EDMONTON
TRIBUNALS
Subdivision & Development Appeal Board

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Date: September 8, 2017
Project Number: 254389409-001
File Number: SDAB-D-17-151

Notice of Decision

[1] On August 24, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on July 28, 2017. The appeal concerned the decision of the Development Authority, issued on July 21, 2017, to refuse the following development:

> Construct exterior alterations to a Single Detached House (Driveway extension, 1.67m x 5.60m)

[2] The subject property is on Plan 1425758 Blk 13 Lot 19, located at 4103 - 171 Avenue NW, within the RSL Residential Small Lot Zone. The Cy Becker Neighbourhood Structure Plan and Pilot Sound Area Structure Plan apply to the subject property.

[3] The following documents were received prior to the hearing and form part of the record:

- Copies of the refused permit and permit application with plans;
- Canada Post receipt confirming delivery of the decision; and
- Development Officer's written submissions dated August 22, 2017.

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

- Exhibit A – Appellant's community consultation petition;
- Exhibit B – Photograph of subject property

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.

Summary of Hearing

i) Position of the Appellant, Mr. Shin

[8] Mr. Shin understood the applicable bylaw regulations, but argued that exceptions should be considered when a development falls outside the generic. The property has a legal Secondary Suite, which should be treated differently from a typical single family home. The Secondary Suite is occupied by his parents, and the proposed Driveway extension will make the entrance to the suite more accessible from the sidewalk.

[9] The neighbourhood also does not have sufficient on-street parking. By extending the Driveway, it becomes feasible to park a third car on the Driveway, and opens up an available parking space on the street. The area where the extension is proposed on the Front Yard is approximately five feet wide. The length of a typical vehicle is longer than five feet, so it is not actually possible to park a vehicle on the street in front of this green space. The extension therefore would not remove any on-street parking space. The Appellant owns two vehicles, and his parents also have two vehicles.

[10] There will be approximately six inches of grass between the proposed extension and the property line shared with the Appellant's neighbour. He has consulted with his neighbour, who supports the proposed development. The two parties have also come to an agreement about snow removal and snow piling to avoid any drainage issues. There is no fence along the shared property line, and his neighbour intends to install paving stones in the future. The propose development will not interfere with any future development on the neighbour's property.

[11] He approached neighbouring property owners within the 60 metre notification area. Some residents were unavailable, and others supported the development but declined to sign the petition. Every owner he was able to contact expressed support for the development. The consultation process also revealed that many of his neighbours park on the street, and they feel that there is insufficient on-street parking in the area.

[12] Mr. Shin submitted Exhibit "B", a photograph of his property and his neighbour's property to the west. The picture shows the green space between their two houses. This limited green space is typical of properties in the area. The photograph also shows a car parked in front of this green space. Mr. Shin noted that the car is longer than this grassed area, demonstrating that it is not possible to park a regular car in on the street in front of this green space.

[13] The Appellant identified the side door entrance to the basement Secondary Suite. This entrance is located on the west side of the house, and the proposed extension will make this entrance more accessible.

[14] Cross-referencing Exhibit "B" with a copy of the plot plan, the Board noted that the neighbour's Driveway appears very close to the Appellant's, and questioned how much green space exists between the Appellant's existing Walkway and Driveway. Mr. Shin confirmed that there is approximately three feet of grassed lawn space between the Walkway and Driveway. It is this space that he would like to pave over for the Driveway extension. The extension would serve the double purpose of accommodating the difficulty of maneuvering four vehicles on and off the property, while also increasing ease of pedestrian access from the sidewalk to the Secondary Suite entrance located on the west side of the house.

[15] Mr. Shin confirmed that the sidewalks in the neighbourhood all have rounded curbs cuts.

ii) Position of the Development Authority

[16] The Development Authority was represented by Ms. Ziober.

[17] Ms. Ziober confirmed that a permit exists for the Secondary Suite, which requires only one additional parking space. The subject property is able to meet the off-street parking requirements of two spaces without any variances. Given two existing spaces in the garage and two existing spaces in tandem on the Driveway, in her view, the extension is not necessary. She noted that recent Bylaw amendments have relaxed the off-street parking requirements by reducing the minimum number of required parking spaces.

[18] She heard that the garage is currently being used for storage, and that there are four vehicles associated with the subject property. However, the Development Authority reviews applications based on the Use that is being proposed, and the existing garage meets the parking space requirements of a Single Detached House with a Secondary Suite.

[19] Ms. Ziober reviewed her written submissions, noting that the extension would not meet the minimum parking space width to accommodate a third vehicle on the Driveway.

[20] In her view, the proposed extension will lead to extensive hardsurfacing taking up more than 50% of the Front Yard, reducing curb appeal and pedestrian friendliness. There is also a potential negative impact upon the neighbour's cone of vision, should a vehicle be parked on the Driveway extension, right next to the property line. Finally, parking three vehicles on the extended Driveway will result in vehicle doors opening onto the neighbouring property.

[21] Upon questioning by the Board, Ms. Ziober confirmed that the extension would result in the Driveway being 20 centimetres short of three legal parking spaces.

[22] The Board noted that it is possible for the proposed development to be characterized as a Walkway extension from the sidewalk, through the Front and Side Yard, into the Rear Yard to access the Secondary Suite entrance. Ms. Ziober acknowledged this point; however, in such case, she would recommend some sort of round-off to tie in the Walkway with the existing Driveway, and some other type of surfacing in stead of the proposed development which extends to the public sidewalk.

[23] Upon questioning by the Board, Ms. Ziober confirmed that the Appellant's stated desire to park an additional vehicle on the Driveway extension amounts to a request for a variance to the prohibition against parking on the Front Yard.

iii) Rebuttal of the Appellant

[24] Mr. Shin reiterated the difficulties presented by the current Driveway with respect to parking and pedestrian access by visitors and his parents.

[25] Regarding the Driveway versus Walkway discussion, he stated that he had originally asked for a Walkway extension, but had been informed by the Development Authority that the application should be for a Driveway extension.

[26] The ultimate purpose for the extension is not for parking; it is for access from the sidewalk to the Secondary Suite entrance. He confirmed that he would not oppose a condition that no parking be allowed on the extension, nor would he oppose the Development Officer's suggestion that some separation space between the Driveway and Walkway be maintained, so long as it will not pose any safety concerns.

[27] At this point, the Board recalled the Development Officer, who clarified that the requirement to separate the Driveway from the Walkway (e.g. through the use of planters and other barriers) is more for situations in which the extension exists without a permit. In this situation where no such extension currently exists, she would not propose this type of condition.

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 AMENDMENT to the scope of application:

> Original Scope of Application: Construct exterior alterations to a Single Detached House (Driveway extension, 1.67m x 5.60m)
>
> Revised Scope of Application: Construct exterior alterations to a Single Detached House (**Walkway** extension, 1.67m x 5.60m)

[29] The development is subject to the following CONDITION:

1) Absolutely no parking is allowed on the Walkway extension.

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

1) Section 55.3(1)(e) regarding landscaping of the Front Yard is waived.

Reasons for Decision

[31] The subject development application came before this Board as a proposal to "construct exterior alterations to a Single Detached House (Driveway extension, 1.67 m x 5.60 m)". The Board finds that this scope of application was erroneous and that the proposed development is more properly classified as a Walkway extension for the following reasons:

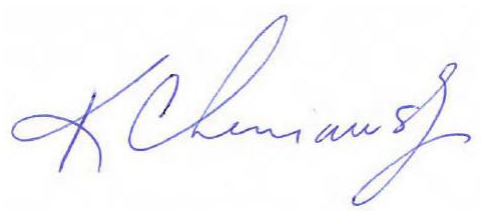
a) Section 6.1(121) defines Walkway as "a path for pedestrian circulation that cannot be used for vehicular parking."
b) Initially, the Board heard conflicting evidence about the proposed use. The Appellant had indicated that he would like the extension for mixed use parking and pedestrian access. However, he also indicated that he had been somewhat confused and had framed his scope of application based on advice from the Development Authority during the initial consultation. At the time, it had been indicated to him that he should apply for a Driveway extension. However, during the Appellant's rebuttal oral submissions, he affirmed that the proposed development would not be used for parking and would be used exclusively for pedestrian access.
c) Based on the Appellant's submissions and the plot plan, the proposed development extends directly from the public sidewalk to the side yard where it will connect with an existing Walkway that leads directly to the side entrance of the Single Detached House, which also serves as the separate entrance to the legally existing Secondary Suite.
d) The width of a Walkway is not regulated under the *Bylaw*.
e) The Board therefore finds that based on the submitted plans, and the submissions of the Appellant, that the proposed extension is intended to improve pedestrian circulation from the sidewalk to the side entrance of the Single Detached House, and not be used for parking. Based on the Appellant's submission, the extension is intended to be solely for pedestrian use, and is a Walkway.
f) The Board notes that although the proposed Walkway will be contiguous with the existing Driveway, the Driveway/Walkway combination remains 20 centimetres short of the minimum width required for three side-by-side parking spaces.

[32] The Appellant made efforts to contact neighbours and explained the proposed development. He received substantial support. The Board received no objections to the proposed development and no one appeared to oppose it.

