



**SUBDIVISION AND DEVELOPMENT
APPEAL BOARD**

DATE: Wednesday, February 13, 2019
TIME: 6:00 p.m.
PLACE: Council Chambers
FILE: B02

AGENDA

- 1. Adoption of Agenda**
- 2. Radius Notifications**
- 3. Appeals**

a) 6 Belmont Drive

The Appellant is appealing the decision of the Development Officer in refusing an application to construct a detached garage with a garage suite above.

b) 590 St. Albert Trail

The Appellant is appealing Condition #3 of the decision of the Subdivision and Development Board of June 6, 2017 for an existing billboard with electronic messaging (text only).

- 4. Adjournment**

ALLOWED WITH CONDITIONS

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB #4-2019

Re: Lot 45, Block 1, Plan G2 - known municipally as 6 Belmont Drive, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to construct a detached garage with a garage suite above.

The Appellant had no objection to the members of this Board hearing and deciding this Appeal.

The Board considered the Development Officer's written report and heard from the Development Officer who stated that:

This property is located within a low-density (R1) residential land use district. Within the R1 district, a detached garage is permitted use and a garage suite is a discretionary use.

Garage Suite Setback:

Section 8.12(1)(b), a garage suite shall meet the side yard setback requirements for the principal building. As per Section 8.30(12)(a), the minimum side yard setback for a principal building is 1.8m.

Required setback: 1.8

Proposed setback (east property line) 1.0m Variance required: 0.8m (44%)

Garage Height:

Section 8.11(1)(f), a detached garage must not be more than 4.5m in height.

Allowable height: 4.5m

Proposed height 5.79m. Variance required: 1.29m (29%)

The Board heard from the Appellant who stated that:

Rafal Kantor, Owner - 6 Belmont Dr., St. Albert

Applicant noted that extensive effort was undertaken to maintain all municipal guidelines during the design stage. Shifting of the proposed structure was to accommodate for exterior storage of an existing RV. Once the design phase was completed a review with all the affected neighbours was initiated with positive feedback and no objections noted.

- 7) The property shall provide a minimum of three (3) ON-SITE parking stalls; one for the garage suite and two for the principal dwelling unit. No more than two of the three required on-site stalls may be tandem.
- 8) A minimum 10.0 cm. thick reinforced concrete driveway from lane to the face of garage is required.
- 9) The garage suite shall comply with the provisions set out in Section 8.12 (BL2/2018) of Land Use Bylaw 9/2005
- 10) The total height of the garage suite shall not exceed 7.0m.

Notes:

1. A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining, and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement, or other instrument affecting the building or land.
2. The applicant shall be responsible for compliance with all applicable Federal, Provincial, and Municipal laws, regulation and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approval, at its own expense.
3. All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations and standards.
4. The City of St. Albert 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 St. Albert, in issuing this development permit, makes not representations and offers not warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on or within the property.
5. The city property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert engineering Services. An inspection of the existing site conditions must be completed by city staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a city representative will contact the applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.
6. An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB # 3-2019

Re: Lot 10A, Block 30, Plan 8820333 - known municipally as 590 St. Albert Trail, St. Albert, AB.

1. On January 16, 2019, Royal Stone Ltd./Big Sky Media filed an appeal with the Subdivision and Development Appeal Board (the "Board") stating its reasons for appeal were "contesting condition 3 – Text Only" in regard to Condition #3 of a imposed in a decision of the Subdivision and Development Appeal Board on June 6, 2017. The 2017 Development Permit was for an existing billboard with electronic messaging (text only) and is Development Permit #DP-2016-001923.
2. The Board convened a hearing for February 13, 2019.
3. The Appellant had no objection to the members of this Board hearing and deciding this Appeal.
4. **The Board considered the Development Officer's written report and heard from the Development Officer who stated that:**
 - a. In 2017, the Development Officer refused an application for a "dual sided billboard with electronic message sign component." The applicant appealed the refusal to the Board.
 - b. On June 6, 2017, the Board heard the appeal and approved the application with conditions, which included Condition #3:

The electronic message component of the billboard shall display TEXT ONLY. It shall NOT incorporate or display any images, pictures, figures or video (animated or otherwise).
 - c. In September 2018, the Development Officer sent a warning to Big Sky Media advising that Big Sky Media was displaying images which were not authorized by the Development Permit. The Development Officer requested that Big Sky Media comply with Condition #3 of the Development Permit.
 - d. On October 9, 2018 the sign was temporarily turned off and reverted to text only as requested by the Development Officer in accordance with condition #3 of the Board's 2017 decision.
 - e. On January 7, 2019, the Development Officer was advised that the billboard was displaying images and pictures in violation of Condition #3 which allows text only.

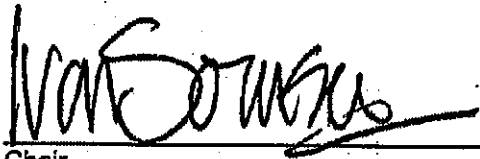
- f. On January 10, 2019, the Development Officer sent a warning letter to Royal Stone Ltd. and Big Sky Media with the request to comply with Condition #3. The letter issued by the City was a 'warning letter' similar to the one issued in September 2018 and not a 'stop order' under s. 645 of the Municipal Government Act. The expected outcome was based on the outcome received in September 2018, namely compliance.
- g. January 16, 2019 Big Sky Media lodged an appeal – "Contesting Condition #3 – text only".
- h. February 13, 2019 Images continue to be displayed.

Decision

- 5. The Subdivision and Development Appeal Board of the City of St. Albert denies the appeal Condition #3 of a decision of the Subdivision and Development Appeal Board of June 6, 2017 for an existing billboard with electronic messaging (text only) Development Permit #DP-2016-001923.
- 6. The Board makes its decision for the following reasons:
 - a. The Board finds as a fact that the Development Permit DP-2016-001923 was issued June 6, 2017. There was no evidence before the Board that an appeal was filed from the decision of the Board in 2017. As a result, the decision of the Board, and Development Permit DP-2016-001923 are final.
 - b. The Board's 2017 decision included condition #3, as set out in paragraph 4b above. That condition prevented the display of any images, pictures, figures or video (animated or otherwise). There was no evidence before the Board of any application to amend or vary condition #3. Therefore the Board finds that condition #3 remains a condition of the 2017 development permit.
 - c. The appeal filed in January 2019 appears to seek the variance of condition #3. However, given the passage of time, the Board has no authority to vary the condition. Further, the Board does not have a general power of reconsideration, which means that the Board has no jurisdiction to vary the condition based upon an appeal filed approximately 2 years after the Board issued its 2017 decision.

- d. Further, the Board notes that it has jurisdiction to hear appeals arising from the issuance of a stop order. However, the evidence before the Board was that the letter of January 10, 2019 from the Development Officer to Royal Stone Ltd. and Big Sky Media was merely a warning letter with a request to comply and was not a stop order. Because it was not a stop order and there was no evidence to suggest it was a "decision" under section 685(2) of the Municipal Government Act, the Board has no jurisdiction under section 685 to hear this matter.

The Applicant is responsible for complying with all applicable federal, provincial and municipal enactment and any other applicable law and for obtaining all applicable permits, licenses and approvals. Building permits must be obtained from the Building Inspector who can be contacted at 780-459-1655.



February 26, 2019

Chair

Ivan Sorensen

Date

If you wish to appeal this decision, you must follow the procedure prescribed in Section 688 of the Municipal Government Act, as follows:

Section 688(1) An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to a decision of the Subdivision and Development Appeal Board."

Section 688(2) "An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to:

- (a) the Subdivision and Development Appeal Board, and
- (b) any other persons that the judge directs."

Section 688(3) "On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant permission to appeal if the judge is of the opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success."