

# **Edmonton Subdivision and Development Appeal Board**

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Date: December 24, 2015  
Project Number: 174864823-001  
File Number: SDAB-D-15-300

## **Notice of Decision**

This appeal dated October 27, 2015, from the decision of the Development Authority for permission to:

Convert a Single Detached House into a Limited Group Home (6 Residents)

on Plan 1160TR Blk 1 Lot 13, located at 8027 - 179 Street NW, was heard by the Subdivision and Development Appeal Board on December 10, 2015.

### **Summary of Hearing:**

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.

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

The Board heard an appeal of the decision of the Development Authority to approve an application to convert a Single Detached House into a Limited Group Home (6 Residents) located at 8027 – 179 Street NW. The subject site is zoned RF1 Single Detached Residential Zone.

The development permit application was approved with conditions and subsequently appealed by an adjacent property owner.

Prior to the hearing the following information was provided to the Board:

- Copy of the Development Permit Application and written submissions dated Dec 10, 2015;
- Documents and attachments included with the appeal form;
- Submissions dated December 7 and 9, 2015
- Letter from Alberta Health Services dated Dec 9, 2015.

*i. Position of the Appellant, Mr. D. Bayrak*

- [1] Prior to appearing before the Board, he had not been aware that Limited Group Homes are Permitted Uses in RF1 Zones.
- [2] Neighbours are concerned about the devaluation of their homes.
- [3] He referenced a document submitted by the Appellants, showing appraisals of comparable properties as of Dec 9, 2015, which includes a house in Willis Estate at 8027 - 200 Street, sold Dec 19, 2014 for \$480,000.00. However, the municipal assessment was for \$541,000.00.
- [4] He suggested that when the City makes tax assessments, it likely does not take into account the existence of Limited Group Homes, hence an assessment value that is higher than the sold price for the Willis Estate property.
- [5] The fact that so many neighbours have objected to the Limited Group Home is an indication that such Uses are a concern when people purchase properties, which suggests that Limited Group Homes devalue properties.
- [6] In addition, the variance to the tandem parking and the resultant impact upon neighbouring parking will devalue home prices.
- [7] He noted that the subject property is pie-shaped such that the front area next to the driveway does not have enough space. If the driveway is full, visitors will park in front of neighbours' driveways.
- [8] The Limited Group Home also poses potential safety concerns, as neighbouring properties have young children, and the tandem parking and loading zone are both unsafe. He cited an example of a 17 year old girl from a Limited Group Home who stabbed someone.

*ii. Position of the Appellant, Mr. D. Gronemeyer*

- [9] For over 17 years, he has lived in the house that is two properties away from the proposed development.
- [10] He has two children and expressed concerns about their safety. He noted that a Limited Group Home that had formerly occupied the site at the end of the block had burnt down. Prior to the fire, neighbourhood children found needles and drug paraphernalia around the property.
- [11] He believes that the proposed development will impact neighbours because they will be unable to back out of their driveways because visitors to the Limited Group Home will block their driveways.

*iii. Position of the Development Officer, Mr. G. Robinson*

- [12] After reviewing his written submissions, he acknowledged that adding a loading zone would be uncharacteristic of developments in the neighbourhood.
- [13] However, the variances granted will not materially interfere with the use and enjoyment of neighbourhood amenities.

- [14] He noted that at the time of the application and permit decision, Schedule 1(A) to Section 54.2 of the *Edmonton Zoning Bylaw* had not been amended. However, following the passing of Bylaw 17422, which has been effective since December 1, 2015, Schedule 1(1) to Section 54.2 has since been amended.
- [15] In respect of Limited Group Homes, the restriction on tandem parking has been removed. As well, Limited Group Homes no longer require a loading space.
- [16] If the Board were to deny the development and the applicant were to reapply after the required six months waiting period, no variances would be required and the development would be issued as a Class A permit.

iv. *Position of the Respondent, Ms. I. Calapre*

- [17] She is aiming to provide a “home” for clients instead of an “institution.”
- [18] She acknowledged the concerns of neighbours about parking, but due to the 24/7 on-site staffing, the parking is needed. She expects two staff will be present during busy hours or during the day, with one staff working the night shift. Night staffing could be increased to two on an as-needed basis.
- [19] The residents and staff will be good neighbours: rules will exist for clients; friends and visitors will be required to sign-in, which should address some of the safety concerns.
- [20] In addition, staff duties upon starting their shifts will be to conduct a walk-around of the property. If needed, an on-call operator can be contacted to address emergency situations.
- [21] The proposed development is not her first Limited Group Home, and she has experience complying with Fire Safety Codes, Alberta Health Services requirements, and other applicable regulations. She further noted that environmental and health officials may conduct spot investigations at any time, without warning.

v. *Position of Affected Person, Ms. Coleen Taylor*

- [22] She is the Legal Guardian of Ms. T. Taylor, her sister who suffered a brain injury in 2000 and has been living in a group home for five years.
- [23] If the development is approved, her sister will be able to live in the home, which she believes will provide a safe place and community for individuals with various disabilities.
- [24] When she visits her sister at the current facility, she does not park in front of neighbours’ homes. She acknowledged that DATS (Disabled Adult Transit Services) vehicles may stop in front of neighbours’ homes during pick-up, but it would be temporary and for a short time period of time.

vi. *Rebuttal of Appellant, Mr. D. Gronemeyer*

- [25] He noted that the number of parking required for staff is unknown.
- [26] If two cars are parked on the driveway, then there is no access to the parking space in the garage, effectively reducing the number of active parking spaces available for use to two.

**Decision:**

[27] The appeal is DENIED, and the development is ALLOWED. The decision of the Development Authority is CONFIRMED.

[28] In granting the development, the Board decides as follows:

1. No variance is required to the loading space requirement, pursuant to the amended Schedule 3 to Section 54.4.
2. No variance is required to the parking space requirements, pursuant to the amended Schedule 1(A) to Section 54.2.

**Reasons for Decision:**

The Board finds the following:

[29] Limited Group Home (“LGH”) is a Permitted Use in the RF1 Single Detached Residential Zone.

[30] At the time the Development Officer issued his decision, LGHs required three parking spaces, none of which could be in tandem, and required one loading space.

[31] Since the decision was made, Bylaw 17422 was signed and passed on November 16, 2015 and became effective December 1, 2015. As a result, Schedule 1(A) to Section 54.2 now permits tandem parking spaces for LGHs, and Schedule 3 to Section 54.4 no longer requires loading spaces for LGHs.

[32] Section 687(3)(a.1) of the *Municipal Government Act* states: “In determining an appeal, the subdivision and development appeal board... must comply with the land use policies and statutory plans and, subject to clause (d) the land use bylaw **in effect**”. [Emphasis added] The Board must comply with the land use bylaw in effect at the time of the appeal hearing.

[33] As a result of the amendments, the proposed development becomes a Permitted Use with no variances or relaxations required. No one opposed to the proposed development took the position that the *Zoning Bylaw* had been misinterpreted.

[34] Accordingly, the Board is bound by Section 685(3) of the *Municipal Government Act*, which states: “Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted”. There is no right of appeal in the circumstances of this case.

[35] In the alternative, if there is a right of appeal, the Board is satisfied that the required variances are minor and would allow them. There is adequate parking for this development and allowing tandem parking will have no significant impact on the neighbourhood. The lack of a loading space is not significant because the goods and supplies being delivered to this Limited Group Home will be of the same nature and quantity as to a Single Detached House and, therefore, characteristic of the neighbourhood.

- [36] The Board is of the opinion that the variances 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.

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### **Important Information for the Applicant/Appellant**

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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*, RSA 2000, c S-1;
  - c) the requirements of the *Permit Regulation*, Alta Reg 204/2007;
  - d) the requirements of any other appropriate federal, provincial or municipal legislation; and
  - 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 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 5<sup>th</sup> 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.*

Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board