



EDMONTON  
**TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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**SDAB-D-16-187**

Application No. 182128114-001

An appeal to construct a 3 Dwelling Apartment House and to demolish the existing Single Detached House was **TABLED** to August 31, 2016 or September 1, 2016



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Date: August 12, 2016  
Project Number: 161944336-014  
File Number: SDAB-D-16-188

**Notice of Decision**

- [1] On August 4, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on July 8, 2016. The appeal concerned the decision of the Development Authority, issued on July 5, 2016, to refuse the following development:

**Construct an addition to a Single Detached House (third storey loft with Rooftop Terrace).**

- [2] The subject property is on Plan 2630KS Blk 1 Lot 15, located at 13908 - Valleyview Drive NW, within the RF1 Single Detached Residential Zone. The Mature Neighborhood Overlay applies to the subject property.
- [3] The following documents, which were received prior to the hearing and are on file, were read into the record:
- A package of submissions from the Appellant, including community consultation details and images of the subject Site;
  - Additional photographic submissions from the Appellant of other homes in the neighbourhood;
  - The Addition Permit Application;
  - The Refused Development Permit;
  - The Development Officer's written submissions; and
  - An on-line response in opposition to the proposed development.

**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*, R.S.A 2000, c. M-26.

### **Summary of Hearing**

*i) Position of the Appellants, Mr. G McClung and Mr. D. Cote*

- [7] The Appellants reiterated the Grounds for Appeal included in the Notice of Appeal.
- [8] They purposely designed the proposed loft to be set back from the principal building's exterior walls. It is significantly pushed back from the roof line and does not result in a third storey being added to the home on the subject Site. It is a two-storey home.
- [9] To assess the proposed development's visual impact on the neighbourhood, they used a three-dimensional modelling program that produced perspectives from several different angles. The perspectives showed that the proposed loft is not visible from the west property line because it is so deeply set back. From other perspectives, only the corner of the proposed loft is visible. In any event, they have added a wall to the east-facing portion of the loft for privacy-screening purposes. Because of that wall, there will be no overlook onto adjacent properties to the east.
- [10] A community consultation was conducted. Mr. Cote, the property owner, distributed materials to the neighbours within the 60-metre notification radius and spoke with them about the proposed development. The neighbours are supportive of the proposed development, and the Community League did not express any concerns. Although the neighbour living two lots down from the proposed development submitted a letter to the Board opposing the appeal subsequent to the community consultation, Mr. Cote stated that said neighbour's concerns pertained more to future developments being built on the lot adjacent to his property than to the proposed development.
- [11] Any suggestion that the proposed development is not in keeping with the rest of the neighbourhood is inaccurate. There is a house four doors down from the subject Site that has a significantly larger rooftop deck than the proposed development. There are also several new developments being erected in the neighbourhood that are identical to what is being proposed for the subject Site. There are also homes in the immediate vicinity of the subject Site that are even taller than what is being proposed.

*ii) Position of the Development Officer, Mr. B. Liang*

- [12] Based on the measurements included in the submitted plans, the Development Officer determined that the Height of the structure on the subject Site, with the inclusion of the proposed loft, would be 11.1 metres. The Height and Grade formulas in Section 52 of the *Zoning Bylaw* dictate that the maximum Height of the proposed development is 8.6 metres.

- [13] The proposed loft constitutes a storey because it is a space between the top of the second floor and the ceiling of the house. The Development Authority recognizes that there are many two-storey houses that have an attic or loft space, and those are permitted by the *Zoning Bylaw* because the roofs of those houses hide the loft space both visually and structurally.
- [14] He acknowledges that the Appellants have designed the house to have the loft set back from the perimeter walls, but, as a Development Officer, he has no authority to vary the Height regulation that has been contravened.
- [15] The majority of the houses within the 60-metre notification radius are either one or two storeys tall. Therefore, the proposed addition does not meet the intention of the Mature Neighbourhood Overlay, which requires new developments to be sensitive in scale to existing developments in the neighbourhood, as it adds a third storey to the home on the subject Site.
- [16] With respect to privacy screening, the RF3 development regulations, which the Development Authority considers when assessing rooftop terraces, mention Stepbacks as a method of mitigating overlook onto adjacent properties. As the Appellants have incorporated significant Stepbacks into their design, privacy screening may not be necessary.
- [17] The Development Officer confirmed that property owners in the neighbourhood are trending towards utilizing the maximum Site coverage allowable on their respective lots. However, the home on the subject Site will maintain its Site coverage of 22%, which does not require any variances to the *Zoning Bylaw*.

*iii) Rebuttal of the Appellant*

- [18] In rebuttal, the Appellants clarified that the house was built on the exact footprint of the home that was originally built on the subject Site. It will remain significantly smaller than the other homes being developed in the neighbourhood.

**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:
- i)* This Development Permit authorizes the development of an addition to a Single Detached House (3rd storey loft with Rooftop Terrace). The development shall be constructed in accordance with the stamped and approved drawings.
  - ii)* **WITHIN 14 DAYS OF APPROVAL**, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2).

- iii) Immediately upon completion of the exterior alterations, the site shall be cleared of all debris.
- iv) As far as reasonably practicable, the design and use of exterior finishing materials used on the addition shall be similar to, or better than, the standard of surrounding development (Section 57.2).

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

- i) The Height restrictions prescribed by Section 52 are varied 2.5 metres from 8.6 metres to 11.1 metres.

### **Reasons for Decision**

[21] The proposed development is an addition to a Permitted Use, a Single Detached House, in the RF1 Single Detached Residential Zone.

[22] The Appellants have conducted the necessary community consultation. They have completed the requisite documentation and provided it to the Development Authority. The Board is satisfied that the steps taken by the Appellant are sufficient to satisfy the requirements of the Mature Neighbourhood Overlay's community consultation process.

[23] Of the neighbours who responded to the community consultation, the majority supported the proposed development. There was one objection from the resident two lots to the west of the subject Site. However, most of his concerns related to future development on the adjacent property, as opposed to the subject Site. While he did voice concern with respect to a potential lack of privacy resulting from the proposed development, the Board finds that the Stepbacks proposed by the Appellant sufficiently address any concerns regarding oversight into the neighbouring yards.

[24] With regards to the design of the proposed deck and loft area, the Appellant has made every effort to provide sufficient Stepbacks, minimizing any potential oversight into adjacent properties. The Development Officer advised the Board that the Development Authority considers the RF3 development regulations when assessing applications for rooftop decks and lofts. As the proposed development complies with the Stepback requirements of the RF3 Zone, he indicated that privacy screening would not be necessary. Nevertheless, the Appellant is proposing to install a wall on the east portion of the proposed development, providing privacy screening shielding the adjacent property to the east from any potential oversight.

[25] The Board finds that the Appellants have made every effort to ensure that the proposed development is in character with the neighbourhood. They have made efforts to minimize the Site coverage associated with the proposed development to ensure that no massing effect will impose upon adjacent properties. The Appellants also provided photographic evidence of properties within the neighbourhood that have similar or larger rooftop terraces in place.

[26] Based on the above, the Board finds that the proposed development will not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. M. Young; Ms. D. Kronewitt Martin; Mr. K. Hample; Ms. E. Solez

**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 5<sup>th</sup> 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.*