

***Edmonton Subdivision and
Development Appeal Board***

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SDAB-D-16-001

An appeal to develop a Secondary Suite in the Basement of a Single Detached House, existing without permits, located at 14848 – 47 Street NW was **TABLED** to February 4, 2016.

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11835 - 60 Street NW
EDMONTON AB
T5W3Z4

Date: January 21, 2016
Project Number: 179315799-001
File Number: SDAB-D-16-002

Notice of Decision

This appeal is dated December 7, 2015, from the decision of the Development Authority for permission to construct a two storey Accessory Building (Garage Suite on second floor, Garage on main floor, 7.32m x 7.30m), and to demolish the existing rear detached Garage.

The development permit was approved subject to conditions and was subsequently appealed by an adjacent property owner.

The subject Site is on Plan 5104KS Blk 3 Lot 28, located at 11156 – 51 Street NW. The subject Site is zoned RF1 Single Detached Residential Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26, and was heard by the Subdivision and Development Appeal Board on January 6, 2016.

Summary of Hearing:

1. At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.
2. The Board waited an additional 15 minutes for the Appellant to arrive. The Subdivision and Development Appeal Board office attempted to contact him on both telephone numbers he provided with his application. The office also confirmed that the Notice of Hearing was sent by email and letter to the addresses provided by the Appellant in his Notice of Appeal.
3. Prior to the hearing the following information was provided to the Board, copies of which are on file:
 - Development permit application;
 - Approved development permit;
 - Development Officer's Technical Report, dated November 16, 2015;
 - Development Officer's Written Submission, dated December 8, 2015;

- Submissions from D. Handy, Monarch Group, on behalf of P. Jorgeson, received by the Board on January 6, 2016; and
- Letter from P. Jorgeson authorizing Monarch Group to act on his behalf, received by the Board on January 6, 2015.

The Board reviewed written submissions from Mr. D. Hughes, the Appellant, which are summarized as follows:

4. Mr. Hughes and his wife live next door to the proposed development and are opposed to the development for the following reasons:
 - a. The existing house on the subject Site is large and tall, and has a sizeable extension at the rear. Modifying the garage as proposed would create two very large buildings on the property and would adversely affect light and privacy on their yard. They would not have purchased the home if the proposed structure existed at the time of purchase.
 - b. There are at least two families living in the house on the subject Site. There are also a number of vehicles associated with the residents. There is limited street parking. Mr. Hughes speculates that additional tenants associated with the proposed development will affect the already sparse availability of street parking.
 - c. They are concerned about what is “beginning to look very much like a rooming house/multi-family dwelling.” They chose to live in an area zoned for single-family homes.

The Board heard from Mr. D. Handy, Agent for Mr. P. Jorgeson, the Respondent, who provided the following submissions:

5. The Application for the proposed development was approved by the Development Authority. When the 60 metres radius notifications were sent out to neighbouring property owners, there was one complaint about the proposed development (from the Appellant).
6. Mr. Handy argued that the Board should deny the appeal and allow the proposed development because affordable housing is limited in the Concordia area and development of this nature benefits the area.
7. Currently, the proposed development does not contain a legal Secondary Suite; the Appellant wants to create a legal Garage Suite.
8. With respect to the Appellant’s concern about sunlight being blocked by the proposed development, Mr. Handy argued that sunlight blockage will not be an issue because:
 - a. Both houses are large and have already maximized their allotted footprint. This is not a case where the Appellant’s house is small and has, for example, a large garden that would be ruined by the Respondent’s larger house.

- b. The proposed development is not increasing the footprint of the Respondent's house. Sunlight falls on the Appellant's garage and back alley in any event.
- c. The proposed development has a sloped roof to provide maximum sunlight.

The Board heard from Mr. T. Illingworth, from the Sustainable Development Department, who answered questions asked by the Board:

9. Asked by the Board to confirm that no variances are required, and the issue is whether or not this Discretionary Use should be allowed, Mr. Illingworth advised the Board that since his initial review, he has learned of the illegal existing Secondary Suite. He advised the Board that he would not have approved the development had he been aware of the Suite.

Decision:

The appeal is **DENIED** and the decision of the Development Authority **CONFIRMED**.

