

Edmonton Subdivision and Development Appeal Board

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Date: December 11, 2015
Project Number: 145348619-005
File Number: SDAB-D-15-279

Notice of Decision

This appeal dated October 16, 2015, from the decision of the Development Authority for permission to:

Construct exterior alterations (Driveway extension, irregular shaped, 8.5m x 7m)
to an existing Single Detached House

on Plan 1223620 Blk 66 Lot 32, located at 16231 - 138 Street NW, was heard by the Subdivision and Development Appeal Board on November 26, 2015.

Summary of Hearing:

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

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

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct exterior alterations (Driveway extension, irregular shaped, 8.5m x 7m) to an existing Single Detached House, located at 16231 - 138 Street NW. The subject Site is zoned RSL Residential Small Lot Zone.

The development permit was refused because the proposed concrete extension on the right side of the property does not lead to an overhead garage door or parking area. No parking spaces shall be located within the Front Yard and the Front Yard shall be landscaped.

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

- Documents submitted by the Development Authority:
 - Written submissions received on October 30, 2015;
 - A Canada Post Registered Mail delivery confirmation;
 - Exterior Alterations Permit Application; and
 - Written submissions from Transportation Services.

- Documents submitted by the Appellant:
 - Photographs of other driveway extensions in the neighbourhood.
- A copy of the refused Development Permit

The Board heard from Mr. Potts, the Appellant, who made the following submissions:

1. The subject Site is located on a corner lot; he wants a driveway extension in the Front Side Yard.
2. One of the reasons for refusal is that no parking shall be located in the Front Yard. However, the front of his house faces 162A Avenue and, in his opinion, the proposed driveway extension should not be an issue.
3. He is asking for a driveway extension, not a parking space.
4. Pursuant to Section 54.1(4) of the *Edmonton Zoning Bylaw*, the Front Yard of any at Grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway. For a Site 10.4m wide or greater, have a maximum width that shall be calculated as the product of 3.1m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.
5. In his opinion he is allowed up to 9.3-metres for his driveway and the existing driveway is only 7.0-metres wide.
6. He purchased the property on September 25, 2014, and has 18 months to complete the landscaping.
7. The proposed driveway extension is characteristic of the neighbourhood.
8. He referred to the photographs he submitted prior to the hearing, which show existing driveway extensions in the neighbourhood that are similar to the proposed driveway extension.
9. Three of the photographs are within the 60-metre notification radius. Three of the properties are shown on the notification map but are outside the 60-metre notification radius.
10. He attempted to speak with the neighbours that have similar driveway extensions to see if they had an approved permit, but was unable to reach them.

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

1. He owns four vehicles and does not want to move them around to get in and out of the garage. The driveway extension will provide additional space for parking.
2. With respect to how the driveway extension on a corner lot will look with a vehicle parked on it, he advised the Board that he does not believe it will be an issue.
3. With respect to the concerns from Transportation Services, he advised the Board that it is better to park on the driveway than on the road.
4. He could not provide a photograph of his yard.
5. He referred to the Plot Plan and confirmed that the garage doors face the Avenue, not the Street.

6. The neighbours he spoke with were supportive of the proposed driveway extension; however, he could not provide any letters of support.
7. There are several corner lots in the area that have driveway extensions. He is not sure whether or not they have approved permits.
8. The neighbour east of the subject Site does not have a driveway extension.

The Board heard from Mr. Cooke, representing Sustainable Development, who made the following submissions:

1. He circulated the development permit application to Transportation Services, who reviewed the proposed development and provided written submissions indicating they do not support the proposed driveway extension.
2. The proposed driveway extension will block the sight lines of vehicles turning at the intersection, which is a safety issue. Because it's a corner lot, the proposed driveway extension would cause the sight line (of cars coming around the corner) to be compromised when a car is parked on the driveway extension.
3. He provided the Board with a photograph of the subject Site showing the driveway in front of the garage, and the proposed location of the driveway extension in the Front Yard, marked "Exhibit A".
4. He confirmed that Section 54.2(2)(e)(i) provides that parking spaces shall not be located within a Front Yard.

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

1. He could not confirm if any of the driveway extensions in the neighbourhood have approved permits. It is up to Bylaw Enforcement to determine if permits are in place.
2. Landscaping, such as trees and grass, still need to be completed on the subject Site.

In rebuttal, Mr. Potts made the following submissions:

1. Parking on the driveway extension will not block the sight lines any more than parking on the street, close to the corner.
2. A driveway extension is allowed in the Front Yard as outlined in Section 54.1(4) that states "the Front Yard of any at Grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway shall: (a) [be] a minimum width of 3.1m; (b) for a Site 10.4m wide or greater, have a maximum width that shall be calculated as the product of 3.1m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage; and (c) for a Site less than 10.4m wide, have a maximum width of 3.1m. The Driveway shall lead directly from the roadway to the required Garage or Parking Area."

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

1. The existing driveway does not face the Front Yard.
2. The Appellant's address is on the Street. Therefore, the Front Yard should have access to the driveway.

Decision:

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

Reasons for Decision:

The Board finds the following:

1. The proposed development is Accessory to a Permitted Use in the RSL Residential Small Lot Zone.
2. Based on the evidence submitted, the driveway extension does not lead directly to a garage as outlined in Section 6.1(26) of the *Edmonton Zoning Bylaw*, which provides that: "Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area." The Board finds that the proposed driveway extension does not comply with the *Edmonton Zoning Bylaw*.
3. Based on the evidence submitted, the proposed driveway extension and parking area will project into the Front Yard as outlined in Section 6.1(38) that states: "Front Lot Line means the property line separating a lot from an abutting public roadway other than a Lane. In the case of a Corner Lot, the Front line is the shorter of the property lines abutting a public roadway, other than a Lane. In the case of a Corner Lot formed by a curved corner, the Front Lot Line shall be the shorter of the two segments of the property line lying between the point determined to be the actual corner and the two points at the extremities of that property line."
4. In this case, the proposed driveway extension does not lead to the garage and will be in the Front Yard, which will provide for parking in the front yard, which was confirmed by the Appellant. Parking is not allowed in the front yard as per Section 54.2(2)(e)(i).
5. Based on the evidence submitted, parking in the Front Yard will have a negative impact on the aesthetics of the neighbourhood.
6. The Board finds that the proposed driveway extension does not comply with the landscaping requirements set out in Section 6.1(55)(b), which provides that: "decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths."

7. Transportation Services indicated that the proposed driveway extension will have an impact on the sight lines of vehicles as the subject Site is on a corner lot. The Board agrees with this conclusion.
8. Based on the above, the Board finds that the proposed development will unduly interfere with the amenities of the neighbourhood, and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Important Information for Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, 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.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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

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

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Date: December 11, 2015
Project Number: 164242106-018
File Number: SDAB-D-15-251

Notice of Decision

This appeal dated October 5, 2015, from the decision of the Development Authority for permission to:

Construct a 2 Storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor; 10.06m x 9.14m)

on Plan 2804AF Blk 134 Lot 4, located at 69 - St George's Crescent NW, was heard by the Subdivision and Development Appeal Board on October 28, 2015 and November 26, 2015:

October 28, 2015 Hearing

Motion:

“that SDAB-D-15-251 be TABLED to November 26, 2015, with the agreement of all parties and their respective Legal Counsel.”

November 26, 2015 Hearing

Motion:

“that SDAB-D-15-251 be raised from the table.”

Summary of Hearing:

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

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

The Board heard an appeal of the decision of the Development Authority to approve an application to construct a 2 Storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor; 10.06m x 9.14m), located at 69 - St George's Crescent NW. The subject Site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay.

The development was approved subject to conditions. The approved permit was subsequently appealed by adjacent property owners.

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

- Documents submitted by the Development Authority:
 - A copy of emails between Sustainable Development and Legal Counsel; and
 - A copy of the Garage with Garage Suite or Garden Suite Housing Application.
- A copy of the approved Development Permit;
- Several letters in Opposition to the proposed development; and
- An online response.

At the outset of the appeal hearing, the Presiding Officer indicated that Legal Counsel for the property owner advised, prior to the hearing, that the property owner did not want to proceed with the approved development permit.

The Appellants in attendance at the appeal hearing were supportive of the request to revoke the approved development permit for the proposed two Storey Accessory Building and Garage Suite.

Decision:

The decision of the Development Authority is REVOKED.

Reasons for Decision:

The Board finds the following:

1. The approved development permit is revoked at the request of Legal Counsel for the property owner.

Important Information for Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, 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.

2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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

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