



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: August 10, 2017
Project Number: 254516284-001
File Number: SDAB-D-17-133

Notice of Decision

- [1] On July 26, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on June 29, 2017. The appeal concerned the decision of the Development Authority, issued on June 26, 2017, to refuse the following development:

Construct exterior alterations to a Single Detached House (Driveway extension, 1.84m x 7.69m)

- [2] The subject property is on Plan 1320980 Blk 21 Lot 28, located at 16505 - 132 Street NW, within the RF4 Semi-detached Residential Zone. The Oxford Neighbourhood Structure Plan and the Palisades Area 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 permit application with attachments, the refused permit and plans;
 - Canada Post receipt confirming delivery of the refusal decision on June 29, 2017;
 - Appellant's supporting materials;
 - Development Officer's written submissions; and
 - One online response and one email 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.

- [7] Both the Appellant and the Development Officer confirmed that the subject property is a Semi-Detached House, not a Single Detached House as indicated on the application. The Permit's scope of application should therefore be revised accordingly.

Summary of Hearing

i) Position of the Appellant, Mr. A. Sabbagh

- [8] When he and his wife first purchased the house, they owned one small vehicle. His wife was a student at the time and did not drive. They have since purchased a larger SUV for family use, and this larger vehicle does not fit inside the garage. As a result, the smaller vehicle must be parked in the garage, while the SUV is parked on the driveway.
- [9] However, his wife uses the small car and leaves for work early in the morning. This small car is also used the most frequently. He usually works from home, so the SUV remains on the property during the day. Parking the SUV on the driveway prevents his wife from exiting the garage every morning. It is an inconvenience to continually shuffle the vehicles around, as they have young children that they cannot leave in the home without supervision. The children must accompany him and be strapped safely into the SUV each time the cars are shuffled.
- [10] The owner of the adjoining Semi-detached House with a driveway adjacent to his has placed a large flower pot at the end of the driveway, preventing him from driving onto his neighbour's driveway. This makes it even more difficult to shuffle vehicles around.
- [11] They now park the SUV on the street, in front of the green space that lies between their Semi-Detached House and the Single Detached House next door to the north. However, this on-street parking space is increasingly in high demand, due to new developments in the neighbourhood. He has tried parking around the corner on 165 Avenue instead. However, the longer trek presents a safety hazard when crossing the street with his two young children while carrying groceries, a car seat, etc. The danger increases during the winter months.
- [12] Currently, the walkway leading from the front door to the driveway is not used for parking. Adding 1.8 metres of concrete for an extended driveway will allow him to park off-street while maintaining use of the walkway. In his view, a sufficient amount of green space will remain in the front yard even with the extension. The extension will be contiguous with the sidewalk, providing direct access from the roadway to the front door.
- [13] The neighbour in opposition in his written submission stated the Appellant could have built a larger garage if he did not want to park in tandem. In response, the Appellant stated that he could not afford a larger garage. He also noted that several properties in the area have extended driveways.
- [14] He referred to the document with signatures from several neighbours who supported his application for a Driveway extension. Many of these neighbours were surprised that a

development permit was required. He said he could have obtained many more signatures in support, but he just spent a short time gathering signatures as people were returning home at the end of day.

[15] If a permit is approved, he will continue to park on the street until he has enough money to build the extension.

ii) Position of the Development Authority

[16] The Development Authority was represented by Ms. S. Watts. She reaffirmed that the subject property is a Semi-detached House, not a Single Detached House.

[17] She sought clarification as to whether the extension would be used as a walkway or a driveway. The Presiding Officer explained that the Appellant made it clear that he intends to use the extension as a driveway for the purposes of parking his family's SUV.

[18] Ms. Watts confirmed that the driveway extension will exceed the maximum allowable width by 1.38 metres.

[19] Regarding the apparent community support as demonstrated by the Appellant's petition, she stated that when neighbours sign a petition in support of this type of development, they do not consider the loss of green space, potential drainage complications, or other issues associated with a driveway extension. In addition, it is likely that some of these neighbours have similar driveway extensions, existing without permits.

[20] Some discussion took place as to whether the driveway extension and consequent removal of a portion of the front yard green space would result in the loss of one on-street parking space. After reviewing a series of photographs, Ms. Watts said it appeared that even if the subject driveway is widened, one on-street parking space would remain between the Appellant's and his neighbour's driveways.

iii) Rebuttal of the Appellant

[21] Referring to photographs he submitted, Mr. Sabbagh illustrated how even with the widened driveway, there would remain sufficient space in front of the green space to provide for one on-street parking spot. He noted that during his door-to-door community consultation, respondents were supportive of his development because it would remove one vehicle from the street.

