



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: June 21, 2019
Project Number: 302173913-001
File Number: SDAB-D-19-086

Notice of Decision

- [1] On June 13, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on May 15, 2019. The appeal concerned the decision of the Development Authority, issued on May 7, 2019, to refuse the following development:

To construct an addition to a Single Detached House (irregular shape 7.69 metres by 4.57 metres), to construct a front uncovered deck (3.56 metres by 4.01 metres @ 2.83 metres in Height), to construct interior alterations (Basement development, NOT to be used as a Secondary Suite) and to construct a front covered deck (2.54 metres by 3.33 metres @ 0.91 metres in Height)

- [2] The subject property is on Plan RN39B Blk 44 Lots 1-2, located at 11006 - 122 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay and West Ingle Area Redevelopment Plan apply to the subject property.

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

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submissions;
- The Appellant’s written submissions including signatures of support from neighbours who reside within the 60 metre notification radius;
- Letters of support from both of the adjacent neighbours;
- One email in support of the proposed development; and
- One online response in support of the proposed 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 (the "*Municipal Government Act*").

Summary of Hearing

i) Position of the Appellant, Mr. M. Stolte:

- [7] Mr. Stolte and his wife and three children have lived at this property for the past 15 years and have a good relationship with both of their adjacent neighbours.
- [8] His wife is the Past President of the Westmount Community League and they are very aware and involved in community issues.
- [9] Westmount is one of the oldest neighbourhoods in the City. The majority of houses were built in the 1900's prior to World War II. The subject site is located two blocks east of 124 Street which is an historic commercial corridor. Because of the age of the neighbourhood, there are many different building types and setbacks from the street. The neighbourhood is comprised of traditional character houses that were built between 1915 and 1920, post-World War II bungalows, contemporary two storey houses as well as skinny houses and several apartment buildings.
- [10] The diversity of the neighbourhood speaks to some of the variances that exist along 122 Street. Some houses are sited close to the front property line while others are set further back. For example, the house located at 11036 -122 Street that was built in the 1920's is setback 2.44 metres from the front sidewalk while the house on the adjacent lot is setback 25 to 30 feet from the front sidewalk. This situation is not uncommon in this neighbourhood.
- [11] The house is located in the Westmount neighbourhood which places high value on the retention of heritage houses and is adjacent to the historical Westmount Architectural Heritage Area. The site also falls within the West-Ingle Area Redevelopment Plan that was initially approved in 1985.
- [12] The house was built in 1933 as a one storey house and has had at least 16 owners since it was built. In 1992, the owner removed the roof and added a second storey. The interior of the house was gutted and the electrical, duct work, insulation and roofing were upgraded. The house was renovated again in 2004, including refinishing the floors, window frames and sills and bannisters to maintain the traditional character of the house.
- [13] The proposed development will expand and upgrade the existing house to meet their family needs. The proposed addition will ensure that the house is preserved and the historical character is maintained. The proposed addition only requires the removal of one wall at the front of the house that will extend the living area further into the front of

- the property which will create a larger gathering space within the house and create a friendlier interface with the street front.
- [14] Extensive consultation has occurred with the most affected neighbours who reside north and south of the site throughout the design process to ensure that the houses interface well and that reasonable privacy is maintained.
- [15] The decision was made to develop a one storey addition instead of a two storey addition in order to protect the sunlight for the neighbours to the north and to ensure the development was not overly intrusive into the street front.
- [16] The renderings were referenced to illustrate that the original character of the house will be maintained. The design includes a generous front porch which is characteristic of houses that were built from 1910 to 1930. The proposed front addition also brings the house closer to the existing front sidewalk which is consistent with the era that the house was built.
- [17] Extensive community consultation was undertaken and 20 signatures of support were provided from neighbours who live on 122 Street. The proposed plans and renderings were shared with all of the neighbours that they contacted and the response was overwhelmingly supportive.
- [18] The variances required in the side setback requirements and the projection to the side lot have created a challenge because the house has been sited this close to the property line for 85 years. The proposed development is an extension of the existing wall system and these walls cannot be moved without completely tearing down and rebuilding the house. This would be in conflict with the heritage values of the area and their desire to restore and upgrade the current existing structure.
- [19] Other design options that eliminated the variance in the side setback were considered but the result was a front addition that was not as architecturally pleasing and impacted the overall plan to create an open living space at the front of the house.
- [20] Discussions with Mr. Hosler, the most affected property owner who resides immediately to the north, have been ongoing throughout the process and he has provided both written and verbal support for the proposed development. In fact, the grade between the two houses will be redone as part of the construction process.
- [21] The goal of the addition is to create a more intimate and engaging interface with the front street which is consistent with the era of the house and the block face where there is a tremendous variability in existing front setbacks. The proposed front addition does not intrude on the privacy of the neighbours and it is not an obtrusive build on the blockface.
- [22] In response to the concern of Transportation Planning (Forestry) that the construction of the proposed full basement will damage the root system of a mature tree that straddles his property and the property to the north, a trench was dug in an attempt to determine the

impact. From what he could see, only the smaller root systems would be close to any of the construction.

[23] The proposed development constitutes an investment in the property and the block face that is congruent with the heritage values of the area and the intent of the overall project, to restore and upgrade the current existing structure.

[24] Mr. Stolte provided the following information in response to questions from the Board:

- a) Renderings of the proposed addition and the plans were shared during the community consultation and none of the neighbours expressed a concern. Many of the two-storey houses in the neighbourhood have balconies and the mature trees in the front yard will screen the balcony from the front street.
- b) His wife is the Past President of the Westmount Community League and is still serving as a member of the Board. It is the position of the Community League not to support or oppose a proposed development. They simply determine whether or not the Applicant has completed community consultation.
- c) Two practical challenges resulted because of the proposed 0.3 metre side setback. First of all, complying with the minimum required 1.2 metre setback would result in the proposed addition being out of alignment with the rest of the existing house which is not visually pleasing and would result in a reduction of the size of the proposed living space at the front of the house.
- d) There was no evidence of an encroachment onto the site to the north on the Real Property Report that they received when they purchased the property.
- e) The eaves on the proposed addition will line up with the eaves on the rest of the house.
- f) Neither of the adjacent property owners expressed any concern regarding the proposed front setback. Both neighbours have provided written support and appreciate the effort to upgrade and increase the value of an historic home in this neighbourhood.
- g) The recommended conditions provided by the Development Officer have been reviewed and are acceptable.
- h) The cantilever on the north side of the proposed addition will be very close if not right on the property line. The fireplace should fall directly under the eaves but if it does not, they have the option to push it into the interior of the room.
- i) There is no fence between his property and the property to the north.

- j) It was acknowledged that Policy 5 of the West Ingle Area Redevelopment Plan states “where there is no side yard on one side a maintenance easement would have to be negotiated with the owner of the adjacent lot”. He would not be opposed to the imposition of this requirement as a condition of approval.
- k) Based on his calculations, the north wall of his house is 2.55 metres from the south wall of house on the lot to the north.

ii) Position of Affected Property Owners in Support of the Appellant, Mr. I. Hosler:

- [25] Mr. Hosler is fully supportive of the proposed development. It will not impact his privacy and will, in fact, result in improved drainage between his property and the subject property.

iii) Position of the Development Officer, Ms. K. Bauer:

- [26] Ms. Bauer did not attend the hearing but provided a written submission that was considered by the Board.

Decision

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

1. Within 14 Days of Approval, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.5).
2. Immediately upon completion of the exterior alterations, the site shall be cleared of all debris.
3. As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development (Reference Section 57.3(1)).

ADVISEMENTS:

1. Lot grades must match the *Edmonton Drainage Bylaw 18093* and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.
2. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw 12800*.

3. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the *Municipal Government Act*, the *Safety Codes Act* or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)
4. A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information
5. Policy 5 of the West Ingle Area Redevelopment Plan states “where there is no side yard on one side a maintenance easement would have to be negotiated with the owner of the adjacent lot”.

[28] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. The minimum required Front Setback of 4.6 metres as per section 814.3(1) is varied to allow a deficiency of 1.4 metres, thereby decreasing the minimum required to 3.2 metres.
2. The minimum required Side Setback of 1.2 metres as per section 814.3(3)(a) is varied to allow a deficiency of 0.9 metres, thereby decreasing the minimum required to 0.3 metres.
3. The requirements of section 44.1 are waived.

Reasons for Decision

[29] The proposed development is an addition to a Single Detached House which is a Permitted Use in the (RF3) Small Scale Infill Development Zone.

[30] The subject site falls within the Mature Neighbourhood Overlay and the West Ingle Area Redevelopment Plan.

