



**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
edmontonsdab.ca

Date: August 18, 2016
Project Number: 219284349-002
File Number: SDAB-D-16-183

Notice of Decision

- [1] On August 3, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on July 4, 2016. The appeal concerned the decision of the Development Authority, issued on June 23, 2016, to refuse the following development:

Construct exterior alterations (Driveway extension, 2.40 metres by 5.64 metres) to an existing Single Detached House, existing without permits.

- [2] The subject property is on Plan 0523043 Blk 8 Lot 60, located at 15505 - 47A Street NW, within the RSL Residential Small Lot Zone. The Brintnell Neighbourhood Structure Plan and Pilot Sound Area Structure Plan apply to the subject property.

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

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- Registered Mail receipt confirming delivery of the refused Development Permit on June 30, 2016;
- Development Officer's written submissions, dated July 20, 2016; and
- Photographs and petition of support submitted by the Appellant.

Preliminary Matter

- [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.

Summary of Hearing*i) Position of the Appellant, Mr. S. Randhawa*

- [7] Mr. S. Randhawa was accompanied by the property owner, Mr. J. Randhawa.
- [8] Mr. S. Randhawa submitted that the extended Driveway is reflective of the neighbourhood, and that the fine levied for the extension is unfair, since there are other similar extended Driveways in the area. He referred to photographs of nearby properties with extended concrete Driveways. He consulted with all 47 neighbours who received notices about the appeal hearing, and not one of those neighbours opposed the Driveway extension. Upon questioning by the Board, Mr. S. Randhawa was unable to confirm whether there were approved permits for the neighbouring extended Driveways.
- [9] Mr. S. Randhawa explained that due to the fire hydrant located in front of the property, some of the potential on-street parking options are eliminated. Should the Board grant the development permit for the extended Driveway, the Appellant would like to pour concrete over the extended portion to increase the number of off-street parking spaces.
- [10] The Board sought clarification as to the scope of the Appellant's development permit application, and Mr. S. Randhawa confirmed that he is seeking a waiver to the regulation against parking on one's Front Yard.

ii) Position of Affected Property Owner in Support of the Appellant, Mr. J. Kooner

- [11] Mr. J. Kooner did not appear at the hearing, and was represented by his nephew, Mr. M. Kooner. Mr. J. Kooner stated that he was simply attending in support of the proposed development.

iii) Position of the Development Officer, Mr. J. Xie

- [12] The Development Officer, who made the initial decision to refuse the development permit, Mr. J. Xie, was unable to attend the hearing. His colleague, Ms. S. Watts, appeared on his behalf.
- [13] Ms. Watts explained that when calculating Driveway widths, 3.1 metres is allocated for each parking space, resulting in a maximum allowable width of 6.20 metres for two parking spaces. The Appellant has requested a Driveway of 8.21 metres in width, which exceeds the maximum allowable width by 2.01 metres.
- [14] With respect to the Appellant's submission that there are numerous properties in the surrounding area with extended Driveways, Ms. Watts noted that some of these properties may not have approved permits for the extension. If a complaint is lodged

against one of these properties and bylaw enforcement's investigation reveals that there is no valid permit, then those property owners will be fined, just as what occurred with respect to the subject property.

- [15] Upon questioning by the Board, Ms. Watts stated that not all properties on the block have the same Driveway extension. For example, some consist of a narrow strip that merely leads to the property's rear yard.
- [16] In her view, there are numerous issues associated with extended Driveways, including drainage and a lack of landscaping which detracts from the character of the neighbourhood. Landscaping essentially provides for greenery and water absorption, which is compromised when a property's Front Yard is paved over with concrete.
- [17] Upon questioning by the Board, she acknowledged that based on the photographic evidence of the existing extended Driveway, it is arguable that the extension does lead to the front door of the subject property, notwithstanding the Appellant's acknowledgement that the extension is for the purposes of parking.

iv) Rebuttal of the Appellant

- [18] With respect to landscaping, Mr. S. Randhawa clarified that there are currently four shrubs on the property. Following the fine, there is no more parking on the Front Yard, and planters have been placed on the portion of the Driveway that is extended.
- [19] Upon questioning by the Board, Mr. S. Randhawa stated that should the Board approve the Driveway extension, they intend to pave over the extension with concrete and use the extra space to park up to three cars on the Driveway. However, should the Board refuse the development permit, it was his submission that the current Driveway extension does comply with the development regulations with respect to landscaping.
- [20] Mr. S. Randhawa also disagreed with the Development Officer with respect to the types of Driveway extensions in the neighbourhood. He has observed that neighbouring properties do have Driveways extended to the point that three cars can be parked off-street.

Decision

- [21] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

Reasons for Decision

- [22] Single Detached Housing is a Permitted Use in the RSL Residential Small Lot Zone.

- [23] The matter before this Board pertains to an application to construct a Driveway extension, currently existing without permits, for a Single Detached House. The Appellant has indicated in both his Grounds for Appeal and in his oral submissions that the intent is to remove the existing pavers that form the landscaped portion of the Driveway extension and pour concrete over this extension for the purposes of providing additional parking space.
- [24] Despite significant community support for the proposed Driveway extension, the Board notes that this matter was brought before it based on a complaint that originated from within the neighbourhood with respect to illegal parking on the property's Front Yard. Section 54.2(2)(e)(i) provides as follows:
- Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following:
- i. parking spaces shall not be located within a Front Yard;
- [25] The Board also accepts the information provided by the Development Officer regarding four previous warnings issued against the property owner with respect to illegal parking on the Front Yard in contravention of Section 54.2(2)(e)(i). Although the Board heard that a significant number of properties in the area already have Driveway extensions, no information was provided with respect to whether these extensions are existing lawfully with approved development permits. The Board is therefore of the view that allowing the extension for the purposes of parking within the Front Yard will have a material impact upon the neighbourhood.
- [26] The Board also accepts the Development Officer's submissions with respect to the purpose of Front Yard landscaping requirements. The existing Driveway extension currently has pavers as a form of landscaping. The Board accepts the submissions of the Development Officer that the removal of the existing landscaping elements will prevent water absorption and result in drainage issues, which will materially impact and unduly interfere with the use and enjoyment of neighbouring properties.

[27] Given the above, the Board is of the opinion that this development and the required variances will unduly interfere with the amenities of the neighbourhood, and will 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:

Mr. B. Gibson, Ms. C. Chiasson, Mr. A. Peterson, Ms. S. LaPerle

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
 - b) the requirements of the *Alberta Safety Codes Act*,
 - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - d) the requirements of any other appropriate federal, provincial or municipal legislation,
 - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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



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Date: August 18, 2016
Project Number: 223705783-001
File Number: SDAB-D-16-184

Notice of Decision

- [1] On August 3, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on July 11, 2016. The appeal concerned the decision of the Development Authority, issued on July 7, 2016, to refuse the following development:

To construct an Accessory Building (rear detached Garage, 7.31 metres by 4.87 metres), and to demolish an existing rear detached Garage (3.80 metres by 5.62 metres)

- [2] The subject property is on Plan RN22B Blk 43 Lot 19, located at 10542 - 125 Street NW, within the RF3 Small Scale Infill Development Zone. The Mature Neighbourhood Overlay applies to the subject property.

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

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- Registered Mail receipt confirming delivery of the refused Development Permit on July 11, 2016;
- Development Officer's written submissions, dated July 26, 2016;
- Correspondence between the Development Officer and the Appellant; and
- Written submissions of the Appellant.

Preliminary Matter

- [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.

Summary of Hearing

i) Position of the Appellant, Ronnex Garages

- [7] The Appellant was represented by Mr. J. Smith, who was accompanied by the property owner, Mr. E. Sauze.
- [8] Mr. Sauze stated he wishes to replace is approximately 100 years old decrepit garage, which is presenting some safety concerns. The garage is currently being used for storage, but the proposed renovations will allow for both storage and parking of one vehicle. Recognizing that the subject property is located in a more mature neighbourhood, he would like the new garage to be in keeping with the neighbourhood and the principal building, which is why he has proposed a gambrel style roof.
- [9] The existing garage Height is 4.6 metres, which is 0.3 metres taller than the maximum allowable Height of 4.3 metres. Mr. Sauze noted that the proposed development will be 4.88 metres, which is only 0.26 metres taller than the existing garage. He also pointed out that the neighbour across the rear alley directly behind his property has a gable-style peaked roof that exceeds the maximum allowable height as well.
- [10] Mr. Sauze acknowledged that a peaked roof would be within the maximum allowable height. However, he submitted that this is mainly due to the different method of calculating height for gable roof types, which measures from Grade to the midpoint between the end of the eave to the top of the roof. By contrast, the Height for gambrel roofs are measured from Grade to the midpoint between the deck line and the top of the roof.
- [11] Referring to the documents contained in his written submissions, he noted that a gable style roof at 10.5/12 pitch falls just under seven feet and nine inches in Height, whereas the proposed gambrel style roof at a 4/12 pitch, using the same method of calculating Height as for the gable style roof, would result in a Height of seven feet seven inches, with an overall Height that is actually shorter than the gable style roof.
- [12] He has obtained support for the development from approximately 90% of the neighbours in the 60 metre notification area, and he submits that the proposed development will not cause a disturbance to the neighbourhood. He stated that although some neighbours expressed initial concerns about the development being used as a Garage Suite, he has no such intentions, and there was no opposition to the proposed plans.
- [13] Upon questioning by the Board with respect to the parking variance noted in the Development Officer's written submissions, Mr. Sauze explained that the existing garage has always been used for one vehicular parking space. To accommodate two vehicles, the proposed development would need to be wider. However, in his view, the Site is fairly

small, with a lot width of approximately 26 feet. Widening the proposed garage would eliminate some of the amenity space, and he would prefer to have more space between the proposed structure and the existing structures on his neighbours' properties. Mr. Smith stated that he builds many garages in the neighbourhood, and the widest garage possible on this lot would be approximately 18 feet, which would fit two small vehicles. However, in his experience, such garages end up being used for parking only one vehicle.

- [14] Upon questioning by the Board, Mr. Sauzer stated that although it would be possible to provide a vehicular parking space in the amenity space in tandem with the space in the garage, he would prefer to maintain the amenity space.
- [15] He explained that his household has two vehicles which currently utilize on-street parking, and the proposed development would effectively remove one of these vehicles from the street. The property is also located near major roadways with public transport. In his view, these factors would support granting the variance to the required vehicular parking space.
- [16] It was also his view that the proposed development will not cause any more sun-shadowing upon neighbouring properties than the existing structure.

ii) Position of the Development Officer, Ms. H. Vanderhoek

- [17] Ms. Vanderhoek was accompanied by her colleague, Ms. K. Mark.
- [18] Upon questioning by the Board, she stated that if she had the authority to vary Height, she would have considered exercising that discretion, particularly based on the information provided with respect to the gable style roof of the neighbouring property to the rear of the subject property.
- [19] Ms. Vanderhoek was also of the view that since the existing garage is a 100 year old structure, there is value in the proposed development maintaining a similar structure in keeping with the character of the neighbourhood.
- [20] Ms. Vanderhoek noted that the community consultation that the Appellant conducted may have covered only the required variance to Height, as the variance to the vehicular parking space was discovered only after the permit had been refused.
- [21] Upon questioning by the Board, she stated that notwithstanding the development's proximity to transit routes, she would not have granted the parking variance because it is possible to widen the proposed garage to meet the parking requirement.

ii) Rebuttal of the Appellant

[22] Mr. Sauzer clarified that the community consultation covered only the Height variance, as he had been unaware of the required parking variance at the time. However, he noted that his neighbours have always known that the existing garage is used for storage, and that both household vehicles utilize on-street parking. Since the proposed structure will remove one of these vehicles from the street, he submitted that his neighbours are unlikely to object to the parking variance.

Decision

[23] 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) Eave projections shall not exceed 0.46m into required Setbacks or Separations spaces less than 1.2m. (Reference Section 44.1(b))
- 2) The rear detached Garage shall not exceed 4.88m in Height. (Reference Section 6.1(49) and 52.1(c)).
- 3) Immediately upon demolition of the building, the site shall be cleared of all debris.

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

- 1) The maximum allowable Height of 4.3 metres for an Accessory building or structure under Section 50.3(2) is varied to permit a deficiency of 0.58 metres for a total Height of 4.88 metres.
- 2) The required two off-street vehicular parking spaces under Section 54.2(4)(a)(i) is varied to permit a deficiency of one parking space.

Reasons for Decision

[25] The proposed development is for an Accessory building, a detached Garage, to a Single Detached House in the RF3 Small Scale Infill Development Zone. A Single Detached House is a Permitted Use within this zone, and the proposed development requires two variances: one to its maximum Height, and the second to the required off-street vehicular parking space.

[26] Based on photographic evidence submitted to this Board, the purpose of this development application is to replace an existing 100 year old carriage-style Garage and to match its appearance to that of the principal dwelling, which also utilizes a gambrel style roof.

[27] In granting the variance to the maximum allowable Height under Section 50.3(2), the Board notes that the existing structure is 4.6 metres, and that the new structure is only 0.22 metres taller at 4.88 metres. The Board is of the view that this increase in Height

will have a minimal effect upon neighbouring properties, and is consistent with neighbouring properties.

- [28] The Board was also provided with drawings of a gable style roof with a 10.5/12 pitch, showing that the overall Height of a building using this type of roof would actually be higher than 4.88 metres, as it is measured from Grade to the midpoint between the end of the eave to the top of the roof.
- [29] The Board notes that although the Appellant was not required by any statutory instrument to conduct a community consultation, he did consult with neighbouring property owners within the 60 metres notification area. The consultation identified only the required Height variance, and not the parking variance, which was discovered by the Development Officer only after the initial decision had been issued.
- [30] In granting this second variance to parking, the Board finds that the current garage is not being used for off-street parking, and that for the past number of years, the applicant has been using on-street parking for his two vehicles. By providing a new off-street parking space through this development permit, the demand on on-street parking in the neighbourhood is reduced.
- [31] The Board was not presented with any information which would justify a conclusion that there are currently issues with parking congestion within the neighbourhood. The Board accepts that there is available transit located on 107 Avenue one block to the north, and 124 street one block to the east.
- [32] The Board notes that this particular property has existed since the time of subdivision, believed to be 1916, as a 25 foot lot. The Board recognizes that the Applicant is a long-term resident of the neighbourhood, possessing good familiarity with respect to the overall character, look and parking situation within the neighbourhood. The Board accepts that the applicant has provided a neighbourhood consultation that showed a majority support for this application, and that no letters of opposition were submitted, nor did anyone appear in opposition.
- [33] For the above reasons, the Board is of the opinion that granting the required variances will not unduly interfere with the amenities of the neighbourhood, nor will it materially interfere 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:

Mr. B. Gibson, Ms. C. Chiasson, Mr. A. Peterson, Ms. S. LaPerle

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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*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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Date: August 18, 2016
Project Number: 182087602-001
187000039-001
File Number: SDAB-D-16-185/186

Notice of Revoked Permits

- Re: Project No. 182087602-001; To construct a Single Detached House with a front drive under Garage, a front uncovered deck (9.14 metres by 2.43 metres), fireplace, a rear uncovered deck (3.04 metres by 7.01 metres), and Basement development (NOT to be used as an additional Dwelling)
- Re: Project No. 187000039-001; To construct a Single Detached House with front attached garage, front veranda, fireplace, rear uncovered deck (7.01 metres by 3.05 metres) and Basement development (NOT to be used as an additional Dwelling)

On August 3, 2016, the Subdivision and Development Appeal Board made the following decision:

“That the approved permits for Project No. 182087602-001 and Project No. 187000039-001 be REVOKED at the request of the Applicant”.

Reasons for Decision:

- [1] On August 3, 2016, the Subdivision and Development Appeal Board received a written and signed request from Ms. B. Lintell on behalf of the Applicant, Two 12 Developments, which stated in part:

[On] behalf of Two 12 Developments, [I] would like to withdraw permits 182087602-010 [for the property located at] 8620 – 137 St and permit 187000039-009 [for the property located at] 8622 – 137 St.

- [2] Section 687(3)(c) of the *Municipal Government Act*, RSA 2000, c M-26, provides as follows:

687(3) In determining an appeal, the subdivision and development appeal board

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

[3] Pursuant to its powers under Section 687(3)(c), the Board grants the Applicant's request to withdraw Permit No. 182087602-010 and Permit No. 187000039-009. The aforementioned permits are therefore revoked.

Should you require further information in this regard, please contact the Subdivision & Development Appeal Board Office at 780-496-6079.

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

Board members in attendance: Mr. B. Gibson, Ms. C. Chiasson, Mr. A. Peterson, Ms. S. LaPerle