

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

Date: November 27, 2015
Project Number: 151415914-002
File Number: SDAB-D-15-260

Notice of Decision

This appeal dated October 15, 2015, from the decision of the Development Authority for permission to:

Construct an exterior alteration to an existing Single Detached House (driveway extension 9.14m x 3.5m) existing without permits

On Plan 7822562 Blk 65 Lot 35, located at 113 - Dunluce Road NW, was heard by the Subdivision and Development Appeal Board on November 12, 2015.

Summary of Hearing:

At the outset of the appeal hearing, the Chair 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 Board heard an appeal of the decision of the Development Authority to refuse an application to construct an exterior alteration to an existing Single Detached House (driveway extension 9.14m x 3.5m) existing without permits located at 113 Dunluce Road NW. The subject site is within the RF1 Single Detached Residential Zone.

The development permit application was refused because the concrete on the left side of the property does not lead to an overhead garage door or parking area. No parking area or parking spaces shall be located within the Front Yard.

Prior to the hearing the following information was provided to the Board:

- A written submission from the Development Officer dated October 28, 2015
- Development Permit Application information from the Development Officer
- Canada Post delivery confirmation

The Board heard from the Appellant, Ms. B. Benjamin, and her husband, Mr. K. Benjamin, who provided the following submissions:

1. They purchased the home three years ago because they were looking for a place for RV parking and this property was advertised as such.
2. They parked their RV at the side of the home for a couple of years before they began receiving notices from the City of Edmonton, which indicated they could not park in the front yard.
3. They were told they did not have to remove the concrete pad, but were advised they could not park on it.
4. They have done work on the front yard of the home and have removed trees to repair the sewer line.
5. They submitted they were being considerate of their neighbors by parking on the concrete pad, rather than on the road. Parking on the road would require the RV to be hitched to the truck, which would require significant space on the street.
6. They have a rear detached garage. Their vehicles include a truck, a car and a jeep. The truck does not fit into the garage or on the parking pad unless it is parked diagonally. Mr. and Mrs. Benjamin use the front parking pad for the truck, especially in the winter.
7. The parking pad enables Mr. and Mrs. Benjamin to manage their vehicles more conveniently.
8. They submitted Exhibit "A", which shows the real estate advertisement for the property, as well as photographs of their vehicles and use of the parking pad, driveway and road.

Mr. and Ms. Benjamin provided the following responses to questions:

1. They are aware there have been complaints to the City of Edmonton, but the only complaint brought to them directly was from a neighbour who complained about the unsightliness of the front yard soon after they moved in.
2. They park their RV and boat in a compound during the winter months. They only have the RV on the pad for a few days or a week at a time during the summer months.
3. They spoke with the neighbours directly beside them and directly across the street from them, who indicated they had no problem with the parking pad.

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

1. This matter came to his attention through a development compliance violation in March, 2014.
2. The *Edmonton Zoning Bylaw* does not allow parking in a Front Yard.
3. The proposed development does not meet the definition of a Driveway because it does not lead to a Parking Area or a Garage.
4. If the parking pad were off the lane rather than off the front street, approval from Transportation Services would be required prior to determining compliance.
5. Seasonal parking is not allowed in a Front Yard.
6. Hardship could be considered because of the shape of the lot.
7. The lot meets the minimum parking requirements; a detached rear garage provides two parking spaces and an additional parking space is available on the driveway.

Ms. Benjamin made the following submission in rebuttal:

1. A neighbour advised them that a previous owner had a RV parked on the pad all year round.

Decision:

The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

Reasons for Decision:

The Board finds the following:

1. This application is for a parking pad which would be accessory to Single Detached Housing, a Permitted Use in the RF1 Single Detached Residential Zone. However, the parking pad, as proposed, violates several development regulations in the *Edmonton Zoning Bylaw*.
 - a. The proposed cement area is not a Driveway. Driveways are defined in Section 6.1(26) as “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.” Based on the photographs provided, the concrete area in the Front Yard of the subject site is, in fact, the Parking Area and does not lead to an acceptable Parking Area or Garage.
 - b. The *Edmonton Zoning Bylaw* is clear in forbidding parking in Front Yards except on a Driveway, as defined. Section 44(6) of the *Edmonton Zoning Bylaw* stipulates that Parking Areas are limited as follows:
 - i. “... when comprised of parking spaces required under this Bylaw, provided that no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways;”
 - c. This is further bolstered by Section 54.2(e)(i), which provides that “parking spaces shall not be located within a Front Yard”.
2. The proposed development cannot be described as landscaping as Section 6.1(55)(b) describes hard-surfaced Landscaping as “decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths”.
3. The proposed parking pad is not a patio but is a parking pad, and in any event, is composed of a single slab of monolithic concrete. As such, it is an inappropriate form of Landscaping for the Front Yard of a development in the RF1 Single Detached Residential Zone.
4. The Board notes that the Appellant has received verbal support of two neighbours, but has no information with respect to anyone else within the 60 metre notification zone. The Board is cognizant of the fact that this development came to the attention of the Development Authority through a complaint.
5. To allow monolithic concrete hardsurfacing of Front Yards, and then to allow parking on that hardsurfacing, reduces the desirability and the amenities of the neighbourhood. Accordingly, the Board finds that to grant any variance to allow this development, would,

in fact, materially interfere with the amenities of the neighbourhood and would materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Appeal is denied.

Important Information for the 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*, 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.
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.

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.

Ian Wachowicz, Chair
Subdivision and Development Appeal Board

Edmonton Subdivision and Development Appeal Board

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Date: November 27, 2015
Project Number: 175784462-002
File Number: SDAB-D-15-261

Notice of Decision

This appeal dated October 8, 2015, from the decision of the Development Authority for permission to:

Construct exterior alterations (front yard concrete extension, 1.20m x 5.30m) to a Single Detached House, existing without permits.

On Plan 9323139 Blk 12 Lot 52, located at 3924 - 30 Street NW, was heard by the Subdivision and Development Appeal Board on November 12, 2015.

October 14, 2015 Hearing

Motion:

That SDAB-D-15-261 be TABLED TO November 12, 2015, at the verbal request of the Appellant”.

November 12, 2015 Hearing

Motion:

That SDAB-D-15-261 be RAISED from the Table.

Summary of Hearing:

At the outset of the appeal hearing, the Chair 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*, RSA 2000, c M-26.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct exterior alterations (front yard concrete extension, 1.20m x 5.30m) to a Single Detached House, existing without permits located at 3924 – 30 Street NW. The subject site is zoned RF1 Single Detached Residential Zone and is within the Larkspur Neighbourhood Structure plan and The Meadows Area Structure Plan.

The development permit application was refused because of an excess in the maximum allowable width of a Driveway, parking spaces are not allowed within a Front Yard, Front Yards shall be landscaped according to the requirements of Section 55 of the *Edmonton Zoning Bylaw*, which states that monolithic concrete is not a form of landscaping. It was also refused because the existing concrete extension does not lead to a Garage.

Prior to the hearing the following information was provided to the Board:

- A written submission from the Appellant submitted with the original appeal
- Development Permit Application Information received from the Development Officer
- A written submission from the Development Officer dated November 10, 2015
- Canada Post delivery confirmation
- Affected Property Owner's Report – one on-line response in opposition

The Board heard from the Appellant, Mr. J. Dhaliwal, who provided the following submissions:

1. The proposed extension was created to provide access to the front entry door of the home. The driveway is small and when two vehicles are parked on it there is minimal space to walk.
2. The subject property is facing a bus route.
3. The slope at the corner of the Garage causes a safety concern when accessing the home when there is freezing rain or snow.
4. Most of the Appellant's neighbours have made similar extensions. The Appellant provided Exhibit "A", a package of eleven photographs showing extensions to properties.
5. The Appellant provided Exhibit "B", a written submission of reasons for his appeal, in particular, about safe access to the home.
6. The Appellant's Driveway is the shortest in the neighbourhood.

Mr. Dhaliwal provided the following responses to questions:

1. He confirmed that they do not intend to park on the extension.
2. The extension allows pedestrians to access the front of the house without walking on, and ruining, the grass. The Appellant re-emphasized the potential for accidents on snowy or icy days.
3. The Appellant raised a concern about fairness, given that most of his neighbours have similar extensions; he argued that he could abide with not having the extension if all of his neighbours were required to follow same rules.
4. The Appellant provided Exhibit "C", a list of neighbours supporting the proposed development. The Appellant discussed the development with his neighbours and showed them the drawing of the development, which is on the backside of Exhibit "C". The Appellant made two attempts, via e-mail, to discuss the appeal with the Community League, but received no response.
5. The extension was installed approximately three months ago.

