



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: September 6, 2018  
Project Number: 280926123-001  
File Number: SDAB-D-18-107

**Notice of Decision**

- [1] The Subdivision and Development Appeal Board (the “Board”) at a hearing on July 19, 2018, made and passed the following motion:

“That SDAB-D-18-107 be tabled to August 22 or 23, 2018.”

- [2] On August 22, 2018, the Board made and passed the following motion:

“That SDAB-D-18-107 be raised from the table.”

- [3] On August 22, 2018, the Board heard an appeal that was filed on **June 20, 2018**. The appeal concerned the decision of the Development Authority, issued on May 24, 2018, to approve the following development:

**Construct an addition to an existing Single Detached House (new main floor Garage and second floor bedroom with bathroom)**

- [4] The subject property is on Plan 2803AF Blk 89 Lot 10, located at 10345 - 133 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.

- [5] 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
- The Respondent’s written submissions.

**Preliminary Matters**

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

- [9] In their opinion, Community Consultation should have been done prior to the approval of the proposed development. This point was missed by the Development Officer, but required by the Board and then fulfilled by the Applicant.
- [10] They were not aware what was being built prior to receiving the notice of the development. If they had known, perhaps none of this would have been necessary.
- [11] When they bought their home in 1994, the subject dwelling was in existence. While they would have preferred to be next door to a bungalow, they accepted the neighbouring two storey as built.
- [12] They felt protected by the *Bylaw* and spent countless hours restoring their home and developing outside areas including on the side of the house facing the subject Site. They felt this was safe because the subject building could not encroach any further. This permit will allow it to do just that – encroach further.
- [13] The building is non-conforming. They understood that the subject Dwelling could be changed to make it smaller, added to for necessary improvements or safety, or that it could have a minor variance, but not unduly impact the amenities of the neighbours.
- [14] They built their garage according to the regulations of the *Edmonton Zoning Bylaw* and the Respondent should have to build according the regulations as well.
- [15] They have lived at this property for 25 years and have had discussions with neighbours about developments in their neighbourhood. They dropped off their letter to neighbours regarding the proposed development after the Respondent had sent his notices.
- [16] Several neighbours support their view that the proposed development will negatively impact the use and enjoyment of their property.

- [17] They feel that they are protected by the *Municipal Government Act* if they choose to restore their home in the future.
- [18] As outdoor people who love trees, sunshine and the light that bathes their home, they are materially impacted. The proposed addition will significantly impact the sunlight on their property and prevent them from enjoying their outdoor patio.
- [19] The neighbours that they spoke to understood their concern and were happy to sign the petition in opposition to the proposed development.
- [20] Mr. and Mrs. Lea provided the following information in response to questions by the Board.
- a. Mr. Lea read the section of the *Bylaw* regarding non-conforming properties. In their opinion, if the proposed development is added, it is increasing the non-conformity. The addition will not fix the non-conformity so section 645(3)(a) does not apply. In his opinion, pursuant to the *Municipal Government Act*, the Respondent cannot build the proposed addition, nor an addition complying with the Front Setback, unless the proposed development would 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.
  - b. The Height of the proposed development is within code. However, the addition will block the sunlight during the day as shown in the photographs submitted.
  - c. In their opinion, the subject dwelling is large and close to their property line.
  - d. Their rear yard faces south and has several mature trees. The sunlight to the south is filtered by these existing trees.
  - e. There are several spruce trees in front yard of the subject Site.
  - f. There are boulevard trees in front of their house.
  - g. While the light now is filtered by trees, it will be completely shaded by the proposed development. The view out the side window will be a wall.
  - h. They explained how the sun shines on their property during different times of the day. The biggest impact will be late in the day in the summer when the sunlight will be blocked from entering the west facing side windows in their study. There are also north facing windows in this room.
  - i. Although they are unsure about the exact location of the sun in the sky at all times of year, they believe this sun shadowing impact will be less in the winter as the sun will be lower and also set earlier. They are currently at work during these hours but indicated that it will be more of a factor when they retire.

- j. The relevant consideration for variances is if they will impact the use and enjoyment of the property. In their opinion, the amenities of their property will be impacted by the proposed development.
- k. They indicated where all windows were located on the west and north sides of their house.
- l. They could not provide any documents in addition to the submitted photographs or other evidence, such as a sun shadow study showing how the sun will be impacted by the proposed addition.
- m. Ms. Lea described how the passing sun will be blocked by the proposed addition as it travels over their property during the day. They did not have a sun shadow study or any evidence other than the submitted photographs to confirm or quantify this impact.
- n. They described the view they see when looking over their patio. Their concern is the location of the addition and the variances required.

*ii) Position of the Development Officer, Ms. Watts*

- [21] The Development Authority did not appear at the hearing and the Board relied on Ms. Watts's written submission.