[31] Based on both the written submission provided by the Development Officer and the submissions of the Appellant, the Board finds that the Community Consultation requirements pursuant to section 814.5(1) of the *Edmonton Zoning Bylaw* have been satisfied.

[32] The Development Officer refused the proposed development for two reasons. First, there was no unnecessary hardship peculiar to the site as the applicant could have made modifications to the design to comply with the regulations. Second, in his opinion, the variance would unduly interfere with or affect the use, enjoyment or value of

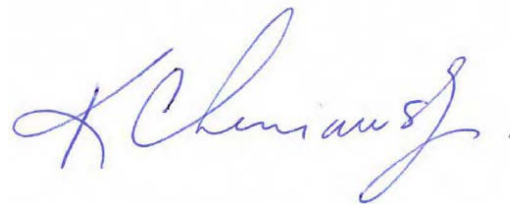
neighbouring properties because the design will have a negative effect on the neighbour to the north for any future development they wish to undertake and possibly resale value.

- [33] The Development Officer noted that the existing Single Detached House is non-conforming due to the reduced north Side Setback. The existing Side Setback is 0.3 metres and is deficient by 0.9 metres. Section 643(1)(5) of the *Municipal Government Act* states that a non-conforming building may continue to be used but the building may not be enlarged, added to or rebuilt or structurally altered except to make it conforming, for routine maintenance of the building, or in accordance with the land use bylaw that provides variance powers to the development authority. The Board notes that section 11 of the Bylaw provides the Development Officer with variance authority in respect of non-conforming buildings.
- [34] The Board finds that the required variances are minor in nature in this circumstance and grants the variances, pursuant to section 687(3)(d) of the *Municipal Government Act*, for the following reasons:
- a) Based on the evidence provided, the existing house was built in 1933 and has been renovated several times since it was originally built. The 0.3 metre north side setback has existed for 85 years without any known complaint.
 - b) The Board acknowledges that the Single Detached House is non-conforming due to the reduced north Side Setback but finds that the proposed front addition will also be set back 0.3 metres and does not require an additional variance.
 - c) The Development Officer was concerned regarding the impact of the proposed development on the most affected property owner to the north. However, in addition to providing a letter of support, Mr. Hosler attended the hearing and advised the Board that even though the north side setback does not comply with the minimum requirements, he fully supports the proposed development.
 - d) The Appellant also provided overwhelming support for the proposed development that was obtained during the community consultation, including a letter of support from the adjacent property owner who resides south of the subject site and numerous signatures of support from property owners who reside within the 60 metre notification radius. Based on the evidence provided by the Appellant, renderings of the proposed addition and the plans were shared with all of the neighbours to ensure that they were fully aware of the required variances.
 - e) While a variance is required for the Front Setback, the proposed Front Setback complies with the requirement that it shall never be less than 3.0 metres, pursuant to section 814.3(1)(a) of the *Edmonton Zoning Bylaw*.
 - f) Based on the evidence provided by the Appellant, this neighbourhood is comprised of diverse housing stock with varying Front Setbacks. Some of the original houses that were built in the 1900s are sited closer to the street than some of the newer houses

that have been built and this situation is common throughout the neighbourhood. The proposed front addition will not create a Front Setback on this site that is the smallest on the block face. The most affected adjacent property owners, who reside north and south of the subject site, have provided support for the proposed development which is to be located closer to the front lot line than their respective homes.

- g) The variance required in the Front Setback will be mitigated by two large trees that will be retained in the front yard.

[35] Based on all of the above, the Board finds that the proposed development with the conditions imposed and the required variances 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.



Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance: Ms. G. Harris, Mr. J. Jones, Mr. A. Nagy

c.c.

City of Edmonton, Development & Zoning Services, Attn: Ms. K. Bauer/Mr. A. Wen

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: June 21, 2019
Project Number: 308382227-001
File Number: SDAB-D-19-087

Notice of Decision

- [1] On June 13, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on May 15, 2019. The appeal concerned the decision of the Development Authority, issued on May 14, 2019 to refuse the following development:

To construct a Single Detached House with Unenclosed Front Porch, front balcony, rear balconies, rear uncovered deck (7.62 metres by 4.42 metres), fireplace, and Basement development (NOT to be used as an additional Dwelling).

