

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
May 26, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-066

Install a Freestanding On-Premises Sign
(BAVARIA BMW)

18925 - Stony Plain Road NW
Project No.: 386777413-002

II 10:30 A.M. SDAB-D-21-079

Construct exterior alterations to a Single Detached
house (Driveway extension, 9.2m x 2.1m) existing
without permits

721 - Balfour Close NW
Project No.: 389256957-002

III 1:30 P.M. SDAB-D-21-080

Change the use of a portion of a Convenience
Retail Store to a Drive-In Food Service, to
construct exterior alterations (convert window to
drive through pick-up window), and to construct a
drive through lane (outdoor service) within a
required Setback and to amend the approved
Landscape Plan (Building B - reference DP
378112628-002)

103 - Charlesworth Drive SW
Project No.: 389003192-002

NOTE: *Unless otherwise stated, all references to “Section numbers” refer to
the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-066

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 386777413-002

APPLICATION TO: Install a Freestanding On-Premises Sign (BAVARIA BMW)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 15, 2021

DATE OF APPEAL: April 1, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 18925 - Stony Plain Road NW

LEGAL DESCRIPTION: Plan 0525926 Blk 2 Lot 10

ZONE: (AG) Agricultural Zone

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: Place LaRue West Neighbourhood Area Structure Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

The zoning for the portion of land where this freestanding sign is still Agricultural. This small section of land still being zoned as Agricultural is an obvious over-site by the original developer and should be considered as part of the DC2 (626) zoning which permits a freestanding sign 8.0m tall with an area of 30m² per side.

We wish to appeal the decisions of the planner for the following reasons:

Bylaw 59 A 3 (1) -does not allow for a freestanding sign to be greater than 3.0m in height. The planner does not have the jurisdiction to allow a variance in height despite this sign being located in a highly "commercial" area.

Bylaw 59.A.3 (1) does not allow the area of the freestanding sign to be greater than 3m². This bylaw pertains to Agricultural zoning which again should not apply to this sign as it is clearly located in a "commercial" area.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board (the “Board”) made and passed the following motion on April 8, 2021:

“That the appeal hearing be rescheduled to May 26, 2021 at the written request of the Appellant.”

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 610.3(13), a **Freestanding On-premises Signs** is a **Discretionary Use** in the **(AG) Agricultural Zone**.

Under section 7.9(4), **Freestanding On-premises Signs** means:

a Freestanding Sign, which is a Permanent Sign, displays On-premises Advertising and contains no Digital Copy.

Under section 6.2, a **Freestanding Sign** means:

a Sign supported independently of a building.

Under section 6.2, **Permanent Signs** means:

a Sign that is anchored to a footing extending below ground level, or is affixed to, or painted on, a building or other structure that cannot be readily relocated or removed from a Site.

Under 6.2, **On-Premises Advertising** means:

Copy that only directs attention to a business, activity, product, service, or entertainment produced, offered for sale, or obtainable on the Site where the Sign is displayed.

Under section 6.2, **Digital Copy** means:

the portion of a Sign that contains Copy that is remotely changed on or off Site and incorporates a technology or method allowing the Sign to change Copy without having to manually or mechanically replace the Sign face or its components.

Under section 6.2, **Sign** means

any visual medium, including its structure and other component parts, illuminated or not illuminated, which is used or capable of being used, on a permanent or temporary basis, to identify or convey information, or to advertise or attract attention to a product, service, place, activity, person, institution or business. Without limiting the generality of the foregoing Sign includes banners, placards, and painted messages, and those attached to or painted on a vehicle (or trailer) that is parked on a property and being used for advertising purposes. Sign shall not include national flags, interior window displays of merchandise, or Sign painted on or attached to a motor vehicle on a public roadway.

Section 610.4(6) states “Signs shall comply with the regulations found in Schedule 59A.”

Section 610.1 states that the **General Purpose** of the **(AG) Agricultural Zone** is “to conserve agricultural and rural Uses.”

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is “to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.”

