

Edmonton Subdivision and Development Appeal Board

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Date: April 15, 2015
Project Number: 167369080-001
File Number: SDAB-D-15-064

Notice of Decision

This appeal dated March 10, 2015, from the decision of the Development Authority for permission to:

Remove an existing Fascia Off-premises Sign and install a Roof Off-premises Sign (Facing North)

On Plan RN22 Blk 26 Lot 8, located at 10805 - 124 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 31, 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 decision of the Development Authority was issued on February 23, 2015 and subsequently mailed on February 24, 2015. Therefore, the Board has determined that the appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 and assumed jurisdiction of the matter.

The Board heard an appeal of the decision of the Development Authority to approve, subject to conditions, an application to remove an existing Fascia Off-premises Sign and install a Roof Off-premises Sign, located at 10805 – 124 Street NW. The subject Site is zoned CB1 Low Intensity Business Zone. 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:

- a. A written submission from the Development Authority dated March 23, 2015.

The Board heard from Ms. J. Lailey, representing the Appellant, St. George's Greek Orthodox Church. She was accompanied by Ms. K. Tsiandos, also of St. George's Greek Orthodox Church. Ms. Lailey provided the following information:

1. 124 Street is a growing area and has improved over the years due to new developments.

2. The existing Fascia Off-premises Sign located on the subject site encroaches onto the Church property to the north. Due to the encroachment, the Church has requested its removal prompting the new application from Pattison Outdoor Signs for a Roof Off-premises Sign.
3. Advertising is required for the general area and they want to provide a viable alternative to advertise the Church and other businesses for a minimal charge.
4. They have two safety concerns with the proposed development. First, drivers will be distracted as they divert their focus up to the roof top. Second, the placement of a sign on the roof top could create a danger for those below.
5. The Church applied for its own Digital Off-premises Sign on February 11, 2015 and was told that there already was an application under consideration for a sign on the subject site. Their application would not be considered until today's appeal is decided.
6. Their proposed sign would be located at street level creating less of a distraction for drivers. This is safer than a Roof Off-premises Sign proposed by Pattison Outdoor Signs.

The Board heard from Mr. S. Ahuja, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. A legally approved Fascia Off-premises Sign is currently located on the subject site. The permit for this sign was renewed for five years in 2014 and will expire in 2019.
2. This existing Fascia Off-premises Sign is attached to the north side of the building on the subject site, adjacent to the Church's parking lot and involved an encroachment agreement made between neighbours.
3. He understood that an annual fee had been charged by the Church for this encroachment. A difficulty with renewal of the encroachment agreement led to the decision to move the existing sign from the side to the roof of the building.
4. While the Roof Off-premises Sign is a Discretionary Use, it is suitable at this location for the following reasons:
 - a. the area to the south is predominantly commercial;
 - b. a fascia sign has been in place in almost the same location for many years;
 - c. the nearest residential area will not be affected as it is to the east of the subject property and the sign faces north;
 - d. this is not an illuminated sign so its impact is reduced; and
 - e. the sign will not involve flashing messages associated with a Digital Sign.
5. Mr. Ahuja referred the Board to photographs in the file which show the existing sign and location of the proposed sign which will be moved to the roof of the two storey building.
6. The 100 metres separation distance requirement applicable to any Digital Sign proposed by the Church is the same for the existing Fascia Off-premises Sign and the proposed Roof Off-premises sign.

The Board heard from Mr. J. Murphy, representing the Respondent, Pattison Outdoor Advertising, who provided the following information:

1. The existing Fascia Off-premises Sign has been in place at this location since 2008. An attempt to renew the annual encroachment agreement failed as the Church had increased the encroachment fee substantially. Consequently the owner of the sign decided not to continue with that agreement.
2. There are safety standards outside of the *Edmonton Zoning Bylaw* that apply to rooftop signs.
3. The proposed sign is 10 feet by 20 feet.
4. The proposed sign meets the 3 metres setback requirement and all other regulations applicable to rooftop signs. There are no variances required for this development.

In rebuttal, Ms. J. Laeiley made the following points:

1. She further clarified that the sign is being moved to the roof top of a two story building.

Decision:

That the Appeal be Denied and decision of Approval by the Development Authority be Upheld subject to the following conditions:

1. Prior to the review and issuance of the building permit and installation of the sign, the applicant shall demonstrate, to the satisfaction of the development officer, that the existing Fascia Off-premises Sign located on the north face of the building is removed from the site and cleared of all debris.
2. The Roof Off-premises sign is approved for a 5-year term expiring on February 23, 2020.

Reasons for Decision:

The Board affirms the approval for the following reasons:

1. The proposed Roof Off-premises Sign is a Discretionary Use in the CB1 Low Intensity Business Zone and complies with all development regulations in Schedule 59F.3(4) of the *Edmonton Zoning Bylaw* applicable to Roof Off-premises Signs.
2. The proposed Roof Off-premises Sign will replace an existing Fascia Off-premises Sign which has been in place at the subject site since 2008. Based on the photographic evidence, the Board finds that relocating the existing Fascia Off-premises Sign from the north side of the building to its rooftop will have minimal impacts to drivers or surrounding properties.
3. The Board also accepts the submissions of the Development Officer concerning the suitability of a Roof Off-premises Sign at this specific location.

4. Accordingly, the Board finds no planning reason that this Discretionary Use should not be allowed at the subject site.
5. The Board acknowledges that the Appellant argued two safety issues are created by moving the sign up to the rooftop, but notes the following:
 - a. The proposed Sign remains subject to safety regulations imposed through the building permit approval process that is beyond the jurisdiction of this Board.
 - b. The proposed sign copy is static and does not involve changes in light levels associated with a Digital Sign.
 - c. Under the Edmonton Zoning Bylaw, the proposed Sign must be set back 3 metres from the property line and it will therefore be set back from the north and west of the edge of the rooftop.
6. In conclusion, the Board finds 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.

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.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

cc:

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SDAB-D-15-065

Application No. 166199855-0091

An appeal to operate a Major Home Based Business (chiropractic clinic with 15 clients a day, 60 clients a week, and 1 non-resident employee) located at 4607 – 201 Street NW, on Lot 2, Block 7, Plan 0623976 was **TABLED** to April 22 or 23, 2015.