



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: January 27, 2017
Project Number: 232482794-001
File Number: SDAB-D-17-008

Notice of Decision

[1] On January 12, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on December 1, 2016. The appeal concerned the decision of the Development Authority, issued on November 24, 2016, to refuse the following development:

Install (1) Freestanding On-premises Sign, and remove (1) existing Freestanding On-premises Sign (ST. PAUL'S UNITED CHURCH)

[2] The subject property is on Plan 1367HW Blk 17 Lot 10, located at 11526 - 76 Avenue NW, within the RA7 Low Rise Apartment Zone. The Medium Scale Residential Infill Overlay and McKernan-Belgravia Station Area Redevelopment Plan apply to the subject property.

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

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer's written submissions;
- The Appellant's written submissions; and
- Letter of Support from Belgravia Community League

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, Ms. L. Turner, representing St. Paul's United Church*

- [7] Ms. Turner, the current Chair of the *Landscape and Visual Identity Committee* of St. Paul's was accompanied by Mr. R. Smythe who is the Past Chair. They made a joint presentation.
- [8] Much thought and effort went into the entire landscaping design by both professional and amateur landscape artists and the proposed sign is a central component of this design. The new landscape design is intended to identify the church as an integral part of the Belgravia Community.
- [9] It has been 60 years since the landscaping was last done. The new landscaping design will complement the extensive redevelopment currently taking place within the neighbourhood. They are passionate about the sign and don't want to reduce the height. They feel the required 60 centimetres variance is minimal.
- [10] The position of the proposed sign on the property poses no safety concerns. It does not interfere with the sidewalk and has no flashing lights that would create a distraction to passing motorists. The proposed sign does not impede any lines of sight.
- [11] When the Landscaping committee was created they purposely chose a member of the community to be on the committee for good liaison.
- [12] Extensive time was spent canvassing the neighbours and the community league. They received many positive comments as well as a letter of support from the Community League. No negative comments were received from any of the neighbours.
- [13] The submitted documents confirm the efforts made to engage directly with residents in the vicinity. All neighbouring homes as well as the condo next door were visited and the owners of the apartment buildings across the street were also contacted. Neighbours were shown pictures of the proposed sign and were advised a mock-up of the proposed sign had been erected for viewing. They were also made aware of the 0.6 metre height variance required. Every effort was made to ensure that the proposed design was not offensive to anyone.
- [14] The Church has been an embedded part of the Belgravia community for the past 60 years and was built at the same time as the school. They have shared facilities many times during that period.
- [15] At the time the sign design was created they realized a height variance would be required for the central portion but they were not aware that the Development Officer did not have the authority to grant this variance. They were advised the only way to proceed other than reducing the height would be to have the Application rejected and then go through an appeal hearing.

[16] No lighting is planned for the sign at the current time as the entire lighting plan for the church is being re-worked.

ii) Position of the Development Officer, Ms. B. Noorman

[17] In response to questions Ms. Noorman confirmed she did not have the authority to vary the height of the proposed sign.

[18] She feels that sign height is regulated to mitigate the impact on the surrounding community but felt that in this case there would be no impact.

iii) Rebuttal of the Appellant

[19] Ms. Turner expressed her hope that the sign would be allowed to proceed considering only a minor variance is required and the extensive community support.

Decision

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

1. The proposed Freestanding On-premises Sign shall comply with the approved plans.
2. The intensity of exposed bulbs on a Sign, excluding Digital Signs, shall not exceed 1100 lumens. (Reference Section 59.2(4)).

[21] In granting the development the following **VARIANCE** to the Zoning Bylaw is allowed:

1. The maximum permitted Height for a Freestanding On-premises Sign as per Section 59B.3(1)(c) of the *Edmonton Zoning Bylaw* is increased by 0.6 metres, thereby increasing the maximum permitted Height to 2.4 metres.

Reasons for Decision

[22] Freestanding On-premises Signs are a Discretionary Use in the RA7 Low Rise Apartment Zone.