*iii) Position of the Respondent, Mr. Palazzo, representing Oggi Inc., who was accompanied by Mr. Wengryn, the Architect, and Mr. Huynh, the property owner*

- [22] The builder, Mr. Palazzo, agreed that the house is non-conforming. He stated that the Bylaw continually changes which makes developments become non-conforming.
- [23] They try to eliminate variances when they apply for a Development Permit.
- [24] The Development Officer felt that the addition would not be increasing the non-conformity of the building as the Front Set back will remain the same. They agree.
- [25] Commenting on earlier questions addressed to the Appellant, they do not believe that the addition with an additional front setback reduction of 0.84 metres would be materially different in impact for the Appellants than a fully conforming two storey development. They reviewed the Appellants' photographs, and, by their estimation, the proposed development would not block the sun in the west. Even if there is a variance of 0.84 metres in the corner of the addition, sunlight will still shine on the neighbours' house.

- [26] They are willing to remove 0.84 metres off the north end of the addition to make that addition fully compliant with all setbacks, if needed. However, in their opinion, moving the addition will not make a difference and the addition will not negatively impact the adjacent neighbouring property.
- [27] Mr. Huynh, the property owner, stated that house was built in 1955 and he recently moved to the neighbourhood. He feels that the proposed addition meets the regulations of the *Edmonton Zoning Bylaw*.
- [28] Mr. Huynh stated that the existing house was properly approved years ago and with the change in the Bylaw, it is now non-conforming.
- [29] The majority of houses in the neighbourhood are bungalows. Neighbours who have lived in this area for several years do not want to see changes with new developments.
- [30] Mr. Wengryn, the Architect, stated that if a new house was built on the subject Site they could build in the area of the proposed addition.
- [31] He stated that the Appellant could, at will, plant a row of spruce trees between the two properties which would have the same impact on the neighbouring property.
- [32] Mr. Palazzo, Mr. Wengryn, and Mr. Huynh provided the following information in response to questions by the Board.
- a. They would be willing to revise the plans if necessary.
  - b. Mr. Huynh is a car enthusiast who likes a large garage to work on his vehicles. The overhead garage door on the north side of the addition is to allow for easy access to items stored in the addition without moving the vehicles.
  - c. They do not intend to put a driveway in front of the overhead door.

*iv) Rebuttal of the Appellant, Mr. and Mrs. Lea*

- [33] Mr. Lea read Section 643 of the *Municipal Government Act* regarding non-conforming buildings.
- [34] He stated that the addition does not comply with the regulations.
- [35] He reiterated that the addition will negatively impact the use and enjoyment of their property.
- [36] In their opinion, any new development in this location will have a negative impact on their property and cannot be allowed.

**Decision**

- [37] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority.
- [38] In granting the development, the following variance to the *Edmonton Zoning Bylaw* is allowed:
1. The minimum required Front Setback pursuant to Section 814.3(1) is waived as per the stamped approved Plot Plan.

**Reasons for Decision**

- [39] This appeal concerns an addition to a Single Detached House which has been in existence for many years on a corner lot subject to the Mature Neighbourhood Overlay and located in an RF1 Zone where Single Detached House is a Permitted Use.
- [40] The existing two storey building is an irregular shape with a recessed, rectangular portion located in the north of the interior east side yard near the Appellants' outdoor patio space and their living room which juts out to the west toward the shared Side Lot Line.
- [41] The Applicant sought permission to build an addition to his home in this northeast recessed portion to bring the walls flush with the existing projecting portions along its north and east elevations. He was granted a Development Permit authorizing him to "Construct an addition to an existing Single Detached House (new main floor Garage and second floor bedroom with bathroom)."
- [42] Currently, the required Front Setback for the north elevation is 5.6 metres. The first 6.81 metres of the west portion of the north elevation is setback 4.74 metres from the Front Lot Line, while the remaining 4.74 metre east portion of this elevation (closest to the shared Side Lot Line) is setback more than double the required minimum at 12.1 metres from the Front lot Line.
- [43] The required Side Setback for the east elevation facing the Appellants' property is 1.2 metres. The first 7.33 metres of the north portion of the east elevation is setback 6.24 metres from the shared Side Lot Line. Then at 12.1 metres from the Front Lot Line the house extends 4.74 metres perpendicularly towards the Side Lot Line and the remaining southerly portion of the east elevation is setback 1.52 metres from the shared Side Lot Line.
- [44] In her written decision, the Development Officer explained that the proposed development did not require any variances as bringing the north and east elevations flush does not increase the non-conformity of the building – in particular it does not reduce the existing 4.74 metres Front Setback.

