



October 30, 2019

Reynolds Mirth Richards & Farmer LLP  
Attn: Kelsey Becker Brookes  
Suite 3200, 10180 – 101 Street NW  
Edmonton, AB T5J 3W8

Re: Project No. 339507277-001 / SDAB-D-19-181, to change the use from General Retail Stores to Cannabis Retail Sales, located at 10803 – Jasper Avenue NW

---

### **POSTPONEMENT DECISION**

The Subdivision and Development Appeal Board made and passed the following motion on October 24, 2019:

“That the appeal hearing be scheduled for November 27, 2019.”

#### **Summary of Hearing**

*i) Position of an Affected Property Owner (2150647 Alberta Ltd.)*

- [1] Ms. R. Gagnon of Bennett Jones appeared on behalf of Ms. Bonnie Anderson who is with Bennett Jones in Calgary. Ms. Anderson was recently retained by 2150647 Alberta Ltd. – an affected property owner adjacent to the Appellant’s property. Her client has been unable to find alternate Edmonton counsel.
- [2] Ms. Anderson is the expert in land planning with Bennett Jones and is requesting an adjournment to November 20 or 21. She is busy in hearings until November 13 and requires sufficient time to draft her client’s position and possibly consult with an expert in land planning.
- [3] Ms. Anderson would be amendable to having the Board impose a disclosure date of November 15, 2019.

*ii) Position of the Appellant, CC Growth Corp.*

- [4] Ms. Becker Brookes of RMRF appeared to represent the Appellant, CC Growth Corp. They are opposing the adjournment request.
- [5] The original appeal was filed by another law firm and she was also retained very recently; however, she is prepared to proceed today.
- [6] While she understands that this is a first request for an adjournment, she reminded the Board that the *Municipal Government Act* outlines very short timelines for handling SDAB appeals. It is the intention that these matters move quickly as developers are waiting on these decisions.
- [7] Her client has an offer to lease with Procura and this landlord has already given the Appellant an extension to November 12, 2019.
- [8] If the Board is inclined to grant an adjournment, Ms. Becker Brookes asks that it be set down for next week which would allow her client to have a decision by November 12, 2019, ensuring that they do not lose their space. This also allows the Board to meet its 5 day notification period.
- [9] Ms. Anderson is requesting an adjournment of 4 weeks which is much more time than is required. While it was stated that Ms. Anderson does the majority of planning work, Bennett Jones is a large firm and there should be other lawyers available to assist with drafting submissions.
- [10] A filing date of November 15 provides the other party three weeks to provide an expert's report and allows the Appellants only a 5 day response period. If filing dates are to be imposed, there should be sufficient time for both parties to respond.
- [11] Ms. Becker Brookes provided other dates that she would be available if the Board extends the postponement time past next week:
- (a) Tuesday, November 12 or Friday November 15
  - (b) Wednesday, November 27 or Thursday, November 28

*iii) Position of the Development Officer, I. Welch*

- [12] The City does not take a position regarding a Postponement.
- [13] Mr. Welch would be available on November 20 or 21 or on November 27.

*iv) Rebuttal of the Affected Property Owner*

- [14] Ms. Gagnon was able to confirm that Ms. Anderson would be available to attend a hearing November 27 or November 28. She is reluctant to proceed November 13 or 14 as an

affected party ought to be granted an opportunity to provide complete submissions. This would not be possible on such a short basis.

### **Reasons for Decision**

- [15] The Board has postponed the hearing to November 27, 2019, as all parties confirmed they would be available on that date and this would provide all parties a chance to have a full and wholesome hearing.
- [16] The Board heard a presentation from the Appellant that the lease offer requires them to secure a Development Permit by November 12, 2019. The Board appreciates that the date of November 12 will not be met in granting this adjournment, but the Board needs to ensure fairness of process and that all parties are heard. The Development Permit is currently refused.
- [17] The Board must also consider that the Development Permit goes with the land and not the Applicant; therefore, it is important for all parties to provide a proper presentation in order for the Board to make an informed decision.
- [18] Detailed presentations are to be provided to the Board with sufficient time for all parties to review them prior to the hearing.

