



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
P: 780-496-6079 F: 780-577-3537
sdab@edmonton.ca
edmontonsdab.ca

Date: April 12, 2019
Project Number: 273816898-010
File Number: SDAB-D-19-043

Notice of Decision

- [1] On March 28, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on February 28, 2019. The appeal concerned the decision of the Development Authority, issued on February 27, 2019, to refuse the following development:

Construct exterior alterations to a Single Detached House, existing without permits (increase in building Height)

- [2] The subject property is on Plan 1525573 Blk 12 Lot 17, located at 11214 - 61 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
 - The Development Officer’s written submissions;
 - The Appellant’s written submissions; and
 - Email in support from the Highlands Community League.

Preliminary Matters

- [4] 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.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

Summary of Hearing*i) Position of the Appellant, Mr. Shewchuk*

- [7] Mr. Shewchuk referred to his written submission that was submitted to the Board. He explained in detail the background of the subject Site and how the over height error was achieved (pages 2-3 and pages 8-16 of the written submission). All requested variances are directly related to the elevation of the home.
- [8] Given that the City of Edmonton does not have the authority to grant any height variances, they are appealing to the Subdivision and Development Appeal Board of Edmonton to allow these variances. They fully recognize that any decision through this Board is final and will be followed through without exception.
- [9] Mr. Shewchuk offered several reasons why, in his opinion, the additional 50 centimetres height of his home does not “unduly interfere with the amenities of the neighborhood, or materially interfere with or affect the use, enjoyment or value of the neighboring parcels of land” (pages 3-4 of the written submission).
- [10] He referred to Page 17, a map showing the location of the subject Site and the area.
- [11] The existing house is not an eyesore but they would like to build a house that is characteristic of the neighbourhood.
- [12] He referred to photographs of the subject Site and other homes in the area which are older and are typical of the community and, in his opinion, are comparable in style to the one he is building.
- [13] He referred to Photograph L of his submission showing a house that was built in 2010. Although he did not take measurements, that house is similar or taller than the proposed development.
- [14] Only a small portion of the peaked gable roof on the subject property exceeds the maximum allowable Height.
- [15] The house directly east of the subject Site is on a large lot and set further to the north. The subject dwelling faces directly in front of large trees, far exceeding the height of either home. They feel this property is unaffected by the additional height.
- [16] The rear of the subject Site is directly across from Highlands Park and will not negatively impact that adjacent property.
- [17] They chose a traditional design so that the house is characteristic of the neighbourhood. Flattening the roof may remove this consistency, move the appearance further away from the traditional character and inadvertently change the design from the original design and therefore from the intended purpose, or spirit, of the Mature Neighborhood Overlay.

- [18] The rear deck has not been constructed. He would like the deck variance to be granted as this is related to the foundation depth. However, he is prepared to tier the deck if needed to bring the site coverage below 28 percent.
- [19] The deck at one single level may provide safer and easier passage into the home. Any privacy concerns do not appear to be a concern from the neighbors. The south neighbor has a raised rear deck, and currently there are no fences that exist between the properties.
- [20] He referred to the Community Consultation and stated that he reached out to all of the neighbouring property owners within a 60 metre radius.
- [21] He contacted the Highlands Community League executive and also attended one of their meetings to provide information regarding the proposed development.
- [22] The Community League was welcoming; however, he felt that the Community League would not take a position in matters like this. He was pleased to see their email of support.
- [23] The most affected neighbouring property owners were not opposed to the excess in maximum allowable Height. The north and south property owners signed in support of the proposed development.
- [24] He did not receive any opposition to the proposed development.

ii) Position of the Development Officer, Mr. Xie

- [25] The Development Authority did not appear at the hearing and the Board relied on Mr. Xie's written submission.

Decision

- [26] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **CONDITION** as proposed by the Development Authority and reviewed by the Applicant:
1. As far as reasonably practical, the design and use of exterior finishing materials used shall be similar to or better than, the standard of surrounding development.

Advisements:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the *Municipal Government Act*, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Reference Section 5.2).
2. Any future deck enclosure or cover requires a separate development and building permit approval.
3. Unless otherwise stated, all above references to section numbers refer to the authority under the *Edmonton Zoning Bylaw 12800*.

[27] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed (as per the submitted plans):

1. The maximum allowable building Height of 8.9 metres to midpoint as per Section 814.3(5) is varied to allow an excess of 0.3 metres, thereby increasing the maximum allowed Height to 9.2 metres.
2. The maximum allowable building Height of 10.4 metres to ridge as per Section 814.3(5) and 52.2(c) is varied to allow an excess of 0.5 metres, thereby increasing the maximum allowed Height to 10.9 metres.
3. The maximum allowable basement elevation of 1.5 metres above Grade as per Section 814.3(6) is varied to allow an excess of 0.1 metres, thereby increasing the maximum allowed basement elevation to 1.6 metres.
4. The maximum allowable Site Coverage for a Principal Dwelling of 28 percent as per Section 110.4(6)(a) is varied to allow an excess of 3 percent, thereby increasing the maximum allowed to 31 percent.

Reasons for Decision

[28] The proposed development is a Permitted Use in the RF1 Single Detached Residential Zone.

[29] All the requested variances are directly related and are a result of an error on documents used inadvertently by all parties involved.