- [45] In a prior decision, a separate panel of the Board disagreed and determined that even though the north wall for the addition would be no closer to the Front Lot Line than the existing projecting portion of the that wall, the proposed development would not comply with the minimum Front Setback per section 814.3(1) of the Mature Neighbourhood Overlay. The Board found that this situation triggered the requirement for community consultation per section 814.5 of the Overlay. The Board adjourned the matter on the condition that the Applicant conduct community consultation with the required addresses and provide the results to the Board prior to the next hearing.
- [46] At the current hearing on the merits, the Board received evidence that the Applicant did consult with the required neighbours and also received evidence of their feedback. Based on this evidence, the Board finds that there has been substantial compliance with its condition that the Applicant consult and obtain feedback. Although community input was collected after the Development Officer's decision was made, the intent of the section was met in substance prior to this hearing.
- [47] The Board next considered the legal status of the building and the appeal on its merits given the evidence and submissions before it.
- [48] In her written report, the Development Officer states that the existing principal building and deck was deemed "legal-conforming in a Compliance Certificate done in January 5, 2015." A copy of the Compliance Certificate was not provided to the Board.
- [49] However, the Board noted that she also states that the proposed development was approved with no variance other than this is a "non-conforming building" and she identifies five areas of existing non-conformance:
- i. Section 814.3.1 Front setback should be 5.6 metres and is 4.76 metres from the Front lot Line (deficient by 0.84 metres).
  - ii. Section 814.3.4 Rear setback should be 15.85 metres (40% of site depth) but is 15.30 metres (deficient by 0.55metres).
  - iii. Section 44.3.b – the rear second floor balcony is 1.17 metres over the allowable projection into the required rear setback.
  - iv. Section 110.4.11.a the flanking setback should be 4.5 metres and is 2.15 metres (deficient by 2.53 metres)
  - v. Section 814.3.17 the driveway access for the garage should be from the lane, but is from the roadway.
- [50] The issued Development Permit states "This Single Detached House no longer conforms to current zoning rules, which may have changed since it was originally constructed. This permit does not increase the non-conformity of the building Front Setback. (section 11.3.2). Non-conforming areas: (Section 814.3.17, 814.3.1, section 110.4.11.a, section 44.3.b)."

[51] During the hearing both the Appellants and the Applicant acknowledged that the house was non-conforming, meaning permits had been obtained at some point, but the building did not comply with all of the subsequent revisions to the *Bylaw*.

[52] Therefore, the Board finds that the existing Single Detached House is a non-conforming building and subject to section 643(5) of the *Municipal Government Act* (the “Act”) which provides:

643(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

(a) to make it a conforming building,

(b) for routine maintenance of the building, if the development authority considers it necessary, or

(c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

[53] The authority referred to in section 643(5)(c) of the *Act* is found in section 11.3 of the *Edmonton Zoning Bylaw* under the heading “Variance to Regulations.” Subsection (2) deals with non-conforming buildings and states:

(2) The Development Officer may approve, with or without conditions as a Class B Discretionary Development, an enlargement, alteration or addition to a non-conforming building if the non-conforming building complies with the Uses prescribed for that land in this Bylaw and the proposed development would not, in their opinion:

a. unduly interfere with the amenities of the neighbourhood; or

b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

[54] The test in section 11.3(2) is comparable to the Board’s test for variances under section 687(3) of the *Act* which provides the following direction for the Board:

In determining an appeal, the subdivision and development appeal board

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,



and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

- [55] The Board considered potential impacts on the neighbourhood amenities and the mixed results of canvassing submitted by the Applicant and the Appellants.
- [56] The Applicant submitted a community feedback form which showed he had left packages at twenty-five of the neighbour's homes within the notification radius. Most did not reply. He later followed up to try and speak with them. He spoke to five: one opposed redevelopments in principle, two approved of the proposed development and two said they would get back to him, but did not.
- [57] The Appellants provided five forms in support of their appeal signed by owners from five of the neighbouring properties. The comments from three echoed the Appellants' position that the development would negatively impact the Appellants' enjoyment of their property. No one raised any personal concerns or concerns about the neighbourhood amenities at large. One neighbour indicated that she had previously supported the development, but changed her mind upon being made aware that it would negatively impact the Appellants.
- [58] Based on this feedback, the fact that the proposed development aligns with the existing portion of the north wall closest to the Front Lot Line, and given that several mature evergreens screen the property which is cut off at a dead end of 104 Avenue and faces undeveloped land abutting Stony Plain Road, the Board agrees with the Development Officer and finds that the proposed development will not unduly interfere with the amenities of the neighbourhood.
- [59] Next the Board considered the specific impacts attributable to the proposed development upon the Appellants as owners of the property immediately east of the subject Site.
- [60] Apart from stating that "The development was approved with no variance other than this is a legal non-conforming Building" and citing both section 643(5)(c) of the *Act* and section 11.3.2 of the *Bylaw*, the Development Officer's report provides minimal insight concerning her reasoning with respect to the Appellants' property, other than to note the following:
- i. The proposed Front Setback is to match the existing Front Setback and the variance is due to the setback of the Appellants' adjacent house on the flanking side.
  - ii. Windows on the side abutting the neighbour have been conditioned to be frosted.
  - iii. There also appear to be mature trees between the properties.

[61] The Appellants argued that although non-complying building status does not preclude all renovations, the proposed development should not be allowed because:

- i. The building was non-complying when they moved in and while they must live with its current non-compliance, renovations should be limited to items listed in Section 643(5) a, b and c.
- ii. Any two storey renovation which added to the north east portion of the building (whether or not the renovated portion required a variance) would have material adverse impacts on the use value and enjoyment of their property in three respects:
  - a. Massing: Additional massing created by a two storey building, 1.5 metres from the property line would create a closed in tunnel feeling for them on their side yard patio.
  - b. Shadowing: The Appellants' main concern was sunshine. The Appellants believe the addition would eliminate direct sunshine into their side yard patio area and into the west windows of their living room during the summer evening hours before sunset. It would also limit overhead sunlight penetration through the day as the sun travels from east to west due to the second floor Height.
  - c. View: The proposed development would interfere with their view of surrounding landscape through the Applicant's front yard.

