider of colorized photos and renderings;
- Letter dated May 14, 2025 from Applicant's counsel enclosing proof of public notice;
- Letter dated April 29, 2025 from Applicant's counsel with revised rider with planning justifications;
- May 22, 2025 Memorandum from Thomas Behrens, Jr, PP, AICP, the Board's Professional Planner;

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- Letter dated May 28, 2025 by the Board Engineer, revised September 18, 2025 and last revised February 10, 2026;
- Letter dated June 7, 2025 from Charles Sarlo, Esq., identifying his clients as noted above;
- Letter dated June 12, 2025 from Steven Sinisi, Esq., with enclosures, NJ DOT 2025 Active Permit List, Bergen County Soil Conservation District exemption letter dated June 3, 2025, colorized photos/renderings, Safety and Traffic Analysis report prepared by Hal Simoff, PE, PP, dated June 5, 2025;
- Letter/Memo from Marc Leibman, Esq, Board Conflict Counsel, updated December 9, 2025, identified as B-1;
- Flood Hazard Area Applicability Determination dated August 6, 2025 form the NJ DEP;
- Letter dated September 26, 2025 from Timothy E. Corriston, Esq., identifying his clients as noted above;
- Letter dated February 3, 2026 from Robert Falkenstern, Esq., with attachments, responding to comments offered by the Board Engineer at the January 28, 2026 hearing;

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- Letter dated (erroneously) February 10, 2025 (should be 2026) from the Board Engineer in response to the February 3, 2026 letter from Robert Falkenstern, Esq.,
- Letter dated March 6, 2026 from Robert L. Costa, PE, PP, CME comprised of 7 pages;
- A video demonstrating the method of how the proposed static billboard will have its signage changed by two men in a truck/van with a vinyl banner that can be installed in a short period of time; and

WHEREAS, the board took a substantial amount of testimony summarized as follows:

William R. Vogt, PE of L2A Land Design, who testified regarding the site conditions, the location of the proposed billboard, the contents of the DOT Letter Permit, the lighting, surrounding conditions, access way. He testified regarding the size of the sign, 14' by 48', the parking area, the height of the proposed sign (60' proposed, 35' allowed) the design placing it extending over the roof of the existing three-story office building on the site, and the bulk variances required. Mr. Vogt testified to the exhibits and described the process to change the signage. Mr. Vogt's testimony indicated that the proposed nonconforming billboard height was necessary to cantilever the existing three-story office building on the subject property.

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He testified that in his opinion there was not adverse impact from lighting on adjoining properties, that the lighting exhibit, prepared by Brian Kline, confirms the sufficiency of the lighting. The lighting has 10 settings and can be reduced in intensity, if necessary, the Applicant agreed to a "look back" provision, if approved, to modify lighting post construction, if necessary. Zero footcandles are projected at the property line. He described the "V" shape of the billboard with one image facing Route 4 east and one facing Route 4 west. He testified that the sign is proposed to be static, cannot be lawfully converted to digital (because DOT/New Jersey Administrative Code restricts the distance (3,000') between digital signage and such signage already exists. Mr. Voght testified that no landscaping is proposed. Mr. Voght was cross-examined by Mr. Sarlo, Mr. Peckar and Mr. Corrison. He also responded to questions offered by the Board and the Board's professionals. The lot coverage on the site already exceeds the maximum 80% permitted, 95.4% existing and 95.55% proposed. The property is already overbuilt with a structure (office building) that is 40.61% of the building coverage and 40% is permitted. The lot depth is also non-conforming at 75' and 100' is required. Rear yard setback of 3.10' exists and 20' is required. The proposed billboard is located in the rear and side yards in violation of the River

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Edge zoning ordinance as set forth in the zoning table prepared by the Applicant's engineer. Mr. Vogt testified that the permit from the NJDOT for the billboard cannot be converted to a digital permit and that the billboard will have a phone number readily visible upon it to call for maintenance if any is needed. He also testified that the DOT permit for the subject billboard has been updated and is valid through 2026. Through Mr. Vogt a video showing how the vinyl signage will be changed was entered into the record, over Mr. Sarlo's objection.

On cross-examination Mr. Vogt testified that he was unaware of the recent approvals granted to Mr. Sarlo's client for an office building to be constructed immediately adjacent to the north of the subject property which includes roof top amenities which will be in close proximity to the billboard.

The zoning table from Mr. Vogt's plan is reproduced below for convenience.

