

# **Edmonton Subdivision and Development Appeal Board**

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Date: June 18, 2015  
Project Number: 168861462-001  
File Number: SDAB-D-15-107

## **Notice of Decision**

This appeal dated May 8, 2015, from the decision of the Development Authority for permission to:

construct a Semi-detached House and to demolish an existing Single Detached House

On Plan 8136AC Blk 2 Lot 1, located at 12011 - 91 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on June 3, 2015. The decision of the Board was as follows:

### **Summary of Hearing:**

At the outset of the appeal hearing the Presiding Officer introduced the panel and asked if there was any opposition to the composition of the panel. Mr. Hachigian, one of the panel members, disclosed that he had previously worked with Ms. M. Ziober, who is representing City of Edmonton Sustainable Development Department at this hearing. There was no opposition.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct a Semi-detached House and to demolish an existing Single Detached House located at 12011 – 91 Street NW. The subject site is zoned RF3 Small Scale Infill Development Zone and is located within the Mature Neighbourhood Overlay and the Alberta Avenue / Eastwood Area Redevelopment Plan.

The development permit was refused due to a deficiency in the minimum required Site Area and the minimum required Site Width.

Prior to the hearing the following information was provided to the Board:

- A written submission from the Development Authority received on May 29, 2015.
- An on-line response from an affected party (opposes development).

The Board heard from the Appellant, Mr. J. Rodas, representing Core Living Homes Ltd. who provided the following information:

1. He had grown up in the neighbourhood and this whole area is in need of redevelopment.

2. The Site area requirement for Semi-detached housing in the RF3 Small Scale Infill Development Zone is a minimum of 442.2 square metres and he is requesting a variance to allow a Site area of 356.18 square metres.
3. He provided photographic evidence, marked "Exhibit A", of similar developments with Site areas ranging from 313.2 square metres to 367 square metres. These photos included three duplexes located at 12028, 12027 and 12028 - 91 Street.
4. The proposed two storey Semi-detached House is intended to provide affordable housing within the Alberta Avenue area.
5. The neighbours on the two adjacent properties are very supportive of the proposed development.
6. He discussed the proposed development with affected property owners and documentation, marked "Exhibit B", was submitted indicating support from 26 of 28 neighbours within the 60 metre notification area. Of the remaining two, one owner was opposed and one owner did not speak English.
7. The individual who was opposed was concerned because the existing duplexes adjacent to her property cause parking issues. He is proposing a double car garage with two tandem parking stalls to address the parking requirements.
8. He is planning on selling these units and they are not intended to be rental properties.
9. There is a hardship associated with the property. When the original plan was developed most of the lots in the area were 10 metres wide but his lot is only 9.81 metres wide at the front and 9.63 metres wide at the back.

Mr. Rodas provided the following responses to questions:

1. His blockface Setback is in line with the other properties on the street.
2. The development application for the garage has already been submitted to the City of Edmonton Sustainable Development Department.

The Board heard from Ms. M. Ziober representing the City of Edmonton Sustainable Development Department who provided the following information:

1. The proposed development is a Permitted Use in the RF3 Small Scale Infill Development Zone.
2. The deficiency in the Site area is 86.02 square metres. (442.2 square metres is the minimum required).
3. She felt there was no hardship associated with this Site.
4. She could not confirm that the properties shown in "Exhibit A" located on 91 Street were duplexes. In her opinion they looked like Single Detached Houses. She indicated that a number of the properties shown in "Exhibit A" are outside of the 91 Street area.
5. The housing stock on this street and the immediate area are small bungalows. Duplex redevelopment in this neighbourhood is a concern to neighbours and any development has to be sensitive in nature and scale to the character of the community as per the Mature Neighbourhood Overlay.
6. Two out of three proposals that have come before Development Authority in this area had been refused.

7. She referenced the Alberta Avenue / Eastwood Area Redevelopment Plan (ARP), marked “Exhibit C”:
  - a. It contains general guidelines associated with limiting intensifications one block north and south of 119 Avenue and 117 Avenue.
  - b. The need to monitor the redevelopment of single family developments to duplexes and apartments is discussed.
  - c. Page 29 indicates that duplex redevelopment is a primary concern to area residents because this leads to a gradual change of the area’s character.
  - d. Paragraph 1, Page 30 recognizes the need to allow some duplex development in the area to help replace deteriorating housing that is beyond repair.

Ms. Ziober provided the following responses to questions:

1. The regulation requiring a Site area of 442.2 square metres was developed by the infill implementation team.
2. She confirmed that the proposed development had the appropriate outdoor amenity area of 4 metres by 4 metres.
3. Infills must address the concern of existing housing stock. Allowing Semi-detached Housing with a deficiency in Site area of 19.5 percent or 86.02 square metres was out of character with other housing stock on this block.
4. A good attempt had been made to meet all of the required Setbacks.
5. She feels a Single Family Dwelling with a suite would be more suited for this property.

Mr. Rodas made the following points in rebuttal:

1. He made a definitive effort to speak with all the people within the 60 metre notification radius and felt that he had strong support as demonstrated in “Exhibit B”.
2. He referenced one of the photos in “Exhibit A” (12026 – 91 Street) and pointed out it has two mailboxes; therefore, he felt it was a duplex.
3. The Development Officer had mentioned two development permit refusals but a future appeal had provided variances to allow these developments.
4. The house in question being demolished was built in 1912.
5. The proposed development would be 2,150 square feet.
6. Both adjacent neighbours are supportive of the development.
7. He had included the porches of the two adjacent neighbours when calculating the block face measurement. He felt his proposed development was in alignment with these adjacent properties if the porches were included.

**Decision:**

The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority.

In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. A variance of 86.02 square metres to the minimum required Site Area of 442.2 square metres.
2. A variance of 0.37 metres to the minimum required Site Width of 10 metres required where dwellings are arranged along the depth of the site.

**Reasons for Decision:**

The Board finds the following:

1. Semi-detached Housing is a Permitted Use in the RF3 Small Scale Infill Development Zone, Section 140.2(8) of the *Edmonton Zoning Bylaw*.
2. The Board notes that while a substantial deficiency in the required Site area exists, the proposed development does meet the Site Coverage requirement for the Principal Building and conforms to all of the Setback requirements.
3. The Board notes that while there is no other Semi-detached Housing on this block there are three other multi-family developments in the form of Duplexes.
4. The Board notes the very extensive community consultation, which provides support for the proposed development.
5. The Board notes the letter of opposition; however the proposed development complies with all of the parking requirements and the all of the building regulations of the RF3 Small Scale Infill Development Zone and the Mature Neighbourhood Overlay.
6. The Board notes that the proposed development is consistent with the requirements of the Municipal Development Plan "*The Way We Grow*", *Policy 3.1.1.2 and Policy 4.4.1.1 which calls for the increased densification and the provision of a variety of housing styles*.
7. 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.

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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*, other than those requirements have 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. N. Somerville, Presiding Officer  
Subdivision and Development Appeal Board

Date: June 18, 2015  
Project Number: 169534562-001  
File Number: SDAB-D-15-108

### **Notice of Decision**

This appeal dated May 8, 2015, from the decision of the Development Authority for permission to:

construct exterior alterations to a Single Detached House (Driveway extension)

On Plan 9022896 Blk 17 Lot 96, located at 4320 - 21 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on June 3, 2015. The decision of the Board was as follows:

**Summary of Hearing:**

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.

The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed within the allowable 14-day appeal period, pursuant to Section 686 of the *Municipal Government Act*, R.S.A. 2000, c M-26 (the "MGA").

The Board notes there was a letter from Canada Post on file indicating that the delivery date of the Notice of Refusal was April 27, 2015. The Appeal date was May 8, 2015, which is within the required 14 day time frame.

**MOTION:**

That the Board assumes jurisdiction pursuant to Section 686(1)(a)(i) of the *MGA*.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct exterior alterations to a Single Detached House (Driveway extension) located at 4320 – 21 Avenue NW. The subject site is zoned RF1 Single Detached Residential Zone.

The development permit was refused because the proposed Driveway extension abutting the left side property line does not lead to an overhead Garage door or Parking Area, Front Yards and Front Setbacks must be Landscaped and monolithic concrete is not considered a form of Landscaping, parking spaces are not allowed in a Front Yard, the Driveway exceeds the maximum allowable width, and the proposed Driveway extension is not characteristic of the neighbourhood.

Prior to the hearing the following information was provided to the Board:

- A written submission from the Appellant received on May 8, 2015, including a community consultation.
- A written submission from the Development Authority dated May 12, 2015

The Board heard from the Appellants, Mr. C. Wilkinson and Ms. H. Tyler, who provided the following information to the Board:

1. They wished to use paving stones for landscaping the front yard instead of asphalt or concrete and felt this would comply with the landscaping requirement of the *Edmonton Zoning Bylaw*.
2. The paving stones provide good drainage toward the street.
3. They have three large vehicles and there is limited on-site parking. The garage does not permit the parking of two vehicles due to stairs and the size of the vehicles.

4. The work schedules of the various residents at the home make the feasibility of tandem parking arrangements difficult; some of the residents are forced to park on the street causing congestion issues. Allowing parking on the paving stones would help with the parking situation.
5. They own a holiday trailer and would like to park it on-site from May to October. There is no other on-site space because there is no lane access. The trailer is stored off-site during the winter. They explored other options for trailer storage but felt this would be most cost effective.
6. City of Edmonton crews pile snow in the middle of the cul-de-sac turn around in the winter, causing additional parking problems.
7. A school bus enters the cul-de-sac to pick up children. More off-street parking would reduce congestion and accommodate the school bus.
8. The paving stone landscaping is easier to maintain and is more aesthetically pleasing.
9. They have obtained signatures in support of the proposed development from 11 of 13 neighbours within the 60 metre notification area.
10. They provided a photograph, marked "Exhibit A", of the completed paving stone area.

Mr. C. Wilkinson and Ms. H. Tyler provided the following responses to questions:

1. They are planning additional landscaping in the future.
2. The paving stones would not create any drainage problems for neighbours.
3. The area shown on the site plan is not correct and the paving stone area does not extend back into the Side Yard as shown.
4. Prior to installing the paving stones there was grass and one tree on the site.

The Board heard from Ms. K. Mark, representing the City of Edmonton Sustainable Development Department, who provided the following responses to questions.

1. She was not aware of any complaints that had been raised about the proposed development.
2. Paving stones are an acceptable form of landscaping.
3. Sometimes paving blocks that allow for grass growth are used for parking areas but this is not common in the City of Edmonton.
4. The double car garage and tandem parking on the driveway allow for 4 total parking spaces which she feels is adequate.

Mr. C. Wilkinson and Ms. H. Tyler made the following points in rebuttal:

1. They are willing to submit a landscaping plan that would show the actual limits of the existing paving stones.
2. They could provide pictures to demonstrate their parking problem in trying to get two vehicles into the garage.

**Decision:**

The appeal is ALLOWED IN PART and the decision of the Development Authority is VARIED. The development is GRANTED with the following changes:

The Board indicates paving stones are an acceptable Landscaping material for the Front Yard; however parking vehicles shall not be permitted in that area.

**Reasons for Decision:**

The Board finds the following:

1. The existing paving stone Landscaping is Accessory to Single Detached Housing and is a Permitted Use in the RF1 Single Detached Residential Zone, Section 110.2(4) of the *Edmonton Zoning Bylaw*.
2. Paving stones are an acceptable Landscaping material as per Section 6.1(55) of the *Edmonton Zoning Bylaw* and therefore not an extension of the existing Driveway.
3. Despite the consultation submitted indicating strong support from the surrounding neighbours the Board is not prepared to grant permission to allow parking in the required Landscaped Front Yard.
4. The Board cannot conclude that allowing parking in a Front Yard 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.

Advisement:

Other possible acceptable on-site parking solutions may be available in the north Side Yard of the subject site.

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**Important Information for the Applicant/Appellant**

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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.
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Mr. N. Somerville, Presiding Officer  
Subdivision and Development Appeal Board

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Date: June 18, 2015  
Project Number: 169860415-001  
File Number: SDAB-D-15-109

## **Notice of Decision**

This appeal dated May 11, 2015, from the decision of the Development Authority for permission to:

construct (1) Freestanding On-premises Sign (Rundle Park Condominiums)

on Condo Common Area (Plan CD14947), located at 10617 - 34 Street NW and Plan CD14947 Unit 20, located at 3307 - 107 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on June 3, 2015. The decision of the Board was as follows:

### **Summary of Hearing:**

At the outset of the appeal hearing the Presiding Officer introduced the panel and asked if there was any opposition to the composition of the panel. Mr. Hachigian, one of the panel members, disclosed that he had previously worked with Ms. B. Noorman, who is representing the City of Edmonton Sustainable Development Department at this hearing. There was no opposition to the panel.