[33] With respect to landscaping, section 55.3(1)(e) allows for decorative hardsurfacing in the Front Yard, which would have a similar visual impact as the proposed Walkway extension.

[34] While parking is not allowed by the definition of Walkway and is prohibited by the development regulation contained in section 54.2(2)(e)(i), given the earlier statements about mixed use, the Board has added a condition prohibiting parking on the proposed Walkway for clarity.

[35] For the above reasons, the Board finds that 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 appeal is allowed.



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

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 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.

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Date: September 8, 2017
Project Number: 246842887-001
File Number: SDAB-D-17-152

Notice of Decision

[1] On August 24, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on July 28, 2017. The appeal concerned the decision of the Development Authority, issued on July 28, 2017, to refuse the following development:

> Construct exterior alterations to a Single Detached House (rooftop pergola with adjustable louvered roof, 3.66m x 4.27m, and rear awning canopy, 0.76m x5.79m).

[2] The subject property is on Plan 1421799 Blk 49 Lot 6A, located at 10609 - 127 Street NW, within the RF3 Small Scale Infill Development Zone. The MNO Mature Neighbourhood Overlay applies to the subject property.

[3] The following documents were received prior to the hearing and form part of the record:

- Copies of the refused permit and permit application with plans;
- Canada Post receipt confirming delivery of the decision; and
- Development Officer's written submissions dated August 18, 2017.

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

- Exhibit A – Renderings of proposed development

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.

Summary of Hearing

i) Position of the Appellant, Mr. M. Jennings

[8] The Board asked the Appellant to first provide information establishing that the requirements regarding community consultation per section 814.3(24) of the *Edmonton Zoning Bylaw* had been satisfied.

[9] Mr. Jennings confirmed that he and his wife consulted owners of properties within the consultation area, as identified by the Development Authority. A few owners were not available, and some properties were unoccupied and/or in the midst of being reconstructed. Copies of the plans were provided during this consultation, and for those neighbours who would be most affected, renderings were provided to illustrate how the proposed development might look from the neighbours' properties.

[10] The consultation yielded one response in support of the development, and 17 neutral responses. The neighbour to the south was particularly understanding, as they also have a rooftop patio and the summer heat also impacts their enjoyment of this amenity space. The neighbour to the north expressed no opposition. One property owner who was consulted expressed annoyance that they were approached for something so minimally impactful. All consultation materials were scanned and submitted to the Development Authority.

[11] Mr. Jennings noted that the individuals in the vast majority of neighbouring properties would be unable to view the proposed development, a rooftop pergola and rear awning canopy, from either their own properties or when walking around the neighbourhood.

[12] The proposed rooftop pergola is fully contained within the footprint of the existing rear deck. It is the same width as the existing rear deck, but not as deep. It is visible only to a few of the neighbours. It is less visually obstructive than the existing stairwell and mechanical room. The pergola will also have a solar-powered adjustable louvered roof, which enables the pergola structure to remain open to the sky and mitigates potential visual impacts.

[13] The awning is no more visually disruptive than the existing rear elevation of the house. It actually provides better visual aesthetic by delineating the surface of the rear of the house and breaking up the massing impact and harshness of the modern design. In support, he submitted Exhibit "A", a series of renderings of the proposed development from different vantage points, Mr. Jennings identified a rendering of the development as viewed from the neighbouring property across the rear alley. He acknowledged that the awning could be built in alignment with the vertical edge of the building rather than the horizontal cantilever, but the result would not be as aesthetically pleasing.

[14] The awning is metal framed, with transparent panels that reduce potential visual obstructions. The canopy does not protrude further than the existing cantilever or the existing deck. During consultation, neighbours were made aware of the projection into the Side Yard, but they expressed no concerns.

ii) Position of the Development Authority

[15] The Development Authority was represented by Mr. J. McArthur. He was accompanied by Ms. R. Mohmmadi.

[16] Mr. McArthur wished to reference online videos from the pergola manufacturer's website in support of his reasons for refusing the development. However, there was no way to obtain hard copies of these online videos for the Board's record. Upon further discussion, it became evident that the videos would be used primarily to demonstrate the pergola's adjustable louvre technology. The Board was of the view that it had sufficient understanding of how the adjustable louvre would operate, and determined that reference to these videos would not be required.

[17] As the pergola's roof may fully close, the structure's impact becomes similar to that of a covered deck. In addition, the existing rooftop terrace already reaches the maximum allowable Height for the house. The existing stairwell and mechanical room are exempt from the Height calculation, they are both 9.72 metres tall, which is over the maximum allowable Height of 8.6 metres. In reviewing the proposed development, he had to consider these factors.

[18] At the Board's request, Mr. McArthur reviewed how he arrived at the Height calculation of 9.72 metres. Based on a) the 2.95 metre Height of the proposed pergola structure (as provided by the Appellant), b) the Height to the top of the second floor at 7.1 metres, and c) some assumptions he made about the pergola structure itself, he arrived at the conclusion that the Height to the mid-point of the parapet to be 9.25 metres.

[19] Section 52.2(a) exempts certain structures from the calculation of Height. This section includes a non-exhaustive list of exempted structures, including "other similar erections" to the enlisted examples. While the existing stairwell and mechanical room fell under this category of exempted structures, the pergola with louvered roof did not. Mechanical rooms are treated as ventilating equipment, and therefore exempt.

[20] Upon questioning by the Board about the impacts of the proposed development when compared to some of the exempted structures such as skylights, the Development Officer submitted that an alternative approach might be to simply consider the proposed development as over-Height. The Board could then determine whether to grant the Height variance by considering its impact, rather than comparing it with hypothetical situations.

[21] Regarding the rear awning canopy, he stated that based on the results of the community consultation and the lack of opposition from neighbours, he would have no issue approving the rear awning canopy. He confirmed that it is due to the rear canopy that the Site Coverage went from 41% (actual 41.3%) to 42% (actual 41.5%). When covered, even a retractable canvas canopy would be included in the Site Coverage calculation.

iii) Rebuttal of the Appellant

[22] The Appellant declined to make rebuttal submissions.

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) The development shall be constructed in accordance with the stamped and approved drawings.
2) As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development. (Reference Section 57.2(1))

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

1) Section 140.4(10)(a) is varied to permit the Single Detached House and rear detached Garage to cover 42% of the Site, rather than the maximum allowable of 40%.
2) Section 44.1(a) is varied to permit the rear balcony to project into the required Side Setback such that the distance from the rear canopy to the property line shared with 10607 – 127 Street MW (side lot line) will be 0.5 metres instead of 0.6 metres.
3) Sections 52.1(a) and 814.3(13) are varied to permit the overall Height of the Single Detached House with covered pergola to be 9.72 metres to the midpoint of the roof, instead of 8.6 metres.

Reasons for Decision

[25] The proposed development is for the construction of exterior alterations to a Single Detached House, a Permitted Use in the RF1 Small Scale Infill Development Zone.

[26] The Board finds that the Appellant has complied substantially with the requirements for community consultation per section 814.3(24) of the *Edmonton Zoning Bylaw*. The Appellant confirmed that he and his wife visited all properties within the notification area indicated by the City's Development Authority on multiple occasions over a weekend. They were able to reach 30 residents.

Of those 30 residents, one expressed support, 17 were neutral, and 12 expressed no opinions. No objections were cited and most of the individuals had no opinion because they felt that the development had no impact upon them. The Development Officer confirmed that he received this feedback and he believed there had been substantial compliance with the community consultation requirements in the Mature Neighbourhood Overlay.

[27] The Board grants the variance to Site Coverage regulations under section 140.4(10)(a), and permits the projection into the Side Setback which is otherwise prohibited under section 44.1(a) for the following reasons:

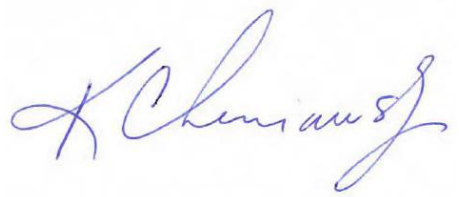
a) The need for these two variances is related solely to the rear awning canopy, which projects from the house along the rear 0.76 metres. This is not a significant structure and has been added, not for functionality, but to break the massing along the rear elevation and to soften the severity of the modern look.
b) The Board concurs with the Development Officer that given its size, the canopy has a minimal impact on total Site Coverage (effectively 0.2%).
c) The variance to Side Setback is 0.1 metres and required only for a span of 0.76 metres across the Side Lot Line.
d) The transparent construction of the canopy further reduces any impact of the two variances.
e) While the magnitude of a variance is not always directly related to its impact, the proposed variances in this case are *de minimis*, and practically imperceptible by neighbouring property owners.
f) The most affected adjacent owner to the north has no objections and supports the development.

[28] The Board grants the variance to Height regulations under sections 52.1(a) and 814.3(13) for the following reasons:

a) The Appellant conducted a thorough community consultation. As part of this consultation, the Appellant provided plans and renderings to persons in the neighbouring properties as required under the *Bylaw*. No objections were subsequently received by the Development Officer.
b) The Appellant took a further step and provided additional renderings to abutting neighbours of the proposed development from the vantage point of their particular properties. After these most affected neighbours reviewed the renderings, they expressed no opposition.
c) One neighbour submitted a positive response to the Development Officer and others further away from the subject Site indicated no position as they perceived no impact to themselves.
d) The proposed pergola and variance to Height will have no impact upon the privacy of adjacent neighbours, as the rooftop patio is already existing and no changes are proposed that would alter sightlines to the adjacent lots.

e) The pergola is not visible from the street, as it is located behind an existing exempt rooftop mechanical room and stairwell structure. This exempted structure exceeds the maximum allowable Height. It is located at the same Height as the proposed development and therefore blocks the proposed development from view mitigating its impact.
f) Since the proposed development is primarily an open pergola, there will be no material additional massing.

[29] For the above reasons, the Board finds that 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 appeal is allowed.



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

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 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.

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Date: September 8, 2017
Project Number: 241119425-001
File Number: SDAB-D-17-153

Notice of Decision

[1] On August 24, 2017, the Subdivision and Development Appeal Board (the "Board") heard an appeal that was filed on **July 27, 2017**. The appeal concerned the decision of the Development Authority, issued on July 7, 2017, to refuse the following development:

> **Install (1) Freestanding Minor Digital Off-premises Sign (2 sided facing E/W).**

[2] The subject property is on Plan B3 Blk 4 Lots 209-210, located at 10430 - 106 Avenue NW, within the (CB1) Low Intensity Business Zone. The Central McDougall / Queen Mary Park Area Redevelopment Plan applies to the subject property.

[3] The following documents were received prior to the hearing and form part of the record:

- A copy of the Development Permit application with attachments, proposed plans, the refused Development Permit; a Canada Post document; and attachments from Transportation Services and Planning Coordination;
- The Development Officer's written submission;
- The Appellant's written submission; and
- An on-line response from a property owner 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 Presiding Officer raised a jurisdictional issue regarding when the appeal was filed and explained to the parties in attendance that the Board is constrained by the 14-day limitation period prescribed by section 686(1)(a)(i) of the *Municipal Government Act*, RSA 2000, c M-26, which states:

> A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
>
> (a) in the case of an appeal made by a person referred to in section 685(1), after
>
> (i) the date on which the person is notified of the order or decision or the issuance of the development permit, […]

[7] The Presiding Officer stated that the notice of decision was issued July 7, 2017; on file is a Canada Post delivery confirmation with a signature date of July 10, 2017; and the appeal was filed July 27, 2017.

[8] The Presiding Officer indicated that the Board must therefore determine whether the appeal was filed within the 14-day limitation period. If the appeal was filed late, the Board has no authority to hear the development appeal.

Summary of Hearing

i) Position Mr. M. Masi of LED Pros and Mr. F. Jutt, representing the Appellant, Jutt Management Inc.

[9] Mr. Jutt declined to speak.

[10] Mr. Masi assumed that the 14-day appeal period only included business days.

[11] When they received the notice of decision they planned out how to approach the reasons for refusal and address the concerns and complaints of the neighbourhood. They created a new proposal and feel that it will be a win/win for the neighbourhood.

[12] With respect to the 14-day appeal period, the Presiding Officer clarified that that *Interpretation Act* specifies "calendar" days and not "business" days.

[13] Mr. Masi agreed that the appeal was filed outside the 14-day appeal period.

ii) Position of the Development Officer, Mr. S. Ahuja

[14] Mr. Ahuja had no comment.

Decision

[15] The Board does not assume jurisdiction.

Reasons for Decision

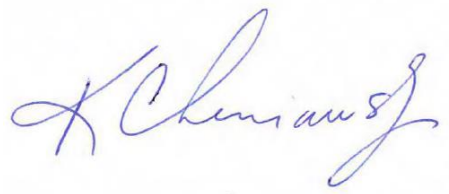
[16] The Board finds that the notice of decision was issued July 7, 2017; and on file is a Canada Post document confirming that the notice of decision was signed by LED Pros on July 10, 2017; therefore the last day to file an appeal was July 24, 2017. The appeal was filed July 27, 2017, which is beyond the prescribed timeline to file an appeal.

[17] Mr. Masi agreed that the appeal was filed late.

[18] Section 686(1)(a)(i) of the *Municipal Government Act*, RSA 2000, c M-26 states:

> A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
>
> (a) in the case of an appeal made by a person referred to in section 685(1), after
>
> (i) the date on which the person is notified of the order or decision or the issuance of the development permit, […]

[19] Accordingly, the Board does not assume jurisdiction.



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

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.

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.