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

cc: Development & Zoning Services – I. Welch / H. Luke  
Development & Zoning Services – S. Chow / I. Welch / A. Hameed / R. Tardiff



**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](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

October 30, 2019

Miller Thomson  
Attn: Mr. R. Noce  
2700, 10155 – 102 street  
Edmonton, AB T5J 4G8

Re: Project No. 325857215-001 / SDAB-D-19-182, to install one (1) Fascia Minor Digital On-premises Sign (6.29 metres by 3.57 metres facing North) (Garage 104), located at 6528 -104 Street NW

---

**POSTPONEMENT DECISION**

The Subdivision and Development Appeal Board made and passed the following motion on October 24, 2019:

“That the appeal hearing be scheduled for November 20, 2019, at 9:00 a.m.”

**Summary of Hearing**

*i) Position of the Appellant, Garage 104*

- [1] Mr. Noce of Miller Thomson LLP appeared on behalf of Garage 104 and provided some background information. The business owner, Mr. Powley, was also present.
- [2] Mr. Noce recently filed an appeal on a Stop Order that was issued to his client regarding this same sign. All parties agreed that the Stop Order appeal be postponed to allow Garage 104 to move forward with a Development Permit application. His client was also issued a fine from the City of Edmonton which is scheduled to be heard in the Provincial Court of Alberta on November 6, 2019.
- [3] The appeal regarding today’s refused Development Permit was originally filed by Ad Max, the sign company, and Mr. Noce was not retained until this past Monday, October 21, 2019. The original Appellant did not submit any supporting documents and Mr. Noce has not had sufficient time to prepare a submission as the issues are of a technical and legal nature. He is in no position to proceed today.

- [4] Mr. Noce did not plan to attend today's Postponement hearing as his client had received an e-mail from the SDAB stating that the Appellant's attendance would not be required. It was not until late yesterday afternoon that the SDAB left a message for Mr. Noce and spoke with Mr. Powley advising that they must attend the scheduled hearing.
- [5] No property or life is at risk if a postponement is granted. His client just wants the opportunity for the Board to have all of the facts prior to making a decision.
- [6] Mr. Noce would be able to have his supporting materials filed by November 8<sup>th</sup>. It was determined that the first date that both his client and Mr. Noce are available is November 20, 2019.

*ii) Position of the Development Authority, B. Noorman, H. Luke, B. Bolstad*

- [7] Ms. Noorman, the Development Officer who issued the refusal, had given the SDAB advance notice that she was not available on the originally scheduled date and the hearing was postponed until today. It was not until yesterday that the Development Authority found out about the Postponement Request as it had been e-mailed to Ms. Noorman in her absence.
- [8] The e-mail from the SDAB to the Appellants appears to be contradictory saying that the postponement request would be heard today but there was no need to attend.
- [9] Ms. Noorman and the city are prepared to proceed today. However, if the Board does grant a postponement, the City requests that the sign be de-energized until the appeal is heard. The conditions of an earlier SDAB decision regarding this sign have not been complied with and third party advertising is being displayed on the sign.
- [10] Ms. Noorman and Mr. Bolstad confirmed that they would be available to attend a hearing on November 20<sup>th</sup> at 9:00 a.m. should the Board grant a postponement.

*iii) Rebuttal of the Appellant*

- [11] An interim direction to de-energize the sign would be contrary to the process being followed today which is to deal with the postponement request.
- [12] Mr. Noce's client assured the Board that the sign is no longer being used for third party advertising and only his own business is being advertised.

