

# **Edmonton Subdivision and Development Appeal Board**

Churchill Building  
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Date: February 4, 2016  
Project Number: 180336059-002  
File Number: SDAB-D-16-029

## **Notice of Decision**

This appeal is dated December 23, 2015, from the decision of the Development Authority for permission to leave as built a Single Detached House.

The development permit application was refused because of a deficiency in the minimum required side yard, an excess in the permitted cantilevered projections, and a deficiency in the required distance from the property line to the overhang.

The subject Site is on Plan 1424449 Blk 50 Lot 22, located at 10547 - 127 Street NW. The subject Site is zoned RF3 Small Scale Infill Development 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 20, 2016.

### **Summary of Hearing:**

1. 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.
2. Prior to the hearing the following information was provided to the Board:
  - Leave as Built Permit Application;
  - Refused Development Permit;
  - Development Officer's written submissions;
  - Letters of opposition to proposed development; and
  - Letters of support for the proposed development.

### **Position of the Appellant, Mr. D. Engelman**

3. Mr. Engelman's business, Engelman Construction Ltd., subdivided a lot and built a home that is deficient in the north Side Setback. Mr. Engelman learned of the error prior to the purchaser's possession when they received the Certificate of Compliance.
4. Engelman Construction Ltd. builds, on average, twelve homes each year and this is the first time they have built in error requiring a variance.

They have taken a number of steps to rectify this error, including a change in their building practice such that they survey the foundation after it is poured, apologizing in writing and in person, where possible, to those people within the 60 metres notification radius, and plan to make any necessary changes at their own cost.

5. The proposed development does not encroach on the property line, nor does it affect the neighbour's property value or use or enjoyment of their property.
6. They received twelve signatures of support for the appeal, including the support of those neighbours directly to the south of the proposed development. Thirteen people opposed the appeal.
7. They are asking the Board to allow them to leave the proposed development as it is and give them to opportunity to ensure fire and building code compliance at their own cost, and plan to work with the City to that end immediately after they receive the Board's disposition on the appeal.
8. Mr. Engleman was asked to describe the cantilevered areas of the house on the Site Plan. There are two cantilevers, one on the main floor for a hutch in the dining room, and one on the second floor for a closet. The cantilevers are on the side of the proposed development that is set too close to the property line.
9. Mr. Engelman purchased the lot as a single lot, but later subdivided it. He was asked by the Board to explain why the Site Plans he submitted to the City did not show the subdivision before the development permit was issued. He explained that they applied for a conditional subdivision approval, but until they are registered at Land Titles, they cannot show a plan for two lots, so they applied to the City for a permit for one lot. When they were approved at Land Titles, they subdivided the lot.
10. The Garage on the Site Plans is different than the Garage that was built. Mr. Engleman was asked to explain the discrepancy. He explained that after the Site Plans were approved by the City, his client decided he wanted a larger Garage. Mr. Engleman spoke with the Development Officer who advised that the new Garage size was acceptable because the house was under the Maximum Site coverage. He sent in the documents indicating the new Garage measurements, but when the development permit was issued, it was issued with the measurements of the original application, which was the smaller sized Garage. A separate development permit was granted for the Garage construction.
11. The Board asked Mr. Engelman to address fire safety concerns with respect to his client's house, but also the neighbouring house on the north side of the lot (with the deficient Side Setback). He advised the Board that currently, the lot to the north is vacant, but that they intend to install fire rated glass windows to ensure the windows meet fire safety code requirements. Asked if removing the cantilevers is an option, Mr. Engleman explained that it is not necessary.
12. Finally, Mr. Engelman was asked if the variance he was asking for would affect the property to the north such that that property would require a variance. He advised the Board that he did not believe that property would require a variance and he is not the contractor, so he could not comment on the development.

**Position of the Home Designer, Mr. P. Schaefer:**

13. Mr. Schaefer advised the Board that the Building Code allows up to seven percent unprotected openings (that is, non-fired rated windows and doors). In this case, they plan to use fire rated windows, so there are not unprotected openings, which satisfies the Building Code requirements.
14. He reiterated the Appellant's assertion that they plan to work with the City and the client to ensure a fire safety plan is met soon after the Board's disposition of the appeal.
15. He reiterated that the fire safety plan protects his client's home, but also the home of the neighbouring property.

**Position of the North Neighbour, Mr. S. Maslyk:**

16. Mr. Maslyk purchased the North lot in July, 2015, and is building a single family home, construction of which has not yet began. Mr. Maslyk did not know of the Side Setback deficiency at the time he purchased the lot.
17. Mr. Maslyk wants to ensure his investment is protected and is attending the hearing to ensure that whatever happens to the proposed development does not negatively impact his property.