ZONE: C-2 COMMERCIAL (OFFICE)	PERMITTED	EXISTING	PROPOSED	VARIANCE REQUIRED
MINIMUM LOT AREA (SF)	15,000 SF	18,596.90 SF	18,596.90 SF	NO
MINIMUM LOT WIDTH (FT)	150 FT	200 FT	200 FT	NO
MINIMUM LOT DEPTH (FT)	100 FT	75 FT	75 FT	EN
MAXIMUM BUILDING HEIGHT PRINCIPAL (FT)	35 FT	< 35 FT	< 35 FT	NO
MAXIMUM BUILDING HEIGHT BILLBOARD (FT)	35 FT	N/A	60.00 FT	YES
MAXIMUM PRINCIPAL BUILDING HEIGHT (STORIES)	2.5 STORIES	2 STORIES	2 STORIES	NO
MAXIMUM BUILDING COVERAGE (%)	40%	40.61%	40.61%	EN
MAXIMUM LOT COVERAGE (%)	80%	95.40%	95.55%	YES
MINIMUM FRONT YARD SETBACK (FT)	30 FT	14.61 FT	14.61 FT	EN
MINIMUM FRONT YARD SETBACK BILLBOARD (FT)	30 FT	N/A	10.78 FT	YES
MINIMUM SIDE YARD SETBACK - ONE (FT)	15 FT	37.00 FT	37.00 FT	NO
MINIMUM SIDE YARD SETBACK - ONE BILLBOARD (FT)	15 FT	N/A	10.00 FT	YES
MINIMUM SIDE YARD SETBACK - BOTH (FT)	35 FT	37.00 FT	37.00 FT	NO
MINIMUM SIDE YARD SETBACK - BOTH BILLBOARD (FT)	35 FT	N/A	10.00 FT	YES
MINIMUM REAR YARD SETBACK (FT)	20 FT	3.10 FT	3.10 FT	EN
MINIMUM REAR YARD SETBACK BILLBOARD (FT)	20 FT	N/A	17.86 FT	YES
MINIMUM LANDSCAPE BUFFER BTW. PARKING & STREET (FT)	5 FT	3.50 FT	3.50 FT	EN

1. §416-44.A.1 - THE FOLLOWING TYPES OF SIGNS OR ARTIFICIAL LIGHT ARE PROHIBITED: BILLBOARDS (**VARIANCE**)

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Hal Simoff, PE, PP, provided expert testimony regarding traffic, NJ Department of Transportation rules and US Department of Transportation rules regarding billboards, digital billboards, and the allowance for static billboards every 300 feet and digital billboards every 3,000 feet. Mr. Simoff, a practicing traffic engineer for approximately 40 years, opined that there would be no substantial impact on traffic or the adjacent road network. The proposed billboard will only generate one car trip per month to change the signage. Mr. Sarlo and Mr. Chenny cross-examined Mr. Simoff. The Board and Board professionals also asked Mr. Simoff questions. Mr. Simoff testified regarding Federal Highway Administration regulations, the surrounding properties and safety traffic aspects. He testified regarding his report which was entered into the record and which is dated June 5, 2025. Mr. Simoff explained the required minimum distances, average glance times, travel time relative to existing billboards near the site and visibility of the proposed billboard. It was his opinion that there is no negative impact from the proposed billboard from a traffic safety standpoint and that the NJDOT would not have issued the permit if there was a traffic safety issue.

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In response to questions offered by the Board's Planner, Mr. Simoff stated that the distance between billboards is regulated as is the size of billboards. He confirmed that the NJDOT permit issued for the proposed billboard requires municipal approval and does not take into consideration potential impacts beyond the NJDOT's jurisdiction or review criteria. Mr. Simoff testified in reply to the Board's Planner questions that he had not looked at any accident information from this area or considered the impacts of other existing signage in the vicinity of the proposed billboard with respect to the cumulative impacts of glance times of multiple signs in close proximity. The Board finds that this substantially undermines the veracity of Mr. Simoff's testimony regarding the safety impacts of the billboard and already existing in the area. The Board members, as residents of the community, are very familiar with the very high traffic in this area and the inherent risk of accelerating/decelerating, entering and exiting Route 4 and Grand Avenue, also referred to as a "service road" by Mr. Simoff.

