

**NOTICE OF DECISION  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
CITY OF SPRUCE GROVE**

Pursuant to Part 4 of the City of Spruce Grove Land Use Bylaw C-824-12 (the "Land Use Bylaw"), as amended, and Part 17, Division 10 of the *Municipal Government Act*, RSA 2000, cM-26, as amended.

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**DATE OF DECISION:** February 13, 2020

**IN THE MATTER OF:** An appeal by Colin Ewanchyshyn of EPC Spruce Village Centre Ltd. against the refusal of Development Permit No. PL20190000725 to locate an Alcohol Sales, Minor business within the existing building at 5 Spruce Village Way, Suite 110. (Plan 082-0912, Block 5, Lot 37).

**DATE OF HEARING:** February 5, 2020

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**SUMMARY OF THE HEARING:**

- [1] Notice of the appeal was given to all interested parties in accordance with the Land Use Bylaw and the requirements of the *Municipal Government Act* and a hearing was opened at 315 Jespersen Avenue, 3<sup>rd</sup> Floor, on February 5, 2020
- [2] The following members of the Subdivision and Development Appeal Board were in attendance throughout the hearing:
  - Stephen Nielsen, Chair
  - John Haunholter
  - Christopher McDonald
  - Wayne Rothe
- [3] Carolynn Grey served as Clerk to the Board for the hearing. No persons present voiced any objections to the Clerk assigned to this hearing.
- [4] No persons present voiced any objections to the members of the Board hearing the appeal.
- [5] The Board was made aware of two preliminary matters prior to hearing the appeal:
  - 1. The Notice of Appeal originally filed on January 8, 2020 noted the incorrect suite number. A correction was made to the suite number by the Appellant in

an email to City Administration dated January 10, 2020. No persons present voiced any objections to proceeding with hearing this appeal.

2. A request was made by Councillor Gruhlke, newly appointed member of the Board, to observe the processes and deliberations of the Board. No persons present voiced any objections to having Councillor Gruhlke observe the processes and deliberations.
- [6] No persons present voiced any objections to the process of the Hearing as outlined by the Chair.
- [7] The Board received and considered written submissions from each of the following:
- Appellant's Notice of Appeal (attachment)
  - Development Officer's Report
  - Development Officer's PowerPoint presentation
- [8] The following persons were in attendance at the hearing of the appeal and made oral submissions which were considered by the Board:
- Karen Majeau, Development Officer
  - Colin Ewanchyshyn of EPC Spruce Village Centre, Appellant
  - Bruce Mullett of Pro Staff Project Management, Appellant's Representative
- [9] All those who provided evidence at the Hearing indicated that they felt they received a fair Hearing.

## SUMMARY OF EVIDENCE

[10]

Exhibit	Description
1.	Timelines
2.	Development Permit Application
3.	Development Permit Decision
4.	Notice of Appeal
5.	Correspondence with Appellant
6.	Notice of Appeal with Corrected Suite Number
7.	Notice of Hearing
8.	Adjacent Property Owner List (Confidential)
9.	Site Plan Showing Adjacent Property Owners

Exhibit	Description
10.	Key Plans of Subject Location (Maps)
11.	Development Officer's Report
12.	Confirmation of Observer Attendance – Appellant's Representative
13.	Confirmation of Observer Attendance – Development Authority
14.	PowerPoint Presentation (summary of report) from Development Officer
15.	<p>Oral Testimony from Karen Majeau, Development Officer, Including:</p> <ul style="list-style-type: none"> <li>• Content of Development Officer's report and PowerPoint presentation</li> <li>• Answers to questions from the Board including: <ul style="list-style-type: none"> <li>○ That measurements are recorded from the most northern point of the suite to the site boundary of the park;</li> <li>○ Residential properties are located to the East and West of the subject site;</li> <li>○ There is no setback requirement to a Daycare facility;</li> <li>○ The variance requested is approximately a 34% reduction. The Development Officer considers a 10% reduction to be minor in nature;</li> <li>○ The distance from the suite to the Greystone school property to the south is approximately 106 m; and</li> <li>○ Measurements taken through the GIS system are not exact, but would not fluctuate more than 4 m.</li> </ul> </li> </ul>
16.	<p>Oral Testimony from Bruce Mullett, Appellant's Representative, including:</p> <ul style="list-style-type: none"> <li>• The appellant's measurement from the north boundary of suite to the fence line of the park is 87 m which equates to a variance of 13%. Users would consider the fence to be the boundary of the park;</li> <li>• A variance of 13% is slightly over what is generally accepted as minor in nature;</li> <li>• The proposed development would satisfy a need in the local area as the nearest alcohol minor sales is located 1.5 km away; and</li> <li>• Any setback would not address planning concerns of public drinking in parks, influence of advertising to minors, and access by minors.</li> </ul>
17.	<p>Oral Testimony from Colin Ewanchyshyn, Appellant, including:</p> <ul style="list-style-type: none"> <li>• Letters of support were not obtained;</li> <li>• A conversation was held with adjacent business 7/11, who was supportive of this development;</li> <li>• A liquor store would drive more people to the complex and increase business; and</li> </ul>

Exhibit	Description
	<ul style="list-style-type: none"><li>• Failure to approve this development permit would be a barrier to the potential sale of this complex.</li></ul>

## RELEVANT LEGISLATION

[9] The Board considered the following sections of the Land Use Bylaw in its decision:

- Land Use Bylaw Section 7 – Definitions
- Land Use Bylaw Section 14 – Variances
- Land Use Bylaw Section 56 – Alcohol Sales
- Land Use Bylaw Section 125 – C3 Neighbourhood Retail and Service District

## DECISION


[10] Having considered all relevant planning evidence presented at the hearing, the arguments made and the circumstances and merits of the application and the appeal, and having regard for the relevant provisions of *Municipal Government Act*, any applicable statutory plans, the Subdivision and Development Regulation and the Land Use Bylaw, this appeal is denied and Development Permit No. PL20190000725 is hereby refused.

## REASONS:

- [11]
1. Alcohol Sales, Minor is a discretionary use within the C3 District. A discretionary use will only be approved if the proposed use is compatible with neighbouring uses.
  2. The Board accepts the Development Officer's measurements from the site boundary of the park to the site boundary of the suite, and that the Appellant is seeking a variance of approximately 33 m in this application (from 100 m to approximately 67 m).
  3. The Board is of the opinion the 100 m setback contained in the Land Use Bylaw imposes an appropriate and justifiable separation distance between Alcohol Sales, Minor and public parks and was not convinced there are any good planning reasons to depart from the regulated setback and reduce the setback to allow the proposed use.
  4. The demand for services and increased marketability of the complex are not proper or relevant planning considerations and were not taken into consideration.

5. The Board finds that the variance sought is not minor in nature and was not convinced the requested reduction in the setback distance would not increase or intensify the planning impacts sought to be addressed by the setback.

Dated at the City of Spruce Grove in the Province of Alberta, February 13, 2020

  
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Carolynn Grey, Clerk, on behalf of  
Stephen Nielsen, Chair  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

NOTICE:

If you wish to appeal this decision, you must follow the procedure prescribed in Section 688 of the *Municipal Government Act*. 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. An application for leave to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed.