



**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 27, 2017
Project Number: 235092153-001
File Number: SDAB-D-17-069

Notice of Decision

- [1] On April 12, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on March 16, 2017. The appeal concerned the decision of the Development Authority, issued on March 3, 2017, to refuse the following development:

Construct a Single Detached House with a veranda, rear uncovered deck (3.05m x 5.79m), fireplace, and Secondary Suite in the Basement

- [2] The subject property is on Plan 1621213 Blk 6B Lot 2C, located at 9118 - 83 Avenue NW, within the RF3 Small Scale Infill Development 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:

- Copies of the development application, Development Permit decision and plans;
- Development Officer's written submissions dated April 5, 2017, including results of the community consultation;
- Appellant's supporting materials, including community consultation information; and
- Correspondence from neighbouring property owners both in support and in opposition to the development.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – Photos of two similar houses in the neighbourhood
- Exhibit B - Google Image of similar houses in the neighbourhood

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 the Appellant, Mr. S. Stojanovic

- [8] Mr. C. Klassen made a presentation on behalf of the Appellant, Mr. S. Stojanovic. Ms. S. Stojanovic was also present.
- [9] If the proposed development had an actual pitched roof, the midpoint would be under the 8.6 metres allowed and would have a greater impact on sun shadowing than their proposed design. The half storey only covers 40% of the length of the home.
- [10] A four storey condominium complex located six lots to the west creates sun shadowing during certain times of the day.
- [11] The community consultation showed that many neighbours were in favour of the development including the property owner directly to the east. Two condominium unit owners from the above noted complex were in opposition to the development but there may have been some confusion as to the lot in question. There are a total of six skinny lots in a row to the east of the condominium complex, and the Appellant believed that the opposition was directed against the lots closer to the condominium. Although the proposed development is located on one of the skinny lots, it is the farthest away from the condominium.
- [12] A set of photos depicting two homes similar in design to their proposed development was displayed (marked Exhibit A). These two homes are approximately ten blocks away from the subject site. Exhibit B consisted of a Google image depicting two similarly designed homes a little closer to the subject site (but not on the same blockface).
- [13] There are two existing skinny homes to the east of the proposed development; one has a large slanted roof and the other is more modern with a slight pitch to the roof. Both are two storey homes.
- [14] There are quite a few infill properties on this street and the design of the proposed development will provide some variety. It will have a positive effect on curb appeal and will add value to the surrounding homes. The extra half storey is set on the back portion of the development and is aesthetically pleasing.
- [15] Windows facing the neighbouring properties have been offset, and screening will be used on the rooftop terrace to address privacy concerns. They have not determined the exact design of the privacy screening but are leaning towards shaded glass.

- [16] The size of the house is in compliance with the requirements of the *Edmonton Zoning Bylaw*. A secondary suite would provide opportunity to earn some extra income, would add value to the property and could be a potential in-law suite in the future. The 6.68 square metre variance to the minimum required lot size is minimal.
- [17] Parking will be available in the double detached garage as well as on the driveway behind the garage. There should be room for three cars on the driveway although it will be tight and some maneuvering of cars may be required. With a double garage, there will not be adequate room for parking beside the garage in the rear yard.
- [18] Although there is a rear deck on the main floor they would like to have the rooftop terrace for entertaining and personal use as the yard is not very large. The basement area is not available for recreational use because of the Secondary Suite.
- [19] They confirmed that the immediate neighbour to the east approves of the proposed development, and the property to the west is a rental. The owner of the property to the west has not voiced any concerns.
- [20] Other than the variances required to the maximum permitted height and the minimum required lot size for the basement suite, the development complies with all other bylaw requirements.

ii) *Position of the Development Officer, Mr. D. McArthur*

- [21] Mr. McArthur clarified that the amenity area on the third floor is considered a rooftop terrace. It will have privacy screening and will be stepped back one metre from the sides and 1.6 metres from the front. Section 49(2)(a)(i) of the *Edmonton Zoning Bylaw* states that translucent glass is an acceptable material for privacy screening.
- [22] Section 54.2 Schedule 1 of the *Edmonton Zoning Bylaw* requires two parking spaces for the principal dwelling and one additional parking space for the secondary suite. Tandem parking is permitted and the length of the driveway for the proposed development is in excess of the minimum required. Therefore, this development would meet the parking requirements for a Secondary Suite.
- [23] At the time of the application, only one window on the right elevation created a partial privacy concern with a neighbouring property and this window will be frosted.
- [24] The rear setback is over 20 metres and the third storey room is pushed toward the rear of the home; both of these factors mitigate the height concerns.
- [25] A garage would require a separate application. He believes an application for a garage has been submitted but could not confirm this.
- [26] He has no concerns regarding the deficiency in the minimum required site area since it is minimal.

