

SDAB-D-13-019

Application No. 129905784-001

An appeal by Icewerx Consulting Inc., to install an On-premises Fascia Minor Digital Sign (Ziebart) on Lots 1, 2, 3 and 4, Block 32, Plan 3553P, located at 6528 – 104 Street NW, was **TABLED TO FEBRUARY 6 or 7, 2013.**

SDAB-D-13-020

Application No. 129905505-001

An appeal by Icewerx Consulting Inc., to construct an Off-premises Minor Digital Freestanding Sign (4.27 metres by 14.63 metres double side facing north/south) on Lot 2, Block 2, Plan 0525322, located at 1204 – 101 Street SW., was **TABLED TO FEBRUARY 6 or 7, 2013.**



**Subdivision and
Development Appeal Board**

Office of the City Clerk
Main Floor, Churchill Building
10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
Telephone: (780) 496-6079
Fax: (780) 496-8175

DATE: February 1, 2013
APPLICATION NO: 131356519-001
FILE NO.: SDAB-D-13-015

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated November 14, 2012, from the decision of the Development Authority for permission to:

Construct an addition to an Accessory Building (a rear Detached Garage with shed – 2.44 metres by 6.20 metres and an attached carport – 3.62 metres by 7.44 metres), existing without permits

on Lots 27 and 28, Block S, Plan 8072AM, located at 9120 – 89 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on November 22, 2012 and January 17, 2013. The decision of the Board was as follows:

November 22, 2012 Hearing:

MOTION:

“that the appeal be TABLED TO JANUARY 16 or 17, 2013 at the written request of the Appellant.”

January 17, 2013 Hearing:

MOTION:

“that SDAB-D-13-015 be raised from the table.”

SUMMARY OF HEARING:

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

SUMMARY OF HEARING CONTINUED:

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

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct an addition to an Accessory Building (a rear Detached Garage with shed – 2.44 metres by 6.20 metres and an attached carport – 3.62 metres by 7.44 metres), existing without permits, located at 9120 – 89 Street NW. The subject site is zoned RF3 Low Density Development Zone and is within the Mature Neighbourhood Overlay. The development permit application was refused because of an excess in the maximum allowable Site Coverage for an Accessory Building or Structure, and an excess in the requirement that a rear Detached Garage shall be fully contained within the rear 12.8 metres of the Site.

The Board notes that no letters were received in support or opposition to the proposed development.

Prior to the hearing, the Appellant submitted documentation to support the appeal and photographs of the subject site. The Appellant also submitted signatures of support from six neighbouring property owners.

The Board heard from Ms. Zaboschuk, the Appellant, who was accompanied by her nephew Mr. VanHauwaert. Ms. Zaboschuk and Mr. VanHauwaert together made the following points:

1. In their opinion, the proposed development exceeds the maximum allowable Site Coverage by 3.28 percent.
2. A development permit was issued in 1966 for the Detached Garage; the carport and the shed extension were built sometime after 1966.
3. Ms. Zaboschuk received a letter from the City in 2011 (a copy of which was submitted as Exhibit A) stating that the existing Detached Garage and carport are non-conforming.
4. She received a letter in 2012 indicating that a permit was required for the Detached Garage and the attached covered area.
5. There have been no known complaints with regard to the Accessory structure.
6. There is a distance of 6.41 metres between the Principal Building and the Shed.
7. The subject site is a very large wide lot.
8. They provided the Board with a petition with six signatures in support of the proposed development.

SUMMARY OF HEARING CONTINUED:

9. The new property owners would like the building with the additions to remain on the subject site.
10. There are other double Detached Garages in the neighbourhood.
11. The shed is attached to the Detached Garage and gives the appearance of one building.
12. The most adjacent properties all have Detached Garages.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of 19.38 square metres in the maximum allowable Site Coverage for an Accessory Building or Structure and the excess of 1.15 metres in the requirement that a rear Detached Garage shall be fully contained within the rear 12.8 metres of the Site, be permitted

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is Accessory to a Permitted Use in the RF3 Low Density Development Zone.
2. The subject site is a wide lot with a significant amount of separation space between the Detached Garage and the Principal Building mitigating the massing affect on neighbouring properties.
3. Detached Garages are characteristic of the area.
4. The proposed development is not visible from the front of the property and will not affect the streetscape.
5. The shed and attached carport have existed for several years with no known complaints.
6. There is support from six neighbouring property owners.
7. No letters were received in opposition to the proposed development and no one appeared in opposition at the hearing.
8. Based on the above, it is the opinion of the Board, that the proposed development would 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.”

IMPORTANT INFORMATION FOR APPLICANT/APELLANT

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. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
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: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.

Mr. R. Colistro, Chairman
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

cc:



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DATE: February 1, 2013
APPLICATION NO: 102654367-006
FILE NO.: SDAB-D-13-022

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated December 20, 2012, from the decision of the Development Authority for permission to:

Construct an addition to a General Industrial Use building on Lot 1 and to demolish an existing Quonset Building on Lot 7 (Custom Environmental Services)

on Lot 1, Block 4, Plan 8022534 and Lot 7, Block 2, Plan 7820150, located at 7703/7722 – 9 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 17, 2013. The decision of the Board was as follows:

SUMMARY OF HEARING:

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

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

The Board heard an appeal of the decision of the Development Authority to approve, with conditions and variances, an application to construct an addition to a General Industrial Use building on Lot 1 and to demolish an existing Quonset building on Lot 7 (Custom Environmental Services), located at 7703/7722 – 9 Street NW. The subject site is zoned IB Industrial Business Zone. The approved development application was appealed by an adjacent property owner.

The Board notes that no letters were received in support or opposition to the proposed development.

SUMMARY OF HEARING CONTINUED:

Prior to the hearing, the Appellant submitted documentation supporting the appeal.

The Board heard from Mr. Karl Horak and Mr. Brian Horak, representing the Appellant, CAW Management Inc. Mr. K. Horak and Mr. B. Horak together made the following points:

1. They stated that the on-street parking is prohibited in this industrial area pursuant to a Restrictive Covenant. However, insufficient on-site parking provided by businesses such as the one operated on the Appellant's site forces employees and visitors to park on the street, creating parking congestion and significant inconvenience and expense to their business operation.
2. They stated that large tractor trailer units park in the no parking zones.
3. They acknowledged that they had discussions with the Respondent and reviewed the proposed plans with regard to parking for the proposed development.
4. They are opposed to any variances granted with regard to vehicular parking for the proposed development.
5. They were not concerned with the variance granted in bicycle parking as this is not a safe area for individuals to ride bicycles.

The Board heard from Mr. Maxwell, the property owner of the subject site, who made the following points:

1. He recently purchased the property and on-street parking is limited in this area. However, the proposed development will ease parking restrictions.
2. He referred the Board to the Site Plan which showed the removal of the temporary quonset on Lot 7, which will allow for additional parking.

The Board then heard from Mr. Lomeland, representing the Respondent, Hartwig Architecture Inc., who made the following points:

1. He stated that the expansion of the facility on Lot 1 will allow for loading and unloading on-site rather than on the street.
2. The increase in the size of the building on Lot 1 will provide additional space to store equipment and oil containers which will clean up the site and relieve pressure from the on-street parking demand.

SUMMARY OF HEARING CONTINUED:

In rebuttal, Mr. K. Horak and Mr. B. Horak made the following points:

1. Although the subject site is under new ownership, they are concerned that the individuals operating the business will not change.
2. They do not believe that the expansion will be large enough to store all of the equipment that is currently stored outside.
3. They are concerned that dividing the required parking between the two lots will increase the traffic between the two lots across 9th Street, which will create a safety concern.

In response to questions by the Board, Mr. K. Horak and Mr. B. Horak made the following point:

1. They stated that the Bylaw Enforcement Department has been unable to address their concerns.

DECISION:

that the appeal be DENIED and the decision of approval by the Development Authority CONFIRMED.

The Development Authority's decision contains the following conditions and variances:

Conditions:

1. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide Notification Fee of \$100.00 and Lot Grading Fee of \$220.00.
2. Landscaping shall be in accordance to the approved landscape plan, Section 55 and to the satisfaction of the Development Officer. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:
 - a) cash to a value equal to 100 percent of the established landscaping costs; or

DECISION CONTINUED:

b) an irrevocable letter of credit having a value equivalent to 100 percent of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55.6.

3. All access locations and curb crossings shall have the approval of the City Transportation and Streets Department prior to the start of construction (Reference Section 53(1):

a) Two existing accesses from Lot 7 to 78 Avenue will remain, and any modification to the existing accesses requires the review and approval of Transportation Services.

b) The existing commercial access from Lot 7 to 9 Street is in poor condition and requires reconstruction to meet current City of Edmonton standards. The access shall be reconstructed as a 7.5 metres commercial access, located approximately 11 metres from the south property line of Lot 7.

c) The proposed 11 metres access to 78 Avenue located approximately 29.8 metres from the west property line of Lot 1, is acceptable to Transportation Services and must be constructed as a commercial access

d) The proposed 11 metres access to 9 Street located approximately 41.6 metres from the corner of north property line of Lot 1, is acceptable to Transportation Services and must be constructed as a commercial access.

e) The two existing commercial accesses from Lot 1 to 9 Street must be removed, and the curb & gutter constructed and boulevard restored.

f) The existing paved parking area for Lot 7, located on the 78 Avenue road right-of-way must be removed and the boulevard restored to grass.

g) Permanent objects, including the two bollards on the west side of 9 Street and the two bollards on the south side of 78 Avenue, adjacent to Lot 7, must NOT encroach onto road right-of-way and must be removed.