Reasons for Decision:

The Board finds the following:

1. Garage Suites are a Discretionary Use in the RF1 Single Detached Residential Zone.
2. The proposed Garage Suite complies with all of the development regulations for Garage Suites in the *Edmonton Zoning Bylaw*. All that remains for the Board to decide is whether or not this Discretionary Use should be allowed.
3. It is the Board's finding that the Use is an acceptable Use for the subject Site.
4. The Appellant raised a concern that the proposed Garage Suite would negatively affect the sunlight penetration on their property. The Board finds that the proposed development will not significantly affect the sunlight falling on the Appellant's property.
5. The Board was presented with an aerial photograph of the subject Site and the Appellant's Site, which clearly shows the direction of the shadow cast by the current Garage. The proposed new Garage is on an identical footprint as the existing Garage, although it will be taller.
6. The photograph shows that the shadow cast by the Garage on the subject Site falls mostly on the subject Site, and if any portion of the shadow were to fall on the Appellant's Site, it would fall only on their Garage or the driveway between their Garage and back alley.
7. The Appellant also raised a concern that the proposed development would allow an inappropriate number of Households to be living on the subject Site. He expressed a concern about a Basement Suite being operated in the Principal Dwelling on the subject Site.

8. The Board notes there is no permit for a Secondary Suite in the Principal Dwelling on the subject Site. The Board also notes that condition four of the permit, a condition being upheld by the Board, clearly allows only one of a Secondary Suite, a Garage Suite, or a Garden Suite to exist.
9. Accordingly, granting this permit does not permit the subject Site to house a number of Households that exceeds that allowed by the *Edmonton Zoning Bylaw*.
10. The Appellant also raised a concern about parking. The Board notes that a parking variance has not been requested and that the proposed development complies with the parking regulations set out in the *Edmonton Zoning Bylaw*.
11. Accordingly, the Board finds that the development will not unduly interfere with the amenities of the neighbourhood or materially interfere with the use, enjoyment or value of neighbouring parcels of land.

Important Information for the Applicant/Appellant

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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*, R.S.A. 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.

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.

Mr. I. Wachowicz, Chairman
Subdivision and Development Appeal Board

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Date: January 21, 2016
Project Number: 181406484-003
File Number: SDAB-D-16-003

Notice of Decision

This appeal is dated December 7, 2015, from the decision of the Development Authority for permission to construct exterior alterations to an existing Single Detached House (a driveway extension, 2.25m X 6.06m), existing without permits.

The development permit was refused because a Driveway must lead to an overhead garage door or parking area, a parking area may not be located within the Front Yard, the Front Yard must be landscaped and because Monolithic concrete is not considered a form of landscaping.

The subject Site is on Plan 0120886 Blk 121 Lot 38, located at 277 - Ozerna Road NW, and falls within the RF1 Single Detached Residential Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26, and was heard by the Subdivision and Development Appeal Board on January 6, 2016.

Summary of Hearing:

1. At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.
2. Prior to the hearing the following information was provided to the Board, copies of which are on file:
 - Appeal form and MLS listing showing a photograph of the home and driveway;
 - Signatures of support from neighbours;
 - Canada Post Registered Mail delivery confirmation signed by “Ishak Mohammed” on December 3, 2015;
 - Minor Development Permit Application;
 - Refused Development Permit; and
 - Development Officer’s Written Submission.

The Board heard from Mr. N. Ali, Agent for Mr. M. Ishak, the Appellant, who provided the following submissions:

3. Mr. Ishak seeks a variance to allow a driveway extension for the home he has lived at for the past twelve years.
4. Mr. Ishak extended his driveway because he was injured at work and required the use of a wheelchair for a period of time.
5. He applied for a permit for the driveway extension; the permit was denied.
6. Mr. Ishak believes the driveway extension is characteristic of the neighbourhood because many of his neighbours have extended their driveways.

The Board heard from Ms. K. Heimdahl, from the Sustainable Development Department, who answered questions from the Board:

7. Ms. Heimdahl confirmed how the width of the driveway is calculated. That is, the Appellant is allowed to have a driveway that is 6.2 metres wide because it is calculated by multiplying the number of adjacent spaces in the garage (in this case, two spaces) by 3.1 metres.
8. Ms. Heimdahl confirmed that the existing driveway and driveway extension is approximately eight metres wide (over the allowable width by almost two metres).
9. The Board asked Ms. Heimdahl to comment on the test the Board is bound by in granting a variance, which is, whether the proposed development would unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. Ms. Heimdahl advised the Board that the driveway extension increases the number of cars that can be parked on the driveway and removes green space.
10. The issue of wheelchair access was not presented to Ms. Heimdahl, but she confirmed that information would not have changed her decision.

The Board heard from Mr. N. Ali, Agent for Mr. M. Ishak, the Appellant, who provided the following submissions in rebuttal:

11. Mr. Ishak reiterated that there are other nearby houses that have similar driveway extensions and he believes the City should be consistent in allowing or not allowing driveway extensions.

