

Edmonton Subdivision and Development Appeal Board

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Date: May 8, 2015
Project Number: 168611706-001
File Number: SDAB-D-15-082

Notice of Decision

This appeal dated March 30, 2015, from the decision of the Development Authority for permission to:

Construct a Semi-detached House with Basement development (NOT to be used as an additional Dwelling) and to demolish a Single Detached House and detached Garage (6.77m x 3.76m)

on Plan 5306HW Blk 24 Lot 4, located at 10315 - 154 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on April 23, 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 approve an application to construct a Semi-detached House with Basement development (NOT to be used as an additional Dwelling) and to demolish a Single Detached House and detached Garage (6.77m x 3.76m), located at 10315 - 154 Street NW. The subject site is zoned RF2 Low Density Infill Zone and is within the Mature Neighbourhood Overlay. The approved development permit application was appealed by an adjacent property owner.

The Board notes that a written submission was received from the Development Authority on April 16, 2015, a copy of which is on file.

The Board heard from the Appellant, Mr. John Aumuller, who made the following points in support of the appeal:

1. It was his opinion that there is no factual merit on which to approve this development permit with a variance granted for unnecessary hardship.
2. The development regulations contained in the *Edmonton Zoning Bylaw* are clear and should not be varied without a formal discussion with the community.

3. He has lived in this neighbourhood for 30 years and has personally witnessed an increase in problems related to parking, traffic and nuisance as the number of Semi-detached Houses has increased.
4. Many of the Semi-detached Houses in the neighbourhood are non-owner occupied and have a negative impact on the standards of the neighbourhood.
5. The proposed location on an interior lot is not characteristic of the neighbourhood because the majority of Semi-detached Houses are located on corner lots.
6. He did not discuss the proposed development with the Community League.
7. It was his opinion, that the onus is on the property owner to justify the required variance and that the arguments presented do not fully reflect the situation in the neighbourhood.

The Board then heard from Ms. Fiona Hetherington, representing the Sustainable Development Department. It was noted that Ms. Hetherington was not the Development Officer who approved the proposed development but she provided the following responses to questions:

1. There are approximately seven other Semi-detached Houses in the surrounding area.
2. She assumed that the variance was granted because the proposed development is a bungalow style development that would be more in keeping with the existing neighbourhood and complies with all of the development requirements except the locational requirements.
3. There is no threshold limit regarding the number of Semi-detached Houses that can be built in a neighbourhood and each development permit application is reviewed independently.
4. It was her opinion that an entire block in the RF2 Zone could be developed with Semi-detached Housing.
5. The locational requirements for Semi-detached Housing could be an attempt to limit the number of Semi-detached Houses in a neighbourhood.
6. The majority of this block is not currently developed as Semi-detached Housing.
7. It was clarified that the conditions listed on the approved development permit application are also development regulations contained in the *Edmonton Zoning Bylaw*. However, it is a department policy to include them on all development permit approvals.
8. It was her opinion that the proposed development complies with the General Purpose of the RF2 Low Density Infill Zone to retain Single Detached Housing, while allowing infill on narrow lots, including secondary Suites under certain conditions.

The Board then heard from Mr. Raju, representing the Appellant, Tech View Homes and his Legal Counsel, Mr. Darryl Dubrule, who provided the following information:

1. The proposed single storey structure will have a modest impact on the character of the neighbourhood and provide affordable housing.
2. Mr. Dubrule acknowledged the need to strike a balance between Single Detached Housing and multi-family housing in the neighbourhood.
3. Mr. Dubrule referenced Exhibit "A", which contained the addresses of other Semi-detached Houses in the neighbourhood.
4. A two storey Semi-detached House is currently under construction on the same block. It was his opinion that this development will have a much greater impact on the neighbourhood than the proposed one storey Semi-detached House.

5. It was his opinion that the proposed development will add value to the neighbourhood by providing affordable housing.
6. The Appellant did not provide evidence to illustrate how the proposed development will unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. Raju and Mr. Dubrule provided the following responses to questions:

1. The evidence provided by the Appellant was anecdotal and not factual.
2. The proposed development fits in with the neighbourhood and will not tip the scale regarding the number of Semi-detached Houses in this neighbourhood.
3. Mr. Raju could not confirm whether or not the proposed development will be owner occupied.

Mr. Aumuller made the following points in rebuttal:

1. He used the map contained in the Development Officer's submission to clarify that there are eight existing Semi-detached Houses and one Group Home located in close proximity to the subject site.
2. The aesthetics of the neighbourhood have steadily declined because of the impact of non-owner occupied residences.
3. The Canora Neighbourhood Improvement Plan supported higher density housing located on the perimeter of the neighbourhood.
4. It was Mr. Aumuller's opinion that the RF2 Low Density Infill Zone supports the intent of the Canora Neighbourhood Improvement Plan and that the development regulations should be followed.
5. His past experiences are not anecdotal and are on file with the Bylaw Enforcement Department.
6. He reiterated his opinion that there is no basis for the required variance but acknowledged that the style of the proposed development is sensitive to the neighbourhood.
7. An inability to comply with the requirements of the *Edmonton Zoning Bylaw* is not a hardship.

Decision:

that the appeal be DENIED and the decision of approval by the Development Authority CONFIRMED subject to the following:

Variance

The requirements of Section 120.4(4) of the *Edmonton Zoning Bylaw* are waived.

Reasons for Decision:

The Board finds the following:

1. Semi-detached Housing is a Permitted Use in the RF2 Low Density Infill Zone.
2. Section 120.1 of the *Edmonton Zoning Bylaw* states that the purpose of the RF2 Low Density Infill Zone is to retain Single Detached Housing, while allowing infill on narrow lots, including Secondary Suites under certain conditions.
3. The proposed single storey structure is more in keeping with the aesthetics of a Single Detached neighbourhood while providing infill housing.
4. The proposed development complies with all of the development regulations in the Mature Neighbourhood Overlay and pursuant to Section 120.2(4) of the *Edmonton Zoning Bylaw* except the locational requirements.
5. Based on a review of the photographic evidence provided, the existing neighbourhood is comprised of a mix of housing forms including Single Detached and Semi-detached Housing.
6. The proposed development is characteristic of this neighbourhood based on evidence provided that the existing Semi-detached Housing is comprised of various built forms including bi-levels, two Storey structures and bungalows which are located on both interior and corner sites.
7. While the Board acknowledges the concerns of the Appellant regarding the proliferation of Semi-detached Housing in this neighbourhood, the Board is not convinced that varying the locational requirements will unduly interfere with the amenities of the neighbourhood or 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 5th 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.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board