# **SUBDIVISION**

# AND

# DEVELOPMENT APPEAL BOARD

# AGENDA

Wednesday, 9:00 A.M. February 28, 2018

River Valley Room – City Hall 1 Sir Winston Churchill Square NW Edmonton, AB

# SUBDIVISION AND DEVELOPMENT APPEAL BOARD River Valley Room – City Hall

1	9:00 A.M.	SDAB-D-18-037	Operate two Major Home Based Businesses (Administration Offices for a Travel Agency and a Property Management Agency - Di-Co Ltd & SOS Travel Ltd)
			5608 - 205 Street NW Project No.: 112538672-004
II	11:00 A.M.	SDAB-S-18-001	Create one (1) additional Single Detached Residential Lot
			10719 - 130 Street NW Project No.: 267660433-001

### ITEM I: 9:00 A.M.

#### FILE: SDAB-D-18-037

# AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

## APPELLANT:

APPLICATION NO .: 112538672-004 **APPLICATION TO:** Operate two Major Home Based Businesses (Administration Offices for a Travel Agency and a Property Management Agency - Di-Co Ltd & SOS Travel Ltd) **DECISION OF THE DEVELOPMENT AUTHORITY:** Approved with conditions **DECISION DATE:** January 11, 2018 NOTIFICATION PERIOD: January 18, 2018 through February 8, 2018 DATE OF APPEAL: February 5, 2018 **RESPONDENT:** MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5608 - 205 Street NW LEGAL DESCRIPTION: Plan 0523597 Blk 34 Lot 8 ZONE: (RSL) Residential Small Lot Zone **OVERLAY:** N/A STATUTORY PLAN(S): The Grange Area Structure Plan The Hamptons Neighbourhood Structure Plan

# Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

What is Discretionary Use and Major Home Based Business? Define what is "Discretionary Use". This owner had already built a big

detachment supposedly it's was a shed. This is blocking my view to the lake. When I sit on my deck I can only this big detachment which is an eye sore. I bought my house based on the view for the lake. I feel cheated. I spoke to him when he was building the detachment and blocking the view and he ignored me. He didn't have any consideration for his neighbours.

I'm afraid there will be noise, as well as I don't know the hours of operation plus traffic in the neighbourhood. Will this after hours, during weekend? Are there extra space for parking. We have a fairly young neighbourhood and since there is a lake close there is lot of foot traffic including little kids. Safety should be number one priority for all citizens. Is the City going to monitor the traffic around there?

I hope City of Edmonton will take into consideration about my appeal against this development in our neighbourhood. Let's keep this place as residential.

I'm not paying such exorbitant price for property taxes to endure pop up of home base businesses in my neighbourhood. As a citizen I think I have the right for some privacy and peace.

# **General Matters**

# **Appeal Information:**

The Municipal Government Act, RSA 2000, c M-26 states the following:

### **Grounds for Appeal**

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

# Appeals

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the decision is made under section 642, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
    - or
  - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

### **Hearing and Decision**

**687(3)** In determining an appeal, the subdivision and development appeal board

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- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;
  - •••
  - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
  - (i) the proposed development would not
    - (A) unduly interfere with the amenities of the neighbourhood, or
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

### General Provisions from the Edmonton Zoning Bylaw:

Under section 115.3(4), a **Major Home Based Business** is a **Discretionary Use** in the (RSL) Residential Small Lot Zone.

Under section 6.1(28), **Discretionary Uses** means "those uses of land, buildings or structures for which Permits may be issued only at the discretion of the Development Officer."

Under section 7.3(7), Major Home Based Business means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a nonresident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales.