Decision

[22] 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 **AMENDMENT** to the Scope of the Application:

To construct exterior alterations to a Semi-detached House (Driveway extension, 1.84 metres x 7.69 metres).

- [23] In granting the development, the following CONDITIONS apply:
- 1) The development shall be built in accordance with the stamped and approved plans.
 - 2) The existing tree in the Front Yard must be relocated elsewhere in the Front Yard.
- [24] In granting the development, the following VARIANCES to the *Edmonton Zoning Bylaw* are allowed:
- 1) Subsection 54.1(4)(a) is varied to permit the proposed Driveway extension to lead to the front door of the Appellant's home, rather than to the required Garage or Parking Area.
 - 2) Subsection 54.1(4)(b) is varied to permit a Driveway width of 5.99 metres instead of the maximum allowable width of 4.16 metres.
 - 3) Subsection 54.2(2)(e)(i) is varied to allow the proposed Driveway extension to be used for parking. The subsection states that "parking spaces shall not be located within a Front Yard". The proposed extension will be used for parking in the Front Yard.

Reasons for Decision

- [25] The proposed development is for the extension of an existing Driveway, which is Accessory to a Semi-Detached House, a Permitted Use in the RF4 Semi-detached Residential Zone.
- [26] Although the application for this development permit described the property as a Single Detached House, it is actually Semi-detached Housing, and the Board amends the scope of the permit accordingly.
- [27] The Appellant wants the Driveway extension so that he may park his vehicle in the Front Yard. The extension would prevent the larger family SUV, which does not fit into the single attached garage and must therefore be parked on the Driveway, from blocking access to the garage for the smaller, second vehicle.
- [28] The proposed development requires the following variances:
- 1) Subsection 54.1(4)(a) states, in part: "The Driveway shall... lead directly from the roadway to the Garage or Parking Area". The proposed Driveway extension leads to the front door of the Appellant's home, not to the Garage or Parking Area.

- 2) Subsection 54.1(4)(b) states, in part: “The Driveway shall... for a Garage or Parking Area with one parking space, have a maximum width of 4.3 metres, or the width of the Garage or Parking Area, whichever is the lesser”. The width of the existing Garage is 4.16 metres. The proposed Driveway extension results in a total Driveway width of 5.99 metres, which exceeds the maximum allowable width of 4.16 metres by 1.83 metres.
- 3) Subsection 54.2(2)(e)(i) states that “parking spaces shall not be located within a Front Yard”. The proposed extension will result in a parking space being located in the Front Yard.
- [29] The Appellant provided a document showing that several neighbours support his application and do not have a problem with the Driveway extension. Also, nobody appeared at the hearing in support or in opposition to the development.
- [30] One immediate neighbour submitted an online comment opposing the application due to concerns with the loss of greenspace in the neighbourhood. However, the Board is of the opinion that allowing the Driveway extension will result in only a small loss of greenspace in the neighbourhood. With the condition that the existing tree in the Front Yard of the property must be relocated within the Front Yard, the Board is satisfied that the impact of the reduced greenspace will be minimal.
- [31] Allowing parking in the Front Yard will remove the Appellant’s second vehicle from the street. Further, the Driveway extension is only 1.83 metres wide and will not result in the loss of an on-street parking space.
- [32] Having two vehicles parked in front of the Appellant’s house will not look out of place in the neighbourhood because there are many two-car Driveways in the neighbourhood. The Board also accepts the Appellant’s evidence that there are already a number of Driveway extensions in the neighbourhood.
- [33] For all of the above reasons, the Board is of the opinion that the Driveway extension will not unduly interfere with the amenities of the neighbourhood nor will it materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



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

Board Members in Attendance

Mr. W. Tuttle; Ms. G. Harris, Mr. A. Peterson; Ms. 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 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: August 10, 2017
Project Number: 243699586-001
File Number: SDAB-D-17-134

Notice of Decision

- [1] On July 26, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on June 28, 2017. The appeal concerned the decision of the Development Authority, issued on June 9, 2017 to approve the following development:

Construct and operate a Temporary Shelter Services Use building and to demolish the existing building. (Herb Jamieson Centre - Hope Mission).

