



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

**10019 - 103 Avenue NW
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Date: March 15, 2019
Project Number: 301204819-001
File Number: SDAB-D-19-025

Notice of Decision

- [1] On February 28, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **February 5, 2019**. The appeal concerned the decision of the Development Authority, issued on January 23, 2019, to refuse the following development:

To construct an Accessory Building (rear detached Garage (7.32 metres by 9.14 metres)).

- [2] The subject property is on Plan 1909HW Blk 15 Lot 13, located at 9818 - 159 Street NW, within the (RF1) Single Detached Residential Zone. The Mature Neighbourhood Overlay and Jasper Place Area Redevelopment 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, proposed plans, and the refused Development Permit;
 - The Development Officer’s written submission; and
 - The Appellant’s reason for appeal.

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, R. Deane*

- [7] Ms. Deane is acting as an Agent on behalf of the property owner.
- [8] The property owner has lived in the community for over 20 years and he is well known in the neighbourhood. Signatures of support for the proposed garage were received from many neighbours including the immediately adjacent neighbours to the north and south. While Ms. Deane did not have the paperwork with her she was prepared to provide written copies of the community consultation after the hearing.
- [9] At the time of the last application the City had measured the house and existing garage at 2,700 square feet which is incorrect. Ms. Deane and the Development Officer have agreed that the correct square footage of the house is 2,520 square feet and the total site coverage, including the proposed development, would be 44 percent.
- [10] Several concerns about the proposed development were raised by a previous SDAB panel. One of the three rear doors on the house did not have a permit which has now been obtained. Further, there are no longer any plans to build a raised deck or any kind of landings outside of the kitchen door.
- [11] The property owner has a 22 foot long vehicle which he would like to store in the proposed garage. Ms. Deane confirmed that this is not a commercial vehicle. At the time of application the property owner was willing to reduce the garage length to 24 feet; however, the Development Officer would not consider any garage larger than 20 feet by 20 feet. Ms. Deane would agree to reduce the garage length to 26 feet if necessary.
- [12] Ms. Deane provided the following responses to questions from the Board:
- a) The property owner would like to have enough room in the proposed garage to park two larger vehicles and be able to move comfortably around them. He would also like storage for some personal items such as lawn equipment. There is no intention of storing any items related to rental properties in the garage as the property owner no longer owns any rental properties.
 - b) The existing temporary shed will be removed once the garage is completed.
 - c) The area between the garage and the house will be open space and will be landscaped once the garage is completed. The existing deck at grade has been added since the last application.
 - d) Ms. Deane is unsure of the exact size of the front attached garage but estimated it to be 20 feet by 20 feet.

- e) She referred to photographs that were included in her previous appeal that showed new developments in the area with both a front attached garage and a rear detached garage.
- f) She acknowledged that there are some inconsistencies in numbers between the drawings and calculations; however, Ms. Deane and the Development Officer both agree that the existing house and garage is 2,520 square feet.

[13] Ms. Deane confirmed that she was not opposed to any of the suggested conditions of the Development Officer should the proposed development be approved.

ii) Position of the Development Officer, Ms. E. Lai

[14] The Development Authority was not present and the Board relied on Ms. Lai's written submission.

Decision

[15] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **CONDITIONS**:

1. The development shall be constructed in accordance with the stamped and approved drawings.
2. An accessory building or structure shall not exceed 4.3m in height as per the height definition of Section 6.1 and Section 50 of the Edmonton Zoning Bylaw 12800. (Section 6.1 and 50.3.3))
3. Eave projections shall not exceed 0.46m into required yards or Separations spaces less than 1.2m. (Section 44.1)
4. The area hard surfaced for a driveway, not including the area used for a walkway, shall comply with Section 54.6. The driveway shall be located in accordance with the stamped approved site plan.
5. The Driveway shall lead directly from the roadway to the Garage or Parking Area and shall not be wider than the width of the Garage or Parking Area.

