

Edmonton Subdivision and Development Appeal Board

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DATE: April 2, 2015
PROJECT NO.: 160302808-004
FILE NO.: SDAB-D-15-058

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 23, 2015, from the decision of the Development Authority for permission to:

Develop a Secondary Suite on the second floor in an existing Single Detached House (existing without permits)

on Plan I24, Block 18, Lot 2, located at 10926 - 77 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 19, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed within the allowable 14-day appeal period, pursuant to section 686 of the *Municipal Government Act*, R.S.A. 2000, c. M-26

The Board heard from the Appellant, C. Kwok, who provided the following information with regard to the timing of filing the appeal:

1. He attempted to file his appeal using the online system on February 20, 2015.
2. He was unable to submit payment and contacted SDAB Staff immediately who advised him to come to the office on the next business day, being Monday, February 23, 2015, to make payment in person.
3. He made the payment on Monday, February 23, 2015

The Board Officer present confirmed technical difficulties occurred with the online system, which prevented C. Kwok from paying the appeal fee on February 20, 2015.

MOTION:

That the Board assumes jurisdiction pursuant to Section 686(1)(a)(i) of the *Municipal Government Act*. Carried.

REASONS FOR DECISION:

1. The Board finds the appeal was filed on February 20, 2015. Payment was not received until Monday, February 23, 2015, due to technical errors beyond the control of the Appellant. Despite non-payment of the appeal fee, the Board finds the appeal was substantially filed on February 20, 2015, which is within the allowable 14-day appeal period, pursuant to section 686 of the *MGA*.

The Board heard an appeal of the decision of the Development Authority to refuse an application to develop a Secondary Suite on the second floor in an existing Single Detached House (existing without permits). The subject Site is located at 10926 - 77 Avenue NW, is zoned RF3 Low Density Redevelopment Zone, and is within the Mature Neighbourhood Overlay. The application was refused due to an excessive floor area for the proposed Secondary Suite and an inability to meet on-site parking requirements.

Prior to the hearing the Board was provided with a written submission from the Development Officer dated March 11, 2015.

The Board heard from the Appellant C. Kwok, who provided the following information in support of the appeal:

1. The Single Detached House had been developed with the intention of renting a portion to students from the University of Alberta as a legacy project honoring his late sister.
2. The property is owned by himself and other relatives.
3. When initially developing the Single Detached House the owner did not realize that the size of a Secondary Suite on the second floor might be an issue.
4. Mr.Kwok is prepared to limit the occupancy of the Secondary Suite to two tenants and state in the lease that the tenants are constrained to one small car.

C. Kwok provided the following responses to questions from the Board:

1. He referred to the submitted plans and indicated he was willing to address the excessive floor area of the Secondary Suite by closing off bedrooms 4 and 5, which would be blocked by locking the doors.
2. The Appellant does not live in the house.
3. The main floor of the property is rented to two unrelated male tenants.
4. The current owners have no intention of selling the property. Any potential future buyers would be informed of the conditions attached to operating the secondary suite.
5. The basement is undeveloped and only has a coin laundry facility for tenant use.
6. Revenue maximization is not the motive of the owners. They only wish to provide accommodation to students in honour of their late sister.
7. It is physically possible to park several vehicles on the driveway, which is 4.5 metres long.
8. The Single Detached House has a separate rear entrance to the basement. There is also a side entrance which provides access to the Secondary Suite, the main floor and allows access to the basement for use of the laundry facilities.

9. Mr. Kwok agreed that access to bedrooms 4 and 5 by the owner would only be possible by going through the Secondary Suite. He indicated he has no reason to access the closed off bedrooms other than in an emergency and would only do so with permission from the tenants.
10. He had not explored the possibility of developing the property as a Lodging House as this was not the intention of his late sister.