Section 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is:

to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

### **Development Officer's Determination**

# **Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3**(5)). [unedited].

# Major Home Based Business regulations

A Major Home Based Business shall comply with the following regulations:

- 1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
- 2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
- 3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
- 4. the number of non-resident employees or business partners working onsite shall not exceed two at any one time;
- there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
- 6. the Major Home Based Business shall not change the principal character or external appearance of the <u>Dwelling</u> or <u>Accessory</u> buildings;
- 7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
- 8. in addition to the information requirements of <u>subsection 13.1</u> of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
- 9. the <u>Major Home Based Business</u> shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located

in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Application Number	Description	Decision
SDAB-D-11-194	To operate a Major Home Based Business. (Administrative Office for Travel Services)	September 23, 2011; that the appeal be <b>DENIED</b> and the decision of the Development Authority <b>CONFIRMED</b> subject to the following additional conditions: 1.there shall be no non- resident employees or business partners working on site; 2.any vehicle associated with the Major Home Based Business shall be parked on site. The Development Authority?s decision of approval contained the following conditions: 1. this Development Permit may be revoked or invalidated, at any time, if the Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes. This includes mechanical or electrical equipment used which creates external noise or interference with home electronic equipment in adjacent Dwellings. (Reference Section 23.5);

Previous Subdivision and Development Appeal Board Decision

<ul> <li>2. ABSOLUTELY NO OUTDOOR STORAGE OF BUSINESS RELATED GOODS OR EQUIPMENT ALLOWED;</li> <li>3. there shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 centimetres (8 inches) by 30.5 centimetres (12 inches) in size located on the dwelling;</li> <li>4. this approval is for a 5 year period ONLY from the date of this decision. A new Development Permit must be applied for prior to July 25, 2016 to continue to operate the business from this location;</li> <li>5.an approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or casements that might be attached to the Site. (Reference Section 5.2).</li> </ul>		
<ul> <li>display or advertisement other than an identification plaque or sign a maximum of 20 centimetres (8 inches) by 30.5 centimetres (12 inches) in size located on the dwelling;</li> <li>4. this approval is for a 5 year period ONLY from the date of this decision. A new Development Permit must be applied for prior to July 25, 2016 to continue to operate the business from this location;</li> <li>5.an approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.</li> </ul>		BUSINESS RELATED GOODS OR EQUIPMENT
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# Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number:         112538672-004           Application Date:         DEC 21, 2017           Printed:         February 5, 2018 at 12:51 PM           Page:         1 of 3
	ccupation
This document is a record of a Development Permit application, and a r the limitations and conditions of this permit, of the Edmonton Zoning B	
Applicant	Property Address(es) and Legal Description(s) 5608 - 205 STREET NW Plan 0523597 Blk 34 Lot 8
Scope of Permit To operate two Major Home Based Business. (Administration Of Di-Co Ltd & SOS Travel Ltd)	fices for a Travel Agency and a Property Management Agency -
Permit Details	
# of businesss related visits/day: 2	# of vehicles at one time: 1
Administration Office Only?: Y	Business has Trailers or Equipment?: N
Class of Permit: Class B	Description of Business: Travel Agency [SOS Travel Ltd] and a Property Management Agency [Di-Co Ltd]. Di-Co Ltd may also perform tailoring.
Do you live at the property?: Y Outdoor storage on site?: N	Expiry Date: 2023-01-11 00:00:00
I/We certify that the above noted details are correct.	
Applicant signature:	
Development Permit Decision Approved	



				Project Number: 112538672-00 Application Date: DEC 21, 201 Printed: February 5, 2018 at 12:51 Pl Page: 3 of						
Home Occupation										
valid unless and until: notice of appeal to the Government Act has p Subject to the provisio	When a Development Permit Application has been approved by the Development Officer, the Development Permit shall not be valid unless and until: any conditions of approval, except those of a continuing nature, have been fulfilled; and the time for filing a notice of appeal to the Subdivision and Development Appeal Board as specified in section 21(1) of this Bylaw and the Municipal Government Act has passed. (Section 17.1(1)) Subject to the provisions of the Municipal Government Act, any person applying for a Development Permit or affected by a									
Subdivision and Devel	decision issued by a Development Officer about a Development Permit may appeal the decision of the Development Officer to the Subdivision and Development Appeal Board by filing a written notice of appeal with the Subdivision and Development Appeal Board within 14 days after notice of the decision concerning the Development Permit was given. (Section 21(1))									
Variances Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3(5)).										
Rights of Appeal This approval is subjec Amendment Act.	t to the right of appeal	l as outlined in Chapter 24	4, Section 683 thro	ough 689 of the Municipal Government						
Issue Date: Jan 11, 2018 D	evelopment Authority	y: KENNEDY, CLARK	Sig	nature:						
Notice Period Begins	-	Ends:Feb 08, 2018								
Fees										
	Fee Amount	Amount Paid	Receipt #	Date Paid						
Dev. Application Fee Total GST Amount:	\$309.00 \$0.00	\$309.00	04713089	Dec 28, 2017						
Totals for Permit:	\$309.00	\$309.00								



### TO BE RAISED ITEM II: 11:00 A.M.

### FILE: SDAB-S-18-001

### AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

**APPELLANT:** APPLICATION NO.: 267660433-001 **APPLICATION TO:** Create one (1) additional Single Detached Residential Lot DECISION OF THE SUBDIVISION AUTHORITY: Refused **DECISION DATE:** December 21, 2017 DATE OF APPEAL: January 3, 2018 MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10719 - 130 Street NW LEGAL DESCRIPTION: Plan 4311HW Blk 27 Lot 16 ZONE: (RF1) Single Detached Residential Zone **OVERLAY:** Mature Neighbourhood Overlay STATUTORY PLAN: West Ingle Area Redevelopment Plan

# Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

The subdivision of the lots will not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land since there is no impact to any side yards or lanes the only affect would be the livable space of the actual build which is appropriate for a livable home.

The total lot dimensions are aligned with the subdivision guidelines as each property is 312.564 M.

One of the skinny homes will be occupied by us the owners.

Spoke to the President of the Westmount Community league and they support the building of skinny homes in the area especially on 130st.

## **General Matters**

# **Appeal Information:**

The Subdivision and Development Appeal Board at a hearing on February 1, 2018, made and passed the following motion:

# "That SDAB-S-18-001 be TABLED to February 28, 2018 at the written request of the Appellant and with the consent of the Subdivision Authority"

The Municipal Government Act, RSA 2000, c M-26 states the following:

#### Appeals

**678(1)** The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
  - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
  - (ii) the location of school reserve allocated to it, or
  - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

(a) with the Municipal Government Board

- (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,
- (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
- (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

(b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

## Hearing and decision

**680(1)** The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), "adjacent land" and "owner" have the same meanings as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

### **Approval of application**

**654(1)** A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,

- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.
- (1.1) A decision of a subdivision authority must state
  - (a) whether an appeal lies to a subdivision and development appeal board or to the Municipal Government Board, and
  - (b) if an application for subdivision approval is refused, the reasons for the refusal.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
  - (i) unduly interfere with the amenities of the neighbourhood, or
  - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

### General Provisions from the Edmonton Zoning Bylaw:

Section 110.4(1)(b) states the following with respect to Site regulations for Single Detached Housing:

b. the minimum Site Width shall be 7.5 m.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

### Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Subdivision Authority

7th Floor, Edmonton Tower 10111 – 104 Avenue NW Edmonton, Alberta T5J 0J4

December 21, 2017

File No. LDA17-0663

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 16, Block 27, Plan 4311 HW, located north of 107 Avenue NW and east of 130 Street NW; WESTMOUNT

The Subdivision by Plan is REFUSED on December 21, 2017 for the following reason:

 The proposed subdivision does not comply with the minimum Development Regulations identified in Section 110.4(1) of the City of Edmonton Zoning Bylaw. The minimum site width identified in the (RF1) Single Detached Residential Zone for permitted uses is 7.5 metres. The site width of proposed Lot 16 is 7.32 metres and is therefore deficient by 0.18 metres.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

If you have further questions, please contact Marco Beraldo at marco.beraldo@edmonton.ca or 780-496-6092.

Regards, Blair McDowell

Subdivision Authority

BM/mb/Posse #267660433-001

Enclosures

Established under City of Edmonton Bylaw 16620 pursuant to Section 623 of the Municipal Government Act



Lane