ADVISEMENTS:

1. The driveway access must maintain a minimum clearance of 1.5 m from the service pedestal and all other surface utilities. The applicant or property owner is responsible

for the location of all underground and above ground utilities and maintaining the required clearance as specified by the utility companies. Alberta One-Call, Shaw, and Telus should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with the relocation or removal of the service pedestal shall be at the expense of the applicant or property owner.

2. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.
3. Any future deck/landing development greater than 0.6m (2ft) in Height and/or greater than 1.5m² in size will require development and building permit approvals.

[16] In granting the development the following variance to the *Edmonton Zoning Bylaw* is allowed:

1. The maximum allowable 40 percent Site Coverage (274.99 square metres) per section 110.4(6)(a) is varied to allow an excess of 3.8 percent (26.02 square metres), thereby increasing the maximum allowed Site Coverage to 43.8 percent (301.01 square metres).

Reasons for Decision

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

[18] The Board was presented with different structure size calculations but has relied on the following numbers to determine the size of the variance granted. The Development Officer and the Appellant have agreed that the House and existing attached Garage take up 2,520 square feet (234.12 square metres) and the proposed detached Garage is 720 square feet (66.89 square metres) which puts the total Site Coverage at 43.8 percent (301.01 square metres). The Board grants the 3.8 percent (26.02 square metres) required variance in Site Coverage for the following reasons:

- a) The Board is aware of two previous decisions with respect to applications for a detached Garage at the subject Site; both were refused by the Development Officer and the refusals were confirmed by the SDAB. The Board has found enough material change in this new application and has found that the Appellant has addressed the issues raised by the previous SDAB panels, the most significant being that there are no raised decks or any plans to have one. That lowered the previous Board's calculation of a 47 percent total Site Coverage to a total Site Coverage of 43.8 percent (a reduction of 3.2 percent).
- b) The Board notes that there is significant vegetation on both sides of the subject Site that would mitigate the visual impact and massing concerns of the most affected neighbours.

- c) The Board accepts the verbal presentation provided by the Appellant that there was broad community support and that the neighbours most affected to the north and south of the subject Site support this development. The previous two applications had Community League support for larger variances.
- d) The Board is bound by the provisions as set out in section 687(3)(d) of the *Municipal Government Act* with respect to its test in overturning the decision of the Development Authority. No one appeared in opposition to the proposed development and no correspondence was received in opposition. The most affected neighbours support this development; therefore, the Board has determined that there is no material impact nor will this unduly interfere with the neighbourhood.
- e) The Board notes that although there are not many properties in the area that have both a double attached front Garage and a double detached Garage, there are other detached Garages in this area. This particular development has its doors facing the lane for access.

[19] 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. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance:

Ms. P. Jones, Mr. A. Bolstad, Ms. L. Gibson, Mr. R. Hobson

c.c. City of Edmonton, Development & Zoning Services, Attn: Ms. K. Bauer / Mr. A. Wen

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, 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 the Sustainable Development Department, 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.



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February 28, 2019

RE: SDAB-D-19-026, to construct a four Dwelling Row House building with underground parking and rear uncovered decks, located at 10347 – 160 Street NW

The Subdivision and Development Appeal Board made and passed the following motion on February 28, 2019:

“That SDAB-D-19-026 be postponed until March 27, 2019 at the written request of Legal Counsel for the Appellant and with the consent of the Development Authority.”

Reasons For Decision:

1. Postponing the hearing until March 27, 2019 will allow Legal Counsel to appear and represent the interests of the Appellant.

The time and location of the hearing will be provided in future correspondence.

Should you require further information in this regard, please contact the Subdivision & Development Appeal Board Office at 780-496-6079.

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

cc: Ogilvie LLP, Attn: Mr. J. Murphy, Q.C.
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City of Edmonton, Development & Zoning Services, Attn: Mr. K. Bacon/Mr. A. Wen