

Appeal No.: SDAB 001 2026  
Hearing Date: March 18, 2026

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

PRESIDING OFFICER: T. HEGER  
PANEL MEMBER: M. KARTUSCH  
PANEL MEMBER: D. WIELINGA

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BETWEEN:

2714666 ALBERTA LTD./GOOD DEALS RED DEER  
Represented by Joe Hajas and Alfred Lalchan

Appellant/Applicant

and

CITY OF RED DEER  
Represented by Jay Hallett, Senior Development Officer, Munmun Ahlawat, Development Officer, and  
David Girardin, Senior Manager – Growth

Development Authority

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**DECISION**

The Subdivision and Development Appeal Board denies the appeal and CONFIRMS the decision of the Development Authority (the “DA”) which REFUSED the Appellant’s Development Permit (“DP”) application for a proposed use of “Merchandise Sales and Rentals on the ground floor” at 5237 54<sup>th</sup> Avenue, Red Deer. The Development Permit shall not be issued.

A detailed summary of the decision is provided herein.

**JURISDICTION AND ROLE OF THE BOARD**

1. The Subdivision and Development Appeal Board (the “Board”) is governed by the Municipal Government Act, RSA 2000, c. M-26 as amended (the “MGA”). Planning and Development is addressed in Part 17 of the MGA, and in the Matters Related to Subdivision and Development Regulation, Alta. Reg. 84/2022 (the “SDR”).
2. The Board is established by the City of Red Deer, Bylaw No. 3680/2022, Red Deer Tribunals Bylaw, April 11, 2022. The duty and purpose of the Board is to hear and make decisions on appeals for which it is responsible under the MGA and the City of Red Deer Zoning Bylaw 3357/2024, May 13, 2024, as amended (the “ZB”).

3. None of the parties had any objection to the constitution of the Board. There were no conflicts identified by the Board Members.
4. The parties did not raise any preliminary issues for the Board to decide.
5. The Hearing was opened on March 18<sup>th</sup>, 2026, and concluded on the same day.
6. The Board indicated that it would first hear from the Development Authority, then the Appellant, then anyone else affected by the appeal. Following the submissions from the affected parties, the Board provided the Development Authority and the Appellant an opportunity to respond to anything arising from the affected parties' comments. There was no objection to the process as set out by the Board.

## **BACKGROUND**

7. On December 2, 2025, the Applicant submitted a Development Permit application for a proposed use of "Merchandise Sales and Rentals on the ground floor" at 5237 54<sup>th</sup> Avenue, Red Deer in the Railyards Neighbourhood.
8. The subject lands are zoned Direct Control Zone No. 28 (DC(28)) under the ZB. Under the ZB, a Merchandise Sales and Rentals on the ground floor use is a Permitted Use pursuant to section 11.280.6.5.
9. Based on the parking requirements of the ZB, the subject site contains insufficient parking for the proposed use.
10. On January 5, 2026, the Applicant requested an extension to the deadline to submit the outstanding documents identified in the Letter of Incomplete Application from the DA including a shared parking agreement. The deadline to submit the documents was extended to January 23, 2026.
11. On February 3, 2026, the Applicant was unable to provide a signed off-site parking agreement from a neighbouring property owner.
12. On February 10, 2026, the DA issued a Refusal Letter for the DP application. The refusal letter stated that the proposal did not comply with sections 3.230.1, 3.230.3, 3.239.4, 3.230.7, and 3.240 of the Zoning Bylaw 3357/2024, and specifically states that 24 parking stalls were required whereas only 5 were provided on site.
13. On March 2, 2026, the Applicant filed an appeal to the SDAB regarding the decision of the DA. The hearing was scheduled for March 18, 2026.

## **SUMMARY OF EVIDENCE AND ARGUMENT**

### *The Development Authority*

14. On July 28, 2026 the Applicant submitted a DP application (under DP088219, a different application than the one that is the subject of this appeal) for a Change of Use to allow Merchandise Sales and Rentals on the ground floor and above the main floor within the existing building used as a Public Assembly located at 5237 54<sup>th</sup> Avenue, Red Deer.

15. On August 20, 2025, the application was deemed incomplete. The applicant was asked to provide an off-site parking agreement to meet the minimum requirements. Under the ZB, the proposed use required 54 parking stalls. The subject site has five parking stalls. The previous use of the building was a Public Assembly (church). The church had a temporary parking agreement which allowed them to use parking on the adjacent site. As the applicant was unable to provide a new off-site parking agreement, on October 16, 2025, the applicant requested that the DP application be cancelled rather than refused.
16. On December 2, 2025, the Applicant submitted a new DP application for a proposed use of “Merchandise Sales and Rentals on the ground floor” in addition to the existing Public Assembly space on the site.

The property currently contains five on-site parking stalls. There is no on-street parking available, and the applicant has not provided a shared parking agreement for off-site parking.

Under the applicable parking regulations, Merchandise Sales and Rentals on the ground floor requires parking at a rate of 5.1 parking stalls per 93.0 m<sup>2</sup>. Based on the proposed area, this development requires 24 parking stalls, excluding the church parking. Given the limited number of parking stalls, the applicant requested a parking variance.

17. On January 5, 2026, the Applicant requested an extension to the deadline to submit the outstanding documents identified in the Letter of Incomplete Application from the DA including a shared parking agreement. The deadline to submit the documents was extended to January 23, 2026.
18. On February 3, 2026, the Applicant was unable to provide a signed off-site parking agreement from a neighbouring property owner.
19. On February 10, 2026, the DA, operating under the ZB, issued a Refusal Letter for the DP application.
20. On March 2, 2026, the appellant filed an appeal with the SDAB regarding the decision of the DA.
21. The DA provided excerpts from the MGA, specifically section 687, should the Board have questions.
22. The DA then provided excerpts from the ZB including DC(28) regulations. The DA also reviewed relevant sections of the ZB including 11.280.6.5, 11.280.7.15, 11.280, 3.230.1, 3.230.3, 3.230.4, 3.230.7, and 3.240.
23. The DA also discussed the statutory powers of the SDAB to grant a variance if, in the opinion of the SDAB, a proposed development would not unduly interfere with the amenities of a neighbourhood and would not materially interfere with or affect the use, enjoyment or value of neighbouring parcels, while still conforming with the use prescribed in the ZB.
24. The DA then explained that while the MGA prevails over municipal bylaws in the event of a conflict, a true conflict only exists where the two cannot be interpreted harmoniously. Accordingly, the SDAB is required to give effect to the ZB wherever possible.
25. While the SDAB can approve a variance to the minimum parking requirements, it should only do so where evidence demonstrates that the variance criteria in section 687(3)(d) of the MGA are satisfied.

26. In practice, Development Officers may consider minor variances where permitted by the ZB. In the subject case, the proposed development required a parking variance of approximately 80%, which significantly exceeds what is typically considered minor.
27. The DA went on to state that an approval of a variance of this magnitude should not occur lightly. The onus rests on the applicant to demonstrate that the variance criteria have been met. Without sufficient supporting evidence, there is a risk that such decisions could undermine the policy intent of the ZB by effectively replacing it with case-by-case determinations.
28. The DA then discussed four parking proposals/alternatives provided by the applicant, and why they were not accepted by the DA.
29. Proposal A: A shared parking agreement with the adjacent parcel at 5315 54<sup>th</sup> Avenue (the Prairie Bus Lines site). The Applicant was unable to obtain a signed agreement from the property owner. Consequently, the proposal could not be accepted as the Applicant could not prove it had permission from the landowner.
30. Proposal B: Utilizing the City-owned land immediately in front of the subject property. The City determined that this space was still not sufficient for the required parking.
31. Proposal C: The Applicant proposed utilizing the rear yard of the adjacent property at 5233 54 Avenue. The City raised safety concerns noting that access to the proposed parking area would be limited to a 3.70 m wide entrance/exit. This was determined to be insufficient for safe vehicle movement. Consequently, this proposal was not supported.
32. Proposal/Alternative D: The Applicant contacted City Growth and Planning to explore alternative solutions. Planning advised that any alternatives would not result in any change to the parking requirements.
33. The DA then explained that an Accessory Use has the same parking requirements as the primary use. The DA also noted that Accessory Use is a Discretionary Use in DC(28). If the upper floor were to have the same use as the proposed use on the main floor, the total parking required would be 75 stalls based on the same calculation of 5.1 stalls per 93.0 m<sup>2</sup> of use area. Based on these calculations, if the upper floor were also used for the same use or an Accessory Use to the main floor, the variance required would be approximately 90%.
34. The DA concluded its presentation noting why it had refused the application. Further, the DA noted that after it had reviewed all three proposals from the Applicant, it concluded that the proposed development would unduly impact the surrounding area by failing to meet The City of Red Deer's parking requirements.
35. In response to the questions from the Board, the DA provided the following responses:
  - The detailed reasons for Refusal are in the letter, which was sent to the Applicant however, parking is the primary reason for Refusal.
  - The church DP was approved previously and had a temporary parking agreement in place with the neighbouring property. As such, it was not considered as part of this application.
  - In terms of acceptable parking variances, the DA typically refers variances over 20% to the Municipal Planning Commission. 80%-90% as requested in the subject application, is considered substantially more than would normally be allowed.

- The Public Assembly use is not Permitted or Discretionary in DC(28). As a result, the Public Assembly/church is a legal, non-conforming use. As it has an approved DP, it can continue so long as there is no change to the use.
- There is no back access to the site.
- Warehouse is a defined Use in the ZB but is not a Permitted or Discretionary Use in DC(28).

#### *The Appellant/Applicant*

36. The Appellant provided written materials as part of its appeal filing and also provided a two-page document at the hearing. After review by the DA and the Board, the Board asked if the DA objected to the Board marking it as an Exhibit. The DA confirmed it had no objection, so the Board entered it as Exhibit C.1.
37. The Appellant's presentation started with Mr. Hajas (the building owner) presenting his oral arguments. He stated that he bought the building which is roughly 16,000 sq.ft. but based on the parking requirements, he would only be able to use about 1,000 sq.ft. due to the five parking stalls on site.
38. Historically, this building was used for motorcycle sales but now it can't even be used as a warehouse which in the Appellant's opinion makes no sense.
39. The Appellant stated that he had secured an agreement for parking on the neighbouring property (5315 54 Avenue) with the lessee of that property. The City has advised that the agreement must be made with the property owner. The Appellant indicated that the property owner has multiple businesses and it has been difficult to contact him to obtain the required authorization. The Appellant believes the lessee of the property has the right to sublet its parking spaces and has provided approval for their use in order to comply with the parking requirements.
40. The Appellant stated that a commercial use (like the one proposed in the subject DP), have been supported in the past and should be allowed to continue. He stated that based off his experience with the same store operating in Calgary, the store is never going to be so busy as to need 24 parking stalls. In his experience, there's maybe two to three people passing through the store per hour. Additionally, in his experience, Good Deals rarely sees sudden surges in foot traffic or high-volume arrivals at specific times of day.
41. The Appellant further stated that the Calgary store has 7 parking stalls and there isn't an issue.
42. The Appellant went on to discuss that the church never uses the parking on the neighbouring parcel despite having the agreement in place to do so.
43. The Appellant then argued that this area is not doing well economically and a store like the one proposed would be a boost to the community, would offer cheaper prices to customers, and would be a business bringing jobs to the area.
44. The Appellant noted his frustrations that he spoke with a real estate professional and was told this wouldn't be an issue but now is unable to use the building based on the parking requirements. Ultimately, he wants to be able to use the building he bought for the purpose he has proposed.
45. The Appellant's presentation continued with remarks from Mr. Lalchan, who serves as Pastor in the church that operates out of the building.

46. Mr. Lalchan's presentation continued with an overview of the history of the site and the church's operation at the property. When the church first went into the site, there was a meeting held with the City which allowed the use of the City owned space immediately in front of the site which provided an extra six parking stalls. Once an agreement was reached with Prairie Bus Lines, the church was allowed to operate without issue. Mr. Lalchan then raised the question about parking Downtown versus at this site. Downtown, the City allows lower parking availability but then stops allowing the parking relaxations one street away from the subject site. He believes this is unfair.
47. Mr. Lalchan continued by stating that the church had previously worked with the City to put in a sidewalk and flowers in front of the building on the City owned land. This was done at the church's expense and has been maintained since it was put in. The church has also been allowed to use this space for parking since they are maintaining it.
48. Mr. Lalchan reiterated the point made by Mr. Hajas that if the City were to allow the leaseholder of the adjacent site at 5315 54 Avenue to sign off, there is no issue as the leaseholder has already agreed to allow the use of their site for overflow parking.
49. The Appellant concluded his presentation by asking what scenario would work to resolve the parking concerns. If the City were to allow the Appellant to use the City owned land for parking, there would certainly be no issue as this would more than double the on-site parking.

#### *Public Submissions*

50. There was one affected person in attendance at the hearing. The affected person is the owner of the adjacent property at 5233 54 Avenue. The Board found that he was affected as defined in the MGA and heard from him.
51. The adjacent property owner stated that the church was originally allowed to park on his site but that has since been revoked. When he purchased his building, he was also offered the option to purchase 5237 (the subject building) but he realized that there was nothing that could be done with it given the high site coverage and lack of available parking. In his mind, the only thing to be done was to knock the building down.
52. He went on to state that there is a lot of traffic in this area and by this site. He further stated that the City owned land in front of his property, the subject property, and the property at 5315 54 Avenue is a City Right of Way where he has the use to access his property, but it is not available for parking. It is his understanding that this land is intended for future expansion of 54 Avenue.

#### *Rebuttal Submissions*

##### *Development Authority Rebuttal*

53. The DA clarified that the reason it requires the property owner to sign off on a parking agreement is due to the requirements of ZB section 2.40.5.1.

##### *Appellant Rebuttal*

54. The Appellant clarified that it wouldn't be parking in front of the adjacent property at 5233 54 Avenue. The Appellant said that if anything, customers from that property park in front of the church/subject property.

#### *Closing Arguments*

55. The DA closed by re-iterating its position that the impact to adjacent properties by approving the requested variance will be material and substantial.
56. The Appellant started its closing arguments by reading a prepared article from his phone. This article discussed that a City can change its zoning bylaws but Canadian Law protects an existing, non-conforming use. There have been no renovations to the subject property and it is materially the same as when it was purchased by the Appellant. The article continued by stating that a City can buy a property but the owner must be appropriately compensated for it. While the City can amend zoning regulations, it cannot constructively expropriate a property by rendering it useless. The article referenced the Supreme Court of Canada Case *Annapolis Group Inc. v. Halifax Regional Municipality*, 2022 SCC 36 (CanLII), [2022] 2 SCR 772. The Appellant continued that if the parking issue is not relaxed/resolved, the building will become useless. The Appellant argued that it is following the law, it isn't changing the property, and it should 100% be able to operate the store as proposed.
57. The Appellant re-iterated that he is not changing the structure of the building and is going to be using it in the same way it has been used in the past. A retail/commercial use was allowed in the past and it should be allowed now. In reference to an earlier question, the Appellant confirmed that he bought the building and now wants to use it. He further restated that Prairie Bus Lines (the lessee at 5315 54 Avenue) has given the Appellant permission to use their site for parking. The Appellant stated that he is working on finding the property owner but since he is the owner of a large corporation, it has been challenging to date.
58. In response to the new arguments raised by the Appellant in his closing statement, the DA was afforded an opportunity to respond. The DA clarified that the reason it requires the property owner to sign off on a parking agreement is due to the requirements of ZB section 2.40.5.1.
59. The Board asked the parties if they believed they had the opportunity to present their submissions in a full and complete manner and both confirmed they did.

#### **FINDINGS AND REASONS**

60. The Board reviewed the materials, oral presentations, and relevant sections of the ZB and MGA.
61. The Board finds that the DA was within its authority to Refuse the variance to the parking requirements and, consequently, refuse the DP application that is currently before it.
62. The Board reviewed the materials presented and finds that there is no option for on-street parking in the vicinity of the subject property. In front of the subject property, 54 Avenue branches into a through lane and a turn lane and consequently, no parking may be had on the street in this location.
63. The Board further finds that there is limited parking on the subject site. Notably, there are five stalls as referenced in the DP Application. In that package, there are four regular parking stalls and one handicap accessible stall proposed.

64. The Board then considered the arguments of the parties and finds that the requested variance is approximately 80%. While the magnitude of a variance is not determinative, the Board notes that this is a considerable variance from the planning regulations of the ZB.
65. The Board then considered the arguments of the Appellant that five stalls would suffice for this type of store. The Board finds this to be implausible since if even one staff member has driven to the store, this would leave only four stalls for customer use. For a store that is some 4,800 sq.ft. (446 sq.m), it seems unlikely that this would suffice over the long term. The Board finds that it is inevitable that excess parking would spill over into the neighbouring properties.
66. The Board then considered the variance criteria found in section 687(3)(d) of the MGA. The Board finds that the spillover of the excess parking will have a material impact on the use of the neighbouring properties. The neighbouring properties have limited parking along 54 Avenue and this will be further constricted if/when the City widens 54 Avenue.
67. Having reviewed all the materials submitted and presented, the Board finds that the appeal should be denied as it fails the variance criteria found in section 687(3)(d)(i)(B) of the MGA.
68. The Board also considered the arguments raised by the Appellant in his closing arguments around Canadian Law protecting existing, non-conforming uses as well as his arguments around expropriation and constructive expropriation. The Board finds that this is a development/re-development/change of use of the site and therefore a Development Permit is required pursuant to the ZB. Ultimately, the Board must make its decision based on the ZB in effect at the time it makes its decision and cannot rely on previous, superseded versions of the ZB. Regarding arguments around expropriation, the Board has no jurisdiction to consider expropriation matters. Consequently, the Board will not address the expropriation argument.

**CLOSING:**

69. For these reasons, the Board denies the appeal and CONFIRMS the decision of Development Authority, which REFUSED the Development Permit application submitted by 2714666 ALBERTA LTD./GOOD DEALS RED DEER for a proposed Merchandise Sales and Rentals on the ground floor located at 5237 54 Avenue, Red Deer.

Dated at the City of Red Deer, in the Province of Alberta, this 1<sup>st</sup> day of April, 2026 and signed by the Presiding Officer on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations, and decision of the Board.



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Tim Heger, Presiding Officer  
Subdivision and Development Appeal Board

This decision can be appealed to the Court of Appeal on question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 688 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of this decision.

**APPENDIX A**

Exhibit A.1:	Hearing Materials	17 pages
Exhibit B.1:	Development Authority Submission	51 pages
Exhibit C.1:	Appellant Submission	2 pages