- [2] The subject property is located at 10014 - 105A Avenue NW, on Plan EF Lots 139-142, within the US Urban Services Zone. The Boyle Street / McCauley Area Redevelopment Plan applies to the subject property.

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

- Copy of the permit application with attachments and the approved permit;
- Development plans and fire access plan;
- Correspondence confirming the bed count;
- Correspondence from City of Edmonton Fire Rescue Services, Utility Services (Waste Management), and Drainage Planning and Engineering;
- McCauley Community League's written submissions;
- Chinatown and Area Business Association's written submissions;
- Development Officer's written submissions; and
- Letter of support with conditions from the Edmonton Design Committee.

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

- Exhibit A – Notification Map, submitted by the Development Officer
- Exhibit B – Aerial photograph of the area, submitted by the Development Officer

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 Appellant, Ms. B. Chao*

- [8] Ms. B. Chao, on behalf of the Garden Bakery located at 106 Avenue, was accompanied by Mr. K. Luong, Manager, and Ms. M. Chao.
- [9] Ms. B. Chao is opposed to the proposed development because the expansion will locate the building closer to her bakery along the rear lane. Already, there is insufficient space for garbage disposal and parking in this congested area along the rear lane. Individuals who use the Herb Jamieson Centre also affect her business by loitering, panhandling and asking for food.
- [10] Mr. Luong affirmed that customers of the bakery feel threatened by homeless individuals who frequent the area. He is concerned that the proposed development will result in an increase of homeless people going to the bakery to ask for food, causing vandalism and other nuisance. In his opinion, the proposed development will negatively affect the value of the bakery.
- [11] In response to questions by the Board, they explained that the rear lane requires customers to make a tight turn onto their property. If the proposed building is located closer to the rear lane due to the reduced rear setback, it will become more difficult for vehicles to maneuver. The reduced rear setback will also further push the homeless individuals who loiter in this area onto the bakery's property.

ii) Position of the Appellant, McCauley Community League;

- [12] The McCauley Community League was represented by Mr. P. O'Hara.
- [13] Mr. O'Hara reiterated the written submissions of the Community League, a summary of which follows.
- [14] In December 2016, the McCauley Community League appeared before this Board when Hope Mission proposed to develop two trailers for 51 sleeping units. The Community

League's appeal was denied. As a result, Hope Mission increased its sleeping units from 350 to 400. The Community League is concerned that the current proposal before this Board will result in those 400 units becoming permanent fixtures.

- [15] In the Community League's view, the proposed development does not align with collaborative efforts between various organizations and the City to address poverty and homelessness. Mr. O'Hara reviewed various initiatives, including the commitment to reduce concentration of social services and social housing in the inner city. The proposed development is inconsistent with these initiatives, and has been reviewed in isolation without considering its impact upon the inner city.
- [16] The proposed development is a Discretionary Use within the US Urban Services Zone, and the Development Officer has discretion to refuse the development based on the impact of the development upon the community. In his opinion, this discretion was not exercised properly.
- [17] In April 2016, City Council affirmed a decision to extend the moratorium on using public funds for subsidized housing in five inner city communities, including McCauley. The proposed development is contrary to the spirit of this moratorium.
- [18] In response to questioning by the Board, Mr. O'Hara stated that the proposed variances are minor, but the Development Officer should have considered the community impact that the proposed development will have on the neighbourhood.
- [19] Mr. O'Hara said that delaying the project until May 2018 would benefit the community because a plan to address homelessness will be in place by then. It is possible that this future plan could integrate the proposed Temporary Shelter Service, but there must be greater collaboration between the various agencies.

iii) Position of Appellant, Quinco Financial Inc. ("Quinco")

- [20] Quinco Financial Inc. was represented by Ms. L. Roberts. She was accompanied by Mr. B. Chinn.
- [21] Quinco Financial Inc. owns a site across the street from the proposed development. They plan to build a \$43 million hotel there. The proposed development will negatively impact the successful operation of the hotel.
- [22] Mr. Chinn, a business advisor, stated that Quinco owns 22 lots around this area. Quinco is considering not proceeding with the hotel because investors are concerned that the proposed development will affect the profitability and value of the future hotel.
- [23] In response to questions from the Board, they advised that Quinco was aware of the existing Herb Jamieson Centre when it purchased the neighbouring land for the future hotel. However, although Quinco has not reviewed the plans for the proposed development, it is their position that based on the number of proposed beds, the proposed

development will have a negative impact on Quinco's properties. In particular, Quinco is concerned that if the subject permit is approved, this Temporary Shelter Service building will become a permanent fixture in the community.

