



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

*10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
P: 780-496-6079 F: 780-577-
3537
sdab@edmonton.ca
edmontonsdab.ca*

Date: June 27, 2017
Project Number: 057424718-014
File Number: SDAB-D-17-103

Notice of Decision

- [1] On June 14, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **May 15, 2017**. The appeal concerned the decision of the Development Authority, issued on May 10, 2017, to refuse the following development:

Add (1) additional Dwelling to an existing Apartment Housing building (increase from 17 to 18 Dwellings by conversion of a storage unit) and to construct interior alterations.

- [2] The subject property is on Plan 0622797 Blk 4 Lot 7A and Condo Common Area (Plan 0727442), located at 11827 - 105 Street NW, within the (RA7) Low Rise Apartment Zone. The Medium Scale Residential Infill Overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
 - The Development Officer’s written submission;
 - An e-mail regarding the community consultation; and
 - A parking justification.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Sketch of kitchen area
 - Exhibit B – Community Consultation

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 the Appellant, Mr. E. Verbonac

- [8] Mr. Verbonac owns a dwelling unit in the subject building and represents the condominium board. He is also the contractor for the proposed conversion.
- [9] The building is a condominium and the suites are owned by different owners. The majority of the suites in the building are rented to students attending the nearby Northern Alberta Institute of Technology (NAIT).
- [10] The proposed plan is to convert a storage area to a studio dwelling, adding one extra person to the total density. The storage area is currently used to hold board meetings. The existing laundry area will be converted into an indoor common amenity area.
- [11] Parking is not an issue as many tenants do not have vehicles. He referred to the parking justification document previously submitted that showed that a third of the parking spaces are currently not being used. The parking survey was conducted by Mr. Verbonac and his tenant.
- [12] Mr. Verbonac referred to the floor plan of the proposed dwelling unit and submitted a kitchen sketch to clarify the layout, marked *Exhibit A*.
- [13] The private outdoor amenity area for the majority of the dwelling units consists of individual 4-foot by 16-foot balconies. The four existing basement dwelling units and the proposed fifth basement dwelling unit have no private outdoor amenity area. There is a front yard between the building and 105 Street and a side walkway along one side of the building.
- [14] He went door-to-door to contact the 14 neighboring property owners in the 60-metre notification area, and went twice if no one was available. He received signed approvals from six property owners as well as from the Westwood Community League. One owner who lives in Red Deer said he would reply to the notification received from the City. Two properties are owned by Mainstreet Equity Corp. and they did not reply. He was not able to contact some owners as the properties are rentals. He submitted the community consultation responses, marked *Exhibit B*.
- [15] He used the consultation form provided by the City and it only outlined the deficiencies with regard to the private and common amenity areas.

- [16] He did not approach the condominium owners in the subject building because 12 out of the 17 owners voted in favour of the proposed conversion. All owners had received the agenda for the condominium meeting where the proposal for converting the storage space to a condominium unit was considered and adopted.
- [17] The owners were not aware that variances would be required for this project at the time of their meeting.
- [18] Mr. Verbonac has no issues with the conditions proposed by the Development Officer if the proposed conversion is approved.

ii) Position of the Development Officer, Mr. J. Angeles

- [19] Mr. Angeles has no concerns regarding the lack of parking. The close proximity of the subject site to major bus stops will mitigate parking concerns. He is not aware of any complaints regarding parking at this site.
- [20] The proposed density is slightly over the permitted density. He does not foresee this deficiency having a negative impact on the community. He did not grant a variance for density because Development Officers do not have the authority to grant variances for density.
- [21] The lack of amenity area for the proposed dwelling unit will not affect the neighbourhood but it may create some difficulty for the tenant. The proposed public indoor amenity area as well as various parks in the vicinity will alleviate this concern.
- [22] Mr. Angeles is satisfied that the Appellant has carried out sufficient community consultation. The Appellant was only required to include the private and common amenity area variances in the consultation form because they did not comply with the Medium Scale Residential Infill Overlay.

iii) Rebuttal of the Appellant, Mr. Verbonac

- [23] Mr. Verbonac had nothing further to add.

Decision

- [24] 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**:

- a) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Change (SSTC) fee of \$1,118.00. This is based on 1 additional Dwelling @ \$1,118.00/unit. The SSTC charges are quoted at the current 2017 SSTC rates. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment at the 2nd Floor cashier, Edmonton Tower, 10111 - 104 Avenue NW.
 - b) If required, the applicant/owner shall pay for the installation cost of sewer services to property line. For detail, please contact Derek Kucy of Public Services Section at 780-496-5450.
 - c) All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. Reference section 54.1(1)(c) of the *Edmonton Zoning Bylaw*.
- [25] In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:
- a) Section 210.4 is varied to allow 18 Dwelling units.
 - b) The Private Outdoor Amenity Area requirement per section 823.3(3)(a) is waived.
 - c) The common Amenity Area requirement per section 823.3(3)(c) is waived.
 - d) Section 54.2, Schedule 1(A)(1) is varied to permit a deficiency of three on-site parking spaces.

Reasons for Decision

- [26] Apartment Housing is a Permitted Use in the (RA7) Low Rise Apartment Zone.
- [27] The Board notes there was a community consultation requirement under the Medium Scale Residential Infill Overlay (the "Overlay").
- a. The Board heard evidence that the Appellant conducted door-to-door community consultation of the 14 properties in the notification zone on a least two occasions. The Appellant delivered a consultation form provided by the City which outlined the two variances to the Overlay.

- b. The Board was provided with completed consultation forms from six neighbours plus the Westwood Community League indicating no opposition to the proposed development.
- c. The Development Authority was satisfied with the community consultation that was conducted.
- d. The Board notes that there was no opposition to the proposed development

Based on these reasons the Board is satisfied that the community consultation requirement of the Medium Scale Residential Infill Overlay was met.

[28] The Board notes that the Development Authority had no concerns with respect to the variance to the maximum Density requirement.

- a. The Development Authority indicated that the reason the proposed development was refused was because the *Edmonton Zoning Bylaw* prohibits the Development Authority from varying Density.
- b. The incremental impact of the variance to the Density is minimal. 17.41 Dwelling units are permitted in the subject building and 18 Dwelling units are proposed.

[29] With respect to the parking deficiency, the Board heard the following:

- a. Many of the tenants in the subject building are students with no cars. This is supported by the parking justification study that indicates there are several empty parking spaces at various times throughout the week.
- b. Evidence was submitted that the subject site is located near public transit options that service NAIT.
- c. There are no known complaints with respect to parking.

[30] With respect to the private and common amenity areas, the Board heard the following:

- a. The Development Officer indicated that these variances would not impact the adjacent properties.
- b. The majority of condominium owners within the subject building support the proposed conversion.
- c. There are parks in close proximity to the subject site.
- d. There are plans to convert the existing laundry room into a common amenity area.

- [31] Based on the above, 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.



Ms. Anna Lund, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. P. Jones; Mr. R. Hachigian; Ms. G. Harris; Mr. R. Hobson

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.

SDAB-D-17-104

Application No. 243176086-001

An appeal to Construct an addition (1.83m x 9.7m rear addition) and a rear uncovered deck (1.52m x 4.32m @ 0.9m in height), to a Single Detached House), located at 11143 - Avenue NW was **WITHDRAWN**.