The Board expressed confusion, not sufficiently answered by any of the Applicant's witnesses, regarding the classification and jurisdiction of the roadway directly adjacent to the Property. This roadway is in some sense an on/off ramp

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from Route 4 west but also serves as a local street providing access to adjoining properties. While Mr. Simoff described this roadway as a "service road" the testimony in this regard was unclear and unconvincing.

John McDonough, PP, AICP, the Applicant's professional planner testified that he has been to the site, reviewed the Application, River Edge zoning ordinance, master plan and considered the conditions and relief requested. He described the "C" variances noted above and the "D" variances for use and height, as well as a "D" variance for having more than one principal structure on a single lot, non-permitted use and prohibition of having signage above a building. Mr. McDonough suggested that because a property in the C-2 Zone, if sufficiently sized, could lawfully contain a hotel over 60' that the height variance is not out of character with the area. The Board found this unpersuasive as the proposal was for a billboard that would have been substantially taller than any other existing building in that area of the Borough, which includes several three-story office buildings. Mr. McDonough's testimony that the site is particularly suitable, was limited to and focused on the proposed billboard's location being on Route 4; to wit: Mr. McDonough testified: On the positive side the site is particularly suited to the use by virtue of its context.

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It's one of only a handful of blocks that are actually on the highway on the transportation corridor and the site is particularly suited by virtue of its condition. Mr. McDonough relied upon Medici and the promotion of the public welfare and public good. When pressed on this issue Mr. McDonough did not sufficiently satisfy the Board's inquiry. Offering occasional, if any, public use of the static signage, in an undefined manner is insufficient to create a public good or improvement to the general welfare sufficient to grant the "D" variances for use, height, and a more than one principal use on the lot. Mr. McDonough offered his opinion that the promotion of commerce was sufficient to qualify as the promotion of the public good to satisfy the positive criteria for the variance under the site suitability standard. The Board disagrees. The general promotion of off-premises private business/commerce or other off-premises messaging arising from the proposed billboard does not advance the purposes of zoning sufficiently to overcome the proofs necessary for the "D" variances sought herein. The changing of the signs on the billboard once a month confirms that any meaningful public use of the billboard is unlikely and too speculative to make a factual finding and legal conclusion that the public welfare would be advanced. By this rationale any business could argue that it is entitled to a use variance

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in any location because commerce would be equated with the public good. The Board finds that this is neither sound planning or the law in New Jersey.

Mr. McDonough argued that four purposes of zoning are advanced through this Application: purpose "a" "To encourage municipal action to guide the appropriate use or development of all lands in this state in a manner which promote the public health safety morals and general welfare" and purpose "g" "To provide sufficient space in an appropriate locations for a variety of agricultural residential recreational commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens". Purpose "h" promoting the free flow of traffic. Mr. McDonough also argued that purpose "m" "To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land".

Mr. McDonough suggested that conditions of approval would sufficiently ameliorate the negative impacts of the proposed billboard, i.e. controls on intensity and direction of lighting, as well as the timing of lighting. It was Mr. McDonough's opinion that the detriments created by the bulk standard

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violations could be granted under N.J.S.A. 40:55D-70(c)(2) - the "flexible C" variance. Mr. McDonough further presented his opinion that the bulk variances are subsumed into to the D variances. When questioned by the Board Engineer on this issue Mr. McDonough offered his opinion that the existing conditions of the Property, with the existing building and parking lot, create a hardship under N.J.S.A. 40:55D-70(c)(1) to justify the bulk relief. The Board disagrees based upon the fact that the Property is already overdeveloped with a three-story office building and associated site improvements, and by all appearances is economically viable and productive. The Board finds there is no "hardship" under the MLUL, and any potential hardship would have been self-created by the Applicant.

On cross-examination by Mr. Sarlo, Mr. McDonough acknowledged the implication of Borough Ordinance 416-45 which prohibits a sign from projecting into a required yard or above the roof of any building, such as presented in this Application. This prohibition, and relief therefrom, creates yet another "D" use variance(s), in addition to "D" variances for prohibited use (d)(1), more than one principal use per site (d)(1) and height (d)(6). Mr. Sarlo also cross-examined Mr. McDonough on his lack of testimony on the particularly suitability of the Property characteristics for the proposed billboard use (i.e., Price) in

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light of there being proposed two principal uses on the Property and the proposed billboard being overhanging the roof of the existing three-story office building and a proposed encroachment into the front, side and rear yard setbacks, both conditions expressly prohibited by the Borough's Zoning Code. Mr. Sarlo questioned Mr. McDonough as to whether a fact-sensitive examination of the Property for the particularly suitable aspect related to each d-variance required, should have been testified to. Mr. Sarlo questioned Mr. McDonough's inclusion of N.J.S.A. 40:55D-2(h) as support for the proposed use advancing the purposes without providing testimony as to how the proposed use will "encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight." Mr. Sarlo also examined Mr. McDonough as to why he did not provide any testimony to support the "enhanced quality of proof" requirement for the second prong of the negative criteria, as required by Medici. Lastly, Mr. Sarlo cross examined Mr. McDonough on the absence of meaningful testimony in support the second prong of the negative criteria, in that there would be no substantial detriment to the Borough's Zone Plan, specifically pointing out that there was no testimony to show no substantial detriment to the Borough's Zoning Code

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at: (i) § 416-3.A., "Promote orderly development to protect and enhance the character of the Borough of River Edge through the regulation of the uses of land and lots within all zoning districts specified herein; (ii) § 416-3.B, "Regulate incompatible land uses and land use development and prohibit uses, buildings or structures which are not compatible with the character of the surrounding development or those uses permitted within the specified zoning districts; (iii) § 416-3.C, "Regulate the location of buildings and limit and restrict buildings and structures to designated districts designed for residential, commercial, public, open space or other uses, and specify standards to which such buildings or structures shall conform; or (iv) § 416-3.E, "Provide adequate light, air, open space and privacy and convenience of access to property."

Mr. Cheney cross-examined Mr. McDonough with respect to his opinion that the bulk variances are subsumed into the D variances, the blanket prohibition on billboards in the Borough, locations of traffic control devices nearby, and the height allegedly necessary to provide visibility for the proposed billboard.

In summary, Mr. McDonough's opinion was that the site is particularly suitable due to its proximate location to Route 4, its efficient use of land and on balance the purposes of zoning

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are sufficiently advanced without substantial negative impact to the zoning ordinance or master plan. The Board does not agree and bases this factual finding and legal conclusion upon the manner of Mr. McDonough's responses to questions offered by the Board, its professionals, objectors' counsels and the testimony of other witnesses as set forth below.

Mr. McDonough grounded his planning opinion in Price v. Himeji, LLC, 214 N.J. 263, 275, 69 A.3d 575, 582 (2013), a case which originated out of Union City, and which involved a multifamily residential development necessitating a use variance grounded in site suitability under N.J.S.A. 40:55D-70(d)(1). The Board heard much discussion on this case during the cross examination of Mr. McDonough by Mr. Sarlo. The Board finds this analysis inapplicable to the proposed billboard for both factual and legal reasons. In Himeji, the Union City Zoning Board heard uncontested planning testimony. The planning testimony in this matter was contested. Moreover, the testimony and findings in Himeji supported a finding that the public good was advanced through the production of "newer housing, which is needed for the municipality's growing population..." Additionally, in Himeji the Union City Zoning Board was able to identify five specific purposes of the Union City master plan which were advanced by the development "[p]rovide a balance of land uses and balance

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development patterns in appropriate locations in order to: preserve the character of the community; encourage economic development; protect and preserve the established residential character; provide a broad range of housing choices; and improve the quality of life of the residents of Union City. Price v. Himeji, LLC, 214 N.J. 263, 277, 69 A.3d 575, 583 (2013). The Union City Zoning Board also made specific findings well-grounded in the MLUL which supported the site suitability argument, "the Board reasoned that the proposed project would advance objectives that complement the stated goals of the Master Plan in a wide variety of ways. It specifically found that the project would enhance the City's streetscape program, promote stable neighborhoods, increase community pride, eliminate substandard property, provide adequate parking, incorporate parking design into the project, ensure neighborhood compatibility, and maintain consistency with land use patterns." Price v. Himeji, LLC, 214 N.J. 263, 277, 69 A.3d 575, 583 (2013). None of these significant public benefits would be promoted by the proposed billboard in this Application. Of importance is that Mr. McDonough's testimony, in reliance of *Price*, failed to include any site specific, fact specific analysis (. . . "the use of the words peculiar and particular makes clear that the inquiry concerning whether a proposed use

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variance should be granted on this basis is an inherently fact-specific and site-sensitive one. Rather, it is an inquiry into whether the property is particularly suited for the proposed purpose, in the sense that it is especially well-suited for the use, in spite of the fact that the use is not permitted in the zone." Price)