- [27] Section 55 of the *Edmonton Zoning Bylaw* does not provide specific landscaping requirements other than outlining how many shrubs and deciduous or coniferous trees are required; the plot plan indicates these requirements have been met. Detailed landscaping plans are only required for more major developments such as multi residential or industrial.
- [28] He was not able to confirm if there is a boulevard between the public sidewalk and the roadway.

iii) Rebuttal of the Appellant

- [29] The Appellant agreed with all of the conditions of approval proposed by the Development Officer.

Decision

- [30] 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. Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion into adjacent properties. (Reference Section 814.3(8))
 2. The area hard surfaced for a driveway, not including the area used for a walkway, shall comply with Section 54.1(4).
 3. Except for the hardsurfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw.
 4. 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).
 5. 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),
 6. One deciduous tree with a minimum Caliper of 50 mm, one coniferous tree with a minimum Height of 2.5 m and four 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)

7. Notwithstanding the Landscaping regulations of Section 55 of this Bylaw, where new development consists of replacement or infill within areas of existing housing, Landscaping shall be implemented as a component of such new development in order to replace vegetation removed during construction or to reinforce an established Landscaping context in the area. (Reference Section 140.4(16))
8. For Single-detached Housing, Semi-detached Housing and Duplex Housing, a minimum Private Outdoor Amenity Area shall be designated on the Site plan. Neither the width nor length of the Private Outdoor Amenity Area shall be less than 4.0 m. The Private Outdoor Amenity Area may be located within any Yard, other than a Front Yard, and shall be permanently retained as open space, unencumbered by an Accessory Building or future additions. (Reference Section 47)

NOTES:

1. Any future deck enclosure or cover requires a separate development and building permit approval.
2. The driveway access must maintain a minimum clearance of 1.5m from all surface utilities.
3. Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at [780496-5576](tel:780496-5576) or lot.grading@edmonton.ca for lot grading inspection inquiries.
4. 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.
5. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

[31] In granting the development, the following VARIANCES to the *Edmonton Zoning Bylaw* are allowed:

1. The maximum allowable building Height of the Single Detached House to the midpoint of the roof of 8.6 metres per Sections 814.3(13) and 52.1(a) is varied to allow an excess of 1.12 metres, thereby increasing the maximum allowable building Height at the midpoint to 9.72 metres.
2. The minimum required Site Area for a Single Detached Dwelling containing a Secondary Suite as per Section 86.1 is varied to allow a deficiency of 7 square metres, thereby decreasing the minimum required Site Area to 353 square metres.

Reasons for Decision

- [32] Single Detached Housing is a Permitted Use in the RF3 Small Scale Infill Development Zone. A Secondary Suite is also a Permitted Use within this zone.
- [33] The proposed development meets all other regulations except for the two variances requested to the Site Area and maximum allowable Height.
- [34] The minimum required Site Area for a Secondary Suite is 360 square metres, which is larger than the proposed Site Area of 353.3 square metres. The Board was presented with no information as to how the approximately seven square metre deficiency will unduly interfere with the amenities of the neighbourhood, or materially interfere with the use, enjoyment or value of neighbouring properties. The Board also notes the Development Officer did not express concerns about this required variance. For these reasons, the Board grants this variance to the Site Area.
- [35] The Board accepts the variation in Height for the following reasons:
- a) The Dwelling is set back on the property, and the rooftop terrace is set back one metre from the sides and 1.6 metres from the front of the development. There will be privacy screening around the edge of this rooftop terrace.
 - b) The additional room on the rooftop area covers 40% of the length of the house and is situated at the rear of the house, thereby mitigating any massing effect from the street.
 - c) There are other skinny lots between this site and a four storey condominium development to the west. The additional height of the proposed development will not affect sun shadowing on any of the other lots on this blockface, including the four storey condominium complex.
 - d) When compared to a pitch style roof that meets height requirements, the additional height of the proposed development will not have any greater impact upon sun shadowing on the other lots on this blockface.
- [36] Shrubs and trees have been proposed, fulfilling the landscaping requirements.
- [37] The Board also finds that there was substantial compliance with the community consultation requirements under section 814.3(24) of the Mature Neighbourhood Overlay. The immediate neighbours on both the east and west have no objections, and while two letters of opposition were received, the Board notes that these owners will not be directly affected by this development.

