



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: December 14, 2017
Project Number: 265698191-001
File Number: SDAB-D-17-234

Notice of Decision

- [1] On November 30, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **November 7, 2017**. The appeal concerned the decision of the Development Authority, issued on November 2, 2017, to refuse the following development:

Construct exterior alterations to a Single Detached House (Driveway extension 2.13 metres by 7.91 metres), existing without permits.

- [2] The subject property is on Plan 1520589 Blk 14 Lot 4, located at 17015 - 65 Street NW, within the (RSL) Residential Small Lot Zone. The McConachie Neighbourhood Structure Plan and Pilot Sound Area Structure Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the Development Permit application with attachments, the proposed plan, and the refused Development Permit;
 - The Development Officer’s written submission; and
 - The Appellant’s submission including photographs.

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.

Summary of Hearing*i) Position of the Appellant, Mr. M. Ashraf*

- [7] Mr. Ashraf has been designing and building houses since 2000 and he has never had a driveway refused in the past. He was not aware of the regulations that resulted in the refused development permit.
- [8] A house with a driveway of a similar size and design was approved a few months ago on a site located five lots north of the subject site.
- [9] A photograph was referenced to illustrate that the driveway extends from the front entrance steps to the street. He estimated that 99 percent of the houses in this neighbourhood have the same configuration. However, he could not confirm whether or not they were issued development permits.
- [10] The subject house has been sold and the new owners do not want the driveway modified. However, now that he is aware of the regulations he will comply with the *Edmonton Zoning Bylaw* going forward.
- [11] Mr. Ashraf provided the following information in response to questions from the Board:
- a) The Real Property Report identifies the portion of the driveway deemed to be an extension as a sidewalk.
 - b) Landscaping will be provided on both sides of the driveway.
 - c) The plot plan that was submitted with the house application did not identify the size or location of the driveway.
 - d) He acknowledged that the owners of the house are parking on the area of the driveway that is identified as a sidewalk on the Real Property Report. However, human nature is what it is and people will park on an area that is available.
 - e) A section of the driveway could be removed to create a wraparound sidewalk that would comply with the regulations. However, the new owners are opposed to this and would be seeking compensation if the driveway is modified.
 - f) The photographs illustrate several other houses with similar extended driveways.
 - g) He did not have a comment on the two additional reasons for refusal identified by the Development Officer.

ii) *Position of the Development Authority, Ms. J. Kim:*

[12] Ms. Kim provided a written submission and did not attend the hearing.

Decision

[13] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** to construct exterior alterations to a Single Detached House (Walkway).

Reasons for Decision

[14] The proposed development is Accessory to a Permitted Use in the (RSL) Residential Small Lot Zone.

[15] Section 6.1(122) of the *Edmonton Zoning Bylaw* defines Walkway as “a path used for pedestrian circulation that cannot be used for vehicular parking.”

[16] Based on a review of the photographic and verbal evidence provided by the Appellant, a 2.13 metres by 10.83 metres portion of the existing concrete pad per the revised site plan, leads directly to the front entrance of the Principal Dwelling from 65 Street. Therefore, the Board finds that the proposed development is a Walkway pursuant to section 6.1(122) of the *Edmonton Zoning Bylaw*.

[17] Based on this finding, the proposed development does not require any variances to the requirements of the *Edmonton Zoning Bylaw*. However, this does not preclude compliance with section 54.2(2)(e)(i) of the *Edmonton Zoning Bylaw*, which states “parking spaces shall not be located within a Front Yard.”

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

Board Members in Attendance: Ms. K. Cherniawsky; Ms. L. Gibson; Mr. J. Kindrake; Ms. N. Hack

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 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 the Sustainable Development Department, 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.



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Date: December 14, 2017
Project Number: 261476269-001
File Number: SDAB-D-17-235

Notice of Decision

- [1] On November 30, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **November 6, 2017**. The appeal concerned the decision of the Development Authority, issued on October 17, 2017, to approve the following development:

Operate a Major Home Based Business (Legal Services - Trilogy Family Law).

- [2] The subject property is on Plan 0225953 Blk 23 Lot 55, located at 21351 - 88 Avenue NW, within the (RPL) Planned Lot Residential Zone. The Lewis Farms Area Structure Plan and Suder Greens Neighbourhood Structure Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the Development Permit application with attachments and the approved Development Permit;
 - The Development Officer’s written submission;
 - The Appellant’s written submission and photographs; and
 - The Respondent’s submission with photographs and previous Board decisions.

