



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: August 25, 2016
Project Number: 221597703-001
File Number: SDAB-D-16-191

Notice of Decision

[1] On August 10, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **July 13, 2016**. The appeal concerned the decision of the Development Authority, issued on July 7, 2016, to refuse the following development:

To construct a two Storey Accessory Building (Garage Suite on the second Floor, Garage on main floor, 7.47 metres by 11.13 metres).

[2] The subject property is on Plan 1361NY Blk 21 Lot 16A, located at 14424 - 110 Avenue NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.

[3] The following documents, which were received prior to the hearing and are on file, were read into the record:

- A Development Permit Application, including the plans of the proposed Development;
- The refused Development Permit;
- The Development Officer's written submissions;
- The Appellant's neighbourhood discussion and map showing rental suites; and
- An e-mail from an affected property owner with concerns.

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

- Exhibit A – A further submission from the Appellant.

Preliminary Matters

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

[6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[7] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

i) Position of the Appellants, Mr. N. Devries and Ms. E. Devries

[8] The existing House will be renovated soon and they would prefer to build and live in their proposed Garage Suite temporarily until the renovations are complete.

[9] The existing House was built in the 1960s and will eventually need to be torn down because of structural damage.

[10] The existing House, Rear Setback, front Driveway, and carport are all non-conforming as per the *Edmonton Zoning Bylaw*. Their goal is to develop the site to make it entirely in compliance with the *Edmonton Zoning Bylaw*.

[11] The Appellants clarified they would like to live in their Garage Suite between one and a half to two years.

[12] With regard to community consultation, the Appellants dropped off letters to property owners in the 60 metre notification radius. There were some concerns with regard to privacy and if it would be a rental suite.

[13] To alleviate the privacy concerns, the Appellants revised the plans by relocating the Garage Suite and planting trees along the property lines.

[14] With regard to the proposed development being a rental suite, they are a young family with two children and they have invested into living in the mature core of the City. They plan on enhancing the property which will benefit the neighbourhood.

[15] They confirmed there are three other 2 Storey Garages in the neighbourhood, but only one within the 60 metre notification radius (located directly to the north of the subject site), as per Exhibit A.

[16] With regard to the excess Floor Area of the Garage Suite, the Appellants provided the following points:

- a. The main floor vestibule allows for easier and safer access and egress into the Garage.
- b. The interior staircase mitigates privacy concerns and improves the external aesthetics of the building.

- c. The addition of the second bedroom and walk-in closet is to accommodate their family. It was difficult to design the Suite to accommodate two bedrooms.

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

[17] The Development Officer determined there was no hardship to meet the maximum Floor Area regulation. He determined that the proposed Floor Area was excessive.

[18] The Development Officer confirmed that the proposed development complied with the Mature Neighbourhood Overlay; therefore community consultation was not required.

[19] The Development Officer included the vestibule, utility room and staircase in the Floor Area calculation of the Suite. It was his opinion that if the vestibule on the main floor was removed from the calculation, the Floor Area would still be significantly over the maximum allowable area.

[20] The Development Officer confirmed there is a 2 Storey Garage to the north of the rear lane.

[21] The Development Officer confirmed that the proposed development complies with the remainder of the *Edmonton Zoning Bylaw*.

iii) Rebuttal of the Appellants

[22] Through the design process, the Appellants took into account the building code wall thickness, energy efficiency, the safety of an interior staircase and the need for 2 bedrooms to accommodate their family. It was difficult to create a Floor Plan that worked. It was their opinion that the Floor Area variance does not increase the massing effect of the building.

[23] The Appellants confirmed that the Garage Suite will not dwarf the Site Coverage of a future house or the height of a future house.

[24] They confirmed that the proposed 3-car Garage complies with the *Edmonton Zoning Bylaw* and the extra parking space will be used for woodworking and storage.

[25] The proposed 3-car Garage and parking pad comply with the *Edmonton Zoning Bylaw* and on-site parking spaces will alleviate on-street parking congestion.

Decision

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

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

1. The maximum allowable Floor Area of 60 square metres for a Garage Suite (above Grade) as per section 87.3(a) is varied to allow an excess of 23.3 square metres, thereby increasing the maximum allowable Floor Area to 83.3 square metres.

Reasons for Decision

- [27] The proposed development, a Garage Suite, is a Discretionary Use in the RF1 Single Detached Residential Zone.
- [28] Based on the evidence provided, there was no opposition to the proposed development.
- [29] The Appellants provided a thorough community consultation and altered their plans to obtain the full support of neighbours.
- [30] The Board notes that although Garage Suites may not be common in this area, they are in keeping with the trend of new housing stock and design in established neighbourhoods.
- [31] The Board is satisfied that the proposed tree planting plans will mitigate any privacy issues with adjacent properties.
- [32] With regard to the 23.3 square metre Floor Area variance, the Board accepts the Appellants' submission that the variance will be mitigated by the main floor vestibule and the interior staircase.
- [33] The Board accepts that the interior staircase will decrease the platforming effect on neighbours and will enhance the appearance of the building.
- [34] The Board accepts that the proposed 3-car Garage and parking pad will alleviate on-street parking congestion.
- [35] The Board finds that the proposed development complies with the Mature Neighbourhood Overlay and complies with policy 4.2.1.1 of the *Municipal Development Plan*, "The Way We Grow", which provides the following:
- "Support neighbourhood revitalization, redevelopment and residential infill that contributes to the livability and adaptability of established neighbourhoods."
- [36] For the above reasons, it is the opinion of the Board that the proposed development will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. Winston Tuttle, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance: Mr. B. Gibson, Mr. L. Pratt, Ms. C. Chiasson, Ms. S. LaPerle

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 5th Floor, 10250 – 101 Street, Edmonton.
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 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.



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SDAB-D-16-192

Project No. 189366222-001

An appeal to change the Use from general Retail to Minor Alcohol Sales (AKP Liquors), located at 4104 – 118 Avenue was **TABLED** to September 21 or 22, 2016.