



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: August 31, 2018
Project Number: 280037115-005
File Number: SDAB-D-18-121

Notice of Decision

- [1] On August 16, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 19, 2018**. The appeal concerned the decision of the Development Authority, issued on July 19, 2018, to refuse the following development:

Construct an Accessory building (rear detached Garage, 6.40 metres by 6.10 metres)

- [2] The subject property is on Plan 1820172 Blk 128 Lot 20B, located at 13704 - 101 Avenue 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; and
 - The Development Officer’s written submission

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. (“*Municipal Government Act*”)

Summary of Hearing*i) Position of the Appellant, Mr. M. Chaaban, representing YMC Development Corp.:*

- [7] Mr. Chaaban advised the Board that the subject site had been previously subdivided from the western site and a development permit had been issued to construct a single detached house on the subject site. However, after the subdivision had occurred, EPCOR advised the Appellant that in order to gain access to the western lot for on-site parking, the existing power pole must be moved further east from its current position on the western lot and repositioned on the subject site.
- [8] EPCOR Power and Drainage advised that relocating the existing power pole and anchor system will then provide access from the rear lane for the lot to the west but will make access from the rear lane to the subject lot unattainable.
- [9] Every possible option was discussed with EPCOR to provide access to the garage from the rear lane.
- [10] Mr. Chaaban specializes in infill development and supports the regulation to limit vehicular access from a public roadway in older neighbourhoods. However, he noted that it was just not possible in this situation.
- [11] He was advised by the Development Officer that the development permit for the single detached house was approved on the assumption that access would be provided from the lane.
- [12] He noted that landscaping, including the planting of additional trees is planned on the subject site and the boulevard to blend in with this mature neighbourhood.
- [13] Mr. Chaaban explained that the driveway from 137 Street on the subject lot has existed for 40 or 50 years and his plan proposes that the driveway will remain as it has always existed.
- [14] Mr. Chaaban addressed each of the comments provided by the four affected property owners who responded to the Community Consultation process. He noted that all of the houses located north and south of the subject site have driveway access from 137 Street. Therefore, it was his opinion that the proposed development is characteristic of the neighbourhood.
- [15] He has been open with the neighbours and has attempted to discuss the situation on many occasions.
- [16] He admits that the site is currently an eyesore but he cannot move forward with the installation of services until a development permit for the garage is approved.

[17] Mr. Chaaban provided the following information in response to questions from the Board:

- a) Every attempt was made to provide access from the rear lane but EPCOR advised him that rear access cannot be accommodated on this site because the power pole must be relocated there in order to allow the west site to have lane access.
- b) It was his opinion that when the subdivision of a lot is approved, the City of Edmonton should discuss the future development of the lots, including a review of the specific development regulations. In this case, the development permit and building permit for a single detached house has been issued without the provision of one parking space. The Development Officer approved the development permit for the single detached house with conditions that cannot be met.
- c) The power pole will be relocated to provide access to the lot to the west but that will impede rear lane access to the subject lot.
- d) Mr. Chaaban referenced an aerial photograph contained in the written submission of the Development Officer to illustrate the location of the existing power pole and the proposed relocation site. The power pole cannot be relocated further to the east than the position already proposed because the anchors would extend into the boulevard and sidewalk along 137 Street.
- e) This existing driveway was redeveloped during the recent neighbourhood revitalization and is located approximately 1.2 metres from the rear lane. There is no public sidewalk located on this side of 137 Street.

ii) Position of the Development Officer, Mr. K. Yeung:

[18] The Development Authority did not appear at the hearing and the Board relied on Mr. Yeung's written submission.

Decision

[19] 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 development shall be constructed in accordance with the stamped and approved drawings.
2. An accessory building or structure shall not exceed 4.3 metres nor one storey in height. (Reference 50.3(3))
3. Eave projections shall not exceed 0.46 metres into required yards or Separations spaces less than 1.2 metres. (Reference Section 44.1(c)(ii))

ADVISEMENTS:

4. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.
 5. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw 12800*.
 6. 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.
 7. A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.
- [20] In granting the development the following variance to the *Edmonton Zoning Bylaw* is allowed:
1. The requirements of section 814.3(17) are waived to allow vehicular access from 137 Street instead of the Lane.

