



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: June 16, 2016
Project Number: 093733262-006
File Number: SDAB-D-16-134

Notice of Decision

- [1] On June 1, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **May 10, 2016**. The appeal concerned the decision of the Development Authority, issued on April 27, 2016, to refuse the following development:

Construct an Accessory Building (Shed, 6.80m X 3.07m), existing without permits

- [2] The subject property is on Plan 5964KS Blk 4 Lot 24, located at 12915 - 79 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] The following documents, which were received prior to the hearing and are on file, were read into the record:
- Photographs of the proposed development;
 - The Development Permit Application;
 - The refused development permit with plans and photographs attached;
 - The Development Officer's written submissions;
 - Online responses in support of the development; and
 - An e-mail in support of the development.

Summary of Hearing

- [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 appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

i) Position of the Appellant, Mr. S Evoy

- [6] The Appellant reiterated the Grounds for Appeal included in the Notice of Appeal.
- [7] The proposed development is a canvas, portable tent shed that he purchased some years ago. It is the highest quality structure that he was able to purchase at the time. He erected it in consultation with the manufacturer, who advised him that he would not need to obtain any permits for it.
- [8] He uses the structure to store his snowmobiles and as a space where he can spend time with his children.
- [9] Although he had received a complaint from an adjacent neighbour, he has since spoken to that neighbour and resolved all concerns. He and his wife have a strong relationship with that particular neighbour, and they were able to resolve the issue. He and his wife spoke to other neighbours as well. They have lived in the neighbourhood for a long time and have a great relationship with all of their neighbours. None of the other neighbours have taken any issue with the proposed development.

ii) Position of the Development Officer, Ms. S. Watts

- [10] The Development Officer indicated that the primary reason for refusal had to do with performance standards. The proposed development is inconsistent with the principal building. Specifically, the materials that compose it are the issue. This is a well-established neighbourhood where the majority of the structures are built with wood siding, vinyl siding or brick. The Development Authority encourages a rigid material as opposed to a fabric. The fabric looks more like a tent and does not fit the residential character of the neighbourhood. This sort of development is becoming an issue across the city.
- [11] She confirmed that Site Coverage was not an issue. The subject Site is a large, treed lot with enough space to accommodate the proposed development, as well as other accessory structures.
- [12] She refused the development application because she could not identify any hardship associated with the subject Site.

iii) Rebuttal of the Appellant

- [13] In rebuttal, the Appellant stated that the colour of the proposed structure is green. He specifically purchased a green structure so that it would blend in with the surroundings.

[14] Further, he confirmed that, although it is regarded as a temporary structure, it can be taken down and re-assembled. The structure is highly durable and will not collapse under the weight of snow during the winter months.

Decision

[15] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED**. In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:

- i) The Performance Standard requirements prescribed by Section 57.2(1) are waived; and
- ii) The separation space requirement of 0.9 metres prescribed by Section 50.3(4)(c) is varied 0.1 metres.

Reasons for Decision

[16] The proposed structure is Accessory to a Permitted Use in the RF1 Zone.

[17] While the proposed structure is located in the Mature Neighbourhood Overlay (MNO), the Board finds that there is no violation of MNO regulations since there was no variance granted to the requirements of Section 814.

[18] The Board notes that the Appellant provided letters of support from four adjacent neighbours, and no one appeared in opposition to the proposed development.

[19] The Board notes the Appellant's contention that the Accessory building is, in fact, a temporary structure and can be collapsed and re-assembled, which is similar to other instances in the neighbourhood for structures that are used to cover cars in the winter time.

[20] Based on the above, the Board is satisfied that the proposed development will not unduly interfere with the amenities of the area or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. N. Somerville, Presiding Officer
Subdivision and Development Appeal Board

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.



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Date: June 16, 2016
Project Number: 218894748-001
File Number: SDAB-D-16-135

Notice of Decision

- [1] On June 1, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **May 10, 2016**. The appeal concerned the decision of the Development Authority, issued on April 26, 2016, to refuse the following development:

Install a Freestanding Minor Digital On-Premises Sign

- [2] The subject property is on Plan NB Blk 14 Lots 34-37, located at 9915 - 115 Street NW, within the RA9 High Rise Apartment Zone. The Oliver Area Redevelopment Plan applies to the subject property.
- [3] The following documents, which were received prior to the hearing and are on file, were read into the record:
- Photographs submitted by the Appellant;
 - The refused development permit with drawings and plans attached;
 - Registered mail delivery notification;
 - The Development Officer's written submissions;
 - An online response in opposition to the development;
 - An email in opposition to the development;
 - A letter from an affected party indicating plans to attend the hearing; and
 - The Oliver Area Redevelopment Plan.

- [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 appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

Preliminary Matter

- [6] As a preliminary matter, the Board raised the issue of whether or not the address listed on the development permit application was different from the actual location of the proposed

development. On behalf of the Appellant, Mr. R. Vizslay stated that a clerical error was made that was not identified until the day before the hearing. The actual location of the proposed development is 9939 115th Street.

- [7] The Development Officer, Mr. S. Ahuja, responded by stating that, due to the clerical error, the addresses to the north of 100th Avenue have not been properly notified. Therefore, the Development Authority's refusal of the development should be upheld and the Appellants should re-submit an application showing the proper address.
- [8] Ms. Baldwin, a representative of a neighbouring condominium building, stated that re-notification is indeed important, as the proposed development is a controversial issue in the neighbourhood and requires the input of those who should have been notified.

Decision

- [9] The Board does not have jurisdiction to hear the appeal.

Reasons for Decision

- [10] At the beginning of the hearing, it was disclosed that the address provided on the initial application was not in fact the address where the proposed Sign was to be located. It was further noted that, had the 60-metre notification area been established around the location of the proposed Sign, it would have included a number of properties on the north side of 100th Avenue that were not notified. Accordingly, because notification has not been given as required by Section 686(3)(c) of the *Municipal Government Act*, the Board has no jurisdiction in this matter.
- [11] The Board further notes that Minor Digital On-premises Signs are neither a Permitted nor a Discretionary Use in the RA9 Zone. Accordingly, the Board also has no authority to hear an application for a Use that is not prescribed under the terms of the *Edmonton Zoning Bylaw*.

Mr. N. Somerville, Presiding Officer
Subdivision and Development Appeal Board

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.
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SDAB-D-16-136

Project No. 127140622-004

An appeal to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05 metres by 10.37 metres single sided facing south) was **TABLED** to August 17 or 18, 2016.