

# **Edmonton Subdivision and Development Appeal Board**

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Date: August 13, 2015  
Project Number: 171608692-001  
File Number: SDAB-D-15-163

## **Notice of Decision**

This appeal dated July 6, 2015, from the decision of the Development Authority for permission to:

Construct an addition to an existing Automotive and Recreational Vehicle Sales/Rental Use (automotive repair: 26.6m X 26.7m)

on Plan 4077KS Blk 1 Lots 14 and 15, located at 18325 - Stony Plain Road NW, was heard by the Subdivision and Development Appeal Board ("SDAB") on July 29, 2015.

### **Summary of Hearing:**

At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The appeal was filed on time, in accordance with s 686 of the *Municipal Government Act*, RSA 2000, c M-26 ("*MGA*")

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct an addition to an existing Automotive and Recreational Vehicle Sales/Rental Use (automotive repair: 26.6m X 26.7m), located at 18325 - Stony Plain Road NW. The subject site is located within the CHY Highway Corridor Zone, within the Major Commercial Corridors Overlay, and within the Place LaRue West Neighbourhood Area Structure Plan.

The development permit application was refused because the existing Use is neither a Permitted Use nor a Discretionary Use in the CHY Highway Corridor Zone, and is determined to be a non-conforming Use. The development permit application was also refused because on-site parking is not allowed in a required Setback; a Landscaping and Content plan has not been provided; and an environmental assessment has not been performed on site.

Prior to the hearing the following information was provided to the Board, copies of which are on file:

- A written submission received from Sustainable Development on July 17, 2015;
- An email from the Appellant requesting a postponement of the hearing on July 24, 2015;
- A detailed submission received from the Appellant on July 27, 2015.

The Board heard from Mr. Rewniak, representing the Appellant, ACI Architects Inc., who made the following points:

1. He applied for a Development Permit on April 29, 2015.
2. This application is to add an automotive repair shop to the existing principal building, which is a Discretionary Use in the CHY Zone.
3. A major addition to the building was approved as an automotive repair shop in 2003 and 2004.
4. They did not perceive any zoning problems with this application as at some point it was approved.
5. The existing business on Site involves vehicle sales and warranty work on GMC Buick products.
6. Prior renovations were approved and thereafter, rezoning of the property to allow a vehicle sales use was not pursued.
7. A development permit was issued for external renovations in 2014.
8. The building has existed for 30 years for vehicle sales and repairs; therefore, if it is non-conforming, the Use should be grandfathered in.
9. The portion of the building that is being added to is the repair bay.
10. In his opinion, he and the Development Authority can deal directly with the landscaping deficiency.
11. The landscaping conditions that were previously not met in 2012 have been met and funds released.
12. They do not want to delay the construction of the proposed addition and will apply for a rezoning application in tandem with the proposed development.
13. There are several car dealerships across Stony Plain Road that are situated on Direct Control Districts or CB2 Districts.
14. They would like to complete the addition before the winter season.

The Board then heard from Mr. McLaughlin, representing Western GMC Buick, who made the following points:

1. He has worked for Western GMC Buick for fourteen years.
2. He thought the proposed development was in compliance with the zone.
3. He did not know why a blue City of Edmonton zoning sign was placed on the property years ago and has since been removed.
4. Additional service bays were added in 2004 as required by their dealership agreement and additional work bays are once again needed to conduct warranty work on their vehicles.
5. He confirmed that 29 bays currently exist and they want to add another 9 bays including a car wash bay.

The Board then heard from Mr. Airey, representing Western GMC Buick, who made the following points:

1. He has been working with Sustainable Development to make adjustments to the property as the City has made changes to road access in the area.
2. The major renovations for the sales and service departments were required as part of their national GMC dealership agreement.
3. The changes in the area have resulted in a limited access to their property and they fully cooperated with the City concerning access and landscaping issues.
4. The current building has existed since 1984.
5. In his opinion, the rezoning sign was placed on the property by mistake.
6. There is no rezoning currently taking place for the subject Site.
7. On May 11, 2004 Alberta Environment confirmed that any issues they had earlier were resolved.
8. There are several car dealerships in the area and they need to remain competitive.
9. In his opinion, a previous development permit was approved; therefore, there should be no issue with the proposed addition as it is for the same thing.
10. They are willing to apply to rezone the subject Site, but do not want to delay the construction in the interim.
11. They are willing to work with the Development Authority regarding the landscaping plans.

In response to questions by the Board, the Appellants provided the following information:

1. The proposed addition will be used to work on GMC vehicles and other used vehicles purchased at the dealership.
2. There will be 8 additional bays and one car wash bay as the business is expanding.
3. A substantial portion of the building is devoted to repairs. One third of the business is generated from sales and two thirds of the business from maintenance and repair. You cannot have one without the other.
4. They do not want to install any islands with trees in the on-site parking areas as this would cause debris to fall on vehicles offered for sale.
5. The front and side of the subject Site has been landscaped, and in his opinion, they have gone above and beyond the landscaping requirements, as the hold back landscaping funds were returned to them by the City.
6. They confirmed that the Automotive and Minor Recreation Vehicle Sales/Rentals Use includes incidental maintenance services and sale of parts.

The Board then heard from Mr. Shah and Ms. Peacock, representing City of Edmonton Sustainable Development, who made the following points:

1. The subject site is zoned CHY Highway Corridor Zone and an Automotive and Minor Recreation Vehicle Sales/Rental Use is not a listed Use in the Zone.
2. The existing development is a non-conforming Use and cannot be enlarged or added to and no structural alterations may be made to it or in it.
3. The proposed addition is expanding the Use on the subject site.
4. The definition of Automotive and Minor Recreation Vehicle Sales/Rental Use includes the incidental servicing of vehicles.

5. The 2014 renovations were approved as they were aesthetic and did not involve a structural expansion of the building.
6. More than one third of the business is vehicles sales. A substantial portion of the site is occupied by vehicles offered for sale.
7. They provided the Board with a history of past developments on the subject Site.
8. In their opinion, rezoning of the property needs to be done to allow the proposed addition.
9. A previous rezoning file was closed in 2004 due to the lack of activity.
10. With regard to the landscaping, they stated that the proposed plans did not show a landscaping plan even though one was required.

In response to questions by the Board, Mr. Shah provided the following information:

1. The subject Site has always been approved as an Automotive and Minor Recreation Vehicle Sales/Rentals Use.
2. Regardless of the previous SDAB decision in 2003, the existing development has never been reclassified to a different Use on a development permit since then.
3. An Automotive Repair Shop Use does not include vehicle sales.
4. He confirmed several properties in the area are zoned DC2 Site Specific Development Control Provisions.
5. In his opinion, the SDAB is being used as a short cut rather than rezoning the property like the surrounding properties. As his written review shows, the City has consistently declined these applications and will continue to decline them for each development permit as the Use is not listed in the zone.
6. With regard to landscaping, the proposed plans do not show islands for landscaping.
7. The proposed addition is substantial and triggers the requirement for additional landscaping as per section 55 of the *Edmonton Zoning Bylaw*.
8. He would be agreeable to a condition imposed for required landscaping.

In rebuttal, Mr. Rawniak and Mr. Airey made the following points:

1. They have met all landscaping requirements arising from the 2003 approval.
2. They are going to push forward with the application for rezoning regardless of the Board's decision, but they wish approval from the Board to proceed with the construction without any further delay.
3. The Appellants agreed that the dealership has always provided the warranty and maintenance services and that the dealership cannot exist without these services.

In response to the rebuttal, Mr. Shah and Ms. Peacock made the following point:

1. There is a current non-compliance in the required Setback as vehicles are parked in this area on the portion of the site near the proposed addition.

Mr. Rawniak and Mr. Airey had no further comments.

**Decision:**

The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

**Reasons for Decision:**

The Board finds the following:

1. The scope of the application under appeal is to construct an addition to an existing Automotive and Recreational Vehicle Sales/Rentals Use (automotive repair: 26.6m X 26.7m).
2. In 1983, Western GMC Pontiac Buick dealership applied to construct “an Automotive and Minor Recreation Vehicle Sales building (new and used)” and was refused by the City but allowed by the SDAB despite the Use not being a Permitted or Discretionary Use for the site.
3. The parties agree that since 1983, the dealership on the subject Site has been approved as an Automotive and Minor Recreation Vehicle Sales/Rental Use. Vehicle sales have always been a part of the dealership.
4. Automotive and Minor Recreation Vehicle Sales/Rentals is neither a Permitted Use nor a Discretionary Use in the CHY Highway Corridor Zone.
5. The Appellant’s submit that the application should be approved because the addition to the existing car dealership falls within the Automotive and Equipment Repair Shop Use, a Discretionary Use in this Zone per section 350.3(2); second, an extensive renovation was approved by this Board in 2003; and, third the Automotive and Minor Recreation Vehicle Sales/Rental Use was approved at some point in the past and therefore should be “grandfathered in” and approved.
6. The Board disagrees with this first submission for the following reasons:
  - a. Under section 7.4(5), Automotive and Minor Recreation Vehicle Sales/Rentals means “development used for the retail sale or rental of new or used automobiles, motorcycles, snowmobiles, tent trailers, boats, travel trailers or similar light recreational vehicles or crafts, **together with incidental maintenance services and sale of parts**. This Use Class includes automobile dealerships, car rental agencies and motorcycle dealerships. This Use Class does not include dealerships for the sale of trucks with a gross vehicle weight rating of 4 000 kg or greater, or the sale of motorhomes with a gross vehicle weight rating greater than 6 000 kg or a length of more than 6.7 m.”
  - b. On its face, the Use Class contemplates two related activities: sales and rental together with incidental maintenance service and sale of parts.
  - c. According to the Appellant, the dealership has always involved two activities: vehicle sales and repair and maintenance of vehicles sold through the dealership (regardless of make) and of General Motors vehicles purchased elsewhere. In the words of the Appellant, you cannot have one without the other.

- d. Due to the recent success of the dealership, the Appellant is seeking approval for an addition to an existing building used for Automotive and Recreation Vehicle Sales/Rental Use (automotive repair). The addition will be used for the repair and maintenance activities incidental to the car sales activities. According to the Appellant, the addition is required to meet the needs of dealership customers who want less delay in servicing of their vehicles.
  - e. The Board finds that current business activities on the property and the proposed development fall within a single Use Class, Automotive and Minor Recreation Vehicle Sales/Rental Use. Based on the evidence, the Board concludes that the proposed development is not an Accessory Use; rather it is part of the approved unlisted Use, Automotive and Minor Recreation Vehicle Sales/Rentals.
7. The Appellant's second submission that this appeal must be allowed because two prior renovations were approved in 2003 is an estoppel argument. Essentially, the Appellant argues this Board is estopped or prevented from refusing the current renovation application because two prior renovations were allowed by the Board in 2003.
  8. The Board disagrees for the following reasons:
    - a. Estoppel is an equitable principle, and may be applied when four preconditions are satisfied: the same issue must be involved; the decision said to create the estoppel must be final; the same parties or their privies must be involved; and, as a discretionary matter it must be fair and just to apply the doctrine of estoppel in the particular circumstances.
    - b. In the present case, the Appellant was well aware of the zoning difficulties associated with this Site at all material times. The Appellant's previous applications had been turned down multiple times by the Development Authority and by this Board because the Automotive and Minor Recreation Vehicle Sales/Rentals Use is neither a Permitted nor Discretionary Use in the CHY Zone.
    - c. On May 22, 2001 an application was made to construct an addition and exterior/interior alterations to an Automotive and Minor Recreational Vehicle Sales/Rentals building (Western Pontiac/Buick). The City refused the application as sales is neither listed as Permitted nor Discretionary and problems concerning landscaping compliance are noted in the decision. The Board denied that appeal noting that the percentage of the business is used for sales and rental increased since the 1983 approval and that the Use is neither Permitted nor Discretionary. The Board concluded that allowing the appeal would only further increase a non-permitted and non-discretionary use for the site and advised the Appellant of the rezoning solution.
    - d. The 2014 approval is not applicable to this situation as it did not involve structural changes to the buildings or trigger Section 643 of the *MGA*.
    - e. Two prior related applications for renovations to construct an addition and exterior/interior alterations to an Automotive and Minor Recreational Vehicle Sales / Rentals building (Western Pontiac/Buick) renovations were approved by the Board in 2003 on the basis that the primary Use for the site would be an Automotive and Equipment Repair Shop, a Discretionary Use. (SDAB-D-02-355 and SDAB-D-03-360).

- f. Both of these applications were refused by the City on the basis that Automotive and Minor Recreation Vehicle Sales/Rentals Use is not listed as a Permitted or Discretionary Use.
- g. It is noted in both the refused applications and in the Board's approval Decisions that the Appellant submitted it was actively engaged in pursuing appropriate rezoning of the property as soon as practicable to resolve the issue while contemporaneously seeking development approval. The Appellant obviously considered its pending rezoning application to be a relevant factor in favour of development approval.
- h. According to the submissions of the Appellant at this hearing, once the approvals for the 2003 renovations were received, the zoning application was abandoned.
- i. Given these facts, it is the Board's opinion that the two 2003 decisions do not prevent or estop this Board from refusing the current appeal because the preconditions for estoppel are not met for two reasons.
- j. First, the "same issue" is not involved:
  - i. Decisions in which the SDAB previously refused permits for the Appellant were based on the finding that the principal Use is Automotive and Minor Recreation Vehicle Sales/Rentals.
  - ii. The two 2003 decisions which allowed renovations to the subject building determined the principal Use to be "Automotive and Equipment Repair Shop" This was the key determination for the two decisions.
  - iii. The Appellant is not relying on the key determination that the principal Use is Automotive and Equipment Repair Shop which was the basis for those prior decisions of approval.
  - iv. To the contrary, the Appellant indicated that it has always operated a car dealership as an Automotive and Minor Recreation Vehicle Sales/Rentals Use and seeks to continue to operate an Automotive and Minor Recreation Vehicle Sales/Rentals Use as a principal Use and to add an Automotive and Equipment Repair Shop to that principal Use as shown by the Scope of Application under appeal.
  - v. This is not surprising given that the Use class, Automotive and Equipment Repair Shop, does not include a sales component and that it could be difficult to consider a car dealership as an Accessory Use to Automotive and Equipment Repair Shop given the submissions of the Appellant that the repair aspect exists to serve the sales aspect of the business and given that a significant amount of space on the site including a portion of the building is devoted to sales.
- k. Second, the fourth precondition is not met as estoppel is not fair, just or appropriate given the circumstances surrounding the two prior renovation approvals and the current appeal, particularly with respect to rezoning.
  - i. The Appellant was well aware of limited Uses in the CHY Zone and of the option to seek rezoning that had been pursued for surrounding properties.

- ii. The Appellant repeatedly made specific representations in 2003 that it was actively pursuing rezoning in addition to development permits. However, after receiving development approval, all rezoning efforts were abandoned for the intervening 12 years.
  - iii. During this appeal hearing the Appellants once again submitted that rezoning will now be promptly pursued regardless of this Board's decision.
  - iv. However, the Board notes that the City has no record of any rezoning application and in Correspondence dated 30 May 2015 the Principal Architect for the project states "To suggests we go for rezoning is totally inappropriate".
  1. Finally the Board disagrees that additions to unlisted Uses can simply be "grandfathered" in and approved for the following reasons:
    - i. The Board accepts the position of the Development Authority that the proposed addition to the building, regardless of its Use class, will contribute directly or indirectly to expansion of the Automotive and Minor Recreation Vehicle Sales/Rental Use which is neither a Permitted nor Discretionary Use in the CHY Zone.
    - ii. The Board has no authority to approve this application as the situation is governed by section 643 of the *MGA* which provides:
      - (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
      - (2) ...
      - (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
      - (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
9. Accordingly the Appeal must be denied.

**Important Information for Applicant/Appellant**

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under section 688 of the *MGA*. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

Mr. W. Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

CC:

## **Edmonton Subdivision and Development Appeal Board**

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Date: August 13, 2015  
Project Number: 171651193-002  
File Number: SDAB-D-15-164

### **Notice of Decision**

This appeal dated July 2, 2015, from the decision of the Development Authority for permission to:

Construct exterior alterations (driveway extensions, left side 3.65m x 5.8m, and right side 0.6m x 5.8m) to an existing Single Detached House

on Plan 0625264 Blk 20 Lot 100, located at 8411 - 179 Avenue NW, was heard by the Subdivision and Development Appeal Board on July 29, 2015.

#### **Summary of Hearing:**

At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct exterior alterations (driveway extensions, left side 3.65m x 5.8m, and right side 0.6m x 5.8m) to an existing Single Detached House located at 8411 – 179 Avenue NW. The subject Site is zoned RSL Residential Small Lot Zone and is within the Edmonton North Area Structure Plan and the Klarvatten Neighbourhood Structure Plan.

Prior to the hearing the following information was provided to the Board, copies of which are on file:

- Two written submissions from the Appellant, received on July 22, 2015;
- A written submission from Sustainable Development, received on July 24, 2015; and
- One on-line response in support of the proposed development and one on-line response in opposition to the proposed development.

The Board heard from Ms. Lachance, the Appellant, who made the following points:

1. She reviewed her submission that was received in the SDAB office on July 22, 2015.
2. She provided the Board with the second page of her petition of support, marked “Exhibit A”, which was not attached to the Board’s copy of her submissions.

3. She received 32 signatures from neighbouring property owners in the 60 metres notification radius in support of her extended driveway.
4. When they parked on the street, their vehicles were vandalized, so the driveway was needed to accommodate their vehicles.
5. She did not speak to the neighbour immediately east of the subject Site regarding the driveway extension.
6. She referred to Appendix C of her submission, which contained photographs of houses both within and outside the 60 metres notification radius with driveway extensions.
7. As shown in the photograph provided, the parking pad does not extend up to the front steps of the dwelling as there is a green space and a large tree in the front yard.
8. When considering the driveway extension, she spoke to three contractors who all indicated that a development permit was not required.
9. When reviewing the City website for information, she did not find anything stating that the driveway extension needed a development permit.
10. She received information from the contractor indicating that a permit has never been required for a driveway or other concrete work that is “non-structural”.
11. She called the City Planning Department for information and she was informed that a development permit was not required.
12. She would like to be able to park three vehicles on the extended driveway when people are visiting.

In response to questions from the Board, Ms. Lachance provided the following information:

1. She confirmed that she understood the reasons for refusal and the provisions of the *Edmonton Zoning Bylaw* as outlined in the reasons for refusal.
2. Her family owns a truck, car, motorbike, and they will be getting a vehicle for her husband’s business that will be parked on the driveway.
3. The garage is used for storage and the motorbike will be parked in the garage in the winter.
4. The driveway extension was completed the first week of May, 2015.
5. The area of the extended driveway was previously a grass area.
6. She confirmed that she spoke to the neighbour to the west but not the neighbour to the east, which is the most affected neighbour.
7. She was uncertain if any of the other houses shown in the photographs submitted have permits for their extended driveways.
8. Their house is currently for sale.