**Position of the Development Officer, Mr. B. Liang:**

18. The main differences between the approved Site Plan and the Site Plan showing what was actually built are that the south Side Setback was approved at 1.2 metres, and what was actually built was a house with a Side Setback of 1.0 metres on the north side of the property, and the width of the house was built at 5.3 meters instead of the approved 5.2 metres.
19. Mr. Liang advised the Board that the primary purpose of the Side Setback regulations is to ensure fire safety.
20. He also advised that in making his decision, the primary considerations are ensuring adequate fire safety and ensuring that the use, enjoyment and value of neighbouring properties are not negatively impacted by the proposed development.
21. Mr. Liang confirmed that the cantilevers are 0.35 metres from the Lot Line. Asked whether the removal of the two cantilevers would deal with the majority of his concerns in this case, he advised that it would render the second variance moot, but noted that the first variance would still need to be granted.

**Position of Neighbour, K. Sherlock:**

22. Ms. Sherlock lives one block away from the proposed development. In the last two years there have been four "leave as built" appeals in the neighbourhood, which causes her concern that builders, in general, are not adhering to regulations.

23. Specific to this proposed development, she is concerned that there are three issues, including the location of the foundation, the projection of cantilevers, and the size of the Garage.
24. She argued that in a mature neighbourhood, with “skinny houses”, the issue is not only about fire risk, it is also about sightlines, massing, green space, and the overall look and character of the neighbourhood.

**Position of the Appellant and the Home Designer, on Rebuttal:**

25. Mr. Engelman advised that the cantilevers are built according to the approved Site Plan, but if the house is moved over to account for the side setback, the cantilevers project over the allowable distance.
26. The house is wider on the Real Property Report because the measurements were taken from the outside of the house. The Plot Plan shows proposed measurements from the edge of the foundation.

**Decision:**

The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The following variances are **GRANTED**:

1. A variance of 0.2 metres is granted to the north Side Setback, pursuant to Section 140.4(13)(a) of the *Edmonton Zoning Bylaw*.
2. A variance of 0.25 metres is granted with respect to the cantilevers on the north façade projecting into the Side Setback.

**Reasons for Decision:**

The Board finds the following:

1. The proposed development is a Permitted Use in the RF3 Small Scale Infill Development Zone.
2. This is an existing building. The neighbour to the North has indicated that he would be supportive of a variance being granted for the proposed development.
3. The Appellant indicated they will be instituting additional fire safety code development into the structure to ensure there is adequate fire safety for the building to the north that will be built in the future.
4. The Appellant presented a petition signed by eight neighbours within the 60 metres notification radius and some additional letters of support for the leave as built development.

5. The Board notes that it received two letters of opposition and has noted their concerns. However, with the Appellant's commitment to institute fire safety aspects onto the development, the Board finds that the concerns of affected neighbours will be mitigated.
6. The Board finds that the proposed development would 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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### **Important Information for the Applicant/Appellant**

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1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5<sup>th</sup> 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. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

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Date: February 4, 2016  
Project Number: 165779120-004  
File Number: SDAB-D-16-030

## **Notice of Decision**

This appeal is dated December 23, 2015, from the decision of the Development Authority for permission to construct a Semi-Detached House with a front uncovered deck (3.66m x 3.05m), fireplaces, rear attached garage, and Basement development (Not to be used as an additional Dwelling).

The development permit application was refused because:

- there are deficiencies in the minimum required Site Area, Site Width and Rear Setback; and
- the locational requirements for the required Private Outdoor Amenity Area are not met.

The subject Site is on Plan 4725S Blk 27 Lot 1, located at 9540 - 122 Avenue NW. The subject Site is zoned RF3 Small Scale Infill Development Zone and is subject to the Mature Neighbourhood Overlay.

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 20, 2016.

### **Summary of Hearing:**

1. At the outset of the appeal hearing, the Chair/Presiding Officer 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:
  - List of neighbours in support of the appeal;
  - Appellant's reasons for appeal;
  - Refused development permit;
  - Semi-detached Housing Permit Application; and
  - Development Officer's written submissions.

**Position of the Appellant, Mr. B. Johnson, and the Builder, M. Palazzo:**

3. The proposed development has a deficiency in the Site Area and the Minimum Width and also on the amenity area for Unit B of the proposed development. They have proposed a design that meets the criteria, but it does not meet the requirements of the RF3 Small Scale Infill Development Zone.
4. They provided the Board with Site Plans that show the amenity areas for the two developments, "Unit A" and "Unit B". Unit A's amenity space is in the Front Yard, directly adjacent to the house and across from 122 Avenue. Unit B's amenity space is in the Front Yard.
5. They also advised the Board that they learned, in the last two weeks, that the massing is too great. They have not had an opportunity to address the issue yet. They advised the Board that the immediate neighbour has no issue with the proposed development.
6. They advised the Board that the Garage requires a variance. They have met the parking requirements associated with the proposed development if the variance is granted.
7. The Board asked about how residents of Unit A would get to their garage (Unit B accesses the Garage from their back entrance). They explained that residents of Unit A access the Garage from the City Sidewalk.
8. Asked about whether the Appellant had support of the neighbours immediately next door, they advised they did.
9. They advised that the current site coverage for the proposed development is 42%. Asked by the Board whether the proposed development was too large for the lot size, they advised that the Board has granted variances for narrower lots than the proposed development. They also advised the Board that they consulted with the neighbours, most of whom had favourable responses to the proposed development, including the President of the Community League who supported the proposed development.
10. Asked why the Garage is not facing the Avenue, they advised the Board that they are required to provide four parking stalls and that the driveway is easier to access from the Avenue because 122 Street is a little busier. In addition, there is a power pole they cannot move.

**Position of the Development Officer, Mr. B. Liang:**

11. Mr. Liang has two main concerns with respect to the proposed development: massing effect and narrowness of the lot.
12. With respect to the massing effect created by the proposed development, Mr. Liang argued that massing is considerable when compared to the building to the north, which is a consideration in the Mature Neighbourhood Overlay. Specifically, he is concerned that the Rear Yard Private Outdoor Amenity Area will not receive much sunlight.
13. Moreover, the Private Outdoor Amenity Area cannot be in the Front Yard, which is reserved to provide a streetscape. Section 47(3) requires that Private Outdoor Amenity be screened
14. Currently, the Private Outdoor Amenity Area is 2.7 metres in Width; it is required to be 4.0 metres in Width.



15. The Appellants provided an alternate Site Plan, which is also insufficient because it physically separates the Private Outdoor Amenity Area, rendering its use inconvenient for the residents of Unit B.
16. With respect to the narrowness of the lot, which is 10.6 metres in Width. The minimum required lot width is 14.8 metres. The purpose of the minimum lot width regulations is to ensure Semi-detached housing can comply with the Setback, Parking, and Private Outdoor Amenity Area regulations; in this case, the proposed development cannot.
17. The Lot is longer than usual (approximately 38 metres). Mr. Liang was asked whether that ameliorated the issue with the narrowness of the Width of the Lot. He argued that the Development Authority looks at the entirety of all of the variances combined in making a determination to approve or refuse a development permit.

**Position of the Appellant, Mr. B. Johnson, and the Builder, M. Palazzo on Rebuttal:**

18. A corner lot cannot legally be subdivided.

**Decision:**

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

**Reasons for Decision:**

The Board finds the following:

19. This is a Permitted Use in the RF3 Small Scale Infill Development Zone. However, as determined by the Development Authority, the Minimum Site Area is deficient by 38 square metres.
20. There is also a deficiency of 4.2m on the Site Width.
21. The Development Authority also indicated a concern with the Private Outdoor Amenity Area. If approved for this development, they would create a two unit condominium for the property, which would leave all the property outside of the Units as common property rendering Section 47 Private Outdoor Amenity Area requirements inapplicable. The Board does not accept this position as there is no amenity area for Unit B of the proposed development, other than the “front yard”, which is not acceptable within Section 47.
22. The Board also finds that the massing effect of the structure on the adjacent property would be significant, even though the Appellant indicated support of the adjacent neighbour.

23. The Board accepts the Development Authority's determination that there would be a major shadowing effect on the condo to the north of the proposed development.
24. There is also a marked deficiency of 9.7 metres in the Rear Setback required by Section 814.3(5) of the Mature Neighbourhood Overlay, which requires that the Rear Setback must be 40% of the Site depth.
25. The Board finds that the proposed development will would unduly interfere with the amenities of the neighbourhood or materially interfere with and affect the use, enjoyment or value of neighbouring parcels of land.

### **Important Information for the Applicant/Appellant**

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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*, 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.

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Mr. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

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Date: February 4, 2016  
Project Number: 171600002-003  
File Number: SDAB-D-16-031

### **Notice of Decision**

This appeal is dated December 24, 2015, from the decision of the Development Authority for permission to construct a two-story Accessory Building (a Garage Suite with parking on the first floor and a Suite on the second floor).

The development permit application was refused due to a deficiency in the maximum permitted Height of the Garage Suite from Grade to the ridge line of the roof and an excess in the maximum permitted Floor Area for a Garage Suite above Grade.

The subject Site is on Plan 5844HW Blk 18 Lot 36, located at 14020 - 122A Avenue NW. The subject Site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay.

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 20, 2016.

#### **Summary of Hearing:**

1. At the outset of the appeal hearing, the Chair/Presiding Officer 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:
  - Garage Secondary Suite Permit Application;
  - Refused development permit;
  - Development Officer's written submissions; and
  - A letter of opposition from a home owner within the 60 metres notification radius.

#### **Position of the Appellant, Mr. Jurtik:**

3. The proposed two-storey Garage is oversized in both square footage and Height. Mr. Jurtik provided the Board with a number of photographs showing the backyard of his home where the proposed development would be located (Exhibit A). He argued that the proposed development would increase the "curb appeal" of the neighbourhood.

4. He provided a photograph of a similar property in the neighbourhood that is not backing on to anyone else's property as evidence that the proposed development is characteristic of the neighbourhood (Exhibit B).
5. Mr. Jurtik argued that he has a pie-shaped lot that backs on to an industrial area. He argued that the proposed development is not overlooking the neighbouring properties and therefore, has little impact on the neighbourhood. His neighbours also have oversized Garages, both of which are single storey Garages. He has spoken to his neighbours who believe it will add value to the neighbourhood.
6. He also argued that there are enough parking spaces to accommodate those required for the Garage Suite. The Board noted the proposed development is only four feet from the back lane and that it is unlikely there will be sufficient parking.
7. Asked whether he understood that the proposed development was encroaching on a utility right of way, he advised the Board he believed it was a water runoff.

**Position of the Development Officer, Mr. B. Liang:**

8. The proposed Garage Suite is not considered Accessory to the Single Detached Dwelling, because it does not fit the definition provided under Section 7.2(3) of the *Edmonton Zoning Bylaw*.
9. It is also much larger than a Garage Suite is allowed to be pursuant to the *Edmonton Zoning Bylaw*, which requires the Garage to be a minimum of 30 square metres and a maximum of 60 square metres. The ground floor area of the proposed Garage Suite is 149 square metres. The suite on the second floor of the Garage is 80 square feet larger than the Single Detached House and 50% larger than is allowed under the *Edmonton Zoning Bylaw*.
10. Mr. Liang showed the Board an aerial photograph of the neighbourhood, which shows that the proposed development is anywhere from 2.2 to 6.1 times larger than other Garages in the neighbourhood.
11. The Garage Suite exceeds the allowed height. It is 8.6 metres when measured from the ridge line, rendering it three metres higher than the adjacent, neighbouring Accessory Building.

**Position of the Appellant on Rebuttal:**

12. Mr. Jurtik did not understand the requirements of Section 87 of the *Edmonton Zoning Bylaw* (the minimum and maximum square footage of the Garage) and therefore did not obtain the appropriate building plans.
13. His neighbour has a second storey addition to his home, which overlooks his backyard, so Mr. Jurtik considered the proposed development characteristic of the neighbourhood.
14. He argued that in five or ten years he plans to tear down the Single Detached House, which will likely be larger and render Section 87 moot.

15. Mr. Jurtik was not informed of the utility right of way when he applied for the development permit.

**Decision:**

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

**Reasons for Decision:**

The Board finds the following:

1. This is an Accessory Building, which is a Permitted Use in the RF1 Single Detached Residential Zone. A Garage Suite is a Discretionary Use within the RF1 Single Detached Residential Zone.
2. Pursuant to Section 87(3)(a) and Section 87(4), a Garage Suite must have a minimum Floor Area of 30 square and can have a maximum Floor Area of 60 square metres.
3. The proposed development is for a 103 square foot Garage Suite, which the Board finds excessive and outside the guidelines specified in the *Edmonton Zoning Bylaw*.
4. With regard to the overall Height of the Garage Suite, the Development Authority identified that the overall Height was 0.5 metres too high at 8.1 metres with the maximum Height being 7.6 metres to the ridgeline.
5. It was also identified during the hearing that the proposed development was going to be situated on a utility right of way. The Appellant did not know what was in the utility right of way and had not researched whether or not construction was possible.
6. The Board acknowledges that the Appellant indicated he received positive feedback from neighbours in the neighbourhood, but could not provide written information associated with that support. The Board received one letter of objection from an adjacent property owner who felt that the proposed development presented concerns about street parking in front of the principal dwelling and the possibility of privacy concerns. They indicated they had not received details associated with the proposed development.
7. Therefore, the Board finds that this proposed development would unduly interfere with the amenities of the neighbourhood, and materially interfere with and affect the use, enjoyment or value of neighbouring parcels of land.

