



EDMONTON  
**TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

10019 - 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079 F: 780-577-3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

## **SDAB-D-19-110**

### **Application No. 264872041-002**

An appeal to construct an over-height Fence for a Religious Assembly, existing without Permits (maximum height 2.03 m) was **TABLED TO AUGUST 15, 2019.**



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

*10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079 F: 780-577-3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)*

Date: July 31, 2019  
Project Number: 314488677-001  
File Number: SDAB-D-19-108

**Notice of Decision**

[1] On July 18, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **June 24, 2019**. The appeal concerned the decision of the Development Authority, issued on June 19, 2019, to refuse the following development:

**Install one (1) Freestanding Off-premises Sign (PATTISON | SPECTRUM 4 ENTERPRISES LTD.).**

[2] The subject property is on Plan RN46 Blk 40 Lots 15-16, located at 12425 - 118 Avenue NW, within the (CB1) Low Intensity Business Zone. The Main Streets Overlay and the West Ingle Area Redevelopment Plan apply to the subject property.

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

- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submission;
- The Appellant’s reasons for appeal and attachments; and
- One email in opposition to the proposed development.

[4] The following exhibit was presented during the hearing and forms part of the record:

- Exhibit A – Speaking notes 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.

### **Summary of Hearing**

*i) Position of the Appellant, Mr. M. Caney, representing Pattison Outdoor Advertising:*

- [8] Pattison Outdoor Advertising has had an off-premises advertising sign at the subject location since 1995. Since then, all of the development permit applications were successfully renewed with the exception of the most recent application that expired on December 4, 2011. The previous development permit expiry went undetected by both Pattison Outdoor Advertising and the City until earlier this year when it was brought to his attention by the City.
- [9] An application was subsequently made to renew the development permit for the existing sign but was refused by the Development Officer because of an excess in the maximum allowable height and a deficiency in the minimum required separation distance from a freestanding sign on the subject site and an off-premises sign on an adjacent property.
- [10] This sign was erected in the 1990s at what was considered to be the standard sign height of 8.0 metres. The maximum sign height was reduced to 6.0 metres when the Main Streets Overlay was adopted.
- [11] A photograph was referenced to illustrate that the sign is located in the parking lot of the main tenant of the site (Burger Baron). Reducing the height of the sign will increase the risk that the catwalk for the sign will potentially interfere with vehicles or delivery trucks passing underneath it. The cost to reduce the height of the sign is close to \$10,000 which will require removal of the head of the sign, removal of a two-metre section of the pole and then re-welding the connection plate.
- [12] An overhead diagram was referenced to illustrate the location of the other freestanding off-premises sign referenced by the Development Officer to be approximately 70 metres away from the existing sign. Both signs cannot be seen by commuters at the same time. One sign targets commuters on 118 Avenue while the other targets commuters travelling south on 124 Street. The sign on 124 Street has existed since 2005. In the opinion of the Development Officer, the deficiency in separation distance between the signs contributes to the proliferation of signs in this area.
- [13] The development permit was also refused because of a deficiency in the minimum required separation distance from the existing Burger Baron on-premises sign. The site plan was referenced to illustrate that the site is only 45.79 metres in length and due to the lot size and utilization of the site there are no other suitable locations for the off-premises sign that would not interfere with delivery trucks, parking stalls or the flow of traffic into and out of the lot.

[14] Photographs of the site dating back to 2012 were referenced to illustrate that no material changes have been made to the subject site. Therefore, allowing the sign to remain at the current location as it has for the past 20 years will not change or cause any negative impact on neighbouring properties or residents.

[15] All of the recommended conditions of the Development Officer have been reviewed and are acceptable.

*ii) Position of the Development Officer, Ms. K. Mercier:*

[16] Ms. Mercier did not attend the hearing but provided a written submission that was considered by the Board.

*iii) Position of an affected property owner in opposition to the proposed development, Mr. Y. Behnamian:*

[17] Mr. Behnamian sent an email and attended the hearing because he was under the assumption that the development permit application was to erect a new sign at this location. However, after speaking with the Appellant and the Board Officer who clarified that the development permit application was required to allow the existing sign to remain at this location, he advised the Board that his opinion was neutral and that he was not opposed to allowing the sign to remain as it exists.

## **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 development permit expires on **August 2, 2024**.
2. The proposed Freestanding Off-premises Sign shall comply in accordance with the approved plans submitted.
3. The intensity of exposed bulbs on a Sign, excluding Digital Signs, shall not exceed 1100 lumens. (Reference Section 59.2(4)).

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

1. The maximum allowable Height of 6.0 metres for a Freestanding Sign as measured from Grade to the top of the Freestanding Sign per section 819.5(2)(a) is varied to allow an excess of 1.9 metres, thereby increasing the maximum allowed Height to 7.9 metres.
2. The minimum required separation distance from Digital Signs greater than 8.0 square metres or Off-premises Signs less than 20 square metres by 100 metres per schedule 59E.3(2)(g) is varied to allow a deficiency of 30 metres, thereby decreasing the minimum required separation distance to 70 metres.
3. The minimum required radial separation distance of 45 metres from any other Sign Use that is a Freestanding Sign on the same Site per section 59.2(21) is varied to allow a deficiency of 22.7 metres, thereby decreasing the minimum required radial separation distance to 22.3 metres.

### **Reasons for Decision**

- [20] A Freestanding Off-premises Sign is a Discretionary Use in the (CB1) Low Intensity Business Zone.
- [21] The Development Authority refused the proposed development because it does not comply with three development regulations contained in the *Edmonton Zoning Bylaw*.
- [22] The Board finds that the proposed Sign will not result in a proliferation of Signs and grants the required variances for the following reasons:
- a) The Main Streets Overlay that limits the maximum allowable Height of a Freestanding Sign to 6.0 metres was adopted after the subject Sign was constructed. The 8.0-metre high Sign has existed at this location for over 20 years without any known complaints.
  - b) Based on a review of the photographic evidence provided, the subject Sign is located on 118 Avenue and the closest existing Off-premises Sign that is located 70 metres away is located on 124 Street. Therefore, the Signs are not visible to commuters at the same time.
  - c) The Appellant considered options for relocating the subject Sign on the subject Site but because the lot is only 45.79 metres in length, there were no other suitable locations that would not interfere with the operation of the business, delivery trucks, parking stalls and the flow of traffic into and out of the lot.

- d) Based on a review of the photographic evidence provided, no material changes have been made to the Site. The Board also notes that the closest Off-premises Sign located on 124 Street was constructed in 2005 and has remained as-built since that time.
- e) The Board acknowledges one email in opposition to the proposed development received from an adjacent property owner who also attended the hearing. After receiving clarification that the development permit application was required to allow the subject Sign to remain as it exists, he advised the Board that his opinion regarding the sign was neutral.
- f) The Appellant is agreeable to the imposition of all of the recommended conditions provided by the Development Officer.

[23] Based on all of the above, the Board finds that the proposed development with the conditions imposed is reasonably compatible with the neighbourhood and is of the opinion that granting the required variances 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.

Ms. G. Harris, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. K. Cherniawsky, Mr. C. Buyze, Ms. L. Gibson, Mr. J. Jones

cc: City of Edmonton, Development & Zoning Services – Ms. K. Mercier / Mr. H. Luke

**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.*