



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: January 26, 2018
Project Number: 261369748-001
File Number: SDAB-D-18-005

Notice of Decision

- [1] On January 11, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on December 6, 2017. The appeal concerned the decision of the Development Authority, issued on November 21, 2017, to refuse the following development:

Construct a Semi-detached House with a fireplace, uncovered deck, veranda

- [2] The subject property is on Plan 3635HW Blk 5 Lot 16, located at 10422 - 155 Street NW, within the RF2 Low Density Infill 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:
- Copies of the refused permit and permit application with attachments and plans;
 - Development Officer’s written submissions dated January 9, 2018;
 - Memorandum from Subdivision Planning; and
 - Canada Post Registered Mail receipt.

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, Tech View Homes Ltd. Mr. A. Raju, representing Tech View Homes Ltd.*

- [7] The Appellant was represented by Mr. A. Raju.
- [8] There are ten duplexes located on this block from 104 Avenue to 105 Avenue on 155 Street. The subject site backs onto a large apartment building.
- [9] Mr. Raju did not understand why the development permit to construct a Semi-detached House was refused. His other option would be to subdivide the lot and build two Single Detached Houses, which in his opinion would have the same impact. Furthermore, a Single Detached House on this lot would be out of character for this block because it is mainly comprised of duplex housing.
- [10] He acknowledged that the Apartment House located behind the subject site is zoned RA 7 Apartment Housing. However, it was his opinion that the addition of two additional Dwellings will have little if no impact. Although the purpose of the RF2 Zone is to preserve Single Detached Housing, the composition of this block is primarily Semi-detached Housing. The proposal is for a two Storey structure which is characteristic of the houses on neighbouring lots.
- [11] There are seven duplexes on the blockface and three located across the street on the same block for a total of ten on this block.

- ii) *Position of the Development Authority:*

- [12] The Development Authority provided written submissions and did not attend the hearing.

Decision

- [13] 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. This Development Permit authorizes the development of a Semi-Detached House with front verandas, fireplaces and rear uncovered decks (3.17 m by 3.05 m), and to demolish the existing Single Detached House and detached garage.
2. **WITHIN 14 DAYS OF APPROVAL**, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2).
3. Frosted or opaque glass treatment shall be used on all windows on the south elevations to minimize overlook into adjacent properties (Section 814.3.4).

4. The maximum Height shall not exceed 8.9 m, in accordance with Section 52 (Section 814.3.5).
5. The Basement elevation shall be no more than 1.5 m above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey (Section 814.3.4).
6. No vehicular access onto 155 Street NW shall be permitted (Section 814.3.17).
7. Private Outdoor Amenity Area shall be provided on Site in accordance with Section 47 of this Bylaw.
8. A minimum of 2 off-street parking spaces shall be used for the purpose of accommodating the vehicles of residents in connection with the Semi-Detached House (Reference Section 54.1.1.c, 54.2.1.a).
9. Landscaping shall be provided on a Site within 18 months of the occupancy of the Semi-Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Semi-Detached House (Reference Section 55.2.1).
10. For each Dwelling, 1 deciduous tree with a minimum Caliper of 50 mm, 1 coniferous tree with a minimum Height of 2.5 m and 6 shrubs shall be provided on the property. Deciduous shrubs shall have a minimum Height of 300 mm and coniferous shrubs shall have a minimum spread of 450 mm (Reference Section 55.2.1).
11. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or artificial turf, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens (Reference Section 55.2.1).
12. The area covered by Impermeable Material shall not exceed 70% of the total Lot area (Section 55.10.1).

TRANSPORTATION CONDITIONS:

13. The existing 4 m residential access to 155 Street located approximately 1.4 m from the south property line must be removed from the curb to the sidewalk and the curb & gutter constructed and boulevard restored to grass as shown on the Enclosure. The owner/applicant must obtain a permit to remove the access, available from the Development and Zoning Services Branch, 2nd Floor, 10111-104 Avenue.
14. The existing driveway and retaining wall must be removed from the back of the sidewalk to the property line and the boulevard restored to grass as shown on the Enclosure.
15. The existing boulevard tree as shown on the Enclosure must be protected during construction. A minimum clearance of 3 m must be maintained between the required residential fill in and the trunk of the tree as shown on the Enclosure. The owner/applicant must contact Bonnie Fermanuik of City Operations, Parks and Roadways (780-496-4960) prior to construction. The costs for any required hoarding and/or root-cutting shall be borne by the owner/applicant.

16. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
17. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
 - The start/finish date of project;
 - Accommodation of pedestrians and vehicles during construction;
 - Confirmation of lay down area within legal road right of way if required;
 - And to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: http://www.edmonton.ca/transportation/on_your_streets/on-street-construction-maintenance-permit.aspx

18. Any alley, sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. The alley, sidewalks and boulevard will be inspected by Development Inspections prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

NOTES:

- A. Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals.
- B. Any future deck enclosure or cover requires a separate development and building permit approval.
- C. The applicant is advised that there may be complications in obtaining a Development Permit for a future covered or uncovered deck because of excess in Site Coverage.
- D. Any future basement development will require development and building permit approvals. Secondary Suite development is not allowed in Semi-Detached Housing.

- E. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.
- F. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

TRANSPORATION ADVISEMENTS:

- G. Access from the site to the adjacent north-south is acceptable. A crossing permit is not required for alley access.

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

The requirements of Section 120.4(4) are waived to allow a Semi-detached House at this location.

Reasons for Decision

[15] Semi-detached Housing is a Permitted Use in the RF2 Low Density Infill Zone.

[16] Section 120.4(4) of the *Edmonton Zoning Bylaw* states:

Semi-detached Housing shall be located:

- a. on Corner Sites;
- b. on Sites abutting an arterial or service road;
- c. where both Side Lot Lines abut existing Duplex or Semi-detached Housing; or
- d. where a minimum of one Side Lot Line:
 - i. abuts a Site where Row Housing, Apartment Housing, or a commercial Use is a Permitted Use; or
 - ii. is not separated from a Site where Row Housing, Apartment Housing or a commercial Use is a Permitted Use by a public roadway, including a Lane, more than 10.0 m wide.

- [17] The proposed Semi-detached House does not comply with the locational requirements under section 120.4(4) because the subject site is an interior lot with only one Side Lot Line abutting an existing Duplex or Semi-detached House. The Development Officer refused the application. He noted that the purpose of the RF2 Low Density Infill Zone is to retain existing Single Detached Housing. He also noted that the locational criteria for Semi-Detached Housing were implemented to minimize the impact of increased traffic and parking demands on the interiors of neighbourhoods.
- [18] However, there are seven existing Semi-detached Houses on this blockface and three on the opposite side of the street on the same block, many of which do not comply with the locational requirements for Semi-detached Housing. The Board therefore finds that the character of this particular part of the neighbourhood has already shifted from Single Detached Housing to Semi-detached Housing. Allowing an additional Semi-detached House will not have any material impact on the character of this part of the neighbourhood.
- [19] Furthermore, the alternative development on this Site would be the construction of two Single Detached Houses on a subdivided lot. Each Single Detached House could have a Secondary Suite in the basement as a permitted use, which would result in four Dwellings on this Site rather than the proposed two Dwellings. This would result in an even greater impact on traffic and parking in the middle of this neighbourhood.
- [20] The proposed development also complies with all of the other development regulations, including Site Coverage, Parking, Setbacks, Amenity Space and the regulations in the Mature Neighbourhood Overlay.
- [21] The Board notes that there were no letters of opposition received and that no one appeared at the hearing to voice objections to the proposed development.
- [22] For all of the above reasons, it is the view of the Board, 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.

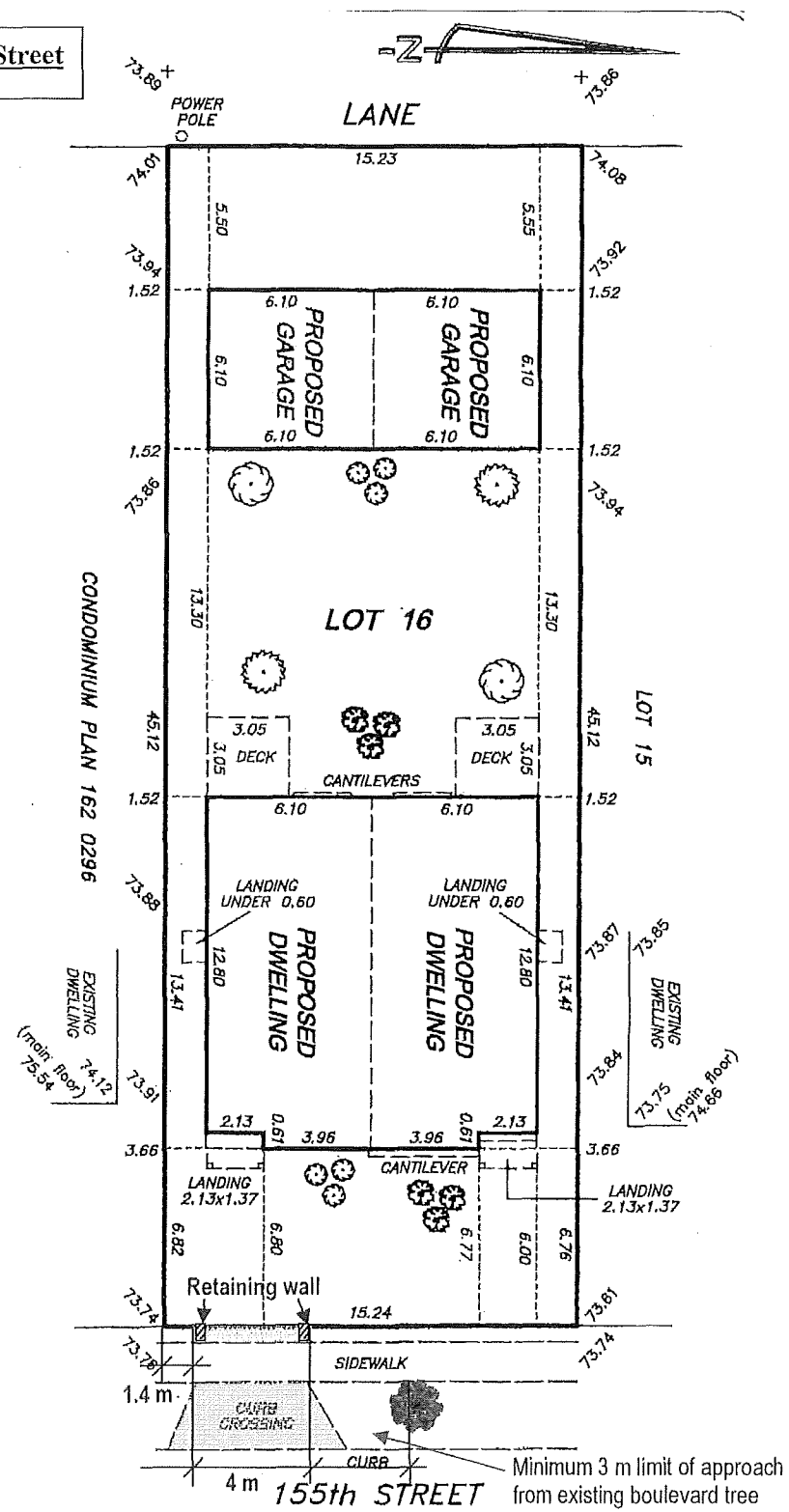


Mr. Mark Young, Presiding Officer
Subdivision and Development Appeal Board




Board Members in Attendance: Ms. L. Gibson; Mr. R. Handa, Mr. J. Kindrake

Enclosure

10422 155 Street



LEGEND:

-  EXISTING 6.5 m RESIDENTIAL ACCESS TO 155 STREET LOCATED APPROXIMATELY 1.4 m FROM THE SOUTH PROPERTY LINE MUST BE REMOVED FROM THE CURB TO THE SIDEWALK AND THE CURB & GUTTER CONSTRUCTED AND BOULEVARD RESTORED TO GRASS
-  REMOVE EXISTING DRIVEWAY AND RETAINING WALL
-  EXISTING BOULEVARD TREE