[38] For the above reasons, the Board finds 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.

Patricia Jones, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. M. Young; Ms. N. Hack; Mr. J. Kindrake; Ms. D. Kronewitt Martin

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, 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 the Sustainable Development Department, 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.



**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 27, 2017
Project Number: 233863289-001
File Number: SDAB-D-17-070

Notice of Decision

- [1] On April 12, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on March 17, 2017. The appeal concerned the decision of the Development Authority, issued on March 17, 2017, to refuse the following development:

Construct a Single Detached House with rear attached Garage, veranda, fireplace, Balcony, Basement development (NOT to be used as an Secondary Suite) and to demolish existing Single Detached House & Rear Detached Garage

- [2] The subject property is on Plan 715HW Blk 4 Lot 6, located at 9119 - 118 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:
- Copies of the development application, Development Permit decision and plans;
 - Development Officer's written submissions dated April 5, 2017, including results of the community consultation;
 - Appellant's supporting materials, including community consultation information; and
 - Correspondence from neighbouring property owners both in support and in opposition to the development.

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.

Summary of Hearing

i. Position of the Appellant, Effect Home Builders Ltd.

- [7] Mr. L. Pereira, Design Consultant and the owner of Thirdstone Inc. made a presentation on behalf of the Appellant. Mr. D. Rott of Effect Home Builders Ltd. and the property owners, H. and E. Yang were also present.
- [8] The proposed development adheres to many of the following municipal development objectives:
- a. To contribute to the creation of mature neighbourhoods that are livable and adaptable.
 - b. To foster residential infill that contributes to on-going neighbourhood renewal and revitalization.
 - c. To encourage residential infill that contributes to the social, economic, and environmental sustainability of mature neighbourhoods and to the overall sustainability of the City.
 - d. To meet the City's 'Vision for an Age-Friendly Edmonton' and to enhance the ongoing health, participation and security of an aging population.
- [9] The house is designed for a mature professional couple and allows for ease of accessibility between indoor and outdoor amenities. The proposed design will improve the homeowners' livability and quality of life over the long term. The design, which includes an elevator, offers flexibility as family needs change – a practice promoted by Canada Mortgage and Housing Corporation's Flexhousing Program and which is also supported in the City's Municipal Development Plan, *The Way We Grow*.
- [10] The proposed development fits in well with the neighbouring properties, existing mature vegetation, the streetscape and the community as a whole. The design also adheres to the initiatives of the City's *Smart Choices Program* by fostering infill development while increasing efficient use of existing infrastructure and community facilities.
- [11] One of the homeowners has had hip replacement surgery and falls are a concern during the winter season. The section of the building that links the principal dwelling with the rear attached garage will provide a safe and comfortable transition from the Garage to the interior living spaces.
- [12] This link is 261 square feet (3.5%). The total site coverage of the principal dwelling, link and garage at 39.4 percent is less than the 40 percent permitted.
- [13] The link and garage are aligned with the Dwelling and recessed over six feet from the flanking property line. This reduces the perceived massing from the property to the north and the impact will be further diminished with proposed tree planting along the north facade of the Link.

- [14] The 14 feet 6 inch wide link is located along the north side of the property, thereby minimizing its massing and visibility from the neighbouring property to the south. A courtyard and pocket of open space faces this south neighbour.
- [15] The link is one storey in height and will be no higher than the height proposed for the Garage. The difference in height will assist in creating a distinct levelling effect, with the Dwelling overlooking the shorter link and attached garage.
- [16] Mr. Pereira reviewed their PowerPoint presentation to illustrate the proposed development and its location on the site and in relation to the neighbouring properties.
- [17] Both the house and the garage would meet all *Edmonton Zoning Bylaw* requirements without the proposed link. The variance is required only due to the proposed one storey link.
- [18] The neighbour to the north would be the most affected. Efforts have been taken to maintain the existing mature vegetation along the north property line and new plantings are also proposed. A fence will be built to mitigate the massing effect and trees will be planted in front of the link. The type of trees have not been finalized, but proposals include six columnar aspens or western white cedars or three intermediate deciduous trees. They would plant larger 10 feet tall trees, which would create an immediate screening effect.
- [19] The proposed development will create less sun shadowing than the vegetation that was there previously. Several large trees have been removed that were overgrown and too large for the site.
- [20] There are three properties in the immediate neighbourhood where the Dwelling and rear garage have been connected. Two have a much larger massing effect than the proposed development. One is similar in that the link will not be visible from the front street. One of these properties is on a corner lot and the other two are on interior lots.
- [21] The community consultation was carried out by a staff member of Effect Builders who conducted multiple door to door visits. Information was left in mail boxes if there was no answer after several attempts. The plans and all information were available for all neighbouring property owners to view. Twenty-eight responses were received, three of which were in opposition. Many of the responses were indifferent and several of the properties were rentals. One of the negative responses was from the most affected neighbour to the north. The other two negative responses were from owners further along the block.
- [22] The negative responses did not specifically express opposition to the link. The neighbour to the north was opposed because the house itself is taller than what is being replaced.
- [23] The height of the link is 14 feet with an interior ceiling height of 10 feet. Based on constructability, this height was chosen to match the height of the main floor of the house. The link is fully enclosed and contains a mudroom and laundry facilities. The

