

Date: March 2, 2017
Project Number: 237898649-001
File Number: SDAB-D-17-032

Notice of Decision

[1] On February 15, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on **January 23, 2017**. The appeal concerned the decision of the Development Authority, issued on January 11, 2017, to refuse the following development:

Park a Recreational Vehicle in the front Driveway of a Single Detached House (2 metres by 9 metres) from January 1 to December 31.

[2] The subject property is on Plan 9423471 Blk 76 Lot 52, located at 8706 - 156A Avenue NW, within the (RF1) Single Detached Residential Zone. The Edmonton North Area Structure Plan and the Belle Rive Neighbourhood Structure Plan apply 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 and the refused Development Permit;
- The Development Officer's written submission; and
- The Appellant's Community Consultation.

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

- Exhibit A – Pictometry Photographs submitted by the Development Officer.

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. S. Ebbesen

[8] Mr. Ebbesen referenced the Development Officer's written submission and disagrees that his trailer is parked on City property. In his view, there is a 2-metre clearance from his trailer to the curb.

[9] He previously lived in an area with an alley and was able to store his trailer in the backyard. He intentionally purchased his current home because of the trailer pad. This pad was not landscaped at the time of purchase and was always part of the driveway. He received a letter from the City the first year he moved in that ordered him to remove his trailer. However, due to just moving into his home and due to work commitments, he was unable to take steps to contest the notice.

[10] He intentionally left his trailer parked on the front pad this winter to have the opportunity to appeal. He assumed that appealing an Order from the Bylaw Officer would probably be denied so he applied for a Development Permit instead for an opportunity to appeal to the SDAB.

[11] He understands there are regulations in place to prevent a trailer from being parked in front of a house between November 1 and March 31. This should not apply in this situation because he has a designated trailer pad.

[12] He canvassed all of the homes within the 60-metre notification area. All owners he was able to speak with had no issue with his recreational vehicle and some were not aware of the regulation restricting parking during the winter. There were some owners he was unable to contact and two owners had language barriers.

[13] He does not understand the rationale for the bylaw restricting recreational vehicle parking in the winter when longer utility trailers or tent trailers may be parked on a front driveway all year, despite being aesthetically displeasing.

[14] In his opinion, it is not fair that he has to pay for off-site storage and others with rear yard driveways do not.

[15] His trailer is a newer model and not an eyesore. He reiterated that he does not believe his trailer has been parked on City property and if it was, it has since been moved so that it is solely located on his own property.

[16] He referenced a photograph submitted by the Development Officer and indicated that there are two feet between his trailer and the side property line, which provides adequate space to enter without stepping on his neighbour's property.

[17] He is not aware of any other recreational vehicles parked on front driveways within the 60-metre notification area but he is aware of such cases in Belle Rive, Castlebrook and many other City neighbourhoods. He offered to show photographs of recreational vehicles parked in various locations throughout the City but did not have specific addresses. In his opinion, he is being unfairly singled out.

ii) *Position of the Development Officer, Ms. K. Bauer*

[18] Ms. Bauer submitted "Exhibit A" which shows there is a compliance certificate in place for the concrete side extension so it was given legal non-conforming status. While the Appellant may have thought he could park on the side extension it was determined to be a sidewalk and not a parking pad. She confirmed that this parking prohibition was never communicated to the Appellant when the compliance certificate was issued.

[19] The subject property has a 7.9 metre distance from the eave of the Garage to the Front Lot Line. Because there is a 3.6 metre setback from the curb to the front property line, any trailer larger than 20 to 22 feet would be on City property. She pointed to the diagram on page 2 of her submission showing the footprint of a 20 foot trailer.

[20] She does not know if the violation notice issued to the Appellant was the result of a complaint or if it was Bylaw Officer initiated.

[21] In her view, large recreational vehicle parking is restricted to the summer as it is visually unappealing and is the subject of many complaints throughout the City. Obstructed sight lines can also be a concern. This property is located in a cul-de-sac so obstructed sight lines do not apply here.

[22] In her view, it is reasonable to limit the size of a recreational vehicle so that it does not extend onto City property.

[23] She did not personally visit the site and observed it strictly through the City's pictometry program. She does not recall seeing any other recreational vehicles parked at that time so she cannot comment if they are characteristic of the neighbourhood.

[24] She could not comment as to why Council excluded small utility trailers, camper van conversions, tent trailers, campers which are mounted on trucks, boats, snowmobiles, all-terrain vehicles, jet skis, or motorcycles and trailers to carry them under section 45.6 of the *Edmonton Zoning Bylaw* when it imposed a seasonal restriction on "large Recreational Vehicle" parking.

[25] She acknowledged that section 45.4 of the *Edmonton Zoning Bylaw* makes it clear that large Recreational Vehicles may be parked to within 2.0 metres of the curb if there is no sidewalk.

iii) Rebuttal of the Appellant

[26] Mr. Ebbesen indicated that after the Development Officer's December 14, 2016 photograph was taken, he backed the trailer further onto his property so it is now 2 metres from the curb. He confirmed that his 26 foot trailer fits entirely on his property.

[27] He reiterated that it is not fair for the City to state that one day you are legal and the next day you are not.

[28] He stores summer items such as life preservers, sleeping bags and general camping gear inside the trailer during the winter. It is never used for sleeping or any purpose other than storage during the winter.

[29] It is not practical to move the trailer over onto the driveway as the driveway is needed to get in and out of the garage.

Decision

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

[31] In granting the development, section 45.3 of the *Edmonton Zoning Bylaw* is waived.

Reasons for Decision

[32] The proposed application, to park a *large Recreational Vehicle*, is Accessory to a Single Detached House, which is Permitted Use in the RF1 Single Detached Residential Zone.

[33] The Board accepts the evidence of the Development Officer that the length of the Driveway at the location that the Recreational Vehicle is parked is 7.9 metres from the Garage eave to the Front Lot Line. The Board heard evidence from the Appellant that the Recreational Vehicle was 26 feet (7.9 metres) from the tip of the hitch to the bumper. Given these two measurements coincide and based on the photographic evidence that the Garage eave is higher than the Recreational Vehicle, the Board finds that the Recreational Vehicle would be fully contained within the space provided.

- [34] Pursuant to section 45.4 of the *Edmonton Zoning Bylaw* regarding the required 2-metre Setback from the curb if there is no sidewalk, the Board notes that evidence provided shows a 3.6-metre Setback from the curb to the Front Lot Line, which therefore complies with section 45.4.
- [35] The Board accepts the evidence provided by the Development Officer that there is a Compliance Certificate in place which shows the existing Driveway side extension. Therefore, the Board accepts that there are no variances with respect to a landscaped Front Yard requirement where the Recreational Vehicle is parked.
- [36] The Development Officer had concerns regarding visual impact and obstruction of sight lines. However, the Development Officer clarified that given this property is in a cul-de-sac, sight lines do not apply here but visual impact does. With respect to the visual impact, the Board finds there is no evidence substantiating this concern. Conversely, the Board was presented with a community consultation conducted by the Appellant who endeavored to contact all parties within the 60-metre notification area. Upon analyzing this community consultation, there was broad support to allow the Recreational Vehicle to be parked in the front Driveway. There were no on-line submissions in opposition, no e-mails or letters of opposition were received and no one appeared in person to oppose this appeal.
- [37] The Board further notes there is no sidewalk directly adjacent to this property; therefore any danger regarding pedestrians would be mitigated.
- [38] The Board finds this Use is reasonably compatible, and notes that it would be a Permitted Use for 7 months of the year, in any event.
- [39] 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.

Mr. Vincent Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. A. Lund; Mr. I. O'Donnell; Ms. E. Solez; Ms. M. McCallum

Important Information for the Applicant/Appellant

1. 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.
2. 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.
3. A Development Permit will expire in accordance to the provisions of section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
4. 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.
5. 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 5th Floor, 10250 – 101 Street NW, 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.

SDAB-D-17-033

Application No. 233184605-001

An appeal to Operate a Major Home Based Business - General Contractor (ATLAS INSULATION) - Expires January 3, 2022 on Plan 1027114 Blk 6 lot 4 located at 3810 Claxton Close SW was **WITHDRAWN**