The Board heard from Mr. J. Xie, representing the City of Edmonton Sustainable Development Department, who provided the following responses to questions:

1. He considered Section 54.1(4) of the *Edmonton Zoning Bylaw*, which references an area used as a walkway. His view was that the rest of the houses on the block have a different walkway configuration than the subject property; those properties effectively have a “bump-out” of concrete from the garage door to the front door.
2. He agreed there were a couple of examples of properties similar to the subject property.
3. He did not believe the Appellant’s property was such that there was an existence of hardship.
4. The extension appears broader than a walkway and there is potential for parking a third vehicle on the driveway, given the amount of width added to the Driveway.
5. He confirmed the standard width of a Driveway parking stall is 2.6 metres.
6. The development on this property is not excessive compared to examples provided by the Appellant in Exhibit “A”.
7. The *Edmonton Zoning Bylaw* does not provide a required width for a walkway.

The Appellant made the following submissions in rebuttal:

1. He emphasized that the extension causes no harm to the neighbours and that all of his neighbours consent to the extension.
2. He reiterated that the extension was created only to provide pedestrian access to the house.

Decision:

The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority.

Reasons for Decision:

The Board finds the following:

1. The development of walkways or driveways is accessory to Single Detached Housing, which is a Permitted Use in the RF1 Single Detached Residential Zone.
2. The Board examined the photographs of the subject site and listened to the evidence of the Appellant, Mr. Dhaliwal. The Board accepts Mr. Dhaliwal’s evidence that the newly poured concrete immediately to the South of the existing Driveway is not, in fact, an extension of the Driveway, but is a walkway. It has not been used for parking vehicles, but exclusively for both pedestrians accessing the subject site from the municipal sidewalk, and by people exiting vehicles parked on the existing Driveway.
3. The Board notes that the additional concrete passageway leads directly to the front door of the house on the subject site. The Board also finds that the width of the new concrete section is the same as the width of the current pedestrian access to the front door.
4. Driveway width is determined by Section 54.1(4) of the *Edmonton Zoning Bylaw* which provides as follows:

The Front Yard of any at Grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall:

- a. have a minimum width of 3.1 m;
- b. for a Site 10.4 m wide or greater, have a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage; and
- c. for a Site less than 10.4 m wide, have a maximum width of 3.1 m.

The Driveway shall lead directly from the roadway to the required Garage or Parking Area.

The Development Authority determined that the existing Driveway, including the proposed extension, is 7.3 metres and therefore exceeds the requirements set in the regulation by 1.1 metres.

5. The Board finds that this is a misinterpretation of the *Edmonton Zoning Bylaw*. The above-noted section clearly states that the total width of the driveway does not include the area used as a walkway. Accordingly, as the Board finds that the new concrete section is a walkway, its width should not be included in the calculation of the width of the Driveway. When calculated in accordance with the Bylaw, it is clear that the proposed development does not violate the regulation set out in Section 54.1(4).
6. Accordingly, the appeal is allowed and the development is granted.

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 5th Floor, 10250 – 101 Street, Edmonton.
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*, 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.

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.

Ian Wachowicz, Chair
Subdivision and Development Appeal Board

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Date: November 27, 2015
Project Number: 169116553-002
File Number: SDAB-D-15-262

Notice of Decision

This appeal dated October 14, 2015, from the decision of the Development Authority for permission to:

Construct an addition (2 cantilever extensions on the second floor, 0.60m x 6.26m each) to an existing Semi-detached House

on Plan 1423356 Blk 2 Lot 21A, located at 10221 - 90 Street NW and Plan 1423356 Blk 2 Lot 21B, located at 10223 - 90 Street NW, was heard by the Subdivision and Development Appeal Board on November 12, 2015.

Prior to the hearing the following information was provided to the Board:

- Appellants Submissions: Approved Framing Layouts, Neighbourhood Consultation and Timeline of Events
- Development Permit Application information from the Development Officer
- Development Officer's Written Submission dated November 5, 2015

Summary of Hearing:

At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.

As a preliminary jurisdictional issue, the Chair addressed whether the appeal was filed within the allowable 14-day appeal period, pursuant to Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the "MGA").

The Board heard from the Appellant, Mr. C. Steinke, representing Infiniti Homes, who provided the following submissions:

1. He acknowledged that he received notice of the refusal between September 15, 2015, and September 20, 2015. The date of receipt was not stamped on his copy of the Development Officer's decision, but he confirmed the company had received it between September 15, 2015, and September 20, 2015.
2. He confirmed that he filed the appeal on October 14, 2015.

The Board heard from the Mr. B. Liang, of the City of Edmonton Sustainable Development Department, who provided the following information regarding the timing of the appeal:

1. He made his decision on September 1, 2015, and sent the notice of refusal to the Applicant via regular mail.

Decision:

The evidence before the Board was uncontroverted. The notification of the decision of the Development Authority was received by the Appellant at the very latest on September 20, 2015. It was also confirmed by the Appellant that his appeal was not filed until October 14, 2015.

Section 686(1) of the *MGA* states:

- A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - i. the date on which the person is notified of the order or decision or the issuance of the development permit

This appeal was not filed within the timelines set out in Section 686 of the *MGA* and as a result the Board does not have the jurisdiction to hear the appeal.

Important Information for the 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.

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.

Ian Wachowicz
Subdivision and Development Appeal Board

Edmonton Subdivision and Development Appeal Board

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Date: November 27, 2015
Project Number: 174935500-001
File Number: SDAB-D-15-242

Notice of Decision

This appeal dated September 21, 2015, from the decision of the Development Authority for permission to:

Install (1) Freestanding Off-Premises Sign

on Plan CE1 Blk RLY Lot 52, located at 2303 - Gateway Boulevard NW, was heard by the Subdivision and Development Appeal Board on October 14, 2015 and November 12, 2015.

October 14, 2015 Hearing

Summary of Hearing:

At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The Board dealt with a preliminary issue, which is that the notification area did not match the actual location of the proposed Sign.

Due to the notification discrepancy, the Board is not in compliance with Section 686(3)(c) of the *Municipal Government Act* that states: "The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified."

The Board was unable to proceed with the appeal hearing and tabled it to November 12, 2015, in order to properly notify those people within the 60 metre notification area.

The Board heard from Mr. Donadt, representing the Appellant, Go Outdoor Advertising Ltd., who made the following submissions:

1. He was aware of the notification radius that was used to notify property owners.
2. Although the notification radius that was used was incorrect, he spoke to property owners within the 60 metre notification radius.

3. He had no objection to tabling the appeal hearing until November 12, 2015, in order to properly notify those people within the 60 metre notification area.

Mr. Ahuja, representing the City of Edmonton Sustainable Development, had no objection to the Board tabling the hearing to November 12, 2015.

Decision:

That SDAB-D-15-242 be TABLED TO November 12, 2015.

Reasons for Decision:

The Board finds the following:

1. The appeal hearing is tabled in order for administration to properly notify properties within the notification radius.

November 12, 2015 Hearing

Motion:

That SDAB-D-15-242 be raised from the table.

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*, RSA 2000, c M-26.

The Board heard an appeal of the decision of the Development Authority to refuse an application to install one Freestanding Off-Premises Sign located at 2303 Gateway Boulevard NW. The subject site is zoned IB Industrial Business Zone and is located with the Calgary Trail Land Use Study and South Industrial Area Outline Plan.

The Development Permit Application was refused because the proposed Major Digital On-premises Off-premises Sign is contrary to the General Urban Design Policies of the Calgary Trail Land Use Study which discourages free-standing billboards.

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

- A submission received from the Appellant on October 9, 2015
- Sign application information received from the Development Officer
- Canada Post delivery confirmation

- A copy of the Calgary Trail Land Use Study
- A copy of the South Industrial Area Outline Plan

The Board heard from Mr. R. Donadt, representing the Appellant, Go Outdoor Advertising Ltd., who made the following submissions:

1. They are a local billboard advertising company.
2. He provided the following six arguments as the reason for the appeal:
 - a. The application meets all of the requirements defined in the *Edmonton Zoning Bylaw* including Height, Width, separation distance, engineering and location, with no variances required.
 - b. The proposed development is one hundred percent compatible and conforms to existing developments. He referred to Page 1 of his submission, which identified a commercial area with various types of existing signage.
 - c. The Appellant referred to section 3.4 of the Calgary Trail Land Use Study which was referred to by the Development Officer as a reason for refusal. The Appellant quoted a section of the Calgary Trail Land Use study regarding negative visual impacts. The Appellant argued that the provision discourages the use of older Signs, and advised the proposed Sign would be a new, high quality Sign for the types of business identified in the Calgary Trail Land Use Study. The Calgary Land Use Study did not discourage new development.
 - d. The Appellant contacted a list of businesses within a two-hundred metre radius of the proposed Sign placement and advised the Board that there were no objections.
 - e. The Appellant provided a map of nine locations, spanning three kilometres that have the same type of signage that has been approved. This Sign location falls within the City regulations for separation distances from other Signs.
 - f. The Appellant referred to a recent Admax Media appeal on September 9, 2015, which was granted by the Board. In that case, a Sign was approved for very similar reasons. The Appellant cited Section 3.4 of the Calgary Trail Land Use Study and argued that the City has approved other similar Signs.
3. This Sign meets all of the requirements of the Bylaws and both visual and practical elements are met. The Appellant asked the Board to take this into consideration.

In response to questions by the Board, Mr. Donadt provided the following submissions:

1. He confirmed that the proposed development is a static Sign, not a digital Sign.

The Board then heard from Mr. S. Ahuja, representing the City of Edmonton Sustainable Development Department, who provided the following responses to questions.

1. The subject of Discretionary Use was discussed. The Development Officer confirmed there are existing Freestanding Signs, but the City is currently discouraging new Signs in the area because it is located at the entranceway to the City, and it is not appealing to have one Sign after another in this area.
2. The property where the Sign is located is owned by Canadian Pacific Railway. Since the proposed development is not a related Use, a permit is required.

The Board advised that the Calgary Trail Land Use Study is not a Statutory Plan as defined in the *MGA*, and the Board is therefore not bound by it.

In rebuttal, Mr. Donadt made the following submissions:

1. The City's entranceway has been established by Bylaw and the minimum distance requirements for signage have been in place for some time. There may have been significant reasons behind the requirements, which would have been taken into account when the distances were deemed appropriate.

Decision:

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 permit will be in effect for a period of five years (November 27, 2015, to November 26, 2020).

Reasons for Decision:

The Board finds the following:

1. Freestanding Off-premises Signs are a Discretionary Use in the IB Industrial Business Zone.
2. The proposed development meets all of the development regulations for Signs in the *Edmonton Zoning Bylaw*. The sole issue before the Board was whether or not this Discretionary Use should be allowed.
3. When considering this Discretionary Use, the Board considered whether or not the proposed Sign would constitute an incompatible land use with the existing uses of the neighbouring parcels of land. The Board notes that the Sign is in a narrow strip of land situated between Gateway Boulevard and the rail line operated by CP Rail. This area is industrial in look and use, and is not adjacent to any Residential Zone. Between 23 Avenue and the Whitemud Freeway there are currently nine Freestanding Off-premises Signs. The Board notes that the proposed Sign complies with all separation distance requirements as set out in the *Edmonton Zoning Bylaw*. As such, the Board finds that the proposed development would not constitute a use of land incompatible with the existing neighbouring land uses. The Board finds that discretion should be exercised in favour of the Applicant and that the development should be allowed.
4. The Development Authority did not present any significant planning reasons that would lead the Board to find that the proposed development is an incompatible land use. Instead, the Development Authority relied on a document known as the Calgary Trail Land Use Study.
5. The Board notes that the Calgary Trail Land Use Study is not a statutory plan within the definition of the *MGA*. Section 616(dd) of the *MGA* defines statutory plans as "an

intermunicipal development plan, a municipal development plan, an area structure plan and an area redevelopment plan adopted by a municipality under Division 4”. The Calgary Trail Land Use Study does not meet the above definition. Not only is it not a statutory plan within the meaning of the *MGA*, it is not a Bylaw of the City of Edmonton either, being approved by a council resolution on Sept 11, 1984. Section 687(3) of the *MGA* sets out the documents that this Board must comply with; it does not list any document class that would include a document such as the Calgary Trail Land Use Study. The Board finds that the proposed development is in complete compliance with the *Edmonton Zoning Bylaw* and is not at odds with any statutory plan as defined within the *MGA*. As a result, and given the Board’s finding that the proposed development does not constitute a Use incompatible with the neighbouring land uses, the appeal is allowed and the development is granted.

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. Obtaining a Development Permit does not relieve you from complying with:
 - f) 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,
 - g) the requirements of the *Alberta Safety Codes Act*,
 - h) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - i) the requirements of any other appropriate federal, provincial or municipal legislation,
 - j) 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*, 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.

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.

Mr. Ian Wachowicz, Chair
Subdivision and Development Appeal Board