



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

*10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
P: 780-496-6079 F: 780-577-
3537
sdab@edmonton.ca
edmontonsdab.ca*

SDAB-D-18-159

Application No. 286679106-001

An appeal to construct an Accessory building (detached Garage, 7.62m x 6.25m) was **TABLED TO OCTOBER 25, 2018.**



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Date: October 18, 2018
Project Number: 273339892-001
File Number: SDAB-D-18-136

Notice of Decision

- [1] The Subdivision and Development Appeal Board (the “Board”) at a hearing on September 5, 2018, made and passed the following motion:

“That SDAB-D-18-136 be TABLED TO October 3, 2018 at the verbal request of Legal Counsel representing the Appellant and with the verbal consent of City Departments.”

- [2] On October 3, 2018, the Board made and passed the following motion:

“That SDAB-D-18-136 be raised from the table.”

- [3] On October 3, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **August 8, 2018**. The appeal concerned the decision of the Development Authority, issued on July 30, 2018, to refuse the following development:

Install (1) Minor Digital Off-premises Freestanding Sign (2 digital panels V-shaped 3.1m x 6.1m facing NE/SW)(OUTFRONT MEDIA/SANDS HOTEL).

- [4] The subject property is on Plan 9525276 Blk 20 Lot 22, located at 12340 – Fort Road NW, within the (CSC) Shopping Centre Zone. The Yellowhead Corridor Area Structure Plans applies to the subject property.

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

- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submission;
- An e-mail from Subdivision Planning;
- An e-mail in opposition to the proposed development; and

- The Appellant's written submissions.

Preliminary Matters

- [6] 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.
- [7] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [8] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

- i) *Position Ms. J. Agrios, Legal Counsel representing the Appellant, OUTFRONT Media Canada LP, who was accompanied by Ms. J. Harding, representing OUTFRONT Media Canada LP*
- [9] The proposed sign is v-shaped with two panels and is a Discretionary Use in the CSC Shopping Centre Zone.
- [10] Ms. Agrios referenced the Engineering Report completed by Bunt & Associates as requested by the Board at the previous hearing.
- [11] The report was reviewed by City Transportation and the City provided documentation that they no longer had an objection with the proposed sign.
- [12] The two matters before the Board are the required setback and the discretionary use of the sign.
- [13] The sign has existed in this location with approved permits since 2013.
- [14] In her opinion, the application is for the renewal of the sign but is considered a new application as the permit had expired.
- [15] There have been no changes to the sign in terms of the Bylaw regulations, the neighbourhood, the type of sign, and the location of the sign since 2013.
- [16] She referred to TAB 3 and 4 of her submission, a zoning map and aerial photograph showing the area around the sign. The sign is at the intersection of Fort Road and Yellowhead Trail on the northwest corner of the property where the Sands Hotel has existed for several years.

- [17] The sign is located on the property east of the building where there is a large boulevard separating the road and the subject site. The separation makes the sign appear to be a great distance from Yellowhead Trail and Fort Road.
- [18] She referred to TAB 5, photographs showing the location of the sign from different directions.
- [19] She referred to TAB 6, a copy of the 2013 approved permit. The sign was previously approved with a 4.5-metre setback.
- [20] TAB 6 of her submission shows the 2013 stamped approved site plan with a 4.5-metre setback and the grass boulevard separating the road and subject site.
- [21] The sign was previously approved for five years with no known complaints until an e-mail was received the day before the hearing in opposition to the sign. The sign has not changed since it was previously approved.
- [22] She referred to TAB 7 of her submission showing the site plan for the proposed sign application showing a 5.4-metre setback. The application is the same as the one in 2013 except it has a larger setback.
- [23] The third reason for refusal by the Development Officer is that the sign will adversely impact the built environment. The built environment will not be impacted as the sign has not changed.
- [24] In her opinion, the Development Officer should have explained how the existing sign will impact the built environment.
- [25] She referred to the conditions suggested by the Development Officer. Condition number 5 is regarding the variance they are requesting and is not a condition. Condition number 6 (1) is no longer applicable as City Transportation is no longer opposed to the proposed sign. They are agreeable to the remaining conditions.
- [26] In her opinion, the proposed sign has a minor deficiency. There is a large boulevard separating the road and subject site with a larger setback.
- [27] Ms. Agrios provided the following information in response to questions by the Board:
- a. The back of the sign will face the adjacent property which is zoned RA7 Low Rise Apartment Zone.
 - b. She does not believe the green boulevard will be changed in any way in the near future. However, if the sign is only approved for 5 years it could be reviewed earlier if changes come into play for the boulevard.
 - c. One e-mail was received in opposition to the proposed development. However, the e-mail does not have an address from the sender to indicate if they are an affected party.

