

## **SDAB-D-15-007**

Application No. 159393487-001

An appeal by Queen Mary Park Community League VS Der & Associates Architecture Ltd. construct Apartment Housing (244 Dwelling Units), on Lot 26, Block 1, Plan 1320377, located at 10510 – 121 Street NW, was **WITHDRAWN**.



**Subdivision and  
Development Appeal Board**

Office of the City Clerk  
Main Floor, Churchill Building  
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Edmonton, AB T5J 0G9  
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DATE: January 30, 2015  
APPLICATION NO: 159270067-002  
FILE NO.: SDAB-D-14-316

**NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

This appeal dated November 20, 2014, from the decision of the Development Authority for permission to:

Construct a rear uncovered deck (5.49 metres by 9.78 metres at 1.35 metres in height), existing without permits

on Lot 38, Block 58, Plan 0720564, located at 16208 – 136 Street NW, was heard by the Subdivision and Development Appeal Board at its hearings held on December 4, 2014 and January 15, 2015. The decision of the Board was as follows:

**December 4, 2014 Hearing:**

**SUMMARY OF HEARING:**

At the outset of the appeal hearing, the Presiding Officer indicated that Mr. Chung, the Respondent, was not in attendance at the hearing. The Subdivision and Development Appeal Board administrative staff attempted to contact Mr. Chung, but were unsuccessful.

The Presiding Officer indicated that the Board could table the appeal hearing to a later date to allow the Respondent the opportunity to attend the hearing.

Mr. Alasow, the Appellant, indicated that he was opposed to the appeal hearing being tabled because he had taken the time to attend the hearing.

Ms. Atkinson and Mr. Hogberg, representing the Sustainable Development Department, indicated that they were opposed to the appeal hearing being tabled as well.

## SUMMARY OF HEARING CONTINUED:

In response to a question by the Board, Ms. Atkinson and Mr. Hogberg indicated that there would not be a safety concern to the Respondent, the Appellant, or neighbouring property owners if the appeal hearing was tabled.

## DECISION:

“that SDAB-D-14-316 be TABLED TO JANUARY 14 or 15, 2015 at the non-appearance of the Respondent.”

**January 15, 2015 Hearing:**

## MOTION:

“that SDAB-D-14-316 be raised from the table.”

## SUMMARY OF HEARING:

At the outset of the appeal hearing, the Chairman 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 of the decision of the Development Authority to approve an application to construct a rear uncovered deck (5.49 metres by 9.78 metres at 1.35 metres in height), existing without permits, with a variance granted in the maximum allowable total Site Coverage, subject to conditions, located at 16208 – 136 Street NW. The subject site is zoned RF1 Single Detached Residential Zone. The development permit application was approved and subsequently appealed by an adjacent property owner.

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

## SUMMARY OF HEARING CONTINUED:

Prior to the hearing, the Appellant submitted photographs of the subject Site with the initial appeal on November 20, 2014.

Prior to the hearing, the Development Authority provided a written submission dated November 28, 2014.

The Board heard from the Mr. Kulmiye, speaking on behalf of the Appellant, Mr. Alasow, who made the following points:

1. He is speaking on behalf of his father who is the owner of the neighbouring property to the immediate north.
2. The main concerns are that the deck is built too close to the property line, is poorly constructed and is unsightly. As a result, the deck will decrease the property value.
3. They are concerned that a fence that may be built in the future on the property line will be used as a railing for the deck.
4. Some discussions were had with the Respondent regarding sharing the cost of a fence between the properties, but no agreement had been reached.
5. The Appellant's backyard was visible from the Respondent's deck, which is a privacy concern.
6. Privacy screening added on the deck would help.

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

1. She approved the proposed deck as it was drawn on the Site Plan which is flush to the principal building on the north side of the deck and does not extend to the southernmost wall of the principal building on the south side of the deck.
2. The actual deck measures 9.78 metres by 5.49 metres; however, the approved deck is 9.49 metres by 5.49 metres, which is based on the deck being flush with either side of the house.
3. The deck is over 1.0 metres in Height, therefore the deck is included when calculating the total Site Coverage. She granted a variance of 11.13 square metres in the Site Coverage.

## SUMMARY OF HEARING CONTINUED:

4. If the deck was constructed according the Site Plan the only variance required would be with respect to Site Coverage. According to the Site Plan, the deck projects no more than 0.6 metres into the Side Setback and no variance would be required for such a projection into the Side Setback.
5. Bylaw Enforcement attended the subject Site to take photographs of the deck on November 21, 2014. The photographs are part of her written submission.
6. The photos illustrate that the deck, as it was on November 21, 2014, is not what was approved, as shown in the Site Plan.
7. The Height of the deck is flush with or equal to the rear exit from the principal dwelling.
8. The decks of the properties on either side of the subject site are lower and smaller.
9. There are other homes in the area that have an attached deck over 1.0 metres and it is recommended that the property owner provides privacy screening; however, it is not mandatory.

The Board heard from the Respondent, Mr. Chung, who was accompanied by Ms. Li, who together made the following points:

1. The Sustainable Development Department was provided with a drawing with the Site Plan.
2. The deck is currently not constructed according to the Site Plan.
3. The deck complies with the Site Plan on the south side and they are going to remove a portion of the deck to make it comply with the Site Plan on the north side.
4. The portion of the deck projecting beyond the house on the north side will be removed.
5. The deck, when completed, will be built according to the Site Plan.
6. They have no intention of using the fence as a railing for the deck.
7. They have had discussions with the neighbouring property owner regarding the fence.

In rebuttal, Mr. Kulmiye provided the following information:

1. He reiterated that the deck should be cut back on the north side to be flush with the house.
2. However, even if the deck is reduced, he is concerned that the deck is too high, unsightly, and will negatively affect the property value.
3. He agreed that privacy screening should be added to the deck.

## DECISION:

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

The Development Authority's approval contained the following variance and conditions:

**Variance:**

Maximum Site Coverage for a Principal building with attached Garage shall be 40 percent relaxed to 42.68 percent (11.13 square metres). (Reference Section 110.4(6)(a)).

**Condition:**

1. Any future deck enclosure or cover requires a separate development and building permit approval.

NOTE: The applicant should be advised that there may be complications in obtaining a Development Permit for future development because this lot is developed to full site coverage.

Privacy screening could be provided to prevent visual intrusion into adjacent properties.

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.

## 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 notes the approval of the Development Authority is on the basis of the submitted Site Plan. It is the deck, as represented on the Site Plan, which projects to the north no farther than the north wall of the house, which is the subject of this Appeal.

## REASONS FOR DECISION CONTINUED:

3. Based on the photographs submitted to the Board, the Respondent's dwelling is set back farther from the Rear Lot Line than the neighboring properties, which mitigates privacy concerns.
4. With the exception of Site Coverage, the approved deck, as represented on the Site Plan, fully complies the Edmonton Zoning Bylaw.
5. The proposed deck will be set back far enough from the side property lines such that it will not be possible to have a future fence used as a railing.
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 and affect the use, enjoyment and 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 5<sup>th</sup> 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 5<sup>th</sup> Floor, 10250 – 101 Street, Edmonton.

Mr. R. Colistro, Chairman  
SUBDIVISION AND DEVELOPMENT  
APPEAL BOARD

cc:

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DATE: January 30, 2015  
APPLICATION NO: 164327585-001  
FILE NO.: SDAB-D-15-008

**NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

This appeal dated December 10, 2014, from the decision of the Development Authority for permission to:

Change the Use from a Single Detached House to a Limited Group Home (maximum 6 residents) and to construct interior alterations

on Lot 26, Block 12A, Plan 2676MC, located at 13408 – 57 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 15, 2015. The decision of the Board was as follows:

**SUMMARY OF HEARING:**

At the outset of the appeal hearing, the Chairman 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 of the decision of the Development Authority to approve an application to change the Use from a Single Detached House to a Limited Group Home (maximum 6 residents) and to construct interior alterations, subject to conditions, located at 13408 – 57 Street NW. The subject Site is zoned RF1 Single Detached Residential Zone. The approved development permit application was subsequently appealed by a neighbouring property owner.

## SUMMARY OF HEARING CONTINUED:

The Board notes that two letters were received in opposition to the proposed development from neighbouring property owners. No letters were received in support of the proposed development.

Prior to the hearing, the Development Authority provided a written submission dated December 17, 2014.

The Board heard from Mr. Van Essen, the Appellant, who made the following points:

1. He is concerned with the type of residents that will reside in the Group Home, particularly the age and reason the residents will be in the Group Home.
2. He referred to a letter that was received in opposition to the proposed development indicating that there is low income housing and a residence for seniors in the area.
3. He is concerned that delivery trucks, emergency vehicles, and visitors will be attending the subject Site frequently, which will increase the level of traffic in the area.

The Board then heard from Ms. Desroches, a neighbouring property owner who is opposed to the proposed development, made the following points:

1. She does know what type of residents will be residing in the Group Home, which is necessary information.

The Board then heard from Ms. Noga, a neighbouring property owner who is opposed to the proposed development, made the following points:

1. She read her letter in opposition to the proposed development, which was provided to the Board in advance of the hearing and is on file.
2. There is a daycare, Edmonton Housing, Christian Reform Church and Emmanuel Home (a seniors' residence) already in the area and the addition of a Group Home will increase traffic in the area.
3. There is a snow berm on one side of the road leaving only one side of the street for parking.
4. An increase in traffic and the winter conditions will make it difficult for emergency vehicles to get through.
5. There are seven Group Homes in the area and there should only be two limited Group Homes on the block.
6. She stated that there is a rear lane; however, if deliveries are made from the street this will further increase traffic in the area.

## SUMMARY OF HEARING CONTINUED:

The Board then heard from Ms. Bauer, representing the Sustainable Development Department, who made the following points in response to questions:

1. The property will maintain the appearance of a Single Family Dwelling.
2. Deliveries will be made in a regular sized vehicle.
3. She granted the variance of one loading space as the Applicant indicated that large trucks are not required for food deliveries and laundry is done on site.
4. The rear lane will be used for vehicular access and parking.
5. She referred to the Emmanuel Home to the northeast of the subject Site and stated that the new wing, which is considered Congregate Living, is over 150 metres from the subject Property. As such, the Emmanuel Home is not counted within the threshold number for Special Residential Facilities as outlined in Section 96 of the Edmonton Zoning Bylaw.
6. There are no other Group Homes within 150 metres of the subject Site. Child Care Uses do not count in this calculation as they are not considered Congregate Living.
7. There will be a maximum of 6 residents in the proposed Limited Group Home.
8. The required number of parking spaces is 3 and the Respondent has provided the required off-street parking. The Respondent has an additional two tandem parking stalls on the garage driveway which, although they cannot be counted as an off-street parking stall for the purposes of the Edmonton Zoning Bylaw, would provide an additional two parking spaces on the property.
9. A loading space could be added; however, a shed would need to be removed and the back yard space would need to be reduced.

The Board then heard from Ms. Kandie and Ms. Maru, speaking on behalf of the Respondent, E & F Arquitel Construction, who made the following points:

1. They want to be good neighbours who will maintain the property.
2. This will be a Limited Group Home and not a half-way house.
3. Assignment to the Limited Group Home is done by a government agency and the home will be certified as a social care facility.
4. There is sufficient parking on site.
5. There will be no oversize vehicles accessing the subject Site.

## SUMMARY OF HEARING CONTINUED:

6. The proposed Limited Group Home will have 2 trained staff on site per shift, which will not generate an excess in traffic.
7. The Limited Group Home will operate in the same manner as a Single Family Dwelling.
8. Assistance provided by the Limited Group Home will help the residents with day-to-day living.

In rebuttal, Mr. Van Essen made the following points:

1. In his opinion traffic is a concern. However, if the City is allowing a Group Home in the area, the property owners in the neighbourhood cannot prevent it, even though this would not be their choice.

## DECISION:

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

The Development Authority's decision contained the following conditions:

1. 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.
2. The development shall be recognized, authorized, licenced or certified by a public authority as a social care facility. (Reference Section 7.3(3) or (4)).
3. The required parking spaces shall be wholly provided on the same Site as the building. (Reference Section 54.2(2)(a)) .
4. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1).
5. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of the Limited Group Home development or on the Site of such development.
6. Limited Group Home shall be of a size, scale, and outward appearance that is typical of surrounding residential developments.

## DECISION CONTINUED:

7. The Group Home shall not generate pedestrian or vehicular traffic or parking in excess of that which is characteristic of the District in which it is located. (Reference Section 79).

Note: Signs require separate Development Applications.

Note: 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.

Note: This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

## REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is a Permitted Use in the RF1 Single Detached Residential Zone.
2. Section 642(1) of the *Municipal Government Act* states that when a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to Section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw, issue a development permit with or without conditions as provided for in the land use bylaw.
3. The proposed development will provide housing for a maximum of six people and will retain the characteristics of a Single Family Dwelling. The Board is satisfied that the nature of the Use will not require ongoing deliveries using commercial vehicles and, on that basis, a variance to remove the requirement for a loading space is appropriate.
4. Sufficient on-site parking is provided and the Board finds that having two employees per shift working at the subject property will not unduly increase traffic or parking in the area.
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 and affect the use, enjoyment and value of neighbouring parcels of land.

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