Height and Area

Schedule 59A.3(1) states:

On any Site of a non-Residential Use, the Development Officer may approve a Freestanding On-premises Sign if the design of the Sign is compatible with the character of the existing development and the neighbourhood. A maximum of two Freestanding On-premises Signs shall be allowed. The Signs shall only face a public roadway other than a Lane, and the Signs may be illuminated. The maximum Area for any such Sign shall not exceed 3 m² and the maximum Height shall be 1.8 m.

Development Officers Determination

1. Section 59A.3(1) - On any Site of a non-Residential Use, the Development Officer may approve a Freestanding On-premises Sign if the design of the Sign is compatible with the character of the existing development and the neighbourhood. The maximum Height shall be 1.8 m.



Proposed: 6.15m
Exceeds by 4.35 m

2. Section 59A.3(1) - On any Site of a non-Residential Use, the Development Officer may approve a Freestanding On-premises Sign if the design of the Sign is compatible with the character of the existing development and the neighbourhood. The maximum Area for any such Sign shall not exceed 3 m²

Proposed 10.38 m²
Exceeds By 7.38 m²

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	<h2>Application for Sign Permit</h2>	<p>Project Number: 386777413-002 Application Date: FEB 17, 2021 Printed: March 15, 2021 at 9:15 AM Page: 1 of 2</p>
<p>This document is a Development Permit Decision for the development application described below.</p>		
<p>Applicant</p> 	<p>Property Address(es) and Legal Description(s) 18925 - STONY PLAIN ROAD NW Plan 0525926 Blk 2 Lot 10</p>	
<p>Scope of Application To install a Freestanding On-Premises Sign (BAVARIA BMW).</p>		
<p>Permit Details</p>		
<p>ASA Sticker No./Name of Engineer: Construction Value: 20000</p>	<p>Class of Permit: Class B Expiry Date:</p>	
<p>Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0</p>	<p>Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 1 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0</p>	
<p>Development Application Decision</p>		
<p>Refused</p>		
<p>Issue Date: Mar 15, 2021 Development Authority: MERCIER, KELSEY</p>		
<p>Reason for Refusal</p>		
<p>1. Section 59A.3(1) - On any Site of a non-Residential Use, the Development Officer may approve a Freestanding On-premises Sign if the design of the Sign is compatible with the character of the existing development and the neighbourhood. The maximum Height shall be 1.8 m.</p>		
<p>Proposed: 6.15m Exceeds by 4.35 m</p>		
<p>2. Section 59A.3(1) - On any Site of a non-Residential Use, the Development Officer may approve a Freestanding On-premises Sign if the design of the Sign is compatible with the character of the existing development and the neighbourhood. The maximum Area for any such Sign shall not exceed 3 m²</p>		
<p>Proposed 10.38 m² Exceeds By 7.38 m²</p>		
<p>THIS IS NOT A PERMIT</p>		



Application for Sign Permit

Project Number: **386777413-002**
Application Date: FEB 17, 2021
Printed: March 15, 2021 at 9:15 AM
Page: 2 of 2

