



SAFETY CODES COUNCIL

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COUNCIL ORDER No. 0015422

ORDER

BEFORE THE BUILDING TECHNICAL COUNCIL

On May 23, 2012

IN THE MATTER OF the Safety Codes Act, Revised Statutes of Alberta 2000, Chapter S-1.

AND IN THE MATTER OF the Order dated April 12, 2012 issued by an Accredited Municipality (Respondent) against a Car Dealership (Appellant).

UPON REVIEWING the Order **AND UPON HEARING** the Appellant and the Respondent; **THIS COUNCIL ORDERS THAT** the Order is **REVOKED**.

Issue:

1. The Appeal concerns a property.
2. The issue on appeal is:
 - (a) The provision of an access route for fire department vehicles. Is the Appellant required to provide an access route compliant with 3.2.5.6.(1) of the Alberta Building Code 2006?

The Record:

3. The Appeal Panel considered, or had available for reference, the following documentation:
 - a. Written notification of appeal hearing, dated May 2, 2012, from the Coordinator of Appeals to the Appellant.
 - b. Stay of the Order, dated April 23, 2012, from the Building Technical Council to the Appellant.

- c. Acknowledgement of notice of appeal, dated April 23, 2012, from the Coordinator of Appeals to the Appellant.
 - d. Notice of Appeal dated April 12, 2012, from the Appellant to the Coordinator of Appeals.
 - e. Order dated April 12, 2012 issued by the Respondent to the Appellant.
 - f. Inspection Report of April 3, 2012, conducted by the Respondent.
 - g. Exhibit #1 Appellant – Field Density Report from an engineering company, email correspondence from the engineering company to the Appellant, photographs of the Appellant’s lot, and a plumbing inspection report from the Respondent, of February 8, 2012.
 - h. Exhibit #1 Respondent – Appeal Hearing Brief of Supporting Documents, including an inspection report from April 3, 2012, The Order dated April 12, 2012, Excerpts from the ABC 2006, email and engineer drawing pertaining to a drainage plan, gas and plumbing inspection reports of February 8, 2012, and a photograph of a car dealership of May 23, 2012.
 - i. Exhibit #2 Respondent – Plans Examination Report dated October 13, 2010.
4. The Appeal Panel considered all materials comprising the record of this proceeding, including the evidence and argument provided by each party. References in this decision to specific parts of the record are intended to assist the reader in understanding the Appeal Panel’s reasoning relating to a particular matter and should not be taken as an indication that the Appeal Panel did not consider all relevant portions of the record with respect to that matter.

Position of the Parties:

Appellant

5. The Appellant’s position is that:
- (a) The Appellant occupied the building and property prior to receiving an occupancy permit when the Appellant was required to relocate the business from another municipality and did not want to lay-off employees in the interim.
 - (b) Base gravel compacting and paving of the access route was not completed prior to occupancy because of ground frost and precipitation.

Respondent

6. The Respondent’s position is that:
- (a) Emergency vehicles do not have access from the street to the principal entrance, this causes an unsafe condition.
 - (b) An occupancy permit was not issued due to the Appellant failing to correct deficiencies identified on the Final Inspection Report.

Provisions of the Alberta Building Code 2006 (ABC2006):

- 7. The applicable code is the Alberta Building Code 2006 (ABC 2006). Permit applications and work relevant to this appeal occurred after the ABC 2006 came into force.
- 8. The Alberta Building Code 2006 provides:

Division B

Part 3 Fire Protection, Occupant Safety and Accessibility

Section 3.2. Building Fire Safety

3.2.2. Building Size and Construction Relative to Occupancy

3.2.2.71. Group F, Division 2, up to 2 Storeys

- 1) A *building* classified as Group F, Division 2 is permitted to conform to Sentence (2) provided
 - a) it is not more than 2 *storeys* in *building height*, and
 - b) it has a *building area* not more than the value in Table 3.2.2.71.

Table 3.2.2.71. Maximum Building Area, Group F, Division 2, up to 2 Storeys
Forming Part of Sentence 3.2.2.71.(1)

No. of Storeys	Maximum Area, m ²		
	Facing 1 Street	Facing 2 Streets	Facing 3 Streets
1	1000	1250	1500
2	600	750	900

- 2) The *building* referred to in Sentence (1) is permitted to be of *combustible construction* or *noncombustible construction* used singly or in combination, and
 - a) floor assemblies shall be *fire separations* and, if of *combustible construction*, shall have a *fire-resistance rating* not less than 45 min, or
 - b) be of *noncombustible construction*.

3.2.5. Provisions for Firefighting

3.2.5.4. Access Routes

- 1) A *building* which is more than 3 *storeys* in *building height* or more than 600 m² in *building area* shall be provided with access routes for fire department vehicles
 - a) to the *building* face having a principal entrance, and
 - b) to each *building* face having access openings for firefighting as required by Articles 3.2.5.1. and 3.2.5.2.

3.2.5.6. Access Route Design

1) A portion of a roadway or yard provided as a required access route for fire department use shall

- a) have a clear width not less than 6 m, unless it can be shown that lesser widths are satisfactory,
- b) have a centreline radius not less than 12 m,
- c) have an overhead clearance not less than 5 m,
- d) have a change of gradient not more than 1 in 12.5 over a minimum distance of 15 m,
- e) be designed to permit accessibility under all climatic conditions,
- f) have turnaround facilities for any dead-end portion of the access route more than 90 m long, and
- g) be connected with a public thoroughfare.

Division C

Part 2 Administrative Provisions

Section 2.2. Administration

2.2.2. Information Required for Proposed Work

2.2.2.4. Dimensional Tolerances

1) If life safety will not be reduced, the *authority having jurisdiction* may accept minor variation, not more than 2%, in a dimension given in this Code.

2.2.10. Occupancy

2.2.10.1. Occupancy Permit

1) If required by the *authority having jurisdiction*, an *owner* shall obtain an *occupancy permit* or permission in writing to occupy from the *authority having jurisdiction*, before any

- a) *occupancy* of a *building* after
 - i. construction,
 - ii. relocation,
 - iii. partial demolition, or
 - iv. *alteration* of that *building*, and
- b) change in the *occupancy* of a *building*.

Findings of Fact:

9. The building area on the property is 604 m² and faces one street. The building is Group F, Division 2, Medium-Hazard Industrial Building.
10. The regular occupant load of the building is seven employees.

11. The Appellant operates a car dealership with service bays at the property. The Appellant has occupied the building and property since mid February 2012.
12. On April 3, 2012, the Respondent conducted a Final (prior to occupancy) Inspection of the property and indicated that occupancy of the building was not granted and issued the Order on April 12, 2012 ordering the Appellant to provide an access route in accordance with ABC 2006 3.2.5.6.(1) and then obtain an occupancy permit.
(The Record, Item 3(e) and 3(f))
13. Clause 3.2.5.4.(1)(a) of the ABC 2006 prescribes that if a building is more than 600 m² it is required to have access routes for fire department vehicles to the building face having a principal entrance.
14. Sentence 2.2.2.4.(1) of the ABC 2006 provides that if life safety will not be reduced, a minor variation of not more than 2% may be accepted, by the authority having jurisdiction.
15. At 604 m², the building area is 0.7% over the threshold of 600 m², and is less than the 2% maximum for a dimensional tolerance.
16. Evidence given through testimony and cross-examination by the Appellant and Respondent, and the photographs presented indicate that adjacent buildings are of non-combustible exterior.
(Photograph – The Record, Item 3 (h) page 15)
17. In testimony the Appellant indicated a willingness to pave the site and that it was complications due to ground frost initially, and then precipitation that affected the base gravel compaction and delayed the paving of the site.
18. The base gravel compaction reporting, provided by the Appellant, indicates that on May 14, 2012, the site was compacted and met the requirements of an access route prior to paving. Heavy rains occurring after that date were identified on May 22, 2012, by engineering, as a cause to delay further compaction testing.
(The Record, Item 3(g) page 1 and page 2)
19. The site grading plan provided by the Respondent indicates that water will not accumulate on the site. (The Record, Item 3(h) page 12)

Reasons for Decision:

20. The Appeal Panel is satisfied that it is appropriate to apply the dimensional tolerance of Sentence 2.2.2.4.(1) of the ABC 2006 to the building area. Life safety is not reduced in applying the dimensional tolerance. The adjacent buildings are of non-combustible exterior finish materials and the building at issue is located centrally on the site and is not directly adjacent or near other buildings.

21. In applying the 2% dimensional tolerance an access route as prescribed in sentences 3.2.5.4.(1) and 3.2.5.6.(1), of the ABC 2006 is not required.

Dated at Edmonton, Alberta this 26th day of June, 2012

Chair, Building Technical Council Appeal Panel