iv) Position of Appellant, Chinatown and Area Business Association (the "Association")

- [24] The Association was represented by Ms. R. Lawrence, Executive Director. Ms. Lawrence read from her prepared written submissions, a summary of which follows.
- [25] The Association covers the business area in the McCauley and Central McDougall communities. Area businesses are concerned about the proposed development. Both McCauley and Central McDougall are home to many social services and human service agencies that provide supports to those living in poverty within the inner city. Both McCauley and Central McDougall have been identified as "in distress", with a low quality of life index.
- [26] Business owners within the vicinity of Herb Jamieson have had to deal with social disorder, public intoxication, urination and defecation on a daily basis. The expansion of Herb Jamieson will aggravate these problems. Business owners are further concerned with the placement of Hope Mission's clientele during the construction stage, and question where these individuals will live during this process.
- [27] The Association is in full support of the City's Ten Year Plan to End Homelessness and wishes to see the City of Edmonton expedite this plan. By housing the homeless, many of the above cited concerns would be reduced. In addition, there would be reduced calls for police and paramedics.
- [28] Ms. Lawrence reviewed the progress of the Ten Year Plan, revised targets and timelines for the Ten Year Plan, supplemental community-led programs, as well as the results from various studies and reports regarding homelessness in Edmonton and the costs of tackling homelessness. Ultimately, the focus must be on appropriate, supportive housing, rather than having emergency services constantly picking people up from off the streets. Within this context, the expansion of Herb Jamieson should not be supported.
- [29] Upon questioning by the Board, she stated that even though the Herb Jamieson Centre is in existence, the expansion is a concern for the businesses in the area. In her opinion, extensive cleaning of the site needs to be done.
- [30] With regard to the variances, she acknowledged that she did not review the plans, nor did she have information regarding the hours of operation or whether the proposed number of units would be permanent. Regarding the Height variance, the Association is opposed to the Height, but she could not comment further on it. She noted that the proposed landscaping with additional trees will attract more people seeking cover from the sun. Trees also present a safety concern, as they can prevent visibility.

[31] In her opinion, the issues experienced in the neighbourhood are from individuals using the shelter since they have no place to go.

v) *Position of Affected Property Owner in Opposition to the Development*

[32] Mr. Gruninger stated that when he purchased the lots around the Herb Jamieson Centre, he intended to construct a condominium building and had hoped that the shelter would be removed so that development can proceed. In his view, “people don’t change” and he constantly sees the same clientele going in and out of the establishment.

[33] Impark currently rents the lot he owns immediately to the west of the Herb Jamieson Centre and they have to remove garbage from the lot on a daily basis. In his view, the proposed development should be built in another location so that the downtown core can continue to be cleaned up.

[34] He did not review the proposed plans so he could not comment on the variances.

vi) *Position of the Development Authority*

[35] The Development Authority was represented by legal counsel, Mr. M. Gunther. He was accompanied by Development Officer, Mr. P. Kowal.

[36] Once a matter reaches the Board, the role of the City at the hearing is not to speak in favour or opposition of the development, but to answer questions of the Board and provide comments regarding the legal framework in which the Board renders its decision. Mr. Kowal can also answer any questions specifically about the development.

[37] Section 616(b) of the *Municipal Government Act*, defines “development” as four things: the excavation of a site, the construction of a building, a change in use, or an intensification of use.

[38] In the context of this appeal, the proposed development is for a land use that existed on the site since 1954, when the first permit was issued for a men’s hostel. Since that time, permits have been issued to allow the development to continue to exist.

[39] The subject development is for the construction of a new structure to replace an existing structure that will be demolished. There is also a minor component of use intensification. Currently, there are 350 permanent temporary shelter beds on the site, with an additional 51 being permitted for a limited time through a two year development permit. If the proposed development is granted, all 400 temporary shelter beds will be allowed without time limitations.

[40] Regarding the intensification of use, the issue before this Board is whether a change from 350 permanent temporary shelter beds (with 51 additional beds allowed for a two year

period) to 400 permanent temporary shelter beds will have a material impact upon the neighbourhood. What is not at issue is the existence of a Temporary Shelter Services Use for 350 permanent temporary shelter beds because that land use already exists under previously approved development permits. Even though the proposed development is a Discretionary Use, the land owner is entitled to continue that use. The Appellants raised concerns related to homelessness and how it should be managed. Although homelessness is a high priority for the City, how to deal with it is outside the purview of this Board.