Decision:

The appeal is **ALLOWED IN PART**. The Driveway extension that is existing without permits is granted, but is reduced by 1.05 metres from the southern-most portion of the existing Driveway extension. For further clarity, the Driveway extension is granted, but not the portion

of the existing Driveway extension that is marked in yellow on the attached Real Property Report.

Reasons for Decision:

The Board finds the following:

1. A Driveway is Accessory to the Permitted Use of Single Detached Housing in the RF1 Zone.
2. However, the Driveway Extension, as applied for and considered in its total width, violates Section 54.1(4)(b), which provides that the Driveway must have “a maximum width that shall be calculated as the product of 3.1m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.”
3. The Board notes that this section excludes a walkway from the calculation of the maximum width of an allowable driveway.
4. Based upon the photographic evidence provided, the Board finds that the portion of the concrete in the Front Yard that is flush with the sidewalk that leads to the front door of the Principal Dwelling can be considered a walkway, and, therefore, is in accordance with Section 54.1(4)(b).
5. However, the Board notes from both the Real Property Report and the photographic evidence provided that the southern-most 1.05 metres of the concrete extends past the sidewalk that leads to the front door and is not a walkway.
6. The Board finds that the 1.05 metres strip of concrete cannot be considered “Landscaping” for the purposes of Section 6.1(55), which excludes monolithic concrete from the definition of Landscaping.
7. The Board finds that to allow the 1.05 metres portion of the concrete would unduly interfere with the amenities of the neighbourhood for the following reasons:
 - a) By extending into what would otherwise be a landscaped portion of the Front Yard, this portion of the concrete increases the monolithic concrete look of the streetscape; and
 - b) Because the 1.05 metres strip of concrete extends into the yard, it creates the impression of a parking lot in the front yard of the subject Site.
8. For these reasons, the Board declines to grant the variance as requested. The Board advises the Appellant that this decision does not authorize him to park on that portion of the concrete that consists of the walkway from the municipal sidewalk to the front door of the principal residence

Important Information for the Applicant/Appellant

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 - 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*, R.S.A. 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 5th Floor, 10250 – 101 Street, 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.

Mr. I. Wachowicz, Chairman
Subdivision and Development Appeal Board

Enclosure

Edmonton Subdivision and Development Appeal Board

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Date: January 21, 2016
Project Number: 173615976-002
File Number: SDAB-D-16-004

Notice of Decision

This appeal is dated December 7, 2015, from the decision of the Development Authority for permission to construct an Accessory structure in the Front Yard of an existing Single Detached House (a tree house, 4.1m x 2.4m @ 1.88m in Height), existing without permits.

The development permit was refused because of a deficiency in the minimum required distance between an Accessory Building and the Front Lot Line.

The subject Site is on Plan 1752KS Blk 11 Lot 24, located at 7107 - 80 Street NW, and falls within the RF1 Single Detached Residential Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26, and was heard on January 6, 2016.

Summary of Hearing:

1. At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.
2. Prior to the hearing the following information was provided to the Board, copies of which are on file:
 - Appellant's submissions;
 - Additional submissions from the Appellant, dated January 4, 2016;
 - Accessory Building Combo Permit;
 - Refused Development Permit;
 - Canada Post Registered Mail delivery confirmation signed by "M Wheller" on December 8, 2015;
 - Development Officer's Written Submissions;
 - Letter of Support E. and J. LeFebvre; and

- Letter of Support from L. Garneau

The Board heard from Mr. M. Wheller and Ms. B. Marie, the Appellants, who provided the following submissions:

3. The Appellants built a treehouse in their Front Yard for their daughter who has a disability.
4. They did not understand that the treehouse constituted an Accessory Structure for the purposes of the *Edmonton Zoning Bylaw*. When they realized they needed to obtain a permit for the structure, they applied for one, but were denied because Accessory Structures are not allowed in Front Yards.
5. The Appellants consulted extensively with their neighbours, many of whom assisted with the construction and whose children play on the treehouse.
6. They chose to build the treehouse in the Front Yard, rather than the Rear Yard, because of two safety concerns: the first had to do with overhead wires in the Rear Yard, and the second with difficult supervision owing to a poor line of sight from the house into the Rear Yard.
7. The total height of the treehouse is nine feet and nine inches.
8. Asked by the Board to comment on the fact that the structure is in the Front Yard and the Board must balance the needs to the individual with the needs of the community as a whole, the Appellants advised the Board that they have the support of the neighbour directly across the street. This neighbour believes he is most impacted by the treehouse because he lives directly across from it. He believes the fact that children from the neighbourhood are able to play on it adds, not detracts, from the neighbourhood. In addition, the neighbour directly next to the Appellants supports their appeal, as do other neighbours. The one concern expressed by one neighbour was the assurance that the integrity and aesthetic of the structure would be up-kept.
9. The Appellants have maintained the treehouse since its erection and intend only to keep it for a few more years when their daughter will grow out of its use.