The Board heard from H. Polnick, and C. Corroran, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. The application had been refused due to an excessive floor area for a Secondary Suite and a parking deficiency. The issuance of a variance would unduly interfere with the amenities of the neighbourhood and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
2. They indicated that there are only two valid parking spaces. The proposed tandem parking space on the driveway is deficient in length by 0.1 metres.
3. The intention of a Secondary Suite is to house one household unit, not unrelated individuals.
4. In their opinion a Lodging House creates a completely different impact on a neighbourhood. Given that there are separate entrances to the Secondary Suite and each bedroom door is keyed within the Secondary Suite, a Lodging House is the most appropriate use class for this property. A Lodging House is a discretionary Use in the RF3 Low Density Redevelopment Zone.
5. Practices within the Sustainable Development Department have changed since 2006 when the Single Detached House was approved. Today this application would be considered a Lodging House. The plans would be flagged for future follow-up because of the potential for additional sleeping units.
6. The intention to rent to students infers that the appropriate Use class is a Lodging House.
7. They confirmed that the staircase area was included in the Floor Area calculations for both the Secondary Suite and the total Floor Area above grade.
8. The two closed-off bedrooms would be considered as part of the main suite and therefore would require access from the main suite. Closing them off would not be in compliance with the self-containment requirement for a Secondary Suite under the *Edmonton Zoning Bylaw* and creates enforcement issues with a future owner.
9. The Development Officer confirmed that increased density is not an appropriate reason to refuse a Secondary Suite.

In rebuttal, C. Kwok made the following points:

1. The lengths of the parking stalls at the rear of the garage would be useable by small cars as they are just slightly short of the required length.
2. The intent for the future use of the property is to house a family on the main floor and the second floor Secondary Suite would be rented to students.
3. It is not cost effective to develop the basement as a Secondary Suite.
4. A Lodging House would require more management attention and is not appealing to him.

5. If it were classed as a Lodging House he would operate the house in exactly the same manner as he is currently doing.
6. Presently there are two unrelated males renting the main floor and two female students in the Secondary Suite.

DECISION:

That the appeal be DENIED and the decision of refusal by the Development Authority CONFIRMED.

REASONS FOR DECISION:

The Board finds the following:

1. This development does not meet the requirements of a Secondary Suite found in Section 86 of the *Edmonton Zoning Bylaw*.
2. The *Edmonton Zoning Bylaw* states, in Section 6.1(16):
Congregate Living means four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Concrete Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.
3. The Board finds that the configuration of the second floor of the Single Detached House is in line with the definition of Congregate Living for the following reasons:
 - a. Access to the existing Secondary Suite is from a common entrance on the side of the building which also provides access to the main floor, second floor and basement.
 - b. There are an excess of sleeping units on the second floor which could permit more than three unrelated people, the maximum allowed under the definition of a Secondary Suite. These units all have keyed doors.
 - c. The Appellant stated he would close two bedrooms and one bathroom by locking the doors. The Board finds that access to those bedrooms could only be obtained through the secondary suite which is contrary to the requirement of a Secondary Suite to be self-contained.
4. The Board finds that this development would be better classified as a Lodging House, as defined in Section 7.3(6) of the *Edmonton Zoning Bylaw*:
Lodging Houses means a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use Class does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.
5. The Board finds that Lodging House would be the most appropriate Use class given the evidence from the Appellant that it is his intention to continue to house students. The

Development Officers agreed with this Use after having heard the submission of the Appellant.

6. Lodging House is a discretionary Use in the RF3 Low Density Redevelopment Zone and as such would require notification of residents within a 60-metre radius.
7. The Board accepts the Development Officer's submission that Lodging Houses have a different impact on a neighbourhood than Secondary Suites.
8. The Board accepts the Development Officer's reasons of refusal regarding the parking deficiency and excess floor area and that the proposed development will unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land

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, 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.
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.

Patricia Jones
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

Edmonton Subdivision and Development Appeal Board

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DATE: April 2, 2015
PROJECT NO.: 163889410-001
FILE NO.: SDAB-D-15-057

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 19, 2015, from the decision of the Development Authority for permission to:

Install a Freestanding Minor Digital On-premises Off-premises Sign (2 faces north/south) (OUTFRONT MEDIA).

On Plan 0222822, Block J, Lot 3, located at 12320 - Mount Lawn Road NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 19, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

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

The Appellant requested an Adjournment as he felt he did not have time to review recently submitted information, including the agenda. The Respondent objected as all materials were available for viewing in the Board file prior to this hearing. The Board recessed for half an hour to give the Appellant time to review all materials.