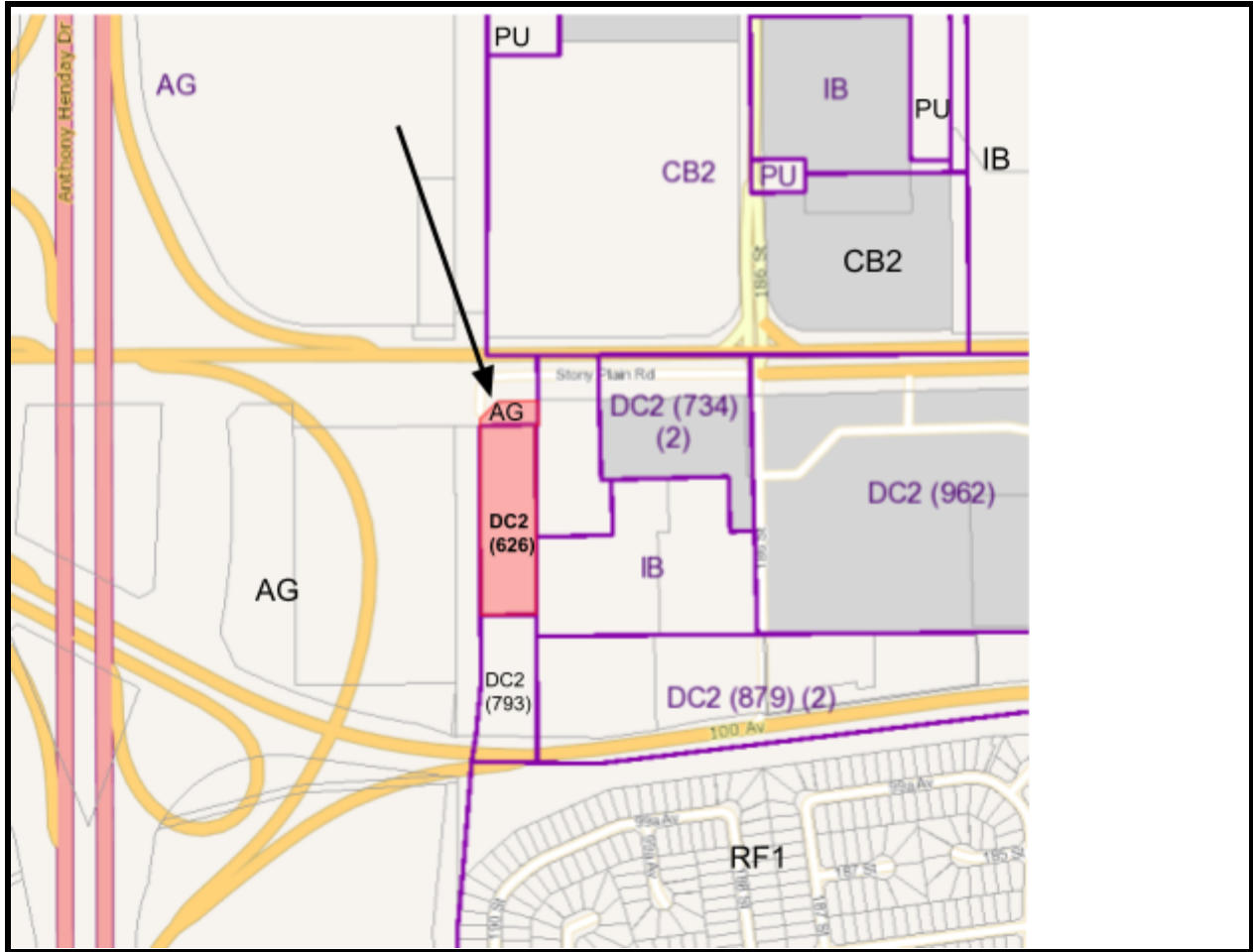
Rights of Appeal

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Development Application Fee	\$375.00	\$375.00	0614630844610010	Feb 17, 2021
Existing Without Dev Permit Penalty Fee	\$375.00			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$750.00</u>	<u>\$375.00</u>		
(\$375.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ← **File: SDAB-D-21-066** ▲
N

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-079

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 389256957-002

APPLICATION TO: Construct exterior alterations to a Single Detached house (Driveway extension, 9.2m x 2.1m) existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 26, 2021

DATE OF APPEAL: April 30, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 721 - Balfour Close NW

LEGAL DESCRIPTION: Plan 9820914 Blk 14 Lot 70

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Breckenridge Greens Neighbourhood Structure Plan
Lewis Farms Area Structure Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

We are writing to appeal the decision to reject our driveway extension permit.

In full disclosure, this driveway extension is already built. It has been built for almost 10 years. We were unaware that a permit was required for the extension as the driveway did not violate any of the architectural restrictions of our neighbourhood. We are in the process of selling our home and need the permit to allow the sale to proceed.

Our position is as follows:

1. The driveway extension is 2.1 m wide. It allows us to park our trailer on the driveway during the summer months. Exhibit A and Exhibit B show the extension. This extension has been there for almost 10 years and we have had no complaints from any of our neighbours. The City of Edmonton bylaw enforcement has not ticketed us either for any infractions.
2. We consulted with our neighbour to the south of us at the time of the building and he had no issues with the extension. In fact, our original plan was to add only 3 feet to the driveway, but he suggested that we build right to the property line so that the leftover space did not get overrun with weeds.
3. Even with the extension we were able to meet our architectural restrictions for the neighbourhood which included a full-size tree as shown on the north side of the driveway. We have also planted additional bushes and planters to add to the green on the front of our house. In addition, our neighbour's lot to the south includes a utility right of way which can never be built on so there will always be green space surrounding the lot.
4. Several of our neighbours have extended their driveways (see Exhibit C and D). The City of Edmonton permit department informed us that we could do an extension up to 3 feet and then it would be classified as a "walkway". As these pictures show these neighbours put "walkways" on either side of their driveway thereby making their driveways wider. This seems to be just semantics as we just put the two three-foot "walkways" together on one side of the driveway.
5. This does decrease the amount of on street parking, but it was built to allow us to park our trailer on our driveway during the summer. Our vehicle and trailer would take up 40 feet of parking space if we were to park on the street. This driveway only takes up 6 feet. It is much better for the neighbourhood to have our trailer parked on our own driveway.
6. The aesthetics of this planned driveway are far more appealing than the other ways that neighbours have created additional parking spaces as evidenced in Exhibit E and F. These neighbours currently meet the bylaws for the City of Edmonton because the driveways they have created are not "permanent". However, we feel that the paved driveway is far more appealing than what is allowed.

<i>General Matters</i>

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

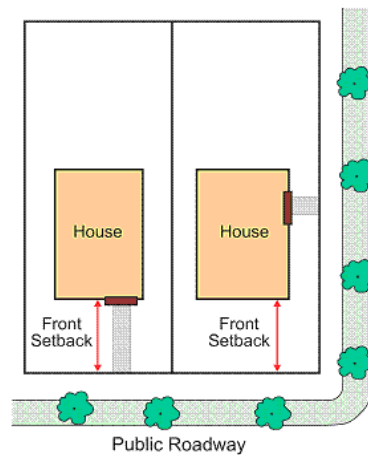
Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot Zone**

Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Under section 6.1, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **Front Setback** means:

the distance that a development or a specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space or Separation Space.



Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

Section 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is “to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.”

Vehicle Parking Design for Low-density Residential

Section 54.3(3) states:

The Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site, either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;
- ...
- c. for a Garage or Parking Area with two or more Vehicle Parking spaces, the width of the garage or parking area or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less; and

...

Development Officer’s Determination

The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a).


Proposed: The proposed Driveway extension does not lead directly to the Garage.

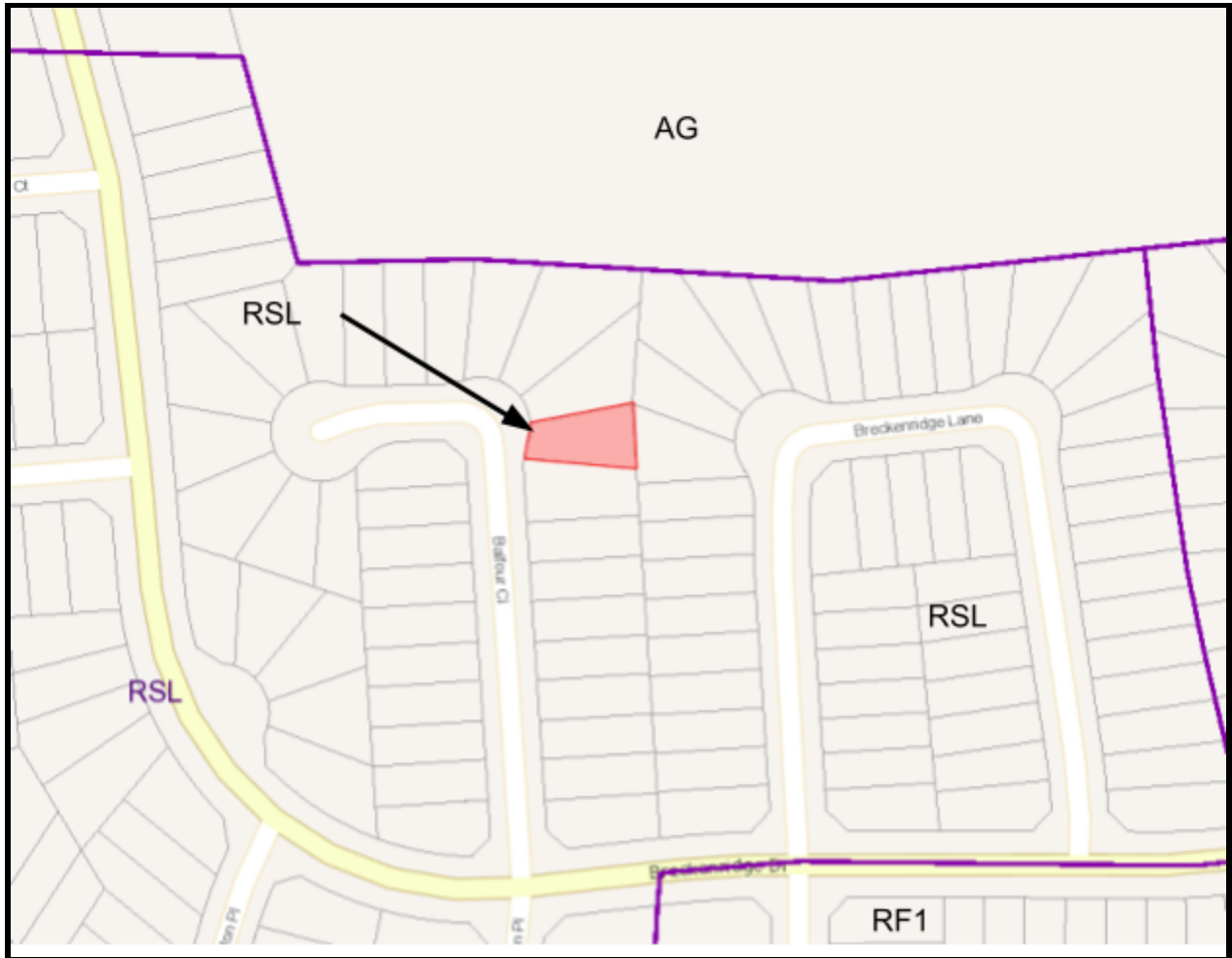
The Driveway shall be the width of the garage or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less. (Section 54.3.3.c)

**Proposed: 8.2m
Exceeds by: 2.1m**

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	<h2 style="margin: 0;">Application for Driveway Extension Permit</h2>	Project Number: 389256957-002 Application Date: MAR 15, 2021 Printed: April 26, 2021 at 1:01 PM Page: 1 of 1																									
This document is a Development Permit Decision for the development application described below.																											
Applicant <div style="background-color: black; width: 100%; height: 60px; margin-top: 5px;"></div>	Property Address(es) and Legal Description(s) 721 - BALFOUR CLOSE NW Plan 9820914 Blk 14 Lot 70																										
Scope of Application To construct exterior alterations to a Single Detached house (Driveway extension, 9.2m x 2.1m) existing without permits.																											
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding: 5px;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none) </td> <td style="padding: 5px;"> Site Area (sq. m.): 483.73 </td> </tr> </table>			Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 483.73																							
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Development Application Decision Refused Issue Date: Apr 26, 2021 Development Authority: TODD, ADAM Reason for Refusal The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a). Proposed: The proposed Driveway extension does not lead directly to the Garage. The Driveway shall be the width of the garage or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less. (Section 54.3.3.c) Proposed: 8.2m Exceeds by: 2.1m Rights of Appeal The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.																											
Building Permit Decision No decision has yet been made.																											
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right; font-weight: normal;">Fee Amount</th> <th style="text-align: right; font-weight: normal;">Amount Paid</th> <th style="text-align: right; font-weight: normal;">Receipt #</th> <th style="text-align: right; font-weight: normal;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Existing Without Permit Dev Application Penalty Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">07467508196Z001</td> <td style="text-align: right;">Mar 19, 2021</td> </tr> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">07232504236Z001</td> <td style="text-align: right;">Mar 15, 2021</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$352.00</td> <td style="text-align: right; border-top: 1px solid black;">\$352.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Existing Without Permit Dev Application Penalty Fee	\$176.00	\$176.00	07467508196Z001	Mar 19, 2021	Development Application Fee	\$176.00	\$176.00	07232504236Z001	Mar 15, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$352.00	\$352.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-079

▲
N

ITEM III: 1:30 P.M.

FILE: SDAB-D-21-080

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 389003192-002

APPLICATION TO: Change the use of a portion of a Convenience Retail Store to a Drive-In Food Service, to construct exterior alterations (convert window to drive through pick-up window), and to construct a drive through lane (outdoor service) within a required Setback and to amend the approved Landscape Plan (Building B - reference DP 378112628-002)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 26, 2021

DATE OF APPEAL: April 28, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 103 - Charlesworth Drive SW

LEGAL DESCRIPTION: Plan 1922728 Blk 16 Lot 200

ZONE: (CNC) Neighbourhood Convenience Commercial Zone

OVERLAY: N/A

STATUTORY PLAN: Charlesworth Neighbourhood Structure Plan
Southeast Area Structure Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

With this appeal we are requesting a drive-through lane in the required 4.5 m setback. The use of the drive through restaurants is very popular in the Edmonton area. This is especially so with the covid-19 conditions we now live in today. These covid-19 protocols will likely not go away for a long time if ever. People like the idea of these drive-throughs as they provide less exposure to the virus and extra convenience.

We have a client that requires this drive-thru lane as a critical part of their daily operation. Please appreciate that we have provided a strong landscaped 5'-0" (1.5 m) edge in between this drive-thru lane we are requesting and 34 street. The lane is only deficient 3.0 m. We confirm we will comply with the landscape requirements and provide the required 96 shrubs plus we will add an additional 10% more trees and shrubs along this edge (34 street) for additional screening. This high-end landscaped edge will soften the exposure for any queuing cars from 34th Street. We confirm we have specified extra dense foliage with these shrubs and trees. In addition, the rear side of the building B has decorative cultured stone and coloured stucco that presents an attractive facade.

This drive-through lane is a critical component of this building B and it would be a hardship if this drive-through was not allowed

<i>General Matters</i>

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

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(A) within 21 days after the date on which the written decision is given under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

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(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clause (d), must comply with any land use bylaw in effect;

(a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
 - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 310.2(1), **Convenience Retail Stores** is a **Permitted Use** in the **(CNC) Neighbourhood Convenience Commercial Zone**.

Under section 310.3(6), **Drive-in Food Services** is a **Discretionary Use** in the **(CNC) Neighbourhood Convenience Commercial Zone**.

Under section 7.4(13), **Convenience Retail Stores** means:

development used for the retail sale of those goods required by area residents or employees on a day to day basis, from business premises which do not exceed 275 m² in gross Floor Area. Typical Uses include small food stores, drug stores, and variety stores selling confectionery, tobacco, groceries, beverages, pharmaceutical and personal care items, hardware or printed matter. This Use does not include Cannabis Retail Sales.

Under section 7.4, **Drive-in Food Services** means:

development used for eating and drinking which offer a limited menu produced in a manner that allows rapid customer service and include one or more of the following features: car attendant services; drive-through

food pickup services; or parking primarily intended for the on-site consumption of food within a motor vehicle.

Section 310.1 states that the **General Purpose** of the **(CNC) Neighbourhood Convenience Commercial Zone** is “to provide for convenience commercial and personal service uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods.”

Setback

Section 310.4(5) states a minimum Setback of 4.5 metres shall be required where a Site Abuts a public roadway, other than a Lane.

Development Officer’s Determination

1) Section 310.4(5) A minimum Setback of 4.5 m shall be required where a Site Abuts a public roadway, other than a Lane.

**34 Street SW:
Proposed: 1.5m
Deficient: 3.0m**

Setback

Section 310.1(7) states:

No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line in accordance with the provisions of Section 55.5 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service display area or both, and Abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.

Development Officer’s Determination

2) Section 310.4(7) - No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.

Proposed: The proposed Drive-In Food Service drive through lane (outdoor service) is located within the required 4.5m Setback Abutting 34 Street SW, contrary to Section 310.4(7).

The initial development approved under Development Permit 378112628-002 provided the required 4.5m landscaped Setback. The proposed development does not meet the qualification for considering a variance in accordance with Section 11.4 of the Edmonton Zoning Bylaw.

<i>Landscaping</i>

Section 55.3(1)(b) states Unless otherwise specified in this Bylaw, Landscaping shall be provided in accordance with the following:

- b. for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:
 - i. a minimum of one tree for each 25 m² and one shrub for each 15 m² of Setback;
 - ii. a minimum of one deciduous tree that is well-suited to survive in a high traffic environment for each 20 m² and one shrub for each 10 m² of Parking Area island, in addition to the general planting requirements; and
 - iii. in no case shall there be less than one deciduous tree that is well-suited to survive in a high traffic environment per Parking Area island, in addition to the general planting requirements;

Development Officer's Determination

3) Section 55.3.1(b)

Required Shrubs: 96

Proposed Shrubs: 93

Deficient: 3

Note: The Total Designed Proposed Planting summary indicates 90 shrubs, whereas the sum of shrubs in the Plant List is 93.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	Project Number: 389003192-002 Application Date: MAR 11, 2021 Printed: April 27, 2021 at 8:31 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant 	Property Address(es) and Legal Description(s) 103 - CHARLESWORTH DRIVE SW Plan 1922728 Blk 16 Lot 200 Specific Address(es) Entryway: 103 - CHARLESWORTH DRIVE SW Building: 103 - CHARLESWORTH DRIVE SW		
Scope of Application To change the use of a portion of a Convenience Retail Store to a Drive-In Food Service, to construct exterior alterations (convert window to drive through pick-up window), and to construct a drive through lane (outdoor service) within a required Setback and to amend the approved Landscape Plan (Building B - reference DP 378112628-002).			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.): </td> <td style="width: 50%;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
Development Application Decision Refused Issue Date: Apr 26, 2021 Development Authority: BUCCINO, SAMANTHA Reason for Refusal 1) Section 310.4(5) A minimum Setback of 4.5 m shall be required where a Site Abuts a public roadway, other than a Lane. 34 Street SW: Proposed: 1.5m Deficient: 3.0m 2) Section 310.4(7) - No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Proposed: The proposed Drive-In Food Service drive through lane (outdoor service) is located within the required 4.5m Setback Abutting 34 Street SW, contrary to Section 310.4(7). The initial development approved under Development Permit 378112628-002 provided the required 4.5m landscaped Setback. The proposed development does not meet the qualification for considering a variance in accordance with Section 11.4 of the Edmonton Zoning Bylaw. 3) Section 55.3.1(b) Required Shrubs: 96 Proposed Shrubs: 93 Deficient: 3 Note: The Total Designed Proposed Planting summary indicates 90 shrubs, whereas the sum of shrubs in the Plant List is 93.			
THIS IS NOT A PERMIT			



Project Number: **389003192-002**
Application Date: MAR 11, 2021
Printed: April 27, 2021 at 8:31 AM
Page: 2 of 2