Reasons for Decision

- [21] The proposed development is a Permitted Use in the (RF1) Single Detached Residential Zone, pursuant to section 50.1(2) of the *Edmonton Zoning Bylaw*.
- [22] Section 814.3(17) states that “regardless of whether a Site has existing vehicular access from a public roadway, other than a Lane, no such access shall be permitted to continue where an Abutting Lane exists.”
- [23] Based on the evidence provided there is an existing power pole and anchor system that has to be moved further east to provide access from the rear lane for the newly subdivided lot located west of the subject site. This relocation will result in the anchor system for the power pole being located along the rear property line of the eastern subject lot. Therefore, access to the proposed Accessory building on that lot cannot be provided from the Lane.
- [24] The Board notes that implicit by virtue of the subdivision approval, there was acceptance by the Subdivision Authority that access to parking as per the requirements would be available on both the western lot and the subject site. The Board heard and accepts evidence to the contrary that parking would not be feasible to at least one of these sites without a variance.

[25] The proposed development complies with all of the development regulations for an Accessory building with the exception of the variance required to section 814.3(17). The Board has waived the requirements for the following reasons:

- a) Access from the lane cannot be provided to this lot because of the required relocation of an existing power pole and anchor system.
- b) There is no boulevard or sidewalk on the east side of the subject site along 137 Street, which will mitigate any impact on pedestrian traffic.
- c) The driveway that has existed at this location for many years has been recently upgraded through the Neighbourhood Revitalization program and will not be altered nor will leaving it in place impact the community.
- d) Based on a review of the photographic evidence provided from the Development Authority, the lot located directly north of the subject site has existing vehicular access from 137 Street, and therefore, leaving the driveway intact will be in keeping with the characteristics of the neighbourhood.
- e) Community Consultation was completed in accordance with section 814.5 of the *Edmonton Zoning Bylaw*. The Appellant addressed the concerns raised by four affected property owners and the Board agrees with his opinion that the concerns raised are unfounded and that no significant planning reasons were provided by those concerned parties that would persuade the Board to refuse the required variance.
- f) The Board acknowledges the recent amendments to the Mature Neighbourhood Overlay to restrict vehicular access from a public roadway. Despite these restrictions, the Board accepts the Appellant's evidence that he supports the amendments and made every attempt to comply with this requirement but it could not be accommodated on the subject site.
- g) The Board agrees with the evidence of the Appellant that the future development of the two subdivided lots should have been considered by the Subdivision Authority at the time of the subdivision application. The fact that the Development Officer approved a development permit for a single detached house with conditions that cannot be met has ultimately led to a hardship for the Applicant.

[26] Based on the above, 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. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. P. Jones; Mr. R. Handa; Mr. A. Peterson; Ms. C. Van Tighem

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.



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Date: August 31, 2018
Project Number: 279980779-001
File Number: SDAB-D-18-122

Notice of Decision

[18] On August 16, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 20, 2018**. The appeal concerned the decision of the Development Authority, issued on July 10, 2018, to refuse the following development:

Relocate a Minor Alcohol Sales Store within an existing building, from Unit 106/107 to Unit 101 (reference refused DP 156166562-018, SDAB file 156166562-022/SDAB-D-17-228, Liquor House); to change the Use from a Minor Alcohol Sales back to a General Retail Store (Unit 106/107)

[19] The subject property is on Plan 1720842 Blk 40 Lot 5, located at 6104 - 104 Street NW, within the CO Commercial Office Zone.

[20] 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
- The Appellant’s written submissions.

Preliminary Matters

[21] 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.

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

[23] 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. J. Murphy, representing Ogilvie LLP and Mr. B. Ross, representing Qualico, the property owner:*

- [24] A Memorandum dated August 5, 2018 was referenced to explain that the proposed development is to relocate an existing Minor Alcohol Sales Use from one bay in a commercial building to another. A development permit for the existing Minor Alcohol Sales Use was approved by the Board in December 2017 (SDAB-D-17-228).
- [25] A new application was required because another commercial tenant wants to occupy the currently approved space and the proposed Minor Alcohol Sales tenant has agreed to relocate to another bay in the same building. A variance is still required even though the proposed move increases the separation distance between the proposed location and the defunct cold beer store by several metres. The space currently being used by the Minor Alcohol Sales Use will be changed back to a General Retail Store.
- [26] All of the circumstances existing at the time of the 2017 decision remain, and the supporting materials submitted for the earlier appeal have been refiled. It has been confirmed that the telephone numbers associated with the former cold beer outlet remain out of service. Google searches were updated and it was confirmed that the former cold beer store is closed and the doors remain blocked. The Ranch Roadhouse advised that the former cold beer store has gone out of business and that they are currently using the space for general storage.
- [27] The proposed development is separated from the defunct cold beer store by four lanes of arterial level traffic along Calgary Trail.
- [28] The proposed new location of the Minor Alcohol Sales Use will move it approximately 100 feet further away from the now defunct cold beer store. The Appellant's position was that the proposed development will not negatively impact the use, enjoyment or value of neighbouring properties and in fact provides an amenity for the residential zones located west of the subject site.
- [29] Mr. Murphy provided the following information in response to questions from the Board:
- a) This is a relatively new building and the main floor has not yet been completely leased.
 - b) The Development Officer did not have discretion to grant the required variance.
 - c) This application is slightly different than the previous application because the separation distance has been increased and the floor area of the subject site is smaller.

