

Edmonton Subdivision and Development Appeal Board

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DATE: March 26, 2015
PROJECT NO.: 165332560-001
FILE NO.: SDAB-D-15-048

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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

Construct exterior alterations (Driveway extension 6.0 metres by 3.0 metres) to an existing Single Detached House, existing without permits

on Plan 1321153 Blk 7 Lot 36, located at 3411 - Keswick Boulevard SW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 11, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

At the outset of the appeal hearing, a member of the Board, Mr. Gibson, disclosed that he knows Mr. Lange, the Appellant. However, Mr. Gibson confirmed that he has no bias towards the application. 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, R.S.A 2000, c. M-26.

The Board heard an appeal from the decision of the Development Authority to construct exterior alterations (Driveway extension 6.0 metres by 3.0 metres) to an existing Single Detached Housing, existing without permits. The subject Site is zoned RSL Residential Small Lot Zone and is located at 3411 Keswick Boulevard SW. The development permit application was refused because the proposed concrete Driveway extension does not lead directly to the Garage or Parking Area; the proposed Driveway extension is in the front of the property and landscaping regulations require that the Front Yard must be landscaped and concrete is not considered a form of landscaping; and the Driveway extension is not characteristic of the neighbourhood.

SUMMARY OF HEARING CONTINUED:

The Board notes that no letters were received in support or opposition to the proposed development.

Prior to the hearing, the Development Authority provided a written submission in opposition of the development.

The Board heard from Mr. Lange, representing the Appellant, Ace Lange Construction, who was accompanied by Ms. Grimes, the property owner.

Mr. Lange provided the Board with a submission that contained photographs of the subject Site, the parking pad, a landscape plan, photographs of other driveways in the Upper Windermere neighbourhood, and a letter of support from an adjacent property owner marked "Exhibit A".

Mr. Lange and Ms. Grimes made the following points:

1. The existing driveway extension is 6.0 metres by 3.0 metres.
2. They provided a landscape plan, which will mitigate the appearance of the driveway in the front yard.
3. The builder will be installing a wrought iron fence in the front yard to mitigate the visual impact of the driveway extension in the front yard.
4. They received a letter of support for the existing driveway from the home builder, who is also the current property owner of the abutting house to the east.
5. She stated that currently they have two vehicles; however, she has three teenagers that will have vehicles in the near future.
6. The additional parking will allow extra room to maneuver vehicles on the property.
7. The additional parking space will alleviate an excess of on-street parking in front of the subject site.

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

1. The wrought iron fence will be approximately 6 feet high.
2. He stated that it was his error in not applying for a development permit.
3. He reviewed some of the photographs showing the Upper Windermere neighbourhood that have similar driveways with extensions that do not lead to the garage vehicle doors; driveways that have two separate access points to the public roadways; and driveways with similar concrete materials that encompass the majority of the front yard.

SUMMARY OF HEARING CONTINUED:

4. In response to the Development Authority's recommended landscaping requirement if approved by the SDAB, he stated that the suggested concrete planter was incompatible with the landscaping plans authored by his landscaping architect which is detailed in page 17 of Exhibit "A".
5. He stated a gate will not be installed between the two concrete pillars that anchor the entry of the driveway.
6. In his opinion, the removal of the 6.0 metres by 3.0 metres concrete extension will cause the property owner undue hardship with additional costs.

The Board then heard from Mr. Sifat, representing the Sustainable Development Department, who made the following points:

1. He outlined his submission that was provided to the Board.
2. In his opinion, there is not a hardship with regard to the availability of parking on the property.
3. The attached garage has room to park three vehicles and there is sufficient parking space on the original driveway to park additional vehicles.
4. With regard to the proposed landscaping plan, he stated that the proposed fence may mitigate the visual impact of the additional parking space.

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

1. He stated that there are several proposed driveways in the neighbourhood that are currently under review that, in his opinion, will be approved.
2. In his opinion, although there are several extended driveways in the area, they are not characteristic of the subject neighbourhood.

In rebuttal, Mr. Lange made the following points:

1. He stated that gravel (crushed rocks) and artificial grass are considered appropriate landscaping materials and vehicles can still be parked on such materials in a front yard. However, this is not the case for the subject development.
2. The property owners are committed to the proposed landscaping plan and will complete the landscaping in the summer.
3. In his opinion, the proposed landscaping plan will mitigate any visual impact concerns.

SUMMARY OF HEARING CONTINUED:

4. It was his mistake not to add the extended driveway to the original proposed plan.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED, subject to the following conditions:

1. Landscaping shall be provided as per the Landscaping Plan detailed on page 17 of Exhibit "A" and in accordance with Section 55.8 of the Edmonton Zoning Bylaw.
2. Immediately upon completion of the landscape alterations, the site shall be cleared of all debris.

Notes:

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

The Board waives the following:

1. Section 54.1.4 - The Front Yard of any at-grade Dwelling unit in any Residential Zone may include a maximum of one Driveway. The area hardsurfaced for a Driveway shall have:
 - a. a minimum width of 3.1 metres; and
 - b. a maximum width that shall be calculated as the product of 3.1 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.

The Driveway shall lead directly from the roadway to the required Garage or Parking Area.

Maximum Permitted: 9.3 metres

Existing: 14.8

Excess: 5.5 metres

DECISION CONTINUED:

2. Section 55.4(1) - 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.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is Accessory to a Permitted Use in the RSL Residential Small Lot Zone.
2. The Board accepts the photographic evidence submitted that the extensive use of exposed aggregate concrete in the Front Yard is characteristic of the neighbourhood.
3. The Board is satisfied that the proposed landscaping plan and the wrought iron fencing in Front Yard of the subject Site will provide adequate screening for the additional parking space.
4. No letters were received in opposition to the proposed Driveway extension and no one appeared in opposition at the hearing.
5. Based on the above, it is the opinion of the Board, that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

IMPORTANT INFORMATION FOR APPLICANT/APPELLANT

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.

4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
5. 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, R.S.A. 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.
6. 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.

SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

CC:

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DATE: March 26, 2015
PROJECT NO.: 157175718-002
FILE NO.: SDAB-D-15-049

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 17, 2015, from the decision of the Development Authority for permission to:

Construct additions (attached Garage, 9.45 metres by 9.76 metres and upper Half Storey with dormers), interior alterations (main and second floor renovations and basement development, NOT to be used as an additional Dwelling) to an existing Single Detached House and to demolish an attached Garage (6.72 metres by 7.54 metres)

on Plan 6253KS Blk 11 Lot 17, located at 15309 - Rio Terrace Drive NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 11, 2015. The decision of the Board was as follows:

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, R.S.A 2000, c. M-26.

The Board heard an appeal from the decision of the Development Authority to construct additions (attached Garage, 9.45 metres by 9.76 metres and upper Half Storey with dormers), interior alterations (main and second floor renovations and Basement development, NOT to be used as an additional Dwelling) to an existing Single Detached House and to demolish an attached Garage (6.72 metres by 7.54 metres), located at 15309 – Rio Terrace Drive NW. The subject Site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay. The subject Site is also within the North Saskatchewan River Valley and Ravine System Overlay. The development permit application was refused due to an excess in the maximum allowable Height; an excess in the ridge line of the roof; and an excess in the maximum allowable Width of the front and rear dormer.

SUMMARY OF HEARING CONTINUED:

The Board notes that no letters were received in support or opposition to the proposed development.

Prior to the hearing, the Development Authority submitted a written submission to support the decision.

The Appellant, Mr. Thomsen provided the Board with a submission that contained a letter and petition in support of the proposed development, marked Exhibit "A", and a revised site plan, floor plans, and elevation plans, marked Exhibit "B".

The Board heard from Mr. Thomsen, the property owner, representing the Appellant, Thomsen Homes Inc., who made the following points:

1. He wishes to complete a full renovation of the house and demolish the existing double car attached garage. He would like to replace the double car attached garage with a three car garage and add a bonus room on top of the garage.
2. He stated the reasons for refusal as outlined in Exhibit "A" and included:
 - a. An excess in height of the house;
 - b. An excess of 0.3 metres in the aggregate total width of the front dormers; and
 - c. An excess in the allowed width of a rear dormer.
3. He presented reasons for allowing the appeal as outlined in Exhibit "A" and included:
 - a. the subject property backs on the North Saskatchewan River Valley, there are no neighbours to the rear of the property;
 - b. the home to the immediate east is located on a combined lot and the western portion of that lot is vacant;
 - c. the subject property is a 100 foot wide lot with a front setback of 15.03 metres to the front lot line and the house is surrounded by mature spruce trees which reduces the tall look of the house;
 - d. it is his understanding that the City is currently reviewing the Edmonton Zoning Bylaw which will allow for greater height for houses within the mature neighbourhoods;
 - e. this is a 2 Storey home with an attic truss system. The 3rd floor, which is considered a half Storey in the Edmonton Zoning Bylaw, is the attic in the roof;

SUMMARY OF HEARING CONTINUED:

- f. the rear dormer faces the North Saskatchewan River and does not affect anyone as there is no neighbour to the south;
 - g. the rear dormer will allow for him to take advantage of the river view;
 - h. there is support of the development from the immediate east and west neighbouring property owners;
 - i. the site width is 25.91 metres and the proposed garage width is 9.76 metres which is only 37.7 percent of the total site width;
 - j. his submission marked as Exhibit "A" included pictures of other developments on Rio Terrace and in the neighbourhood that are similar to the proposed development with 3 car garages; and
 - k. the existing garage does not meet building code and needs to be upgraded.
4. In his opinion, the proposed development is characteristic of the neighbourhood.
 5. He canvassed the neighbourhood and provided information regarding the proposed development. However, the Development Authority missed the required variances for the excess in 1 garage stall and the excess in the width of the Driveway, which he did not include in the community consultation.

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

1. The variance in height is required due to the following reasons:
 - a. a 12/12 roof-pitch will allow for a useable floor area in the attic;
 - b. a 12/12 roof-pitch is necessary to preserve the architectural character of a French Renaissance design he wishes to achieve; and
 - c. given the existing footprint of the house, the 12/12 roof pitch, is the only way to have adequate headroom in the third floor space.
2. The third floor area will be used as a flex or office area.
3. Although a 12/12 pitch is used to achieve the third Storey, it continues to be classified as a two and a half Storey.
4. The original development permit application included a rear deck; however, the new proposal is only to renovate the house and demolish and rebuild the garage.
5. The existing house is legal non-conforming and was built prior to the current Mature Neighbourhood Overlay regulations.

SUMMARY OF HEARING CONTINUED:

6. The shed and chain link fence are non-conforming and will be removed.

The Board then heard from Mr. Xie, representing the Sustainable Development Department, who made the following points:

1. He clarified the regulation of non-conforming buildings within the *Municipal Government Act* as well as the *Edmonton Zoning Bylaw* that allows the Development Authority to grant minor variances.
2. In his opinion, the proposed development will not negatively impact neighbouring properties.
3. In his opinion, the variances are minor in the context of neighbouring developments.

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

1. In response to whether if he would approve the proposed development if he had the authority to vary height, he stated that he would have asked for a reduction in the height of the proposed dwelling.
2. He clarified that the ridge line of the roof can extend 1.5 metres beyond the maximum height of the underlying zone, which is 10 metres. The height to ridge line of the roof is 11.90 metres and a variance of 0.40 metres is required. The maximum allowable of 10.10 metres stated in his refusal decision reflects the maximum height of 8.6 metres in the Mature Neighbourhood Overlay and the additional 1.5 metres allowed as per Section 6.1(49)(b) of the Edmonton Zoning Bylaw.
3. He confirmed that the future rear deck will require a separate development permit.
4. In his opinion, a triple car garage is characteristic of the neighbourhood.

Mr. Thomsen did not have anything to add in rebuttal.

DECISION:

that the appeal be ALLOWED and the decision of Refusal by the Development Authority OVERTURNED based on the revised Site Plan and floor plans numbered Page 1 to 11 submitted as Exhibit "B", and the following variances granted:

DECISION CONTINUED:

1. An excess of 1.02 metres in the maximum Height, pursuant to Section 814.3(13).
2. An excess of 0.4 metres in the Height of the ridge line of the roof, pursuant to Section 6.1(49)(b).
3. An excess of 0.3 metres in the aggregate width of dormers on the front elevation and an excess of 3.0 metres in the width of a dormer on the rear elevation, both pursuant to Section 814.3(15).
4. The requirements of Section 814.3(19) waived to permit a three-vehicle Garage.
5. An excess of 0.46 metres in the width of the Driveway, pursuant to Section 54.1.4(b).

Conditions

1. This Development Permit does NOT authorize the development of a rear uncovered deck. Any future deck over 0.60 metres in Height will require a separate development permit.
2. The proposed basement development shall not be used as an additional Dwelling unit. An additional Dwelling shall require both a new development permit and building permit application.
3. The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.
4. Except for the hardsurfacing of Driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw.
5. All yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. Alternative forms of landscaping may be substituted for seeding or sodding as specified in Section 55.2(4)(b).

Notes:

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2).

DECISION CONTINUED:

Lot grades must match the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5500 for lot grading inspection inquiries.

Due to the roll face curb construction at this property, there are no requirements for a separate curb crossing permit under Section 1210 and 1211 of Traffic Bylaw No. 5590. Approval is given for the access under this Development Permit.

The applicant is advised to research the Land Title for this property and to be aware of any restrictions in any Restrictive Covenants registered against the legal title. This approval does not imply consent for any structure that does not meet the requirements of the Restrictive Covenant.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is an addition to a Permitted Use in the RF1 Single Detached Residential Zone.
2. The Board finds the distinctive architectural design of the proposed development justifies the excess in Height and the width of the dormers on the front elevation of the development.
3. Based on the evidence submitted, the excess in Height is mitigated by the large Setback from the front property line and the existing mature landscaping. The Board finds the Height of the proposed development is in scale with the width of the subject Site.
4. The dormers on the rear elevation of the development face the river valley and have no impact on neighbouring properties.
5. Based on the photographic evidence submitted, the Board finds the three-car Garage is characteristic of the neighbourhood and justifiable in that there is no other access to the subject Site.
6. The Board finds that the excess width of 0.46 metres in the proposed Driveway will not create a negative impact as this comprises only 37.7 percent of the width of the lot.
7. The existing development is legally non-conforming. However, the Board is satisfied that the variances granted are within the powers granted under Section 643.5 of the *Municipal Government Act*.
8. There is support from the most affected neighbouring property owners.
9. No letters of opposition were received and no one appeared in opposition at the hearing.

REASONS FOR DECISION CONTINUED:

10. Based on the above, it is the opinion of the Board, that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

IMPORTANT INFORMATION FOR APPLICANT/APPELLANT

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
5. 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, R.S.A. 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.

6. 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.

SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

CC:

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DATE: March 26, 2015
PROJECT NO.: 161338833-002
FILE NO.: SDAB-D-15-050

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 13, 2015, from the decision of the Development Authority for permission to:

Construct 2 Apartment House buildings (80 Dwellings each) with underground parking and an Accessory building.

on Plan 1425239 Blk 3 Lot 3, located at 1071 - Chappelle Boulevard SW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 11, 2015. The decision of the Board was as follows:

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, R.S.A 2000, c. M-26.

The Board heard an appeal from the decision of the Development Authority to approve an application to Construct 2 Apartment House buildings (80 Dwellings each) with underground parking and an Accessory building, located at 1071 - Chappelle Boulevard SW. The subject Site is zoned RA7 Low Rise Apartment Zone. The development permit application was approved with variances granted in the minimum required unobstructed width of a parking stall, within the underground parkades, where one side is obstructed by a column or wall; and that there are onsite walkways within the required Privacy Zone of 8 main floor Dwellings, subject to conditions and subsequently appealed by an adjacent property owner.

SUMMARY OF HEARING CONTINUED:

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

1. A written submission from the Development Authority;
2. A written submission from the Respondent;
3. A response in support of the proposed development from an adjacent property owner.

The Board heard from Mr. St. Denis, the Appellant, who made the following points:

1. The proposed development is located directly behind his house.
2. He is concerned with high density developments being located so close to his property.
3. In his opinion, large trucks will not be able to park in the smaller parking stalls which will result in more vehicular parking on the street.
4. He is concerned how an excess of street parking will affect snow removal in the neighbourhood.
5. In his opinion, regulations in the Edmonton Zoning Bylaw should not be relaxed.
6. The majority of his neighbours are concerned with the proposed development; however, they were not able to attend the appeal hearing.
7. When he purchased his house in 2010, the Area Structure Plan indicated that the subject Site was zoned RF6 Medium Density Multiple Family Zone and it was rezoned to RA7 Low Rise Apartment Zone in 2012. He was recently informed of the zoning change.
8. He was informed that the proposed development would be a Row House development and not a four Storey Apartment Building, which will negatively impact his privacy.
9. A salesman from Brookfield Residential informed him that the proposed development will have a 20 metre separation space between the adjacent properties.

The Board then heard from Mr. Bacon, City of Edmonton Sustainable Development, who provided the following information in response to questions by the Board:

1. The subject Site was rezoned to RF6 Medium Density Multiple Family Zone on May 26, 2008.
2. The RF6 Zone has a maximum Height of 14 metres and 4 Storeys with a maximum Density of 80 to 105 Dwellings per hectare.

SUMMARY OF HEARING CONTINUED:

3. The subject Site was rezoned to RA7 Low Rise Apartment Zone on March 12, 2012.
4. At the same time the Neighbourhood Area Structure Plan was amended to show the subject Site was intended for Low Rise Apartments replacing the previous intention for Town House developments.
5. The RA7 Low Rise Apartment Zone has a maximum Height of 14 metres and 4 Storeys and a maximum Density of 125 Dwellings per hectare.
6. With regard to landscaping, he requested and received additional landscaping to mitigate any concerns regarding privacy.
7. As well, additional trees are to be planted along the multi-use trail system. There is also a double row of trees along the trail.

The Board then heard from Ms. Arsenault, representing the Respondent, Highstreet Chappelle LP, who was accompanied by Mr. Steinke, representing Brookfield Residential, who together made the following points:

1. The land was purchased in 2014 which was already zoned RA7 Low Rise Apartment Zone.
2. They referenced the photograph in their submission showing the trail between the subject Site and the Appellant's property.
3. The width of the parking stalls will be increased from 2.6 metres to 2.7 metres, which will change the requested variance.
4. The underground parking stalls will be able to accommodate trucks. However, there will be on-site surface parking if residents are unable to park underground.
5. In their opinion, the size of the parking stalls will not have an impact on street parking.
6. The proposed development complies with the 4.0 metre required Setbacks and the trail and green space between the subject Site and the Appellant's property is 12.0 metres wide which will provide a total separation distance of 16.0 metres.
7. The patios on the main floor will have railings and residents will not be able to access the trail directly from their patios.
8. The fence surrounding the property will be an open style iron fence.
9. The apartments will not be low-income housing but rented out at market rates.
10. With regard to privacy, a variance is only required at the east end of the building which does not face the Appellant's property to the north

SUMMARY OF HEARING CONTINUED:

11. The marketing material provided to the neighbours always indicated that the subject Site was for multi-family developments.
12. The maximum Height is the same in the RF6 Medium Density Multiple Family Zone and the RA7 Low Rise Apartment Zone.
13. The only change due to rezoning is the increase in the allowable Density.
14. The location of the proposed development will reduce the impact of traffic in the neighbourhood.
15. A copy of the marketing plan was submitted to the Board, marked Exhibit "A1" and "A2".
16. The proposed development meets the Density requirements in the Neighbourhood Area Structure Plan for multi-family developments.
17. On the east side of the development where the privacy requirement has been relaxed, a 20 metre buffer will be installed due to the pipeline right of way.
18. Decorative steel fences will be used to provide a more open concept to provide for safety and a large open green space appearance.
19. A Landscaping plan has been completed and meets the City's design and construction guidelines.

The Presiding Officer asked Mr. Bacon back to answer a further question of the Board. Mr. Bacon provided the following information:

1. With regard to the changes in the width of the underground parking stalls, he stated that he was not aware of any changes to the proposed plans and that any changes will be dealt with at the building permit stage.

In rebuttal, Mr. St. Denis made the following points:

1. He is concerned that the Respondent planted the smallest calliper trees to finish the landscaping, which will not help with the privacy issue.
2. The property owners on the east side of the proposed development will be negatively impacted with the variance in the privacy requirement.
3. He questioned whether or not the separation distance between the proposed development and his property is 12 metres wide.
4. In his opinion, there is not enough parking on the subject Site to accommodate the residents.
5. He reiterated that, in his opinion, smaller underground parking stalls will not accommodate large trucks.
6. In his opinion, the developer will not maintain the landscaping as they are not keeping the site clean now.

SUMMARY OF HEARING CONTINUED:

7. There is debris on the subject Site and the fence has not been installed yet.
8. In his opinion, a wood fence will mitigate privacy issues more than a steel fence would.

DECISION:

that the appeal be DENIED and the decision of Approval by the Development Authority CONFIRMED.

The Development Authority's decision contained the following variances and conditions:

Variances:

1. Section 54.2.4(a)(v) relaxed - the minimum required unobstructed width of a parking stall, within the underground parkades, where one side is obstructed by a column or wall is reduced from 2.7 metres to 2.4 metres.
2. Section 48.3(3) relaxed - there are onsite walkways within the required 4.5 metres Privacy Zones of 8 main floor Dwellings.

Conditions:

The applicant shall submit revised main floor plans for both buildings to the satisfaction of the Development Officer. The two bedroom units beside the main entrances with the bedroom window facing the exterior main entrance area, shall be revised to a one bedroom unit with a den; with the den being the room closest to the main building entrance.

All access locations and curb crossings shall have the approval of the City Transportation Department prior to the start of construction. Reference Section 53(1).

- 1) The proposed 9m access to Chappelle Boulevard SW located 14.3m from the northwest corner pin, is acceptable to Transportation Services and must be constructed as a commercial crossing access.

DECISION CONTINUED:

- 2) Existing boulevard trees along Chappelle Boulevard are a requirement of the associated subdivision (LDA07-0489/Chappelle Stage 1); however, the Final Acceptance Certificate (where the City takes ownership) has not been issued. An existing tree will conflict with the proposed access for the subject site (Lot 3). The applicant must contact Brian Charanduk with Stantec Consulting (780-917-7000) to amend (red-line) the approved landscape drawings for the subdivision to remove/relocate the tree.

However, should the Final Acceptance Certificate be issued prior to the development of the site, all costs associated with the potential removal/relocation of existing boulevard trees, as stated in the Corporate Tree Management Policy C456A, will be borne by the owner/applicant. The owner will be required to contact Marshall Mithrush of Community Services (780-496-4953), prior to construction, to remove and relocate the trees or to arrange for hoarding and/or root cutting at the discretion and direction of Community Services.

- 3) The owner must enter into a Municipal Improvement Agreement with the City for the following improvements:
 - a) construct a 9 metre commercial crossing access to Chappelle Boulevard SW, located 14.3 m from the northwest corner pin;
 - b) removal/relocation of a boulevard tree on the east side of Chappelle Boulevard SW.

Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Municipal Improvement Agreement must be signed PRIOR to the release of the drawings for Building Permit review. The Agreement must be signed by the property owner and returned to Transportation Services to the attention of Loli Fernandez (780-944-7683) including an irrevocable Letter of Credit in the amount of \$16,000.00 to cover 100 percent of construction costs. The Agreement will be forwarded directly to the owner for his signature.

- 4) Parallel parking is NOT permitted on the internal road system as the road width (carriageway) is less than 7.5m. Both sides of the road must be signed 'No Parking'. A road width of less than 7.5m will not accommodate parking and still allow emergency vehicle access.

DECISION CONTINUED:

- 5) The proposed connector sidewalks (1 total) from the west property line of the subject site to tie into the City sidewalk on the east side of Chappelle Boulevard SW, and the proposed connector sidewalks (2 total) from the south property line of the subject site to tie into the City shared use path are a requirement.
- 6) The internal roadway must be signed 'Private Road'. The sign is to be located on private property at the site entrance.
- 7) Any sidewalk, shared use path or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The sidewalks, shared use path and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

Transportation Department Advisements:

- 1) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
- 2) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:
http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx
- 3) Residential Sales Trailers require a separate development permit. Construction trailers must be located on private property or within the hoarded area.
- 4) Arterial Roadway Assessments were previously paid for this site, and therefore are not owed under this development application.

DECISION CONTINUED:

- 5) Contact Loli Fernandez (780-944-7683) prior to the start of construction of the sidewalk connection to the City sidewalk on Chappelle Boulevard SW and the sidewalk connections to the shared use path located south of the subject site.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$2,420.00.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$148,960.00. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

Landscaping shall be in accordance to the approved landscape plan, Section 55 and to the satisfaction of the Development Officer.

The 5 existing trees within the Front Setback abutting Chappelle Boulevard SW shall be preserved and protected unless removal is demonstrated, to the satisfaction of the Development Officer, to be necessary or desirable to efficiently accommodate the proposed development. Reference Section 55.4(8).

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:

- a) cash to a value equal to 100 percent of the established landscaping costs;
- or
- b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55(6).

DECISION CONTINUED:

Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.

The developer shall provide 23 visitor parking stalls readily available to an entrance of the building to be served, and clearly identified as visitor parking to the satisfaction of the Development Officer. Reference Section 54.2, Schedule 1A(1).

The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54(6).

All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).

NOTES:

- 1) Signs require separate Development Applications.
- 2) A Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
- 3) This approval does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is a Permitted Use in the RA7 Low Rise Apartment Zone.

REASONS FOR DECISION CONTINUED:

2. The two variances are internal to the proposed development and will not adversely affect the Appellant's property or the property owners south of the subject Site.
3. Apart from these variances, the proposed development fully complies with all requirements, including on-site parking, of the *Edmonton Zoning Bylaw*.
4. The Board acknowledges the Appellant's concerns about rezoning of the subject site. However, these concerns are outside the Board's jurisdiction with regard to the zoning of the property.
5. The Board is satisfied that the proposed development complies with the Chappelle Neighbourhood Area Structure Plan.
6. Based on the above, it is the opinion of the Board, that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

IMPORTANT INFORMATION FOR APPLICANT/APPELLANT

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.

5. 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, R.S.A. 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.
6. 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.

SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

CC:

NOTE: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.