ENCLOSURE

FILE: DA 261369748-001
 DATE: November 7, 2017

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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Date: January 26, 2018
Project Number: 267212994-001
File Number: SDAB-D-18-006

Notice of Decision

- [1] On January 11, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on December 12, 2017. The appeal concerned the decision of the Development Authority, issued on November 29, 2017, to approve the following development:

Construct a Single Detached House with a Secondary Suite in the basement, covered deck

- [2] The subject property is on Plan 1523538 Unit 3, located at 3, 1768 - Bowness Wynd SW, within the RF1 Single Detached Residential Zone.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copies of the approved permit and permit application with attachments and plans;
 - Development Officer’s written submissions dated December 13, 2017; and
 - Appellant’s written submissions.

Preliminary Matters

- [4] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.
- [5] The hearing was scheduled to start at 10:30 a.m. but did not commence until 10:50 a.m. The Presiding Officer explained that an email request to postpone the hearing because of the cold weather had been received from the Appellant. The Respondent was contacted by telephone because he did not appear. The Respondent advised the Board that, due to the cold weather, his car could not start and he would not be able to attend the hearing. He opposed the postponement request and asked the Board to proceed with the hearing.

Decision on Adjournment Request:

[6] The request to re-schedule the hearing was **DENIED**. The Board noted that the Appellant was the only individual to oppose the issuing of the development permit for this Permitted Use requiring a single variance to allow a slightly wider Driveway. The Board was of the view that the balance of convenience in this case favoured proceeding with the appeal in a timely fashion.

Summary of Hearing*i) Position of the Appellant, D. Johnson and R. Johnson*

[7] The Board reviewed the Appellant's written reasons for appeal, which included concerns regarding the impact of an additional Dwelling on the very narrow entrance to this gated community, limited street parking, problems with emergency vehicles accessing the neighbourhood and safety concerns arising from increased traffic.

ii) Position of the Development Authority

[8] The Development Authority provided written submissions and did not attend the hearing.

iii) Position of the Respondent, Modish Homes

[9] The Respondent was unable to attend the hearing.

Decision

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

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

The maximum allowable Driveway Width, pursuant to Section 54.1(4) has been varied to allow an excess of 0.52 metres, thereby allowing a Driveway width of 7.92 metres.

Reasons for Decision

[12] Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone. Secondary Suites within Single Detached Housing is also a Permitted Use in this Zone.

- [13] With the exception of the maximum allowable Driveway width pursuant to Section 54.1.4 of the *Edmonton Zoning Bylaw*, the proposed development complies with all of the development regulations.
- [14] Section 685(3) of the *Municipal Government Act* states that no appeal lies in respect of the issuance of a development permit for a Permitted Use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.
- [15] In this particular case, the Appellant has not provided any basis for the Board to conclude that the Development Officer misinterpreted the Bylaw provisions. The concerns provided relate to the impact that the proposed development may have on parking in the neighbourhood, how emergency response times may be hampered by the narrow entrance to this gated community and that the proposed Secondary Suite may result in an increased number of vehicles in the neighbourhood. The Appellant did not raise any concerns regarding the only variance that was granted to allow an excess in the maximum allowable width of the Driveway.
- [16] The Board finds that increasing the width of the Driveway will allow additional on-site parking spaces, thereby mitigating the Appellant's concerns regarding the impact of the proposed development on parking in the area.
- [17] Section 54.1(4)(c) states that:
- The maximum width of the Driveway shall be calculated as the product of 3.7 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or parking Area, or the width of the Garage or Parking Area, whichever is the lesser.
- [18] In this case, the number of parking spaces within the Garage dictates the maximum allowable width of the Driveway. The proposed Garage can accommodate two regular sized vehicles, which means that the maximum width of the Driveway allowed by the regulation is 7.4 metres. However, the Garage is 7.92 metres wide. Based on the evidence provided by the Development Officer, the Garage can accommodate three smaller vehicles. Allowing a variance to the maximum allowable Driveway width will allow this oversized Garage to be used to park three smaller vehicles within it. Further, the wider Driveway will be the same width as the Garage and will not appear to be out of place or excessive.
- [19] The Board notes that, aside from the Appellant, there was no other opposition to the proposed development.

[20] For all of the above reasons, it is the view of the Board 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.

A handwritten signature in blue ink, appearing to read "Mark Young", is centered on the page.

Mr. Mark Young, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance: Ms. L. Gibson; Mr. R. Handa, Mr. J. Kindrake

Important Information for the Applicant/Appellant

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 - 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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Date: January 26, 2018
Project Number: 262304342-001
File Number: SDAB-D-18-007

Notice of Decision

- [1] On January 11, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on December 13, 2017. The appeal concerned the decision of the Development Authority, issued on November 30, 2017, to refuse the following development:

Convert the existing Single Detached House to a Child Care Services Use (30 Children) and to construct interior and exterior alterations (develop outdoor play space)

- [2] The subject property is on Plan 0125035 Blk 30 Lot 40, located at 2210 - 37A Avenue NW, within the RSL Residential Small Lot Zone. The Meadows Area Structure Plan and Wild Rose Neighbourhood Structure Plan apply to the subject property.

- [3] The following documents were received prior to the hearing and form part of the record:

- Copies of the refused permit, permit application with attachments and plans;
- Canada Post Registered Mail Receipt;
- Development Officer’s written submissions and correspondence with the Appellant;
- Previous decision of the Board, file reference SDAB-D-16-276;
- Four online responses from property owners within the 60 metre notification area;
- Emails and correspondence in opposition to the development; and
- Notification map.

Preliminary Matters

- [4] At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Chairman 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, Kumar Architecture, represented by Mr. D. Enaohwo

[7] They were advised during preliminary discussions with the Development Officer that the scope of work was outside their jurisdiction and could not be approved but that the refusal could be appealed.

[8] The problem arose because this application is for a Change in Use for an existing residential dwelling.

[9] Discussions occurred with the Development Officer and a representative from Transportation Services before the development permit application was submitted. They were advised that the proposed tandem parking spaces could be accepted given the existing parking situation.

[10] Transportation Services advised that they were not aware of any complaints filed regarding a shortage of parking in this neighbourhood and based on that, the development permit application could be considered.

[11] Mr. Mangat purchased the property over one year ago strictly for the purpose of converting the Dwelling to a Child Care Service. He and his wife are currently Day Care Supervisors, the highest level of accreditation available in this field.

[12] It has been their experience from operating other Child Care Services that a commercial area is problematic because it results in additional travel time for parents and is not the best environment for the children. Operating a Child Care Service in a residential neighbourhood is most desirable because it provides the option for parents and children to walk to the facility and the children are familiar and comfortable with the environment.

[13] Less parking will be required because of the residential location of the Child Care Service which will reduce the parking required. The two tandem parking spaces on the driveway and two on street parking spaces to the east of the building proposed will provide short term parking for drop off and pick up.

[14] The walls of the house will be reinforced during the renovation process in an attempt to reduce the amount of noise.

[15] Mr. Enaohwo provided the following information in response to questions from the Board:

a) Parking Services and the Urban Form and Corporate Strategic Development Department verbally advised that they did not object to the proposed tandem parking

spaces but explained that the proposed development would have to go through the appeal process.

- b) The verbal discussions were held with Peter Sontrop and Samantha Buccino.
- c) Several of the neighbours provided support for the proposed Child Care Service at the previous Subdivision and Development Appeal Board hearing but they were not contacted to provide support for this appeal.
- d) He acknowledged that 35 percent of the neighbours are opposed to the development but he indicated that the operator of the proposed Child Care Service is willing to work with the neighbours to address their concerns.
- e) The previous application was for 44 children. This application has been reduced to 30 children in order to reduce the amount of parking required.
- f) No one will be living in the house. There will be four staff members. The owner of the Child Care Service and his wife will be travelling to the site together and will require one parking space. He acknowledged that two additional staff parking spaces may be required. Two parking spaces are available inside the garage, one of which will be used by the owner and his wife. One other staff can park in the garage and one will park on the street to the east of the building. Staff members will be arriving and leaving the site at the same time.
- g) It is their hope that residents who live within walking distance will be using the Child Care Service which will reduce the amount of parking required.
- h) It was his estimation that a drop off or pick up would take between 10 to 12 minutes, between 7:00 a.m. and 8:00 p.m. One parking space on the driveway will be used for pick up and drop off.
- i) The children age 4 ½ to 6 will be arriving at the facility after school.

ii) Position of Affected Property Owners in Opposition to the Appellant:

Ms. C. Hill:

- [16] She resides within 60 metres of the subject site and attended the previous appeal hearing.
- [17] Her major concern is the lack of available parking. There is no parking available in front of this property and the driveway is a standard size that can only accommodate two vehicles.
- [18] There is no parking in front of this dwelling to provide drop off and pick up spaces. There are a limited number of parking spaces on the east side of 22 Street because of the

limited space between the driveways. If the daycare patrons park on the south side of 37A Avenue, children will have to cross the street at an unmarked crossing at a T-intersection. This crossing is extremely dangerous given the offset intersection between 22A Street and 22 Street and the curve on the hill on 37A Avenue. 37A Avenue is especially busy in the morning because of the junior high school traffic.

- [19] The additional traffic generated by the Child Care Service will cause a significant increase in daily traffic in this area.
- [20] There are three strip malls in this neighbourhood and several new daycares have recently opened in these commercial areas which in her opinion is a more suitable location than the subject site.
- [21] The Appellant has not consulted with or provided any information regarding the proposed development to the neighbours. The neighbours have submitted their concerns based on the information that they had for the previous development permit application.
- [22] All of the neighbours in her cul de sac are affected by this development even though not all of them reside within the 60-metre notification radius.

Mr. & Ms. Roccia:

- [23] Ms. Roccia reiterated the concerns of Ms. Hill regarding the lack of parking available for drop off and pick up as well as staff parking.
- [24] This area has a high volume of traffic because of the junior high school that is located approximately 120 metres away. Six hundred students attend the school, which generates a high volume of traffic because of parents dropping students off, ETS and yellow school buses.
- [25] There is no elementary school in this area and she questioned the need for a Child Care Service. It was her opinion that this location is very unsafe for a Child Care Service.
- [26] Their quality of life will be disrupted by this business venture because they will no longer be able to sit out on their rear deck because of the noise generated by the Child Care Service.
- [27] It was her opinion that the proposed development will decrease the value of their property although she did not consult with a real estate professional. If the Child Care Service is approved, they will be forced to sell their home.

Mr. C. Lal:

- [28] Mr. Lal advised that he was appearing on behalf of his daughter who resides at 2212 – 37A Avenue, next door to the subject site.

- [29] Three windows in his daughter's house face the subject site and she will be impacted by the proposed outdoor play area which, in his opinion, is not large enough to accommodate the proposed number of children.
- [30] The proposed parking and drop off and pick up spaces are inadequate and pose a safety concern.
- [31] The proposed development will negatively impact the value of his daughter's property.

Ms. Apuhn:

- [32] She and her neighbours are of the opinion that this site is not appropriate for a Child Care Service because of the already congested traffic and parking in the neighbourhood.

iii) Position of the Development Authority:

- [33] The Development Authority provided written submissions and did not attend the hearing.

iv) Rebuttal of the Appellant:

- [34] None of the neighbours who appeared in opposition have young children who would benefit from the development of the proposed Child Care Service. However, many of the neighbours who will potentially use the Child Care Service support the proposed development.
- [35] The concerns of the neighbours regarding excess noise will be addressed by the reinforcement of the walls during the renovation process. The noise generated from children using the outdoor play area will not be a concern because the older children will be at school during the day and the children will be inside more than outside because of the climate.
- [36] The Development Officer advised them that the proposed outdoor play area exceeds the minimum required size.
- [37] The proposed parking is acceptable to Transportation and Parking Services but they do not have the authority to approve it.
- [38] It was his opinion that the approval of the proposed Child Care Service will not reduce the value of neighbouring properties. In fact, the Child Care Service may increase property values by attracting families into the neighbourhood who want to live close to the facility. However, he could not provide a professional opinion to support this contention.

- [39] The property owner purchased this house over one year ago and has been paying the mortgage because of his passion to develop a Child Care Service. The house is not being used as a rental property and he has continued his attempts to obtain a development permit.
- [40] It was his opinion that the value of property should not take precedence over the development of the future generation.
- [41] He reiterated his opinion that the operation of a Child Care Service in a residential area is most desirable for parents and children because of the convenience as well as increased safety.

Decision

- [42] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **REFUSED**.

Reasons for Decision

- [43] Pursuant to Section 115.3(1) of the *Edmonton Zoning Bylaw*, a Child Care Service is a Discretionary Use in the RSL Residential Small Lot Zone. The proposed development also requires variances for the parking and loading requirements set out in the *Edmonton Zoning Bylaw*.
- [44] Therefore, the Board must determine the appropriateness of the proposed Discretionary Use at this location and whether or not the required variances should be granted.
- [45] The Board acknowledges that a Child Care Service is an important Use in a residential area based on the decision of City Council to include Child Care Services as a Discretionary Use in the RSL Residential Small Lot Zone. However, the Board is required to review the details of the proposed development and the variances required to ensure that it will be compatible with the surrounding, existing Uses.
- [46] The Board finds that the proposed Discretionary Use is not compatible for the following reasons:
- a) A Child Care Service for 30 children is a large operation, much larger than a day home, many of which are located in residential neighbourhoods.
 - b) The lot is small and is bounded on the south side by 37A Avenue, which is a busy collector roadway and transit route requiring a parking ban.

- c) The existing Single Detached House will be converted exclusively to a Child Care Service. The house will not have a residential component and is essentially a commercial operation which is less compatible with the residential nature of the RSL Residential Small Lot Zone.
- d) The subject site is located at the edge of the RSL Zone with an RF4 Semi-detached Residential Zone located immediately across 22 Street. There are Semi-detached Houses with wide driveways on the east side of 22 Street, which increases density and places more demands on street parking.
- e) Finally, the proposed Discretionary Use requires variances to both the parking and loading regulations, which suggests that the proposed development is more intense than what is contemplated in the *Edmonton Zoning Bylaw*.

[47] The Board has not granted the required variances for the following reasons:

- a) There is Semi-detached Housing located on the east side of 22 Street and residential small lots developed on the west side. Because of this, 22 Street is at risk of being overrun with on-street parking demands and granting the required variance in on-site parking will only exacerbate this situation.
- b) Two of the proposed parking or loading spaces identified on the submitted plans are located on the Driveway. This would require parents dropping off and picking up their children to back their vehicles out onto 37A Avenue. As noted, 37A Avenue is a busy collector roadway and bus route and the addition of vehicles continuously exiting this driveway onto the roadway will only add to the existing traffic congestion and create a safety concern.
- c) There is a junior high school located one block west of the subject site. Therefore, during the busiest drop off times at the proposed Child Care Service, parents will be dropping students off at the junior high school. This means that the drop off times for the proposed Child Care Service will coincide with the highest traffic volume on 37A Avenue.
- d) Granting the required variances will result in an unacceptable amount of traffic congestion and create on-street parking demands that would in turn materially affect the use and enjoyment of neighbouring properties.

[48] The Board finds that the proposed development with the required variances is not reasonably compatible with the neighbourhood and is of the opinion that granting the required variances at this location will unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use and enjoyment of neighbouring parcels of land. Therefore the appeal is denied.

Mr. Ian Wachowicz, Chairman
Subdivision and Development Appeal Board

Board Members in Attendance: Mr. M. Young; Ms. L. Gibson; Mr. R. Handa, Mr. J. Kindrake

Important Information for the Applicant/Appellant

1. 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.
2. 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.