



DEVELOPMENT APPEALS BEFORE THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

The following information applies to either a refused development permit or an approved development permit appealed by affected persons.

Section 685 of the Municipal Government Act allows the Subdivision and Development Appeal Board (SDAB) to hear appeals of decisions of the Development Officer.

In cases where a proposed development does not comply with the Edmonton Zoning Bylaw, the SDAB can vary regulations of this bylaw. In determining whether a change should be made to the Development Officer's decision, the SDAB must:

- a) Ensure the proposed use is either a Permitted or Discretionary use in the applicable zone.
- b) Establish that the proposed development does not unduly interfere with the amenities of the neighborhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

In making this determination, the SDAB will consider relevant planning and development concerns (supported by independent and reliable evidence as appropriate), which may include the following:

- Proposed Use;
- Massing effect;
- Sitting of development;
- Sun-shadowing effect;
- Streetscape;
- Compatibility;
- Pedestrian or vehicular traffic;
- Parking;
- Noise;
- Feedback from community consultation; and
- Any additional planning concerns.

In cases where an appeal solely concerns a Discretionary use with no variances to the Edmonton Zoning Bylaw, the SDAB, must, having regard to planning principles, determine if the development is appropriate or not.

No appeal to the SDAB lies in respect of the issuance of a development permit for a Permitted Use unless the provisions of the Zoning Bylaw were relaxed, varied or misinterpreted.

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MUNICIPAL GOVERNMENT ACT, c. M-26

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under Section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

687(3) In determining an appeal, the subdivision and development appeal board

- (a) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;
- (b) must have regard to but is not bound by the subdivision and development regulations;
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.