The Board heard from Ms. F. Hamilton, who appeared on behalf of Ms. F. Hetherington, from the Sustainable Development Department, who answered questions from the Board:

10. Asked by the Board whether a time limit (similar to the time limit prescribed for some Signs in the *Edmonton Zoning Bylaw*) could be imposed, Ms. Hamilton agreed that if the Board were to allow the appeal, imposing a time limit is a good idea.
11. Asked by the Board to comment on the ramifications of the structure being in the Front Yard Ms. Hamilton advised the Board that the City does not want to encourage Front

Yard structures because it is a slippery slope because the City does not want to allow sheds, for example, in Front Yards.

The Board heard from Mr. M. Wheller and Ms. B. Marie, the Appellants, who provided the following submissions in rebuttal:

12. The Appellants argued that there is a distinction between a treehouse and a shed, and reiterated that building the treehouse provided an opportunity for the community to engage in building and using it.
13. The Appellants canvassed their neighbours for support for their appeal over the Christmas holiday and are confident they could have received additional support but for the holiday.

Decision:

This appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The following variance is granted: the requirement in Section 50.3(4)(a) that requires an Accessory Building or Structure to be located not less than 18.0 metres from the Front Lot Line, unless it complies with the Setback requirements for a Principal Building. The development is **GRANTED** subject to the following condition: the development permit shall expire on January 21, 2020.

Reasons for Decision:

The Board finds the following:

1. This is an application for an Accessory Structure, namely a treehouse, that is located within 18 metres from the Front Lot Line. It is Accessory to Single Detached Housing, which is a Permitted Use in the RF1 Single Detached Residential Zone.
2. The issue before the Board is that Section 50.3(4)(a) provides that “an Accessory Building or Structure shall be located not less than 18.0 metres from the Front Lot Line, unless it complies with the Setback requirements for a Principal Building.”
3. The Board grants a variance, waiving the requirements of Section 50.3(4)(a) to allow this development. The variance is granted for the following reasons:
 - a. The proposed development has wide support amongst neighbours inside the 60 metres notification zone. Owners of 15 of the 28 lots located within 60 metres of the development have provided written support.. Only one letter of opposition was received;
 - b. The subject Site is on a reverse pie lot, which limits the ability to place large Accessory Structures in the backyard. As a result, there is an element of hardship

to this lot with respect to placing the Accessory Structure in the backyard of the subject Site; and

- c. Section 15.2 of the *Edmonton Zoning Bylaw* allows a condition to be placed on the development permit to limit the duration of the validity of the permit if the structure applied for is intended to be temporary. The evidence before the Board is that the structure is only intended to be used for approximately four years. As such, granting this permit will not permanently affect the streetscape, given that the structure will be removed in early 2020.
4. The Board heard evidence from the Appellants that the structure was widely used by children in the neighbourhood indicating that the structure may be providing a temporary amenity for the neighbourhood.
5. As such, the Board finds that the proposed development 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.

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 - 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*, R.S.A. 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 5th Floor, 10250 – 101 Street, Edmonton.

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Mr. I. Wachowicz, Chairman
Subdivision and Development Appeal Board

c.c. City of Edmonton, Sustainable Development, Attn: Ms. Hetherington

Edmonton Subdivision and Development Appeal Board

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Date: January 21, 2016
Project Number: 083588247-005
File Number: SDAB-D-16-007

Notice of Decision

This appeal is dated December 7, 2015, from the decision of the Development Authority for permission to operate an Automotive/Minor Recreation Vehicle Sales/Rentals Use.

The development permit was refused by the Development Authority because:

- a) the Proposed Development does not meet the General Purpose of the Alberta Avenue Pedestrian Commercial Shopping Street Overlay;
- b) is not compatible with existing adjacent and surrounding pedestrian oriented uses;
- c) parking spaces and the outdoor display area are located within the required Setback;
- d) the parking and display areas are not hardsurfaced; and
- e) landscaping or fencing has not been provided to screen the proposed development from the adjacent residential zone.

The subject Site is on Plan RN50 Blk 104 Lot 18, located at 8303 - 118 Avenue NW and Plan RN50 Blk 104 Lots 16-17, located at 8303 - 118 Avenue NW, and falls within the CB2 General Business Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26, and was heard on January 6, 2016.