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.

Summary of Hearing*i) Position of the Appellant, Mr. M. and Mrs. K. Tully*

- [7] They bought a house in this neighbourhood when it was being developed. This area is a residential neighbourhood and not a commercial area.
- [8] On-street parking is always congested even during the day, which makes the Avenue narrow and difficult for vehicles travelling in the area. The winter snow further increases the congestion.
- [9] In their opinion, the Respondent's rear driveway is unable to accommodate on-site parking.
- [10] They are concerned that proposed parking arrangements with employees could change if there is staff turnover.
- [11] The lots along the Avenue are small, which reduces the number of on-street parking spaces. They often cannot park along the Avenue in front of their own property.
- [12] Young families live in the area and there are several children that play outside, which is a safety concern with further vehicular traffic.
- [13] In their opinion, families purchase homes in cul-de-sacs because there is no through road.
- [14] Mr. Tully operates a business out of his home but he does not have any clients or deliveries to their house.
- [15] In their opinion, a precedent for the neighbourhood will be set if one Major Home Based Business is approved.
- [16] In their opinion, 15 client visits per week will feel more like 30 client visits since the vehicle will be coming and going to the subject site.
- [17] They believe a Major Home Based Business will take away from other law offices in Edmonton and will decrease the value of their property.
- [18] They confirmed that several vehicles leave in the morning for work and return in the evening with occasional vehicle traffic during the day.
- [19] They confirmed that the majority of houses in the neighbourhood have more than one vehicle and have garages off the rear lane.

ii) Position of the Development Officer, Mr. C. Lee

[20] Mr. Lee provided a written submission and did not attend the hearing.

iii) Position of the Respondent, Ms. D. Baradziej

[21] Ms. Baradziej has three grandchildren and is not concerned with them playing outside.

[22] The Major Home Based Business operates from 8:30 a.m. to 4:30 p.m. which is when the two employees arrive.

[23] The subject site is a short distance from 213 Street where there is ample street parking.

[24] She does not have an issue with Mr. Tully operating a business from his home.

[25] There is sufficient parking available during office hours. In her submission, the photographs show that parking is not a concern in this area.

[26] She confirmed that parking is allowed on both sides of 88 Avenue. In her opinion, parking is not an issue in the winter.

[27] The initial client visit is at her home and the majority of work with her clients is done remotely.

[28] She meets her clients at the Court House and not at her house. Settlement meetings can take place at her home or at other offices. She has a case load of 50 files.

[29] She confirmed that there will be one client visit per week.

[30] Parking can take place in her large two car garage, on the street in front of her house, and on 213 Street.

[31] She has one vehicle and parks in the garage and the other garage space can be used by an employee or they can park on 213 Street.

[32] In her opinion, the Major Home Based Business is not a full law practice like a commercial business.

[33] In the last six months three settlement meetings have taken place in her house. She is a Litigation Lawyer and the majority of time she is in Court.

vi) *Rebuttal of the Appellant, Mr. M. and Mrs. K. Tully*

- [34] In their opinion, with a case load of 50 files some of the clients will have more than one visit to the subject site.
- [35] Even if one employee parks in the garage and one employee is dropped off, the Major Home Based Business with the house is required to have two on-site parking spaces. In their opinion, the Respondent will need to have on-street parking for her and her staff.
- [36] They do not believe people will park on 213 Street due to the location of the bus stop.
- [37] They do not agree that there are no vehicles parking on the street during the day as clients will still be parking in the area.
- [38] The Respondent did not indicate how their safety concerns would be addressed.
- [39] They referred to the *Municipal Government Act* and the amenities of the neighbourhood.
- [40] The Presiding Officer indicated that section 687(3)(d) of the *Municipal Government Act* is not the test of the Board since the proposed Major Home Based Business is a Discretionary Use with no variances. The test of the Board is whether or not the proposed development is reasonably compatible with the neighbourhood.
- [41] The reiterated that they do not want to see several Major Home Based Businesses in the neighbourhood.
- [42] The difference between this type of business and other home based businesses in the area is that a business with a large client base will add to the number of vehicles travelling back and forth in the area.

Decision

- [43] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED**, subject to the following **CONDITIONS**:
1. This approval is for a 5 year period **ONLY** from the date of this decision and will expire December 8, 2022. A new Development Permit must be applied for to continue to operate the business from this location.
 2. This Development Permit may be revoked or invalidated, at any time, if the Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes.

- This includes mechanical or electrical equipment used which creates external noise or interference with home electronic equipment in adjacent Dwellings. (Reference Section 75.2).
3. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling. (Reference Section 75.1).
 4. There shall be no more than three (3) business associated visits per day at the Dwelling. The business Use must be secondary to the residential Use of the building and no aspects of the business operations shall be detectable from outside the property. The number of non-resident employees or business partners working on-site shall not exceed two at any one time. (Reference Section 75.4).
 5. There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced. (Reference Section 75.2).
 6. No person shall keep in any part of a Site in any Residential Zone any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding 4 600 kg or more than one commercial vehicle having a maximum gross vehicle weight (G.V.W.R.) of 4 600 kg or less, for longer than reasonably necessary while loading or unloading such vehicle. (Reference Section 45.1)
 7. The business Use must maintain the privacy and enjoyment of adjacent residences and the character of the neighbourhood.
 8. Clients visits must be by-appointment only and appointments shall not overlap with each other.
 9. A new Development Permit must be obtained should the business change or expand.
 10. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings. (Reference Section 75.5).
 11. Parking spaces for the employees of the Home Based Business must be provided on site.

Advisements:

1. A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.
2. Unless otherwise stated, all above references to section numbers refer to the authority under the exterior Edmonton Zoning Bylaw 12800.

Reasons for Decision

- [44] The proposed development, a Major Home Based Business, is a Discretionary Use in the (RPL) Planned Lot Residential Zone.
- [45] The Major Home Based Business complies with all of the regulations in the *Edmonton Zoning Bylaw*.
- [46] Section 7.3(7) of the *Edmonton Zoning Bylaw* defines a Major Home Based Business as:
- development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

The Board notes that the proposed Major Home Based Business fully complies with and meets the criteria of the proposed Use.

- [47] The Board finds that the Development Officer imposed conditions that would mitigate potential future issues with regard to parking and an excess of traffic and the Board has affirmed those conditions.
- [48] The conditions regarding clients and parking of the approved Development Permit included:
1. Parking spaces for the employees of the Home Based Business must be provided on site.

2. There shall be no more than three (3) business associated visits per day at the Dwelling. The business Use must be secondary to the residential Use of the building and no aspects of the business operations shall be detectable from outside the property. The number of non-resident employees or business partners working on-site shall not exceed two at any one time. (Reference Section 75.4).
 3. Clients visits must be by-appointment only and appointments shall not overlap with each other.
- [49] The Board notes that no parking variance is required and with the additional conditions imposed by the Development Authority any additional parking required by the operations of the business should have minimal impact on the neighbourhood.
- [50] No evidence was submitted with specific planning reasons indicating that the proposed development was not compatible with the neighbourhood.
- [51] The Appellant identified that the Major Home Based Business will increase traffic in the area. The Board finds that with a cul-de-sac and no through traffic, there is naturally less traffic on this street.
- [52] Based on the above, the Board concludes that the proposed development with the conditions imposed is reasonably compatible with the neighbourhood.

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

Board Members in Attendance

Ms. K. Cherniawsky; Ms. L. Gibson; Mr. J. Kindrake; Ms. N. Hack

Important Information for the Applicant/Appellant

1. This is not a Business Licence. A Business Licence must be obtained separately from the Sustainable Development Department, 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 the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.



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Date: December 14, 2017
Project Number: 255196090-001
File Number: SDAB-D-17-236

Notice of Decision

- [1] On November 30, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **November 17, 2017**. The appeal concerned the decision of the Development Authority, issued on November 8, 2017, to refuse the following development:

Install (1) Freestanding Minor Digital Off-premises Sign (Digital panel 14.7m x 4.3m facing south; non-Digital panel facing north (PATTISON OUTDOOR - Super 8 Hotel) and to remove existing Freestanding Off-premises Sign DP: 869803-002).

- [2] The subject property is on Plan 9623970 Blk 3 Lot 11A, located at 16818 - 118 Avenue NW, within the (CHY) Highway Corridor Zone. The Yellowhead Corridor Area Structure Plan applies to the subject property.
- [3] 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 submissions;
 - The Appellant’s written submissions; and
 - A Google aerial map submitted by 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.

Summary of Hearing

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

- [7] The proposed non-digital panel facing north is an Off-premises Use and the digital panel facing south is a Minor Digital Off-premises Use.
- [8] Pattison Outdoor Advertising (“Pattison”) has three signs in the area but the proposed sign is the only sign in front of the Board today.
- [9] He referred to TAB 3 of his submission and stated that the proposed sign meets all of the requirements of Schedule 59F of the *Edmonton Zoning Bylaw* except for the Setback, which needs a variance.
- [10] The original sign at this location was put in place by Hooke Signs. Hooke Signs installed the sign on four legs with the frame into the ground. Pattison signs do not have four leg prongs but are installed on the top of a single pole. That original sign was replaced in 2000 and Pattison installed their sign on the same location. Mr. Murphy could not confirm the original date of when the Hooke sign was installed, but estimated it was in the 1980s.
- [11] He referred to TAB 4 of his submission; an SDAB agenda from August 20, 2009 outlines a timeline of the signs that date back to 2000.
- [12] The expired existing east/west Pattison sign to the south of the subject sign will be removed.
- [13] He referred to TAB 4 of his submission; an SDAB decision from 2009 to convert the south facing sign to a digital sign in the same location as the proposed sign. The proposed sign was approved as a digital sign for two years. Pattison applied for a permit renewal in 2012 and it was approved for a period of five years.
- [14] He referred to TAB 5 of his submission; the development permits for the east/west facing sign and a development permit for the expired sign across on the west side of 170 Street. Pattison has applied for a permit renewal for the sign across on the west side of 170 Street.
- [15] There are no separation distance variances for the proposed sign as the other signs do not have permits.

- [16] He referred to TAB 6 of his submission; an SDAB approval decision from 2015. Page 7, reason (3)(a) states:

The Board finds the Superboard does not have a valid Development Permit and the Development Officer was correct in not requiring a separation distance from the Superboard.

- [17] He referred to TAB 7 of his submission; an e-mail from Transportation Services outlining conditions that should be placed if the proposed sign is approved. He is in agreement to all of the conditions.
- [18] The subject sign was approved and existed prior to 2009 with no known complaints from adjacent properties or Transportation Services.
- [19] He referred to the overhead photograph showing that the subject sign will not negatively impact adjacent properties. The sign sits at the edge of the hotel parking lot and will be viewed by truck drivers parking in that lot.
- [20] In his opinion, the subject sign will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- [21] There is an off ramp on the roadway with a boulevard separating the property, which provides the required Setback.
- [22] They are agreeable to the conditions suggested by the Development Officer.
- [23] If the Board considered the existing sign across on the west side of 170 Street and considered the separation distance variance, in his opinion the variance should be waived as it has been there since 2009 with no known complaints and the two signs are separated by an arterial roadway.

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

- [24] If the subject sign is approved she would prefer the Board add a condition that both sign structures with expired permits be removed.
- [25] Sign companies like Pattison forget to reapply or remove their signs when they expire, but they seem to never forget to advertise on these signs. The City is then expected to use resources to enforce the non-compliance of these companies.
- [26] In her opinion, there is no reason for her to grant a variance for the Setback when there is no reason for the sign to be located that close to the property line.

- [27] It is difficult for her to pretend that expired signs are not there when she reviews sign applications.
- [28] Her main concern is the separation distance variances and these variances are self-inflicted by Pattison. All of these variances are all within Pattison's control and if the Board allows this Appeal, it causes a domino effect where the other sign will most likely have to be approved.
- [29] Separation distance requirements are based on the size of the sign – the larger the sign, the larger the separation distance requirement.
- [30] With regard to the 2015 SDAB decision, that case was different as no one could produce a permit for that sign. In this case, the City has the original permits and timelines to show when the signs in question expired.
- [31] With regard to why the City does not issue Stop Orders for non-compliant signs, Ms. Noorman indicated that the City has a large volume of illegal signs and they do not have the resources to monitor and police sign companies. She would hope to see more voluntary compliance from Pattison rather than expect the City to do the work to remind them.
- [32] When she reviews proposed developments, she reviews things in context of the built environment. The signs in this case are all physically there and the sign to the west of 170 Street has been applied for by Pattison and is in development review. She reiterated that she has to consider that both signs exist, especially when both signs have applications made by the same company.
- [33] With respect to a question from the Board about her comments about no complaints being made about the subject sign, Ms. Noorman indicated that it is up to the Board to determine if the 173-metre separation distance variance should be granted. She is basing her decision on the *Edmonton Zoning Bylaw*.
- [34] It is Council's intent to diminish the proliferation of signs by regulating the separation distance between signs.
- [35] Ms. Noorman reiterated that it is exhausting when signs are refused by both the City and the Board and then the sign structure remains. It is disrespectful for the sign companies not to comply with those decisions.

iii) Rebuttal of the Appellant, Mr. J. Murphy

- [34] Mr. Murphy confirmed that the east/west sign to the south will be removed. He agrees that sign companies should do more to monitor their signs.

- [35] There was no permit for the Superboard sign from the 2015 SDAB appeal and the City took action to deal with that sign.
- [36] They should not have to remove an expired sign if they are making a new application for that sign. When an application is made on an expired sign, Sustainable Development considers it as a new application not a renewal.
- [37] He reiterated that the subject sign needs a variance in only the Setback.

Decision

- [38] 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 Development Permit shall expire on December 8, 2022.
 2. Within 30 days of the hearing, and prior to the review and issuance of the Building Permit the applicant shall demonstrate to the satisfaction of the Development Officer that the existing Freestanding Off-premises Sign (DP: 869803-002) located at 16806 - 118 Avenue NW as shown on the plans submitted, is removed from the site and cleared of all debris.
 3. The proposed Sign shall comply in accordance to the approved plans submitted.
 4. 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)).
 5. 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)) 6. Minor Digital Off-premises Sign 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 Subdivision Planning, shall apply to the proposed Minor Digital Off-premises Sign, in accordance to Section 59.2.11:
 - a) That, should at any time, Planning Coordination determines 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 Planning Coordination.
 - b) That the owner/applicant must provide a written statement of the actions taken to mitigate concerns identified by Planning Coordination 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, Planning Coordination will require a safety review of the sign prior to responding to the application.

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

1. The minimum required Setback is 7.5 metres. The proposed Setback is 1.81 metres and a deficiency of 5.69 metres is allowed. (Schedule 59F.3(6)(j)).

Reasons for Decision

[40] The proposed development, a Freestanding Off-premises and a Minor Digital Off-premises Sign is a Discretionary Use in the (CHY) Highway Corridor Zone.

[41] The Board based their decision on a determination that the other two Signs within the 300-metre radius do not have legal Development Permits. Therefore, the Board determined that the Setback variance is the only variance under consideration and the separation distance variances are no longer applicable to this appeal.

[42] The Board has granted the Setback deficiency for the following reasons:

- a. Transportation Services has reviewed the proposed development and does not have any objections.
- b. There was no opposition to the proposed development and there have been no known complaints from the operation of the Sign that has existed in its same form and location since the 1980s.
- c. The Board also relied on a previous SDAB decision from 2012 that originally approved the Sign in its current form and location with no substantive changes since then.

[43] The Board must also consider that the subject Sign is a Discretionary Use in the (CHY) Highway Corridor Zone. The Board concludes that the proposed development is reasonably compatible at the subject location for the following further reasons:

- a. The subject location is surrounded by commercial and industrial uses with no residential development in the surrounding area.
- b. Except for the Setback variance, the Sign fully complies with Schedule 59F and the *Edmonton Zoning Bylaw*.
- c. When considering a Discretionary Use, the Board must be presented with planning reasons that would justify not allowing this Use in this Zone and the Board did not receive evidence to determine that this Sign is not reasonably compatible with the neighbourhood.

[44] Based on the above, the Board finds that the proposed development, with the required variance, will not unduly interfere with the amenities of the neighbourhood nor 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. K. Cherniawsky; Ms. L. Gibson; Mr. J. Kindrake; Ms. N. Hack

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 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 the Sustainable Development Department, 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.