- [41] The Board questioned whether it had the power to consider the impact of the entire 400-bed proposed development rather than just the incremental impact of the 50-bed expansion.
- [42] In response, Mr. Gunther referred to the case of *Rosssdale Community League v Edmonton (City)*, 2017 ABCA 90, where there was an existing development permit that dated back to the 1950s. The Applicant in that case applied for renovations to the facilities. In so doing, the proposed development remained consistent with the original scope of the permit. Implicit in the Court's decision was the recognition that development permits for specific land uses run with the land and that the Applicant remains entitled to continue that use, subject to rezoning resulting in a non-conforming use.
- [43] Mr. Kowal submitted Exhibit "A", a 60-metre notification map showing the location of the Site. To the northwest of the subject Site is a vacant lot; to the north is an existing bar and neighbourhood pub with apartment dwellings above; to the east, Edmonton Public Schools operates a maintenance service building; and to the south is the George Spady Centre and Immigration Hall. The exhibits demonstrate that the proposed development is not incompatible with surrounding developments.
- [44] There are also commercial developments north of the subject Site, and a loading/customer parking area behind the subject Site. In his view, any potential negative impact from the Herb Jamieson Centre will be buffered by these areas.
- [45] The only issue related to the development is the building design and variances required. The proposed development aligns with the General Purpose of the Zone, and the Herb Jamieson Centre will remain at 400 beds. He referred to Condition 4 of the approved permit, which states "at no time shall the bed count exceed the existing occupancy of 400 in the proposed building". If additional beds are considered, a new Development Permit application would be required. He confirmed that the 400 beds will be permanent.
- [46] The variance in Height is necessary because of two portions that would extend out from the roof to accommodate a stairwell and a mechanical room. These portions would be a small percent of the total building area and would not be very visible from the street.
- [47] Regarding the landscaping variance, using all deciduous trees rather than a 50-50 mix of deciduous and coniferous trees is preferable. Deciduous trees have a canopy to provide shade and cover. Given sustainability principles and considering the heat that rises from asphalt and hard surfacing during the summer, there is an advantage to this canopy. These

trees lose their leaves in the winter, allowing light through their branches, whereas coniferous trees would create more of a shadow. In his view, the deciduous trees do not create a safety or security concern because the canopy is usually eight to twelve feet above ground level.

- [48] Regarding the Rear Setback variance, he advised that the Rear Setback in this case does not refer to the north property line that abuts the back alley. Rather, it refers to the west property line abutting the adjacent lot. As a result, the reduced Rear Setback would not impact Ms. Chao's business.
- [49] He also noted that for the most part, the proposed building would not be built up to the west property line. However, the Rear Setback deficiency is determined based on the portion of the building that falls closest to the property line, which is why the Rear Setback variance is required.

vii) Position of the Respondent, Brian Allsopp Architect Ltd.

- [50] The Respondent was represented by Mr. B. Allsopp. He was accompanied by Mr. J. Odishaw and Mr. B. Reith from Hope Mission.
- [51] Mr. Reith disagreed that the proposed development is being pushed forward in isolation from the community. He is a member of the City Land Committee that reviews the community's overall wellness plan. Based on 2015 and 2016 data, an outside firm determined that only four percent of 120,000 men who stayed at Hope Mission during that period would fit into a community wellness shelter. There is a need for the work being done by Hope Mission.
- [52] He agreed with the Appellants that the key to addressing homelessness is permanent supportive housing. However, Edmonton is a winter city, and there is a need for services like those provided by the Herb Jamieson Centre to get individuals off the street into emergency shelter. Deferring the proposed development to 2018 when the community wellness programs are slated to be finalized will not solve the immediate homeless problem. That being said, if the issue is indeed resolved within 10 years and the Temporary Shelter Service is no longer needed, then the Centre will be converted to other uses.
- [53] Regarding the proposed development itself, Mr. Odishaw submitted that the design is aesthetically pleasing and will enhance the community. The proposed rooftop garden will promote activities such as barbeques and community gardening, which will remove the homeless from the street. It was noted that none of the Appellants spoke in opposition to the requested variances.
- [54] Upon questioning by the Board about the variances, Mr. Allsopp referred to Exhibit "B", and noted that the new building has approximately the same footprint as the existing one, and that it is in fact set further back from the laneway. Also, the proposed building will

have a canopy to provide some shelter from rain and snow. The angled corner of the proposed building will create an angled plaza effect. There will also be a dedicated indoor loading area as well as secure underground parking for staff. Overall, the building will be safer and make for a more aesthetically pleasing streetscape.

- [55] Mr. Odishaw and Mr. Reith indicated that homeless people are already in the area, they are not there because the Hope Mission is there. The facility gives them a place to go and gets them off the street.
- [56] Mr. Odishaw and Mr. Reith also confirmed that the Temporary Shelter Service allows people to stay a maximum of 21 days in the facility, it is not permanent housing. In their view, although they could operate with 351 beds, they would prefer to be approved for 400 beds, which would allow them to improve the services they provide.
- [57] They acknowledged that if the permit is approved and construction proceeds, there is currently no place for their homeless clientele to stay. One option would be to place individuals in the Edmonton Remand Centre. Also, another Hope Mission building is nearby.
- [58] Their clientele are able to come and go from the facility 24 hours a day, seven days a week. They are not forced to leave the facility in the morning so there is no influx of people into the neighbourhood at any given time.

viii) Rebuttal of the Appellants

- [59] Ms. Chao and Mr. Luong stated that they now have an understanding of the building. However, they are concerned that the building Height will shadow their business. Mr. Luong is concerned that the back corner of the property will negatively affect Garden Bakery's parking area.
- [60] Mr. O'Hara said that no evidence had been presented to demonstrate that the proposed development would have a negligible impact. As stated by the Development Authority, community impact is an aspect that must be considered by the Board.
- [61] Quinco Financial Inc. declined the opportunity to provide rebuttal.
- [62] Ms. Lawrence stated that the Chinatown and Area Business Association had not been consulted by the Respondent about the development.

Decision

- [63] The appeals are DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority, subject to CONDITIONS as set out in Permit Number 243699586-001, issued on June 9, 2017.

[64] In granting this development the following VARIANCES to the *Edmonton Zoning Bylaw* are allowed:

- 1) Subsection 510.4(2) is varied to permit a reduced Rear Setback of 0.0 metres instead of the required 7.5 metres.
- 2) Subsections 510.4(4) and (5) are varied to permit a building Height of 13.3 metres instead of the allowable maximum of 10.0 metres.
- 3) Subsections 55.3(c)(i) and (iii) are varied to permit the proportion of deciduous to coniferous trees and shrubs to be 100:0 instead of 50:50.

Reasons for Decision

[65] The proposed Development is for a Temporary Shelter Service, which is a Discretionary Use in the US Urban Services Zone.

[66] There is an existing development permit for a 350-bed Temporary Shelter Service. A new development permit is required because a new building is proposed and because of a proposed intensification of Use to allow an additional 50 beds. Although a number of those opposed to the proposed development were opposed on the basis that a Temporary Shelter Service Use is not appropriate in this area, the fact is that there is already a valid development permit for such a Use. The issues before the Board relate to the impact the new building and the incremental intensification of Use would have on the neighbourhood and neighbouring parcels of land, not to whether such a Use is appropriate at this location.

[67] As well, the Board accepts the Respondent's position that the homeless people it serves are already in the neighbourhood—they are not there because the Temporary Shelter Service is there. In other words, the problems associated with homeless people in the neighbourhood are not caused by the presence of the Temporary Shelter Service. The Temporary Shelter Service gets people off the street and gives them a place to stay for up to 21 days.

The Intensification of Use

[68] The building has existed on the subject Site for over 50 years with this type of Use. In December 2016, Hope Mission was given a temporary development permit to house an additional 51 occupants in temporary trailer shelters on the site, in addition to the 350 available within the main building.

[69] With regard to the intensification of Use to allow an additional 50 beds in the proposed new building, the Board heard no convincing evidence that there has been an increase in any of the community's social problems since the temporary development permit allowing an additional 51 beds was approved.