- [2] The subject property is on Plan 1226AQ Blk 4 Lot 27, located at 9726 - 96 Street NW, within the RF3 Small Scale Infill Development Zone. The Mature Neighbourhood Overlay, North Saskatchewan River Valley and Ravine System Protection Overlay, and Cloverdale Area Redevelopment Plan apply to the subject property.

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

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submissions;
- The Appellant’s reasons for appeal and supporting documents;
- One e-mail in opposition; and
- One Online response in support.

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

- Exhibit A – Photos of streetscape and adjacent homes.
- Exhibit B – Marked up drawings of over height portion of proposed development.

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 (the “*Municipal Government Act*”).

Summary of Hearing

i) *Position of the Appellant, L. Ceminchuk*

- [8] Mr. R. Watkins, Agent for the Appellant, made a presentation. L. Ceminchuk, Appellant, was also present and was accompanied by her fiancé and her father. The Appellant and her fiancé currently reside in a condo in Cloverdale and are proposing to build their first home together.
- [9] After receiving the refused permit, Ms. Ceminchuk attempted to consult with all of the neighbours within 60 metres to provide them details of the proposed development. She obtained 14 letters of support which included letters from the two most impacted abutting neighbours as well a neighbour to the rear. Despite numerous attempts, there were a number of property owners they were unable to contact.
- [10] One letter of opposition was received which simply stated that the height regulations which are in place should be complied with. No other party voiced any concerns regarding the proposed development to the Appellant.
- [11] The Board must determine if the proposed development would unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land as per section 687(3) of the *Municipal Government Act*. The letter of opposition received provides no evidence of any negative impact.
- [12] The majority of the existing homes in this neighbourhood have been redeveloped. There are many homes which are two stories or higher; therefore, the proposed development is not out of character with the neighbourhood.
- [13] The Appellant has done everything possible to make the upper floor a livable area while mitigating any negative impacts on surrounding neighbours.
- (1) The upper floor has been set back on three sides – approximately 8 feet from the front and rear of the house and approximately two feet from one of the sides. As a result, the upper floor is not visible to a person walking on the sidewalk past the front of the home.
 - (2) This upper floor is quite small and is 460 square feet or only 46 percent of the total footprint of the house.

- [14] Marked up drawings were used to show the location of the over height portion of the proposed development as well as the stepped back upper floor (Exhibit A).
- [15] A series of photographs was used to provide context to the immediately surrounding area (Exhibit B):
- (1) There are 60 foot tall trees in the rear yard of the person who submitted the letter of opposition.
 - (2) There are many large, mature trees in this neighbourhood which obscure the tops of the buildings from street level.
 - (3) When standing on the porch of a house, it is very difficult to even see across the street due to the amount of vegetation.
 - (4) Photos of the immediately adjacent homes were shown. The home immediately to the south is an older home which is likely to be redeveloped in the near future. The home to the north is new and its highest point is approximately two feet lower than the tallest point of the parapet of the proposed development.
- [16] In summary, the Appellants request that the Board grant the required Height variance as there would be no negative impact to anyone.
- [17] The recommended conditions of the Development Officer were reviewed and the Appellants have no objections to any of them.

ii) Position of the Development Officer, R. Zhou

- [18] The Development Authority did not attend the hearing and the Board relied on Mr. Zhou's written submission.

Decision

- [19] The appeal is **ALLOWED** and the decision of the Development Authority **REVOKED**. The development is **GRANTED**, subject to the following **CONDITIONS** as proposed by the Development Authority:
1. **WITHIN 14 DAYS OF APPROVAL**, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Reference Section 20.2).
 2. The development shall be constructed in accordance with the stamped and approved drawings.
 3. Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 metres above the finished ground level, excluding any artificial

embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties (Reference Section 814.3.9),

4. Single Detached Housing requires 1 parking space per dwelling (Reference Schedule 1 of Section 54.2).
5. Landscaping shall be installed and maintained in accordance with Section 55.
6. Frosted or opaque glass treatment shall be used on windows as indicated on the drawings to minimize overlook into adjacent properties (Reference Section 814.3.8).
7. The proposed Basement development(s) shall NOT be used as an additional Dwelling. An additional Dwelling shall require a new Development Permit application.
8. The proposed wet bar shall only be used by the household which uses the principal kitchen on the main floor.
9. Above or underground sprinklers or irrigation systems shall be prohibited (Reference Section 811.3.6.a)
10. Roof leaders, downspouts, and sump pump discharge spouts shall not be allowed to discharge into or onto the ground. They shall be connected to the sewer system (Reference Section 811.3.6.b).
11. The Rear Yard and Side Yard shall be generally landscaped with permeable landscaping materials and shall not contain Impermeable Materials in either the Rear Yard or the Side Yard that exceed a total area of greater than 12 square metres respectively (Reference Section 811.3.7).