**Reasons for Decision**

- [13] The Appellant's legal counsel was before the Board and requested time to prepare for the hearing and has suggested a hearing date of November 20, 2019, at 9:00 a.m. After hearing from all of the affected parties regarding available dates, the Board has agreed to set this matter for November 20, 2019.
- [14] This is the first request for a postponement by this Appellant.

- [15] The Board is aware of other matters being dealt with by this Applicant including a Stop Order and a fine; however, these and are not being considered in granting this adjournment.
- [16] The Board accepts legal counsel's presentation that the issues contained within this appeal are of a technical and legal nature and some time is required to prepare for a hearing.
- [17] The Board was also asked to consider the de-energizing of the sign in the interim. The Board has determined that granting such a condition would be conveying components of issuing a Stop Order and this Board was not presented with any evidence with regard to those matters.
- [18] The Board recognizes the Appellant's submissions that no off-premises advertising is currently being displayed on that sign; however, the Board cannot deal with enforcement issues.
- [19] For the above reasons, the adjournment is granted.

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

cc: City of Edmonton, Development & Zoning Services - B. Noorman / H. Luke / B. Bolstad



**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](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

## **SDAB-D-19-153**

### **Application No. 323977703-001**

An appeal to construct a front addition and interior alterations to a Single Detached House (3rd level, add 2 bedrooms, 2 bathrooms: 1st and 2nd levels, extend living room and new front entrance; basement, extend foundation and add bonus room, NOT to be used as an additional Dwelling) was **WITHDRAWN**.

# EDMONTON SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Citation: v Development Authority of the City of  
Edmonton, 2019 ABESDAB 10180

Date: November 1, 2019

Project Number: 312403136-001

File Number: SDAB-D-19-180

Between:

**and**

The City of Edmonton, Development Authority

---

## Board Members

Vincent Laberge, Presiding Officer

Brian Gibson

Elaine Solez

Rick Hachigian

Jack Jones

---

## DECISION

[1] On October 24, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on September 30, 2019 for an application by Pattison Outdoor Advertising. The appeal concerned the decision of the Development Authority, issued on September 11, 2019, to refuse the following development:

**To install one (1) Minor Digital On-premises Off-premises Freestanding Sign (PATTISON | Elite Real Estate Investments Inc.)**

[2] The subject property is on Plan 1420502 Blk 13 Lot 3, located at 2341 - Maple Road NW, within the DC1 Direct Development Control Provision (Charter Bylaw 18989). The Tamarack Neighbourhood Structure Plan and The Meadows Area Structure Plan apply to the subject property.

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

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;



- The Development Officer's written submission;
- Subdivision Planning (Transportation) memorandum; and
- Legal Counsel's written submission on behalf of the Appellant.

### **Preliminary Matters**

- [4] 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.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the "*Municipal Government Act*").

### **Summary of Hearing**

i) Position of Mr. J. Murphy, Legal Counsel for the Appellant, Pattison Outdoor Advertising

- [7] The Development Officer did not follow the directions of Council when the decision was rendered. The Development Officer used the wrong Direct Control Bylaw in her decision when she referred to Bylaw 18820 from April 29, 2019 that was superseded on July 3, 2019 by Bylaw 18820, and finally superseded by Bylaw 18989 on August 26, 2019.
- [8] The Development Officer used the correct Sign Schedule for the DC1 before it was changed from Schedule 59D to 59E. The current Bylaw refers to Schedule 59E.
- [9] In the Development Officer's reasons for refusal, it was indicated that the proposed Minor Digital On-premises Off-premises Sign is contrary to section 4.1 of the DC1.
- [10] In his opinion, you cannot have a permitted use that is contrary to the DC1 Bylaw. They are permitted if they comply.
- [11] TAB 3 of Mr. Murphy's submission was referenced to show the applicable Sign Schedule 59E and that the proposed sign complies completely with those regulations.
- [12] The DC1 Bylaw states that Signs shall comply with Schedule 59E and if it does not comply, the Board cannot grant a variance.
- [13] Section 59.2(21) of the *Edmonton Zoning Bylaw* states:
- Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 metres radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site. This separation distance does not apply to different Sign Uses that are co-located on the same Freestanding Sign structure.
- [14] The first survey was referenced to show the proposed sign location. The sign will be flat to the adjacent street and that is what the Development Officer preferred during consultation.