**Important Information for the Applicant/Appellant**

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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*, 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.

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Mr. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

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Date: February 4, 2016  
Project Number: 181926492-001  
File Number: SDAB-D-16-032

### **Notice of Decision**

This appeal is dated December 22, 2015, from the decision of the Development Authority for permission to operate a Major Home Based Business (Office and training room for first aid training classes - OIL SANDS & CONSTRUCTION TRAINING & SAFETY LTD).

The development permit application was refused because:

- a Commercial School is neither a Permitted nor a Discretionary Use in the RF4 Semi-detached Residential Zone; and
- the business will generate an excessive amount of traffic compared with a Residential Home and there is a deficiency in the number of required parking spaces. It is the opinion of the Development Officer that such Use would be more appropriately located in a Commercial or Industrial Zone.

The subject Site is on Plan 1024836 Blk 31 Lot 72A, located at 1928 - 74 Street SW. The subject Site is zoned RF4 Semi-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 20, 2016.

### **Summary of Hearing:**

1. At the outset of the appeal hearing, the Chair/Presiding Officer 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:
  - Appellant's reasons for appeal, neighbourhood survey, powerpoint presentation, and written submissions; and
  - The Development Officer's Corporate Registry Search, Major Home Occupation Development Permit, and the Development Officer's written submissions.

### **Position of the Appellant, Mr. C. Giluk:**

3. Mr. Giluk provides Standard First Aid and CPR training that runs for two days over the weekend. He runs one course each week.

4. He has two non-resident employees.
5. He has applied to the Advanced Technology Centre, located in south Edmonton, for a 275 square foot room to deliver training other than first aid and CPR. He has been advised that his application may not be processed for one or two more months, at which point he will apply for a business license for his business. In the future, all training other than first aid will take place at the Advanced Technology Centre.
6. He has consulted with his neighbours about the proposed development and has offered infants awareness classes, free of charge to new parents in the neighbourhood. Thirty-two neighbours support the proposed development.
7. He argued there is no change to the residential character of the neighbourhood because all activities are contained within the training centre, there is a smoking area provided for students on the back porch, and people will not have time to leave for lunch.
8. He advised the Board that there are three on-street parking areas within the 60 metres notification area and that he will have six simultaneous client visits per class. He argued that in the evening there are no cars parked at the location and that he will instruct course participants that they cannot park in front of the mailbox on the street.

**Position of the Development Officer, Mr. B. Liang:**

9. Mr. Liang argued that Mr. Giluk's business is more properly classified as a Commercial School because rather than one person visiting the business at a time, there are approximately six people visiting the house. He argued that traffic is excessive compared to what is intended for a home based business, and that there is insufficient parking to accommodate the additional traffic.

**Position of Mr. Giluk on Rebuttal:**

10. Mr. Giluk advised the Board that there is adequate parking at the back of the property.
11. Asked to comment on whether his business was properly classified as a Commercial School and the fact that the definition includes that the business is for the "financial gain of the individual", Mr. Giluk argued that he is teaching a skillset. When advised that the definition also includes providing a "service", Mr. Giluk reiterated that he is teaching a skillset and that his business could not be classified as a commercial school.

**Decision:**

The appeal is DENIED and the decision of the Development Authority is GRANTED.



**Reasons for Decision:**

The Board finds the following:

1. This is a Commercial Use, which is neither a Permitted nor a Discretionary use in the RF4 Semi-detached Residential Zone.
2. The Board finds that the business is providing training and instruction in specific skills for the participants.
3. With regard to whether it is a Major Home Based Business, the Appellant indicated that six simultaneous visits will happen when a class is being conducted. The Board accepts the evidence provided by the Development Authority that there will be an increase in the activity associated with the residence.
4. Under Section 7.3(7), the Board finds that this Major Home Based business would change the character of the dwelling as well as the neighbourhood with the increase of vehicular traffic and street parking when the courses are run.
5. In addition, there is a deficiency of one parking stall for a Major Home Based Business.
6. As indicated in the Development Officer's submissions, a private residence that has six people coming to and from it on a regular occasion is not a Major Home Based Business.
7. The Appellant indicated that he would provide courses at least once a week, sometimes twice a week, given the nature of the training he is providing, which increases the vehicle traffic in the neighbourhood.
8. The Appellant indicated that he was going to have "off-street parking". However, after questioning by the Board, he was actually going to have on-street parking in areas he designated where he would expect his clients to park. The Board felt that with the activity associated with the business, sufficient off-street parking is not provided.
9. It is the opinion of the Board that 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.

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**Important Information for the Applicant/Appellant**

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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*, 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. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

CC: