

# **Edmonton Subdivision and Development Appeal Board**

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Date: May 1, 2015  
Project Number: 168014376-001  
File Number: SDAB-D-15-079

## **Notice of Decision**

This appeal dated March 18, 2015, from the decision of the Development Authority for permission to:

operate a Major Home Based Business (importing and exporting automobiles)

on Plan 0926130 Unit 2, located at 11229 - 117 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on April 16, 2015. The decision of the Board was as follows:

### **Summary of Hearing:**

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

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

The Board heard an appeal of the decision of the Development Authority to refuse an application to operate a Major Home Based Business (importing and exporting automobiles) located at 11229 – 117 Street NW. The subject site is zoned RA7 Low Rise Apartment Zone and is within the Medium Scale Residential Infill Overlay.

The development permit was refused because outdoor business activity and outdoor storage of business related material or equipment is not permitted. It was the opinion of the Development Officer that the proposed business would be more appropriately located in a Commercial or Industrial Zone as it does not meet the General Purpose of the RA7 Low Rise Apartment Zone.

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

- A written submission from the Appellant, 806392 Alberta Ltd., received April 10, 2015;
- Eight letters in support of the proposed development;
- Four e-mails in opposition to the proposed development; and
- A written submission from Development Officer, received April 15, 2015.

The Board heard from the Appellant, Mr. B. Zurrini of 806392 Alberta Ltd., who provided the following information:

1. He has developed several buildings in the area and has improved the neighbourhood.
2. Fine cars are his passion and he does not intend to deal in large trucks; this is a hobby business.
3. There will be no on-site activity for 6 months of the year.
4. It is his intention to buy 4 or 5 cars per year from automobile auctions and being classed as a Home Based Business would allow him to obtain a dealer plate.
5. The building has 27 parking spaces; 10 are currently not in use.
6. No "For Sale" signs will be displayed on his vehicles.
7. If there are significant neighborhood concerns he would immediately cease the business operation.

Mr. B. Zurrini provided the following responses to questions:

1. No vehicles will be parked on the street and there will only be one business-associated car present at a time. He is not opposed to a condition limiting the number of business-associated cars allowed.
2. A dealer plate would allow some flexibility with this hobby business.
3. The vehicles he purchases are in good repair. Should any repair or maintenance be required it would be done at an off-site mechanical shop.
4. The vacant parking spaces are on the east side of the property.
5. The neighbours would not see anything from his vehicle storage to indicate a vehicle is for sale.
6. He and his wife live on site and have owned the building for the past four years. Most of their tenants are seniors who do not own vehicles.
7. He and his wife fully own 806392 Alberta Ltd.
8. It would not be economically viable to rent an off-site office and questioned the need to rent an off-site parking space when there are 10 vacant on-site parking spaces available.
9. If necessary he would agree to a condition requiring off-site storage.

The Board heard from Mr. C. Lee, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. If the business-associated vehicles were to be stored off-site the proposed development would be more appropriately defined as a Minor Home Based Business with no variances required.
2. The Applicant had indicated on his application that one or two vehicles would be stored at a time. This would be outside storage and should not be permitted.
3. Restrictions on outside storage, noise, and other objectionable effects are imposed on home based businesses to reduce the impact on surrounding properties.

4. In his opinion the home based business would require an additional parking stall which would require a parking variance.
5. He conceded that using the currently empty parking stalls would not have a significant impact on the neighbourhood but things could change in the future.

The Board heard from Mr. S. Dixon, an adjacent property owner, who provided the following information.

1. He and his wife have lived in area since 2000.
2. Parking is always an issue in this area, particularly on 117 Street. This development would lead to more on-street parking and would set a precedent regarding the parking deficiency.
3. The parking spots on the building's site should be reserved for the tenants' use and the ten empty stalls referred to are in frequent use.
4. If there is only one vehicle at a time for business this would be somewhat of a relief; however he still felt that extra vehicles would still end up on the street.

In rebuttal, Mr. B. Zaurrini made the following points:

1. There would be no significant effect on neighbours and he would cease operation of his business if this changes.
2. Both he and his wife own a vehicle and would generally only have one car for sale at a time. He would be using the for sale car as his personal vehicle so having three cars in their possession would only occur infrequently.

**Decision:**

That the Appeal be ALLOWED and the DEVELOPMENT GRANTED. A variance is granted to allow outdoor storage of up to two business-associated vehicles on-site for the Major Home Based Business.

The Approval is subject to the following conditions:

1. This Development Permit may be revoked or invalidated, at any time, if the Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes. This includes mechanical or electrical equipment used which creates external noise or interference with home electronic equipment in adjacent Dwellings. (Reference Section 23.5).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling.

3. This approval is for a 5 year period ONLY from the date of this decision. A new Development Permit must be applied for to continue to operate the business from this location.
4. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
5. The business Use shall not involve the use of commercial vehicles or vehicles weighing over 4500 kg.
6. The business Use must maintain the privacy and enjoyment of adjacent residences and the character of the neighbourhood.
7. A new Development Permit must be obtained should the business changes or expand.
8. All commercial, industrial and overweight vehicles shall be parked at an approved storage facility when not in use. The Development Permit will be revoked if any commercial, industrial and overweight vehicles are parked/stored on the Residential Site.
9. A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling.

**Reasons for Decision:**

The Board finds the following:

1. The proposed development, a Major Home Based Business, is a Discretionary Use in the RA7 Low Rise Apartment Zone.
2. Positive support was received from eight adjacent neighbours and four letters of opposition were received. The objections from the neighbours related to noise associated with the business and the impact on parking in the neighbourhood.
3. The Board finds that there will be no on-site repairs or maintenance; therefore no increase in noise level will be associated with the business.
4. Up to 10 stalls on the property are not being used at the present time. The Board finds that allowing storage of up to two business-associated vehicles on the lot would have little impact on the parking situation in the neighbourhood.
5. The concerns of the neighbours who attended to voice their opposition were somewhat alleviated when they learned there would generally be only one business-associated vehicle on site at any one time.
6. The intent of Section 75(5) of the *Edmonton Zoning Bylaw* prohibiting the outdoor storage of material or equipment associated with the business is to prevent the storage of material that would be unusual in a neighbourhood. The only outdoor storage associated with the proposed development will be non-commercial vehicles parked in the parking lot, which is typical of a neighbourhood parking lot.
7. Accordingly, 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.

**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. Obtaining a Development Permit does not relieve you from responsibility for complying with:
  - a) the requirements of the Alberta Safety Codes Act,
  - b) the Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation,
  - c) the requirements of any other appropriate federal, provincial or municipal legislation,
  - d) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.  
(Refer to Section 5 of the Edmonton Zoning Bylaw, Bylaw No. 12800 as amended.)
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 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*, 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 5th Floor, 10250 – 101 Street, Edmonton.

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

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

cc: City of Edmonton Sustainable Development Department, Attn: C Lee  
S & D Dixon



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Date: May 1, 2015  
Project Number: 168199400-001  
File Number: SDAB-D-15-078

### **Notice of Decision**

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

construct a Semi-detached House with a fireplace, rear balcony and rear uncovered deck (1.83m x 12.19m) and to demolish an existing Single Detached House and rear Detached Garage

on Plan RN3 Blk 99 Lots 2-3, located at 10508 - 85 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on April 16, 2015. The decision of the Board was as follows:

#### **Summary of Hearing:**

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

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

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct a Semi-detached House with a fireplace, rear balcony and rear uncovered deck (1.83m x 12.19m) and to demolish an existing Single Detached House and rear Detached Garage located at 10508 – 85 Avenue NW. The development was refused due to an excess in the allowable Height and the maximum number of storeys; an excess in the maximum allowable Site Coverage for Semi-detached Housing and an excess in the maximum allowable total Site Coverage. The subject site is zoned RF4 Semi-Detached Residential Zone and is within the Mature Neighbourhood Overlay and Strathcona Area Redevelopment Plan.

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

- A written submission from the Development Authority, dated April 8, 2015; and
- A written submission from the Appellant, Franken Homes, received on April 16, 2015.

The Board heard from Appellant, Franken Homes, represented by Ms. J. Starrett, Mr. S. Franken and Mr. U. Franken, who provided the following information:

1. The goal of Franken Homes is to provide more options for people to move back into the City core and they are on the City of Edmonton's preferred contractors list.
2. Their submission shows a revised drawing dropping the deck by one foot (0.3 metres) which removes the required variance for site coverage.
3. A height variance is being sought to allow for a roof-top patio.
4. An aerial photograph in the Development Authority's submission shows the proposed development is surrounded by high density apartment buildings with the exception of a single detached house next door. This is the most impacted property and is owned by the Appellant.
5. There are a number of three-storey homes existing in the neighbourhood which were referenced on pages 6 and 7 of their submission.
6. They feel that they are aligned with a number of City of Edmonton policies which include the *Municipal Development Plan*, *The Way We Move* and *The Way We Live*. These documents support:
  - a. Redevelopment and residential infill alleviating urban sprawl and promoting population growth in central areas of the City;
  - b. Renewal and revitalization of mature neighbourhoods;
  - c. Compact, transit orientated neighbourhoods; and
  - d. A range of housing options close to LRT, major transit centres and major existing corridors.

Ms. J. Starrett, Mr. S. Franken and Mr. U. Franken provided the following responses to questions:

1. The area of the proposed rear uncovered deck is approximately 160 square feet (11.1 square metres).
2. They gave examples of similar developments located about four blocks to the east which they believe are zoned RF3.
3. The total site coverage of the two rear uncovered decks is 5.31%.
4. There is a 1.5 metre variance required in the height of the building.
5. The top floor includes some living space as well as an outdoor seating area.
6. The Appellant owns the singled detached house immediately to the east.
7. The Height of the three-storey apartment building immediately to the west is estimated to be approximately 25 feet (7.6 metres).
8. There is a three-storey apartment building located across the street.
9. The Appellants intend to sell the semi-detached house rather than rent it.
10. Leaving the deck at the height originally proposed would not make a significant difference in terms of impacting the neighbours.
11. They have not explored the option of re-zoning this lot.



The Board heard from Ms. F. Hetherington, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. The majority of the surrounding properties are apartment housing except for one single detached house on the abutting property.
2. The proposed height is 10.1 metres, which requires a 1.5 metre variance.
3. If the deck were to be removed from the plans or were to be lowered to 1 metre or less the site coverage would meet the requirements.
4. She confirmed she has no authority to vary height, but feels that the proposed semi-detached development would fit into the neighbourhood and this lot.
5. Her major concern was the abutting detached house, but she did not realize that the Appellant owned that property as well.
6. Having a deck height above one metre would have no impact on the neighbourhood since the abutting building is an apartment building.
7. She was not able to advise whether the proposed development would be higher than the apartment building next door.
8. Based on aerial photograph in her submission the apartment building east of 106 Street appears to be three-storey Apartment Housing located in an RF4 Semi-detached Residential Zone, but she was unable to confirm this.

The Appellants declined the opportunity for rebuttal.

**Decision:**

That the Appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of 1.5 metres in Height be permitted, the excess of a Half Storey be permitted, the excess of 26.25 square metres in Site Coverage for the Principal Dwelling be permitted, and the excess of 25.72 square metres in Total Site Coverage be permitted, subject to the following conditions:

1. Immediately upon demolition of the building, the site shall be cleared of all debris.
2. Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals. Any future deck enclosure or cover requires a separate development and building permit approval.
3. Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion into adjacent properties.
4. 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.
5. One deciduous tree or one coniferous tree, and two shrubs shall be required in the Front Yard for each Dwelling, except where the Front Setback is 4.5 metres or less, and a landscaped boulevard is provided in accordance with 150.4(10)(a), the tree may be placed within the Rear or Side Yard, rather than the Front Yard.

**Reasons for Decision:**

The Board finds the following:

1. The proposed development, Semi-detached Housing, is a Permitted Use in the RF4 Semi-detached Residential Zone.
2. The property immediately abutting the Site to the west is an apartment block in the RA7 Low Rise Apartment Zone, which will have a similar height profile to the proposed development. In addition, a number of three-Storey buildings are present in the neighbourhood. The Board finds the excess in Height and Storeys is consistent with the character of the neighbourhood.
3. The Board notes the subject Site is abutted to the north by the Highlevel Bridge Streetcar line and has one abutting neighbor in addition to the apartment block. The other neighbouring property, to the immediate east, is a Single Detached House owned by the Appellant.
4. The excess in Site Coverage can be attributed to the rear uncovered deck having a Height over 1.0 metres. The Board notes that lowering the deck by 0.18 metres would remove the deck from the Site Coverage and finds the 0.18 metre incremental difference in the Height of the rear uncovered deck will have no impact.
5. The proposed development is within the Strathcona Area Redevelopment Plan and conforms with the expectations of this plan.
6. 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.

**Important Information for Applicant/Appellant**

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(Refer to Section 5 of the Edmonton Zoning Bylaw, Bylaw No. 12800 as amended.)

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

cc: City of Edmonton Sustainable Development Department, Attn: Fiona Hetherington  
Jennifer Starret and Styn Franken



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Date: May 1, 2015  
Project Number: 164242106-004  
File Number: SDAB-D-15-077

## **Notice of Decision**

This appeal dated March 12, 2015, from the decision of the Development Authority for permission to:

construct a Single Detached House with rear attached Garage, front veranda (3.35m x 1.47m), front balcony above (irregular shape 4.57m x 3.15m) side covered deck (5.03m x 3.66m), and Basement development (not to be used as an additional Dwelling)

on Plan 2804AF Blk 134 Lot 4, located at 69 - St George's Crescent NW, was heard by the Subdivision and Development Appeal Board at its hearing held on April 16, 2015. The decision of the Board was as follows:

### **Summary of Hearing:**

At the outset of the appeal hearing, Mr. V. Laberge, one of the Board Members, disclosed that he had previous business dealings with Ms. D. Sanchez Glowicki and Mr. D. Glowicki who were representing one of the parties opposing the Development. Ms. P. Jones, one of the Board Members, disclosed that she had worked with the husband of one of the neighbouring property owners present at the hearing and knows them socially. There was no opposition to the composition of the panel by any parties in attendance.

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 refuse an application to construct a Single Detached House with rear attached Garage, front veranda (3.35m x 1.47m), front balcony above (irregular shape 4.57m x 3.15m) side covered deck (5.03m x 3.66m), and Basement development (not to be used as an additional Dwelling) located at 69 St. George's Crescent NW. The subject site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay.

The development permit was refused by the Development Authority due to a deficiency in the required Rear Setback, which must be 40% of Site depth, the inclusion of the proposed rear attached garage, which is not permitted as this is not a corner site and a lane exists, and the projection of eaves into the Side setback exceeds the maximum allowable projection.

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

- A written submission from the Development Authority dated April 9, 2015;
- A written submission from the Appellant received on April 10, 2015;
- A supplementary submission from the Appellant received April 14, 2015; and
- Three e-mails in opposition to the proposed development and two e-mails in support of the proposed development.

The Board heard from Appellants, Mr. and Mrs. Culo, and their counsel, Mr. S. Belland, who provided the following information:

1. The excess eave projection into the east Side Setback is minor and can be changed if necessary through shifting the footprint of the house slightly to the west.
2. An email was received from the Development Officer stating that if the application was re-submitted with a detached garage the development would have been approved.
3. There were three main reasons for refusal by the Development Officer:
  - a. The general purpose of the Mature Neighbourhood Overlay has not been met;
  - b. There was no unnecessary hardship associated with this lot; and
  - c. The proposed development would unduly interfere with the amenities of the neighbourhood and materially interfere with or affect the use, enjoyment and value of neighbouring parcels of land.
4. With respect to the general purpose of the Mature Neighbourhood Overlay, the following was presented:
  - a. The scale of the house is not in question as it is almost identical to the house that was previously there.
  - b. The development has been designed to respect the traditional character and pedestrian friendly design of the existing homes on the street. A rear attached garage would not detract from this.
  - c. The previous owners had 30-foot (9-metre) trees along the east side of the property which have been removed. The proposed garage will only be 18 feet (5.5 metres) high; therefore, more sunlight would be available to the east adjacent lot as indicated in the sun/shade study which was included in their submission.
  - d. They plan to provide landscaping along the east side of the property, including large trees and bushes to screen the garage. Their neighbor would be consulted as to the type of landscaping that is provided.
  - e. A detached garage would be moved back three metres closer to the alley and would be placed 0.9 metres from the side setback. The adjacent neighbor would look directly at a garage wall as there would be no room for landscaping between the garage and the side lot line.
5. With respect to undue interference with the amenities of the neighbourhood and material interference with or effect on the use, enjoyment and value of neighbouring parcels of land, the following was presented:
  - a. A list of properties in close proximity was included in their submission, which shows the existence of many houses with attached garages.

- b. The benefits of an attached garage include increased value, safety, convenience, and efficient use of space.
  - c. The removal of the 30-foot (9-metre) trees and replacement with a lower garage and landscaping has no negative effect on the neighbour's use and enjoyment of her property.
  - d. The 40 percent site depth requirement is for the back yard and to control placement of the building envelope. Here, the house has not been set too far back on the site.
  - e. There would be a small effect on the neighbour to the east, but the benefits to the Appellants are large.
6. Mr. Belland questioned the weight that should be placed on e-mails sent to the City of Edmonton in opposition during the community consultation process, which were marked as Exhibit 'A', as many contained identical wording, including a reference to "my yard" and "my property", mentioning that rear attached garages are not permitted, site depth was violated, and the front setback was not consistent with the neighbourhood. Mr. Belland felt that neighbours in opposition were not given the correct information and only the variances for the rear attached garage can be discussed.
  7. During community consultation there were nine signatures in support and five in opposition to the proposed development. One individual in opposition owns two neighbouring properties. The neighbour to the immediate east did not provide any feedback.
  8. As the proposed development is an infill some opposition was expected and they tried to make the footprint similar to the previous home.
  9. The proposed garage does have a wall effect, which is why they are willing to discuss landscaping between the properties with the east neighbour.
  10. They have moved one of the second-storey bedroom windows from the east side to the rear of the house and will use opaque glass on all the windows facing the east neighbour to respect privacy.
  11. The Edmonton Zoning Bylaw requires that homes face the front street, but the adjacent house faces west and has many windows overlooking their property. An attached garage with landscaping along the east side is the best option.

The Appellants and their counsel provided the following responses to questions:

1. They would be willing to shift the home to the west to eliminate the intrusion of the eaves into the side lot line.
2. To their knowledge the proposed development would be in compliance if the garage was detached and moved 3 metres from the house towards the alley.
3. The landscaping has not yet been finalized.
4. Opaque windows are not a requirement, but are their choice to ensure the neighbour's privacy.

The Board heard from Mr. N. Spina, a neighbouring property owner within 60 metres of the proposed development, who provided the following information in support of the proposed development:

1. His home was built seven years ago with a front attached garage. At the time there was opposition to his development but he now receives compliments.
2. The proposed development fits into the area. The rear attached garage, and the three metres in question, will not be visible from the front street and will only impact the immediate neighbours.

The Board heard from Mr. B. Mytuk, a neighbouring property owner within 60 metres of the proposed development, who provided the following information in support of the proposed development:

1. He moved into the area 12 years ago and has a rear attached garage.
2. His property is not located on a corner lot.

The Board heard from Ms. D. Perkons and Mr. M. Zenter, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. This proposal does not comply with Section 814.3(18) of the *Edmonton Zoning Bylaw*, which states no attached garages are permitted where rear lane access is available.
2. The minimum rear setback does not comply with Section 814.3(5) of the *Edmonton Zoning Bylaw* which requires it to be 40 percent of site depth. In their estimation most of the houses on the block comply with this requirement.
3. The excess of the eave projection into the side setback as per Section 44.1(a) of the *Edmonton Zoning Bylaw* is minor.
4. No variances were granted as there is no hardship associated with this lot as it is not irregular in shape and has rear access from the lane.
5. The proposed development would unduly interfere with the neighbourhood as negative feedback was received from the five closest neighbours. A rear attached garage would produce a wall almost 30 metres (100 feet) long and would have a negative effect on sunlight penetration.
6. Section 814.3(20) of the *Edmonton Zoning Bylaw* states that a rear detached garage must be located within 12.8 metres of the rear property line. As such, a redesign including a rear detached garage on the Site would require a 4.3 metre separation between the house and the garage.
7. Two properties within the 60 metre radius have attached garages and front access. They are pie shaped with difficult rear access.
8. The scale of the proposed development does not reflect the overall character of the neighbourhood, specifically for this block.



9. There had been no consultation with the east neighbor by the Appellants. There was some discrepancy with the community consultation and some of the letters of support received were from outside of the 60 metre notification radius.

Ms. D. Perkons and Mr. M. Zenter provided the following responses to questions:

1. The landscaping plan was not the final surveyed drawing and had been based on a previous surveyor's plan.
2. The proposed development appears larger than others from the street and is not sensitive in scale. The larger homes referred to in the Appellants' submission are closer to the river valley and not within the 60 metre notification radius.
3. The east wall of the proposed development complies with the minimum side setback. However, a variance would be required for the eave projection into the side yard.
4. The house is 4 metres closer to the front street than the previous home but it complies with the block face average.
5. There is no issue with site coverage.
6. The rear lot line is 5 metres shorter than the front lot line, which makes the site pie shaped, but only slightly so.
7. They acknowledged the "character" of a neighbourhood is open to interpretation and they had considered the block and the immediately surrounding area when determining the character of the area.
8. The building could be moved to the west which would decrease the privacy issues and alleviate the projection issues into the side setback.

The Board heard from Ms. D. Sanchez Glowicki and Mr. D. Glowicki, who were representing Ms. K. Bilinske, the adjacent property owner to the east of the proposed development. They provided the following information in opposition to the proposed development:

1. A written submission was provided to the Board, marked Exhibit "B".
2. Ms. Bilinske lives directly east of the subject property has concerns regarding the rear attached garage, the rear setback, and the projection of the eaves into the side yard.
3. Ms. Sanchez Glowicki objected to the Appellants' counsel's suggestion that the community consultation was a "cut and paste" e-mail campaign. This is an assumption, which is unsubstantiated and points the finger at her client.
4. The neighbourhood consultation conducted by the Appellants was not informative and done at the last minute.
5. Included at Tab A of Exhibit "B" is a map of the area, which includes addresses, signatures in opposition to the development and dates. There is significant opposition to the proposed development.
6. Section 814 of the *Edmonton Zoning Bylaw* sets out very clearly that a rear detached garage is the only option possible.

7. Ms. Bilinske's home, which has existed for more than 30 years, is oriented to the west and does not face the street. The only green space is on the west side of the property.
8. The proposed development would significantly or completely deplete the sun and view to the west. The proposed rear attached garage creates a high, long and dark wall, the length of 2 ½ city buses. A detached garage would allow the maximum sunlight possible in their rear yard green space and would maintain their pleasing views. The proposed development is not aesthetically pleasing and devalues her property.
9. While the Appellants stated they would do consultations regarding landscaping, Ms. Bilinske was never approached and there are no guarantees.
10. The reasons given for requiring an attached garage such as children's safety or for ease of access for seniors are personal comments and not relevant.  
The requirements of Section 44.1(1) of the *Edmonton Zoning Bylaw* must be strictly adhered to as the eaves encroach onto Ms. Bilinske's green space. The net effect of this eave projection is that the two structures are brought closer together which devalues Ms. Bilinske's home.
11. The percentages of existing homes in the area with front or rear attached garages are potentially misleading. Many of these properties are grandfathered and appear to fit within the required building pocket. There are numerous corner locations on which attached garages are allowed and some of the properties do not have rear lanes.
12. The massing of the house on the east side elevation is very imposing and will directly and profoundly affect Ms. Bilinske's view. The Mature Neighbourhood Overlay was specifically written to deal with such issues as her client is facing.
13. This lot is not unique, no hardships exist and there is no necessity to grant the requested variances.

Ms. D. Sanchez Glowicki and Mr. D. Glowicki provided the following responses to questions:

1. The view from the large front window facing the subject property would not change whether the garage is attached or detached.
2. The deck is elevated and a six-foot fence separates the properties.
3. The biggest issue is the amount of evening light during summer.
4. Three letters of opposition are included in their submission in addition to the e-mails that were previously referred to.
5. The hearing attendance shows there is quite a bit of opposition from the neighbourhood.
6. They could not comment on the sun/shade Study as it had not been provided to them although it had been available in the public file since April 10, 2015.
7. The old garage had a flat roof, 8- to 10-foot (2.4- to 3.0-metre) high walls and a 4- to 6-foot (1.2- to 1.8-metre) high parapet. The new garage will be 18 feet (5.5 metres) high at the peak. The trees which were removed were much nicer to look at than a wall.
8. Although a detached garage would be built closer to the west property line this is still preferable as it would side onto Ms. Bilinske's existing garage.

