

## **Edmonton Subdivision and Development Appeal Board**

Churchill Building  
10019 - 103 Avenue NW  
Edmonton, AB T5J 0G9  
Phone: 780-496-6079 Fax: 780-577-3537  
Email: sdab@edmonton.ca  
Web: www.edmontonsdab.ca

Date: August 28, 2015  
Project Number: 150074417-003  
File Number: SDAB-D-15-154

### **Notice of Decision**

This appeal dated June 18, 2015, from the decision of the Development Authority for permission to:

Construct an Accessory Building (6m x 24.38m) existing without permits

on Plan 138KS Lot 2, located at 6503 - 3 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on July 16, 2015 and August 13, 2015. The decision of the Board was as follows:

#### **July 16, 2015, Hearing**

“That SDAB-D-15-154 be TABLED to August 12 or 13, 2015, at the written request of the Appellant and the verbal consent of the Development Authority.”

#### **August 13, 2015, Hearing**

“That SDAB-D-15-154 be raised from the Table”.

#### **Summary of Hearing:**

At the outset of the appeal hearing, Mr. C. Thomas, one of the Board members, advised he had previously worked with Mr. I. Welch and Ms. C. Li, the Development Officers present at this hearing. The Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The Board reviewed the Canada Post documents provided and determined that the appeal was filed on time, in accordance with s 686 of the *Municipal Government Act*, RSA 2000, c M-26 (“MGA”).

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct an Accessory Building (6m x 24.38m) existing without permits, located at 6503 - 3 Street NW. The subject Site is zoned DC1 (Maple Ridge) Direct Development Control Provision, Bylaw 15767 and is within the Maple Ridge Industrial Area Structure Plan.

The development permit was refused because it is the opinion of the Development Authority that the proposed development is a General Industrial Use that does not qualify as an allowable Use under the DC1 Zone and the proposed development is a Principal Use in addition to the Temporary Storage Use.

Prior to the hearing the following information was provided to the Board, copies of which are on file:

- Canada Post tracking information provided by the Appellant with the original appeal
- A written submission from the Development Officer received on July 3, 2015
- A copy of the Maple Ridge Industrial Area Structure Plan
- A copy of Bylaw 15767
- A copy of the Canada Post Delivery Confirmation

The Board heard from the Appellant, Mr. S. Cheema, who provided the following information:

1. The structure on the property is a temporary building with no foundation.
2. He will soon apply to have the property re-zoned to commercial zoning as this is what his neighbours have.
3. He wishes to use this temporary building for this winter and maybe an additional month thereafter.
4. He has a permit to store trucks on site.
5. The building in question is used to store tires and can be taken down in two to three days.
6. He has not received opposition from any neighbours and provided a petition containing three signatures confirming acceptance of the structure. ("Exhibit A").
7. He confirmed only one of the three signatures is from within the 60 metre notification radius.
8. The building is not used for commercial or industrial purposes but he acknowledged it is atypical for a residential use.

Mr. Cheema provided the following responses to questions:

1. He resides at the property.
2. He purchased the structure from a friend.
3. He described the structure as a pre-engineered building, with a structural frame and metal panels. The frame is anchored to rig mats.
4. The structure will not be used for commercial or industrial purposes.
5. He acknowledged that the built form of the structure is more conducive for commercial or industrial use as opposed to residential.
6. His neighbour has the same structure but that structure is permanent.
7. He stores six to seven trucks on site; however, no trucks are stored inside the structure.
8. He confirmed his site does not have full utility services. There is no plumbing and he uses a well for water. There is no sewer service on site and he has a septic tank. The surrounding roads have no curbs or gutters and are next to ditches. Consequently this site would need to be serviced for connections for a General Industrial Use.

The Board heard from Ms. C. Li and Mr. I. Welch, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. Ms. Li shared several aerial photos (“Exhibit B”) which were taken in May, 2015 and photos taken by a compliance officer from March, 2014.
2. This property was approved as a Temporary Storage yard, subject to conditions, one of which was that no structures were to be erected on the property.
3. The subject building seems wider and taller than the submitted drawings demonstrate.
4. They confirmed that the Development Authority followed the directions of council for this Direct Control District.

Mr. Cheema made the following points in rebuttal:

1. He acknowledged that one of the 2014 photos shows a truck inside the storage shed but confirmed that this no longer occurs.
2. He hired a third party to prepare the drawings which were submitted to the Development Authority as part of the application process and stated they may not be accurate.

**Decision:**

The Appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

**Reasons for Decision:**

The Board finds the following:

1. The DC1 (Maple Ridge) Direct Development Control Provision (Bylaw 15767) is specific that any General Industrial Use must be properly serviced. The Appellant confirmed to this panel that there is no existing potable water or sanitary sewer connection to the property.
2. Based on the photographic evidence, both the road and storm water requirements may also not meet the requirements of this DC1 District.
3. The Board accepts the photographic evidence that showed that materials related to the Temporary Storage Use are being stored within the subject building.
4. This DC1 District provides no difference between temporary or permanent structures.
5. The Board accepts the Development Authority’s determination that this structure falls within the General Industrial Use classification.
6. The Board notes that an approved Development Permit exists for a Temporary Storage Use, but is specific in the Use Class definition that no structures are allowed to be constructed.
7. Pursuant to section 641(4)(b) of the *MGA*, the Board finds that the Development Authority has followed the direction of Council.

**Important Information for Applicant/Appellant**

1. 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.
2. 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 the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

*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.*

Vincent Laberge, Presiding Officer  
Subdivision and Development Appeal Board

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**SDAB-D-15-184 / 185 / 186 / 187 / 188 / 189**

Application No. 174848500-(001 to 006)

An appeal regarding an Order to Cease the operation of the 'Non-accessory Parking' and completely prohibit vehicular access to the site with barricades on Plan I23A Block 166 Lots 6 to 11 located at 11120 / 22 / 24 / 32 – 86 Avenue NW has been tabled to August 27, 2015