

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
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10315 - 140 Street NW
Edmonton AB T5N 2L7

Date: December 16, 2015
Project Number: 178761837-001
File Number: SDAB-D-15-291

Notice of Decision

This is an appeal dated November 18, 2015, from the decision of the Development Authority to construct an Accessory Building (a rear Detached Garage, 9.75m x 9.14m).

The development permit was refused because of an excess in the maximum allowable Site Area and a deficiency in the minimum required Width for 90 degree parking.

The subject Site is on Plan 3875P Block 97 Lot 18, located at 10315 – 140 Street NW. The subject Site is zoned RF1 Single Detached Residential Zone.

The appeal was heard on December 9, 2015.

Summary of Hearing:

1. At the outset of the appeal hearing, the Presiding Officer confirmed with the Development Officer, the only party appearing, that there was no opposition to the composition of the panel.
2. Prior to the hearing the following information was provided to the Board, copies of which are on file:
 - Application for a detached garage and development permit application
 - Canada Post Registered Mail Delivery Confirmation
 - Written Submissions
 - Letter opposing the appeal from G. Mackie
3. After the matter was read into hearing record, the Board Officer advised the Board that, on the morning of the hearing, the Appellant contacted the Subdivision and Development Appeal Board office to advise that she was unable to attend the hearing because she could not get time off work. The Appellant asked the Board to proceed with the hearing in her absence, on the basis of her written submissions.

The Board heard from Ms. K. Heimdahl, representing the Sustainable Development Department, who answered questions from the Board:

4. Ms. Heimdahl advised the Board that she made her decision to refuse the proposed development on October 21, 2015.

5. On the same day, Ms. Heimdahl sent the Appellant a copy of the decision by Registered Mail, and advised the Appellant of her decision by email.
6. The Canada Post Registered Mail delivery receipt confirms that the Appellant received the Development Officer's written decision on November 2, 2015.

Decision:

The Board finds that the Appellant did not file the Notice of Appeal within 14 days as required by Section 686(1)(a)(i) of the *Municipal Government Act*. The Board, therefore, has no jurisdiction to hear the appeal.

Reasons for Decision:

The Board finds the following:

1. The Development Officer's decision to refuse the proposed development is dated October 21, 2015.
2. The Development Officer's written submissions contain a copy of an email the Development Officer sent to the Appellant on October 21, 2015, advising her of the decision and the reasons for refusal.
3. The Appellant filed the Notice of Appeal on November 18, 2015.
4. Therefore, the Appeal was not filed within the statutory requirements set out in Section 686(1)(a)(i) of the *Municipal Government Act*.
5. In any event, the Board also notes that the Development Officer provided a signed Canada Post Registered Mail delivery confirmation receipt for the written decision, which is dated November 2, 2015.
6. Even if the Board relied on the Canada Post Registered Mail delivery notice dated November 2, 2015, as the date from which the limitation period began, the Appellant still did not file her appeal within the required time because the Notice of Appeal was not filed until November 18, 2015.

Important Information for 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*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.

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.

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

CC: City of Edmonton, Sustainable Development, Attn: Kendall Heimdahl / Anlin Wen

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SDAB-D-15-292

Project No. 177295660-001

An appeal by Marijan Semenjuk VS McKinley Burkart Architecture to change the Use from Professional, Financial, and Office Support Services to Bar and Neighbourhood Pubs with Outdoor patio (388 Occupants and 308.1 sq. m. of Public Space), and to construct exterior and interior alterations, located at 10125 – 109 Street NW was **TABLED** to January 12, 2016