



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: April 17, 2018
Project Number: 275019995-001
File Number: SDAB-D-18-050

Notice of Decision

- [1] On April 12, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **March 14, 2018**. The appeal concerned the decision of the Development Authority, issued on February 28, 2018, to refuse the following development:

To park a Recreational Vehicle in the required Front Yard

- [2] The subject property is on Plan 4068HW Blk 3 Lot 43, located at 12011 - 129 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
 - The Development Officer’s written submissions; and
 - One email response in opposition to the proposed development.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Petition of support submitted by the Appellant

Preliminary Matters

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

Summary of Hearing*i) Position of the Appellant, Mr. & Mrs. Bell:*

- [8] Mr. Bell submitted the results of his community consultation, marked Exhibit A.
- [9] Mr. and Mrs. Bell have owned this property for more than five years and were advised by their realtor at the time of purchase that the previous owner entered into an easement agreement with the neighbour for the retaining wall next to the parking pad for the sole purpose of parking his RV/trailer.
- [10] They have lived under the assumption for the past six years that the parking pad located on the north side of the house (deemed the required front yard) was legal. Their RV has been parked on the pad for approximately 4 years without complaint.
- [11] Their neighbours do not have any concerns with the RV being parked at this location as evidenced by the petition of support. The RV is hidden by a fence and a mature tree in the side yard.
- [12] This issue arose when a Bylaw Officer was in the neighbourhood on a different matter and noticed the RV parked in the front yard. The Bylaw Officer suggested that the RV could be moved and parked in the rear yard. However, this would require removing a section of the fence along 129 Street which is a collector road. Parking the RV between the house and the detached garage would essentially eliminate the use of their rear yard and decrease the enjoyment of their property as well as result in the RV being parked in plain sight of everyone driving along 129 Street. It was his understanding that the Bylaw regulations were adopted to prevent this situation.
- [13] Mr. and Mrs. Bell provided the following information in response to questions from the Board:
- a) There is a three foot retaining wall and a hedge located between the parking pad and the adjacent property.
 - b) Moving the RV adjacent to the detached garage will require access from 129 Street which is a very busy four lane collector roadway. The existing access is from 121 Avenue which is a much quieter roadway and makes access much safer.
 - c) The area located behind the detached Garage is too narrow to accommodate parking of the RV and it cannot be parked inside the detached Garage because of the height.
 - d) Mr. Bell is a member of the Community League executive and advised that the Community League has addressed the parking of trailers and RVs in the neighbourhood and is constantly reminding residents of the regulations for parking

RVs and trailers on the road. There are a number of RVs parked on private property in the neighbourhood and the league has not been concerned.

- e) The previous owners of this property parked their 5th wheel trailer on the parking pad while they owned the property.

ii) *Position of the Development Officer, Ms. Bernuy:*

[14] Ms. Bernuy provided a written submission but did not attend the hearing.

Decision

[15] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority.

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

1. Section 45.3 is waived to allow a Recreational Vehicle to be parked in the Front Yard.

Reasons for Decision

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

[18] The Board accepts the evidence of the Development Officer that the existing Driveway is Non-conforming.

[19] The Board has waived Section 45.3 of the *Edmonton Zoning Bylaw* to allow the Recreational Vehicle to be parked in the Front Yard for the following reasons:

- a) Based on the evidence provided, the parking pad existed for some time prior to the purchase of this property by the Appellant and the previous owners parked their Recreational Vehicle on the pad at this location without any known complaint.
- b) The Board notes that the Appellant undertook Community Consultation and submitted a petition of support containing the signatures of twelve neighbouring property owners, including the most affected adjacent property owner. One neighbour objected to the proposed development but the Board notes that this neighbour resides some distance from the subject site.
- c) The parking pad and Recreational Vehicle are screened by a fence and mature vegetation that will mitigate the impact of allowing a Recreational Vehicle to be parked in the Front Yard.

- d) This is a unique corner lot with the house facing the street instead of the avenue. This creates two flanking “side” yards with a small Rear Yard that is not large enough to accommodate the parking of the Recreational Vehicle.
 - e) Parking options are limited on this lot. Requiring the Recreational Vehicle to be moved and parked adjacent to the detached Garage will create safety concerns because it will require access from 129 Street which is a very busy four lane collector roadway. The area located behind the detached Garage is too narrow to accommodate the Recreational Vehicle and it is too high to be parked inside the detached Garage.
- [20] Based on all of the above, 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.



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

Board members in attendance: Mr. M. Young, Ms. E. Solez, Mr. J. Kindrake, Mr. A. Peterson

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.