DECISION CONTINUED:

- f) The proposed gates to 9 Street and to 78 Avenue must not swing out over road right-of-way. They must either swing into the property or slide along the fence. No objects are permitted to encroach onto, over or under road right-of-way.
 - g) The location of the garbage bins will result in backing up maneuvers onto road right-of-way. The garbage bins must be relocated to accommodate all turning maneuvers on site.
- 4) The owner must enter into a Municipal Improvement Agreement with the City for the following improvements:
- a) reconstruction of a 7.5 metres commercial crossing access, located approximately 11 metres from the south property line of Lot 7;
 - b) construction of an 11 metres commercial crossing to 78 Avenue, located approximately 29.8 metres from the west property line of Lot 1;
 - c) construction of an 11 metre commercial crossing to 9 Street, located approximately 41.6 metres from the corner of the north property line of Lot 1;
 - d) filling in of the two existing accesses on 9 Street from Lot 1; and
 - e) removal of the existing paved parking area on the 78 Avenue road right-of-way adjacent to Lot 7.

Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Municipal Improvement Agreement must be signed **PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW**. The Agreement must be signed by the property owner and returned to Transportation Services to the attention of Mohammed Bashar (780-496-1799) including an irrevocable Letter of Credit in the amount of \$60,000.00 to cover 100 percent of construction costs. The Agreement will be forwarded directly to the owner for his signature.

DECISION CONTINUED:

- 5) This lot is within the Maple Ridge & Southeast Industrial Arterial Roadway Assessment (ARA) catchment. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, applicant or property owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA owing on the portion of the property being developed. The proposed development represents a 74.6 percent increase in development on the property, as shown on Enclosure I. Therefore, 74.6 percent of the ARA amount for the entire property in the amount of \$43,070 is owing with this development application. Upon future development or subdivision of the site, additional ARA funds may be collected. This amount is calculated using the 2012 rate. The assessment amount may be adjusted to reflect the current ARA rate at the time the Servicing Agreement is signed. The Servicing Agreement must be entered into PRIOR to the release of the drawings for Building Permit review. The owner must contact Steve Jensen (780-944-7673) of Sustainable Development for more information on the Servicing Agreement and ARA owing.

Transportation Notes:

There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

Any hoarding or construction taking place on road right-of-way requires an OSCAM permit. The owner must call Transportation Operations at 780-442-6458 to arrange for the permit.

DECISION CONTINUED:

Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

The Maple Ridge & Southeast Industrial ARA catchment is set up as a means for cost sharing the arterial roadway construction within the Maple Ridge & Southeast Industrial Area. For further information regarding Arterial Roadway Assessments, please contact Laura Grynas (780-496-4035) of the Transportation Planning Branch.

6. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay the following applicable drainage assessments:

- a) Permanent Area Contribution (PAC) & Sanitary Servicing Strategy Expansion Assessment (EA):

The PACs must be paid by entering into a servicing agreement, which will be prepared by the Sustainable Development. The applicant should immediately contact Steve Jensen at 780-944-7673 when he/she is ready to initiate the servicing agreement and make payment.

- b) Sanitary Sewer Trunk Charge (SSTC):

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$5,454.89. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

7. No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within the required 6.0 metres yards. (Reference Section 320.4(5)).

DECISION CONTINUED:

8. All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4).
9. The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54.6.
10. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800.)
11. The development shall comply to the performance standards for the IB Zone in accordance to Section 57 of the Edmonton Zoning Bylaw. (Reference Section 400.4(6)).
12. No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within the required 6.0 metres yards. (Reference Section 400.4(4).)
13. Minimum 5 bicycle spaces shall be provided on Lot 7. ((Reference Section 400.4(4))).

NOTES:

An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).

Signs require separate Development Applications.

DECISION CONTINUED:

The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this 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.

A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.

This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

Variance:

1. The deficiency of 5 required Bicycle Parking spaces.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is a Permitted Use in the IB Industrial Business Zone.
2. The only variance required for this development is for five required on-site bicycle parking spaces on Lot 1.
3. Section 54.2(2)(b) provides that:
For all other Uses, parking spaces may be provided on a Site located remotely, but no further than 120.0 metres from the Site. Such distance shall be measured along the shortest public pedestrian route from the nearest point of the parking area to the nearest point of the Site where the building or Use is located. Where off-site parking is provided pursuant to this provision, the development shall be considered as a Class B Development.
4. In light of Section 54.2(2)(b), the Appellant is satisfying the parking requirements as set out in the Edmonton Zoning Bylaw by providing the requisite parking on a combination of Lot 1 and Lot 7, both of which are located within 120 metres of each other.

REASONS FOR DECISION CONTINUED:

5. Based on the submissions of the parties, including the Appellant, the bicycle variance was not a concern of the Appellant and the Board accepts that this is an unsafe area for individuals to ride bicycles due to the large amount of heavy industrial traffic in the area.
6. Based on the above, it is the opinion of the Board, that the proposed development would 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.”

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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.

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Mr. R. Colistro, Chairman
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