The Board heard an appeal of the decision of the Development Authority to approve an application with conditions to install a Freestanding Minor Digital On-premises Off-premises Sign (2 faces north/south) (OUTFRONT MEDIA) with a variance granted in the required separation distance between the proposed Sign and another Digital Sign. The subject Site is zoned IB Industrial Business Zone and is located at 12320 – Mount Lawn Road. The approved development permit application was subsequently appealed by an adjacent property owner.

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

- A map submitted by the Appellant with the appeal on February 19, 2015;
- A written submission from the Development Authority, dated February 23, 2015;

- An e-mail from the City of Edmonton Transportation Services to the City of Edmonton Sustainable Development Department, dated December 4, 2014;
- A response in support of the proposed development submitted through the on-line system from the owner of the subject Site; and
- A submission from the Respondent's counsel received on March 16, 2015.

The Board heard from A. Slawsky, representing the Appellant, Baron Real Estate Investments who provided the following information to the Board:

1. Mr. Slawsky submitted the following documents:
 - a. A Density Map of Fatal and Injury Collisions (Exhibit 'A');
 - b. 2012 Approved Collision Report – Intersection Collision Summary (Exhibit 'B');
 - c. Subdivision Development Appeal Board ("SDAB") Agenda, for File No. SDAB-D-10-237, dated July 29, 2010 Pages 44 to 54 (Exhibit 'C'); and
 - d. Decision SDAB-D-10-237, dated July 29, 2010 (Exhibit 'D').
2. The application did not correctly identify all signs in proximity to the proposed sign as illustrated in the map submitted by the Appellant.
3. The application did not identify which sign required the 10 metre variance and he was not aware of how the distances between the signs had been determined.
4. The Respondent's property is quite large and the exact location of the proposed sign on this property was not clearly identified.
5. Another two-sided 14 foot by 48 foot billboard (the "Superboard"), which requires a separation distance of 300 metres from the proposed sign, was not taken into account when allowing the Development Permit for the proposed sign and no variance was provided for it.
6. The Appellant disagrees with the position taken by the Development Officer that since there is no permit for the Superboard it does not need to be considered. There is no evidence that this billboard does not have a permit.
7. Decision SDAB-D-10-237 (Exhibit 'D') issued a five-year permit for a sign to replace the Superboard (the "Replacement Sign"). That permit is still valid for a few months and there was no requirement in Decision SDAB-D-10-237 for the old sign to be removed. The permit did not state when construction must occur. There is a permit for the existing Superboard until the permit for the Replacement Sign expires.
8. Decision SDAB-D-10-237 referred to the fact that the Superboard pre-existed the current *Edmonton Zoning Bylaw*.
9. He had received a telephone call this morning from a representative of the Respondent asking if the Appellant owned the Superboard. The caller did not identify himself but an internet search of the phone number determined the phone call had come from the Respondent. He felt this phone call spoke volumes.
10. The Replacement Sign was going to be smaller than the existing Superboard.
11. He is concerned about the proliferation of signs in the area. He does not know if all the signs in the area have permits, but there is no question that they exist.
12. The potential traffic implications from the proposed Sign have not been identified or properly considered.
13. The Development Permit contains a number of conditions for the proposed Sign. These included that the sign must not be located in the field of view of traffic control devices or

traffic conflict points such as intersections and curved roadways and that the illumination must not compete with or dull the contrast with traffic control signals and devices. There was no evidence that these conditions had been considered and he feels the proposed sign would not comply with these conditions.

14. An e-mail from the City of Edmonton Transportation Services Department cannot be accepted as approval of the proposed sign as it does not clearly identify what issues were considered.
15. The traffic count on Wayne Gretzky Drive is high and the proposed sign will be very close to a major traffic signal. He also noted that the roadway was curved at this location and that there was a hill located nearby.
16. He referred to Exhibit 'A' which identifies the intersection near the proposed sign as an area with the second highest density of fatality and injury accidents in the City of Edmonton. The sign could contribute to further accidents at this location.
17. He referred to Exhibit 'B' which identifies the intersection at Wayne Gretzky Drive and Yellowhead Trail as the 12th highest collision location in the City of Edmonton.
18. He felt there are significant credibility problems with the application and that the Development Permit should not be allowed.