However, the only way to make the sign flat at this location would require a variance to section 59.2(21). (TAB 5).

- [15] The property is not square and the sign is located on the side where the property bends.
- [16] The second survey was referenced to show an alternate location for the sign which would be a permitted use but would be an undesirable location for a sign. (TAB 5). The Appellant would prefer to have a straight sign than have it angled.
- [17] Mr. Murphy referred to a photograph showing the two sign locations. (TAB 5).
- [18] The sign locations are in the lower quadrant at the southwest intersection of the property which is 250 metres behind a public utility lot that is treed so there would be no impact on residential properties.
- [19] The Development Officer suggested that the sign should be angled so it does not impact the residential area. In order to do that they have to place the sign at the location they are proposing.
- [20] No letters were received in opposition to the proposed development, Subdivision Planning (Transportation) did not have an objection, and the distance between the on-site signs is minimal.
- [21] The Board cannot have any greater powers of the Development Officer which is in section 11 of the *Edmonton Zoning Bylaw* (TAB 9). Both the Development Authority and the Board have the same powers and the Board must consider hardship when granting a variance.
- [22] The Board has the same limits as the Development Officer under section 11.4(1)(a) of the *Edmonton Zoning Bylaw* that states:
1. In approving a Development Permit Application pursuant to Section 11.3, the Development Officer shall adhere to the following:
    - a. a variance shall be considered only in cases of unnecessary hardship or practical difficulties peculiar to the Use, character , or situation of land or a building, which are not generally common to other land in the same Zone.
- [23] The property line is not straight and in order to meet the setback they have to place the sign at an angle.
- [24] Mr. Murphy referred to section 12.3 of the *Edmonton Zoning Bylaw*, for a Class A Permitted Development. Applications for signs, on sites regulated by a Direct Control Provision and conforming to that provision shall also be considered a Class A Permitted Development.
- [25] The Board is required to follow the directions of Council. In the Court of Appeal decision *Garneau Community League v Edmonton (City)*, 2017 ABCA 374, the Court stated that the Board does not have any powers that are greater than the Development Authority in a Direct Control District.

- [26] The legislation says that if the Development Authority failed to follow the directions of Council in its decision it is up to the Board to make the decision.
- [27] The Development Officer has the authority to grant a variance under section 59.2(21) of the *Edmonton Zoning Bylaw*.
- [28] In his opinion, the sign face will be farther from the residential neighbourhood if it is moved to the preferred proposed location that was refused by the Development Officer.
- [29] Mr. Murphy provided the following information in response to questions by the Board:
- a. The walkway was determined based on the site layout.
  - b. Locating the sign to comply with section 59.2(21) is a hardship with the existing sidewalk and site layout.
  - c. There are no other setback issues with the sidewalk being there.
  - d. Subdivision Planning (Transportation) does not have an issue with the alternate location for the sign.
- ii) Position of the Development Officer, Ms. K. Mercier
- [30] The Development Authority did not appear at the hearing and the Board relied on Ms. Mercier's written submission.

### **Decision**

- [31] 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 expire on November 8, 2024.
  2. The proposed Minor Digital On-premises Off-premises Freestanding Sign shall comply in accordance with the approved plans submitted.
  3. 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))
  4. 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))

5. Minor Digital On-premises Off-premises Signs shall have a Message Duration greater than or equal to 6 seconds. (Reference Section 7.9(8))
6. 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))
7. The following conditions, in consultation with the Transportation department (Subdivision Planning), shall apply to the proposed Minor Digital On-premises Off-premises Sign, in accordance to Section 59.2.11:
  - a. That, should at any time, City Operations determine that the sign face contributes to safety concerns, the owner/applicant must immediately address the safety concerns identified 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.
  - b. 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.
  - c. The proposed sign shall be constructed entirely within private property. No portion of the sign shall encroach over/into road right-of-way.