Summary of Hearing:

1. At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.
2. Prior to the hearing the following information was provided to the Board, copies of which are on file:
 - Appellant's appeal form and email stating reasons for the appeal;
 - Canada Post Registered Mail delivery confirmation dated November 26, 2015;
 - Development Officer written submission ; and
 - Refused Development Permit.

The Board heard from Mr. J. Chehimi, the Appellant, who provided the following submissions:

1. Mr. Chehimi started his business in 2007, for which he was granted a two year development permit.
2. There are many car dealerships in the area.
3. He is willing to take care of most of the issues the City has with respect to parking, storage, landscaping, but they cannot push the fence back three metres to accommodate the Setback requirements because it would not leave them with enough room to operate and they do not own the building.
4. Asked by the Board to comment about the nature of the Alberta Avenue Pedestrian Commercial Shopping Street Overlay, and whether he has seen any major changes in the area in the past eight years, the Appellant advised the Board that other than some changes to street lights and sidewalks, there have been no major developments.
5. Asked by the Board if there have been issues with parking or noise, the Appellant advised the Board that there have not been any issues.

The Board heard from Mr. C. Chan, from the Sustainable Development Department, who answered questions from the Board:

6. Asked if other car dealerships have ongoing permits, as opposed to temporary permits, Mr. Chan agreed that they do and he did not know why this particular permit was only a two year permit.
7. Asked if there had been complaints about the Appellant's business, Mr. Chan advised there were no complaints, but that the permit was expired.

The Board heard from Mr. J. Chehimi, the Appellant, who provided the following submissions in rebuttal:

8. Mr. Chehimi reiterated that many other similar businesses in the immediate area have permits. He has operated his business since 2008, has been good to the area, and wants to continue to operate his business.
9. Asked whether he will comply with the Setback and fence conditions, Mr. Chehimi agreed that he could comply with the fence requirements, but that the Setback will not be possible because his business is operating with 27 metres of space and pulling it back three metres will make the area too small. He advised the Board that other dealerships were granted variances because of the size of their lots.

Decision:

The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The Development is **GRANTED**, subject to the following condition: the development must abide by all of the development regulations of the CB2 General Business Zone, and, in particular, without limiting the generality of the foregoing, Sections 340.5(1)(a) and 54.6(1) of the *Edmonton Zoning Bylaw*.

Reasons for Decision:

The Board finds the following:

1. Automotive/Minor Recreational Vehicle Sales/Rentals is a Discretionary Use within the CB2 General Business Zone.
2. The Development Authority declined to grant this Discretionary Use. The reason cited by the Development Authority is that Section 821.1 of the Alberta Avenue Pedestrian Commercial Shopping Street Overlay states that the general purpose is to “facilitate development of a pedestrian-oriented character to commercial and mixed use developments along 118 Avenue, between 76 and 105 Streets, in close proximity to residential areas, in accordance with the Alberta Avenue Initiative Revitalization Strategy and Plans in effect for this area of the City.”
3. The Board is not satisfied that automotive sales are necessarily contrary to a street that is pedestrian oriented in character. This is particularly so if the developer complies with Sections 340.4(5) and 340.5(1)(a), both regulations in the CB2 General Business Zone.
4. Further, the Board notes that evidence was provided that several businesses in the automotive sales industry operate along the Parkdale portion of 118 Avenue. For those reasons, the Board will allow this Use on the subject Site.
5. The Board declines to grant any variances to Section 340.4(5). This Section states that “No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or Light Rail Transit lines in accordance with the provisions of subsection 55.4 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service or display area or both, and abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.”
6. The Board finds that to allow parking and outdoor display areas within the required Setback significantly detracts from the pedestrian oriented appearance of the Site. This would be a further problem for a subject Site that is not only zoned CB2 General Business Zone, but is also within the Alberta Avenue Pedestrian Commercial Shopping Street Overlay.

7. As the purpose of the Alberta Avenue Pedestrian Commercial Shopping Street Overlay is to facilitate the development of a pedestrian oriented character along 118 Avenue, granting a variance to waive the requirements of Section 340(4)(5) would be directly contrary to the General Purpose of the Overlay.
8. Hardsurfacing the parking and displayed areas in accordance with section 54.6(1) will enhance the streetscape and further the pedestrian oriented character of the development as required by 821.1 of the Overlay.
9. For these reasons, the Board will allow the development, but will not grant variances as requested.

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 5th Floor, 10250 – 101 Street, Edmonton.
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*, R.S.A. 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 5th Floor, 10250 – 101 Street, 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.

Mr. I. Wachowicz, Chairman
Subdivision and Development Appeal Board