



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: February 14, 2018
Project Number: 263830621-001
File Number: SDAB-D-18-021

Notice of Decision

- [1] On February 8, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **December 20, 2017**. The appeal concerned the decision of the Development Authority, issued on December 11, 2017 to refuse the following development:

To install one (1) Freestanding Off-premises Sign (3 metres by 6.1 metres facing N/S) (PATTISON - ARABIAN MUSLIM ASSOCIATION).

- [2] The subject property is on Plan 8422077 Blk 62 Lot 3, located at 15035 - 127 Street NW, Plan 8422077 Blk 62 Lot 4, located at 15035 - 127 Street NW, Plan 8422077 Blk 62 Lot 5, located at 15060 - 125 Street NW and Plan 8422077 Blk 62 Lot 6, located at 15030 - 125 Street NW, within the IB Industrial Business Zone.

- [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
- One online response in opposition to the proposed development.

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

- Exhibit A – Copy of the Appellant’s speaking notes.

Preliminary Matters

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

- [6] The Chairman 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 the Appellant, Mr. M. Caney, representing Pattison Outdoor Advertising:

- [8] Pattison Outdoor Advertising has had a Freestanding Off-premises Sign located on this property at 15035 – 127 Street since 2007. Since then, all of the renewal permits were approved successfully, up until the most recent application on October 3, 2017.
- [9] In the past, the permit applications for billboard signs were not as detailed or precise as they are now; specifically site plans were not required as part of the Development Permit application. The City only required a cadastral map with some marker showing the location of the sign. This has led to many inaccuracies, which is one of the reasons why this application was refused.
- [10] Because of the inaccuracies of the old applications and the current building process for billboard signs, the sign in question is located approximately 40 metres north of the previously approved location. He did not know how this discrepancy remained undetected during the numerous previous Development Permit renewals.
- [11] It was acknowledged that the sign is built in the wrong location, but it was his opinion that the sign does not adversely impact the residential zone located west of the subject site across 127 Street.
- [12] The sign exists on a site located in the IB Zone which has a minimum setback requirement of 6 metres. The existing sign has been located 3 metres from the west property line and approximately 8 metres from the curb along 127 Street since it was originally approved. Relocating the sign will not change the material impact of the sign on the surrounding area. While the location of the existing sign in previous development permits was incorrect, it still had a setback of 3 metres from the west property line and 8 metres from the curb. These same setbacks have existed since the sign was erected and variances have always been granted by the Development Authority.
- [13] It was his opinion that relocating the sign will not impact nearby residences. The residences located on the west side of 127 Street from 149 Avenue to 151 Avenue are located in the RSL Residential Small Lot Zone. Even if the sign had been built in the proper location, the number of residences does not change. The sign will still be located approximately 46 metres east of those residences. Complaints have never been received from any of those residents about the sign that has existed on this site since 2007.

- [14] Mr. Caney addressed the online response submitted from an adjacent property owner in opposition to the proposed sign but reiterated that the sign has existed on this site for the past 10 years. Approving the sign in the proper location will not negatively impact any of the neighbouring property owners.
- [15] This application is not for a new sign, it is for an existing billboard sign that is 10 feet by 20 feet, which is the standard size of a billboard sign.
- [16] Mr. Caney provided the following information in response to questions from the Board:
- a) The sign is a double sided static billboard sign that is up lit with lighting that is a maximum of 400 watts.
 - b) The sign is sited perpendicular to 127 Street.
 - c) Residents of the RSL Zone located west of 127 Street can only see the edge of the sign, not the copy or lighting that is directed towards vehicular traffic along 127 Street.
- ii) *Position of the Development Authority:*
- [17] Ms. Noorman provided written submissions but did not attend the hearing.

Decision

- [18] 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 Sign at its current location shall comply with the approved stamped plans.
 2. The Development Permit expires on February 14, 2023.
- [19] In granting the development, the following variance to the *Edmonton Zoning Bylaw* is allowed:
1. The minimum required Setback of 6.0 metres, as per Section 59F.3(2)(f) and Section 400.4(3), is varied to allow a deficiency of 3.0 metres, thereby decreasing the minimum required to 3.0 metres.

Reasons for Decision

- [20] A Freestanding Off-premises Sign is a Discretionary Use in the IB Industrial Business Zone.

- [21] The Development Permit was refused because it was the opinion of the Development Officer that the proposed Sign would adversely impact residents of the RSL Residential Small Lot Zone located across 127 Street, approximately 46 metres west of the location of the proposed Freestanding Off-premises Sign and because of a deficiency in the minimum required Setback.
- [22] The Board has approved the proposed Discretionary Use and does not agree with the Development Officer that the Use, a non-digital static billboard Sign, is incompatible with the RSL Residential Small Lot Zone, located west of the subject site for the following reasons:
- a) The RSL Residential Small Lot Zone will always be located across from the IB Industrial Business Zone. The proposed Freestanding Off-premises Sign Use is one of the least intense Uses that could or perhaps will be approved on this site in the future.
 - b) The proposed Freestanding Off-premises Sign is not a Digital Sign and the only light required is located at the bottom of the sign, directed onto the Sign Copy. Therefore, the Board finds that any light emanating from the proposed Sign will only minimally impact the use and enjoyment of the residential properties in the RSL Residential Small Lot Zone located west of the subject site.
 - c) The Board notes that the RSL zoned properties are located approximately 46 metres west of the site of the proposed Sign, across 127 Street which is a four lane highway.
 - d) The Board notes that only one objection was received from a property owner who does not reside in the RSL Residential Small Lot Zone, for whom the Development Officer had the most concern. Therefore, the Board finds that the impact of the proposed Use on the residents of the RSL Zone will be minimal.
- [23] The Board has granted the variance in the minimum required Setback for the following reasons:
- a) The Sign has existed at its current and proposed location for almost 11 years.
 - b) The reduced Setback from the property line is mitigated by a City boulevard that is located between the property line and the curb along 127 Street resulting in a Setback of approximately 7 metres. Even though the Setback requirement has not been met, visually, the Sign appears to be setback a significant distance from 127 Street.
 - c) The Sign will have a minimal impact on the existing industrial uses occurring on adjacent sites or the undeveloped lots that are all zoned IB Industrial Business Zone.

[24] For all of the above reasons, the Board finds that the proposed Discretionary Use with the conditions imposed is reasonably compatible with the neighbourhood and is of the opinion that granting the required variance 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. I. Wachowicz, Chairman
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. P. Jones; Ms. G. Harris; Ms. K. Thind; Mr. J. Kindrake

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Development & Zoning Services (Urban Form and Corporate Strategic Development), 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 (Urban Form and Corporate Strategic Development), 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-18-022

Project No. 263717286-001

An appeal to install one (1) Freestanding Minor Digital On-premises Off-premises Sign (1 Digital panel 3 metres by 7.1 metres facing Northeast/ Pattison – Shoppes at Terwillegar was **WITHDRAWN**