ADVISEMENT:

1. Should the Applicant wish to display video or any form of moving images on the sign, a new Development Application for a major digital sign will be required. At that time, City Operations will require a safety review of the sign prior to responding to the application.
- [32] In granting the development the following variance to the *Edmonton Zoning Bylaw* (the “*Bylaw*”) is allowed:
1. The minimum required radial separation distance of 45.0 metres from any other Sign Use that is a Freestanding Sign on the same Site per section 59.2(21) is varied to allow a deficiency of 8.5 metres, thereby decreasing the minimum radial separation distance to 36.5 metres.

**Reasons for Decision**

[33] The proposed development, a Minor Digital On-premises Off-premises Sign, is a listed Use in the DC1 Direct Development Control Provision (Charter Bylaw 18989) (“DC1”).

[34] As the subject Site is within a Direct Control Provision, the Board’s authority in this appeal is set out in section 685(4) of the *Municipal Government Act* that states:

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

(a) ...

(b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority’s decision.

[35] Pursuant to section 685(4), the Board first considered whether the Development Officer followed the directions of Council.

[36] In the refused Development Permit, the Development Officer provided two reasons for refusal, which included the following:

*1. The Proposed Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site (Reference Section 59.2(21)).*

*Required Separation Distance: 45.0 m  
Proposed Separation Distance: 36.5 m  
Deficient by: 8.5 m*

*2. Development on the site should function as a walkable commercial centre with a pedestrian-friendly commercial node, creating a sense of place for users. As well as relate to adjacent built forms, roadways, uses, functions and activities, with particular attention to adjacent public transit facilities; include outdoor nodes of character such as wayfinding signage, art work, bike racks, play, seating, landscaped, and hard surfaced areas. Design features within amenity areas shall include hard and soft landscaping elements, seating areas and / or a visual landmark such as a hardscaped plaza, clock tower, water feature or other identifiable feature to facilitate social interaction amongst users and create a sense of place (Reference Bylaw 18820 April 29, 2019 [emphasis added], Section 4.1(a)).*

*The proposed Minor Digital On-premises Off-premises Sign is contrary to Section 4.1 of the DC1 TAMARACK.*

- [37] The Development Officer did not attend the appeal hearing, but she did provide a written report which reiterates the reasons for refusal and further includes a third reason for refusal, which included the following:

*It was the opinion of the Development Authority that the requested variance is 'not in keeping with the intentions of City Council as provided in Direct Control Zone TAMARACK Bylaw 18909 [emphasis added]. Upon review of the application, it was found that the development did not comply with the following regulations:*

*1. The Proposed Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site (Reference Section 59.2(21)).*

*Required Separation Distance: 45.0 m  
Proposed Separation Distance: 36.5 m  
Deficient by: 8.5 m*

*2. Development on the site should function as a walkable commercial centre with a pedestrian-friendly commercial node, creating a sense of place for users. As well as relate to adjacent built forms, roadways, uses, functions and activities, with particular attention to adjacent public transit facilities; include outdoor nodes of character such as wayfinding signage, art work, bike racks, play, seating, landscaped, and hard surfaced areas. Design features within amenity areas shall include hard and soft landscaping elements, seating areas and / or a visual landmark such as a hardscaped plaza, clock tower, water feature or other identifiable feature to facilitate social interaction amongst users and create a sense of place (Reference Bylaw 18820 April 29, 2019, Section 4.1(a)).*

*The proposed Minor Digital On-premises Off-premises Sign is contrary to Section 4.1 of the DC1 TAMARACK.*

*In addition to the above it was found that the Sign does not comply with the following regulation of Sign Schedule 59D:*