Application for Major Development Permit

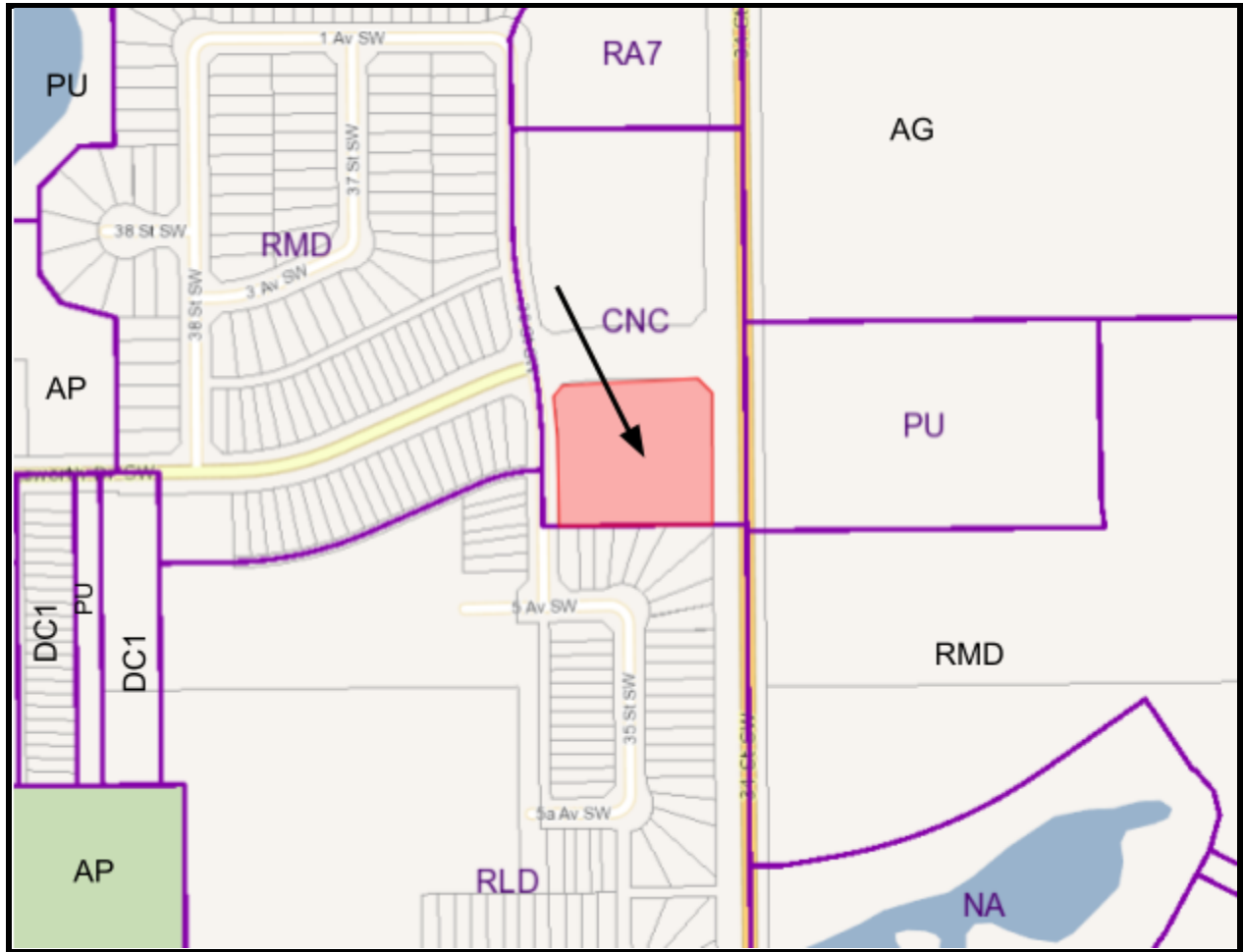
Rights of Appeal

The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$375.00	\$375.00	06933267	Mar 16, 2021
Total GST Amount:	\$0.00			
Totals for Permit:	\$375.00	\$375.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-080



N