[62] The Applicant (supported by his builder and architect) opined, without any supporting evidence, that the proposed development did not create a significant or material adverse impact for the Appellants because:

- i. The area is already very shady due to extensive landscaping, including several existing mature evergreen trees on both properties which currently cast shadows on the Appellant's property through the day and at sunset.
- ii. He disputed the location of the setting sun and the corner of the building relative to the living room windows suggested by the Appellants.
- iii. He believed that the incremental difference attributable to moving the northeast corner of the building would only minimally affect light cast by the setting sun, if at all.
- iv. He disputed the Appellants' estimate of the location of the setting sun in other seasons, arguing it would be still be seen in a portion of the living room windows.
- v. He argued that the building was not determinative because he could legally plant another row of evergreens in his front yard which would effectively block more, if not all, of the rays of light from setting sun.

- vi. He emphasized that the house is fully compliant with the interior Side Setback and Height requirements. He was legally entitled to build a fully compliant two storey house at the same Height and closer to the shared Side Lot Line which would also potentially block out the some of the sun light and would have substantially the same impact as proposed development.
- vii. The Building had been properly permitted at one time and there was no wrong doing.

[63] Neither party provided a sun shadow study to support their assertions about the incremental loss of sunshine in the Appellants' rear and side yards through the day or about the loss of direct sunshine onto the patio and into the west windows of the Appellants' living room associated with moving the corner of the two storey building to the proposed location.

[64] The Development Officer made no mention of sun shadowing during the day or just before sunset, but she mentions the existing mature trees in her written report after citing her variance power under section 11 of the *Bylaw*.

[65] The only evidence before the Board concerning the loss of sunlight from the west near sunset was from photos taken from inside the Appellants' living room on July 17, 2018 between 8:00 p.m. and 9:00 p.m. The photos show the sun (behind the intervening branches of the Applicant's and the Appellants' mature evergreens) setting close to the current northeast corner of the subject house. The Appellants did not have evidence to show the location of the sun relative to the existing or proposed corners when it would set further south along the horizon in the other months. They stated that during winter months, the sun would set much earlier when they were typically at work and therefore would have less potential impact regardless of the proposed development.

[66] The Board considered the opinions of the parties, reviewed the photographs and found several factors limit the potential adverse sun shadowing impacts:

- i. All sunlight from the setting sun in the west is heavily filtered by the many existing mature evergreens on both properties which shade the Appellant's property.
- ii. The Applicant could add landscaping in his front yard which could further reduce or block out sunlight from the west.
- iii. There is a solid wood fence with an additional lattice portion along the shared Side Lot Line. This fence adds privacy and partially blocks the subject building from sight. This solid fence casts shade on the patio area in the photos. It blocks sunlight from the setting sun to the west and would shadow anyone sitting in the chairs as shown on the patio area regardless of the existence of the proposed development.

- iv. There is an abundance of mature vegetation along the Side Lot Line between the two properties through to the Appellants' rear garage. This existing landscaping heavily screens portions of the Applicants' house, breaks up the massing and also significantly decreases sunlight penetration for the Appellants through the day as the sun passes overhead. While many trees are deciduous and leafed out in the photos, a number of the mature trees are coniferous.

- [67] The Board also considered the Applicant's arguments about the locations of the existing Building and the proposed development as compared to current Height and Setback development regulations.
- [68] According to the stamped Plot Plan, the northeast corner of the proposed development will be 4.77 metres from the Front Lot Line and 1.5 metres from the Side Lot Line. Under the current *Bylaw* regulations, a fully compliant house of the same Height could be located up to 1.2 metres from the Side Lot Line and 5.6 metres from the Front Lot Line. In other words, a fully compliant two-storey building could be located of right 0.83 metres further south than what is proposed and 0.30 metres further east, closer to the Side Lot Line than what is proposed. The Board took note that the Front Setback variance increases massing and sun shadowing, but that this incremental impact will also be offset or mitigated to some degree by the excess in Side Setback over the allowable minimum. However, the Board received no evidence about the relative incremental shading impacts attributable to these factors.
- [69] The Appellants also argued to a lesser extent that their view would be impeded. Board notes that views *per se* are not protected in the *Bylaw* and in this case it did not consider loss of a view into their neighbour's property and beyond to Stony Plan Road (a major road way and location for the future LRT line) to be a form of loss of use, value or enjoyment for the Appellants within the meaning of that phrase in the *Bylaw* or the *Act*.
- [70] Finally, although the Appellants did not mention oversight or loss of privacy as a concern, the Board finds that existing mature landscaping also reduces these impacts. Further, the Development Officer added a condition requiring frosting on the two windows that will face the Appellants' property.
- [71] After weighing the opposing opinions and the limited photographic evidence before it, the Board concurs with the Development Officer's conclusion and finds that the proposed development, which will make the walls flush along the north and east elevations, will not create a material adverse impact with respect to privacy, massing or sun shadowing for neighbouring properties.

[72] The existing building is non-conforming, however for the reasons above the Board affirms the decision of the Development Officer and is satisfied that the Development Permit may be granted in compliance with section 643(5)(c) of the *Act*. 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.

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

Board Members in Attendance:

Mr. V. Laberge; Ms. L. Delfs; Ms. L. Gibson

CC:

City of Edmonton, Development & Zoning Services, Attn: Ms. Watts / Mr. Wen

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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



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Date: September 6, 2018  
Project Number: 278856632-001  
File Number: SDAB-D-18-124

**Notice of Decision**

- [1] On August 22, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 30, 2018**. The appeal concerned the decision of the Development Authority, issued on July 30, 2018, to refuse the following development:

**Construct a Single Detached House with veranda, attached Garage, rear uncovered deck, Basement development (NOT to be used as an additional Dwelling), and to demolish a Single Detached House.**

- [2] The subject property is on Plan 6773MC Blk 16 Lot 5, located at 12203 – Aspen Drive West NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
  - The Development Officer’s written submissions; and
  - The Appellant’s written submissions.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Rendering of the proposed house, submitted by the Appellant.
  - Exhibit B – Google street view map.

**Preliminary Matters**

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

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

### **Summary of Hearing**

- i) *Position of Ms. Olafson, representing the Appellant, Poetry Homes Ltd., who was accompanied by Dr. Chan and Ms. Cheung, the property owners*
- [8] Dr. Chan and Ms. Cheung want to build the house to accommodate their family and their wheelchair bound mother who they take care of.
- [9] They chose to build in this area as it is close to schools and the Hospitals where Dr. Chan works.
- [10] The orientation and design of the house was done to accommodate a wheelchair.
- [11] Ms. Cheung’s mother will be limited to the main floor where she will have the view of the park across the street.
- [12] The three car garage will allow them easy access for the wheelchair when loading their vehicles.
- [13] She referred to the Floor Plan showing the garage ramp and location of the room that is accessible for the wheelchair.

The Presiding Officer asked Ms. Olafson to address the requested variances for the proposed development.

- [14] She referred to the notification map outlining all of the houses on the block face that have front attached garages and triple garages.
- [15] They spoke to the most adjacent neighbours prior to purchasing the lot and informed them what they would like to build and reviewed the plans with them.
- [16] All of the neighbours they spoke to are in support of the proposed development.
- [17] The three car garage will be located on the side street and will face a fence rather than the neighbour’s yard. That neighbour was in support of the development.
- [18] She referred to the Plot Plan and stated that there is an electrical post on the rear yard which will be an issue if the garage is detached.
- [19] The location of the garage will have no impact on traffic accessing the lane.



- [20] The proposed development is characteristic of the neighbourhood.
- [21] The house they currently live in is not suitable for wheelchair access. The design of the house is important for them to look after Ms. Cheung's wheelchair bound mother.
- [22] The triple attached garage will allow them additional room to get into their vehicles with the wheelchair ramp.
- [23] Ms. Cheung's mother will be confined to the main floor of the dwelling. The garage is proposed on the side of the house to maintain the green space in the front of the property and maintain the view of the park across the street.
- [24] Dr. Chan works at the University of Alberta Hospital and the Grey Nuns Hospital. Both are in close proximity to the subject Site which is important when he is on call.
- [25] Ms. Olafson stated that the back deck has also been designed to accommodate a wheelchair, table and chairs at ground level. The location of the deck will still allow for sufficient amenity space in the rear yard.
- [26] Ms. Olafson, Mr. Chan, and Ms. Cheung provided the following information in response to questions by the Board:
- a. There is no grass or boulevard in front of their property along the flanking roadway, 122 Street.
  - b. They could not confirm how many front attached garages there were further down 122 Street.
  - c. They intend to maintain as many of the existing mature trees on the property as possible.
  - d. The existing house that will be demolished has a front attached garage.
  - e. The interior adjacent lot has a front attached garage that is accessible from Aspen Drive.
  - f. They purchased the lot with the intent of Ms. Cheung's mother moving in to their home.
  - g. They did not find any other properties in the area that would be suitable for their needs and that can accommodate a triple attached garage.
  - h. The rear deck is approximately 10 feet into the rear yard. She agreed that the deck looks higher due to the grade of the property.

- i. To the extent that backing out of a front attached garage creates potential pedestrian safety issues, they believe that backing onto Aspen Drive would be more of a safety concern as there is more pedestrian traffic on that roadway than the flanking roadway.
- j. They could not confirm if the power pole located at approximately the middle of their rear lot line is also anchored by wires into the ground. They confirmed that there are power pole guidewires across the rear lane. The pole is hard to see in the Google Street view (Exhibit A), but it does not appear to have a guidewire.
- k. They are agreeable to the conditions suggested by the Development Officer.
- l. They will be adding landscaping and planting additional trees on the property as needed.

ii) *Position of the Development Officer, Mr. Robinson*

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

**Decision**

[28] 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 as proposed by the Development Authority and reviewed by the Applicants:

1. The development shall be constructed in accordance with the stamped and approved drawings.
2. The Height of the principal building shall not exceed 8.9 metres (Reference Sections 6.1(49) and 52).
3. Platform Structures greater than 1.0 metres above Grade shall provide Privacy Screening to prevent visual intrusion into adjacent properties. (Reference Section 814.3(9))
4. The proposed Basement development(s) shall NOT be used as an additional Dwelling. Proposed wet bar shall only be used by the household which uses the principal kitchen on the main floor. A Secondary Suite shall require a new development permit application.
5. The area hard surfaced for a Driveway shall comply with Section 54.6.
6. Except for the hard surfacing 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.

7. Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House (Reference Section 55.2.1).
8. Two deciduous tree with a minimum Caliper of 50 mm, two coniferous tree with a minimum Height of 2.5 m and eight shrubs shall be provided on the property. Deciduous shrubs shall have a minimum Height of 300 mm and coniferous shrubs shall have a minimum spread of 450 mm (Reference Section 55.2.1).
9. The requirement to provide trees and shrubs may be satisfied either through planting new or preserving existing trees and shrubs (Reference Section 55.6.2)
10. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or artificial turf, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens (Reference Section 55.2.1).
11. All access locations and curb crossings shall have the approval of City of Edmonton, Sustainable Development, Attn: Transportation prior to the start of construction (Reference Section 53(1)). **PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW**, the applicant or property owner shall pay a Curb Crossing Permit application fee of \$50.00.

#### ADVISEMENTS:

- i. Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Planning and Engineering at 780-496-5576 or [lot.grading@edmonton.ca](mailto:lot.grading@edmonton.ca) for lot grading inspection inquiries.
- ii. Any future deck development greater than 0.6 metres (2 feet) in height will require development and building permit approvals.
- iii. Any future deck enclosure or cover requires a separate development and building permit approval.
- iv. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.

- v. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:  
[https://www.edmonton.ca/business\\_economy/licences\\_permits/oscam-permitrequest.aspx](https://www.edmonton.ca/business_economy/licences_permits/oscam-permitrequest.aspx)
  - vi. 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.
  - vii. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw 12800*.
- [29] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:
- 1. The Driveway access requirement per section 814.3(17) is waived.
  - 2. The Garage width requirement per section 814.3(18) is waived.
  - 3. The projection requirement per Section 44.3 is varied to permit the deck to be located 12.6 metres from the rear lot line rather than the required 14.13 metres.

### **Reasons for Decision**

- [30] A Single Detached House is a Permitted Use in the RF1 Single Detached Residential Zone.
- [31] The Board finds that there has been substantial compliance with the community consultation required pursuant to section 814.5 based on the Development Officer's written report and the Applicant's oral submissions.
- [32] The Board grants a variance to allow vehicular access off of 122 Street despite the existence of a lane, and a variance in garage width to accommodate a triple garage for the following reasons:
- a. No negative responses were received from the community consultation. To the contrary, two of the most directly affected neighbors (including the neighbor directly across the flanking street who will have the most direct view of the garage) provided strong support.

- b. The particular development regulations at issue with respect to the garage and its driveway speak to what types of the development are characteristic of the area. In this case, the Board received evidence that attached garages with vehicular street access from a public roadway are very characteristic in this particular mature neighbourhood and predominant along Aspen Drive West. Over 30 properties in the immediate area have front attached garages. Further, four of these nearby properties provide direct street access to accommodate triple attached garages.
- c. Further, the Appellants have taken great care in the design to add articulation, features of interest and varied types of materials to mitigate the visual impact of the garage viewed from the flanking street.
- d. The Board also considered the fact that while there is a lane, there is also a power pole close to the midpoint of the rear lot line of the subject Site which the Board has heard creates practical difficulties in accommodating access and constructing a detached rear triple garage.
- e. The Appellants proposed plan provides for access off of 122 street rather than Aspen Drive West. In choosing this design, they took into account that more pedestrians travel along Aspen Drive West and less along 122 street. As demonstrated by the notification map, 122 Street is a subsidiary street designed to access fewer properties.
- f. The subject lot is quite large and a substantial amount of greenspace remains available on the property. Also, significant landscaping is to occur as part of the proposed development as noted in the conditions.
- g. The Board also considered the circumstances along the flanking roadway. Sightlines are not mentioned by the Development Officer. The submitted photos demonstrate that there are no trees in the road right of way and the garage is set back a significant distance from side lot line and the lane. Therefore, there are no concerns regarding sightlines to the lane.

[33] The Board allows a variance authorizing the deck to project into required setback for the following reasons:

- a. Given the existing mature vegetation in the rear yard of the subject site and throughout the immediate area, the Board finds that no negative impacts can be attributed to this variance for the adjacent neighbours to the rear across the lane, or to either side. This conclusion is supported by the most affected neighbor on the interior side lot line who supported the development.

- b. Based on the plot plan, the finished grade at rear of the house is substantially higher than the average grade calculation. Given this slope, potential impacts attributable to the deck are minimal given height of the deck in relation to the property to the interior.

- [34] The Board notes that the Development Officer expressed a potential concern about the removal of trees. The Board heard that the Appellants are trying to maintain as many trees as possible and the plans do not include the removal of any city trees. The Board is not persuaded that an additional condition over and above the standard landscaping requirements is required to meet this concern.
- [35] During the hearing, the Appellants made several submissions explaining that the characteristics of the house which gave rise to the required variances were incorporated into the design to accommodate Mr. Chan's on-call schedule as well as wheelchair access for Ms. Cheung's mother.
- [36] While the Board is not unsympathetic to the personal reasons enunciated by the Appellants, its authority is determined by the *Municipal Government Act*. The Board lacks authority to grant variances to accommodate the personal needs of a specific property owner and the Board has not granted the variances on that basis.
- [37] As required by the Act, the Board has applied the test set out in section 687(3) of the *Municipal Government Act*. For the reasons above, the Board finds that the proposed development with variances 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.

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

Board Members in Attendance:

Mr. V. Laberge; Ms. L. Delfs; Ms. L. Gibson; Ms. G. Harris

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. G. Robinson / Mr. A. Wen

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

*10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079  
F: 780-577-3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)*

Date: September 6, 2018  
Project Number: 219877833-005  
File Number: SDAB-D-18-125

**Notice of Decision**

- [1] On August 22, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 27, 2018**. The appeal concerned the decision of the Development Authority, issued on July 11, 2018, to refuse the following development:

**Construct 3 Dwellings of Row Housing with front verandas**

- [2] The subject property is on Plan 1994CL Blk 1 Lots 5-6, located at 9609 - 120 Avenue NW, within the (RF3) Small Scale Infill Development Zone. The Mature Neighbourhood Overlay and the Alberta Avenue / Eastwood ARP 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 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 (the “*Municipal Government Act*”).



**Summary of Hearing**

- i) *Position of Mr. P. Hua, representing the Appellant, Tyler Home Builders Ltd., who was accompanied by Mr. Tran, the property owner.*

- [7] Mr. Tran intends to build a triplex for himself, his parents, and his daughter. Mr. Tran is the owner of the property. He does not currently live at the subject Site.
- [8] Mr. Hua stressed that every effort was made for the proposed development to meet the *Bylaw* requirements and the Appellants would like the Board to grant the required variances in light of the practical inability to reduce the footprint of the building further.
- [9] The Appellants spoke to the immediate adjacent neighbours and other neighbours along the block face. They received both verbal and written support for the proposed development. The neighbours believe that the proposed development will be an asset to the neighbourhood as the house has been vacant for several years.
- [10] They received signatures in support of the proposed development and provided them to the Development Officer when the development permit was applied for. However, the Appellant noted that he could not provide the signatures to the Board as evidence because he did not bring additional copies to the hearing.
- [11] The Appellants were told by the City that a triplex is allowed in the (RF3) Small Scale Infill Development Zone. However, they confirmed that this conversation occurred prior to any formal activity or application for permits.
- [12] Mr. Hua submits that there are other duplexes and triplexes in the neighbourhood, one being directly across the avenue from the subject Site.
- [13] Both Appellants confirmed that the hand drawn landscaping plan is the most recent proposed landscaping plan.
- [14] Mr. Hua and Mr. Tran provided the following information in response to questions by the Board:
- a. They confirmed that the proposed development will have the same front setback as the existing house currently standing on the subject site, but could not confirm what the front setback was for the existing house.
  - b. There will be no visual impact regarding site lines for vehicles turning onto the street as this is not a busy street and does not have a Bus Route on it currently.
  - c. Access to the triplex units will be from 120 Avenue.
  - d. They confirmed that there is a triplex directly across 120 Avenue and one triplex kitty-corner from the subject Site across 120 Avenue with similar setbacks from the flanking roadway.

- e. One small window on the door that faces the neighbouring property will be frosted. The Development Officer refused the proposed development before he could provide information to the Appellants as to which windows facing the interior side lot line should be frosted.
- f. They confirmed that only the windows on the main floor facing the neighbouring property will be frosted.
- g. The Appellants are agreeable to the suggested conditions from the Development Officer and acknowledge that condition 1 should be altered to reduce the allowed number dwelling units from four to three.

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

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

**Decision**

[16] 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** as proposed by the Development Officer (with the exception of Condition 1 which has been amended to correct an error):

1. This Development Permit authorizes the proposed development of a Row House with 3 Dwellings.
2. The development shall be constructed in accordance with the stamped and approved drawings.
3. The maximum Height shall not exceed 8.9 metres, in accordance with Section 52 of the Edmonton Zoning Bylaw 12800.
4. Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 metres above the finished ground level, excluding any artificial embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties. (reference Section 814.3(9))
5. Frosted or opaque glass treatment shall be used on windows to minimize overlook into adjacent properties (Reference Section 814.3(8)).

6. 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))
7. 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).
8. Landscaping shall be in accordance with the approved landscaping plan and Section 55 of the Zoning Bylaw, to the satisfaction of the Development Officer.
9. Any changes to an approved Landscape Plan require the approval of the Development Officer prior to the Landscaping being installed.
10. Landscaping shall be maintained in a healthy condition for a minimum of 24 months after the landscaping has been installed, to the satisfaction of the Development Officer.
11. A Guaranteed Landscaping Security shall be provided to the City of Edmonton at the time of Development Permit Inspection, to the satisfaction of the Development Officer.