[23] The Board notes that the predominant theme of the principal building and many Religious Assembly Uses is verticality and finds that the design of the sign, emphasizing verticality, is compatible with the design of the principal building.

- [24] The Board accepts the Appellant's contention that the proposed sign has been professionally designed to fit in with the amenities of the neighbourhood.
- [25] The Board notes that the Appellants have conducted comprehensive community consultation, which is not a requirement, and in which absolutely no negative feedback was received and strong support was received.
- [26] No one appeared in opposition to proposed development.
- [27] The Board finds that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Noel Somerville, Presiding Officer
Subdivision and Development Appeal Board

Board Members In Attendance:

W. Tuttle; A. Peterson; A. Nagy; L. LaPerle

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*, 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 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.



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Date: January 27, 2017
Project Number: 226113444-003
File Number: SDAB-D-17-009

Notice of Decision

- [1] On January 12, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on December 3, 2016. The appeal concerned the decision of the Development Authority, issued on November 17, 2016, to refuse the following development:

Operate a Major Home Based Business (Administration Office and Sandblasting Contractor - Western Canadian Soda Blasting)

- [2] The subject property is on Plan 656KS Blk 58 Lot 16, located at 7532 - 77 Avenue NW, within the RF3 Small Scale Infill Development 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:

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Appellant's agreement to postpone the hearing to January 12, 2017;
- The Development Officer's written submissions;
- Canada Post confirmation;
- The Appellant's written submissions;
- One online response in opposition to the development and one neutral; and
- Two e-mails in opposition to the development;

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

- Exhibit A – Signatures of Support From 8 Neighbouring Property Owners

Preliminary Matters

- [5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

i) Position of the Appellant, Mr. R. Snyder, WC Blasting

- [8] Mr. Snyder advised he is self-employed and currently has one other employee. He has done a variety of projects in the City including the restoration of the Mercer Tavern and work at the Muttart Conservatory. Much of his work is out-of-town so he is often away from the subject property for weeks at a time.
- [9] The application process has been difficult and some of the information presented by City officials is incorrect. The original application incorrectly stated four business visits are required per day, which was later revised to one. Mr. Snyder feels this number should be changed to 0.5 visits per day. He also advises that November 17, 2016, is not the correct decision date.
- [10] Communication and directions from Bylaw Enforcement have been unclear. The inspection photos taken by M. Doyle on September 27, 2016 show two vehicles parked on the property. He had a hard time receiving clarification as to which vehicle actually had to be moved. He also does not understand why the vehicles are not permitted to be parked there as they are not overweight.
- [11] He is willing to adapt to the requirements of the City but has to understand what they are. The hose, pail and empty jugs shown in one of the inspection photos were left there intentionally so that he could “gauge” the reaction of the Bylaw Enforcement Officer, and to see what direction would be provided regarding these items. Outdoor storage is constantly being referred to as a reason for refusal but none of the items stored outdoors on his property relate to the operation of his business. The barrel of methanol belongs to his brother-in-law for a taxidermy business he has in Spirit River and the water tank belongs to a friend. He admits these items make the property look industrial but these are personal items having nothing to do with his business.
- [12] It has been difficult trying to survive through a recession and vehicles were parked at his home to save the \$400.00 a month he would have had to pay to rent parking space.
- [13] He has recently spent thousands of dollars to comply with the requirements of the City. He has paid to have the cube van, which was not in working order, removed from his property. He is also now renting off-site parking for his business vehicles. He drives his personal vehicle to that location every morning and meets his employee there.

