



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: May 8, 2018  
Project Number: 270897656-001  
File Number: SDAB-D-18-059

**Notice of Decision**

[1] On April 25, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 3, 2018**. The appeal concerned the decision of the Development Authority, issued on March 28, 2018, to refuse the following development:

**To install (3) Freestanding On-premises Signs (GRIESBACH VILLAGE)**

[2] The subject property is on Plan 1523747 Blk 27 Lot 5, located at 503 - Griesbach Parade NW, within the (GVC) Griesbach Village Centre Zone. The Special Area Griesbach and the Griesbach Neighbourhood Area Structure Plan apply to the subject property.

[3] The following documents were received prior to the hearing and form part of the record:

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submissions;
- The Appellant’s written submissions; and
- Online responses.

[4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – Five video clips and a Google Map of the subject Site, submitted by the Appellant.

**Preliminary Matters**

[5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

[6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[7] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

**Summary of Hearing***i) Position of Mr. Murphy, Legal Counsel for the Appellant, Griesbach Village Properties*

- [8] Mr. Murphy referred to a previous Board decision from 2016 when the Board approved two Signs for the subject site.
- [9] He referred to a Google Map (marked Exhibit A) of the area and indicated that the interior of Griesbach Village Plaza shopping centre is pedestrian oriented.
- [10] The public can park in the centre of the plaza and walk to stores in this area. That is the vision set out for this area in the Neighbourhood Area Structure Plan (NASP).
- [11] He referred to a Google Map showing the hotel adjacent to the subject site and the extensive vegetation around the site, which blocks views of the interior of the shopping centre from the adjacent roads.
- [12] Without signage for the area, the public will be unaware what businesses are located in the shopping centre.
- [13] They are proposing a Sign at each entrance to the shopping centre.
- [14] Schedule 59E of the *Edmonton Zoning Bylaw* allows for a Freestanding Sign up to 8.0 metres in Height. However, that is modified by Section 940.6(5)(q) of the GVC Griesbach Village Centre Zone, which states:
- Signs shall comply with the regulations found in Schedule 59E of this Bylaw, with the intent to complement the pedestrian-oriented commercial environment, except that:
- i. the maximum Height of a Freestanding Sign shall be 6.0 m;
- [15] When dealing with the pedestrian-oriented portion of the site, Signs cannot be over 6.0 metres. The non-pedestrian orientation of the site was not addressed by the Development Officer when assessing this application.
- [16] The proposed Signs are all located on the periphery of the site adjacent to either 97 Street or 137 Avenue. These roads are commercial corridors and are not pedestrian oriented.
- [17] In 2016, the Board approved two Freestanding On-premises Signs that are 7.5 metres in Height. The reasons of the Board were that the Height variance did not impact the pedestrian-oriented character of the site because the Signs were located at the edge of the site.
- [18] He referred to the three locations for the proposed Signs, which are the same Height as the Signs that were approved in 2016.

- [19] The proposed Signs will be the same design as the approved Signs, which is to say they will be tall and narrow. The allowable area of Freestanding Signs is 20 square metres but the proposed Signs will be less than 13 square metres.
- [20] Two of the proposed Signs are located adjacent to 137 Avenue. One will be visible to eastbound traffic and the other will be visible to west bound traffic. The third proposed Sign is located adjacent to 97 Street.
- [21] With regard to the tree preservation and Tree Retention Plan, he stated that no trees will be damaged or removed with the installation of the three Signs.
- [22] With regard to the on-line response and the concern that the proposed Signs will negatively impact the Princess Patricia Light Infantry War Memorial, he stated that the proposed Signs will not have a negative impact on the Memorial as they are not located close to the Memorial.
- [23] The Signs are necessary so that people from outside the neighbourhood are aware of what businesses are located in the shopping centre. The tenants of the shopping centre are all primarily smaller, individual companies.
- [24] He referred to videos of the area showing the location of the proposed Signs in relation to overall site.
- [25] One of the videos shows a line of trees that shields the site along 97 Street. There is a pedestrian walkway along the tree line on the interior of the site. This is where the pedestrian orientation comes into play. He referred to one video showing the west entrance to the site on 97 Street, the hotel, and the location of one of the proposed Signs. The area along 97 Street is not pedestrian friendly. Across the street from the site is a commercial area. The proposed Sign will be characteristic of the area. Another video shows the site along 137 Avenue and the existing Signs in the area. The exterior of the site along 137 Avenue is also not pedestrian oriented.
- [26] There will no need for pylon Signs at the interior of the site.
- [27] More Height for the Signs is required for extra visibility for the two left turning lanes off of 137 Avenue. The site was designed for an extra left turning lane here because there is only one entrance to the site from 97 Street.
- [28] Given the area, there is nothing that will interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. In his opinion, the proposed Signs will enhance the amenities of the neighbourhood.
- [29] There have been no known complaints with respect to the existing Signs.

- [30] The existing Signs and the proposed Signs will not prevent pedestrians from using the walkway area by the trees.
- [31] The Presiding Officer asked Mr. Murphy his position on Section 59.2(6) of the *Edmonton Zoning Bylaw*. Specifically, did he believe the Development Officer could refuse the proposed sign even if a variance is not required. Mr. Murphy stated that if a proposed sign is a Permitted Use, there is no discretion for the Development Officer to refuse the application. He does not agree that a Permitted Use can be turned into a Discretionary Use. Section 59.2(6) should be interpreted as applying only to situations where the Development Officer is able to exercise discretion.
- [32] The Development Officer has to apply the variance test as it appears. In his opinion, the Development Officer reviewed the proposed Signs with the interior of the subject site and tried to apply those aesthetics to the exterior of the site.
- [33] The proposed Signs comply with all the regulations of the *Edmonton Zoning Bylaw* except for Height. The issue is whether the proposed Signs with the Height variances will negatively impact the neighbourhood or neighbouring parcels of land. This is the only test the Board should apply.
- [34] The Griesbach Community League was initially opposed to the proposed Signs. However, after speaking to the Appellant, they are now in support of the proposed Signs.
- [35] An email from Canada Lands Company was received in support of an 8.0-metre sign. He stated that Canada Lands has a vested interest with the residential area north of the subject site.
- [36] He stated that the area of the Signs will be less than 13 square metres but up to 20 square metres is allowed. In his opinion, it is better for the Sign to be 1.5 metres higher with a smaller area rather than being the allowed 20 square metres but shorter.
- [37] The separation distances between all the Signs, both existing and proposed, exceeds the requirements of the regulations.
- [38] The residential neighbourhood south of the subject site is separated by four lanes of traffic.
- [39] Section 59.2(6) directs the Development Officer on how to use their discretion. There is no discretion if it is a Permitted Use.

ii) *Position of Affected Property Owners in Opposition of the Appellant*

- [40] Mr. Z. Damani and Mr. H. Damani stated that they own the hotel on 97 Street across the street from the site. They wanted to make sure that the proposed Sign on 97 Street would not block the Sign on the south side of their hotel.

[41] They have not spoken to the Appellant to determine if the Sign will have a negative impact on their property.

[42] The hotel is four storeys tall and is blocked by trees, particularly in the summer.

*iii) Position of the Development Officer, Ms. Noorman*

[43] The Development Authority provided written submissions and did not attend the hearing.

*iv) Rebuttal of the Appellant*

[44] The trees will be higher than the proposed Signs.

[45] The proposed Signs will not negatively impact the hotel more than the trees.

[46] Other than Height, the proposed Signs comply with the regulations of the *Edmonton Zoning Bylaw*.

[47] The proposed Signs will not be on the road right-of-way.

[48] The trees will be in the line of sight on 97 Street.

[49] The hotel is four storeys in Height, which is higher than the proposed Signs.

[50] The Sign located on the side of the hotel is toward the top of the wall, above the proposed Sign.

**Decision**

[51] The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority, subject to the following CONDITIONS:

1. The proposed Freestanding On-premises Signs shall comply with the revised plans submitted and approved at the hearing. The Signs shall be no higher than 7.5 metres in Height.
2. The intensity of exposed bulbs on a Sign, excluding Digital Signs, shall not exceed 1100 lumens. (Reference Section 59.2(4)).

[52] In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. The maximum number as Signs as per Section 59E.2(3)(c) is waived. A maximum of 5 Signs is allowed.

2. The maximum allowable Height of 6.0 metres as per Section 940.6(5)(q)(i)) is varied to allow an excess of 1.5 metres, thereby increasing the maximum allowed to 7.5 metres.

### **Reasons for Decision**

- [53] The proposed development is a Permitted Use in the GVC Griesbach Village Centre Zone.
- [54] The proposed Signs and their design is part of the ongoing development of the subject Site. When the shopping centre development was approved, the comprehensive sign plan showed the locations of four Freestanding On-premises Signs.
- [55] Two of these Signs were previously approved by the Board at the locations shown on the comprehensive sign plan with a Height of 7.5 metres, the same Height as the proposed Signs.
- [56] Two of the proposed Signs, one on 137 Avenue and one on 97 Street, are at the locations shown on the comprehensive sign plan.
- [57] One of the proposed Signs was not shown on the comprehensive sign plan. This Sign is on 137 Avenue. This will result in an excess of one Sign on the subject Site as the maximum number of Signs allowed on the subject Site by the regulations is four. (Schedule 59E.2(3)(c))
- [58] This is a large Site, over 13 acres, and the proposed Signs, as well as the existing Signs, will be located more than the required separation distance set out in the *Edmonton Zoning Bylaw*.
- [59] Accordingly, the Board finds that an extra Sign on the subject Site will not have a negative impact on the amenities of the neighbourhood, nor will it materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- [60] Section 940.6(5)(q) of the (GVC) Griesbach Village Centre Zone states:
- Signs shall comply with the regulations found in Schedule 59E of this Bylaw, with the intent to complement the pedestrian-oriented commercial environment, except that:
- i. the maximum Height of a Freestanding Sign shall be 6.0 m;
- [61] The reduction in maximum allowable Height is intended to complement the pedestrian-oriented commercial environment.
- [62] All of the Signs will be installed on the perimeter of the subject Site. The perimeter of the subject Site is bound by 137 Avenue and 97 Street which are both major roadways. These roads are not pedestrian-oriented.

- [63] It is the interior of the Site that is pedestrian-oriented. The Board finds that the proposed Signs are located such that the extra 1.5 metres in Height will not negatively impact the pedestrian-oriented nature of the Site.
- [64] The excess in Height of 1.5 metres will be mitigated by the fact that all of the Signs are less than 13 square metres in size as opposed to the allowable 20 square metres. In the Board's opinion, the proposed tall, narrow Signs are preferable to Signs that comply with the 6.0-metre Height restriction but are 20 square metres in area.
- [65] The proposed Sign on 97 Street will be located near a row of maple trees that is of particular significance. Section 5 of the NASP talks about tree preservation being important in the neighbourhood, particularly the maple trees along 97 Street. No trees along 97 Street will be damaged or removed because of the proposed Sign.
- [66] The proposed Sign will be located at the intersection at Griesbach Road, which creates a break in the line of maples along 97 Street. Although the proposed Sign at this location will interfere with the view of the trees to some extent, the maples extend for hundreds of feet to the north and south of the proposed Sign, so its impact on neighbourhood amenities will be minimal.
- [67] Section 5 of the NASP states that the detailed Site Plan should provide for public access to the maple trees for wedding photographs to be taken. The Site Plan for this location does in fact provide for a walkway along the trees at the interior of the subject Site.
- [68] Both Community Leagues in the neighbourhood are in support of the proposed Signs as long as no trees are damaged or removed. The Griesbach Community League indicated they do not want further signs installed at the subject Site other than those proposed. The Board was advised by the Appellant that there would be no additional development permit applications for Signs at this Site.
- [69] Section 59.2(6) of the *Edmonton Zoning Bylaw* states.
- For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone.
- [70] The Development Officer referred to this section as well as Section 5 of the NASP, referenced above, as a basis for refusing the proposed Sign on 97 Street because the *location* of the proposed Sign would interfere with the enjoyment of the maple trees.
- [71] The Board notes that the location of this Sign complies with the comprehensive sign plan for this Site. As well, Freestanding On-premise Signs are a Permitted Use in the GVC Griesbach Village Centre Zone. No variances for any of the proposed Signs are required with respect to their locations. The only variances required are for Height and for one extra Sign.

As was previously noted, the extra Sign is on 137 Avenue. Accordingly, when applying Section 59.2(6) to the proposed Sign on 97 Street, the Development Officer (and this Board) is restricted to applying it to the Height variance requested. The location of the proposed Sign is not a valid basis for refusing the development permit.

- [72] The owners of the Hotel north of the subject Site were in attendance at the hearing and indicated that they are concerned that the proposed Sign on 97 Street might block the view of their hotel, in particular the sign on the south wall of the hotel.
- [73] However, the Hotel is four storeys high and is considerably higher than the Height of the proposed Sign.
- [74] The Hotel owners indicated that the trees on 97 Street block the view of the Hotel in the summer. The Board finds that the incremental difference to visibility caused by the Sign on 97 Street will be minimal in comparison to the trees.
- [75] Based on the above, it is the opinion of the Board that the proposed Signs with the variances to allowable Height will not unduly interfere with the amenities of the neighbourhood nor will they materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board

Board members in attendance:

Ms. A. Lund, Mr. R. Hachigian, Ms. D. Kronewitt-Martin, Ms. S. LaPerle



**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*



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Date: May 8, 2018  
Project Number: 227580248-004  
File Number: SDAB-D-18-046

**Notice of Decision**

- [1] On April 25, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **March 13, 2018**. The appeal concerned the decision of the Development Authority, issued on February 22, 2018, to refuse the following development:

**Construct an Accessory Building (Garage, 30.48 metres by 15.24 metres)**

- [2] The subject property is on Plan 5496HW Lot 14, located at 21007 - 97 Avenue NW, within the RR Rural Residential Zone. The Lewis Farms Area Structure Plan and the Webber Greens Neighbourhood Structure Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed and revised plans, and two refused Development Permits;
  - The Development Officer’s written submissions;
  - The Appellant’s written submissions including letters of support; and
  - Online responses.

**Preliminary Matters**

- [4] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

## Summary of Hearing

### i) *Position of the Appellant, Mr. D. Naroski:*

- [7] The Presiding Officer noted that two refused development permit applications had been issued. Mr. Naroski advised the Board that he would like the Board to consider Development Permit Application 227580248-004 instead of 227580248-002. The most recent application that was refused on April 17, 2018 did not change the footprint of the building but the height was increased from 5.8 metres to 6.3 metres.
- [8] The Presiding Officer referenced Section 643 of the *Municipal Government Act* regarding non-conforming use and non-conforming buildings. There is a possibility that the existing Mobile Home on this site may be a non-conforming building. The Board is in receipt of a copy of a development permit that was issued in 1998 to continue the use of an isolated single family dwelling unit and replace a mobile unit onsite. At the time the lot was zoned AG Agricultural Zone. However, the zoning of this lot was subsequently changed to RR Rural Residential Zone and a Mobile Home is neither a Permitted nor Discretionary Use in this zone. As a result of the rezoning, the proposed development is either a non-conforming use or a non-conforming building. If it is a non-conforming use, Section 643(4) states that no additional buildings can be constructed on the lot as long as the Mobile Home use continues.
- [9] Mr. Naroski advised that he could not comment on the interpretation of this section of the *Municipal Government Act* without seeking some legal advice and provided the following responses to questions:
- a) He purchased the property in 2005 with the Mobile Home and has lived in it ever since.
  - b) The size of the Mobile Home has not been changed.
- [10] He would like to build a large over-height garage to provide storage for a motorhome that he plans to purchase. The proposed garage is approximately 303 feet wide and 474 feet long.
- [11] There is ample room to accommodate the proposed garage on his large acreage property that is approximately 3.26 acres in size and 303 feet by 474 feet in dimension.
- [12] He referenced information obtained from a Google search regarding the size of overhead doors required to accommodate a motorhome. Typically RV garage doors are 12 or 14 feet wide and 12 to 16 feet tall. He wants to use doors that are 14 feet tall.
- [13] Mr. Naroski submitted four letters of support received from the neighbouring property owners to the west, north and east. He also spoke with the neighbours to the south, who are on smaller lots. None of the neighbours that he spoke to had any objections regarding the location or height of the proposed garage.

- [14] Mr. Naroski provided the following information in response to questions from the Board:
- a) He has no intention of operating a business from the proposed garage.
  - b) He advised his neighbours that the proposed garage is a single storey structure that exceeds the maximum allowable height requirement.
  - c) There is approximately 200 feet between the site of the proposed garage and the properties to the south, which are comprised of smaller lots. The lots to the west, north and east are comprised of large acreage properties.
  - d) The doors for the proposed garage are 16 feet wide and 14 feet tall.
  - e) The building will sit on a cement slab and there is no basement.

ii) *Position of the Development Officer, Ms. M. Bernuy:*

- [15] The height of the garage was calculated by taking measurements from the drawings and through discussions with the Applicant.
- [16] The height of the proposed garage was 5.8 metres on the original Development Permit Application No. 227580248-002. The revised Development Permit Application No. 227580248-004 increased the proposed height of the garage to 6.31 metres. The only reason for refusal for both of the applications was the excess in the maximum allowable height, which cannot be varied by a Development Officer.
- [17] It was her opinion that the proposed development is a non-conforming building not a non-conforming use. Section 7.2(8) of the *Edmonton Zoning Bylaw* defines Single Detached Housing as:

Development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

- [18] Section 78 of the *Edmonton Zoning Bylaw* states that:

Mobile Homes shall comply with the following:

1. In any Zone, other than the RMH Zone, where a Mobile Home is the development proposed in an application for a Development Permit for Single detached Housing, the following regulations shall apply:
  - a) The Mobile Home shall be not less than 5.5 metres in width or length; and
  - b) The Mobile Home shall be placed on a permanent foundation.