[30] Based on the photographic evidence submitted, the proposed development will be characteristic of other houses in the neighbourhood.

- [31] The Board finds that only a small portion of the peak, gabled roof exceeds the maximum allowable Height.
- [32] The excess in maximum allowable height will not negatively impact privacy with the adjacent neighbours.
- [33] The proposed development will face large trees which exceed the Height of the house.
- [34] The rear of the property is directly across from Highlands Park and no residence will be impacted across the rear lane.
- [35] The Board received a letter of support for the proposed development from the Highlands Community League.
- [36] The Board accepted the Community Consultation submitted by the Appellant who received support from neighbouring property owners within the 60 metre notification radius.
- [37] There is support from the immediately adjacent property owners.
- [38] No letters were received in opposition to the proposed development and no one appeared in opposition at the hearing.
- [39] 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.

Mr. B. Gibson, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. L. Gibson; Mr. J. Kindrake; Ms. E. Solez

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. Xie / Mr. Wen

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
 - b) the requirements of the *Alberta Safety Codes Act*,
 - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - d) the requirements of any other appropriate federal, provincial or municipal legislation,
 - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. 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.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
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*, 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.
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 Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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.



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Date: April 12, 2019
Project Number: 292728469-001
File Number: SDAB-D-19-044

Notice of Decision

- [1] On March 28, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on December 31, 2018. The appeal concerned the decision of the Development Authority, issued on December 20, 2018, to refuse the following development:

Construct a General Industrial Use structure (Crane Shelter, existing w/o permits)

- [2] The subject property is on Plan 1723034 Blk 33 Lot 1, located at 6603 - 30 Street NW, within the IM Medium Industrial Zone. The Maple Ridge Industrial Area Structure Plan applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
 - The Development Officer’s written submissions; and
 - The Appellant’s written submissions.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Email from University of Alberta, submitted by the Appellant.

Preliminary Matters

- [5] 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.
- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[7] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

Summary of Hearing

i) Position of the Appellant, Mr. Strauss

[8] Mr. Strauss provided the Board with background of the company which is an oil and gas foundation supplier and contractor.

[9] There are 8 branch locations in western Canada with the headquarters located in one of the 6 locations in Edmonton.

[10] The land was purchased in 2001 and the structure was completed sometime after.

[11] He referred to the Google map showing the subject Site and the properties along 30 Street. He stated that, with the exception of one property, none of the properties have the required 3.0 metre of landscaping on the inside boundary of the property.

[12] He stated that the street is asphalt, has no curbs, no gutters, and no sewers.

[13] The property west of the subject Site is in support of the proposed development.

[14] He provided a 2017 invoice from one of his other properties that was previously landscaped. He took measurements per lineal metre to figure out the approximate cost to landscape the subject Site. Landscaping the west boundary area will cost approximately \$111,000.00.

[15] He referred to an aerial photograph showing that the north boundary road leads to the rear of the subject Site, as well as other properties. Until all the properties were being used, the road did not exist.

[16] There are two access points to the subject Site. Depending on any development on the property, these access points may change.

[17] A new owner would have to apply for a development permit for any development on the property and landscaping would have to be removed and changed if it was complete.

[18] He referred to the Real Property Report showing that the railroad goes through the east portion of the property which makes that area not useable.

[19] He spoke to the neighbouring properties and received support for the proposed development and the lack of need for landscaping.

[20] He provided the Board with an email from the University of Alberta (U of A), who own property west of the subject Site, indicating that they chose to remain neutral (Exhibit A).

[21] Mr. Strauss provided the following information in response to questions by the Board:

- a. He could not confirm what the U of A uses their property for.
- b. He could not confirm the owner of the property south of the U of A lot, but indicated that it is landscaped.
- c. He confirmed that the property west of the subject Site is currently empty, but was used in the past for storing pipe.
- d. There is a new building east of the subject Site that will be a heavy truck repair facility.
- e. The subject Site is currently being used as a rental property. The tenant is not using the crane stored on the subject Site.
- f. The property is for sale and the required permits are needed for the sale.
- g. He confirmed that 30 Street is finished with asphalt.
- h. The shelter was not on the property when he purchased the property in 2001.
- i. The lot surface was filled and graveled in 2002 and the shelter was constructed in 2005.
- j. After reviewing the conditions, he confirmed that he does not have an issue with the suggested drainage conditions.
- k. He has completed drawings for disabled parking and bicycle parking.
- l. He stated that Zoning Bylaw Condition No. 3 does not apply to the proposed development as they are not demolishing anything.
- m. He stated that he is not agreeable to Zoning Bylaw Condition No. 8, as one of their new facilities does not have hard-surfacing and was approved by the City. In his opinion, that condition should be removed.
- n. Hard surfacing of the parking lot was not mentioned when the Development Permit application was submitted.
- o. Any future Development Permit application would trigger landscaping to be approved with the permit.

ii) Position of the Development Officer, Mr. Shah

[22] The Development Authority did not appear at the hearing and the Board relied on Mr. Shah's written submission.

Decision

[23] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **CONDITIONS** and **ADVISEMENTS** proposed by the Development Authority and reviewed by the Appellant:

I. CITY PLANNING CONDITIONS (TRANSPORTATION):

1. Accesses to the site from 30 Street exist, as shown on Enclosure. Any modifications to the existing accesses require the review and approval of Subdivision Planning.
2. The existing gates must not swing out over road right-of-way. They must either swing into the property or slide along the fence. No objects are permitted to encroach onto, over or under road right-of-way.
3. Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the *Edmonton Zoning Bylaw*. All expenses incurred for repair are to be borne by the owner.

ADVISEMENTS:

1. Upon future development of the subject property, Subdivision Planning may require the reconstruction of the existing culvert crossing accesses to meet current City of Edmonton standards. All costs associated with the upgrades shall be borne by the owner/applicant.

II. DRAINAGE PLANNING AND ENGINEERING CONDITIONS:**1. Development Assessments**

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant/owner must enter into a Servicing Agreement to pay the development assessments listed below. The applicant/owner should contact Steve Jensen at (780) 944-7673, upon issuance of the Development Permit, and when he/she is ready to initiate the servicing agreement and make payment. The following is for information purposes, and the rates shown are for the year 2018. The final payment amounts will be based on the prevailing rates at the time the applicant/owner pays and enters into a servicing agreement.

The assessment area is 0.1165 ha. The assessment area is obtained from the drawings submitted with Application for Major Development Permit. The remaining area of 2.9893 ha (3.1058 ha – 0.1165 ha) will be assessed at future application of subdivision, development permit or servicing connection application.

Under the Industrial Infrastructure Cost Sharing Program (City Policy C592), the City contributes a portion of its municipal property tax revenue from the area towards

reducing the cost of development assessments on landowners. As a result, landowners in this area benefit from reductions to some development assessment rates, as shown below:

Development Assessment	Rate	Reduced Rate
Permanent Area Contributions		
Maple Ridge South Onsite Sanitary	\$22,782/ha	\$20,101/ha
Maple Ridge Basin 212 Onsite Storm	\$82,588/ha	\$61,941/ha
Mill Creek/Fulton Creek Offsite Storm	\$4,311/ha	\$4,311/ha*
Sanitary Servicing Strategy Expansion Assessment (EA) (SESS)	\$23,270/ha	\$23,270/ha*
Arterial Roadway Assessment (ARA) – Maple Ridge & Southeast Industrial	\$103,272/ha	\$80,148/ha

(*) Rates are not reduced

There may also be additional payments required in the form of over expenditures (which would be recoverable), boundary conditions, and oversizing payments which can only be determined at the time the applicant/owner is ready to enter into a servicing agreement and make payment.

2. Sanitary Sewer Trunk Charge (SSTC)

SSTC is applicable to the entire property but is not assessed since no sanitary sewer connection is available at this time. We will defer assessment of this charge until a sanitary sewer abuts the subject property.

Additional Notes:

The above assessment is made based on information currently available to our Department. Should such information change in the future, a new assessment may be made. In addition to the above items, the applicant/owner may need to pay for the installation cost of sewer services to the property line. For details, please contact EPCOR Drainage. More information about the above charges can be found on the City of Edmonton's website.

III. EDMONTON ZONING BYLAW

CONDITIONS:

1. The development shall comply to the performance standards for the IM District of the Edmonton Zoning Bylaw.
2. No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback (Reference Section 420.4(3)).
3. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51).
4. Parking spaces for the disabled shall be provided (minimum 2 spaces) in accordance with the Alberta Building Code in effect at the time of the Development Permit application, for which no discretion exists and be identified as parking spaces for the disabled through the use of appropriate signage, in accordance with Provincial standards (Reference Section 54.1(3)).

ADVISEMENTS:

Upon further development of the site, a development permit will be required. When such a permit is applied for, the applicant should be aware that conditions relative to the following advisements (or any others as determined by bylaws at that time) may be applied as conditions to that permit for the site in the future.

1. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. Reference Section 54.1(1) (c).
2. Bicycle parking (minimum 5 spaces) and Vehicular Loading spaces (minimum 2 spaces) shall be provided in accordance to Section 54.3 and Section 54.4, and to the satisfaction of the Development Officer.
3. The off-street parking, loading and unloading (including aisles or driveways) shall be provided, hard surfaced, curbed, drained and maintained in accordance to Section 54.6.
4. All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55.

5. The design and use of exterior finishing materials shall be as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development and to the satisfaction of the Development Officer (Reference Section 57)

[24] In granting the development, the following variance to the *Edmonton Zoning Bylaw* is allowed:

1. The minimum allowable Landscaping as per Section 55.3(1)(b) is waived.

Reasons for Decision

[25] The proposed development, a General Industrial Use, is a Permitted Use in the IM Medium Industrial Zone.

[26] The Development Permit application contained no landscaping and was therefore refused by the Development Authority as it was determined that this development application required the minimum landscaping as set out in Section 55 of the *Edmonton Zoning Bylaw*. The issue before the Board was whether or not the minimum landscaping requirements were required. The Board is waiving these requirements with regard to the landscaping for this development for the following reasons:

- a. The Board was presented with verbal evidence, a written submission, and photographs of the subject Site that clearly show that the roads in the area are unfinished, there are no curbs or gutters, no boulevards and that drainage is handled by way of ditches.
- b. The majority of the sites in the vicinity do not have any landscaping within their properties. The Board notes there are 2 or 3 properties that have met the standard landscaping requirements but that was in conjunction with the finished structure for that property.
- c. The subject Site has no other occupied structures of any kind.
- d. The Board heard that the crane stored in the shelter was vandalized and is not operational and has not operated for some time.
- e. The Appellant indicated that this property will remain as it is during its time of ownership. The property is for sale and a new owner would need to make a new application for any development on the property.
- f. The Board received written support from the surrounding neighbours from sites that meet the landscaping requirements and some that do not.

- g. The Board accepts the evidence submitted that any future landscaping requirements will be dealt within a development permit in the future for this site.
 - h. The Board was not presented with any planning evidence that by waiving this landscaping requirement, it would have a detrimental effect on the neighbourhood.
 - i. The Board notes that the structure itself fully complies with all other regulations of the *Edmonton Zoning Bylaw*.
- [27] With regard to the suggested conditions by the Development Officer, the Board thoroughly reviewed the conditions with the Appellant and makes the following changes:
- a. The Board is deleting Condition No. 3 of the *Edmonton Zoning Bylaw* Conditions:
 - 3. Immediately upon demolition/ alterations of the building, the site shall be cleared of all debris.
- The Board finds that this condition is not relevant to the development permit application as there is nothing being demolished on the subject Site. Should this structure be demolished in the future, a demolition permit will be required and therefore this condition would be more appropriate at that time.
- b. The Board moves Conditions No. 5, 7, 8, 9, 10 to Advisements:
 - 5. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. Reference Section 54.1(1) (c).
 - 7. Bicycle parking (minimum 5 spaces) and Vehicular Loading spaces (minimum 2 spaces) shall be provided in accordance to Section 54.3 and Section 54.4, and to the satisfaction of the Development Officer.
 - 8. The off-street parking, loading and unloading (including aisles or driveways) shall be provided, hard surfaced, curbed, drained and maintained in accordance to Section 54.6.
 - 9. All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55.

10. The design and use of exterior finishing materials shall be as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development and to the satisfaction of the Development Officer (Reference Section 57)

The Board finds that these Conditions are not relevant to the development permit application as business is not taking place at the subject Site. The Board wanted to ensure that the Appellant understood these Conditions would be relevant and applicable to any future development permit application and therefore has listed them as Advisements.

- [28] 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.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. B. Gibson; Mr. J. Kindrake; Ms. E. Solez; Ms. L. Gibson

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. Shah / Mr. Luke

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
 - b) the requirements of the *Alberta Safety Codes Act*,
 - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - d) the requirements of any other appropriate federal, provincial or municipal legislation,
 - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. 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.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
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*, 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.
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 Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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.



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Date: April 12, 2019
Project Number: 263481709-002
File Number: SDAB-D-18-200

Notice of Decision

- [1] The Subdivision and Development Appeal Board (the “Board”) at a hearing on December 5, 2018, made and passed the following motion:

“That SDAB-D-18-200 is TABLED to March 27 or 28, 2019, at the written request of legal counsel for the Appellant.”

- [2] On March 28, 2019, the Board made and passed the following motion:

“That SDAB-D-18-200 be raised from the table.”

- [3] On March 28, 2019, the Board heard an appeal that was filed on November 20, 2018. The appeal concerned the decision of the Development Authority, issued on November 6, 2018, to approve the following development:

Construct an Accessory Building, existing without permits (shed (2.21 metres by 3.11 metres)

- [4] The subject property is on Plan I7 Blk 91 Lot 26, located at 9725 - 85 Avenue NW, within the RF2 Low Density Infill Zone. The Mature Neighbourhood Overlay and Strathcona Area Redevelopment Plan to the subject property.

- [5] The following documents were received prior to the hearing and form part of the record:

- Copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
- The Development Officer’s written submissions;
- The Appellant’s written submissions;
- The Respondent’s written submissions; and
- Opposition and support from neighbouring property owners.

Preliminary Matters

- [6] 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.
- [7] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [8] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).
- [9] Legal Counsel advised that she had the opportunity to review two submissions received from the Respondent today. The Board cannot deal with the issue of the fence. The only matter before the Board is the development permit that has been issued for the Accessory Building on the subject site.

Summary of Hearing

- i) *Position of the Appellant, Mr. G. Esposito, who was represented by Legal Counsel, Ms. R. Graham, Bryan & Company LLP, and his sons, Mr. M. Esposito and Mr. D. Esposito who were also in attendance:*
- [10] Ms. Graham assured the Board that she was in attendance to address the development permit that has been issued for the Accessory Building that was built without a permit. The development permit that was subsequently issued includes variances that are an issue for her client, Mr. Esposito, the adjacent property owner.
- [11] The matter at issue is not whether or not the variance that has been granted is permitted but whether it is accurate. Their previous submission contained a copy of a survey document that was prepared on December 3, 2018 by Mr. Patrick Stoll of Geodetic Surveys & Engineering Ltd. who was asked to attend the Appellant’s premises at 9727 – 85 Avenue, immediately adjacent to the site of the Accessory Building at 9725 – 85 Avenue. The submitted photographs illustrate that these two properties abut one another with the Accessory Building located on the property line. The survey and Real Property Report show that the moveable shed falls within the lines of the Appellant’s property.
- [12] Ms. Graham also pointed out that the Respondent has submitted an updated survey dated March 27, 2019 also prepared by Mr. Stoll and illustrates the same thing, that a portion of the moveable shed is located within the Appellant’s property.
- [13] It was acknowledged that there are obvious issues between Mr. Esposito and his neighbour but despite that issue, Mr. Esposito attempted to talk to Mr. Dorosh about the fact that the shed overlaps onto his property and the impact that it may have on the value

of his property as well as his ability to sell the property in the future. In an attempt to have this conversation, words were exchanged and Mr. Esposito filed his appeal.

- [14] The development permit was subsequently granted. The matter at issue is addressed within the development permit which states that there is an eaves projection that is slightly less than the required setback requirements. This is not a setback issue, it is an overlap issue onto the Appellant's property. Therefore, the development permit and the subsequent building permit are not accurate because the variances are not an accurate statement of the variances. The Accessory Building overlaps onto the adjacent property and will have potential implications.
- [15] The drawings stamped approved by the Development Officer show that the shed is properly located within the Respondent's lot. However, the survey submitted by the Appellant and an additional survey submitted by the Respondent illustrate that this is not the case.
- [16] The Appellant is asking that the development permit and the subsequent building permit be discharged and that the Respondent either find a way to move the shed to comply with the setback requirements or submit a new application with the correct setback and projection distances. If a subsequent development permit application is made and variances are granted that is a separate issue. The development permit is not an accurate reflection of the property lines between these two lots.
- [17] Ms. Graham provided the following information in response to questions from the Board:
- a) The development permit variances for setback are inaccurately stated. The Appellant is not arguing that the shed is not setback sufficiently from the property line but it is an encroachment on the other property line.
 - b) The updated survey dated March 27, 2019 was referenced. She could not comment on the accuracy of this survey but noted that some of the measurements do not accord with information contained on the previous survey. While she did note that she had an opportunity to review the document, she is now questioning whether she had sufficient opportunity because of the slight variance from information contained on the previous survey. This leads her to call into question both surveys. She only received the most recent survey today and was not able to have a third party visit the site to confirm the accurate portrayal. The survey dated December 3, 2018 shows an encroachment onto the property line.
 - c) It was confirmed that the survey dated December 3, 2018 contains different detail than the most recent survey dated March 27, 2019. The old survey shows that the eaves encroach 0.19 metres onto Lot 27, the Appellant's property. The most recent survey shows gutters encroaching 0.13 metres onto Lot 27. The old survey shows the shed located 0.01 metre into Lot 27 and both show eaves encroaching onto the Appellant's lot.

- d) It would have been preferable to have the opportunity to confirm with the surveyor why the surveys are different and clarify the reference to eaves and gutters.
- e) It was her opinion that the most recent survey submitted by the Respondent is not accurate.
- f) The ability to encroach onto someone else's property should not be permitted because of potential resale issues and because future buyers will not have the ability to appeal the development permit.
- g) It was conceded that adverse possession is most likely beyond the jurisdiction of the Board. However, the development permit that has been issued is not accurate.
- h) Variance power in this case would be to limit setbacks from the property line not allowing encroachment onto the adjacent property.
- i) The Board has the ability to approve a zero setback but that is not what has been approved on this development permit.
- j) It was clarified that eaves and gutters are different.

[18] At this point the Presiding Officer clarified that the Board would not exist if these types of building errors did not occur. The Board is required to review the issue to determine the impact on adjacent properties and the neighbourhood. In this case the moveable shed was not sited correctly on the subject lot. The Board will have to determine which survey to rely on in order to determine the required variances and the impact of those variances. However, the encroachment of the gutters and the eaves will still be a live issue that falls outside of the purview of the Board.

[19] Ms. Graham acknowledged that there are two competing surveys that were both completed over the last few months and that the Board will have to decide which survey to rely on.

[20] It was her opinion that the encroachment issue is the variance. The variance granted with the approved development permit is not accurate pursuant to either survey. The Appellant is opposed to the granting of any variance but if a variance is granted it has to be a 0 metres variance.

[21] The main concern is that the shed is set up against the property line between Lot 26 and Lot 27. The effect of that on day to day use and enjoyment of the property can be debated. However, the main concern is the effect it will have on the value of the land although a realtor has not been consulted regarding any possible impacts on the value of the property.

[22] In the event that the property is sold in the future and there is devaluation because of the fact that there is an encumbrance or a 0 variance, the ability to appeal is gone. The only option for the seller or the buyer then is through litigation proceedings dealing with either damages as a result of lack of sale or a performance order that the moveable shed be

moved. These proceedings are timely and expensive. The appeal process is the most efficient way to address the fact that the development permit is not correct and should not have been granted.

ii) Position of the Development Officer, Mr. Angeles:

[23] Mr. Angeles did not attend the hearing but provided a written submission that was considered by the Board.

iii) Position of the Respondents, Mr. & Mrs. Dorosh:

[24] Mr. Dorosh reviewed his written submissions and noted that the appeal was filed by his neighbour because he could not access his fence because the shed was too close.

[25] It was his opinion that the shed does not impede any part of his neighbour's property or would negatively impact the use or enjoyment of his property.

[26] He has lived on this avenue for 23 years and has known Mr. Esposito for many years. Mr. Esposito is a perfectionist and keeps himself and his yard impeccable. After he purchased the property, he discussed the improvements that he wanted to make and he seemed happy that the property that was in disrepair was going to be cleaned up.

[27] Photographs were referenced to illustrate the state of the property before he purchased it and the location of the apple trees that were removed.

[28] It was noted that the details contained on the most recent survey dated March 27, 2019 were different than those included on the previously submitted survey. He called the surveyor who prepared both surveys and asked him to visit the site in order to confirm the measurements. The surveyor admitted that an error had been made and it was corrected. He confirmed that the gutter was overhanging 0.13 metres, 5 inches, onto his neighbour's property. The letter attached to the survey was corrected to read "a portion of the moveable shed's eaves from Lot 26 fall onto Lot 27". It was his opinion that this survey is the most accurate.

[29] A letter received from the contractor was referenced to confirm where and when the shed was built in 2016. He estimated that he has invested more than \$4,000.00 in this shed.

[30] Photographs of the shed were referenced to show the shed that faces his driveway and the lane. He wanted to add to the aesthetics of the property. The garbage can stand is not attached and can be moved. The eave of the shed is 20 centimetres all the way around. A photograph was referenced to illustrate that the shed is approximately the same height of a 5 foot fence. He could have built the shed higher but he chose not to in order to respect his neighbour. There is approximately 15 inches between the side of the shed and the location of the previous fence. It was his opinion that 15 inches provides enough room to maintain a fence.

- [31] A photograph was referenced to show that the fence was removed because the Appellant did not want it to rot.
- [32] He questioned the validity of the Appellant's reasons.
- [33] The garbage can stand can be moved. He had it built to close a gap in the fence in order to improve security. The downspout from the shed is attached to the stand but that can also be moved.
- [34] A Google earth photo was referenced to illustrate the shed, the Appellant's fence, and the two garbage can stands.
- [35] Photo showing that the fence existed before the shed was built and there was adequate room to build the shed.
- [36] It was noted that there are more problems to be addressed through the resale of this property than the encroachment of the gutters 5 inches onto the property.
- [37] The fence was there for 50 years before the shed was built. In order to resolve the issues with his neighbour, he is willing to remove the gutter from the shed. However, he would prefer not to remove the gutters because of drainage issues. His lot is lower than the Appellant's and the gutters help to preserve the shed and other structures. He is also willing to move the garbage can stand if required.
- [38] Several letters of support received from his neighbours were referenced. He also confirmed from his notes that he spoke to Mr. Esposito about removal of the apple trees and the landscape plan in 2016.
- [39] Mr. Dorosh provided the following information in response to questions from the Board:
- a) The shed is heavy but it could be moved. It sits on concrete blocks and could be moved approximately 6 inches before it would obscure his overhead garage door.
 - b) He estimated that the shed weighs approximately 700 pounds.
 - c) It was noted that there is a conflict between the most recent Real Property Report dated March 27, 2019 and the letter attached. It was his opinion that the measurements included on the Real Property Report should be relied upon.
 - d) He did not apply for a development permit at the time of the construction of the shed because he did not know that a permit was required.
 - e) The drawings approved in 2018 site the shed 0.4 metres from the property line. It was sited at 0.19 metres and it was just an oversight.

- f) If the shed had been built 0.4 metres from the property line as approved there would be no encroachment onto the Appellant's property.
- g) The garbage enclosure stand is easily moved.

iv) Rebuttal of the Appellants, Ms. R. Graham and Mr. M. Esposito:

- [40] Mr. M. Esposito advised that his father just wants to be able to re-install and maintain his fence without the shed being in the way.
- [41] It was his opinion that the shed cannot be easily moved.
- [42] The shed impedes the sight lines when backing out of the driveway.
- [43] His father does not want the shed to encroach onto his property.
- [44] The Real Property Report that was done in 2018 has completely different measurements than the Real Property Report dated March 27, 2019, which is much more significant than a calculation error.
- [45] The fence that was previously constructed was on the Appellant's property. The Appellant removed the fence as a result of the construction of the shed because it could not properly be maintained which is a detriment to the Appellant. Therefore, the variance and the encroachment issue create a problem.
- [46] It was noted that the letter from Ms. Crowe indicated that she was advised that the Respondent consulted with the Appellant regarding the construction of the shed. It was not confirmation that the Appellant was consulted and supported the development.
- [47] There are several different variances contained in the development permit, the drawings and both Real Property Reports. If it is the case that the variance is permitted and the Respondent is able to move the shed as a result, the shed can be moved to rectify the current construction to match the development permit that has been granted.

Decision

- [48] The appeal is ALLOWED IN PART and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority, subject to the following CONDITIONS:
 - 1. The Accessory Building be moved 0.15 metres east to ensure no encroachments exist with respect to the eave or eavestrough/gutters with the property located at 9727 – 85 Avenue NW (as per the revised stamped plans).

2. The garbage container structure be moved east to match the side wall of the Accessory Building.
3. No drainage downspouts are to be located outside of the Accessory Building exterior wall so as to create any encroachments or impact drainage with the property located at 9727 – 85 Avenue NW.

[49] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed after Condition #1 above has been applied:

1. The maximum allowable Site Coverage for an Accessory Building of 12 percent as per Section 120.4(6)(a) is varied to allow an excess of 2.2 percent, thereby increasing the maximum allowed to 14.2 percent. The maximum allowable total Site Coverage of 40 percent as per Section 120.4(6)(a) is varied to allow an excess of 2.3 percent, thereby increasing the maximum allowed to 42.3 percent.
2. The maximum allowable eave projection of 0.46 metres as per Section 44.1(c)(ii) is varied to allow an excess of 0.25 metres, thereby increasing the maximum allowed to 0.71 metres.
3. The minimum required Side Yard Setback of 0.9 metres is varied to allow a deficiency 0.56 metres, thereby decreasing the minimum required to 0.34 metres.

Reasons for Decision

[50] The proposed development is Accessory to the Permitted Use in the (RF2) Low Density Infill Zone.

[51] The Board was presented with two reports from the same surveyors. The first report dealt with a Real Property Report completed for the Appellant's property dated December 3, 2018. The second survey report dated March 27, 2019 was prepared to specifically identify the location of the shed on the Applicant's property. The Board is satisfied that it is the second survey report to be used in determining the location of the shed. The Board has made this determination for the following reasons:

- a) The reports were completed by the same survey firm.
- b) The survey firm reviewed the previous Real Property Report prepared for the Applicant and determined they made an error. The second survey repairs this error.
- c) The Board accepts this conclusion.
- d) The Board has used this updated survey report in determining the Variances required.

- e) The Board notes that photographs provided in the hearing appear to show that the space from the old fence posts to the actual property line appear to indicate to the Board that the Accessory Building has been located as per the approved Development Permit.

[52] The Board recognizes and agrees errors were made both from the surveyor and the Development Authority. When an appeal is filed, it creates the opportunity to hear the appeal “de novo”, in other words fresh and in its entirety. The Board examined and reviewed the entire application, drawings and documents. The Board also considered all of the relevant presentations provided in the hearing. The Board confirms that the decision below considers all aspects of the development and has had the opportunity to address any of the errors or misinterpretations.

[53] The Development Authority in its decision to approve this permit application determined that there were two variances that they granted as noted below:

(1) Site Coverage

The Accessory Buildings (shed and detached garage) cover 14.2 percent of the site, instead of 12 percent. In total, all the buildings cover 42.3 percent of the site, instead of 42 percent (Section 120.4.7 and 8).

The Board reviewed the Sections 120.4.7 and 8 of the *Edmonton Zoning Bylaw* and find that they are incorrect. The pertinent Section with respect to Site Coverage is 120.4.6(a) which stipulates the Site Coverage requirements for the RF2 Zone. Sections 120.4.7 and 8 are not relevant to this Accessory Building application. Further, the Board has determined that the 42% allowable Total Site Coverage referred to in the Variance of this Accessory Building permit is not reflective of the 40% allowed in the regulation as stated in Section 120.4(6)(a).

Notwithstanding the incorrect Sections of the *Edmonton Zoning Bylaws* being stated in the variances approved in the Development Permit application, the Development Authority concluded that a Site Coverage variance was required.

No specific reference was made in the Development Permit approval to Section 12.2.1(c) which states “no Development Permit is required for an Accessory building 10.0 square metres or less in area, provided it complies with the regulations of this Bylaw and is not a Hen Enclosure.” The Development Authority determined that the Accessory Building did not comply with all of the regulations of the Bylaw. While the size of the Accessory Building was less than 10.0 square metres (6.87 square metres) the Accessory Building did not fully comply with the regulations and therefore requires a permit.

Once this conclusion was reached, the Accessory Building does then fall into the Site Coverage calculations and therefore a variance is needed. The Board supports the conclusion reached by the Development Authority and that there are two variances required pursuant to Section 120.4(6)(a).

The Board has therefore determined the Variances required to Site Coverage are noted below:

- a) Accessory Building – 12% allowed, 14.2% being applied for and therefore a Variance of 2.2%
- b) Total Site Coverage – 40% allowed, 42.3% being applied for and therefore a Variance of 2.3%

ii) Eave Projection

Eave Projection is 0.65 metres into the required setback of 0.46 metres (Section 44.1(c.ii)).

Based on the drawing that was submitted by the Applicant to the Development Authority and subsequently approved by the Development Authority indicates a measurement of 0.4 metres from the edge of the Accessory Building wall to the previous fence location. The Board notes that fence has since been removed. While the Board believes this creates a third Variance, it will be dealt with further in the reasons for its decision. The conclusions have been misinterpreted by the Development Authority as the proposed setback from the property line for the Accessory Building as applied for and approved is 0.19 metres which has been confirmed by the surveyor. This increases the Eave Projection from 0.46 metres that is allowed to 0.86 metres presuming the Eave is 0.15 metres as shown on the approved drawings. These calculations are before Condition 1 above is implemented. This calculation indicates what the existing approval by the Development Authority ought to have been. This does also confirm that the eavestrough/gutter does encroach onto the Appellant's property.

Notwithstanding that the Eave Projection appears to fall within the Applicant's property, the eavestrough or gutter encroaches onto the Appellants property by 0.13 metres as indicated in the surveyor's updated report.

The Board has therefore determined the revised Variance after the implantation of Condition 1 required for the Eave Projection is as noted below:

- a) Eave Projection – 0.46 metres required, 0.71 metres being applied for and therefore a Variance of 0.25 metres

[54] The Board through its review has determined a third Variance is needed with respect to this application. It was subsequently determined that pursuant to Section 50.3.5(b) with respect to Accessory Buildings which states:

Section 50.3.5(b) – an Accessory Building or structure shall be located not less than 0.9 metres from the interior Side Lot Line, except... (The Board has determined that none of the exceptions apply for this application and therefore the required Side Setback is 0.9 metres).

The actual and applied for Side Setback pursuant to the approved drawings and latest survey report is 0.19 metres. The Board has therefore determined after the implementation of Condition 1 that the required Variance for Side Setback is noted below:

- a) Side Setback – 0.9 metres required, 0.34 metres being applied for and therefore a Variance of 0.56 metres.

[55] The Board acknowledges the email communication with the Development Authority which confirms that a third Variance is required. In this correspondence the Development Authority indicates that the approved Side Setback was 0.4 metres not the 0.9 metres required pursuant to the regulation. However, as noted above the distance is not 0.4 metres but 0.19 metres.

[56] The Board notes that the updated survey report indicates an encroachment of the eavestrough/gutter by 0.13 metres created by the construction and location of the Accessory Building. This encroachment is entirely as a result of the Accessory Building not being located to comply with the *Edmonton Zoning Bylaw* Side Setbacks requirements.

[57] The Board also acknowledges that without the eavestrough/gutter, the Accessory Building's roof would drain directly onto the Appellant's property which may be in non-compliance with Drainage Bylaws, which are outside the purview of this Board. The Board heard from the Applicant that they would be prepared to remove the eavestrough/gutters. However, this would allow the drainage of the Accessory Building roof onto the Appellant's property.

[58] The Board has granted the Accessory Building Site Coverage Variance as noted above and the Total Site Coverage Variance as noted above pursuant to Section 120.4.6(a) for the following reasons:

- a) Had this Accessory Building complied with the *Edmonton Zoning Bylaw* as stipulated in Section 12.2.1(c) it would be allowed to exist without a permit being needed. The Board does not see any practical or planning reasons, and none were presented, that there is a difference created when considering its test under Section 687(3)(d) that by granting this Variance that the development would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- b) The size of the Accessory Building at 6.87 square metres is smaller than the size allowed in Section 12.2.1(c) for an Accessory Building at 10.0 square metres. It could therefore exist elsewhere and be compliant with the Bylaw and not be in contravention of the Site Coverage requirements.
- c) The location of the Accessory Building is off the lane and has no impact on privacy.

- d) The Board reviewed photographs provided that clearly indicate there are many of these types of Accessory Buildings (sheds) in the neighbourhood.
- e) The Board notes that the existing garbage receptacle structure is not part of the application nor was it considered by the Development Authority. The Board has determined that its location has no impact on the neighbourhood and is characteristic of the neighbourhood. This is as long as the condition above specific to the garbage receptacle structure is complied with.

[59] The Board has granted the revised Eave Projection Variance as noted above pursuant to Section 44.1(c)(ii) and the Side Setback Variance pursuant to Section 50.3.5(b) for the following reasons:

- a) By having the Accessory Building moved 0.15 metres to the east, it lowered the size of the initial or new Variance, moved the Accessory Building further away from the Appellant's property line and has eliminated any encroachments.
- b) The Board notes that the South wall of the Accessory Building complies with the Rear Setback regulation from the lane no matter the setback from the Appellant's property. What this indicates is that the affect it has on the lane and the neighbourhood would be the same even if the Accessory Building complied with the Side Setback.
- c) The height of the wall of the Accessory Building that abuts the Appellant's property is similar in height as a fence could be if constructed by either the Appellant or the Applicant. This is important as it is the Board's position that no matter whether a fence or the wall of the Accessory Building, the visual and safety impact on backing out of the Appellant's driveway is the same whether a fence or the wall of the accessory building is in that location
- d) The Board was not prepared to approve any Variances that would have had an outcome of having any kind of encroachment. By incorporating a condition to move the Accessory Building and thus eliminating the encroachment, it mitigates some of the Appellant's concerns with respect to encroachment issues that they perceive may occur when selling their home in the future.
- e) The Board notes that the area within which the Accessory Building requires a Variance abuts the driveway of the Appellant's property and therefore does not create a privacy issue nor does it create a material visual impact.
- f) The Accessory Building creates no material impact as it relates to any sun or shadow changes given any differences would be onto the driveway of the Appellant.

g) The Board could find no regulation that allows access for fence maintenance that would need to be done on the Appellant's property from the Applicant's property. There is no access right provided for in the *Edmonton Zoning Bylaw*.

[60] The Board was presented with issues concerning other interactions between the Appellant and the Applicant. The Board gave no weight to those concerns unless they had a relevancy when considering this Accessory Building application.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. B. Gibson; Mr. J. Kindrake; Ms. E. Solez; Ms. L. Gibson

CC: City of Edmonton, Development & Zoning Services,

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
 - b) the requirements of the *Alberta Safety Codes Act*,
 - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - d) the requirements of any other appropriate federal, provincial or municipal legislation,
 - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. 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.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
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*, 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.
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 Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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.