- [70] The Board heard evidence about the various surrounding Uses, which consist of commercial Uses, institutional Uses or parking lots. The Board is of the opinion that the proposed development is reasonably compatible with the immediately surrounding uses.
- [71] The McCauley Community League's main concern is the overall approach to homelessness in the City. The Community League believes that other steps should be taken to address these concerns rather than the expansion of the proposed Temporary Shelter Service. These concerns are beyond the mandate of the Board, which is tasked with determining the impact the proposed development will have on the neighbourhood and neighbouring parcels of land.
- [72] One of Ms. Chao's concerns was about how homeless people in the area frequent her business and cause problems. As was stated above, the Board is not convinced that the problems associated with homeless people in the neighbourhood are caused by the presence of the existing Temporary Shelter Service. It follows that the Board does not believe that the intensification of that Use will result in an intensification of the problems Ms. Chao's business is experiencing.
- [73] Quinco Financial Inc.'s concerns related to how the development might impact the viability of a hotel project they are considering on a nearby site. Similarly, Mr. Gruninger felt that the presence of the existing homeless shelter had a negative impact on his plans to construct a condominium project. Quinco Financial Inc. was also concerned with the impact the proposed development would have on the value of their land.
- [74] The Board notes that the Use of the development will continue to be the same Use that has existed there for at least five decades. The Board is of the opinion that the intensification of Use from 350 to 400 permanent beds will not have any significant impact on neighbouring parcels of land.
- [75] The Chinatown and Area Business Association's concerns related to homeless problems in the area and how the City should address them. Few of the concerns were directed specifically at the proposed development and none of them were planning issues that the Board has the authority to deal with.

The New Building

- [76] The proposed new building requires three variances. They relate to the minimum Rear Setback, the maximum building Height and Landscaping.
- [77] Most of the Appellants and the others in opposition to the proposed development had no issues with the variances.
- [78] One of Ms. Chao's concerns related to how the proposed building would impact traffic in the alley between her business and the development. She was under the mistaken impression that the proposed development would be closer to the alley because of the reduced Rear Setback. In fact, the proposed building will have an increased Setback from

- the alley. The reduced Rear Setback relates to the west property line, not the property line along the alley.
- [79] The existing building does not have a Rear Setback, so the proposed elimination of this Setback will not result in a change.
- [80] The abutting property to the west is zoned General Business Zone (CB2). This zone does not require Setbacks on interior portions of a site. Future development on this site will likely not have any Setback on the property line it shares with the proposed development. Requiring the proposed development to have a Rear Setback could create an undesirable and unsafe space between the proposed building and the future development on the site to the west. The Board heard that Edmonton Design Committee supported the Rear Setback reduction for these reasons.
- [81] With respect to the maximum Height variance, the proposed development would have a flat roof and the Height of that portion of the roof is 9.9 metres. The only part of the roof that would be above the maximum Height of 10 metres is to accommodate a stairwell and vestibule to access the rooftop Amenity Area. This part of the building would be 13.3 metres high. It would be a relatively small fraction of the entire footprint of the building and would not be very visible from the street. The Board is of the opinion that the variance of 3.3 metres will not have a significant impact on the neighbourhood or on neighbouring parcels of land.
- [82] The final variance relates to the mix of deciduous trees relative to coniferous trees. The regulation requires a 50-50 mix. The proposal is for all deciduous trees. The number of trees proposed exceeds the required number. In a dense, downtown setting, coniferous trees do not provide good street canopies. Deciduous trees will allow for more shading in the summer and more light to filter through in the winter. Eliminating the coniferous trees will also decrease the areas where people could conceal themselves, which will improve public perceptions of safety around the facility. The Board notes that currently there is virtually no landscaping onsite, so the proposed landscaping will be a significant improvement.
- [83] The footprint of the proposed development is roughly the same area as the existing development. However, the proposed development will have an increase in setback on all sides except, as previously discussed, on the west side, which is the rear of the building and that setback remains the same as the present building.
- [84] The proposed development will replace an old building which has reached the end of its life with a modern building. It will provide a more appealing streetscape. The design is more pedestrian friendly with a corner alcove and a canopy. The proposed development will allow for staff to park underground and it has loading facilities underground, which will reduce on-street parking and will enhance the aesthetics of the neighbourhood.

[85] Based on the above, it is the opinion 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. M. Young, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance

Mr. W. Tuttle; Ms. G. Harris; Mr. A. Peterson; Ms. S. LaPerle

Important Information for the Applicant/Appellant

7. 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.
8. Obtaining a Development Permit does not relieve you from complying with:
 - f) 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,
 - g) the requirements of the *Alberta Safety Codes Act*,
 - h) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - i) the requirements of any other appropriate federal, provincial or municipal legislation,
 - j) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
9. 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.
10. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
11. 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.
12. 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.