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 24, 2018
Project Number: 256656933-004
File Number: SDAB-D-18-119

Notice of Decision

[1] On August 9, 2018, the Subdivision and Development Appeal Board (the "Board") heard an appeal that was filed on **July 13, 2018**. The appeal concerned the decision of the Development Authority, issued on June 26, 2018, to refuse the following development:

> Construct an Accessory Building (rear detached Garage, 7.32 metres by 7.32 metres).

[2] The subject property is on Plan 2947HW Blk 7 Lot 20, located at 9281 - 86 Street 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 submission; and
- The Appellant's written reasons for appeal and supporting photograph.

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

- Exhibit A – Plot Plan showing proposed development with 93 Avenue access
- Exhibit B – Plot Plan showing proposed development with lane access
- Exhibit C – Aerial view of area
- Exhibit D – Google street view of a new tree on the boulevard and former house on subject site

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 the Appellants, R. Mann and M. Mann

[8] The Appellants purchased the property from the estate of Ms. Mann's parents and are redeveloping the site.

[9] They disagree with the Development Officer that there is no hardship associated with the subject site. There is a three foot high bank across the alley to the east. This is the only high bank in the entire alley. Snow piled along this bank combined with large ruts in the alley can make it difficult to safely back out of the garage in the winter.

[10] Crime and security are also concerns in the neighbourhood and there have been a number of recent break-ins in the vicinity. The proposed garage and driveway configuration allows visibility from the house to the driveway and garage, thereby, creating a deterrent to crime.

[11] The Appellants are trying to maximize their backyard amenity area.

a) A plot plan was shown (marked Exhibit A) to show the proposed configuration of the backyard, garage and driveway. This layout provides the largest possible backyard area and the garage location will help create privacy from the Holyrood Apartment complex which is being constructed one block to the east.

b) A second plot plan (marked Exhibit B) shows that configuring the garage with lane access leaves a much smaller backyard and results in more privacy issues.

[12] An overhead view of the area shows that six out of eight developments abutting 93 Avenue in the immediate area have driveways with 93 Avenue access (marked Exhibit C). The proposed driveway would not look out of place and would fit in.

[13] There is much development occurring in the area, including two LRT stops within two blocks. A secondary road which was previously used for parking has been closed. This has resulted in more people parking on the street along 93 Avenue. The Holyrood complex will bring in 2,000 additional residents, adding pressure to parking.

[14] Having a driveway off of 93 Avenue would make two parking spaces available for their guests who might otherwise have to park blocks away.

[15] The sidewalks in front of their home are currently being replaced and the sidewalks along 93 Avenue will be replaced within the next month. This would be perfect timing for construction as the curbs and sidewalks are being replaced anyway.

[16] While they understand the City's desire to protect trees, there is merit in removing an older tree and replacing it with a new one. The current boulevard trees are getting old and feeling stressed due to environment changes. Two trees have recently blown down during storms. Replacing one of these older trees with a new one would be a benefit to the City with the cost being borne by the Appellants. Exhibit D shows that there is already a new, smaller, tree located on the boulevard which the City planted five or six years ago.

[17] One neighbour complained about pedestrian safety, but the Appellants do not feel that this would be an issue. The proposed driveway would be 5 feet back from the lane entrance. The current tree poses more of a safety issue as it blocks visibility. Replacing the tree and moving it back from the lane will increase safety because of the increased distance from the lane and its smaller size.

[18] Replacing the tree does not differ much from what the City is doing with the LRT extension. Hundreds of trees have been removed and will be replaced with new ones. The Appellants offered to the move the existing tree but were advised that the tree is too old and would not survive a move. Even though the tree looks healthy, Ms. Mann's parents had previously reported concerns about the tree's health to the City.

[19] The Appellants provided the following responses to questions from the Board:

a) They referred to the exhibits to clarify the location of the new house, the location of the Holyrood apartment complex, and the current tree in relation to the alley. The neighbour directly behind them to the east does not have alley access.

b) The neighbours directly beside them and the neighbours directly across the street are in favour of the proposed development.

c) The back alley and proposed driveway are almost contiguous thereby mitigating any safety issues. The existing tree poses more of a hazard by blocking sightlines.

d) There would only be 18 feet of turning radius if the garage exited to the alley. Even though the previous driveway was very large, it was difficult to maneuver in the winter when there were large ruts in the lane. The bank directly behind their property is covered in grass and slopes up to three feet from the lane towards the house to the east but there is not a fence along that property at the lane. The lane is paved but snow can be packed up onto this slope and ruts can form in the winter because of lack of ice and snow removal.

e) There are a variety of driveway lengths along this lane. There are two new homes that have very short driveways and small backyards as the houses are so long and narrow.

f) The Appellants cannot confirm if there will be future parking restrictions along 93 Avenue.

g) The Appellants did not feel that their proposed driveway, which would remove two parking spaces from 93 Avenue, would have an impact on the community, but stated that it would provide parking spaces for their family to use when they visited.

ii) Position of the Development Officer, M. Bernuy

[20] Ms. Bernuy does not believe a hardship exists or that there are any site constraints related to the subject site.

[21] Her major reason for refusal is that access from the flanking street creates a pedestrian safety issue which goes against the overall intent of Council.

a) If the driveway is used for parking, the sight lines of pedestrians to the alley are obstructed.

b) Cars exiting the driveway need to cross a sidewalk which poses a hazard to pedestrians and children on bikes.

c) Pedestrian traffic is expected to increase due to the LRT expansion.

[22] The subject site is within a high density area and the regulations are intended to create a walkable neighbourhood which indicates access from the rear lane. The regulations reflect the wishes of Council and the community.

[23] Studies have confirmed that deciduous trees post a minimum impediment, if any, to sight lines when it comes to pedestrian safety.

[24] Ms. Bernuy has received comments from Urban Forestry confirming that the City tries to maintain as many mature trees as possible and there is no benefit to removing a mature tree and replacing it with a younger, smaller tree. Removals are an absolute last resort and additional community consultation would be required prior to the removal of the existing tree. There is likely to be backlash due to the trees already being removed for LRT expansion. Removal of the tree was not explicitly referenced in the community consultation, although it was implicit given the location of the proposed driveway.

[25] A certain distance needs to be maintained between trees and must be considered prior to re-planting an immature tree at a new location.

[26] Ms. Burney provided the following responses to questions from the Board:

a) Community consultation was done with property owners within a 60 metre radius. Only one response was received from an owner who was concerned about pedestrian safety and who supported the lane access.

b) The Development Officer submitted that even if the Board approved the Development Permit, Urban Forestry would still be required to do their own community consultation for removal of the tree.

c) It is the Development Officer's understanding that any time a boulevard tree is removed, a condition about cost is included in the Development Permit. There is no tree bylaw, per se, but a city tree policy.

d) The Board noted that Transportation did not appear to have an issue with sightlines and the Appellants seem to meet the minimum required length of a parking space. The Development Officer submitted that Transportation typically does not comment on those issues. However, owners are not allowed to park on a city boulevard and the proposed development will create this opportunity.

e) If parking is allowed on the flanking roadway, then on-street parking will be lost.

iii) Rebuttal of the Appellant

[27] Reviewing the photograph submitted, the Board was directed to a row of pine trees where the proposed driveway is to be located. In this regard, sightlines will be improved as these trees will be removed. If the proposed development is not approved, they could still put a row of trees along this corner and side of their lot which would impede sightlines even more.

[28] This is an important piece of property to them and they do not want live in another area. They also do not want a single car garage.

[29] They were not consulted when several trees were removed because of the LRT construction. This is a single tree and they are proposing to replace it.

[30] It was their understanding that if the Board approved this development, they would be able to proceed as set out in the conditions and were not aware there is another process to take place after this one.

[31] Their builder talked to the Transportation Department who verbally supported the development.

[32] The Board asked the Appellant if the size of the amenity space will differ between the proposed development and what is permitted under the *Edmonton Zoning Bylaw*. The Appellant responded that the size of the backyard does not change, but the configuration changes. They will be exposed to a new apartment development one block east, and would have no privacy unless large trees were planted, which they felt would impact sightlines.

[33] The Board clarified the concern about sightlines stems from a concern that people will park two deep on the driveway. They referenced a photograph of a camper on a

neighbouring site. The Appellants understand that this possibility exists, but they are not proposing to use the development in that fashion.

[34] They are in agreement with the conditions. They would prefer not to pay for the tree, but agree to the condition.

[35] They reiterated that this proposed driveway would be an asset to them and felt that it would not affect the community around them.

Decision

[36] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REUSED.

Reasons for Decision

[37] A rear detached Garage is an Accessory Use to a Single Detached House, a Permitted Use, in the RF1 Single Detached Residential Zone.

[38] The Board heard that this is an area in transition. There are two proposed transit stations that will be located in close proximity to the subject site and the site is located two blocks from a school. There is a large multi-unit complex being developed a block east of subject site. Because of these changes, the density in this area will increase significantly.

[39] Pursuant to Section 687 of the *Municipal Government Act*, the Board, in determining an appeal, may issue a development permit even though the proposed development does not comply with the *Edmonton Zoning Bylaw* if in its opinion 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. The Board's purview is not to look at hardship. Nonetheless, the Board is not persuaded that any hardship is associated with the subject site for the following reasons.

a) The Appellants stated there is a berm across the lane which makes backing out from a rear access garage difficult. However, the Board feels the length of the alternative proposed driveway would provide adequate room to exit from the garage and turn into the lane (Exhibit B). Also, the berm slopes away from the lane so that snow could be piled onto it and the lack of fence along the lane on this opposite property improves maneuverability for the Appellants when accessing or egressing a garage from the lane.

b) The Board felt that the privacy argument presented by the Appellants was not substantive in that those living in the large condos a block away would have minimal view of their back yard regardless of the configuration and/or placement of the garage.

c) The Appellant stated that placing the garage with driveway access onto the lane would significantly decrease the backyard area; however, the Board found the differences in the site areas of the two configurations to be minimal.

d) The Appellants would like to have four parking spaces to provide parking for family and friends. They stated that they did not want to construct a single car garage. However, only one parking space would fulfill the parking requirements in this area, which is designated a Transit Oriented area pursuant to Section 54.2, Schedule 1 of the *Edmonton Zoning Bylaw* because of the two LRT stations planned nearby.

[40] This will become more of a pedestrian area and recent changes in the regulations to the Mature Neighbourhood Overlay have been put there by Council to reflect this. People driving into the area, and parking and walking to LRT stations, will result in increased parking pressure along all the streets. This proposed driveway with access directly from 93 Avenue would remove two parking spaces along 93 Avenue which decreases available street parking and creates another vehicular access across a pedestrian corridor. The Board accepts the evidence presented by the Appellants that parking is somewhat of a problem at the present time. With the addition of the two LRT Stations plus the large multi-unit development within close proximity to this site, parking pressures will increase. Therefore, removing two on-street parking spaces for the proposed driveway is not advisable.

[41] Parking on the driveway is a safety concern as this would limit the view for those exiting or entering the lane as well as for pedestrians and cyclists.

a) When one exists from a garage they normally back out and, as such, their view is limited as to the pedestrians crossing the sidewalk. When people exit from a lane, they usually are exiting front first and have better sightlines.

b) The Board heard that six of eight sites along 93 Avenue have driveway access. However, the Board is not persuaded by this argument as changes in the Mature Neighbourhood Overlay are intended to increase pedestrian safety by decreasing the number of driveway accesses and will make the other developments non-conforming.

[42] If the Board allowed this appeal, a mature tree would have to be removed.

a) The Appellants have agreed to replace this tree with a new one along that boulevard; however, both the Transportation and Urban Forestry Departments have stated that they are not in favour of this.

b) Based on the photo evidence provided, even a tree which has been in place for five or six years is materially different in terms of canopy and look when compared to a mature tree. Also, the proposed location for the new tree may be too close to existing trees.

c) The Board feels that the trunk of the present deciduous tree has no bearing on sightlines for those entering or exiting this lane or for passing pedestrians. Its impact is significantly less than the impact of allowing a driveway and parking area to abut the existing lane.

d) The Community was consulted about placement of the garage with a driveway access to 93 Avenue and very little response was received. However, no evidence was provided that they were specifically notified about the removal of the tree.

[43] For all of the above reasons the Board finds that the proposed development will unduly interfere with the amenities of the neighbourhood and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Patricia Jones, Presiding Officer
Subdivision and Development Appeal Board

<u>Board Members in Attendance:</u>
Ms. K. Cherniawsky; Mr. R. Handa; Ms. S. LaPerle; Ms. L. Delfs

cc: Development & Zoning Services – M. Bernuy / A. Wen

Important Information for the Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.

2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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

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10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
P: 780-496-6079 F: 780-577-3537
sdab@edmonton.ca
edmontonsdab.ca

Date: August 24, 2018
Project Number: 270028546-002
File Number: SDAB-D-18-103

Notice of Decision

[1] The Subdivision and Development Appeal Board (the "Board) at a hearing on July 18, 2018, made and passed the following motion:

"That SDAB-D-18-103 be tabled to August 9, 2018."

[2] On August 9, 2018, the Board made and passed the following motion:

"That SDAB-D-18-103 be raised from the table."

[3] On August 9, 2018, the Board heard an appeal that was filed on **June 21, 2018**. The appeal concerned the decision of the Development Authority, issued on May 24, 2018, to approve the following development:

Leave as built a Single Detached House

[4] The subject property is on Plan 1623032 Blk 17 Lot 18, located at 2674 - Maple Way NW, within the (RMD) Residential Mixed Dwelling Zone. The Maple Neighbourhood Structure Plan and The Meadows Neighbourhood Structure Plan apply 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 submission;
- The Respondent's letter of authority and written submission; and
- The Appellants reason for refusal.

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

- Exhibit A – Photo showing siding blown off (provided by Appellant)
- Exhibit B – E-mail from Landmark Homes to Appellant (provided by Appellant)

Preliminary Matters

[7] 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.

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

[9] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26. ("*Municipal Government Act*")

Summary of Hearing

i) Position of the Appellants, J. Singh and M. Foulkes

[10] The Appellants have resided in their home for approximately one year and the home immediately to the north was under construction when they moved in. They were aware that this was a zero lot line area and were advised by Landmark Homes that the required separation distance between their house and the one to the north was 1.5 metres.

[11] Ms. Singh noted that the eaves of the two houses are very close together, making it difficult to get a ladder up in between the houses to clean the eaves. She outlined that according to the *Edmonton Zoning Bylaw,* the eaves cannot be closer together than 0.9 metres. Her perception is that there is a deficiency in the separation between the eaves and that Landmark Homes has not indicated to her that they will address this deficiency.

[12] The Appellant explained that they have solar panels on the south facing portion of the roof and intend to install more in the future, noting that eventually most of the roof will be covered with solar panels. She submits that they are concerned that the deficiency in separation distance between the two homes will impact their ability to access these panels.

[13] A photo was presented to show that a significant amount of siding had recently been blown off of the north side of their home (marked Exhibit A). Although Landmark repaired this damage under warranty, the Appellants feel it was caused by the deficiency in separation distance which may have caused a wind tunnel between the two homes as it only occurred on the north side of the house. They are concerned that this will be an ongoing issue each time there is any wind.

[14] An e-mail was submitted (marked Exhibit B) from Landmark Homes to the Appellant confirming an appointment on April 20, 2018. A representative from Landmark attended this meeting and requested the Appellant to sign off on the 0.1 metre deficiency in separation distance – Ms. Singh refused to sign this document as Landmark has not addressed the concerns the Appellants have.

[15] In addition to the issues above, they are also concerned that:

a) Their ability to construct a fence and a garage will be impacted and approved permits will be difficult to obtain without their own need for variances.

b) Fire safety concerns are created with the lack of appropriate separation between the two structures.

c) The swale is steeper making it less safe to place a ladder for any type of maintenance on this side of their home.

d) They have less ability to access their roof on the North side of their home, something they would be likely to do with proper separation.

[16] The Appellants provided the following responses to questions from the Board:

a) A deficiency of 0.1 metres (approximately four inches) in separation distance has a dramatic effect on them because of the maintenance and safety issues already stated. Also, the limited roof access could affect their ability to re-shingle their home in the future.

b) Their home is a two storey house with a peaked roof. The pitch slopes down towards both Side Lot Lines with eaves running along both sides. The pitch on the adjacent house to the north is identical. The roof cannot be accessed from the front or the rear due to the slope of the roof. They did state that they could access all areas of their roof from the other side of their house, the south side.

c) Any deficiency in separation distance should not be allowed in a Zero Lot Line area. The houses are already as close together as possible and they depend on the City to adhere to their Bylaws.

ii) Position of the Development Officer, E. Lai

[17] The Development Authority did not attend the hearing and the Board relied on Ms. Lai's written submission.

iii) Position of the Respondent, Landmark Legacy Homes

[18] Mr. K. Mack of Hillenbrand Kozicki LLP appeared on behalf of the Respondent and submitted that the appeal should be refused as no reasonable basis to deny the application has been presented.

[19] The Respondent's development is wholly contained within the boundaries of the subject site and does not encroach on the Appellants' property. The development simply

encroaches on the easement by 0.1 metres, which is just under 4 inches. All other regulations in the (RMD) Residential Mixed Dwelling Zone have been complied with.

[20] The Development Authority has the authority to vary the Development Permit and did not err in approving this development.

[21] The Appellants' home is built right along the property line in accordance with the *Edmonton Zoning Bylaw* and a garage would also be built right along this property line. Because of these circumstances, Mr. Mack submitted that there will be no issues for the appellant to get approval to build a garage. Any fence would run from the garage to the Appellants' house along the property line. There will be no fence in the swale between the two properties as the Appellants' garage and house act as an extension of the fence.

[22] Mr. Mack believes that the encroachment of 0.1 metres does not affect the value and enjoyment of the Appellants' property in any meaningful way. Once a fence and gate are built the encroachment will not be noticeable.

[23] Mr. Mack referred to SDAB-D-15-112 where the Board permitted a development that was eight inches too close to the property line.

[24] Mr. Mack provided the following responses to questions from the Board:

a) He referred the Board to a photo in his submission showing a front view of the easement in question. The gas metre, furnace intake / exhaust and the electrical box are visible. The purpose of the easement is to provide room for these utilities.

b) He does not believe the deficiency of four inches impedes the ability to maintain the house. Landmark was able to build these houses and repair the siding within the constraints of the easement space.

c) Landmark is one of the most accurate builders and he notes that his clients are uncertain as to how this deficiency occurred. According to their measurements, the deficiency is 2.5 inches.

d) Given the pitch and height of the roof, professionals who have proper fall protection training should be used for roof and eave maintenance and the Appellants should not be attempting any eave maintenance without such assistance. Professionals would have no problems accessing the roof. Likewise, the Appellants should have no problem accessing their roof from the south side of their home.

e) The best orientation for solar panels is towards the south, not north and there is no deficiency on the south side of the house.

f) There is practically no difference in the ability to access the roof from the north vs. the south side. He believed that an extra four inches would make very little difference when using an extension ladder to reach the roof or eaves of a two storey home.

iv) Rebuttal of the Appellants

[25] Ms. Singh clarified that Landmark builds their houses in factories, not on site.

[26] She noted that there were no adjacent houses when their house was being built and Landmark was still coming onto their property during construction. The Appellants will not have the same luxury in the future.

[27] They are of the opinion that most people do not hire trained professionals to clean their eaves, and that having to do so would affect their use and enjoyment of their property.

[28] They acknowledged that the deficiency of approximately 4 inches will only affect them and their immediate neighbours to the north. This deficiency will not likely be noticed by others nor will it impact on the neighbourhood as a whole.

Decision

[29] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED** as approved by the Development Authority.