- [19] The Appellant's Mobile Home is less than 5.5 metres in width.
- [20] Section 78 has not been amended since 1998. Therefore, the proposed development is for an accessory use to a non-conforming building, not a non-conforming use and Section 643(4) of the *Municipal Government Act* does not apply.
- [21] Ms. Bernuy provided the following information in response to questions from the Board:
- a) The scope of the development permit issued in 1998 was to continue the use of an isolated single family dwelling unit and replace a mobile unit on site. Her decision was based on a review of the plans since she was not able to access any of the notes from that permit application. The site plan included the mobile home and a barn. Therefore the mobile unit was the single family dwelling. The development permit issued in 1998 allowed a continuation of the single family dwelling and replacement of the old mobile home.
  - b) She could not clarify whether or not this development permit was approved under the County of Parkland Land Use Bylaw, which the City adopted and used for some time after the lands were annexed.

*iii) Rebuttal of the Appellant*

- [22] The Mobile Home has been upgraded and well maintained since he purchased it in 2005.

**Decision**

- [23] Development Permit Application No. 227580248-002 is cancelled. This appeal deals with Development Permit Application No. 227580248-004.
- [24] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **CONDITION**:
1. The development shall be constructed in accordance with the stamped refused plans dated April 17, 2018.
- [25] In granting the development, the following variance to the *Edmonton Zoning Bylaw* is allowed:
1. The maximum allowable Height of 4.3 metres as per Section 50.3(3) is varied to allow an excess of 2.01 metres, thereby increasing the maximum allowed Height to 6.31 metres.

**Reasons for Decision**

- [26] Single Detached Housing is a Permitted Use in the RR Rural Residential Zone, pursuant to Section 240.2(5) of the *Edmonton Zoning Bylaw*.
- [27] Section 7.2(8) of the *Edmonton Zoning Bylaw* defines Single Detached Housing as:
- Development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is Permitted or Discretionary use in a Zone, a building which contains Single Detached Housing may also contain a Secondary suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.
- [28] The proposed development is an Accessory Use to the Permitted Use of Single Detached Housing, pursuant to Section 50.1(2) of the *Edmonton Zoning Bylaw* which states:
- Accessory Uses and buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.
- [29] In this appeal, the Board considered Development Permit Application No. 227580248-004 that contained plans that were stamped refused by the Development Officer on April 17, 2018. Therefore, Development Permit Application No. 227580248-002 that was refused on March 13, 2018 is cancelled.
- [30] The Site of the proposed development has a Mobile Home on it. The Board was required to determine what effect this had on the application for a development permit.
- [31] A Mobile Home is neither a Permitted nor Discretionary Use in the RR Rural Residential Zone. (Section 240 of the *Edmonton Zoning Bylaw*)
- [32] Section 643 of the *Municipal Government Act* states that:
- (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
  - (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
  - (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
  - (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except:
    - a) To make it a conforming building;
    - b) for routine maintenance of the building, if the development authority considers it necessary, or
    - c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.
  - (6) If a non-conforming building is damaged or destroyed to the extent of more than 75 percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.
  - (7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.
- [33] A development permit was issued for the existing Mobile Home on the site in 1998 at a time when the Site was zoned AG Agricultural Zone. However, the zoning of this site was subsequently changed to RR Rural Residential Zone. Pursuant to Section 643(1) of the *Municipal Government Act* it appears that the Mobile Home is a non-conforming building.
- [34] Section 643(4) of the *Municipal Government Act* states that no additional buildings may be constructed on a lot while a non-conforming use continues. However, the Board finds that this section does not apply to the proposed development permit application because the existing Mobile Home is a non-conforming building rather than a non-conforming use.
- [35] The only variance required for the proposed structure is an excess in the maximum allowable Height. The maximum allowable Height for an Accessory Building, pursuant to Section 50.3(3) of the *Edmonton Land Use Bylaw*, is 4.3 metres and the proposed height is 6.31 metres. The Board has granted the required variance for the following reasons:
- a) This site is very large, being 3.26 acres in size and approximately 303 feet by 474 feet in dimension.

- b) The Appellant provided letters of support from the four neighbours to the west, north and east, who are also on large lots and will not be impacted by the Height variance.
- c) He also discussed the proposed development with the property owners on smaller lots who reside to the south of the site and no objections were raised. These lots are located approximately 200 feet from the proposed development and will not be affected by the Height variance.
- d) The Board did not receive any letters of objection and no one attended in opposition to the proposed development.

[36] Based on all of the above, the Board is of the opinion that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. A. Lund; Ms. D. Kronewitt-Martin; Mr. Mr. R. Hachigian; Ms. S. LaPerle



**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*