



**SUBDIVISION AND DEVELOPMENT  
APPEAL BOARD**

**DATE: Wednesday, Dec. 4, 2019  
TIME: 6:00 p.m.  
PLACE: Council Chambers  
FILE: B02**

## **AGENDA**

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- 1. Adoption of Agenda**
- 2. Radius Notifications**
- 3. Appeals**
  - a) 200 Bellerose Drive**

The Appellant is appealing the decision of the Development Officer in refusing a development permit application to request a variance to the regulations of Section 8.10(1)(d) of the Land Use Bylaw 9/2005.

- 4. Adjournment**

**ALLOWED WITH CONDITIONS**

**CITY OF ST. ALBERT**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB #37-2019**

**Re: Unit A, Plan 1623440 - known municipally as 200 Bellerose Drive, St. Albert, AB.**

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to request a variance to the regulations of Section 8.10(1)(d).

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

Also, no members of the Board identified any conflicts that prevented them from hearing this appeal.

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

The Appellant is appealing the refusal of a Development Permit application to request a variance to the regulations of Section 8.10(1)(d) of Land Use Bylaw 9/2005 which requires that rooftop mechanical equipment must be screened on all sides and on top to the specification and satisfaction of the Development Officer.

The Development Permit for the project (multi-tenant building), DP-2013-001028, was issued on October 18, 2013. The permit did not specifically identify the rooftop mechanical screening requirement as a condition of the permit, however research shows that the Architect was advised in an email dated July 19, 2013 that based on Section 8.25(11)(c) (Land Use Bylaw in place at that time), "rooftop mechanical equipment must be screened on all sides and on top to the specifications and satisfaction of the Development Officer." Today this requirement is found in Section 8.10(1)(d) of the Land Use Bylaw 9/2005.

Section 3.11(5) of the Land Use Bylaw in place at the time of the issuance of the permit also states "the applicant shall be responsible for compliance with all federal, provincial and municipal enactments and any other law applicable to the use and development of the land and buildings." It is thereby deemed a condition of every development permit, whether expressly stated therein that the applicant is responsible for ascertaining and shall comply with all applicable federal, provincial and municipal enactments and any other law with respect to the use and development of the land and buildings and shall as and when required thereunder obtain any and all permits, licenses and approvals." Today this requirement is found in the same section of the Land Use Bylaw.

The building was constructed and occupied. The Development branch received a complaint from a single resident, in June 2018 relating to the lack of screening for the mechanical rooftop equipment and the developer was advised of the complaint and of the requirement of the Bylaw in July of 2018.

The developer began research into how they could install a retrofit solution to be able to comply with the requirement of Section 9.10(b) of the Bylaw. The developer investigated options to:

- Install additional parapets.
- Install a new screening system.
- "Paint out" the equipment.
- The developer may have additional information.

In April of 2019, the developer informed administration that they would be unable to install any retrofit solution to the screening requirement.

The Land Use Bylaw states the requirement as a "must", therefore administration cannot vary the requirement. The developer applied for a variance to this requirement for Phase 1 but is moving forward with compliance on Phase 2.

**The Board heard from the Appellant who stated that:**

The Appellant was represented by Robert Brosseau, VP of Project Development at Boudreau Developments Ltd. He provided a PowerPoint presentation about the development. He indicated the project, Botanica, was a huge success for Boudreau Developments and the City of St. Albert. There was one mistake, however, and that was the screening that was missed. He indicated that Boudreau Developments has exhausted all options to resolve the concern and as such was seeking the variance.

He indicated that because of the clearances between the cooling tower and the parapet rooftop screening is not possible. To accommodate the operational clearances, the screening would then have to be installed on the parapet, but that was determined to not be structurally possible. The Appellant provided additional information from Arrow Engineering in relation to this issue.

The Appellant investigated options such as:

- Installing the rooftop screening.
- Increasing the height of existing parapets.
- Paint or wrap the mechanical equipment in a discrete colour.

The Appellant summarized the investigation into each of these possible fixes. Each of the possible solutions was not viable because:

- There were issues with the clearance of a screen from the manufacturer of the mechanical equipment.
- There were issues with the structural capacity of the roof structure.
- There were issues with wind loads.
- There were issues with finding a suitable colour for painting or wrapping.

Accordingly the Appellant came to the conclusion that there was no possible solution that was cost effective, and applied for the variance.

The Appellant did indicate that if the screening was directed, that there would likely have to be a re-design of the roof structure so that it could withstand greater loads. This would result in major construction of the rooftop area, and would necessitate the shutdown of the mechanical systems and that would affect all the residents. They likely would be without heat, hot water and air conditioning because of the construction to rooftop area.

**The Board also considered/reviewed the following**

The Board heard from Douglas Kennedy who was the person who made the complaint, and he has lived in St. Albert for 30 years. He advised that he is a recreational runner and uses the riverside trails for running. He observed that the subject building is a beautiful building, but the rooftop mechanical equipment looks hideous because it isn't screened.

In addition to this complaint, there were two emails received from residents in the subject building who expressed that they opposed the appeal. The Radius notification area was set at 150m, and these were the only two additional responses that were received.

**The Board finds the following:**

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to request a variance to the regulations of Section 8.10(1)(d) located at 200 Bellerose Drive.

The development is approved with the following conditions:

1. The exterior finishing of the Roof Top Mechanical Equipment and associated structures, that otherwise would have been subject to the requirement of screening, is to be painted or wrapped and it shall match or complement the existing building.
2. The work shall be completed within 1 (one) year of the date of the issuance of this decision.

The Board makes its decision for the following reasons:

