



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: August 13, 2019  
Project Number: 262704257-020  
File Number: SDAB-D-19-060

**Notice of Decision**

- [1] The Subdivision and Development Appeal Board (the “Board”) at a hearing on April 25, 2019, made and passed the following motion:

“That the appeal hearing be postponed until June 5, 2019, at the verbal request of the Appellant and with the support of the Respondent and the Development Authority.”

- [2] The Board at a hearing on June 5, 2019, made and passed the following motion:

“That the appeal hearing be postponed until July 31, 2019, at the verbal request of the Appellant and with agreement from the Respondent.”

- [3] On July 31, 2019, the Board made and passed the following motion:

“That SDAB-D-19-060 be raised from the table.”

- [4] On July 31, 2019, the Board heard an appeal that was filed on March 27, 2019. The appeal concerned the decision of the Development Authority, issued on March 12, 2019, to approve the following development:

Construct exterior alterations to a Public Education Services site  
(Landscaping revision of Ecole Joseph-Moreau Junior High School)

- [5] The subject property is on Plan 1721326 Blk A Lot A, located at 9735 - 75 Avenue NW, within the Urban Services Zone. The Ritchie Area Redevelopment Plan applies to the subject property.

- [6] 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 approved Development Permit;
- The Development Officer’s written submissions;
- The Appellant’s written submissions; and

- Several e-mails and on online responses from the public.

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

- Exhibit A – Original Plan vs. New Plan (from Appellant)
- Exhibit B – Executive Summary – Urban Forest Management Plan – May 2012
- Exhibit C – 2 Photos from D. Morie
- Exhibit D – Photo from L. Perkins
- Exhibit E – Diagram of trees surrounding site from Respondent

### **Preliminary Matters**

[8] At the outset of the appeal hearing one of the board members, R. Handa, disclosed that he was employed at Stantec more than two years ago but has had no involvement with this project. The Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

[9] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[10] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

### **Summary of Hearing**

#### *i) Position of the Appellants, H. Jeffares and C. Fog*

[11] Ms. Jeffares and Mr. Fog appeared to represent themselves and many community members who were not able to attend today. The original landscaping plan that was presented to the community complied with the requirements of the *Edmonton Zoning Bylaw*. Now 69.94 percent of the landscaping originally proposed at the subject site has been stripped.

[12] Stantec had assured the community that the Bylaw requirements would be met and there would be an over-landscaping as a gesture to the community. The site has not been subdivided since the time of the original landscaping plan and the community is unsure as to why the landscaping has now been reduced to such a large extent.

[13] The Appellants referred to Exhibit A which shows that development is occurring throughout the entire site. The location of the old school, new school, parking lot and soccer fields were identified. The trees that are being removed from the original plan are coloured in red.

[14] A line has been drawn around the footprint of the school and the landscaping requirements no longer reflect the entire parcel of land. This reduction in landscaping is

not in line with the *Keep Ritchie Green* initiative or with the City of Edmonton's *Urban Forest Management Plan*. The executive summary portion of the *Urban Forest Management Plan* as well as the objectives of this plan were provided to the Board as Exhibit B. This document is a City of Edmonton initiative that focuses on promoting trees in the City.

[15] Ms. Jeffares referred to Objectives 1 and 2 of the *Urban Forest Management Plan*:

- a. Strategy 1.1 seeks to increase the tree canopy coverage by 20 percent through partnerships, residential action, naturalization and additional landscaping through tree planting.
- b. Strategy 2.5 talks about creating stewardship opportunities and calls for citizens and communities to play a role in our urban forest.
- c. Strategy 2.6 states: "Promote the long-term establishment and health of trees on local roadways, buffers, school grounds and natural areas."

The community members are trying to uphold these objectives and ask the Board to uphold the Bylaw as written.

[16] The old school dating from 1913 is being torn down and is being replaced with a modern school and a large parking lot that will have a visually dramatic impact on the neighbourhood. Residents on 75 Avenue are used to having green space across from them. The proposed landscaping does not provide a barrier.

[17] A beautiful mature elm tree which the Respondent promised would be kept was cut down without any communication to the neighbourhood.

[18] The Appellants provided the following responses to questions from the Board:

- a) The originally proposed landscaping plan would not impede the use of the land for soccer fields.
- b) They disagree that the original landscaping plan would result in safety issues. Due diligence would have been taken by the people who approved the original plan and it was found to be acceptable.
- c) Ms. Jeffares calculated that the revised landscaping plan would result in a savings of \$100,000 to \$200,000; this represents only .004 percent of the total school budget.
- d) Homeowners are required to follow Bylaw requirements regarding landscaping requirements and the Bylaw should be adhered to in this case as well.
- e) The revised landscaping plan will reduce the enjoyment that neighbours will get out of this area. This is confirmed by the numerous e-mails and on-line responses from the public. The community was looking forward to the augmented green space,

- especially in light of the modern building which is in juxtaposition to the community. Reducing landscaping so drastically will reduce that amenity.
- f) The Appellants could not say for certain but they believe the original 1913 school has not been in use for approximately 15 years. There is a newer building on the site dating from the 1950's or 1960's which currently houses students. Once the new school is built, all other buildings on the site will be demolished.
  - g) The original site was approximately 75 percent green space but the new school building and larger parking lot are dramatically larger reducing the amount of green space.
  - h) While the new landscaping plan will result in a numerically larger number of trees than what currently exist on the site, the development is taking up what used to be green space and mature trees have already been removed.

*ii) Position of the Community League*

- [19] K. Dozorec appeared to represent the Ritchie Community League in support of the appeal. The League feels that there is no substantive reason to reduce the landscape requirements and fear that this significant reduction will have a negative impact in the neighbourhood.
- [20] As a mature community, Ritchie enjoys the benefits of having mature trees, shrubs and greenery. With the amount of new infill projects and a strong community interest and desire in green initiatives the league has recently focused efforts on a "Keep Ritchie Green" campaign that has aimed to inform residents of the landscape requirements (Bylaw) and provided training opportunities on various green and sustainable topics. The purpose has been to encourage residents to do their part in keeping Ritchie green by replacing what may have been lost during infill construction and our hope is that all neighbours, including Ecole Joseph Moreau, consider this and do their part.
- [21] The League encourages open communication and engagement throughout any project that affects their neighbourhood. Skepticism on the intention of the school to be good neighbours is founded in the many missed opportunities of communication and engagement during the planning and construction stages. As an example, there have been plan changes that have not been communicated to the community as well as promises that have been broken.
- [22] One incident of note was the unexpected cutting of a beloved elm tree which sat on the west side of the site which Stantec had vowed to preserve.
- [23] The League has communicated the frustrations the neighbours and the community have experienced throughout the planning and building process, so it was extremely disappointing to hear that that the school was seeking to reduce the landscaping required

by around 70 percent. A reduction this significant should be accompanied by discussion and consultation as it will significantly change the area surrounding the school.

[24] Mr. Dozorec's family lives in a 1950's home and he looks onto a "forest" from every window. He believes he has an obligation to maintain the mature trees on his lot for all residents and expects the same of other residents and contractors.

[25] Mr. Dozorec provided the following response to a question from the Board:

a) He disagrees that additional greenery would pose a safety risk.

*iii) Position of Affected Property Owners in Support of the Appellant*

Ms. D. Morie

[26] Ms. Morie has been a resident of Ritchie for 37 years. It will be difficult to see the beautiful 1913 building demolished because it is too far down on the historical list to preserve.

[27] The new school will be almost on top of her house; it was originally supposed to be set 12 feet further back. The reduced setback will result in total shade on her house during late October and November and will cause her heating bills to go up.

[28] The side of the school which faces her property has more windows than originally proposed and her privacy will be compromised.

[29] She submitted two photos (Exhibit C) which show the 1913 school as well as the later additions and some of the landscaping that has now been removed.

[30] Ensuring that the original landscaping plan is enforced would provide some compensation for the negative impacts the new school will cause.

L. Perkins

[31] She lives across 98 Street in a home that has been in the family since 1920. She showed a photo to identify the view of the school (Exhibit D).

[32] The large windows of the new school have completely diminished the privacy in her back yard. She was hoping for shrubbery on the site which has now been removed.

[33] Safety lighting put in place by Stantec comes into her windows.

*iv) Position of the Development Officer, C. Li*

[34] The Development Authority did not attend the hearing and the Board relied on Ms. Li's written submission.

*v) Position of the Respondent, Stantec Architecture*

[35] J Ouellette, J. Mackay and H. Mapstone with Stantec and M. Labonte with the CSCN School Board appeared on behalf of the Respondent.

[36] Mr. Ouellette explained that the original landscape design was based on the entire site. It was later determined that the actual area that needed to be landscaped was very different than the entire lot and only the building and parking lot areas needed to be landscaped. The revised landscaping plan exceeds the requirements if only the building pocket is taken into consideration.

[37] The reduced landscaping plan was as a result of budget considerations and comparing this site with other Edmonton Public School sites which have significantly less landscaping than their original landscaping plan.

[38] Other considerations taken into account which led to the landscape reduction were determining what was best for the students and the school and the CEPTED requirements (Crime Prevention Through Environmental Design). As per CEPTED, sightlines are critical and this led to reductions in perimeter plantings.

[39] Long term maintenance requirements, which add costs, were also considered. The school is responsible for maintenance of the landscaping around the building and the parking lot and the remainder of the site is the responsibility of the City of Edmonton.

[40] Unimpeded sightlines are especially important to staff when it comes to the supervision of children and neighbourhood safety.

[41] The revised landscaping plan still creates a beautiful landscaped area which exceeds the minimum requirements and recognizes the values of the community.

[42] The Respondents provided the following responses to questions from the Board:

- a) The hearing was postponed several times to see if it was possible to re-design the parking lot as a way to compensate for the loss of trees. Such a re-design comes at a cost. Additional funding was denied by both the Provincial Government and the City. The Respondent is now in a position where they must proceed with the most recently approved plan.
- b) The Respondents agreed that a plain reading of the Bylaw requires a variance to the proposed landscaping as the Bylaw refers to the entire site as opposed to only the building pocket. It is the understanding of Mr. Labonte that Edmonton Public and

- Edmonton Catholic Schools must always apply for a variance when it comes to landscaping.
- c) Mill Creek School was recently developed nearby with similar landscaping as to what is proposed for the current site and is a beautiful addition to the neighbourhood.
  - d) The overall school budget is used for education. The more shrubs and trees that are in place the harder they are to maintain. If the school cannot afford to maintain the landscaping properly it is a disservice to the community.
  - e) It was determined that the original landscaping plan was in excess of what should have been there. The Respondents are concerned about the reduced visibility through the shrubs as they mature. Trees and shrubs along the soccer field would pose a risk in terms of sight lines.
  - f) They agreed that the residents across the street previously viewed a playing field but are now looking at a building; however, there are mature boulevard trees on both sides of the street. The new school is a beautiful building that was designed to fit into the neighbourhood. The shrubs along the front of the building will remain.
  - g) Exhibit E was used to point out which trees will be removed and which will remain. The Respondents moved the building around on the site to save as many trees as possible. A great attempt was made to save the elm tree previously mentioned but the proximity of the new building became a problem.
  - h) They focused the landscaping on the building pocket and landscaped two sides of the building. They put the available money where it needed to be.

*vi) Rebuttal of the Appellant*

- [43] Safety would have been considered at the time the original Development Permit was approved. Section 55.3 of the Bylaw was written expressly for educational buildings and schools and appropriate landscaping requirements would have been thought through.
- [44] Nowhere in the Bylaw does it mention that landscaping requirements only apply to the building footprint area. The Bylaw requires the site as a whole to be landscaped according to setbacks set out in that document. The Appellants oppose the fact that the Respondents are now using the building envelope as a way to calculate landscape requirements which makes it appear they are over-landscaping when in reality they are under landscaping. The arbitrary line drawn around the school is not supported by the Bylaw.
- [45] Allowing a line to be drawn around the building sets a bad precedent. It has already been argued by the Respondent that this precedent has been set at other schools. The Bylaw should be changed rather than granting a variance every time a school is built.

- [46] This landscaping will represent a miniscule percentage of the overall budget (.004%) This is a much lower percentage than what is asked of owners of residential properties. The Bylaw should be upheld whether it applies to residents or larger developments.
- [47] Granting the variances does not reflect the goals of the City of Edmonton and flies in the face of the *Urban Forest Plan*. It is also not in line with the *Keep Ritchie Green* initiative.
- [48] The reduced landscaping will have a negative impact on the community. Tremendous initiative has been taken to protect the heavily treed Ritchie Park area with its rolling hills. Many residents have moved to Ritchie because of the strong ties to green areas and community members help to clean the Mill Creek Ravine.
- [49] The Appellants feel that allowing the reduced landscaping plan will interfere with the amenities of the neighbourhood and will negatively affect the use, enjoyment or value of their homes.

### **Decision**

- [50] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Officer with conditions and variances.

### **Reasons for Decision**

- [51] The proposed development is to construct exterior alterations to a Public Education Services site (Landscaping revision of Ecole Joseph-Moreau Junior High School). Under Section 510.2(5) of the *Edmonton Zoning Bylaw*, a Public Education Service is a Permitted Use in the (US) Urban Services Zone.
- [52] This application was approved by the Development Officer with variances to the Landscaping requirements pursuant to Section 55 of the *Edmonton Zoning Bylaw*.
- [53] The Board acknowledges there was strong neighbourhood opposition to the proposed development which included fairly substantial landscaping reductions from what was initially proposed at subject site. Neighbourhood opposition included e-mail correspondence, written submissions, Community League participation and multiple attendees in person at the hearing. However safety is an issue on school sites and a balance must be struck between the presence of trees and the safety aspect.
- [54] The subject site is surrounded by existing mature boulevard trees on both sides of 98 Street and 75 Avenue which will not be removed due to the proposed development. These trees will provide shade and screening to the subject site and surrounding residential area.



- [55] The Respondents have designed planting and screening to minimize the impact on neighbouring properties. Also, as per the evidence submitted, existing vegetation was retained as much as possible and the proposed planting is more than what currently exists on the site.
- [56] The Board accepts the reasoning in the Development Officer's written submissions wherein she reduced the area used in the calculation of landscaping requirements based on the development boundary and due to fact that large tracts of land at this site cannot be landscaped, mainly the parking lot and the sports fields.
- [57] The Board also accepts the submissions of the Development Officer and the Respondent that the approved drawings have been vetted by the CEPTED guidelines. These guidelines ensure open sightlines of the school yard to enhance student safety and allow for teachers to provide supervision without being obscured by shrubbery or excessive tree canopy.
- [58] As noted by the Development Officer in her written submission, the proposed landscape revision had been circulated to Parkland Management, OpenSpace Planning and Design and Landscape Technician. No objections and concerns were received.
- [59] The Board specifically notes it has not accepted the submissions of the Respondents when it comes to budgetary or maintenance concerns. This decision was made solely on the basis of Section 687(3)(d) of the *Municipal Government Act* which governs the decision making of this Board.
- [60] For the foregoing reasons, 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 as per Section 687(3)(d) of the *Municipal Government Act*.



Winston Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. R. Handa, Ms. G. Harris, Mr. R. Hachigian, Mr. J. Wall

**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.*