

**Edmonton Subdivision and  
Development Appeal Board**

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**SDAB-D-16-050**

Application No. 182588015-001

An appeal to install (1) Fascia On-premises Sign (Boardwalk), located at 2 Michener Park was TABLED to March 9, 2016

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Date: March 3, 2016  
Project Number: 184816703-001  
File Number: SDAB-D-16-051

## Notice of Decision

[1] On February 17, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on January 26, 2016. The appeal concerned the decision of the Development Authority, issued on January 18, 2016, to refuse the following development:

**to demolish (2) Freestanding Off-premises Signs and install (1) Freestanding Minor Digital Off-premises Sign**

[2] The subject property is on Condo Common Area (Plan 1323218), located at 7903C – Argyll Road NW and Plan 1323218 Unit 7, located at 7903 – Argyll Road NW, within the IB Industrial Business zone.

[3] The following documents were received prior to the hearing:

- Letter from J. Agrios, setting out reasons for the appeal;
- Written submissions from J. Agrios;
- Memorandum from Transportation Services;
- Sign Combo Permit Application; and
- Development Officer's written submissions and additional information.

## Summary of Hearing

[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 appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

i) *Position of the Appellant, Outfront Media, Represented by Ms. J. Agrios, Legal Counsel*

[6] Ms. Agrios argued that the Development Officer made a factual error in applying Section 59.2(3) of the *Edmonton Zoning Bylaw*, which states that:

Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located or constructed such that Sign illumination shall not project onto any surrounding residential premises, shall not face an abutting or adjacent Residential Use Class, shall not face an abutting or adjacent Residential-Related Use Class, and shall not face the Extended Medical Treatment Services Use Class to the satisfaction of the Development Officer.

- [7] She argued that the proposed Sign does not face the residential properties across the street; it is perpendicular to the properties.
- [8] Secondly, she argued that the Development Officer erred in determining that the Sign's illumination would interfere with the enjoyment of the occupants of the residential properties across the street. She provided five reasons to support a finding that the Sign's illumination will not impact the residential properties. They are as follows:
- i) There is currently an existing, illuminated Sign at the location of the proposed Sign, so there will be no difference in the impact of illumination on the residential properties.
  - ii) The proposed Sign is on Argyll Road, a busy commercial road with an industrial district across the street from the homes; the homes are not located in a quiet, residential neighbourhood. If there is an impact from the Sign, it is negligible.
  - iii) There is a service road and a treed buffer that separates Argyll Road from the residential properties. Even with few leaves on the trees during the winter months, there is limited visibility of the existing Sign (which is in the location of the proposed Sign).
  - iv) The Sign is at its maximum brightness when viewed head on, and is less bright when viewed from other angles. The closest houses are 140 and 157 feet away, respectively, and there is no visible illumination from these houses.
  - v) No residential property owners within the 60 metres notification radius have objected to the proposed Sign.
- [9] Ms. Agrios confirmed that the Sign is double sided and that the digital portion of it faces southwest, capturing eastbound traffic.
- [10] Asked whether the Sign would impact the front yard use of the residential properties, Ms. Agrios advised that it is a possibility, but reminded the Board that the properties are located next to Argyll Road, which is a busy road.
- [11] She confirmed that the Sign meets all other regulations prescribed by the *Edmonton Zoning Bylaw*.

*ii) Position of the Development Officer, Sachin Ahuja*

- [12] Mr. Ahuja advised the Board that, because of the grade elevation of the building, the Sign sits on a five-foot elevation from the road, which makes it higher than the residential properties.
- [13] He advised, by reference to an aerial photograph of the proposed site, that the foliage from the treed buffer is not dense enough to stop the illumination from projecting into the front yards of the residential properties. He argued that because some of the trees are ten metres high, and the Sign is at an elevated grade, the foliage is insufficient to block the light emanating from the Sign.
- [14] He advised the Board that the fact that the residential properties are located next to a busy road is not a valid reason to ignore the added impact of the Sign's illumination on the use and enjoyment of the residential properties.
- [15] He advised the Board that he was unable to find a development permit for one of the existing Signs at issue in the appeal before the Board.
- [16] Finally, in the event the Board allows the appeal, he recommended that a condition be imposed that would require the Appellant to submit a survey plan indicating the accurate location of the Sign on the subject site. This is because the current Sign must be a minimum of six metres from the property line; the survey plan will confirm the precise location of the Sign.

*iii) Rebuttal of the Appellant*

- [14] Ms. Agrios advised the Board that the trees are mature and are approximately thirty to forty feet high, which means that the Sign is not visible from the service road that separates the residential properties from Argyll Road.
- [15] With respect to elevation, she conceded that the grade might be slightly higher, but, in any event, it is only slightly higher and is barely noticeable.
- [16] She confirmed that no variance is required because the north Sign (the relevant Sign) is located six metres from the property line. She does not object to the condition that a survey plan be conducted to confirm the new Sign's precise location on the subject site.
- [17] She also confirmed that the existing Sign does have a development permit, albeit an expired permit.

**Decision**

[13] 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:

- The permit shall be approved for a term of not longer than five years, at which time the applicant shall apply for a new development permit for continued operation of the Sign.
- Should, at any time, Transportation Services determine that the Sign face contributes to safety concerns, the owner/applicant must immediately address the safety concerns identified by removing the Sign, de-energizing the Sign, changing the message conveyed on the Sign, and or address the concern in another manner acceptable to Transportation Services.
- The owner/applicant must provide a written statement of the actions taken to mitigate concerns identified by Transportation Services within 30 days of the notification of the safety concern. Failure to provide corrective action will result in the requirement to immediately remove or de-energize the Sign.
- The proposed Sign shall be constructed entirely within private property. No portion of the Sign shall encroach over/into the road right-of-way.

**Reasons for Decision**

[14] Minor Digital Off-premises Signs are a Discretionary Use in the CBI Low Intensity Business Zone.

[15] The Sign at issue in the appeal has existed in its location for a considerable time.

[16] The Sign is located across a major arterial road. Based on photographic evidence presented at the hearing, the Board notes that there is a landscaped buffer and a service road separating the Sign from the single family residential development to the southwest.

[17] The Board notes that the angle of the Minor Digital Sign does not directly look upon the residential area to the southwest, and that the Sign's location, based on the application before the Board, complies with all *Edmonton Zoning Bylaw* regulations required of a Sign at this location.

[18] The Board received several letters of support and did not receive any letters in opposition to the proposed Sign. In addition, nobody appeared before the Board in opposition to the proposed development.

[19] Given the above, the Board finds the proposed development will not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. V. Laberge, Presiding Officer  
Subdivision and Development Appeal Board

**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 5<sup>th</sup> Floor, 10250 – 101 Street, Edmonton.
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*, R.S.A. 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 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.*