

District Development Appeal Board – General Information

As outlined in Part XI, Div. 1, Sect. 213-227 of the Planning and Development Act, 2007. Please refer to the P & D Act, 2007 for clarification of information provided.

District Development Appeals Boards (DDAB) – The Basics

Every municipality with a zoning bylaw has a Development Appeals Board (DAB), although some municipalities may be currently unaware of who actually sits on this board. District Development Appeals Boards (DDABs) are an inter-municipal version of a Development Appeals Boards (DABs).

Benefits of a DDAB

Continuity – board members would preferably be people with basic knowledge in the area of development and zoning, ensuring that less time would be spent getting people up to speed.

Efficiency – less time would be spent getting the board up to speed and gathering the board

Expertise – board members may provide a wider spectrum of expertise based on past experiences and will develop more knowledge on a number of issues in the area– likely resulting in better decision-making.

Simplicity – board members would know they are board members and, if there were 4-5 from different municipalities, would not have to be part of hearings from their particular municipality (because there only needs to be three members for a decision).

Communication- acts as a forum to enhance communication between municipalities.

Key Differences between DABs and DDABs

- DDABs must be comprised of 3 members
- DDABs can include municipal councilors, DABs cannot.
- DDABs most often provide a wider spectrum of expertise than DABs
- DDAB board members are less likely to be local.
- No Council may hold a majority.

Key Similarities between DABs and DDABs

- Both are appointed by council.
- Municipal Employees cannot sit on either DABs or DDABs of any municipality in which they are affiliated.
- Both satisfy provincial requirements for an appeal body.
- Follows all other provisions regarding local DAB - <http://www.municipal.gov.sk.ca/Appeals/Information-Guide>.

DDA Board Composition and Organization

According to the Act, within 90 days of the zoning bylaw being passed, a DAB comprised of not less than 3 members appointed by council must be appointed, none of which may be a councilor, except in the case of a DDAB, as long as the members of one council do not make up a majority on the board. **Under no circumstance can a municipal employee sit on the board or a member or employee of a planning commission of which the municipality is a member.**

Each Council shall be responsible to determine:

- (a) the term of office of each member of the board;
- (b) the manner in which vacancies are to be filled; and
- (c) the remuneration and expenses, if any, payable to each member.
- (d) at the discretion of Council, consultants may also be appointed to this board.

The Members of the board may also choose a chairperson from among those appointed to the board and appoint a secretary to the board - meetings of and hearings by the board are often at the call of the secretary in consultation with the chairperson of the board. The board members will also determine the term of office, remuneration and duties of the secretary to the board.

Recommended Structure

The best case scenario would be to have 4-5 people with development/zoning experience, whether it is (ex) surveyors, (ex) developers, ex-administrators, or anyone else you can think of that would be interested in sitting on the board for a while. The workload is not usually that heavy for DDAB's, so finding someone who will sit on the board long-term would be the best solution (keeping in mind that training may be

available through APCPS at some point). If these people cannot be found or are not willing to participate, councilors can be board members, provided they declare a conflict on interest if and/or when necessary. With a diverse and mixed group of people, local Councilors could sit out on decisions affecting discretionary use permits in their own municipality without any issues relating to quorum.

Procedure for Creating a DDAB

A District Development Appeals Board (DDAB) is formed by an agreement between two or more municipalities (*Note: they need not be adjacent to one another, but it is recommended*), which agree that the DDAB will have authority over appeal matters within each jurisdiction. Councilors from a single municipality may not form the majority of the DDAB.

The agreement may set out: *See sample agreements provided

- (1) The term of office of each member of the board;
- (2) The manner in which vacancies shall be filled;
- (3) Remuneration and expenses, if any, payable to each member.
- (4) Appoint a secretary of the board and/or chairperson (from among board members);
and
- (5) Prescribe the term of office, remuneration, and duties of the secretary to the board.
- (6) The adopted rules of procedure to be followed for the board to carry out its functions.

Note: The Lieutenant Governor in Council may make regulations prescribing rules of procedure for the boards.

Role of the Board

The board will sit, open to the public, and determine whether the decision made by the development officer (typically the administrator) or Council (in the case of a discretionary use) was correct.

Any person that is affected by a decision (such as an adjacent landowner) has the right to appeal if there is:

- (1) An alleged misapplication of the zoning bylaw in the issuance of a development permit;
- (2) A refusal to issue a development permit because it would contravene the zoning bylaw; or

(3) A stop order has been issued by the development officer under section 242(4) of *The Planning and Development Act, 2007*.

But, there is no right to appeal to the Board if the development permit was refused on the basis that the proposed permit is for a use that:

- (1) Is not a permitted use or intensity of use;
- (2) Is a discretionary use or a discretionary intensity of use that was refused by Council; *or (they may appeal condition/standards of a discretionary approval but not a refusal)*
- (3) A prohibited use. *(A use that is not listed within the zoning district affecting the property)*

It is also important to note that any Councilor that has previously voted on a permit application, or other matter, may not vote on the appeal for that permit or its conditions/standards. This primarily applies when the conditions/standards of a discretionary use permit are being appeals to a DDAB. Any conditions/standards applied to a permitted use permit may also be appeals to the DAB/DDAB

Considerations when Hearing an Appeal

When considering an appeal, the DAB/DDAB hearing the appeal:

- (1) Is bound by the applicable official community plan in effect;
- (2) Must ensure that its decisions conform to the uses of land, intensity of use and density of development in the zoning bylaw;
- (3) Must ensure that its decisions are consistent with any provincial land use policies/statements of provincial interest; and
- (4) May, subject to clauses (1) to (3), confirm, revoke or vary the approval, decision, any development standard or condition, or order imposed by the approving authority, the council or the development officer, or make or substitute any approval, decision or condition if, in its opinion, the action would not:
 - a. grant to the applicant a special privilege inconsistent with the restrictions on the neighboring properties in the same zoning district;
 - b. amount to a relaxation so as to defeat the intent of the zoning bylaw; or
 - c. Injurious affect the neighbouring properties.

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Other things to consider/ research further:

When can an appeal to the board be made?

Can a consistent means of filing for appeal be established? What is it?

What is the appeal process?

How will the decision of the board be relayed, time frames etc.?

What is the process for appeal of the board's decision?

Please refer to the Planning and Development Act, 2007 for information on the following.

Application to appeal (221)

Requirements of board in setting down appeal (222)

Additional material considered on appeal (223)

Conduct of hearing (224)

Decision of board (225)

Appeal from decision of board (226)

Board to submit material (227)

