



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: December 18, 2017
Project Number: 245666040-002
File Number: SDAB-D-17-237

Notice of Decision

- [1] On December 6, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on October 13, 2017. The appeal concerned the decision of the Development Authority, issued on October 11, 2017, to refuse the following development:

Change an existing non-illuminated Fascia On-premises Sign to an illuminated Fascia On-premises Sign (7 Eleven)

- [2] The subject property is on Plan 7620578 Blk 9 Lot 299, located at 10909 - 107 Avenue NW, within the CB1 Low Intensity Business Zone. The Central McDougall / Queen Mary Park Area Redevelopment Plan applies 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;
- Development Officer’s written submissions dated November 2, 2017; and
- Appellant’s written submissions with supporting materials, including revised documentation.

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

- Exhibit “A” – Sign Lighting Study from Pennsylvania Transportation Institute
- Exhibit “B” – Page 26 from the United States Sign Council Standards
- Exhibit “C” – Approved Sign Combo Permit dated July 14, 2017 (245666040-001)

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.

Summary of Hearing

i) Position of the Appellant, Permit Solutions Inc.

- [8] Ms. Matwychuk and Mr. J. Czlonka appeared to represent Permit Solutions Inc.
- [9] The proposed development was refused because under section 59F.2(1)(a) of the *Edmonton Zoning Bylaw*, a Fascia On-premises Sign shall only face a public roadway other than a lane. A sign at this location was approved as an externally illuminated sign on July 14, 2017, but they wish to convert it to an internally illuminated sign to provide better visibility for northbound drivers on 109 Street.
- [10] Ms. Matwychuk identified the location of the five existing fascia signs and the freestanding sign currently located on the property on the Site Plan. The proposed sign is required as it is at the only entrance to the store off the parking lot and patrons arriving by vehicle need to know where the entrance is.
- [11] The Appellant provided a study conducted by the Pennsylvania Transportation Institute (marked Exhibit "A") comparing externally and internally illuminated signs. This study involved 80 participants of various ages, both male and female. It was determined that internally illuminated signs performed significantly better than externally illuminated signs regardless of location, placement, setback and the characteristics of the signs themselves. Internally illuminated signs improve traffic safety as they are more visible to drivers so they are less likely to slow down to read them.
- [12] They referred to page 26 of the United States Sign Council Standards (marked Exhibit "B"), which states: "Where roadways have posted speeds of 25 MPH or greater, internal illumination should be permitted as it provides longer viewing times and distances for drivers vs. external illumination".
- [13] The proposed sign faces an Apartment House and the Development Officer felt that the brightness would unduly interfere with the residents' amenities and affect the enjoyment of their property. Mr. Czlonka provided a technical summary about lighting technology to illustrate there would be minimal impact to the residents of the Apartment House. He referred to a light analysis provided by engineering firm EXP Services, which confirmed that the illumination increase is negligible at the existing property boundary.
- [14] The proposed sign is 29.2 metres away from the apartment building in question and the light is not focused on one area. The light is spread out; it is an omnidirectional light.

Each of the five sign panels would create 2,400 lumens of light for a total light output of 12,000 gross lumens; however, the sign face only allows 82% of the light to travel through its face for a net light output of 9,840 lumens. Once the distance to the apartment building and the beam spread has been taken into account, the gross lux calculation reaching the apartment building is 1.22 lux versus that of a full moon, which has a lux value of 1.0.

- [15] The site plan shows a proposed fence between the subject site and the apartment building. A mock-up of this fence shows that it would negate any light pollution to the lowest level of windows. The upper floor windows would be masked by both coniferous and deciduous trees.
- [16] The subject site is at the intersection of two major thoroughfares, with the result that there is significant light pollution from automotive traffic. For much of the late autumn through late winter, more than 40% of all vehicular traffic occurs during hours when there is little or no natural light. Statistics taken from the City of Edmonton website show that even during the least busy time between 2 a.m. and 4 a.m. there are still a minimum of two vehicles per minute at this location. Traffic can be considered virtually constant at all times on 109 Street.
- [17] They referred to photographs in their submission illustrating the light output of various types of headlights compared to a full moon. To provide a sense of scale, one of the illustrations included a mock-up of the north face of the apartment building. These illustrations show that vehicular light sources have by far a greater impact than the proposed sign.
- [18] The Appellant provided the following responses to questions from the Board:
- a) They assumed the proposed fence will be six feet high as that is the residential standard. The mock-up of the fence was taken at ground level.
 - b) Mr. Czlonka confirmed that it is impossible to do an exact comparison between the light emitted by a fascia sign and that of the full moon because the full moon projects light toward the ground rather than on the face of the building. However, the addition of 1.22 lux will not result in a noticeable increase in illumination when the existing sources of light already affecting the apartment building are considered.
 - c) They acknowledged that their sign emits more than double the lumens permitted for exposed bulbs as per section 59.2(4) of the bylaw. However, exposed bulbs have a very high intensity and result in reflections and glare points on the sign. The proposed sign does not have exposed bulbs and light is spread out equally over a total area of almost 100 square feet.
 - d) They did not speak to any of the residents of the apartment building. The affected face of this building has five windows on the top floor, five windows on the

second floor and five to six windows on the ground floor and there are no balconies.

- e) They felt that the freestanding sign that faces west has very little impact on the apartment building. Although they did not have the specifications for that sign available, it complies with all of the guidelines in the bylaw.
- f) The yellow mark-up drawn by the Development Officer on the Site Plan shows where he believes the light from the proposed development would project.

ii) *Position of the Development Officer, Ms. S. Chow*

[19] The Development Officer did not attend the hearing and the Board relied on her written submission.

Decision

[20] 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 Fascia On-premises Sign shall comply with the approved plans submitted.
- 2. The intensity of exposed bulbs on a Sign, excluding Digital Signs, shall not exceed 1000 lumens. (Reference Section 59.2(4))

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

- 1. Section 59F.2(1)(a) is waived thereby allowing the proposed sign to face away from a public roadway.

Reasons for Decision

[22] Fascia On-premises Signs are a Permitted Use in the CB1 Low Intensity Business Zone.

[23] At this location, which is a 7-Eleven store, a Development Permit issued on July 14, 2017 allowed the existing externally illuminated Fascia On-premises Sign with a variance to section 59F.2(1)(a), which states that “Fascia On-premises Signs shall only face a public roadway other than a lane”. The existing Sign faces an apartment building across the store’s parking lot. The justification to allow the variance was that the Sign facing the apartment building would not be internally illuminated. The current application is to construct an internally illuminated Fascia On-premises Sign to replace the existing Sign.

- [24] The Development Officer turned down the current application on the basis that an internally illuminated Sign would be very bright and would adversely impact the amenities or character of the Zone. He was not convinced that the proposed six-foot fence and the presence of deciduous and coniferous trees between the apartment building and the proposed Sign would significantly mitigate the impact.
- [25] However, the Development Officer did not have the benefit of an opinion dated November 23, 2017 from EXP Services Inc., which was provided to the Board. The Board was advised that EXP Services Inc. is an engineering firm with expertise in illumination, among other things. Their opinion was that the presence of the proposed illuminated logo Fascia Sign along the southward facing facade of the building would have a negligible impact along the apartment property boundary.
- [26] The Board also heard from the Appellant that the distance from the proposed Sign to the apartment building is 29.2 metres and, at that distance, the Sign would have a light intensity of 1.22 lux, which is just slightly more than the light intensity of a full moon at 1.0 lux.
- [27] The Board also notes there was no written opposition to the proposed development and that no one appeared in person to voice any concerns about the proposed development.
- [28] The Board is of the view that the amount of light from the proposed sign that will impact the apartment building is small. Further, the proposed six-foot high fence and the existing trees will further mitigate the amount of light reaching the apartment building.
- [29] For all of the above reasons 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.



Mark Young, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. B. Gibson; Ms. D. Kronewitt Martin; Mr. R. Handa, Mr. J. Wall

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, 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 the Sustainable Development Department, 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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SDAB-D-17-238

Project No. 245675108-003

An appeal to convert a Semi-detached house to a 4 Dwelling Apartment House and to construct interior alterations (existing without permits) was **TABLED** to January 4, 2018.