

**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.

DATE OF DECISION: September 1, 2022

IN THE MATTER OF: An appeal by Juicebox LED Media against a conditional approval of Development Permit No. PLDPSP202200520 to locate a permanent freestanding sign with a variance to the maximum allowable size and height at 260 Pioneer Road (Plan1723512, Block 4, Lot 29).

DATE OF HEARING: August 24, 2022

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 held at 315 Jespersen Avenue, 3rd Floor, on August 24, 2022.
2. The following members of the Subdivision and Development Appeal Board were in attendance throughout the hearing:
 - Paul Hanlan
 - John Fraser
 - Josline Hampson-Stefanick
 - Liam McGrath
 - Tim Tully
3. Jennifer Maskoske served as Board Clerk to the Board for the hearing.
4. Following an introduction of the Board and the Chair outlining the hearing process, no persons present voiced any objections to the members of the Board hearing the appeal and the process of the hearing as outlined by the Chair.

5. The Board received and considered written submissions from each of the following:
 - Development Officer's Report
 - Development Officer's PowerPoint presentation
 - Appellant's Written Submission

6. The following persons were in attendance at the hearing of the appeal and made oral submissions which were considered by the Board:
 - Karen Majeau, Senior Development Officer
 - Kyle Donnan, Appellant
 - Paul Teterenko, Representative, St. Michaels Health Group
 - Laird Kulak, Representative, BeSpoke Real Estate Advisors

7. All those who provided evidence at the hearing indicated that they had a fair hearing.

SUMMARY OF EVIDENCE

8. The Board marked the following documents as exhibits in the hearing. There were no objections to them being marked as exhibits.

Exhibit	Description
1.	Timelines
2.	Development Permit Application
3.	Development Permit Decision
4.	Notice of Appeal
5.	Notice of Hearing
6.	Adjacent Property Owner List (Confidential)
7.	Site Plan Showing Adjacent Property Owners
8.	Subject Location Map
9.	Development Officer's Report
10.	Appellant Submission

9. The Board heard oral testimony from Karen Majeau, Senior Development Officer, including:
- A summary of the content of the Development Officer's report (Exhibit 9) and Powerpoint presentation.
 - Answers to questions including:
 - Maximum sign height in the R2 district is 2.5 m. In the C3 district, north of the development, the maximum sign height is 4.5 m. The higher sign size of 4.5 m in the C3 district allows for multi-tenant properties to be advertised.
 - There are signs in the C3 district that are over 4.5 m. There was a requested sign variance and through an appeal, the variance was approved by the Subdivision and Development Appeal Board.
 - The Development Officer is permitted to grant a maximum variance of 10% on the allowable sign height.
 - The appeal was solely on condition #1 of the Development Permit Decision, which pertained to the sign height allowance.
 - A variance had been granted on the copy area of the sign to 3.6 sq. m from the maximum allowable copy area of 3.0 sq. m for the R2 district.
 - There was no variance granted on the facility height.
 - The height restrictions for differing zones were identified as C2 - 9.1 m, R2 - 2.5m; RMHC, C1, Public Service Institutions, Park and Recreation district - 2.5m
 - The roadway to the west of the development is a major arterial road and development as per the Area Structure Plan is residential.
 - The westside of Pioneer Road is the Tonewood neighbourhood which is slated for residential.
10. The Board heard oral testimony from the Appellant, Juicebox LED Media, represented by Kyle Donnan, including:
- A summary of the content of the Appellant's Written Submission (Exhibit 10).
 - Answers to questions including:
 - Conversations with Planning were had on the signage size, and it was understood prior to development the sign was outside the allowable size.
 - The sign was designed at the requested size to meet the scale of development and parcel size.
 - In the preliminary stage, it was not clear to the appellant that the sign could be in the road right of way and although a smaller scale sign was considered it was determined the setback from the curb of 20 m is too far for a smaller sign.
 - Aesthetically, the requested sign size 4.5 m meets the development size and scale.
 - Purpose of the sign is to direct traffic to the facility and owners are proud to show who is responsible for the development.

11. The Board heard oral testimony from Paul Teterenko who is the Director of Operations for St. Michael's Health Group and is representing the landowner:
 - St. Michael's Health Group has been in the Spruce grove for 20 years.
 - Facilities serving seniors are needed in the Spruce Grove and there is huge demand in the community.
 - St. Michael's Health Group is expanding, and Phase 1 of the facility will have 175 beds, while proposed Phase 2 will have 160 beds.
 - The building is visually appealing, and the sign will allow the facility to be recognized.
 - St. Michael's Health Group has experienced issues at their other facilities where smaller signs were missed by passing motorists and those motorists then commented they could not find the sign identifying the facility.
 - The Board had no questions for Paul Teterenko.

12. The Board heard oral testimony from Laird Kulak of BeSpoke Real Estate Advisors who is the real estate representative for St. Michael's Health Group:
 - The facility is a \$55 million project, and the landscaping plan is \$250,000; the project is large in scale, both physically and monetarily.
 - The landscape plan originally entailed taller trees; however, the plan was designed to mitigate the larger setback.
 - The sign as currently allowed would be visually out of place with the project size.
 - It was understood given the regulations in the Land Use Bylaw that the sign would require a variance.
 - The sign is aesthetically pleasing, it is not garish, and it is in keeping with the quality of the project.
 - Answers to questions including:
 - There is no intent to include any other signage on the building. When a sign is on a building, visually it is to the side of a viewer, and by the time an individual sees the sign they are typically already passing the building, thereby missing the entry way.

RELEVANT LEGISLATION

13. The Board considered the following sections of the Land Use Bylaw in its decision:
 - Land Use Bylaw Section 14(3) – Variances
 - Land Use Bylaw Section 93 – Purpose
 - Land Use Bylaw Section 94 – Sign Permitting
 - Land Use Bylaw Section 95 – Sign Definitions
 - Land Use Bylaw Section 108 – Freestanding Signs

DECISION

14. 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 upheld and Development Permit No. PLDPSP202200520 condition #1 is varied as follows:
 1. The maximum allowable height of the proposed Freestanding Sign shall not exceed an overall height of 4.5 m from grade to the top of the sign.

REASONS:

15.
 - (a) The appellant, Juicebox LED Media, represents St. Michael's Health Group, the owner of the lands on which the proposed sign is located. As a result of their business relationship with the landowners, the Board finds that they are an affected party.
 - (b) Paul Teterenko is the Director of Operations for St. Michael's Health Group, owners of the lands on which the proposed sign is located. As a result of St. Michael's Health Group owning the land, the Board finds that they are an affected party.
 - (c) Laird Kulak of BeSpoke Real Estate Advisors are the real estate representatives of St. Michael's Health Group, owners of the land on which the proposed sign is located. As a result of their business relationship with the landowners, the Board finds that they are an affected party.
 - (d) The first question for the Board is to determine the size regulations for signs in the R2 district. The Board notes that a Free Standing Sign is defined in section 95 of the Land Use Bylaw ("LUB") to mean "a Permanent Sign that is supported independently of a Building wall or structure but does not include a Temporary Sign. Freestanding Signs do not include Billboard Signs." As per section 108(5) of the LUB, the maximum height of a Free Standing Sign in the R2 District is 2.5 m. However, as per section 14(3) of the LUB the Development Officer may grant a variance from the regulations prescribing sign size height up to 10% of the maximum prescribed height. The Board recognizes that the Development Officer is limited in its ability to grant a variance.

- (e) The Board notes that the Development Officer did grant a variance from the regulations prescribing sign size height up to 10%, representing an extra 0.25 m from 2.5 m to 2.75 m.
- (f) The primary concern raised was the approved sign size in relation to the size of the development. The Board considers the concern below.

Sign Size Concerns

- (g) The Appellant and other affected parties expressed concerns that the approved variance of 10% from 2.5 m to 2.75 m is not proportional to the size of the land or to the development of the facility. The Appellant and the other affected parties asked the Board to approve a variance to the Freestanding Sign that exceeded the 10% granted by the Development Officer. As noted above, the Board recognizes that the Development Officer's power of variance is limited to 10%. However, by reason of the variance power granted to the Board in section 687(3)(d), the Board is not limited to a 10% variance. As a result, the Board does have the power to vary the size of the sign, subject to the Board being of the opinion that the height of the sign would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- (h) In making a determination of whether the height variance would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, the Board has considered the purpose for the height restriction to be for aesthetic purposes. Having a restriction on the height of signs in an R2 district would permit a Freestanding Sign to be proportionate to the surrounding developments. The Board is of the view that the intention of the height restriction was to avoid a sign that towered above neighbouring developments, causing a visual concern.
- (i) In examining the evidence, the Board considered that this Freestanding Sign is to be located on a large parcel of land with significant frontage to Pioneer Road. Further, in looking at the evidence presented about the size of the facility located behind it, and those nearby, the Board determined that the requested sign size of 4.5 m is proportional to the development size. It is a taller sign, but the building behind it is quite large. The Board is satisfied that granting a variance of the Freestanding Sign to 4.5 m would not result in the sign towering above neighbouring developments and would not cause a visual concern.

- (j) In addition, the Board considered the submissions of Paul Teterenko, the Director of Operations for St. Michael's Health Group, who raised concerns that a smaller sign might be missed by those looking for the facility. The Board has weighed this concern against a possible impact on the neighbouring parcels. Given the size of the parcel, and its location, the Board is of the opinion that the concern about identifying this facility should be given significant weight.

- (k) Section 687(3)(d) recognizes that there may be some impact from granting a variance to the height of the Freestanding Sign. In considering whether the impacts are undue or material, the Board noted:
 - (i) that there will be a single sign on the large parcel of land. Therefore, the impact would not be as significant as if there had been a request for multiple signs. Signs are common in an urban environment and having one sign is not a material or undue impact;

 - (ii) the significant setback distance of 20 m from the edge of the roadway. In light of the significant setback, the impact to the driving public is minimized and should not cause a distraction, so that the sign would not cause an undue or material impact;

 - (iii) the considerable separation distance from the established residential areas. Since the Freestanding Sign is distanced from residential areas, the visual impact of a taller sign would be lessened;

 - (iv) the impact on future commercial and residential development. The Board notes that at page 49 of the agenda package, the land use map identifies the future growth across Pioneer Road noted in grey. In addition, the Board notes the neighbouring commercial pylons shown at page 50 of the Agenda. In considering the nature of what is currently developed and what is anticipated to be developed, the Board concludes that the Freestanding Sign is a common feature in commercial and residential development which, because it is an ordinary amenity would not cause a material interference with other amenities in the area, such as the park sites or the other commercial businesses.

 - (v) no evidence of concerns was received from adjacent property owners. While the absence of concerns is not the sole consideration, it does lend support to the Board's conclusion that the neighbouring parcels will not be materially or unduly affected; and

- (vi) the Development Officer approved a height variance to the maximum that it could. The fact that the Development Officer was prepared to grant a variance supports a conclusion that the impact of an increase in the height would not cause a material or undue impact.

- (l) Based upon the above considerations, the Board is satisfied the 4.5 m height of the sign would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Dated at the City of Spruce Grove in the Province of Alberta, September 1, 2022

DocuSigned by:

Jennifer Maskoske

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Jennifer Maskoske, Clerk, on behalf of
Paul Hanlan, Chairperson
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.