In response to questions by the Board, Ms. Heimdahl, representing Sustainable Development, provided the following information:

1. She refused the development permit application under the direction of her Supervisor.
2. Although several neighbours in the 60 metres notification radius are in support of the extended driveway, the driveway is extreme in its extent.
3. She considered the proposed development based on the criteria of hardship and found that there was no hardship.

4. She distinguished the subject Site from pie shaped lots that are narrower at the front and could therefore contribute to hardship. The subject property does not possess this characteristic.
5. The landscaping between the parking pad and the front of the house is not adequate.
6. If the Board approves the extended driveway, heavy planters should be placed to prevent parking on the extended driveway.
7. Although the extended driveway will reduce on-street parking, that was not considered when she refused the development permit.
8. She confirmed that there are two parking spaces in the garage and two parking spaces in tandem on the driveway, which is sufficient parking on the property.

The Board then heard from Mr. Chiesa, who made the following points:

1. He has lived around the corner from the subject Site since 2007 and is familiar with the area.
2. He is opposed to the extended driveway and would like the property restored to its original landscaping.
3. He previously submitted an on-line response in opposition to the proposed development.
4. He read a prepared statement to the Board, marked "Exhibit B".
5. In his opinion, there are no other extended driveways in the area that are like the existing extended driveway.
6. Some homeowners "cheat" by adding a strip of concrete that is parallel to the driveway; however, extending the driveway to the property line is extreme.
7. Some homeowners "cheat" by installing paving stones to widen the driveway. Paving stones can be removed and concrete is permanent.
8. The extended driveway is a full parking pad.
9. In his opinion, pie shape lots are different as the sidewalk is along the perimeter of the house.
10. He is concerned that there will be no room to pile snow removal if vehicles are parked on the extended driveway.
11. He is unaware of any vandalism taking place in the neighbourhood.
12. He is concerned that if the extended driveway is approved, this will set precedence for people to park vehicles, recreational vehicles, boats, etc. in their front yards.
13. He reviewed section 54.1(4) of the *Edmonton Zoning Bylaw* and stated that the extended driveway also exceeds the maximum allowable width and prohibits parking a vehicle in the "Front Yard".
14. When searching the City website, he found an information brochure about Landscaping and Hardsurfacing, which he included as part of "Exhibit B".

In response to questions by the Board, Mr. Chiesa provided the following information:

1. He reiterated that the extended driveway involves more than the standard "cheat" for a sidewalk or driveway.

2. One of the photographs submitted shows that one driveway, which is outside the 60 metre notification, is larger than the standard “cheat” with a vehicle parked close to the front door. To his knowledge, the exposed aggregate driveway was installed four years ago and is outside the 60 metres notification radius.
3. In his opinion, parking on 179 Avenue is not as limited to the extent indicated by the Appellant.

In rebuttal, Ms. Lachance made the following points:

1. She, her husband, the police, and contractors could not find any information on the City website for information regarding driveways.
2. She contacted local politicians with concerns about the City website which may have prompted any website changes after the time she searched the website and before Mr. Chiesa searched the website for information regarding driveways.
3. She intends to pile snow on the green space in the Front Yard.
4. In her opinion, the houses shown in the photographs she submitted have more than a “cheat” sidewalk or driveway extension as indicated by Mr. Chiesa.
5. The MLS listing for her home does not state that there is a three car parking pad as they needed to know the outcome of the hearing before advising potential buyers.

**Decision:**

The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

**Reasons for Decision:**

The Board finds the following:

1. The proposed development, Driveway extensions, is Accessory to a Permitted Use in the RSL Residential Small Lot Zone.
2. The subject Site is 11.59 metres wide. It includes a Single Detached House with double front attached garage and Driveway.
3. Prior to the proposed Driveway extensions, there were 4 on-site parking spaces: two in front attached garage and two more in tandem on the front Driveway.
4. The pre-existing front Driveway has been extended east of the entrance to the garage by a strip measuring 3.65 metres wide by 5.8 metres deep and west of the entrance to the garage by a strip measuring 0.6 metres wide by 5.8 metres deep. The proposed concrete Driveway now extends beyond the containment of the garage by 4.25 metres.
5. The proposed concrete Driveway will span 10.35 metres along the front of the subject Site which is 11.59 metres in width.

6. The Driveway extensions were constructed specifically to enable a third on-site parking in the Front yard for a truck owned by the family. This truck is shown in the photographic evidence.
7. Areas in the Front yard that had basic landscaping have been replaced by concrete parking areas.
8. The Board agrees with the Development Authority and finds that the proposed Driveway extensions do not comply with many development regulations pertaining to Front yards, parking and Driveways in the *Edmonton Zoning Bylaw* for the following reasons:

- a. Section 6.1(26) of the *Edmonton Zoning Bylaw* defines Driveway as “an area that provides **access** for vehicles from a public or private roadway to a Garage or Parking Area.” [Emphasis added] The two extensions do not meet the definition of Driveway as they do not lead to an overhead garage door or parking area. The two extensions are intended to be used as a parking area.
- b. With two Driveway extensions, almost the entirety of the Front yard is now covered in monolithic concrete, giving the appearance of a parking lot. Therefore, the Front yard lacks Landscaping which contravenes section 55.4(1) of the *Edmonton Zoning Bylaw* which states, in part:

All open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with trees, shrubs, flower beds, grass, ground cover or suitable decorative hardsurfacing, in accordance with the Landscape Plan submitted pursuant to subsection 55.3 and approved by the Development Officer.

The board notes that Monolithic concrete is not considered a form of landscaping under section 6.1(55) of the *Edmonton Zoning Bylaw*.

- c. The proposed Driveway extensions have been constructed specifically to facilitate on-site parking of vehicles in the Front yard of the lot, which is also prohibited under section 54.2(2)(e)(i) of the *Edmonton Zoning Bylaw*, which states that other than Driveways, “parking spaces are not to be located within a Front Yard” The proposed Driveway will measure approximately 10.35 metres in width, where 6.2 metres is the maximum allowed under section 54.1(4)(b).
9. In sum, the proposed development violates many regulations as it is specifically trying to achieve the very object that is prohibited by these regulations in the current Bylaw.

10. The Board agrees with the Development Officer that “The extensive concrete which will cover the majority of the front yard is unsightly. Other than areas designated for driveway, the rest of the front yard should be landscaped. Parking on areas that should be landscaped also takes away from desirable curb appeal. This proposed driveway extension is not in keeping with the character of the neighbourhood.”
11. The Board recognizes that some other homeowners have also extended their Driveways. However, based on the photos and the evidence of Mr. Chiesa, the proposed Driveway extensions are extreme and beyond the “typical cheat” described by Mr Chiesa and shown in the Appellant’s photos. The proposed development materially changes the appearance of the Front yard in a non-typical manner for rectangular lots like the Appellant’s lot.
12. The Board also notes that it has no evidence about whether these other extensions were approved.
13. As shown in the photo of the Site provided by the Development Officer and the Appellant, a typical landscaped Front yard with Driveway has been replaced by an unsightly uniform cement parking area which extends almost the full width of the property and up to the garage on either side.
14. Therefore, it is the opinion of the Board that the proposed development is so extreme that it is not characteristic of the neighbourhood, nor allowed in the City of Edmonton.
15. While the Board commends the Appellant her efforts to canvass her neighbours and obtain 32 signatures in support of the proposed development, approving this proposed Driveway extension could set a precedent for other driveways in the area.
16. Based on the above, it is the opinion of the Board that the proposed development will unduly interfere with the amenities of the neighbourhood, and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

#### **Important Information for Applicant/Appellant**

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*

Mr. W. Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

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