With respect to planning objectives, the Board is familiar with New Jersey's 2025 State Development and Redevelopment Plan which includes, as a goal, "reduce or eliminate signs of visual clutter including inappropriate billboards, signs, overhead power lines and over-scaled and poorly directed lighting." The proposed billboard is contrary to this goal. The Board is aware that this area of Route 4 has billboards presently and adding another one would create unattractive visual clutter. These include one existing static billboard in River Edge across Route 4, two digital billboards on Route 4 at the Borough's shared border with Hackensack, one static billboard on Route 4 at the Borough's shared border with Paramus where there are 6 existing billboards within a ½-mile of the subject site. The proposed billboard would have been the tenth billboard in an approximately 1-mile length of Route 4, which includes the

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entirety of the 1/3-mile of Route 4 that severs the southern end of the Borough.

The Board is also familiar with the River Edge Master Plan which contains a number of goals and objectives which are determined by the Board to be substantially harmed by the proposed billboard. Specifically:

- Maintain and upgrade existing commercial areas to provide a complete range of office, retail and ancillary development. *The Board finds the billboard is not an upgrade, it creates visual clutter and negative impact to surrounding uses, including the rooftop amenity space of the approved office building on the adjacent property.*
- Improve, where necessary, the aesthetic character of the existing commercial development by employing zoning controls and encouraging building maintenance. *The Board finds that the proposed billboard degrades the aesthetic character of the existing commercial development.*
- Maintain adequate traffic circulation, improve safety and minimize impacts of traffic on community. *The Board finds that the proposed billboard does nothing to improve or maintain traffic circulation, improve safety, or minimize traffic impacts.*

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Charles Sarlo, Esq. presented testimony, arguments and evidence summarized as follows:

Victor Filletti, RA testified that he as the project architect for the approved office development of 335 Johnson Avenue, which is next door to the subject Property. He prepared and marked into evidence Exhibit O-1 (a duplicative marking, because O-1 was earlier noted to be Mr. Sarlo's letter of June 7, 2025), a rendering he prepared dated September 23, 2025 showing the appearance of the proposed billboard from the view of the approved rooftop amenity space on 335 Johnson Avenue. The rendering demonstrated the obstruction of light, air and open space with the bottom of the proposed billboard approximately 1 foot above the parapet wall of 335 Johnson Avenue. Mr. Filletti provided relevant dimensions and distances, including that the billboard would be located approximately 32 feet from the approved office building, and described the rooftop amenities approved (but not yet built) on 335 Johnson Avenue which would be negatively impacted by the proposed billboard. The billboard located in close proximity to the south of 335 Johnson Avenue would block sunlight, open space and scenic views of New York City where the approved rooftop amenity space is intended to serve as both a meeting space and showcase of his client's construction and landscape business

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whose services include the creation of such rooftop amenity spaces. O-2, an elevation drawing dated September 23, 2025 prepared by Mr. Filletti was entered into the record and described the exhibit. He testified regarding shadows that would be cast by the billboard. He also testified to exhibit O-3, a site plan for 335 Johnson Avenue, dated January 12, 2023, and O-4, a prospective rendering of the rear of 335 Johnson Avenue (which he prepared when he testified before the Board on the approval of that matter). Mr. Filletti testified with respect to exhibit O-5, another rendering, dated January 19, 2025 and the significant negative aesthetic impact as well as the negative impact of light and air created by the proposed billboard.

Mr. Filletti was cross-examined by Mr. Falkenstern and he acknowledged that he is not a professional planner, or traffic engineer. He did not do a traffic study or a glare study. In response to questions posed, Mr. Filletti testified that he prepared a shadow study as illustrated on his drawing and the software used to prepare the study. While he identified no safety concerns, he did offer that from an architectural perspective the proposed billboard obstructs light, air flow and scenic views.

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Peter Steck, PP, AICP, was called as a witness by Mr. Sarlo, qualified as a professional planner and offered an exhibit O-7, and professional planning testimony summarized as follows: The property is a L-shaped and has a number of non-conforming dimensions. It has a non-conforming depth, it has excessive building coverage, it has a violation of the front setback, the rear setback, and the required buffer. The property is overdeveloped as it exists. Mr. Steck testified that the Applicant is proposing two billboards, based on the "V shaped design", a height of 60' wherein the allowed height is 35'. He further testified that in the reason for the height variance is because the Applicant would like to garner as much view as possible and the Property does not have enough room to put a billboard anywhere else without having to cantilever it over the existing office building. Mr. Steck testified the Applicant is now proposing a new, second use, on the property which violates the front, side and rear yard setbacks. Mr. Steck testified that there are no buildings in River Edge of the same height as the proposed billboard (60') and that overlay zoning presently in place contemplates residential development nearby which will be burdened by the proposed unattractive billboard, if constructed. Mr. Steck also testified that he had reviewed the Borough's 1984 Master Plan and re-examination reports of 2009

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and 2020 which demonstrate the Borough's concern about the aesthetics in this area.

Mr. Steck testified regarding the high burden the Applicant must meet, which is not met in this particular case, because there is no public purpose advanced by the proposed billboard. The height variance is unsupported because it is out of character with the surroundings and substantially exceeds the permitted height. The fact that the billboard violates the setbacks and has to be cantilevered over the existing building is evidence that the proposal is overly intense and represents over development and supports the Board's determination that approval would constitute substantial harm to the zoning ordinance and masterplan with no countervailing public benefit. Mr. Steck testified that his opinion is that the purposes of zoning relied upon by the Applicant, G, H and M are not advanced. Specifically, purpose G

To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

is not advanced because this location is inappropriate for a billboard in light of the fact that it is prohibited, requires

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bulk variances for setback, increases already excessive impervious coverage and the site has insufficient space.

Purpose H

To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;

Mr. Steck's opinion was that the proposed billboard does nothing to promote the free flow of traffic.

Purpose M

To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;

Mr. Steck's opinion was that the proposed billboard does not represent the more efficient use of land, the land is already overdeveloped. This argument, taken to its logical conclusion, would mean unfettered overdevelopment in the interest of commerce at all costs.

Mr. Steck testified that the Applicant's reliance on master plan goal #8 of promoting diversity in land use is not sufficient to justify the relief sought herein. The Board agrees. Mr. Steck testified that the site is particularly unsuited for the proposed billboard because the lot is already overbuilt with too much impervious coverage and the billboard

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will overcrowd the lot. Mr. Steck summed up his testimony by stating that the site is "particularly not suited" for the proposed billboard.

In response to questions offered by the Board's Planner, Mr. Steck testified that the Applicant's argument that the bulk variances (setbacks, impervious) are subsumed into the D variances does not mean that they just disappear. There was insufficient testimony to support the bulk variances. The lot is fully (and overly) developed as it exists. It does not need bulk variance relief to be used for a permitted purpose. There is no hardship under the MLUL and the bulk variances sought do not constitute better planning or advance the purposes of zoning sufficient to grant relief.

Mr. Steck testified that there is no public purpose advanced by the Applicant sufficient to justify the use variance, there is no hardship to justify the bulk variances (c)(1) and the purposes of zoning are not advanced by substantially outweighing the detriments created by the proposal (c)(2).;

and

WHEREAS, the Board heard closing arguments from all counsel and had the opportunity to consider same as well as the testimony of the witnesses and evidence submitted and after

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carefully considering the evidence and testimony presented by the Applicant and objectors' counsel, as well as the reports of the Board's professionals, the Board has made the following conclusions and determinations:

CONCLUSIONS AND DETERMINATIONS

1. All findings of fact, and "WHEREAS" clauses set forth above are made a part hereof as findings of fact and conclusions of law, as if set forth herein at length.

2. The Applicant has failed to convince a five-member majority of the seven members of the Zoning Board that the standards for relief have been satisfied.

3. The Board does not perceive sufficient benefit to the public, the public good or the general welfare sufficient to justify approval. The zoning ordinance, master plan and surrounding area would suffer significant detriment if the Board were to approve the Application. The generalized testimony regarding the benefits of commerce and possible, but unlikely, public use of the billboard is wholly inadequate to meet this standard.

4. The height proposed is out of character of the surroundings. The positive and negative criteria are insufficiently addressed to justify the height variance. There

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was no evidence demonstrating why a lower billboard would not be viable.

5. There is no hardship to justify the relief sought under N.J.S.A. 40:55D-70(c)(1).

6. The Applicant failed to present sufficient proof to justify a variance under N.J.S.A. 40:55D-70(c)(2).

7. The purposes of zoning are not advanced by the proposal.

8. The purposes of zoning are harmed by the proposal: It poses detriments to the general welfare. It reduces light air and open space. It constitutes overbuilding, adds visual clutter and is an inappropriate location for a billboard i.e. not particularly suited. It conflicts with the general welfare of the State as contrary to New Jersey's 2025 State Development and Redevelopment Plan. It does nothing to promote the free flow of traffic, it does not promote a desirable visual environment and does not represent good civic design or arrangement.

9. Overhead encroachment on the existing office building is expressly prohibited and no valid justification other than the Applicant's economic gain justifies the violation of the zoning ordinance.

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10. The proposed billboard adds impervious coverage further violating the existing non-conformity, where the opportunity for landscaping is limited, which is unattractive.

11. The site is not "particularly suitable" under Price v. Himeji, LLC, 214 N.J. 263, 275, 69 A.3d 575, 582 (2013).

12. The Board found Peter Steck, PP, AICP's testimony to be complete, truthful and accurate and qualitatively more persuasive than the Applicant's planning testimony which minimized the Board's concerns and did not sufficiently address questions offered on cross examination.

13. The Applicant failed to meet the enhanced burden of proof required by law.

14. The Board finds that that the negative impact upon the zoning ordinance, zone plan, master plan and adjoining neighborhood are substantial.

15. Approving the within Application would constitute a usurpation of the governing body's power to zone.

16. If the Board were to grant the within approval it would be usurping the governing body's power to zone and improperly substituting its judgment for that of the elected officials which has (a) prohibited billboards, (b) prohibited billboards cantilevered over existing buildings and (c) prohibited more than one principal use on a single parcel.

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17. The Board finds the proposed bulk variances for setback are unsupported by the existing conditions, conforming lot size, or irregular lot configuration.

18. The height variance is unsupported by the surroundings and the proposed billboard would be 25' (71.4%) taller than permitted in the zone, significantly taller than existing development in the Borough.

19. The Board determines that the visual impact is aesthetically displeasing and oppressive on the streetscape and damaging to the neighborhood and inconsistent with sound planning. The Board bases this upon the exhibits in evidence and its knowledge of the area.

20. The Board finds, as a fact, approval would constitute a substantial detriment to the zoning ordinance, Master Plan and to the public good because of the further reduction in green space, as well as the other reasons expressed herein and on the record at the hearings of the Board.

21. The Board further finds that the proposed development is contrary to several of the purposes of the MLUL as noted above.

THEREFORE, BE IT RESOLVED by the Borough of River Edge Municipal Land Use Board, Bergen County, New Jersey, that the Applicant's request for variance relief, as described herein, be

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and is hereby DENIED for the reasons set forth herein and as stated on the record and in the body of this Resolution.

Vote on the MOTION TO DENY Application

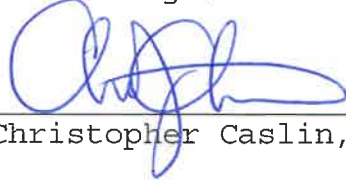
<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>INELG</u>
Mayor Thomas Papaleo							X
Councilman David Glass							X
Chris Caslin			X				
Jorge Salva			X				
Dario Chinigo	X		X				
Eileen Boland			X				
Joseph Gautier		X	X				
Ryan Gibbons			X				
Michael Krey			X				
Tracy Levine [Alternate #1]							
Vacant [Alternate #2]							

Vote on the Memorialization

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>INELG</u>
Mayor Thomas Papaleo							X
Councilman David Glass							X
Chris Caslin			X				
Jorge Salva			X				
Dario Chinigo						X	
Eileen Boland			X				
Joseph Gautier		X	X				
Ryan Gibbons	X		X				
Michael Krey			X				
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

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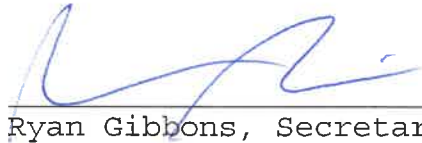
BE IT FURTHER RESOLVED that the Resolution adopted on this 13 th day of May, 2026 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10.g, as set forth above, at its February 25, 2026 meeting, and that a copy of this Resolution be provided to the Applicant, the Borough Engineer, the Construction Code Official of the Borough of River Edge, and the Bergen County Planning Board, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.



Christopher Caslin, Chairman

CERTIFICATION

I, Ryan Gibbons, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on May 13, 2026. This Resolution memorializes the Board's decision on this matter at its meeting held on February 25, 2026.



Ryan Gibbons, Secretary