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

1. The minimum allowable Side Setback of 1.5 metres from the house to the side property line abutting 2672 Maple Way NW as per Section 155.4(21) is varied to allow a deficiency of 0.1 metres, thereby decreasing the minimum allowed Setback to 1.4 metres.

2. The minimum allowable eave encroachment into the easement of 0.90 metres to the property line abutting 2672 Maple Way NW as per Section 155.4(21)(d)(i) is varied to allow a deficiency of 0.1 metres, thereby decreasing the minimum allowed eave encroachment to be 0.8 metres.

Reasons for Decision

[31] Single Detached Housing is a Permitted Use in the (RMD) Residential Mixed Dwelling Zone.

[32] The Appellants claim that the easement deficiency of 0.1 metres will have a significant impact upon their ability to maintain their property. They indicated that it would be difficult to use a ladder to reach the roof or the eaves on the north side of their property for maintenance. They did not provide any evidence to support their position.

[33] The Board is not persuaded that this 0.1 metre variance for the subject site creates a material adverse impact to the adjacent property and, therefore, the Board grants the variance to the required Side Setback and to the eaves projections for the following reasons:

a) The (RMD) Residential Mixed Dwelling Zone is a unique area which allows zero setbacks along one Side Lot Line. It is expected that homes in this area will be closer together than in other zones. Easement areas are created between adjoining neighbours to allow for access for maintenance.

b) The Board finds that the Appellants have the opportunity to use the total easement area. Notwithstanding the granting of this variance, they will have 1.4 metres of space to maneuver within. The Board notes that a house located in a non-zero lot line area would lack the benefit of an encroachment area and typically only enjoy 1.2 metres of separation space to the Side Lot Line.

c) The Board accepts the evidence that currently there is no fence between the two properties. Once a fence is erected, the Board understands that it will be placed in a way that utilizes one side of the house so that the house acts as an extension of the fence, avoiding the swale. The Board notes that upon such a placement of the fence, combined with the installation of a gate, this will enable both neighbours to use the total easement area for property maintenance.

d) Based on the above, the Board finds that there is adequate room for maintenance along the Side Lot Line.

e) The Board notes that the proposed variances have no impact on the ability of the Appellants to access the eaves or the roof from other sides of the house, including the sloped portion of the roof on the south side. The Board concludes that access to the roof is not a reason for denying the intrusion into the north easement area.

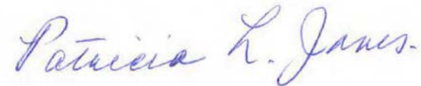
f) The Appellants felt that having a house so close to the north creates a wind tunnel but the Board finds that there would likely be a wind effect between two houses if there was no deficiency and the decrease of 0.1 metres would not significantly increase the wind effect. On this point, the Board acknowledges that no expert evidence was provided on this item of concern.

g) The Appellants confirmed that the deficiency in the Side Setback concerns themselves and the adjoining property but the deficiency would likely not be noticed and, therefore, will not affect anyone else in neighbourhood. The Board finds that the proposed variance is unlikely to even be perceptible by neighbours and accordingly will not have any material impacts on the amenities of the area.

[34] The Board notes that many of the grievances brought forward by the Appellant relate to civil and building code issues outside of the jurisdiction of the Board. There are other avenues that exist to litigate these concerns. The Board's decision to grant the above variances has no impact on the ability of the Appellant to pursue these other avenues nor

does the Board in making this decision make comment on the validity of the claims regarding any building code or regulatory issues.

[35] For the reasons stated above, 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.



Patricia Jones, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:
Ms. K. Cherniawsky; Mr. R. Handa; Ms. S. LaPerle; Ms. L. Delfs

cc: Hillenbrand Kozicki LLP
J. Singh
City of Edmonton, Development & Zoning Services – E. Lai / A. Wen

Important Information

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

2. Obtaining a Development Permit does not relieve you from complying with:

    a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
    b) the requirements of the *Alberta Safety Codes Act*,
    c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
    d) the requirements of any other appropriate federal, provincial or municipal legislation,
    e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.

3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.

4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.

5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.

6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

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