9. A detached garage would have to be pushed back 3.57 metres in order to be fully contained to within the rear 12.8 metres of the site. This, combined with the elimination of the 3-metre breezeway, would result in a clear space between the house and garage of approximately 7 metres. This clear space would align with the southern portion of Ms. Bilinske's green space.

The Board heard from Ms. K. Cantine, a neighbouring property owner within 60 metres of the proposed development, who provided the following information in opposition to the proposed development:

1. Edmonton has several pockets of larger homes that are thoughtfully designed, including Glenora. Modern home designs do not fit in as they are lavish on the front and have plain stucco on the sides and back showing a lack of consideration for neighbours.
2. She originally agreed with the development, but upon further reflection and research insists this development should adhere to the Mature Neighbourhood Overlay. She believes she was misled and is now objecting.

The Board heard from Ms. R. Cherry, a neighbouring property owner within 60 metres of the proposed development, who provided the following information in opposition to the proposed development:

1. She is concerned about the size of the long wall created by the proposed attached rear garage.

In rebuttal the Appellants and their counsel made the following points:

1. The Appellants would not be looking down on the house and yard immediately to the east; however the east neighbour's front door and large windows would overlook the Appellants' property.
2. No evidence was submitted that the value of the neighbour's property immediately to the east would decrease; however an attached garage would add value to their home.
3. A detached garage would be moved further back and they calculated the distance between the house and the garage to be between 3.5 metres and 4 metres and not the 7 metres previously mentioned.
4. The previous house was 2 ½ storeys and the proposed development is only 2 storeys.
5. An attached garage would not have a significant impact on sunlight or shadowing on the east adjacent neighbor or their ability to enjoy their property as the sun/shade study shows there would be more sunlight than was previously received.
6. Safety statistics show there are more break-ins into detached garages than attached garages.
7. Some neighbours who were originally in favour of the development later changed their minds but did not discuss this with them.

8. Moving the house closer to the front lot line lessens the infringement on the east neighbor.
9. They are committed to consulting with their east neighbour regarding landscaping to be installed along the east side of the lot.
10. They are committed to shifting the house slightly to the west to alleviate the protrusion of the eaves into the east side setback.
11. The mature trees that were removed were spruce trees which allowed little light penetration and did not provide much of a view.

**Decision:**

That the appeal be DENIED and the decision of REFUSAL of the Development Authority be CONFIRMED.

**Reasons for Decision:**

The Board finds the following:

1. The proposed development is a Permitted Use in the RF1 Single Detached Residential Zone.
2. The Development Authority listed three reasons for refusal:
  - a. The minimum Rear setback as required in Section 814.3(5) of the *Edmonton Zoning Bylaw* is deficient by 10.99 metres.
  - b. Rear attached Garages shall not be allowed, except on Corner Sites where the Dwelling faces the flanking public roadway as per Section 814.3(18) of the *Edmonton Zoning Bylaw*. The proposed site has access from the Lane and is not a Corner Site.
  - c. There is an excess eave projection of 0.37 metres on both the House and the Garage into the east Side Setback pursuant to Section 44.1(a) of the *Edmonton Zoning Bylaw*.
3. Conflicting evidence was provided regarding those in support and those opposed to the development. The Board finds that the three immediately adjacent property owners opposed the development and two of these immediately adjacent property owners appeared before the Board to voice their opposition.
4. The proposed rear attached Garage results in a continuous wall running along the east property line of the Site measuring 28.24 metres, with almost no articulation in the rearmost 13.86 metres. The Board finds the resulting massing effect of the proposed development will deprive the adjacent neighbour to the east of evening sunlight during the summer months and a less uninterrupted view above the fence line.
5. The Board finds that the proposed development would unduly interfere with the amenities of the neighbourhood and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

**Important Information for Applicant/Appellant**

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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

cc: City of Edmonton Sustainable Development Department, Attn: D. Perkons  
D. Sanchez Glowicki and D. Glowicki  
S. Belland  
Ms. Bilinske  
N. Bedard  
K. Ross  
K. Cantine  
B. Finlay  
R. Sydie  
A. Peolini  
N. Spina  
C. Nelson  
C. Arth  
B. Mytuk  
B. Arth  
R. Cherry