*1. The maximum Area shall be 10.0 m<sup>2</sup> for proposed Signs that are Freestanding Signs. (Reference Schedule 59D.3(4)(b)) [emphasis added].*

*Proposed: 18.6 m<sup>2</sup>  
Exceeds by: 8.6 m<sup>2</sup>*

- [38] The Board finds that the Development Officer did not follow the directions of Council for the following reasons:

a. The Development Officer incorrectly reviewed the proposed development and rendered her decision under two outdated Charter Bylaws, 18820 and 18909. Charter Bylaw 18820 was signed and passed on April 29, 2019

and was superseded by Charter Bylaw 18909 that was signed and passed on July 3, 2019. The current DC1 was amended on August 26, 2019, under Charter Bylaw 18989.

- b. The Development Officer incorrectly referenced Sign Schedule D of the *Bylaw* and determined that the proposed Sign exceeded the maximum allowed Sign Area. However, Charter Bylaw 18909 references Sign Schedule E of the *Bylaw* and the proposed Sign is in compliance with Sign Schedule E.
- c. For these reasons, the Board agrees with the Appellant that Council's directions were not followed.

[39] Pursuant to the Court of Appeal decision, *Garneau Community League v Edmonton (City)*, 2017 ABCA 374, the Board does not have broader powers on an appeal than the Development Authority with respect to land in a Direct Control District. Therefore, the Board is bound by section 11.4(1)(a) of the *Bylaw* that states "a variance shall be considered only in cases of unnecessary hardship or practical difficulties peculiar to the Use, character, or situation of land or a building, which are not generally common to other land in the same Zone."

[40] Section 59.2(21) of the *Bylaw* states:

Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site. This separation distance does not apply to different Sign Uses that are co-located on the same Freestanding Sign structure.

The proposed development has a 36.5-metre separation distance from another Freestanding Sign on the same Site and is deficient in the minimum radial separation distance by 8.5 metres.

[41] In this specific case, the Board was presented with evidence by the Appellant that the irregular shape of the subject Site precludes the development from being able to comply with the 45.0-metre separation distance requirement because of the curved nature of the lot that provides an increased setback from the roadways, which limits the Applicant to provide a Sign in that general location adjacent to the intersection of 17 Street and Maple Road.

[42] Further, the Board finds that the existing concrete walkways are a requirement of the development agreement for the subject Site and due to its location; the walkways have prohibited the ability for the Sign to be situated further south to meet the minimum 45.0-metre separation distance requirement.

[43] For these reasons, the Board finds that there is an unnecessary hardship and practical difficulty for this Use on this situation of land to comply with section 59.2(21).

[44] Pursuant to section 11.3 of the *Bylaw*, the Board may approve, with or without conditions as a Class B Discretionary Development, an application for development that does not comply with this *Bylaw* where the proposed development would not, in their opinion unduly

interfere with the amenities of the neighbourhood; or materially interfere with or affect the use, enjoyment or value of neighbouring properties.

[45] The Board grants the variance to section 59.2(21) for the following reasons:

- a. The subject property is a large and active commercial site with a busy intersection at 17 Street and Maple Road that is surrounded by other large Shopping Centre sites.
- b. There is a significant separation distance with the residential area to the southwest due to the arterial roadways and the green space of the Public Utility Zone.
- c. Subdivision Planning (Transportation) does not object to the proposed development.
- d. The Board did not receive any letters of objection regarding the proposed development and no one attended the hearing in opposition to the proposed development.

[46] With respect to section 4.1 and 4.11(g) of Charter Bylaw 18989, the Board does not believe the proposed development is in contravention of these sections as the proposed development is a Listed Use that fully complies with all development regulations in the *Bylaw* including Sign Schedule 59E, with the exception of section 59.2(21).

[47] Based on all of the above, the Board finds 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 properties.

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

c.c. City of Edmonton, Development & Zoning Services, Attn: Ms. K. Mercier / 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.*