- d. Several people drive by the subject site on a daily basis and no complaints were received for the existing sign until today.

ii) Position of the Development Officer, Ms. B. Noorman

[28] The Development Authority did not appear at the hearing and the Board relied on Ms. Noorman's written submission.

Decision

[29] 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 is approved for a maximum of 5 years and will expire on October 18, 2023.
2. Ambient light monitors shall automatically adjust the brightness level of the Copy Area based on ambient light conditions. Brightness levels shall not exceed 0.3 footcandles above ambient light conditions when measured from the Sign face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise / Sunset calculator from the National Research Council of Canada; (Reference Section 59.2(5)(a)).
3. Brightness level of the Sign shall not exceed 400 nits when measured from the sign face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise/Sunset calculator from the national research Council of Canada; (Reference Section 59.2(5)(b)).
4. 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))
5. The following conditions, in consultation with Subdivision Planning department, shall apply to the proposed Minor Digital Off-premises Sign, in accordance to Section 59.2.11:
 1. The owner/applicant must immediately address any safety concerns identified by City Operations by removing the sign, de-energizing the sign, changing the message conveyed on the sign, and/or address the concern in another manner acceptable to City Operations.

2. That the owner/applicant must provide a written statement of the actions taken to mitigate concerns identified by City Operations within 30 days of the notification of the safety concern. Failure to provide corrective action will result in the requirement to immediately remove or de-energize the sign.
3. The proposed sign shall be constructed entirely within private property. No portion of the sign shall encroach over/onto road right-of-way.

[30] In granting the development the following variance to the *Edmonton Zoning Bylaw* is allowed:

1. The proposed Setback of 5.4 metres per Section 59E.3(5)(i) is allowed.

Reasons for Decision

[31] The proposed development, a Minor Digital Off-premises Freestanding Sign, is a Discretionary Use in the (CSC) Shopping Centre Zone.

[32] The Board finds that the proposed development is reasonably compatible with the neighbourhood for the following reasons:

- a. The proposed Sign has existed in this location with no known complaints, with the exception of one e-mail received, since 2013.
- b. Based on the evidence submitted, the proposed Sign was previously approved with a 4.5-metre Setback but was constructed with a 5.4-metre Setback.
- c. The proposed Sign will not change in any way from when it was originally approved.
- d. The proposed Sign will have no impact on the residential property that is behind the subject Site because the brightness will face the intersection of Fort Road and Yellowhead Trail.
- e. The Board received an Engineering Report by Bunt & Associates which was accepted by City Transportation and they are no longer in opposition to the proposed Sign at this location.

[33] The Board grants the variance of 0.6 metres in the required Setback for the following reasons:

- a. The Board was not provided with any planning reasons that the Sign will have a negative impact on the neighbourhood.
 - b. The Board accepts the evidence submitted that there is a grass boulevard between the Sign and the roadway which makes the Sign appear farther from the roadway.
- [34] The Board received an e-mail in opposition to the proposed Sign. The Board was unable to determine whether or not this individual was an affected party as defined in the *Municipal Government Act*.
- [35] Based on the above, it is the opinion of the Board that the proposed development 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.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. G. Harris, Mr. R. Hachigian, Ms. D. Kronewitt-Martin, Ms. S. McCartney

CC: City of Edmonton, Development & Zoning Services, Attn: Ms. B. Noorman / Mr. H. Luke

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
 - b) the requirements of the *Alberta Safety Codes Act*,
 - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - d) the requirements of any other appropriate federal, provincial or municipal legislation,
 - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.