A. Slawsky provided the following responses to questions from the Board:

1. He does not own the land where the Superboard is located. The sign is close to his property line, but he believes it is located on property owned by CN.
2. The existing Superboard is located on green space that is close to an LRT line and a CN rail line.
3. He believes that the existing Superboard requires a separation distance of 300 metres because the size of the Superboard is 62.43 square metres. The distance between the Superboard and the proposed Sign is 280 metres.
4. He would be able to see the proposed sign from his property and will drive by the proposed sign every day.

The Board heard from B. Noorman and S. Ahuja representing the City of Edmonton Sustainable Development Department who provided the following information to the Board:

1. They submitted an image from Pictometry (Exhibit 'E') showing the location and separation distances of Signs in the immediate area.
2. The Replacement Sign does not necessitate a variance as the permit is for a much smaller sign than the Superboard and has never been built. The Superboard does not necessitate a variance as it has no valid permit.
3. The Superboard and an additional Sign NE of the Superboard, marked as '2' on Exhibit 'E', were to be removed pursuant to Decision SDAB-D-10-237.
4. The only sign necessitating a variance ("Sign 3" on Exhibit 'E') is located on Fort Road and is 190 metres from the proposed sign location. As this is a larger sign, a separation distance of 200 meters is required.
5. The proposed sign is set back from Wayne Gretzky Drive by a City right-of-way.
6. The City of Edmonton Transportation Services Department has no objections to the location of the proposed sign as it is an appropriate distance from the nearby intersection.

B. Noorman and S. Auja provided the following responses to questions from the Board:

1. The measurements shown on Exhibit 'E' are accurate to within 1 foot.
2. The site plan for the proposed sign included with the application shows the proposed sign is to be located 3 metres from the west property line and 6 metres from the north property line. This sign location plan was included in the file and was available for viewing.
3. The Superboard is on the CN right-of-way. The 60-metre notification map in Exhibit 'C' indicates the location of the sign as being on the Appellant's property because the mapping program uses the nearest municipal address.
4. The Superboard is not in compliance as it does not have a valid permit and enforcement, which is complaint based, is currently underway.
5. The Development Authority relies on the City of Edmonton Transportation Services Department to address any traffic safety concerns that may result around sign applications.
6. Other signs identified by the Appellant on his submitted map were not included in their written review as the separation distances are compliant.
7. The estimated distance from Wayne Gretzky Drive to the proposed sign location is approximately 15 to 17 metres to the property line.

The Board heard from J. Agrios of Kennedy Agrios LLP, representing the Respondent, Outfront Media. She was accompanied by D. Hollman of Outfront Media. Ms. Agrios provided the following information to the Board:

1. The sign on the south end of the Respondent's property shown on the site plan has been removed and does not need to be taken into account. As a result the addition of the proposed sign does not increase the total number of signs in the area so there is no proliferation.
2. The proposed sign is not likely to be very visible to the properties on Mount Lawn Road as most of it will be blocked by the existing building on the site.
3. The proposed sign is fully compliant with all sign regulations with the exception of the separation distance from Sign 3 on Fort Road, which requires a 10-metre variance.
4. The Yellowhead Corridor Area Structure Plan does not address signs such as this.
5. The area is a high-traffic industrial area along Wayne Gretzky Drive.
6. The actual setback of the sign from the road is more than what is required due to a City of Edmonton right-of-way between the road and the subject's property line.
7. The proposed sign is less than 20 square metres which only requires a 100-metre separation distance from other signs.
8. The Respondent has difficulty in understanding how the proposed sign has a negative impact on the Appellant, unduly interferes with the amenities of the neighbourhood, or materially interferes with or affects the use, enjoyment or value of neighbouring parcels of land.
9. The Decision SDAB-D-10-237 is not a permit for the Superboard. It is a permit for the Replacement Sign, which was never built.

10. The conditions in decision SDAB-D-10-237 noted that the Replacement Sign was to obtain a building permit or be built within one year. There is a statutory time limit for a development to begin from the time a building permit is granted.
11. The City of Edmonton Transportation Services Department has expressed no concerns with the proposed location or structure.
12. The existing super billboard clearly does not have a valid permit.

