



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: February 27, 2019  
Project Number: 111792484-002  
File Number: SDAB-D-19-016

**Notice of Decision**

- [1] On February 13, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **January 17, 2019**. The appeal concerned the decision of the Development Authority, issued on January 17, 2019, to refuse the following development:

**Construct an addition to an Accessory Building (attached carport to an existing detached Garage) existing without permits**

- [2] The subject property is on Plan 2676MC Blk 3 Lot 22, located at 13510 - 62 Street NW, within the (RF1) Single Detached Residential 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 Development Permit application with attachments, refused stamped plans, and the refused Development Permit;
  - The Development Officer’s written submission;
  - The Development Officer’s email providing the technical review of the Site; 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. (“MGA”)

**Summary of Hearing***i) Position of the Appellant, Mr. K. Piwinski*

- [7] Mr. Piwinski applied for a development permit in 2011 to construct the carport. He stated that he never received information from the City of Edmonton Development Authority (“the City”) regarding what came of that 2011 application and he was unaware that the permit was refused.
- [8] He received a letter from the City this year indicating that he did not have a permit for the existing carport and that he needed to apply for another development permit. He did so.
- [9] Upon submitting his application, the Development Officer informed him that he provided everything that was needed for the review of the carport application.
- [10] Mr. Piwinski referred to the photographs he submitted in his written submission specifically noting the gate that is accessible to the rear yard from the carport.
- [11] Mr. Piwinski noted that the existing carport is beneficial to him in the winter months and he would like it to remain as it is.
- [12] In his opinion, there are several small lots in the area with new large developments; therefore, the excess in Site Coverage on his property should be granted.
- [13] Mr. Piwinski referenced several instances in the neighbourhood where crime and theft has occurred, emphasizing the need for his carport for safety reasons.
- [14] Mr. Piwinski provided the following information in response to questions by the Board:
- a. He parks in the garage occasionally and in the carport occasionally.
  - b. He uses the garage for storage because there is a lot of theft and crime in the area so there is not much room to park in the garage. If he were to park there all the time, there would be no space to store his belongings in a safe manner.
  - c. The carport has been in existence for seven (7) years with no known complaints.
  - d. He spoke to his neighbours, including all immediately adjacent neighbours, who did not have an objection to the existing carport. His written submission evidences this.
  - e. He has a security camera in the carport, around his property and rear lane to protect his property from theft.
  - f. In his opinion, the existing carport does not attract people to the property but deters people due to the motion lighting that comes on should anyone come near.

- g. The piece of material visible beside the fence covers materials he has stored between the garage and the fence to prevent theft.
- h. The carport does not impact the visibility of people driving down the street or exiting from the lane. The tree shown in the aerial photograph has been removed, which has created more visibility for those entering and exiting the lane.
- i. Materials around the property are for his personal use and are not used for any business activities.
- j. The house was built in the 1930s.
- k. He uses a trailer to move items off of the property if needed.

ii) *Position of the Development Officer, Mr. Folkman*

[15] The Development Authority did not appear at the hearing and the Board relied on Mr. Folkman's written submission.

### **Decision**

[16] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority.

In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. The maximum Site Coverage for an Accessory building as per Section 110.4(6) is varied to allow an excess of 47.4 square metres, thereby increasing the maximum allowable Site Coverage of the Accessory building to be 149.67 square metres.
2. The minimum allowable distance between an Accessory building and the lot line running parallel to any flanking public road way as per Section 50.3(5)(c) is varied to allow a deficiency of 1.8 metres, thereby decreasing the minimum allowable distance to 1.2 metres.

### **Reasons for Decision**

[17] The proposed development is Accessory to a Permitted Use in the (RF1) Single Detached Residential Zone.

- [18] The Board was presented with evidence of the history of the development and accepts the evidence of the Appellant that he was unaware that he was not granted a permit in 2011 for the carport when he applied.
- [19] The Board accepts the Appellant's evidence that the carport has existed for seven (7) years with no complaints.
- [20] The Board acknowledges the evidence that in 2006, the SDAB granted a variance to the maximum allowable Site Coverage for an Accessory Building (Garage).
- [21] The Board notes that the Appellant contacted all neighbours, specifically those adjacent neighbours most affected, and received signed statements that those neighbours were not opposed to the development.
- [22] Section 110.4(6) of the *Edmonton Zoning Bylaw* ("the Bylaw") states that for Single Detached Housing on a Site greater than 300 square metres, the maximum Site Coverage shall be 28 percent for Principal Dwellings and 12 percent for Accessory buildings, totaling a maximum allowable Site Coverage of 40 percent.
- [23] The Board grants the variance to Accessory Building Site Coverage for the following reasons:
- a) As noted above, there is a variance already granted to increase the maximum Site Coverage to 13.6 percent from the 2006 SDAB decision (SDAB-D-06-212).
  - b) For the current application to be compliant with the Bylaw, a new variance is required to allow an excess of 47.4 square metres.
  - c) The Board finds that no evidence was provided to the Board regarding any negative impacts due to this excess in Site Coverage.
  - d) Based on the evidence before the Board from the Development Authority, the principal dwelling is well below the maximum Site Coverage, and so granting a variance to the Accessory building would not exceed the total Site Coverage allowed.
  - e) Allowing this increase in the Site Coverage of the Accessory building will not be discernable to the surrounding neighbourhood, and the Board is satisfied there will be no significant impact on neighbours or the amenities of the neighbourhood by granting this variance.

- [24] Section 50.3(5)(c) of the Bylaw states that the distance between an Accessory building and the lot line running parallel to any flanking public roadway, other than a Lane, shall not be less than the Side Setback required for the principal building. If the principal building was developed before October 2, 1961, the distance may be reduced, if the placement of the proposed Garage is consistent with the placement of other existing Garages in the same block.
- [25] The minimum Side Setback required for the principal building on a Corner Site where the Dwelling does not have an attached Garage also facing the flanking Side Lot Line, may be reduced to 3.0 metres, in order to increase the Private Outdoor Amenity Area in the interior Side Yard (Section 110.4(10)(d)).
- [26] The Board grants the variance to the Accessory Building Flanking Side Setback for the following reasons:
- a) The placement of the carport does not obscure the sight lines of vehicles and pedestrians coming or going from the lane.
  - b) The Board notes the photographic evidence that the carport has no walls with only a fence abutting it. Therefore, the incursion of the structure into the setback does not result in any notable massing.
- [27] For the reasons above, the Board finds that the proposed development 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.



Ms. G. Harris, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance

Mr. M. Young; Ms. S. LaPerle; Ms. S. McCartney; Ms. E. Solez

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. Folkman / Mr. Wen

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, 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 Development & Zoning Services, 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.*