



**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](mailto:sdab@edmonton.ca)  
edmontonsdab.ca*

Date: December 19, 2017  
Project Number: 266021468-001  
File Number: SDAB-D-17-507

**Notice of Decision**

- [1] On December 13, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **November 29, 2017**. The appeal concerned the decision of the Development Authority, issued on November 17, 2017, to comply with an Order to:

**Remove and refrain from parking any vehicles in the required front yard area. The Order is to be complied with on or before December 8, 2017.**

- [2] The subject property is on Plan 381AJ Block 6 Lots 15-16, located at 12747 – 116 Street NW, within the (RF2) Low Density Infill 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 Stop Order;
  - The Development Officer’s written submission; and
  - The Appellant’s written submissions.

**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*, RSA 2000, c M-26.

**Summary of Hearing***i) Position of the Appellant, Ms. K. Larsen, who was accompanied by Mr. J. Trondsen*

- [7] Ms. Larsen is the third property owner of the subject site and the front parking area existed when she bought the house in March, 1991.
- [8] She is unable to park her truck inside the garage due to the low height. She can park her car inside the garage. However, due to vandalism and safety in the area she prefers to park in the front.
- [9] She referred to photographs of the subject site and indicated that the parking area is to the north of the house and not directly in front of the dwelling.
- [10] An EPS Officer caught an individual breaking into their truck and advised her to park the truck in the front yard for security.
- [11] There is no curb, boulevard, or trees in front of the subject site.
- [12] Other properties in the area have vehicles and RVs parked in their front yards.
- [13] She was concerned about receiving another ticket from the City if someone parked in the subject parking area so a railroad tie was placed at the entrance.
- [14] Her neighbours verbally indicated that they did not have an issue with the parking area as it has existed for several years. She received one signature from an adjacent property owner supporting the parking area.
- [15] In response to a question from the Board, she felt that because the parking area extends beyond the wall of her house, she was parking legally.

*ii) Position of the Development Authority, Ms. T. Sustrik*

- [16] Ms. Sustrik referred to her written submission and provided the following chronological summary of the investigation:
- a. On October 31, 2017, Alicia Tiller, Municipal Enforcement Officer, was actively patrolling the Calder Neighbourhood and observed two vehicles parked in the front yard of the subject site.

- b. On November 1, 2017, Officer Tiller found there was no development permit / or application in place for the vehicles to be parked at the location. The Officer noted this was an object prohibited or restricted in a residential zone. The Officer formed the opinion that the vehicles were parked in the front yard of a residential zone. The Officer took two photographs from the public roadway.
- c. Officer Tiller issued a Notice To Comply to the registered property owner, with a compliance date of November 15, 2017. On November 16, 2017, the Officer conducted a follow up inspection to the Notice to Comply and found that one of the vehicles had been removed from the front yard, however one vehicle remained. The Officer obtained one photograph from the public roadway.
- d. On November 17, 2017, the Officer concluded that the property owner was in contravention of section 45.7 of the *Edmonton Zoning Bylaw* and issued a section 645 Order of the *Municipal Government Act*.
- e. Section 45.7 of the *Edmonton Zoning Bylaw* states:
  - In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:
    - a. vehicles shall not be located on the landscaped portion of the Yard;  
and
    - b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.
- f. Driveway is defined as “as an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”
- g. The general definition of the Front Yard means:
  - the portion of a site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.
- h. Parking Area is defined as “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”
- i. The Development Authority is of the opinion that the vehicles parked at this property are in the location determined to be within the definition of the Front Yard and not parked on an approved driveway.

- j. The Order was issued due to no previous compliance demonstrated with the Notice to Comply. There was no permit issued or applied for to keep the vehicles parked in the front yard. This particular property has rear alley access, a detached garage at the rear of the property and the driveway is located from the alley into the garage. The area where the vehicles are being parked is not considered a driveway and is within the front yard where no vehicles are to be parked on the landscaped portion of the yard.
- [17] Ms. Sustrik provided the following information in response to questions from the Board:
- a. Vehicles can be parked in the Side Yard.
  - b. If the Appellant proposes to pave the grass area in the Front Yard she can apply for a Development Permit.
  - c. A parking pad requires a Development Permit.
  - d. Bylaw Enforcement did not search for the original Development Permit for the house. Sustainable Development typically searches for original Development Permits when they review applications.

*iii) Rebuttal of the Appellant, Ms. K. Larsen and Mr. J. Trondsen*

- [18] Ms. Larsen agreed with the Board that she would like to find out if there was an original Development Permit for the house.
- [19] Mr. Trondsen stated that when Bylaw Enforcement indicated that even if the parking area was paved, had concrete, or was graveled, parking was not allowed in the front yard.

## **Decision**

- [20] The appeal is **DENIED** and the Stop Order is **UPHELD**.

## **Reasons for Decision**

- [21] The Board heard evidence that a Stop Order was issued because vehicles were parked in the Front Yard without a Development Permit. Under section 6.1(45) of the *Edmonton Zoning Bylaw*, Front Yard means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.

Section 45.7 of the *Edmonton Zoning Bylaw* states:

In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- a. vehicles shall not be located on the landscaped portion of the Yard;  
and
- b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

- [22] The Development Authority took the Board through the steps of issuing the Stop Order under section 645 of the *Municipal Government Act* and provided photographic evidence to show that the subject property had vehicles parked in the required Front Yard that violated the *Edmonton Zoning Bylaw*.
- [23] The Board heard from the Appellant that she has lived at the subject site since 1991. She advised the Board that she was not aware that parking in the required Front Yard was not permitted as many of her neighbours park in the same way. The Appellant also advised the Board that although there is a rear Garage with laneway access, due to the low height of the Garage, she cannot physically park her truck inside the Garage and due to safety concerns she prefers to park in the front. The Board has some sympathy for this and acknowledges this; however, it does not change how the *Edmonton Zoning Bylaw* currently reads.
- [24] The Development Authority indicated that parking in the Side Yard is permitted and the Board notes that the Appellant can apply for a Development Permit for a hardsurfaced Driveway and Parking Area.
- [25] The Board further notes that they were not provided a copy of the original Development Permit for the subject Dwelling and the absence of this Development Permit makes the evidence somewhat incomplete. Had the Board been provided with the original Development Permit with additional information such as a compliance letter or real property report, there may be a non-conforming development for the Front Yard parking area. However, the Board notes that there is no curb cut at the front of the property.
- [26] The Appellant advised, and the Board accepts, that she has complied with the Stop Order, going so far as to lay a large railroad tie at the front of her property to avoid anyone parking in the Front Yard. As such, it is the Board's recommendation that if the Appellant were to appeal her ticket in the amount of \$250 to the proper authority, that this be reduced to \$10 or a nominal sum as decided by that authority.

[27] For all of the above reasons, the Board finds that the Stop Order was issued correctly by the Development Authority.



Mr. W. Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. N. Somerville; Mr. A. Peterson; Mr. C. Buyze; Ms. S. LaPerle

**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.



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Edmonton, AB T5J 0G9  
P: 780-496-6079 F: 780-577-  
3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
edmontonsdab.ca*

Date: December 19, 2017  
Project Number: 246494846-003  
File Number: SDAB-D-17-241

**Notice of Decision**

- [1] On December 13, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **December 1, 2017**. The appeal concerned the decision of the Development Authority, issued on November 23, 2017, to comply with an Order to:

**Cease the use (Temporary Storage) by removing all vehicles and heavy equipment before December 21, 2017. The Order is to be complied with on or before December 21, 2017.**

- [2] The subject property is on Plan 7621436 Blk 102 Lot 18, located at 12808 - 151 Street NW, within the (IB) Industrial Business Zone. The Mistatim Area Structure 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 Stop Order; and
  - The Development Officer’s written submission.

**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*, RSA 2000, c M-26.



### Summary of Hearing

*i) Position of the Appellant, Mr. S. Maan, who was accompanied by Mr. R. Singh*

- [7] The previous property owner parked trucks on the subject site when he purchased the property in 2013.
- [8] He was unaware that they were not allowed to park trucks on the property. He wanted to make an application for a permit but received an Order before he could complete that process.
- [9] Although an application was made to rezone the property, an Order was issued to remove the trucks from the property.
- [10] He has hired a realtor and they are currently looking for a location to store the trucks where they can be plugged in during cold weather. If the trucks do not run it will have a negative impact on his business.
- [11] He does not dispute the issuance of the Order but he is requesting additional time to find a new location to comply with the Order.

*ii) Position of the Development Authority, Mr. J. McArthur, who was accompanied by Mr. J. Young*

- [12] The City is amendable to an Order compliance extension to January, 2018. In their opinion, anything longer than that is excessive. They have already granted two previous compliance extension dates.
- [13] Bylaw Enforcement supersedes rezoning decisions and there is no deadline for rezoning applications.

*iii) Rebuttal of the Appellant, Mr. S. Maan*

- [14] Late January, 2018 is not enough time to find a new location for their trucks. They would like more time to comply with the Order.

### Decision

- [15] The appeal is **DENIED** and the Stop Order is **VARIED**. The Stop Order is to be complied with on or before **March 30, 2018.**

**Reasons for Decision**

- [16] The Board notes that the facts in this matter are not in dispute. The Board accepts the evidence of the Development Authority that the Appellant has applied for a rezoning of the subject Site and has hired a realtor to find a suitable property to store their trucks in the interim.
- [17] The Board is of the belief that this transaction would take some time to close. Therefore, the Board will vary the Stop Order compliance deadline to March 30, 2018 for the following reasons:
- a. The Board heard evidence from the Development Authority that they are agreeable to extending the compliance date to the end of January, 2018 and that the City has already provided two previous extensions. The Board finds that the mitigating factors outlined above by the Appellant justify an extension to March 30, 2018.
  - b. The Board acknowledges that Temporary Storage is neither a Permitted Use nor a Discretionary Use in the (IB) Industrial Business Zone. However, based on photographic evidence of the surrounding neighbourhood, the Board finds that no undue harm will occur from extending the Stop Order compliance date to March 30, 2018 instead of late January, 2018.



Mr. W. Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

**Board Members in Attendance:**

Mr. N. Somerville; Mr. A. Peterson; Mr. C. Buyze; Ms. S. LaPerle

**Important Information for the Applicant/Appellant**

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