**ADVISEMENT:**

1. Upon the first Development Permit Inspection and determination that landscape construction has been completed in compliance with the approved Landscape Plan, 20% of the approved Guaranteed Landscape Security shall be collected and retained for a period of 24 months from the date of first Development Permit Inspection.
2. Sites that are not completed or are not compliant with approved Landscape Plans at the first Development Permit Inspection, shall be required to submit a Security for incomplete work, up to and including the full value of the approved Guaranteed Landscape Security value.
3. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.
4. Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or [lot.grading@edmonton.ca](mailto:lot.grading@edmonton.ca) for lot grading inspection inquiries.

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 311 Call Centre for further information.

[17] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:

- 1) The minimum required Front Setback of 10.27 metres as per Section 814.3(2)(c) is varied to allow a deficiency of 5.4 metres, thereby decreasing the minimum required Front Setback to 4.87 metres.
- 2) The minimum required distance of the porch projection of 1.5 metres as per Section 814.3(11) is varied to allow a deficiency of 0.3 metres, thereby decreasing the minimum required to 1.2 metres.
- 3) The minimum required eave projection of 1.2 metres as per Section 140.4(17) is varied to allow a deficiency of 0.4 metres, thereby decreasing the minimum required to 0.8 metres.
- 4) The minimum required (flanking) Side Setback of 2.0 metres as per Section 140.4(14)(c) is varied to allow a deficiency of 0.2 metres, thereby decreasing the minimum required to 1.8 metres.
- 5) The minimum required (interior) Side Setback of 3.0 metres as per Section 140.4(14)(d) is varied to allow a deficiency of 1.4 metres, thereby decreasing the minimum required to 1.6 metres.

### **Reasons for Decision**

- [18] The proposed development is a Permitted Use in the (RF3) Small Scale Infill Development Zone.
- [19] The Board finds that the requirements for Community Consultation under the Mature Neighbourhood Overlay have been substantially satisfied based on the Development Officer’s written submission and verbal submissions of the Appellants.

- [20] The Board grants the three Setback variances and the two related projection variances for the reasons which follow.
- [21] The Community Consultation feedback indicated that neighbours within the notification area were either neutral or supportive of the proposed development.
- [22] The Board heard additional evidence from the Appellants that the neighbours strongly support the development because it will replace a derelict, vacant building that has been the site of ongoing criminal activity which has negatively impacted the neighbourhood. They welcome the proposed development as a positive development.
- [23] The variances required to accommodate the Side Setback and projections along the flanking roadway are relatively small. While the magnitude of a variance is not necessarily determinative of its impact, in this case the Board finds these flanking variances are unlikely to be perceptible from the street, let alone materially impact passersby. The Board also heard that the proposed Setbacks are similar to the Setbacks for a Row Housing development directly across the flanking roadway as well as one kitty corner to the Subject Site.
- [24] While the Development Officer indicated in his written submission that the adjacent neighbour to the south might be negatively impacted by the variance to the Front and Interior Side Setbacks, the Appellant has spoken directly with this neighbour and reported that this neighbour supports the proposed development.
- [25] The Side Setback on the Interior Lot Line is 1.6 metres. This distance is similar to the existing house. The Board also notes that the elevation facing the interior Side Lot Line is articulated and approximately one third of the building is set back 3.1 metres and is compliant with the required Setback.
- [26] The Board received evidence that the proposed Front Setback will be similar to the Front Setback of the existing house being replaced by this triplex. The proposed Front Setback is also similar to several other developments on the block face which are much closer to the Front Lot Line than the house immediately to the south. Again, the applicant advised that the most affected neighbour to the south supports the proposed development.
- [27] There is no indication that the variances to the flanking and Front Setbacks (alone or together) will create any traffic or safety concerns.
- [28] The Board also considered the fact that the proposed development requires five variances. While the number of variances can be an indicator of overdevelopment, the Board finds this is not the case in this circumstance. This neighbourhood is in transition. The addition of new developments such as the proposed Row Housing aligns with the intention of the Area Redevelopment Plan and the objectives of the (RF3) Small Scale Infill Development Zone. The proposed development, with three Dwelling Units, is the least dense form of Row Housing.

The three flanking variances are interrelated and for the reasons noted above unlikely to have any measurable adverse impacts. Height, parking, amenity area and site coverage development regulations are also indicators of overdevelopment. The proposed development meets all these regulations and the subject lot meets the required dimensions for this Permitted Use.

- [29] The Board has imposed all the conditions as suggested by the Development Officer and reviewed by the Appellants, with a single exception. Condition 1 has been corrected to reduce the allowed number Dwelling Units from four to three.
- [30] 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.

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

Board Members in Attendance:

Mr. V. Laberge; Ms. L. Delfs; Ms. L. Gibson; Ms. G. Harris

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. K. Yeung / Mr. A. Wen

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  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
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