- [14] He has lived at this location for over three years and has never received any complaints from neighbours, which shows he is not having a negative impact on the community.
- [15] He addressed the written concerns raised by an affected property owner:
- a. He acknowledges that some valid points were raised regarding the painting activities and he did block the alley on one occasion. However, shortly after this occurrence the person writing in opposition rented a cube van and also blocked the alley.
 - b. He denies that there have ever been five employees at the site. The Mercer restoration may have been the one exception. There appears to be quite a lot of activity on his property because he has three renters.
 - c. He was originally granted a licence for a home based business in 2012 at another location and he didn't realize he had to renew the licence when he moved to this new location.
 - d. He runs an environmentally friendly business that does not involve the use of silica dust or any other dangerous chemicals.
 - e. On the day of the noise complaint an adjacent property owner was shingling his shed which created a lot of noise.
- [16] Since making the original Application he has made changes to his business operations and is no longer impacting the surrounding community in any way:
- a. He now rents parking space for his commercial vehicles at another location and drives there every morning to meet his employee.
 - b. There is no longer any business activity occurring on the property and he simply wants approval for an administrative office with some storage permitted in the garage for some basic tools.
 - c. The only reason he would ever drive the cube van to the home office location would be to quickly pick up a forgotten item such as his wallet or a tool.
- [17] He provided signatures from eight neighbouring property owners who support his application for an administrative office and showed an aerial map illustrating the location of these owners in relation to his own property (Exhibit A). The information provided to the neighbours did not mention parking of vehicles or on-site storage. One of the property owners on the map had sent in an e-mail of opposition but he feels this is a result of a personal disagreement. Their son worked for him until recently and was charged for vandalizing one of his air compressors.
- [18] Mr. Bacon, the Development Officer, should have visited the business site when reviewing the application rather than relying on information provided by Mr. Doyle, the Enforcement Officer. This created a biased view and the Development Officer refused to listen to the Appellant regarding the changes that had been made. The Chair explained to Mr. Snyder that once an appeal has been filed the Development Officer can no longer make any changes to his decision until the appeal has been dealt with.

- [19] The revised Development Permit Application was displayed and it clearly states that one of the activities occurring on site would be the maintenance of equipment. Mr. Snyder confirmed that equipment maintenance is no longer taking place at this location.
- [20] Mr. Snyder was not familiar with Section 75 of the *Edmonton Zoning Bylaw*, which sets out the requirements of a Major Home Based Business.
- [21] Upon questioning by the Board Mr. Snyder confirmed that he simply wants a business office. There are never any customers coming to his home, he will never do any work at this location and he does not require outdoor storage. No business vehicles will be stored on site.
- [22] Mr. Snyder had no objections to any of the proposed Conditions in the Development Officer's written submission.

ii) Position of the Development Officer, K. Bacon and Enforcement Officer, M. Doyle

- [23] The application was refused because the activities on site were over and above what is acceptable for a Major Home Based Business. There have been on-going complaints from neighbours both during and after the review process, the latest being right before Christmas. This business is having a negative impact on neighbours.
- [24] They confirmed that what is before the Board is an application for a home office with storage in the garage. All other issues are enforcement issues.
- [25] A Major Home Based Business would not authorize commercial storage.
- [26] Mr. Doyle advised that during his first inspection on September 29, 2016, he provided Mr. Snyder with copy of the Major Home Based Business section of the Edmonton Zoning Bylaw to make him aware of the regulations regarding outdoor storage.
- [27] Mr. Doyle had confirmed via e-mail to Mr. Snyder that the black truck parked on the property was not a concern; only the white van was an issue.
- [28] If all that is required is a home office with a small amount of storage in the garage, this would be consistent with a Major Home Based Business operation.
- [29] Mr. Doyle advised that the items stored on the property that do not belong to the Appellant would be construed as outdoor storage and should be removed. Mr. Snyder owns the property so he is responsible for what occurs on his property.

iii) Rebuttal of the Appellant

- [30] Mr. Snyder stated that he has been honest and upfront with everything he has presented thus far.

[31] He acknowledged that he is aware an approved permit can be withdrawn at any time if complaints related to his business are received by the City.

Decision

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

1. The business owner must live at the site. 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 (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
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 (Section 75.3).
4. The site shall not be used as a daily rendezvous for employees or business partners.
5. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application. The applicant indicated that there is one employee visit to the home per day.
6. The number of visits associated with the business shall not exceed the number approved with this application. One employee visit to the home per day was proposed in the application.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
9. The business use must maintain the privacy and enjoyment of adjacent residences and the character of the neighbourhood.
10. All parking for the Dwelling and Home Based Business must be accommodated on site.
11. All commercial and industrial equipment are not permitted at the site. The equipment shall be stored at an approved storage facility.

12. All commercial, industrial and overweight vehicles shall be parked at an approved storage facility. The Development Permit may be revoked if any commercial, industrial and overweight vehicles are parked or stored at the residential site.
13. Any enclosed or empty non-enclosed trailer with less than 4500kg gross vehicle weight shall be parked at an approved storage facility.
14. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
15. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on January 27, 2022.

NOTES:

1. An approved Development Permit means that the proposed development has been reviewed 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 Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.

Reasons for Decision

- [33] Major Home Based Business is a Discretionary Use in the RF3 Small Scale Infill Development Zone.
- [34] The Board acknowledges that the Decision of Refusal issued by the Development Officer on November 17, 2016, was perfectly valid, given the information that was available to him at the time. This information included evidence provided by Bylaw Enforcement related to site inspections. The Board also notes that the Development Officer's decision of refusal was supported by four complaints from adjacent property owners.
- [35] The Board accepts evidence provided by the Appellant regarding changes which have been made at the subject property. The Board notes that these changes were made subsequent to the Development Officer's denial of the original application, and that the Development Officer did not have the benefit of this information prior to rendering his decision. The Board finds that the changes made by the Appellant include:
- a. Removal of all outdoor storage of materials and equipment: The Appellant acknowledged that some of the materials and equipment were placed outdoors to "gauge" the reaction of Bylaw Enforcement. The Board notes that it was therefore reasonable for Bylaw Enforcement to conclude that such storage was attributable to

the proposed development. Notwithstanding the foregoing, the Board is now in receipt of information from the Appellant that all outdoor storage of materials and equipment has since been discontinued, and the Board accepts this new evidence.

- b. Removal of noise source: The Board accepts the submission of the Appellant and finds that there is no evidence of the recent use of compressors which would generate noise at the subject property. Any excessive noise at the subject site will form part of the duties of bylaw enforcement from the City of Edmonton.
- c. Maintaining the residential character of the property: Elements which adversely impacted the residential character of the neighbourhood have been removed. For example, the Appellant stated that he now stores his company's vehicles and cube vans off-site.

[36] While the Development Officer concluded that the proposed development would be more appropriately located at a commercial site, the Board finds, on the basis of more recent evidence, that the operation of an administrative office at the subject property is consistent with the requirements of Section 75 of the *Edmonton Zoning Bylaw* and the general intent of a Major Home Base Business Use.

[37] Accordingly, the proposed development is approved for a period of five years. This approval is subject to the Applicant-Appellant remaining in full compliance with all of the requirements of Section 75 of the *Edmonton Zoning Bylaw* governing the operations of Major Home Based Businesses. Any evidence of failure to comply with these requirements may result in a revocation of the Development Permit, as provided under Section 17.2(1)(a), which states:

The Development Officer may cancel a Development Permit following its approval if any person undertakes development, or causes or allows any development to take place on a Site contrary to the Development Permit.

[38] For the above reasons, the Board is satisfied 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. The appeal is allowed.

Noel Somerville, Presiding Officer
Subdivision and Development Appeal Board

Board Members In Attendance:

W. Tuttle; A. Peterson; A. Nagy; L. LaPerle

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 5th Floor, 10250 – 101 Street, Edmonton.

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Date: January 27, 2017
Project Number: 233935838-002
File Number: SDAB-D-17-010

Notice of Decision

[1] On January 12, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on December 13, 2016. The appeal concerned the decision of the Development Authority, issued on November 29, 2016, to approve the following development:

Construct a 2 storey Accessory Building (Garage suite on 2nd floor,
Garage on main floor, 14.94 m x 8.53 m)

[2] The subject property is on Plan 1423823 Blk 12 Lot 11, located at 7308 - Morgan Road NW, within the GLG Griesbach Low Density Residential with Garage Suites Zone. Special Area Griesbach and the Griesbach Neighbourhood Structure Plan apply to the subject property.

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

- Copy of the Development Permit application with proposed plans;
- Approved Development Permit decision;
- Development Officer's written submissions, dated January 5, 2017;
- Respondent's written submissions with supporting materials;
- Three photographs from an affected property owner; and
- One online response in opposition to the development.

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, Ms. K. Brenneis*

- [7] Ms. Brenneis was represented by Mr. T. Brenneis.
- [8] Mr. Brenneis explained that the initial reason for filing an appeal of the Development Authority's decision stemmed from the size of the proposed Garage, which could potentially exceed the maximum Site Area limited by the development regulations. However, following discussions with the Applicant, the Appellant realized that there were further potential concerns.
- [9] First, the reduced separation distance between the proposed Garage Suite and the principal Dwelling presents a fire hazard. From an aesthetics standpoint, there is no reason why the two buildings cannot be located further apart. According the elevation plans for the Garage and the Height of the building, a wind tunnel affect through the alley creates a greater risk for fire spread.
- [10] Second, the Appellant questioned why the City saw fit to zone 18 lots in a low density residential area for Garage Suite development, which also impacts on-street parking. Mr. Brenneis noted that the nearby alleyway comes to a dead end, and presents a greater risk for mischief and potential break-ins as there are more opportunities for crimes to be committed while tenants walk from their on-street parking space to the Garage Suite.
- [11] Finally, due to the orientation of the existing garages in the area, there is no side yard for shoveling snow. Residents have been shovelling snow across the alleyway onto the empty lots. The Appellant questioned where the snow will be stored once these empty lots are developed.
- [12] The Board acknowledged the Appellant's concerns, but noted that there is only one variance required for this development, which is the separation space between the principal building and the proposed Garage. The Board invited submissions and comments on this point.
- [13] In response, Mr. Brenneis reiterated his concerns about the potential fire hazard. One corner of the Garage is located 1.067 metres from the principal building. Should a fire start in the Garage Suite, it would be possible for the fire to jump across the separation distance to the principal Dwelling, and spread to neighbouring properties.

ii) Position of Affected Property Owners in Support of the Appellant

- [14] Ms. Trenewski reiterated some of the concerns expressed by the Appellant. In addition, she requested that the Board deny the development, and future-proof the value of homes in the Griesbach community. She submitted that the proposed development will deter potential buyers, as people are not interested in having Garage Suite tenants being able to

look into their homes. In this case, she was particularly concerned that the height of the proposed garage suite would allow future tenants to be able to peer into her daughter's room. She stated that should the development occur, she would have no choice but to move.

- [15] Ms. Renewski also referred to a series of photographs showing the sun shadow effect of a 26 feet tall home. She submitted that should the proposed development be approved, she would be impacted by a similar sun shadow effect.

iii) Position of the Development Authority

- [16] The Development Authority was represented by Mr. J. Folkman, who reviewed his written submissions.

- [17] Upon questioning by the Board about the potential fire hazard issue raised by the Appellant, Mr. Folkman explained that a Safety Codes Officer was consulted. It is possible that the corner of the Garage Suite that is located closest to the principal Dwelling may require an additional layer of drywall, and additional restrictions upon glazing. Otherwise, no other concerns were raised.

- [18] Mr. Folkman also confirmed that the proposed 6.85 metre tall Garage Suite remains below the maximum allowable of 7.5 metres in this zone. A sun shadow study is also not required for this type of development.

- [19] With respect to the concerns raised by the neighbours, Mr. Folkman acknowledged that snow removal is a concern in this area. Second, it was his view that privacy should not be a concern, as there is a difference of approximately two to three metres in height between the proposed two storey Garage Suite and the Appellant's garage.

- [20] Upon questioning by the Board, Mr. Folkman acknowledged that the proposed four car garage is quite a large structure at 118 square metres. However, it remains within the required parameters due to the lot being larger than its surrounding neighbours. The Garage Suite itself is also smaller than the actual garage.

iv) Position of the Respondent, Coventry Homes Inc.

- [21] The Respondent was represented by Mr. C. Garrioch.

- [22] In response to the concerns raised by neighbours, Mr. Carrioch submitted that snow removal will always be an issue. Referencing the photographs submitted for the appeal, he noted that there is an entire row of garages across from the proposed development, resulting in a solid row of concrete. Regarding potential fire hazards, he pointed out that the development could actually accommodate an attached garage to the rear, which might eliminate the fire issue.

- [23] Mr. Carrioch submitted that the purpose of the separation space requirement is to create amenity space. Due to the size of the subject lot, the development is able to achieve a large amount of amenity space. He further noted that the typical side yard setback is 1.2 metres, and the proposed development has significantly more than 1.2 metres.
- [24] In his opinion, based on the size of the building and the dollar value, the proposed development would actually increase the value of homes in the area. He noted that both the Garage and the principal Dwelling have numerous architectural elements that add to their character, and should fit right into the Griesbach Neighbourhood Structure Plan.
- [25] Mr. Carrioch also confirmed that the GLG Griesbach Low Density Residential with Garage Suites Zone (the “GLG Zone”) covers a large area of this neighbourhood. Garage Suites are increasingly being accepted by City Council partially to combat Edmonton’s urban sprawl. A Garage Suite is therefore in character within this community.

vi) Rebuttal of the Appellant

- [26] Mr. Brenneis questioned whether Garage Suites are becoming more common in Edmonton or merely in the Griesbach area. The Board explained that City Council has amended the Edmonton Zoning Bylaw to permit more Garage Suites in various zones, including the Griesbach area.

Decision

- [27] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as applied for to the Development Authority, subject to the CONDITIONS as set out in Permit Number 233935838-002, issued by the Development Authority on November 29, 2016.
- [28] In granting this development, the following VARIANCES to the Edmonton Zoning Bylaw are allowed:
- 1) Section 87(7) is relaxed to permit the distance between the Garage and the principal Dwelling to be 1.1 metres instead of 4.0 metres.

Reasons for Decision

- [29] The proposed development is for a two Storey Accessory Building, with a Garage on the main floor, and Garage Suite on the second floor. Under Section 940.9(3)(c), Garage Suites are a Permitted Use in the GLG Griesbach Low Density Residential with Garage Suites Zone (the “GLG Zone”).
- [30] The only issue before this Board is the required variance to the separation distance between the Principal Dwelling and the Detached Garage Suite. The proposed separation

distance is 1.1 metres, instead of the required 4.0 metres under section 87(7). The Board grants the variance to the separation distance for the following reasons:

- a) The purpose of the 4.0 metre separation distance required under section 87(7) of the Edmonton Zoning Bylaw is to ensure adequate amenity space between the Garage and the principal Dwelling on a normal rectangular shaped residential lot. The Board notes that the subject lot is very different from this norm, as it is very narrow on the south side and pie shaped toward the north. Furthermore, the subject lot starts significantly further south than the adjacent lots to the east, thereby reducing the distance between the Garage and the principal residence.
- b) The proposed development does provide ample amenity space on the subject property.
- c) The Board notes that the separation distance of 1.1 metres exists only between the corner of the proposed Garage Suite and the northern tip of the existing principal Dwelling. This deficiency does not create adverse massing upon neighbouring properties. Indeed, the Board finds that the adverse effect of the reduced minimal separation distance affects only the subject property, and has no material effect on the adjacent properties. The fact that the subject property is set back much further to the south minimizes the impact of the proposed Garage upon the properties to the north.

[31] The Appellant's concern that the reduced separation distance creates a fire hazard is not a matter under the jurisdiction of this Board and will be addressed as part of the building permit application.

[32] For all the above reasons, the Board finds that granting the required variance 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. The appeal is denied.

Noel Somerville, Presiding Officer
Subdivision and Development Appeal Board

Board Members Present:

W. Tuttle; A. Peterson; A. Nagy; S. LaPerle

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*, 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 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.