- d) It was his opinion that the Board is not bound by previous decisions as a matter of precedence but the Board should attempt to be consistent when interpreting matters of law and the Board is subject to estoppel.

ii) Position of the Development Officer, Mr. N. Shah:

[13] The Development Authority did not appear at the hearing and the Board relied on Mr. Shah's written submission.

Decision

[14] 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) No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback (Reference Section 360.4(4)).
- 2) Immediately upon demolition/ alterations of the building, the site shall be cleared of all debris.
- 4) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51).
- 5) All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. Reference Section 54.1(1)(c).
- 6) Parking spaces for the disabled shall be provided in accordance with the Alberta Building Code in effect at the time of the Development Permit application, for which no discretion exists and be identified as parking spaces for the disabled through the use of appropriate signage, in accordance with Provincial standards. Reference Section 54.1(3).
- 7) The off-street parking, loading and unloading (including aisles or driveways) shall be hard surfaced, curbed, drained and maintained in accordance to Section 54.6.
- 8) All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).

NOTES:

- 1) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.
 - 2) Signs require separate Development Applications.
 - 3) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the *Edmonton Zoning Bylaw*. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the *Municipal Government Act*, the ERCB Directive 079, the *Edmonton Safety Codes Permit Bylaw* or any caveats, covenants or easements that might be attached to the Site
 - 4) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
 - 5) A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
 - 6) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this 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.
- [15] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:
1. The requirements of section 85(1) are waived to allow the proposed Minor Alcohol Sales Use to be located less than 500 metres from any other Minor or Major Alcohol Sales Use.

Reasons for Decision

- [16] Minor Alcohol Sales is a Permitted Use in the (CO) Commercial Office Zone.
- [17] The proposed development is to relocate an existing Minor Alcohol Sales Use from one bay in a commercial building to another smaller bay in the same building. The Board approved the existing Minor Alcohol Sales Use in December 2017 (SDAB-D-17-228). The bay where the Minor Alcohol Sales Use currently exists will be changed back to a General Retail Use.
- [18] The proposed development complies with all of the development regulations pursuant to section 85 of the *Edmonton Zoning Bylaw* with the exception of the minimum required 500-metre separation distance from any Minor or Major Alcohol Sales Use. No opposition to the proposed development was noted.

[19] Based on the evidence provided, relocating the Minor Alcohol Sales Use does not materially change the previous approval of the Board granted in December 2017. In fact, the deficiency in the minimum required 500 metre separation distance from another Minor or Major Alcohol Sales Use would be reduced.

[20] Therefore, the Board has granted the required variance to section 85(1) of the *Edmonton Zoning Bylaw* for the reasons outlined in Paragraph 29 of the Subdivision and Development Appeal Board decision issued on December 7, 2017 (SDAB-D-17-228):

[29] The Board grants the required variance for the following reasons:

- a) The proposed Minor Alcohol Sales Use and the existing Minor Alcohol Sales Use are both located in commercial, non-residential Zones. Therefore, the proximity of the two businesses will not have a negative impact on any nearby residences.
- b) The proposed development will be located on the ground floor of a new commercial office complex located on Calgary Trail, a major arterial highway and will not cause any significant increase in traffic.
- c) The proposed development will be separated from a defunct cold beer store by at least four lanes of arterial level traffic. This in and of itself creates a significant buffer that will mitigate the variance granted in the minimum required separation distance.
- d) The existing cold beer store located 89 metres from the proposed development does not front onto Calgary Trail and therefore the proposed Minor Alcohol Sales will not increase the visual proliferation of liquor stores.
- e) Parking will be provided in a large parking lot located west of the subject Site behind the building that will house the proposed Minor Alcohol Sales Use which will further mitigate the variance required in the separation distance.
- f) The subject Site is located on the periphery of the section 85 Non-Exemption Area.

...