ADVISEMENTS

1. Any future deck development greater than 0.6 metres in height will require development and building permit approvals.
2. Any future deck enclosure or cover requires a separate development and building permit approval.
3. Any future basement development requires development and building permit approvals.
4. Any future additional dwelling such as a Secondary Suite shall require a separate development permit application.
5. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.

6. Lot grades must match the *Edmonton Drainage Bylaw 16200* and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.
7. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw 12800*.
8. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the *Municipal Government Act*, the *Safety Codes Act* or any caveats, restrictive covenants or easements that might be attached to the Site.
9. A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.
10. Dwelling means a self-contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household (Reference Section 6.1).
11. Household means: one or more persons related by blood, adoption, foster care, marriage relationship; or a maximum of three unrelated persons; all living together as a single social and economic housekeeping group and using cooking facilities shared in common. For the purposes of this definition, two people living together in an adult interdependent relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependent relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative (Reference Section 6.1).
12. There may be an inspection in the future to ensure that no illegal suite has been developed.
13. This development permit shall be revoked if the conditions of this permit are not met.
14. The applicant should be aware that geotechnical investigation and inspections by qualified geotechnical personnel would reduce uncertainty and related risk relative to the design and construction of foundations for the proposed residence.
15. The applicant must be aware that they are fully responsible to mitigate all geotechnical risks to the development and surrounding properties and structures. Notably, all design and construction measures, including retaining structures and any proposed temporary shoring to support the basement excavation, must suitably protect neighbouring properties and structures from any adverse impacts, both during and after construction.

16. If the builder does encounter any soft or unexpected ground conditions or significant amounts of fill on the site, they are strongly encouraged to consider the engagement of a Professional Engineer with geotechnical specialization to properly address the related technical issues and to design suitable foundations.

[20] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. The maximum allowable building Height of 8.9 metres pursuant to section 814.3(5) is varied to allow an excess of 1.2 metres, thereby increasing the maximum allowed Height to 10.1 metres.
2. The maximum allowable building Height of 9.3 metres (to top of parapet) pursuant to section 52.1(b) is varied to allow an excess of 0.9 metres, thereby increasing the maximum allowed Height to 10.2 metres.
3. The requirement that the house be set back 7.5 metres from the North Saskatchewan River Valley and Ravine System pursuant to section 811.3(1) is waived.

Reasons for Decision

[21] Single Detached Housing is a Permitted Use in the RF3 Small Scale Infill Development Zone.

[22] The Board finds, based on the submissions of the Development Officer and the Appellants, that the requirements for community consultation under section 814.5 of the *Edmonton Zoning Bylaw* have been complied with. This consultation resulted in three negative responses; however, based on the photographic evidence, the Board finds those concerns have been rebutted as they are not based on site-specific concerns.

[23] The Board notes there was strong neighbourhood support for the proposed development. Numerous letters of support were received, including written support from the most immediately affected neighbours to the north and south.

[24] No party appeared in opposition and one e-mail in opposition was received by the Board. The neighbours in opposition live a number of doors away and provided insufficient evidence of adverse effect to their property.

[25] The Board accepts the submission of the Appellants' agent that the design choices mitigate the Height variances sought. The Height variance sought is for the upper floor which is only 46 percent of the entire footprint of the development. For clarity, the area is recessed which mitigates its view from street level.

[26] The Board accepts the submission of the Appellants that evergreen trees and other mature landscaping in the neighbourhood mitigate any effects of Height.

- [27] The Geotechnical Report submitted by the Development Officer indicates it is satisfactory to proceed with the proposed development, notwithstanding not meeting Section 811.3(1), which requires all developments shall maintain a minimum 7.5 metres Setback from the North Saskatchewan River Valley and Ravine System.
- [28] The Appellants reviewed and consented to the conditions recommended by the Development Officer.
- [29] 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.



Mr. W. Tuttle, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance:

Ms. K. Cherniawsky, Ms. G. Harris, Mr. J. Jones, Mr. A. Nagy

c.c. City of Edmonton, Development & Zoning Services - Mr. R. Zhou/Mr. A. Wen

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.