



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: August 25, 2017
Project Number: 161176003-006
File Number: SDAB-D-17-144

Notice of Decision

- [1] On August 16, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 20, 2017**. The appeal concerned the decision of the Development Authority, issued on July 18, 2017 to refuse the following development:

Construct exterior alterations to a Single Detached House (Driveway extension, 2.50 metres by 11.00 metres)

- [2] The subject property is on Plan 1320806 Blk 15 Lot 10, located at 5712 - Edworthy Landing NW, within the RSL Residential Small Lot Zone. The Edgemont Neighbourhood Area Structure Plan 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;
 - An email from an affected neighbour in opposition to the proposed development; and
 - Online responses in opposition to the proposed development.

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*, R.S.A 2000, c. M-26 (the “*Municipal Government Act*”).

The Presiding Officer advised that the Appellant did not appear. Mr. Pham was contacted by telephone. He advised that he was working today and asked the Board to proceed with the hearing in his absence.

Summary of Hearing

i) *Position of the Appellant, Hien Pham:*

[7] Mr. Pham provided the following written reasons for appealing the decision of the Development Authority:

“I just want to extend my driveway by 2.5 metres by 11 metres for additional parking. The project is small and simple and not violate city zoning bylaw”

ii) *Position of the Development Officer, Ms. J. Kim, accompanied by Mr. G. Robinson:*

[8] Section 54.1.4(c) of the *Edmonton Zoning Bylaw* states that the maximum allowable width of a driveway shall be calculated as the product of 3.7 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area or the width of the Garage or Parking Area, whichever is the lessor.

[9] The permitted driveway width for the subject garage is 6.1 metres. The proposed Driveway extension of 2.50 metres by 11.00 metres will result in a total Driveway width of 8.6 metres which exceeds the maximum allowable width by 2.50 metres.

[10] After the decision of refusal was made, Ms. Kim identified the three additional reasons for refusal, specifically: (i) the proposed extension violates Section 54.1.4(a) of the *Edmonton Zoning Bylaw* because the Driveway does not lead directly to the Garage; (ii) the Driveway does not comply with Section 54.2.2(e)(i) because it is hardsurfaced and can be used as parking and parking spaces shall not be located within a Front Yard; and (iii) based on Section 55.3(1)(e) the landscaping regulation, the Front Yard must be suitably landscaped.

[11] Given these observations, it was her opinion that the proposed development would unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use, enjoyment and value of neighbouring properties.

[12] Ms. Kim provided the following information in response to questions:

- (a) The Applicant was advised that the application for a Driveway extension would be refused and requested to appeal the decision to the Board because neighbouring properties have much wider driveways.
- (b) The amenities of the neighbourhood will be impacted because the driveway extension will reduce the amount of landscaping and green space in the front yard and the extra width will reduce on-street parking.

- (c) Driveways on neighbouring properties are wider because they have three car garages and the driveway is allowed to be as wide as the garage. There is a two car garage on the subject site and the driveway can only be as wide as the garage.
- (d) Based on a review of the drawings, the proposed extension does not continue as a walkway to the front entrance.
- (e) The proposed development does not require approval from Transportation Services because of the existence of a roll face curb.
- (f) It has always been the Applicant's intention to use the proposed driveway extension for additional parking.
- (g) She could not provide any information regarding the number of vehicles associated with this site.

Decision

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

Reasons for Decision

- [14] The proposed development is Accessory to a Permitted Use in the RSL Residential Small Lot Zone.
- [15] Section 54.1.4(c) of the *Edmonton Zoning Bylaw* states that the Driveway, for a Garage or Parking Area with two or more parking spaces, shall have a maximum width that shall be calculated as the product of 3.7 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser. The proposed Driveway extension is 2.50 metres by 11.0 metres, with a total Driveway width of 8.6 metres. This exceeds the maximum allowable Driveway width of 6.1 metres by 2.5 metres.
- [16] Section 54.1.4(a) of the *Edmonton Zoning Bylaw* states that the Front Yard of any at Grade Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the Flanking Side Yard in any Residential Zone, may include a maximum of one Driveway and the Driveway shall lead directly from the roadway to the Garage or Parking Area. The proposed extension does not lead directly to the Garage and the Board notes that the existing Driveway provides more than adequate access to the parking spaces in the attached Garage.
- [17] The Appellant's only submission is that he wishes to use the proposed development for parking. The Board notes that the submitted site plan shows that the proposed extension ends in the middle of the existing Front Yard and does not lead to the front doorway of

the development. Section 54.2.2(e)(i) of the *Edmonton Zoning Bylaw* states that except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following: parking spaces shall not be located within a Front Yard. The proposed extension to the Driveway is located in the Front Yard and can be used for parking. Parking is not allowed on the Front Yard except as provided on a permitted Driveway.

- [18] The Board notes that six on-line responses were submitted by affected property owners in opposition to the proposed development, including the most affected property owner who resides immediately east of the subject site and whose bedroom window will overlook the proposed driveway extension. The Board also notes that no responses were received from neighbouring property owners in support of the proposed driveway extension.
- [19] Based on a review of the photographs submitted, it is noted that there is very little landscaping or green space on this cul-de-sac. The proposed driveway extension will cover a significant portion of the Front Yard, using it as a parking space will block the front façade of the home and result in an undesirable streetscape. The extension will also reduce the amount of available on-street parking which, due to the design of this RSL cul-de-sac, is in very short supply to accommodate the residents and their guests.
- [20] A copy of the Woodhaven Edgemont Architectural Guidelines was submitted by an affected property owner. The Board notes that the guidelines discourage driveways wider than the width of the garage. The Board notes that the Architectural Guideline requirements are a private matter between the developer and the landowners. The decision of the Board to refuse the proposed development is not based on the Architectural Guidelines. However, the Board finds that the Appellant should have been aware of these architectural requirements when they built or purchased their house.
- [21] The Appellant's written submission provided no planning reasons to justify the four variances required for the proposed development.
- [22] Based on the above, it is the opinion of the Board, that the proposed development will unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use, enjoyment and value of neighbouring parcels of land.

Mr. N. Somerville, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. K. Cherniawsky, Ms. G. Harris, Mr. K. Hample, Mr. L. Pratt

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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SDAB-D-17-145

Application No. 242638441-001

An application to develop a Comprehensive Sign Design Plan and to install (3) freestanding On-premises Signs (Griesbach Village) was WITHDRAWN