The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed within the allowable 14-day appeal period, pursuant to Section 686 of the *Municipal Government Act*, R.S.A. 2000, c M-26 (the "MGA").

The Board notes there was a letter from Canada Post on file indicating that the delivery date of the Notice of Refusal was April 28, 2015. The Appeal date was May 5, 2015, which is within the required 14 day time frame.

### **MOTION:**

That the Board assumes jurisdiction pursuant to Section 686(1)(a)(i) of the *MGA*.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct (1) Freestanding On-premises Sign (Rundle Park Condominiums) located at 10617 – 34 Street NW / 3307 – 107 Avenue NW. The subject site is zoned RF5 Row Housing Zone and is located within the Mature Neighbourhood Overlay.

The Development Permit was refused because the proposed Sign does not comply with the regulations for Discretionary Signs in Sign Schedule 59A.

Prior to the hearing the following information was provided to the Board:

- A written submission from the Appellant submitted through the on-line system.
- An on-line response from an affected party (supports development).

The Board heard from the Appellant, Ms. D. Wozniuk who provided the following information to the Board. She was accompanied by Ms. P. Johnson.

1. The Appellant's submission showed there were previously two Freestanding signs on the corner of the site. They were damaged by a windstorm in 2009 and had to be taken down.
2. She believes these signs were erected by other Condo Board members and they are needed to identify the complex for delivery drivers, contractors, EMS, etc.
3. The sign she proposes meets the colour scheme of the development and enhances the community.

Ms. D. Wozniuk provided the following responses to questions:

1. She believes the original sign for the property was erected approximately 20 years ago.
2. She e-mailed the other residents in the complex and received e-mail support from a few residents. One resident, Ms. Johnson, attended the hearing to show her support. She also received an e-mail of support from an off-site property manager.
3. She referred to a photo of another condominium project kitty corner to her complex (Trade Winds) which has a sign similar in style and design.
4. The proposed sign will be erected in the exact same location as the previous signs.

The Board heard from Ms. B. Noorman, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. She could grant a variance if this Freestanding On-premises Sign were a non-residential site. Other criteria for discretionary signs are not met as the site does not contain a Show Home, Residential Sales Centre or a Religious Assembly.
2. No permit is necessary for an address sign or Fascia On-premises Sign as per Section 12.2 of the *Edmonton Zoning Bylaw*.
3. She must follow the current regulations of the *Edmonton Zoning Bylaw*. There is no provision for the replacement of existing signs.
4. She did not research the property to determine if there were any permits issued for previous signs.
5. She did not have the authority to grant a variance for this sign because it does not meet the criteria of the *Edmonton Zoning Bylaw*.
6. Schedule 59A of the *Edmonton Zoning Bylaw* does not include this type of Freestanding On-premises Sign.
7. Signs are not allowed on a developed site in this zone.

Ms. D. Wozniuk made the following points in rebuttal:

1. She was willing to re-design the sign if the size was an issue.
2. A neighbouring condominium (Trade Winds) has a sign that is slightly smaller.
3. The sign is essential for identification as this is a corner site.
4. This is a non-profit condominium and there are no employees.

**Decision:**

The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority.

**Reasons for Decision:**

The Board finds the following:

1. Freestanding On-Premises Signs is a Discretionary Use in the RF5 Row Housing Zone, Section 160.3(14) of the *Edmonton Zoning Bylaw*.
2. Other than the fact that the proposed development is in a residential zone, the proposed Sign does fully comply with all of the regulations contained in Schedule 59A.3 of the *Edmonton Zoning Bylaw*, including the Height and Sign Area.
3. Evidence was provided of similar Freestanding, On-premise Signs on residential sites in the area.
4. The Board received written and verbal support for the proposed Sign.
5. No one appeared in opposition and no letters of opposition were received.
6. The proposed Sign abides by all of other regulations under the RF5 Row Housing Zone and the Mature Neighbourhood Overlay of the *Edmonton Zoning Bylaw*.
7. 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.

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Mr. N. Somerville, Presiding Officer  
Subdivision and Development Appeal Board