
RECORD OF DECISION

CITY OF PRINCE ALBERT DEVELOPMENT APPEALS BOARD

APPEAL NO.: 2021-01
Hearing Date/Time: August 11, 2021 at 1:00 p.m.
Location: Main Boardroom, 2nd Floor, City Hall, City of Prince Albert

In the matter of an appeal to the City of Prince Albert, Development Appeals Board by:

Saskatchewan Rivers Public School Division No. 119

respecting the property located at:

Civic Address: 2675 – 4th Avenue West

Legal Address: Lot 16, 28 & 29, Block 39, Plan No. 99PA01237, Ext. 0

IN ATTENDANCE:

Before the Board: Wes Moore, Chair
Melissa Isbister, Member
Marilyn Peterson, Member
Jean-Laurent Fournier, Member

Appeared for the Appellant: Mike Hurd, Superintendent of Facilities,
Saskatchewan Rivers Public School Division No. 119

Appeared for the Respondent: Kristina Karpluk, Planning Manager, Planning and
Development Services, City of Prince Albert

PRELIMINARY ISSUES

The parties were advised of the procedural instructions for the hearing.

Exhibits

The following material was filed with the Secretary of the Board of Revision:

- a) Exhibit A-1 – Development Appeal Application and Supporting Documents received on June 23, 2021.
- b) Exhibit R-1 – Submission by Respondent received on August 4, 2021.
- c) Exhibit B-1 – Statutory Declaration dated July 2, 2021, with Exhibits noted as required notices sent to the Appellant, City Council and all assessed owners of property within 75 meters of the subject property.
- d) Exhibit B-2 – Two Correspondences from Affected Landowners both received July 30, 2021.

Exhibits were entered into the record with no objections from any party.

GROUND AND ISSUES

An appeal has been filed by Mike Hurd, on behalf of the Saskatchewan Rivers Public School Division No. 119, under Section 219 (1)(b) of The Planning and Development Act, 2007, with respect to City Council's denial of a digital free standing sign at École Arthur Pechey located at 2675 4th Avenue West.

The property is located in the I1 – Institutional General Zoning District.

The Applicant's reason for appeal and summary of supporting facts as noted in Exhibit A-1, as follows:

“Sign application motion was defeated. Reasons for denying application not relevant according to Zoning Bylaw, Section 13.2 Digital Signs.

School division made application for digital free standing sign and complied with all conditions of the application. Council's motion to approve was defeated even though planning and development recommended approval.”

At the May 25, 2021 City Council meeting, an Administrative Report (RPT 21-230) was considered and the following motion was defeated:

That the Sign Application for a Freestanding Digital Sign located at 2675 – 4th Avenue West, legally described as Lots 16, 28 and 29, Block 39, Plan No. 99PA01237, Extension 0, be approved subject to:

1. *Administration reviewing and approving the final sign specifications.*

The City's Zoning Bylaw No. 1 of 2019 outlines the applicable Sign regulations as follows:

13.2 Digital Sign

In addition to the regulations contained in Section 13.1 of this Bylaw, signs with digital faces or digital signs shall be administered in accordance with the following regulations:

- 1. Digital signs shall require City Council approval;*
- 2. The brightness and message speed of a digital sign shall be easily adjustable and shall be at the discretion of the Development Officer;*
- 3. Digital signs shall not broadcast live video or any type of audio;*
- 4. One (1) digital sign shall be permitted per site; and*
- 5. The City shall reserve the right to utilize a digital sign to display emergency or public safety broadcasts, or broadcast information regarding any other emergency situation where the general public may be affected.*

13.7 Freestanding Signs

3. Freestanding signs shall be permitted in the C1 – Downtown Commercial, C2 – Small Lot Arterial Commercial, Institutional, Industrial and Special Zoning Districts, and the following shall apply:

- a) The sign face shall have a maximum area of 16 square metres;*
- b) The sign shall have a maximum height of 10.7 metres from grade; and Permanent Signs Bylaw No. 1 of 2019*
- c) In the Industrial, Institutional and Special Zoning Districts where two (2) or more signs are located on a single property, the minimum distance between signs shall be 30 metre;*

13.1(5) Third Party Advertising

5. Third Party Advertising In addition to the regulations contained in Section 13.1 of this Bylaw, and notwithstanding Section 13.1.2(a) of this Bylaw, third party advertising shall be permitted in accordance with the following:

- a) Third party advertising for non-profit organizations or community events shall be permitted on any sign;*
- b) For-profit, third party advertising shall be permitted on billboards, in accordance with Section 13.3 of this Bylaw; Permanent Signs Bylaw No. 1 of 2019*
- c) For-profit, third party advertising shall be allowed on a freestanding sign, located on the site that directly abuts the principal business location; and*
- d) At the discretion of the Department of Public Works, third party advertising may be allowed on transit benches and transit shelters.*

13.1(2) Sign Location

- a) All signs shall be located on the site for which the sign represents;*

EVIDENCE AND ARGUMENT OF THE APPELLANT

The Appellant, Mike Hurd, presented the evidence and argument below.

Saskatchewan Rivers Public School Division (SRPSD) uses signs at schools to communicate with families in the area and the greater community. There are many families in the area of the school that do not have access to personal technologies to receive notifications and information from the school, so SRPSD wishes to add this communication option to this site, as they have at other locations in the city. The school finds this communication important and necessary.

At other locations, SRPSD shares the sign with the City of Prince Albert for messaging, as required. The use of the signs are strictly controlled and kept in compliance with the regulations. The digital signs are preferred by SRPSD for the ease of changing the information on display and the amount of information that can be communicated. Non-digital, back lit signs require ladders and catwalks to be added to the sign and students and other personnel are required to climb up and manually change the letters every time the message changes. This is a safety concern and reduces the effectiveness of the communication with the families and public.

The objections raised by councillors did not address issues related to the sign and its' installation. The evidence provided indicated there were comments and concerns about whether this was best use of school division money and should they not spend their money on other things. There was some concern over the recent loss of a play feature due to an addition to the building, but no comments related to the otherwise conforming proposal for the sign installation.

EVIDENCE AND ARGUMENT OF THE RESPONDENT

The Respondent, Kristina Karpluk, presented the evidence and argument below.

The proposed sign installation conforms to all the bylaws and regulations governing this type of installation. The recommendation to City Council was to approve the sign installation as requested. The Respondent corroborates the evidence as presented by the Appellant.

RULES AND STATUTES

Section 219(1)-(5) of The Planning and Development Act, 2007 governs the right of appeal, as follows:

219(1) In addition to any other right of appeal provided by this or any other Act, a person affected may appeal to the board if there is:

(a) an alleged misapplication of a zoning bylaw in the issuance of a

development permit;

(b) a refusal to issue a development permit because it would contravene the zoning bylaw; or

(c) an order issued pursuant to subsection 242(4).

(2) Notwithstanding subsection (1), there is no appeal pursuant to clause (1)(b) if a development permit was refused on the basis that the use in the zoning district for which the development permit was sought:

(a) is not a permitted use or a permitted intensity of use;

(b) is a discretionary use or a discretionary intensity of use that has not been approved by resolution of council; or

(c) is a prohibited use.

(3) In addition to the right of appeal provided by section 58, there is the same right of appeal from a discretionary use as from a permitted use.

(4) An appellant shall make the appeal pursuant to subsection (1) within 30 days after the date of the issuance of or refusal to issue a development permit, or of the issuance of the order, as the case may be.

(5) Nothing in this section authorizes a person to appeal a decision of the council:

(a) refusing to rezone the person's land; or

(b) rejecting an application for approval of a discretionary use.

Section 221 of The Planning and Development Act, 2007, governs the determination of an appeal as follows:

221 In determining an appeal, the board hearing the appeal:

(a) is bound by any official community plan in effect;

(b) must ensure that its decisions conform to the uses of land, intensity of use and density of development in the zoning bylaw;

(c) must ensure that its decisions are consistent with any provincial land use policies and statements of provincial interest; and

(d) may, subject to clauses (a) to (c), confirm, revoke or vary the approval, decision, any development standard or condition, or order imposed by the approving authority, the council or the development officer, as the case may be, or make or substitute any approval, decision or condition that it considers advisable if, in its opinion, the action would not:

(i) grant to the applicant a special privilege inconsistent with the restrictions on the neighbouring properties in the same zoning district;

(ii) amount to a relaxation so as to defeat the intent of the zoning bylaw; or

(iii) injuriously affect the neighbouring properties.

APPLICATION/ANALYSIS

In determining the appeal, the Board was governed by Section 221 of The Planning and Development Act, 2007.

- 1. Does the granting of this appeal grant to the applicant a special privilege inconsistent with the restrictions on the neighbouring properties in the same zoning district?**

It is the Board's opinion that this appeal would **not** grant a special privilege inconsistent with the restrictions on the neighbouring properties in the same zoning district.

The proposed sign installation conforms with all municipal bylaws and regulations governing the proposal. The discretionary review and expressed objections by City Council were directed to areas not reasonably within Council's jurisdiction and purview. Saskatchewan Rivers Public School Division is an independent organization governed by a duly elected body responsible for managing their money in their interest.

- 2. Does the granting of this appeal amount to a relaxation of the provisions of the Zoning Bylaw so as to defeat the intent of the Zoning Bylaw?**

It is the Board's opinion that granting of this appeal would **not** defeat the intent of the Zoning Bylaw.

The proposed sign installation conforms to the provisions of the Zoning Bylaw.

- 3. Does the granting of this appeal injuriously affect the neighbouring properties?**

Based on the testimony and evidence presented, it is the Board's opinion that granting this appeal would **not** negatively impact the neighbouring properties.

The Board acknowledges the correspondences (Exhibit B-2) from affected property owners in opposition of the applicant's appeal. However, the Board finds that there is no evidence to support that the appeal may injuriously affect the neighbouring properties.

The sign location is a considerable distance from neighbouring properties and there are provisions in the bylaws and regulations to address potential disruptive conditions. SRPSD expressed their willingness to operate the sign in a responsible manner that will serve their needs and respect the broader community. This is not a commercial advertising sign that is intended to attract attention of all passers by.

DECISION

That pursuant to the provisions of Section 221 of *The Planning and Development Act, 2007*, the appeal for the property located at 2675 4th Avenue West be granted as follows:

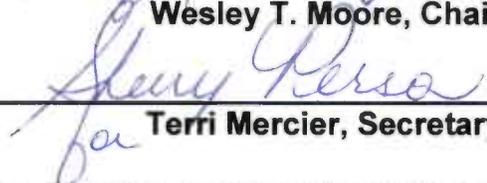
That the Applicant proceed with the Sign Application for a freestanding digital sign in consultation with the City's Planning & Development Department to ensure adherence to all requirements of the Zoning Bylaw in relation to Sign regulations.

DATED AT PRINCE ALBERT, SASKATCHEWAN THIS 19th DAY OF AUGUST, 2021.

**CITY OF PRINCE ALBERT
DEVELOPMENT APPEALS BOARD**



Wesley T. Moore, Chair



for Terri Mercier, Secretary

TAKE NOTICE THAT, subject to Section 225 of *The Planning and Development Act, 2007*, this decision does not take effect until the expiration of 30 days from the date on which the decision was made.