



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](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)*

SDAB-D-18-105  
Application No. 280807879-001

An appeal to add one additional Dwelling to an existing Apartment House (total of 26 Dwellings), existing without permits, located at 10620 - 105 Street NW, was **TABLED TO AUGUST 15 or 16, 2018.**



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[edmontonsdab.ca](http://edmontonsdab.ca)

Date: August 3, 2018  
Project Number: 277389618-001  
File Number: SDAB-D-18-106

**Notice of Decision**

- [1] On July 19, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **June 27, 2018**. The appeal concerned the decision of the Development Authority, issued on June 26, 2018, to refuse the following development:

**Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace, rear uncovered deck, and to demolish a Single Detached House.**

- [2] The subject property is on Plan 2803AF Blk 88 Lots 12-13, located at 10325 - 132 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:

- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submission;
- The Appellant’s written submission; and
- Online responses.

- [4] The following exhibit was presented during the hearing and forms part of the record:

- Exhibit A – Written submission read by Mr. T. Hoover, representing 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.

### **Summary of Hearing**

i) *Position of Mr. T. Hoover, representing the Appellant, Habitat Studio & Workshop Ltd.*

[8] They often face challenges for developments due to the variation in lot sizes.

[9] There is no rear lane present across the rear of the subject site.

[10] The two neighbours north of the subject site have rear lane access but the lane ends at the property directly to the north. There is lane along the side of the property to the south but does not access all of the properties.

[11] At the time the house was designed, the Mature Neighbourhood Overlay allowed front driveways if certain criteria was met. In his opinion, the proposed development would have been approved if the Mature Neighbourhood Overlay was not amended.

[12] The proposed development meets two of the three driveway requirements of the Mature Neighbourhood Overlay. The lot is wider than 15.5 metres and more than 50 percent of the houses on the blockface have front vehicular access.

[13] Eight of the properties canvassed in the 60 metre notification radius of the subject site have front drive garages.

[14] They received signatures in support from all of the property owners within the 60 metre notification radius.

[15] They had several consultations with the Forestry and Transportation Departments that are in support of the proposed development.

[16] The existing house on the property has an oversized three car garage with a wide driveway accessing the street with a parking pad along the south side of the property.

[17] There are large hedges south of the driveway down to the lane which could be a hazard for pedestrians approaching the driveway if someone is backing out.

[18] Moving the driveway to the north side of the property will help maintain as much of the existing vegetation as possible.

[19] Having a front driveway will allow for more on-street parking as the existing driveway can accommodate three cars.

[20] If the proposed development had a detached garage, the development could be as large as 1680 square feet and could accommodate nine cars.

[21] The attached two car garage will be aesthetically pleasing with the design of the house.

[22] The house is situated on the north side of the lot to gain as much sunlight as possible.

- [23] Mr. Hoover provided the following information in response to questions by the Board:
- a. He confirmed that the lane south of the property is paved.
  - b. Not all of the neighbours along the block are able to use the laneway.
  - c. They considered a house with a driveway on the side but it was not suitable for the lot.
  - d. They are accommodating the distance from the development to the boulevard trees as requested by the Forestry Department.
  - e. There are six houses on the blockface that have front driveways.

*ii) Position of an Affected Property Owner in Support of the Appellant*

Mr. B. Dancik

- [24] He lives southwest of the subject site.
- [25] He would like the existing vegetation to remain on the property.
- [26] He is in support of the proposed development.

*iii) Position of the Development Officer, Mr. Robinson*

- [27] The Development Authority provided written submissions and did not attend the hearing.

*iv) Rebuttal of the Appellant*

- [28] Mr. Hoover did not have anything to add in rebuttal.

**Decision**

[29] 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**:

1. The development shall be constructed in accordance with the stamped and approved drawings.
2. The Height of the principal building shall not exceed 8.9 m (Reference Sections 6.1(49) and 52).
3. Platform Structures greater than 1.0 m above Grade shall provide Privacy Screening to prevent visual intrusion into adjacent properties. (Reference Section 814.3(9)).
4. Any future basement development may require development and building permit approvals. A Secondary Suite shall require a new development permit application.
5. Frosted or opaque glass treatment shall be used on windows as required on the left (north) elevation to minimize overlook into adjacent properties (Reference Section 814.3(8)).
6. The area hard surfaced for a Driveway shall comply with Section 54.6 of the Zoning Bylaw 12800.
7. Except for the hard surfacing of Driveways and/or Parking Areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw 12800.
8. Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House (Reference Section 55.2.1).
9. Two deciduous tree with a minimum Caliper of 50 mm, two coniferous tree with a minimum Height of 2.5 m and eight shrubs shall be provided on the property. Deciduous shrubs shall have a minimum Height of 300 mm and coniferous shrubs shall have a minimum spread of 450 mm (Reference Section 55.2.1).
10. The requirement to provide trees and shrubs may be satisfied either through planting new or preserving existing trees and shrubs (Reference Section 55.6.2).
11. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or artificial turf, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens (Reference Section 55.2.1).

12. All access locations and curb crossings shall have the approval of City Transportation prior to the start of construction (Reference Section 53(1)). **PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW**, the applicant or property owner shall pay a Curb Crossing Permit application fee of \$50.00.

**ADVISEMENTS:**

- i.) Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Planning and Engineering at 780-496-5576 or [lot.grading@edmonton.ca](mailto:lot.grading@edmonton.ca) for lot grading inspection inquiries.
- ii.) Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals.
- iii.) Any future deck enclosure or cover requires a separate development and building permit approval.
- iv.) Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

**TRANSPORTATION CONDITIONS:**

**CURB CROSSING PERMIT CONDITIONS:**

1. The proposed 3.0 m access to 132 Street located 2.6 m from the south property line, as shown on the Enclosure, is acceptable to Subdivision Planning and must be constructed as a private crossing as per the City of Edmonton Design and Construction Standards. However, we note that there are **existing boulevard trees** in close proximity to the proposed driveway.

The driveway must maintain the minimum 3.8 m separation distance from the edge of both tree trunks to the edge of the driveway, as shown on the Enclosure.

2. Prior to construction of the proposed driveway, the owner/applicant must contact Courtney Teliske of City Operations, Parks and Roadways (780-944-7831) to arrange for site inspection and implement associated watering charges.
3. There are existing boulevard trees adjacent to the site that must be protected during the proposed construction, as shown on the Enclosure. Prior to construction, the owner/applicant must contact Bonnie Fermanuik of City Operations, Parks and Roadways (780-496-4960) to arrange for hoarding and/or root cutting. All costs shall be borne by the owner/applicant.

4. Any sidewalk or 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 Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.
5. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344 -7429; [www.digshaw.ca](http://www.digshaw.ca)) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant
6. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On- Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
  - the start/finish date of project;
  - accommodation of pedestrians and vehicles during construction;
  - confirmation of lay down area within legal road right of way if required; and
  - confirmation if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:

[https://www.edmonton.ca/business\\_economy/licences\\_permits/oscam-permit-request.aspx](https://www.edmonton.ca/business_economy/licences_permits/oscam-permit-request.aspx) and <https://www.edmonton.ca/documents/ConstructionSafety.pdf>

FILL IN PERMIT CONDITION:

1. The existing 8.8 m residential access to 132 Street located approximately 8.7 m from the north property line must be removed with reconstruction of curb, gutter and sidewalk and restoration of the grassed boulevard within the road right-of-way, as shown on the Enclosure to the City of Edmonton Design and Construction standards.

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

1. Section 814.3(17) is waived to allow a front access Driveway.

**Reasons for Decision**

- [31] The proposed development, a Single Detached House, is a Permitted Use in the (RF1) Single Detached Residential Zone.
- [32] Based on the Development Officer's report and submission of the Appellant, there was virtually 100 percent support for waiving the regulation for a front Driveway in the Mature Neighbourhood Overlay.
- [33] The Board recognizes that the existing property has access to 132 Street, which is wider than the proposed access to the north onto 132 Street.
- [34] The proposed development was accepted by the Transportation and Forestry Departments for the location of the Driveway.
- [35] The Board accepts the evidence submitted that front attached Garages are not uncommon in the area with 8 of the 24 properties within the 60 metre notification radius having front garages.
- [36] The Board accepts the evidence submitted by the Appellant, that the overall design of the house is characteristic of the neighbourhood.
- [37] The Board was provided with information that the design and location of the house on the property will allow for as much of the existing vegetation and landscaping to remain as possible.
- [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. V. Laberge, Presiding Officer  
Subdivision and Development Appeal Board

**Board Members in Attendance:**

Mr. W. Tuttle; Mr. A. Bolstad; Mr. A. Nagy; Ms. S. LaPerle

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. Robinson / 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: July 27, 2018  
Project Number: 280926123-001  
File Number: SDAB-D-18-107

**Notice of Decision**

- [1] On July 19, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **June 20, 2018**. The appeal concerned the decision of the Development Authority, issued on May 24, 2018, to approve the following development:

**Construct an addition to an existing Single Detached House (new main floor Garage and second floor bedroom with bathroom).**

- [2] The subject property is on Plan 2803AF Blk 89 Lot 10, located at 10345 - 133 Street NW, within the (RF1) Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.

**Preliminary Matters**

- [3] 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.
- [4] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [5] The Presiding Officer explained that because the proposed development is within the Mature Neighbourhood Overlay and does not comply with the minimum Front Setback requirement per section 814.3(1) of the *Edmonton Zoning Bylaw*, Community Consultation is required per section 814.5. The Presiding Officer indicated that because Community Consultation was not completed, the hearing would be tabled to a further date.

**Summary of Hearing**

- [6] The Appellants and Respondents agreed to table the hearing to August 22 or 23, 2018.

**Decision**

[7] **SDAB-D-18-107** is **TABLED** to **August 22 or 23, 2018** at the verbal consent of both the Appellants and Respondents with the following **CONDITIONS**:

1. The Respondents (Applicants) must conduct a Community Consultation by notifying neighbours and the Community League per section 814.5(2) of the Mature Neighbourhood Overlay outlining the proposed development and the Front Setback variance per section 814.3(1).
2. Provide feedback from neighbours with respect to the proposed development.
3. Provide Community Consultation results to the Subdivision and Development Appeal Board office on or before August 17, 2018.

**Reasons for Decision**

[8] The Board is bound by the Alberta Court of Appeal decision *Thomas v. Edmonton (City)*, 2016 ABCA 57 that requires that Community Consultation is mandatory under the Mature Neighbourhood Overlay and the *Edmonton Zoning Bylaw* (the *Bylaw*).

[9] Section 643(5) of the *Municipal Government Act* states:

A non-conforming building may continue to be used but the building ***may not be enlarged, added to, rebuilt or structurally altered except*** [emphasis added]

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) ***in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.*** [emphasis added]

[10] Section 814.5(1) of the *Bylaw* states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, ***or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1)*** [emphasis added], 814.3(3), 814.3(5) and 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;

- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

Section 814.5(2) states:

<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay to be Varied</b>
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(1) – Front Setback

[11] Section 814.3(1) of the *Bylaw* states:

The Front Setback shall be a minimum of 3.0 m and shall be consistent within 1.5 m of the Front Setback on Abutting Lots, to a maximum of 20% of Site Depth. Where an Abutting Lot is vacant, the vacant Lot shall be deemed to have a Front Setback of the next Abutting Lot.

The Development Officer determined that the minimum required Front Setback is 4.76 metres and the subject development is Setback 5.6 metres.

[12] The proposed addition adds to a non-conforming Front Setback, therefore Community Consultation is required.



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

Board Members in Attendance: Mr. W. Tuttle; Mr. A. Bolstad; Mr. A. Nagy; Ms. S. LaPerle

City of Edmonton, Development & Zoning Services, Attn: Ms. S. Watts / Mr. A. Wen

**Important Information for the Applicant/Appellant**

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.