change in height, exterior cladding and planned landscaping gives some distinction to help mitigate the massing effect the link causes.

- [24] There is no elevation difference between the proposed site and the property to the north – it is a relative flat site.
- [25] The Appellant expressed no objections to any of the conditions listed in the Development Officer's written submission.

ii. *Position of the Development Officer, Mr. J. McArthur*

- [26] Mr. McArthur confirmed that 28 responses were received in response to the Community Consultation. Three of the letters were in opposition and were from along the block face. One was opposed to the general design, one had concerns regarding shadowing impacts on their property and the last had concerns for future privacy as a second storey could possibly be added to the link or to the garage. The primary concern of the immediate neighbours is sun shadowing; however the proposed fence and link likely create less sun shadowing than the mature vegetation did. There are no regulations regarding the specific trees that are required.
- [27] The Development Officer could not provide the exact address of the negative responses but confirmed that he was satisfied that the community consultation conducted was adequate.
- [28] There are two interior lots with rear attached garages in this neighbourhood, both of which were approved by this Board. One of these was approved prior to the implementation of the Mature Neighbourhood Overlay and the other was after this Overlay came into effect.
- [29] Mr. McArthur drew the Board's attention to the fact that the stamped Rear Elevation drawing does not show the two rear windows facing the neighbour to the north; however, these windows are shown on the floor plans. If all of the mature existing vegetation has been removed, the Board may wish to add a condition that these windows be frosted to address any privacy concerns.
- [30] He confirmed that there was an error on page 2 of his written submission which should have read "A rear *attached* garage is uncharacteristic of the neighbourhood."
- [31] If the application was just for the house and the garage (without the link), the requirement for a 40% rear yard setback would be met. The portion linking the dwelling to the garage creates the deficiency. The Development Officer expressed the view that the link should be refused as it was more than a simple hallway and includes a mudroom with laundry facilities, a den or nook, several closets and a seating bench. He may have considered approval if the link were sunken or of lesser scope, such as a breezeway.
- [32] When asked about the possibility of a future second storey being approved for the garage, he could not confirm anything but felt such an application would most likely be refused.

- [33] While he could not say with certainty why a corner site is considered more suitable for a rear attached garage, it was his opinion that a rear attached garage on a corner lot would have less impact on the neighbour because it could be placed closer to the side that flanks the street. An interior site would have more impact as there are two neighbours.
- [34] He stated that the landscaping plan was quite attractive with the proposed mature trees screening the link area.

iii) Rebuttal of the Appellant

- [35] Mr. Pereira confirmed that the floor plans accurately reflect the two rear windows in question, which form part of the application, and were missed on the elevation drawings. These rear windows are aligned to overlook the roof of the neighbour's house and they would have no issue with frosting these windows if directed to do so by the Board.
- [36] The footprint of the original design for the house has been maintained, although a bathroom has been relocated to the rear transition point between the house and the garage for more functionality. The Development Officer confirmed he had no issue with this change, as no alterations have been made to the footprint and no windows have been changed.
- [37] There are no future plans to add an additional level, whether above the link or the garage.
- [38] They are prepared to intensify the landscaping or accept conditions as to the type of tree species that must be planted.
- [39] The concern of the owner directly to the north regarding shading has more to do with the higher design of the house rather than anything to do with the link. This development meets height requirements. The property owner who mentioned a possible second storey garage development appears to be more concerned about secondary suites in general, as they live several houses away and are not directly affected.
- [40] They have tried to maintain as much of the existing vegetation as possible and are also adding new plantings. Three large trees and a blue spruce have been removed but several mature trees toward the front of the lot are being maintained. There are also some existing elm trees along the street which belong to the City.
- [41] The new fence being constructed will be just inside the property line. The owners prefer to build it according to their design without asking for a cost sharing arrangement with the abutting neighbor. There is currently no existing fence other than a short one towards the rear of the lot.