The Appellant made the following points in rebuttal:

1. The Appellant could not determine if the measurements contained in the site plan were accurate and many inaccurate representations were made in the application process. The Development Officer admitted that their separation measurements were not as accurate as they would like them to be. It is the Respondent's responsibility to provide surveyed distances to other signs in the area.
2. The building shown on the site plan was drawn freehand and the site plan was not stamped by a surveyor. An aerial photo from Google Maps Professional shows that the building is not accurately located on the site plan. The site plan also shows the proposed sign as 8.3 metres high, which would require a variance.
3. His right to appeal the proposed sign is not predicated on whether he could see it from his property. The right to appeal arises because he owns adjacent property.
4. The map he submitted shows two other two-sided billboards 120 metres and 105 metres from proposed sign, which were not taken into account by the Development Officer. Each of these signs requires a separation distance of 200 metres.
5. The Development Officer indicated the Superboard is currently under investigation which indicates that it is unclear as to whether there is an existing Development Permit. Decision SDAB-D-10-237 supercedes any decision by the Development Authority and provides for a 5-year Development Permit which does not expire until July, 2015.
6. The opinion of the City of Edmonton Transportation Services Department was based on the application, which does not show distances to traffic signals.
7. The Development Authority did not follow regulations with respect to traffic signals, curved roadways, high collision locations, and other traffic safety considerations. Allowing the proposed sign would fly in the face of safety. The proposed sign is designed to attract the attention of drivers.
8. The Appellant did not know when the sign on the Respondent's property had been removed. It wasn't a two sided digital sign and was not located as close to the intersection as the proposed sign would be.
9. The proposed sign would be an increase of one sign on the property because there is no sign currently on the Site.
10. When he spoke to the Development Officer earlier this week she could not explain the Superboard "conundrum".

The Respondent made the following points regarding new information presented by the Appellant in rebuttal:

1. The sign on the south end of the site which was a 10 foot by 20 foot billboard has been removed within the past month.

2. The height of proposed sign will be 8.0 metres as per the engineered drawings. The height of 8.3 metres shown on the site plan is incorrect.
3. The two two-sided signs to the northwest and southwest that the Appellant is referring to are smaller signs and require only a 100-metre separation, which is met in each case.
4. Decision SDAB-D-10-237 provided a permit for a smaller sign, which only required a 200-metre separation.

The Appellant made the following points in rebuttal:

1. The approval for the Replacement Sign was for a two-sided digital sign.
2. He maintains that the two two-sided billboards need a 200-metre separation distance because of their size, as they are each 10 feet by 20 feet.

DECISION:

That the appeal be Denied and the Decision of Approval of the Development Authority be Upheld with a variance granted to the required separation distance between the proposed Sign and another Digital Sign (27 square metres in area), from 200 metres to 190 metres (Reference Section 59F.3(6)(e)) subject to the following conditions:

1. The sign permit is approved for a period of 5 years. A new permit shall be required to extend the duration on or before February 4, 2020.
2. The maximum Height shall be 8.0 m. (Reference Section 59F.3(6)(b))
3. The maximum Width shall be 16.0 m. (Reference Section 59F.3(6)(c))
4. The maximum Area shall be:
 - i) 65.0 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed
 - ii) 65.0 m². (Reference Section 59F.3(6)(d)(ii))
5. Proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:
 - Proposed Sign Area: Greater than 8.0m² to less than 20m² the minimum separation distance from Digital Signs greater than 8.0 m² or other Off-premises Sign shall be 100m.
 - Proposed Sign Area: 20m² to 40m²: the minimum separation distance shall be 200m.
 - Proposed Sign Area greater than 40m²: the minimum separation distance shall be 300m.The separation shall be applied from the larger Off-premises Sign or Digital Sign location. (Reference Section 59F.3(6)(e))
6. Proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback. (Reference Section 59F.3(6)(j))
7. The maximum number of Freestanding On-premises Signs, Roof On-premises Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs on a Site shall be four. (Reference Section 59F.3(6)(k))
8. Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located such that the

Sign does not obscure a driver decision point. The Development Officer and Transportation Services shall be satisfied that each Copy Area:

- Does not physically obstruct the sightlines or view of a traffic control device or traffic control signal for oncoming vehicle traffic. (Reference Section 59.2(2)(a))
 - Is not located in the field of view near or past the traffic control device or traffic control signal in the sightlines of oncoming vehicle traffic. (Reference Section 59.2(2)(b))
 - Is not located in the field of view near or past other traffic conflict points such as intersections, merge points, exit ramps, or curved roadways. (Reference Section 59.2(2)(c))
 - Illumination does not compete with or dull the contrast of the traffic control device or traffic control signal for oncoming vehicle traffic. (Reference Section 59.2(2)(d))
9. All Freestanding Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located so that all portions of the Sign and its support structure are completely located within the property and no part of the Sign may project beyond the property lines unless otherwise specified in a Sign Schedule. (Reference Section 59.2(12))
10. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

Advisements:

Should the Applicant wish to display video or any form of moving images on the sign, a new Development Application for a major digital sign will be required. At that time, Transportation Services will require a safety review of the sign prior to responding to the application.

REASONS FOR DECISION:

The Board finds the following:

1. Minor Digital On-premises Off-premises signs are a Discretionary Use in the IB Zone.
2. There were four areas of concern raised by the Appellant: whether separation distances from other signs have been properly considered; whether the proposed sign will impact traffic; whether a variance in height is required; and whether the proposed sign adds to the proliferation of signs in the area. The Board will address each of these issues.
3. The Board finds all separation distances from the proposed sign were properly identified and considered:
 - a. The Board finds the Superboard does not have a valid Development Permit and the Development Officer was correct in not requiring a separation distance from the Superboard:

- i. The Superboard existed at the time SDAB-D-10-237 was heard by the Board. SDAB-D-10-237 grants a permit for the Replacement Sign for a period of 5 years on the condition that the Superboard and Sign 2 (on Exhibit 'E') are removed. Based on Decision SDAB-D-10-237, the Board finds the only valid development permit for a sign at the location of the Superboard is the Development Permit for the Replacement Sign.
 - b. The Board finds the separation distance from all other signs in the area meet the requirement found in section 59F.3(6)(e) of the *Edmonton Zoning Bylaw*:
 - i. The approved Replacement Sign has a Sign Area of 31.98 square metres. On this basis the proposed sign requires a minimum separation distance of 200 metres from the Replacement Sign under section 59F.3(6)(e) of the *Edmonton Zoning Bylaw*. As the approved location of the Replacement Sign is 280 metres from the proposed sign, the required separation distance is met.
 - ii. The Board recognizes the Development Permit for the Replacement Sign may have expired, but as the separation distance from the proposed sign is met, the Board makes no finding regarding the current validity of the Replacement Sign Development Permit.
 - iii. Each of the two two-sided signs to the northwest and southwest of the proposed Sign have a Sign Area of less than 20 square metres, which require a separation distance of 100 metres. These signs are 120 metres and 105 metres, respectively, from the proposed sign.
 - c. The Board finds that the separation distance between the proposed sign and Sign 3 (on Exhibit 'E'), across Fort Road, requires a variance of 10 metres as identified by the Development Officers. The impact of this variance is mitigated by the major roads between the two signs.
4. The Board finds the proposed sign will not have a negative impact on traffic:
 - a. The Development Officers and the Respondent indicated that a road right-of-way separated the subject property from the road having a width of approximately 15 to 17 metres. Further, the proposed sign will be placed outside of the 3-metre setback from the side property line. Combined, these will mitigate the proximity to the intersection of Wayne Gretzky Drive and Fort Road.
 - b. The Board accepts Transportation Services review of this project, which states that Transportation Services did not have any concerns with the placement of the proposed sign with regard to traffic concerns.
5. The Board finds no variance is required for the Height of the proposed sign:
 - a. The Board accepts the engineering drawings submitted with the application and stamped as approved by the Sustainable Development Department that indicate the Height of the proposed sign is 8.0 metres. As such, the Height of the proposed sign complies with section 59F.3(1)(d) of the *Edmonton Zoning Bylaw*.

6. The Board finds the proposed sign does not add to the proliferation of signs in the area:
 - a. The Board accepts the information of the Respondent that the original freestanding billboard sign located at the south edge of the site was removed last month.
 - b. The Board finds that the proposed sign, even though it is a two-sided sign, is considered as one unit. Therefore the Board does not find that this sign constitutes a proliferation of signs on this property or in the area.
7. Based on the above, the Board finds the proposed sign 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.

IMPORTANT INFORMATION FOR APPLICANT/APPELLANT

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
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.

Patricia Jones
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD