

Appeal No.: SDAB 004 2025
Hearing Date: November 4, 2025

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

PRESIDING OFFICER: T. HEGER

PANEL MEMBER: S. CROOKS

PANEL MEMBER: D. WIELINGA

BETWEEN:

Al-Furqan Learning Centre O/A Al-Furqan Learning Centre
Represented by B. Hareed & M. Konneh

Appellant

and

CITY OF RED DEER
Represented by J. Hallett, Senior Development Officer & E. Stuart Inspections & Licensing Manager

Development Authority

DECISION:

The Subdivision and Development Appeal Board Confirms the decision of the Development Authority which Refused the Appellant's Development Permit ("DP") application for a Day Care Facility at #3, 4940 54 Avenue, Red Deer.

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 also 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 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 Appellant and the Development Authority 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

6. On September 10, 2025, the Applicant submitted a Development Permit application for a proposed Day Care Facility at #3, 4940 54 Avenue, Red Deer.
7. The subject lands are zoned Direct Control Zone No. 28 ("DC(28)") under the ZB. Under the ZB, a Day Care Facility is a Discretionary Use pursuant to section 11.280.7.23. Therefore, the proposed Day Care Facility conforms with the prescribed use.
8. On September 23, 2025, the Development Officer refused the application as it was deemed to be non-compliant with the ZB. A letter of refusal was sent to the applicant via email. The proposal fails to comply with ZB s.4.90.1 because the daycare bay/and or required on-site play area would be adjacent to a building bay with a valid Development Permit for Motor Vehicle Service/Repair.
9. On October 3, 2025, the Appellant/Applicant submitted an application with the intent to appeal the decision of Refusal by the Development Officer for a Proposed Care Facility.

SUMMARY OF EVIDENCE AND ARGUMENT:

The Development Authority

10. The Development Authority (the "DA") confirmed the subject area is located at #3, 4940 54 Avenue, Red Deer.
11. On September 23, 2025, the Development Officer reviewed the application for a Proposed Day Care Facility and noted that it would not comply with section 4.90.1 of the ZB which states "*No part of a Day Care Facility, including the Building bay and on the site [sic] outdoor play space, may be adjacent to a Building bay with a Development Permit for:*
4.90.1.1 Motor Vehicle Sales, Service, or Repair;
..."
12. On that same day, the Development Officer refused the application as it was deemed to be non-compliant with the ZB. A letter of refusal was sent to the applicant via email.
13. On October 3, 2025, the Appellant/Applicant submitted an application with the intent to appeal the decision of Refusal by the Development Officer.
14. The DA reviewed relevant sections of the MGA (including section 687), and the ZB (including sections 11.280.7.23, 4.90, and 2.100.1).
15. The DA asked four questions to determine the application.
16. *The first question asked was whether a proposed Day Care Facility a Permitted or Discretionary Use in DC(28) zoning?* The DA explained that the Day Care Facility (the subject application) is proposed for

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Unit 3, 4940 54 Avenue. The Applicant currently operates an existing and previously approved Commercial School in the neighbouring bay (Unit 2). A Day Care Facility are a Discretionary Use within the DC(28) zone.

17. *The second question asked was whether any part of the proposed Day Care Facility in a non-residential area be Adjacent to a conflicting use (in this case, Motor Vehicle Sales, Service, or Repair business)?* The DA identified the parcel immediately adjacent to the building bay containing the proposed Day Care Facility, which contains an existing motor vehicle service business. The DA noted that the definition of Adjacent in the ZB means “lands that Abut or would be next to a Site if not for an easement, right of way, railway, Road, lane, river, or stream.”
18. *The third question asked was whether the proposed site was adjacent to a Motor Vehicle Sales, Service, or Repair business and whether that Motor Vehicle Sales, Service, or Repair business had an approved Development Permit?* The DA explained the adjacent business in question was issued a Development Permit for the purpose of vehicle service and repair at 4938 54 Avenue, more than 40 years and has operated since.
19. *The fourth and final question posed by the DA was whether the Development Officer was permitted to refuse the application?* The DA identified for the Board, under section 2.100.1.7.2, the Development Officer is permitted to refuse the application and provide written reasons. The Applicant was provided a letter of refusal outlining the reason for refusal. Specifically, the refusal referenced section 4.90.1.1 of the ZB.
20. To conclude its presentation, the DA stated that the Development Officer considered the location of the proposed development in relation to the regulation and possible adjacent conflicts. The location of the proposed development was deemed to conflict with adjacent and previously existing land uses, and as such, the application was deemed not to meet the requirements of the ZB.
21. The DA went on to state that the decision to refuse was done so in conformance with the ZB and the Development Officer followed the correct procedure in issuing the refusal to the applicant.

The Appellant

22. The Appellant provided no written materials beyond what was filed with the Appeal. The Appellant was present at the hearing to provide oral arguments and respond to questions from the Board.
23. The Appellant explained that his organization had purchased the subject building in 2021 and has been operating an education centre out of bay 2 for several years. He also explained that there is an existing day care/pre-school in bay 6 of the building. Due to increasing demand from within the community that attends other services at the building, there is a need to expand from bay 6 into bay 3.
24. The Appellant explained that there were consistently lots of kids in bay 3 as there used to be a martial arts business operating out of bay 3.
25. The Appellant raised concerns that there were several Development Permits already in place for the same or similar use of a day care within the building. He noted that at present, they need more space to expand to accommodate more kids as the demand for day care space grows. He raised concerns

that it seems inconsistent to have existing day care space within the building, but then be denied an expansion of that use.

26. In response to concerns from the DA, the Appellant noted that there was another day care down the street operating at 5206 54 Avenue. In response to other concerns, he explained that there is a forested area behind the building that could be used for outdoor time with the day care. He also explained that this is the most suitable building in the area in terms of building layout and site layout to host a day care. He also committed to engaging any security measures deemed necessary to protect the children from any surrounding concerns, including the potential of homeless people moving through the area.
27. In further response to the DA, the Appellant stated that they have never had any issues with the mechanic shop that is the subject of the exclusion under section 4.90.1.1.
28. Ultimately, the Appellant wants to grow to serve the community with greater childcare/day care offerings. He stated that his organization serves hardworking people at the hospital and college among other vital businesses in the core area of Red Deer. Further, his organization serves his local faith community and provides an option for Red Deerians of the same faith, a place for their children to learn and grow.
29. In response to the letter received by the Board in opposition to the application (Exhibit C.1), the Appellant responded saying that the concerns raised are common problems for the area and not specific to his property.
30. In response to questions from the Board, the Appellant stated that at the time of purchase, an extensive inspection was undertaken and the building was found to be in good shape. Further, the Appellant stated that most interest in the expanded day care comes from within his faith community, but this day care, if approved, would be open to all Red Deerians. He also stated that the outdoor play space would be on the backside of the building, where public access could be restricted and where security and safety could be better maintained. The Appellant also stated that the parents of the organization see the building and the area as safe as there is a long wait list for the existing pre-school program.

Response from the Development Authority

31. Following the presentation from the Appellant, the DA provided some supplemental oral comments. The Board also asked the DA several clarification questions.
32. Firstly, the DA stated that the original DP for bay 6 was issued in December 2021 under the previous Land Use/Zoning Bylaw for a commercial school, not a day care. There were also no setbacks in the previous zoning bylaw which also differs from the current ZB.
33. In response to the difference between a pre-school/commercial school and a day care, D. Girardin, Senior Manager, Planning Department for the City of Red Deer explained that a commercial school typically has a more fixed schedule, operates for fewer hours per day, and has limited outside playtime. By contrast, a day care typically operates for longer hours per day with substantially longer outdoor time.

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34. In response to a question about grandfathering in the existing day care facility, the DA stated that there is no option to grandfather a non-conforming use. Additionally, the DA re-stated that the previously approved DP is for a commercial school, not for a day care, therefore not an extension of a previous or existing use.

Closing Arguments

35. To close, the DA reiterated that each application is evaluated and determined on its merits. The goal of the planning process and the Development Officer's review is to ensure that all applications are treated fairly and in conformance with the ZB as it exists at the time of the application.
36. The Appellant closed by noting that there is flexibility within the ZB to permit for the expansion. Further, an addition/expansion to the existing day care/pre-school will bring benefits to the community and the public generally. The Appellant closed by re-committing to whatever safety measures are deemed necessary to ensure the safety of the children.

Public Submissions

37. The Board received a letter from a nearby property owner in opposition to the appeal. The letter raised a number of concerns about the area in terms of safety and cleanliness as well as the presence of what appeared to be references to homeless people in the area. The letter also noted that there are no sidewalks along 54 Avenue so walking to the Capstone area would be potentially dangerous. The letter also provided photos of various concerns noted in the letter and made reference to concerns about additional traffic during drop-off and pick up times.
38. The Board considered the letter and reviewed its contents. Both parties had received a copy of the letter and as discussed above, had an opportunity to comment on its contents.

FINDINGS AND REASONS

39. The Board reviewed the materials, oral presentations, relevant sections of the Zoning Bylaw and MGA, and the letter received in opposition to the appeal.
40. The Board finds that the Development Officer was within his rights in refusing the DP application for contravening section 4.90.1.1 of the ZB. While DC(28) lists a Day Care Facility as a discretionary use, the Board found that the application of section 4.90 was correct in this situation.
41. The Board then considered the existing use of the property and found that the previous Development Permit was issued under the now superseded zoning bylaw and therefore, has no bearing on the current appeal. Additionally, the Board considered the presence of the nearby day care but found that its existence was not material to this appeal.
42. The Board then considered the existing use of the property and found that there are material differences in the operation of a Commercial School (in this case, a pre-school) and a Day Care Facility. The Board heard testimony that a Day Care involves more outdoor time than a Commercial School, thus, the surrounding area is a larger factor in a Day Care than in a Commercial School.
43. The Board considered the oral submissions of the Appellant and found him to be very forthright with information.

44. The Board understands that there is a need for day care spaces and that the Appellant is offering something tailored to faith-based people in the Red Deer area.
45. However, the Board finds that the subject location is not a reasonable place for a Day Care Facility to operate. The adjacency to a mechanic's shop is an unreasonable location for a Day Care, given the potential exposure to various fumes and exhaust.
46. The Board finds that the subject appeal does not comply with the Zoning Bylaw as it exists today. Finding that the area is not suitable for a Day Care Facility, the Board declines to exercise its variance powers under section 687(3)(d) of the MGA.

CLOSING:

47. For these reasons, the Subdivision and Development Board denies the appeal in regard to the Development Officer's decision, which REFUSED the development permit application for the Discretionary Use of a Proposed Day Care Facility at #3, 4940 54 Avenue, Red Deer. The decision of the Development Officer is confirmed.

Dated at the City of Red Deer, in the Province of Alberta, this 14th day of November, 2025 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.



T. Heger, Presiding Officer
Subdivision and Development Appeal Board

APPENDIX A

Exhibit A.1:	Hearing Materials	14 pages
Exhibit B.1:	Development Authority Report	34 pages
Exhibit C.1:	Area Landowner Submission	5 pages