Decision

- [42] 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 maximum Height shall not exceed 8.6m, in accordance with Section 52 of the Edmonton Zoning Bylaw 12800.
2. The area hard surfaced for a driveway, not including the area used for a walkway, shall comply with Section 54.1(4).
3. Except for the hardsurfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw.
4. 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).
5. 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).
6. Two deciduous trees with a minimum Caliper of 50 mm, two coniferous trees 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). **In addition there will be a minimum of three coniferous trees on the north side of the link between the house and the garage.**
7. For Single-detached Housing a minimum Private Outdoor Amenity Area shall be designated on the Site plan. Neither the width nor length of the Private Outdoor Amenity Area shall be less than 4.0 m. The Private Outdoor Amenity Area may be located within any Yard, other than a Front Yard, and shall be permanently retained as open space, unencumbered by an Accessory Building or future additions. (Reference Section 47)

NOTES:

1. Any future deck may require a separate development and building permit approval.
2. Any future additional dwelling such as Secondary Suite shall require a separate development permit application.
3. Dwelling means a self-contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

- [43] In granting the development the following VARIANCES to the *Edmonton Zoning Bylaw* are allowed:
- a. Section 814.3(5) is varied to allow the minimum allowable distance from the Single Detached House to the rear property line to be 28% of Site depth (or 12.81 metres) instead of the required 40%, thereby decreasing the minimum allowable distance from the Single Detached House to the rear property line to 12% of site depth (or 5.48 metres).
 - b. Section 814.3(18) is waived to allow a rear attached garage to be located on an interior lot.

Reasons for Decision

- [44] Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone.
- [45] The community consultation was delivered to the Development Officer who deemed it to be adequate. The Board heard from the Appellant that attempts were made to contact all property owners within the 60 metre notification area. Where a property owner could not be reached, the Appellant left information packages at the door. The required variances were noted, and proposed plans were also made available. Based on the information provided, the Board finds that there was substantial compliance with the community consultation requirement under section 814.3(24) of the Mature Neighbourhood Overlay.
- [46] As a result of the consultation process, three letters of opposition were received. One of the opposition letters was from the adjacent property to the north, but this neighbour was primarily opposed to a two storey house being built at the site and its potential sun shadowing effect. There was no mention of the link between the house and the garage. The other two letters of opposition pertained to concerns about design and potential second storey development, and again, did not raise concerns about the link itself. These two letters were also from property owners within the notification area, but not directly adjacent to the subject property, and therefore would not be directly affected. The Board accepts that with the exception of these three letters of opposition, the remainder of the responses were either favourable or neutral regarding the proposed development
- [47] Two variances are required: one to allow a rear attached garage and the second to the minimum required rear setback. The Board is allowing the rear attached garage with the link for the following reasons:
- a. There are two homes in the neighbourhood with rear attached garages, which demonstrates that while such developments are not necessarily characteristic of the neighbourhood, this is not an exception.
 - b. The site coverage of this development is within the required 40% and the development meets all other regulations other than the minimum required rear setback.

- c. The minimum rear setback is dependent on the placement of the garage and it being attached by the link to the principal residence. There is a courtyard which will separate the principal residence from the garage on the south side of the lot.
- d. The link attaching the house to the garage will not be visible from the front street. Also, the area adjoining the house and the garage is set back an additional one metre from the north side lot line and have differentiating architectural treatment. Trees will also be planted on the north side of the link. Combined, these efforts will mitigate the massing effect on the north side.
- e. The amendment to condition number six, requiring the planting of additional coniferous trees on the north side of the house adjacent to the link will help to mitigate the massing effect on the north side.
- f. Two windows overlook the neighbouring property to the north, however, these windows overlook the roof of the adjacent house. The Board finds that these windows do not present a privacy concern.
- g. If the link were removed, the house and garage would comply completely with all regulations under both the Mature Neighbourhood Overlay and the underlying RF1 Single Detached Residential Zone.
- h. The Appellant proposes to build a six foot high fence within the property line running the total length from the house to the rear lot line.

[48] For the above reasons, the Board finds 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.

Patricia Jones, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. M. Young; Ms. N. Hack; Mr. J. Kindrake; Ms. D. Kronewitt Martin

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, 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 the Sustainable Development Department, 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.