[21] For all of the above reasons, the Board finds that the proposed development, with the required variance, 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. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. P. Jones; Mr. R. Handa; Mr. A Peterson; Ms. C. Van Tighem

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.



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Date: August 31, 2018
Project Number: 260389253-001
File Number: SDAB-D-18-123

Notice of Decision

- [1] On August 16, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 23, 2018**. The appeal concerned the decision of the Development Authority, issued on February 5, 2018 to approve the following development:

Construct a General Industrial building with Accessory offices (K-Jay Electrical)

- [2] The subject property is on Plan 4799TR Lot 18A, located at 21415 - 100 Avenue NW, within the IB Industrial Business Zone. The Major Commercial Corridors Overlay and Lewis Farms Area Structure Plan apply 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 approved Development Permit;
 - The Development Officer’s written submissions;
 - The Appellant’s written submissions; and
 - One email in opposition to the appeal.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Written submission from the Appellant
 - Exhibit B & C – Copies of emails from the Development Officer to the Applicant

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 Presiding Officer referenced section 686(a)(i)(A) of the *Municipal Government Act* which states:

A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board in the case of an appeal made by a person referred to in section 685(1) with respect to an application for a development permit, within 21 days after the date on which the written decision is given under section 642.

The Board will have to make a decision regarding this jurisdictional matter before proceeding with the merits of the appeal. The Appellant was asked to address the timing of the appeal during his preliminary remarks.

Summary of Hearing

i) Position of the Appellant, Mr. M. Bakker, representing K-Jay Electric:

- [8] Based on preliminary discussions, Mr. Bakker was advised that there was a water line on the site that could be used to provide water and fire services to the proposed General Industrial Use building and this is what he planned to do when the development permit was approved.
- [9] However, during subsequent discussions with the Architect, it was determined that the existing water line could not be used and that he would have to supply water tanks on site for fire suppression and to provide potable water. He was not aware of the cost implications of the conditions imposed on the approved development permit until he obtained information regarding the costs involved to provide water to the site.
- [10] He was not aware that he could not comply with the conditions imposed on the development permit within the 21 day appeal period.
- [11] Mr. Bakker provided the following information in response to questions from the Board:
- a) The development permit application was submitted by his Architect, Hodgson Schilf.
 - b) He was aware of the approval of the development permit application and the conditions imposed on February 5, 2018.
 - c) He was prepared to comply with the conditions imposed on the development permit if City services could be accessed but later became aware that City services could not be used and that he would have to provide his own water supply.

ii) Position of the Development Officer, Mr. P Kowal:

- [12] Mr. Kowal submitted copies of emails sent to the Applicant, Hodgson Schilf Evans Architect with an attachment containing the approved development permit dated February 5, 2018, marked Exhibit B and C.
- [13] Mr. Kowal provided the following information in response to questions from the Board:
- a) Hodgson Schilf Evans required permission from the land owner to apply for the development permit and this information is included on the development permit application.
 - b) The only way for the Applicant to revise servicing conditions contained on the approved development permit would be through discussions with Development & Servicing Agreements.
 - c) If through these negotiations conditions were revised or removed, a new development permit would be issued.
 - d) Development & Zoning Services does not impose conditions regarding the costs of servicing agreements. Discussions regarding the provision of water to the subject site should be held with Drainage Services.

iii) Rebuttal of the Appellant:

- [14] The need for the appeal was triggered when he became aware that he would have to provide water to the site and that City services could not be accessed.
- [15] He was aware of the issuance of the development permit and the conditions imposed on February 5, 2018.
- [16] He only became aware through subsequent discussions with EPCOR that the existing water line could not be used to supply water to the subject site.

Decision

- [17] The Board does not assume jurisdiction.

Reasons for Decision

- [18] Section 686(1) of the *Municipal Government Act* states that:

A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642.

- [19] Based on the evidence provided, the Board determined that the Appellant was notified by his agent, Hodgson Schilf Architects, of the decision of the Development Authority to approve the development permit with conditions on February 5, 2018.
- [20] The appeal was not filed until July 23, 2018. The Board applied the provisions of section 686(1)(a)(A) of the *Municipal Government Act* and therefore finds that the appeal was filed outside of the allowable 21 day appeal period.
- [21] The Board does not have jurisdiction to extend the time for filing an appeal. Having determined that the appeal was filed more than 21 days following the date on which the Appellant received notice of the decision of the Development Authority, the Board cannot take jurisdiction to hear this appeal.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. P. Jones; Mr. R. Handa; Mr. A Peterson; Ms. C. Van Tighem

Important Information for the 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*, 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.
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 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.