



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: March 16, 2017
Project Number: 239164375-001
File Number: SDAB-D-17-044

Notice of Decision

- [1] On March 1, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on **February 1, 2017**. The appeal concerned the decision of the Development Authority, issued on January 31, 2017, to refuse the following development:

**Change the Use from General Retail Stores to Child Care Services
and to construct interior and exterior alterations (110 children).**

- [2] The subject property is on Plan 1523990 Unit 2, located at 5010 - 162 Avenue NW, within the (CNC) Neighbourhood Convenience Commercial Zone. The Pilot Sound Area Structure Plan and the Hollick Kenyon Neighbourhood Structure Plan apply 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;
- The Appellant's written submission and attachments;
- A copy of the Pilot Sound Area Structure Plan; and
- A copy of the Hollick Kenyon Neighbourhood Structure Plan.

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

- Exhibit A1 to A6 – A series of photographs of other daycares next to Gas Bar and car wash Uses;
- Exhibit B – A site plan with mark-up of the proposed outdoor play area; and
- Exhibit C – A main floor plan with a mark-up showing the vestibule and closet wash bay.

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 Appellants, Mr. M. Umarji and Mr. Z. Umarji, Zona Developments*

- [8] The proposed Child Care Service is a Discretionary Use and it will meet the day-to-day needs of the neighbourhood.
- [9] Tab 3 of their submission shows the location of the proposed Child Care Service in relation to the other existing businesses on the site.
- [10] Tab 5 contains photographs of the 10-inch concrete prefab wall (3 inches of concrete on either side separated by a foam membrane) which is shared by the Child Care Service and the car wash.
- [11] The Appellants addressed the Development Officer's five reasons for refusal.
- [12] Reason No. 1

The Child Care Service is proposed directly abutting a Rapid Drive-through Vehicle Services Use, contrary to section 80(2)(a)(v).

- a) A Rapid Drive-through Vehicle Service includes many types of businesses. It can be a lube shop, tire repair shop or a vehicle repair facility which have the ability to store on-site flammable and combustible materials. The proposed facility is next to a coin-operated car wash and they have done everything possible to eliminate any potential impacts from this neighbouring Use.
- b) A Noise Study in their submission (Tab 4) shows the noise from the adjacent car wash would be minimal. The most noise would come from the mechanical room which is located away from the proposed Use facing the 7-eleven convenience store. The noise coming from the entrance door would be 55 decibels, which is human conversation level at a 1-metre distance.

- c) The portion of the building housing the Child Care Service has its own isolated roof top units ensuring that the HVAC system is completely separate and isolated and no smells will enter the Child Care Service.
- d) Traffic impacts from the Child Care Service are controlled as the 14 parking spaces specific to the proposed Use are located in a dead-end parking lot at the north portion of the subject Site and will service only the Child Care Service. The only other traffic in this area is the queuing lane for vehicles to the south waiting to enter the car wash. The cars would be moving at very low speeds or waiting for the car ahead to move forward.
- e) Photographs in Tab 2 of their submission illustrate two of the six steel concrete embedded "I" beams at the front of the proposed Use, which will limit the possible impacts of any traffic. The main entrance, isolated with two steel concrete filled bollards, was also shown. There is a steel concrete filled bollard between the entrance zone of the proposed Use and the buffer zone in between the two Uses.
- f) A public sidewalk along 51 Street connects to a private walkway leading to the entrance at the rear of the Child Care Service. This will promote pick-up/drop-off traffic at the rear of the building.
- g) There is a buffer between 51 Street and the property line. The outdoor play space abuts the solid pre-cast concrete wall of the car wash. The wall has only a few high windows to provide light for the car wash.
- h) They showed photographs of another Child Care Service located directly next to a car wash. This Child Care Service has the play space in the rear and it abuts the queuing lane to the entrance of the car wash with potential impacts from traffic. The exit door from the car wash is directly beside the Child Care Service entrance. In their opinion, this proximity could result in a fog effect during colder weather creating a safety issue for children.

[13] Reason No. 2

The Child Care Service is proposed within 50 m of the closest gas bar building, the Gas Bar is located on the same Site, contrary to Section 80(2)(c).

- a) In their opinion, the Development Officer has erred in calculating the separation distance as 43.11 metres from the Child Care Service to the Gas Bar. He is calculating from the corner of the canopy, not to the gas pump and the revised distance should be 46.4 metres. The proposed development is more than 75 metres from the underground tanks and the vent pipes. (Tab 8)

- b) Three sets of photographs (marked Exhibit A1 – A6) were submitted illustrating other Child Care Services in the City that are located significantly less than 50 metres away from the nearest gas pump facilities.

[14] Reason No. 3

In the opinion of the Development Officer, the location of the existing Rapid-Drive-through Service with 9 service bays and the queuing aisle directly adjacent to the Child Care Service, would compound and create a dangerous and negative impact on the Child Care Service, contrary to Section 80(2)(d).

- a) While the car wash queuing lane is adjacent to the Child Care Service parking spaces it is only for vehicles waiting to enter the car wash. They reiterated that vehicles are moving at very low speeds or stopped and waiting for the vehicle ahead to move forward.
- b) The peak times for the car wash would be on weekends and the Child Care Service does not operate on the weekends.
- c) In their opinion, The Development Officer has incorrectly stated that there are 9 service bays instead of 1 as per a previous SDAB decision for a separate property. However, they acknowledged that the specific car wash in question was previously approved by the Board as a development with 9 bays.

[15] Reason No. 4

57 on-site parking spaces are required rather than the proposed 32 spaces resulting in a deficiency of 25 spaces as per Section 54.2, Schedule 1 of the Edmonton Zoning Bylaw.

- a) The proposed Use is designed to service the neighbourhood of Hollick Kenyon. There are over 240 apartment units within 3 blocks that can access the Child Care Service via a public sidewalk, without the need to cross a public street. Dr. Donald Massey School is 4 blocks away allowing out of school students to walk to their facility.
- b) The Development Officer has allocated 21 parking spaces for the car wash based on its square footage. This is not realistic, as car wash patrons would be inside one of the 9 car wash stalls or waiting in the queuing lane. If these 21 parking spaces were to be deducted and used for Child Care Service patrons, they are only deficient by 4 parking spaces.
- c) All 14 parking spaces abutting the north property line are reserved and dedicated to the Child Care Service from 7:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 6:00 p.m. They reiterated that there is parking available along 51 Street for drop-off or staff

parking which would mitigate the deficient parking spaces. An aerial photo was shown which confirmed that parking is available along 51 Street.

[16] Reason No. 5

The proposed outdoor play space (an outdoor service area) is located within two required setbacks, contrary to Section 310.4(7).

- a) The proposed play space is enclosed by a fence with a self-latching gate. It abuts 51 Street, the parking lot to the north of the subject Site and the car wash building wall to the south. The Appellants highlighted the location of the play space area (marked Exhibit B). There is landscaping within the play space running along the wall of the building.
- b) The play space location next to a public roadway, with the buffer of a public sidewalk, ensures the space does not create any negative impacts for neighbouring properties.
- c) In their opinion, the play space is incorrectly defined as a service area on the plan as it has no permanent apparatuses set up, the setback regulations should not apply.
- d) Photographs of the proposed play space were reviewed showing the drainage swale running in between the subject Site and the neighbouring parking lot to the north as well as the retaining wall which will have a 1.83-metre high fence along the top.
- e) They referenced Tab 11 of their submission to show examples similar play spaces existing in other Child Care Services.

[17] Section 80 of the *Edmonton Zoning Bylaw* was amended on August 22, 2016 to allow Child Care Services to be located in the IB Business Industrial Zone or the IL Light Industrial Zone. These locations could potentially have a Child Care Service on a site with a more intense Use or heavier traffic.

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

- a) In their opinion, the residential development west of 51 Street will not be negatively affected by the play space. These homes are separated by a public roadway with parking on either side as well as a 1.83-metre high fence screening the play space. There is also a 10 foot buffer between the play space and the public sidewalk.
- b) They confirmed that a portion of the identified outdoor play space along the north property line will be lost because of the abutting drainage swale which is not shown on the refused site plan. They are unsure of its dimensions and its exact location.
- c) The subject Site consists of two lots. The 7-eleven convenience store is located on the Unit 1 lot and the balance of the development is on the Unit 2 lot. Unit 2 has no

- physical access to any street but there is a cross-access agreement in place with Unit 1. The Appellants only own Unit 2.
- d) Parents will be able to pick-up/drop-off their children through the rear (west) doorway during restricted hours (7:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m.). They would have to ring a buzzer and wait for a staff member to come outside to the locked gate of the outdoor play area and let them in.
 - e) They confirmed that the site plan shows 4 entrances from the outside into the Child Care Service. Although two entrances open directly into play areas, they will be used in conjunction with moveable racks /cubbies with carpets running during pick-up and drop-off times. The only entrance with a vestibule, open access to the second floor and an elevator is the south east entrance immediately adjacent to the vehicular entrance to the car wash. However, this doorway is not intended to be used by clients.
 - f) The common wall which separates the two Uses is not solid. There is an interior door connecting the Child Care Service and the car wash, but it is separated by a vestibule on the car wash side (as marked on Exhibit C). This controlled, pressurized vestibule is a requirement under the Alberta Building Code and there is no wash stall in this location.
 - g) The queuing lane is 10 feet wide. Apart from the landscaping island and an 8 inch curb close to the south east entrance there is no physical barrier separating this queuing lane from the Child Care Service parking spaces.
 - h) The north parking area can only be accessed from the east side of the 7-eleven as the garbage bins and loading zones block access from the west side of the 7-eleven building.
 - i) The cross-access agreement with Unit 2 includes parking which could be used by staff. The garbage bins are shared by all of the properties on the subject Site.
 - j) They have no concerns with any of the conditions listed in in the Development Officer's written submission should the Board approve the development.

ii) Position of the Development Officer, Mr. P. Adams

- [19] Mr. Adams considered that the Site consisted of both Unit 1 and Unit 2 as they share vehicular access and are integrated.
- [20] He confirmed that a Child Care Services Use is now permitted as a Discretionary Use in the Business Industrial Zone and the Light Industrial Zone, but locational criteria must still be met.

- [21] The measurement from the proposed development to the canopy of the Gas Bar is correct. He believes the 50-metre separation distance is in place because of the possibility of some type of explosion from fumes, gas or other liquids and because of the on-site traffic generated by such a Use. He did not feel he should vary it given his concern over the other locational regulation.
- [22] His main concern with the proposed development is that the car wash queuing spaces are in such close proximity to the Child Care Service parking with no sidewalk or other mitigating factor separating the two Uses. He sees this as a danger for children. He believes that the development regulations with locational criteria exist as there could be negative impacts from the listed Rapid Drive-through Service Uses, a category which includes car washes.
- [23] The play space within the Setback area is a concern because:
- a) The approved landscaping is partially intended to reduce massing, but the screened fence would counteract the purpose of the landscaping by blocking it.
 - b) The Setback area exists to protect adjacent properties from noise and other impacts.
- [24] A parking deficiency of 25 spaces is quite significant. There are 13 parking spaces required for staff parking. In his opinion, there would be a lot of traffic congestion after work when people want to wash their vehicles and pick-up their children.
- [25] He has not personally visited the site.
- [26] Transportation Services was not consulted as he could not support the proposed development in such close proximity to a Gas Bar and Rapid Drive-through Vehicle Service and felt it was best to move ahead with the refusal to benefit all parties.
- [27] A cross lot access agreement is a requirement when there is no access to a Site without crossing through another. Property lines marked on an aerial photo in his submission confirm that the property in question is separated from any accesses.
- [28] The Appellants only own 14 parking spaces and have access to 7 parking spaces in front of the medical building at the southwest corner of the lot. Parking requirements are calculated as an aggregate for all 5 Uses on Site. He acknowledged that the available street parking would mitigate some of the parking deficiency but he cannot take off-site parking into account as a Development Officer.
- [29] He does not have any concerns with the use of a buzzer system to allow parents access through the outdoor play space in the rear, as long as the buzzer does not make noise outside the building.

[30] He could not comment on whether landscaping is permitted in the outdoor play space as the *Edmonton Zoning Bylaw* makes no specific mention of this. He does not deal with Alberta Health standards.

iii) Rebuttal of the Appellants

[31] When the building addition for the Child Care Service was put in the plans, it was circulated to Transportation Services. No concerns were raised regarding the parking deficiency based on the fact that a significant portion of the required parking spaces for the building are allocated to the car wash.

[32] Alberta Health has seen the plans and they have no issues with the outdoor play space.

[33] In their opinion, there is no traffic impact from the Gas Bar. They reiterated that the only traffic impact is the queuing of cars entering the car wash at very slow speeds. The busiest time for this would be on weekends when the Child Care Service is closed.

[34] The Development Officer measured the separation distance to the canopy. The *Edmonton Zoning Bylaw* references “gas bar building” and makes no mention of “canopy”.

[35] They reiterated that everything possible has been done to eliminate any safety concerns.

Decision

[36] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **REFUSED**.

Reasons for Decision

[37] The Appellants applied for a Development Permit for a change of Use from a General Retail Store to a Child Care Service for 110 children. Child Care Service is a Discretionary Use in the (CNC) Neighbourhood Convenience Commercial Zone.

[38] There are multiple Uses on the subject Site, including a Gas Bar and a Rapid Drive-through Vehicle Service (a car wash).

[39] If approved, the proposed Child Care Service would require a waiver of 2 locational requirements related to adjacent or nearby Uses, a parking variance and 2 Setback variances for the outdoor play space.

[40] The Appellant provided photographs of other existing Child Care Service developments that appeared to be in contravention of one or more of the development regulations for

which the Appellant is seeking variances. However, there was no evidence before the Board concerning the legality or scale of those developments, the underlying Zoning or applicable development regulations in place at the time of the issuance of Development Permit approvals, if any for those developments.

[41] In any event, while there may be other examples of similarly situated developments and outdoor play areas, the Board is not bound by precedent and must consider each case that it hears on its own merits. Accordingly, the Board has made its decision based on the unique constellation of relevant considerations at issue in this appeal.

[42] Section 80(2) of the *Edmonton Zoning Bylaw* (“the *Bylaw*”) is a locational development regulation unique to Child Care Services that is aimed at safety and planning concerns. It provides in part:

No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for the following Uses: v. Rapid Drive-through Vehicle Services.

[43] Section 7.4(43) provides:

Rapid Drive-through Vehicle Services means development providing rapid cleaning, lubrication, maintenance or repair services to motor vehicles, where the customer typically remains within their vehicle or waits on the premises. Typical Uses include automatic or coin operated car washes (including self-service car wash), rapid lubrication shops, or specialty repair establishments. This Use does not include automated teller machines.

[44] The car wash located on the subject Site was approved by the Board (SDAB-D-15-149) as a Rapid Drive-through Vehicle Service Use. There is a single vehicular entrance to the car wash portion of the building which houses 9 interior bays and a single vehicular exit.

[45] The car wash and the proposed Child Care Service are located side-by-side within a single building. The two Uses share a common wall and an interior doorway separated by vestibules within each portion of the building.

[46] The single vehicular entrance is located at the northeast corner of the car wash and there are five queuing spaces extending to the east from that entrance. The vehicular entrance is also immediately adjacent to one of the four entrances to the proposed Child Care Service and the queuing spaces are located directly behind the 14 drop-off/pick-up spaces designated for the Child Care Service Use.

[47] According to the site plan, both the Child Care Service drop-off/pick-up spaces and the queuing spaces for the car wash must be accessed from the east through the same northern portion of the parking lot. The drop-off/pick-up spaces are located side-by-side in a single line on along the north end of the parking lot.

- [48] Given the limited size and configuration of this portion of the parking lot, vehicles picking up and dropping off children must drive in, back up, and maneuver past one another directly beside the five queuing spaces for the car wash.
- [49] There is no sidewalk connecting the drop-off/pick-up spaces with the main entrance or the southeast entrance of the Child Care Service. Parents and their children must traverse the same area of the parking lot in which vehicles are maneuvering to enter and exit the parking spaces and also queuing to access the car wash.
- [50] The Board recognizes that the Appellants have attempted to separate the queuing aisle from the Child Care Service parking, but the Board finds that this partial separation, which includes a landscaped area and an 8-inch curb is insufficient to address the safety concerns given the proximity of the two Uses and the limited space.
- [51] Congestion and safety concerns around the parking area and the east entrances to the Child Care Service will be exacerbated given that the Appellants anticipate that school-age children will be arriving at the Child Care Service on foot after school.
- [52] Given these Site conditions, the Board agrees with the Development Officer, that the location of the existing Rapid Drive-through Vehicle Service with 9 service bays and a 5 space queuing aisle directly adjacent to the Child Care Service creates a dangerous and negative impact on the Child Care Service, contrary to section 80(2)(d).
- [53] The Board notes that Child Care Service Uses are also subject to a 50 metre separation distance from Gas Bars because of the possibility of explosion from fumes, gas or other liquids and the on-site traffic generated by Gas Bars. Section 80.2(c) provides:

No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 metres of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use.

The Appellants and the Development Officer disagreed about the exact separation distance between the proposed Child Care Service and the Gas Bar. However under either calculation, the proposed Child Care Service does not meet the 50-metre separation distance and is therefore non-compliant with section 80.2(c). While this may be of less concern regarding traffic flow, due to the isolation of the Child Care Service and configuration of the other buildings on the Site, the other safety concerns remain and it still is an indicator that the proposed development, a Discretionary Use, may not be appropriate given all the circumstances on the Site.

- [54] The Appellants argued that the outdoor play space is not an outdoor service area and therefore section 310.4(7) has no application and the outdoor play space may be located in the two required Setbacks. The Appellants provided no authority or rationale as to why the outdoor play space would be excluded.

The Board notes that “outdoor service area” is not defined in the *Bylaw*. The outdoor play space is located outside of the building and is intended to serve the Child Care Services Use. Furthermore, the outdoor play space does create nuisance impacts for neighboring properties. Therefore, based on the plain wording of section 310.4(7) and taking a purposive approach to the *Bylaw*, the Board finds the outdoor play area is an outdoor service area.

- [55] The proposed outdoor play space is located within two required Setbacks, contrary to section 310.4(7). The Board finds that with the fencing and given the actual separation between the play space and the residences to the west across 51 Street, the variance to the west Setback would not create a material adverse impact.
- [56] However, during the hearing, it became apparent that a portion of the outdoor play space identified in the site plan, located in the north Setback, is taken up by a retaining wall and a below-grade drainage swale. The swale is not an appropriate location for an outdoor play space. While the Appellants are amenable to placing a tall fence on the top of the concrete barrier at the edge of the swale, the Board notes this alteration would significantly reduce that portion of the outdoor amenity area and could render the space unusable or create a potential hazard, depending on the depth of the swale, which is unknown. Therefore, the Board does not approve a relaxation of the north Setback to accommodate the outdoor play space.
- [57] Given the Board’s determinations about the suitability of this Discretionary Use and the Setback variances, the Board makes no comment on the required parking variance.
- [58] For the reasons outlined above, based the Site conditions (including proximity to surrounding Rapid Drive-through Vehicle Service and Gas Bar Uses and the configuration of the designated drop-off/pick-up spaces relative to the queuing spaces for the car wash), the Board has determined that the proposed Child Care Service is not an appropriate Discretionary Use at this location and the Board declines to approve the Use with the required variances.

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

Board Members in Attendance:

Mr. W. Tuttle, Ms. S. LaPerle, Mr. L. Pratt, Ms. N. Hack

Important Information for the Applicant/Appellant

1. 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.
2. 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.



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Date: March 16, 2017
Project Number: 232628846-001
File Number: SDAB-D-17-045

Notice of Decision

- [1] On March 1, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on **February 1, 2017**. The appeal concerned the decision of the Development Authority, issued on January 12, 2017, to approve the following development:

Change the Use of a General Retail Store to a Child Care Service (main floor, maximum 56 children), and to construct interior and exterior alterations (new entryway, play area) (Meadowlark Daycare).

- [2] The subject property is on Plan 2039AQ Blk 1 Lots 8-9, located at 8721 - 156 Street NW, within the (CSC) Shopping Centre Zone.
- [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 approved Development Permit;
- A Child Care Services checklist from the Development Officer;
- A Transportation Services memorandum;
- The Development Officer's written submission;
- The Respondent's written submissions and community consultation; and
- An e-mail from an adjacent business in support of the proposed development.

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

From the Appellant:

- Exhibits A, B, and D – Photographs;
- Exhibit C – A site plan with calculations and a photograph;
- Exhibits E, F, and G – Letters from adjacent businesses and on-site contractor; and
- Exhibit H and I – Sketches of the site and the surrounding area.

From the Development Officer:

- Exhibit J – Revised Parking Analysis; and
- Exhibit K – An aerial photograph.

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, Dr. B. Semeniuk

- [8] Dr. Semeniuk was accompanied by his assistant of approximately 8 years, Ms. V. Viray.
- [9] He owns Aspen Centre, the property immediately north of the proposed development and is here solely to protect his business interests and the interests of his tenants. The approval was based on inaccurate information and will create hardships for himself and his tenants.
- [10] The proposed development is not suitable for this location. The existing tenants in the subject building already exceed the available parking on their property. The addition of a third tenant with excessive parking requirements would further complicate this.
- [11] Illegal parking has been an issue since he purchased his property 11 years ago. He was warned of the parking issues by the previous owner and was told not to take down the chain link fence which separated his property from the subject property. Despite the warning he felt the fence was unsightly and removed it. Trespass parkers from the adjacent property (the subject Site) constantly use the on-site parking in place on his property for his patients and the clients of his tenants.
- [12] Inadequate parking is not unique to this site. The building landlord of the subject property has chosen to accept three tenants with high parking requirements and has shifted the parking burden to adjacent property owners. The addition of a Child Care Service will increase parking issues.
- [13] In his opinion, the locational requirements for a Child Care Service as outlined in section 80 of the *Edmonton Zoning Bylaw* have not been properly considered. The proposed play space is adjacent to the TD Bank Rapid Drive-through and is approximately 50 steps

away from the gas pump island and vent pipes directly across the street. Photographs were marked Exhibit A.

- [14] The approved site plan lists the square footage of all three floors. Details are lacking on the plans such as concrete barrier placement and the direction of the gate swing which ultimately could affect the true number of available parking spaces. No floor plan was provided for the basement and the Development Officer was not even aware that a Religious Assembly was a tenant in the basement on the site. A series of photographs was submitted (Exhibit B) to show where the fence of the play space area will be placed and the potential problems with the barrier placement and wheelchair accessibility.
- [15] In his opinion, a disabled parking stall must be provided, but a disabled parking stall has not been indicated on the site plan despite the fact that the floor plan shows a barrier free bathroom. If one of the three available parking stalls in front of the building were to be designated as disabled parking, there would not be room for an additional two parking stalls. A diagram and photograph were shown to illustrate this. (Exhibit C).
- [16] A Child Care Service for 56 children requires 7 pick-up/drop-off spaces which are designated with signs and shall be located no more than 100 metres from the main entrance of the facility as per the *Edmonton Zoning Bylaw*. This leaves nowhere for employees to park as no on-street parking is permitted on 156 Street.
- [17] In addition to the parking required for the Child Care Services, the Religious Assembly requires 1 parking space for every 4 seats. The Development Officer has not been given information regarding the size of the congregation or the square footage of the basement floor, but on many occasions all 15 parking stalls on the Appellant's property are occupied on Sunday mornings for the congregation that meets in the basement on the subject Site.
- [18] The Karate Studio on the second floor of the subject Site also requires a substantial number of parking stalls for pick-up and drop-off. He has been to the Karate Studio many times, as recently as this past Monday. There are approximately 20 seats in the Studio for parents to observe and wait for their children. Based on his interpretation of Bylaw and his calculation, this studio requires an additional 6 parking stalls.
- [19] There is significant competition for the unreserved parking on the subject Site resulting in chaos and a material loss to himself and his property. Parking is clearly not adequate to accommodate all of the Uses proposed for the subject Site.
- [20] Despite being advised of the historical problems with trespass parking, the Development Officer approved the development and assumed that any overflow parking from the Child Care Service would occur in the mall parking lot to the west across the street.
- [21] Dr. Semeniuk has chosen not to have illegally parked vehicles towed as he has compassion for the parents taking their children to the Karate Studio. He would not want to come out and find his own vehicle missing. Instead, he has chosen to intercept illegal

- parkers and educate them. However, occasionally people will curse and yell at him. He was disappointed and shocked by the letter from the Karate Studio. It is non-factual, contradictory, and defamatory. He talked to the owner of the Karate Studio on Monday about the letter, and he denied knowledge of the letter.
- [22] City parking enforcement is woefully inadequate and he has had to wait up to 1½ hours after calling Bylaw enforcement for a response.
- [23] He met with the pastor of the Religious Assembly and offered to come to some financial agreement with respect to parking, but he never heard from the pastor again and parishioners continue to park without permission on his lot on weekends.
- [24] The Child Care Service does propose a new garbage bin, and he no longer has an issue with that part of the business.
- [25] Letters of concern with respect to users from the subject Site parking on the Appellant's parking lot on an ongoing basis authored by two tenants operating out of Aspen Centre and a landscaping contractor were read into the record. (Exhibits E, F and G).
- [26] Ms. Viray advised she has worked for Dr. Semeniuk for 8 years and can see the parking lot from her desk through the front window. She sees people daily, illegally parking in their stalls including the disabled stall, creating a hardship for their elderly patients. She has seen users from the church on the Site using the Appellant's lot on Sundays when she has been in to work.
- [27] In response to a question from the Board, Dr. Semeniuk confirmed that the submitted photographs of the Site and surroundings were taken in the last 24 hours in the early afternoon.
- [28] His clinic is open from 9:00 a.m. to 6:00 p.m. or 7:00 p.m. and closed from 1:00 p.m. to 2:00 p.m. Another doctor works there on Saturdays until mid-afternoon. Dr. Pratt works from 9:00 a.m. until 5:30 p.m. or 6:00 p.m. and the Lung Clinic is open from approximately 8:00 a.m. until around 5:00 p.m. None of the three businesses located in the Aspen Centre are open on Sundays.
- [29] He has sufficient parking on site for his tenants but no overflow. He pays for off-site parking for his staff. There is no parking at the rear of his building.
- [30] He originally had 7 "no parking" signs, but when the Bylaw Officer came out in response to a complaint, they refused to write any tickets due to incorrect wording on the signs. These have been replaced with two large signs, as per instructions from Bylaw Enforcement.
- [31] Although Transportation Services indicated parking was available on 155 Street, patrons would have to cross a private parking lot or go around the block to get to the Child Care

Service. He drew a sketch to show the path that would have to be taken from 155 Street. (Exhibit H).

[32] He submitted a sketch (Exhibit I) to show the location of the gas bar across the street in relation to the Child Care Service. He was not able to take an accurate measurement of the separation distance as it is located across a busy street, but he paced it out at approximately 50 steps.

[33] The alley behind the subject building is very congested and there are points of access for other buildings including the large medical centre and the bank. His building extends to the property line and has no rear parking and he makes arrangements for off site staff parking for himself and his tenants.

ii) Position of the Development Officer, Mr. P. Adams

[34] Mr. Adams advised that the Development Authority had erred in determining the parking requirements. He submitted a revised parking analysis for the Board to review (Exhibit J). There is a net change of one (1) additional parking stall needed for the Child Care Service and a variance of 11 parking stalls would now be required when the entire site is taken into account.

[35] The Karate Studio is considered a Commercial School and requires 3 parking stalls for a maximum of 25 students.

[36] He was not aware of the Religious Assembly operating in the basement and was not able to find a Development Permit for its Use. Therefore, based on the existing approved uses he considered the basement development as a General Retail Use because it appeared to be part of the former Don's Photo. He determined 6.54 parking spots were required for this basement floor.

[37] The absence of a disabled parking space was determined to be a non-conforming aspect of the building and not considered when making his decision.

[38] An aerial photograph was submitted to show the measurement from the proposed development to the canopy of the gas bar as 54 metres. As this exceeds the required 50 metre separation distance, he did not consider it as a reason to refuse the development. He believed the tanks to be located at a further distance.

[39] The subject Site is in close proximity to public transit which reduces the staff parking requirements. The subject Site is also in close proximity to large scale residential developments so clients could potentially walk to the Child Care Service.

[40] He could not comment on whether the Child Care Service hours shown on the application (8:00 a.m. to 4:00 p.m.) are correct, but confirmed there is no condition on the Development Permit that the business has to close by 4:00 p.m. He did consider conflicts

with the hours of operation of the Commercial School and thought there may be some overlap, but felt the bulk of that business would occur after the Child Care Service was closed.

- [41] The parking calculation for the Commercial School was based on a maximum of 25 students being on site at any one time. He could not confirm if students would be arriving and leaving at the same time when classes overlap. The drawings he obtained from the archives were not specific as to whether there was an area for parents to sit and observe the classes.
- [42] He confirmed that parents parking on 155 Street would have to either walk around the block to get to the Child Care Service or would have to cross through a private parking lot and traverse the lane.
- [43] He could not provide any evidence of a cross-use agreement allowing patrons of the proposed development to park in the Meadowlark Mall parking lot. He did not know if the parking stalls at the rear of the development met the minimum size. He had considered them to be existing as they were approved with the original Development Permit.
- [44] He was not aware of any parking concerns of the abutting properties prior to making his decision as there are no recent parking complaints on the system.

iii) Position of the Respondent, Mr. Amit Verma

- [45] Mr. Verma understands the parking concerns and only found out about the Religious Assembly in the basement floor today.
- [46] The operating hours of the Child Care Service would be from 7:00 a.m. to 6:00 p.m. The busiest times are in the morning after 7:00 am and from after work until 6:00 pm. Since the Religious Assembly operates mostly on weekends, in his opinion, the only conflict may be with the Commercial School. There could be an issue during the Child Care Service's afternoon pick-up times when the Commercial School is also operating, but parents could use the large TD Bank parking lot during this overlap. Parents do not generally hang out at a Child Care Service, they just make a quick stop to drop off or pick up.
- [47] This is an odd building and was designed for three businesses. There would be a parking deficiency no matter what type of business moved in.
- [48] In his opinion, other people may be parking in the Appellant's lot that are not related to the subject building.
- [49] There is a parking agreement in place with the nearby Church to the north for 6 Child Care Services staff parking spaces during the week. Weinlos Centre would also allow

them to have parking if required. However, the only an agreement in place with Weinlos Centre is to allow Church parking on weekends.

- [50] The large Boardwalk Community right across from the TD bank and the nearby schools are their target markets for the Child Care Service. These are within walking distance and many of these clients use public transportation which would minimize the use of vehicles. Their door to door research confirmed there is a large need for a Child Care Service in this area.
- [51] They will do their best to make sure their clients do not use the Appellant's parking lot and this will be written into the contracts with their parents. He has developed other Child Care Services requiring parking variances and there have been no issues.
- [52] They are willing to financially compensate the Appellant in order to be able to use some of his parking spaces for parents. Staff could park off-site or use public transit as the Meadowlark Transit Centre is in close proximity.
- [53] The Appellant is the only one that has a complaint with the proposed development despite the number of letters sent out. The Appellant could address the issue by hiring a private parking enforcement agency. The pictures submitted by the Appellant do not show parking congestion during the day.
- [54] This is an ideal location for a Child Care Service as it is close to Meadowlark Mall and the Weinlos Centre if medical attention is needed.
- [55] The parking lot could easily be modified to allow for one disabled parking stall as pointed out on the site plan.
- [56] The existing doors at the rear of the building were identified. One door at the rear goes directly into the Child Care Service. Students of the Commercial School also enter from rear of the building through a common stairwell. No bollards are currently proposed for the rear of the building. There is a walkway at the front of the building.
- [57] The Appellant requested an adjournment to allow for time to get an off-site parking agreement in place with the Weinlos Centre for users of the Child Care Service.

iv) Position of the Appellant regarding the Adjournment Request

- [58] Dr. Semeniuk does not agree with adjournment request and is not prepared to waste another day. He has spent considerable time preparing for this hearing. It was well known that parking was his objection to the Development Permit.
- [59] An off-site parking agreement would not be a solution as there is a provision in the *Edmonton Zoning Bylaw* that the drop-off /pick-up spaces must be in close proximity to main entrance of the Child Care Service.

[60] He would be prejudiced if an adjournment was granted.

The Board took a brief recess and determined that an adjournment would not be granted and the Respondent continued.

v) Position of the Respondent continued

[61] Mr. Verma confirmed that the Commercial School uses the rear stairwell and acknowledged that parents would sometimes want to watch the classes on the second floor.

[62] He confirmed that the proposed Child Care Service is for 56 children.

vi) Rebuttal of the Appellant

[63] The decision of the Development Officer is based on many assumptions and errors on the drawings which he has identified.

[64] The Respondent has assumed that he would be able to enter into a parking agreement with the Appellant, but the Appellant is not willing to do so. He requires all his parking spaces and is not in a position to grant a contract for excess parking during the week. In his opinion, this whole process for approval is based on a possible off-site parking agreement.

[65] The Development Officer measured the distance from the roof of the gas pump to the Child Care Service, but not from the vents which he believes are closer. The Development Officer also did not address the incorrect measurements shown on the blueprints which would affect the calculation of the parking requirements.

[66] The Development Officer stated there have been no parking complaints within the last five years. This is not true. He personally has made many complaints and a supervisor from the City finally came out within the last 1 to 1 ½ years and reiterated that he would not issue a ticket due to inadequate signage. There were 12 vehicles illegally parked at the time of the supervisor's visit.

[67] The Development Officer has revised the parking calculations to show that the required parking variance is now 10 instead of 4. The operation of the Religious Assembly was not considered in these revised calculations.

[68] It is a large assumption that many of the Respondent's clients will walk to the Child Care Service from other parking areas, from the neighbourhood and from the Meadowlark

Transit Centre. In his opinion, no parent will park and then walk two blocks to a daycare facility with a small child.

- [69] With respect to the Respondent offering to do his best to notify their clients of where they may park, he was told the same thing with the two existing tenants in the subject building and the illegal parking continues.
- [70] Many parents park and watch their kids at the Commercial School classes; he sees this every day. He was at his office last night until 11:00 p.m. and witnessed 10 vehicles parking at his lot and their occupants walking over to the subject building.
- [71] Possible parking at the TD Bank parking lot was mentioned, but there is no parking agreement in place. It is not appropriate that all parking burdens are be placed on adjacent property owners instead of the Respondent finding a location that has adequate parking for the proposed Child Care Services Use.

Decision

- [72] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **REFUSED**.

Reasons for Decision

- [73] The proposed development, a Child Care Service, is a Permitted Use in the (CSC) Shopping Centre Zone which requires a parking variance.
- [74] It was approved by the Development Authority. The approval was appealed by the owner of the immediately adjacent property to the north of the subject Site (the Appellant). The Appellant argues the subject Site currently provides insufficient parking spaces which adversely affects himself and his tenants and that granting the development permit for a Child Care Service for up to 54 children with the additional required parking variance will materially affect him by exacerbating the current parking problems.
- [75] The subject Site has one commercial building with a basement, a main floor and a second floor. There are two approved Uses for the building: a Commercial School Use for a Karate Studio located on the second floor; and a General Retail Store Use for the basement and the main floor.
- [76] Based on the information provided by the landlord, the Karate Studio offers classes for children Monday through Friday afternoons and evenings from either 4:00-5:00, 5:00-6:00, 6:00-7:00 and 7:00-8:00 p.m; or, 4:00-6:00, 5:00-7:00 and 6:00-8:00 p.m. A letter submitted to the Board by the Karate Studio simply states that its classes begin at 4:30 p.m.

- [77] The General Retail Store Use is no longer in operation. However, all the participants agreed that a Religious Assembly Use is currently occurring in the basement of the building on Saturdays, Sundays, and Thursday evenings. No details about that Use were available to the Board.
- [78] There is no Development Permit on record for this Religious Assembly Use. The Religious Assembly Use has no permit, but the basement is being used and has been approved as a General Retail Store Use. In making its decision, the Board has been mindful of the development requirements for General Retail Store Use, the last Use for which a development permit has been issued for this space.
- [79] During the hearing, the Development Officer acknowledged that the parking requirements had been miscalculated. In accordance with his revised parking submission, the Board finds that the subject Site currently requires 17 parking spaces based on the approved Uses:
- a) 3 parking spaces for the Commercial School Use,
 - b) 6.95 parking spaces for the General Retail Store Use on the main floor, and
 - c) 6.54 parking spaces for the General Retail Store Use in the basement.
- [80] Now 3 parking spaces are provided in front of the building and 4 in the rear. A drive-through aisle links the front parking lot to the rear lot and the lane. The Board finds that the present approved variance is 10 parking spaces.
- [81] The current application is to change the General Retail Store Use to a Child Care Service Use for the main floor portion of the building and to make exterior alterations to construct an outdoor play area on the portion of the Site which may now be used to drive through the property from 156 Street to the rear lane.
- [82] The Board finds that the new parking requirement will be 18 parking spaces:
- a) 3 parking spaces for the Commercial School Use,
 - b) 6.54 parking spaces for the General Retail Store Use in the basement, and
 - c) 8 parking spaces for the Child Care Service: seven pick-up/drop-off spaces and one staff parking space in accordance with Section 54.2, Schedule 1(A)(33).
- [83] Based on the approved Site Plan before the Board, there will be 3 parking spaces in the front parking area accessible only from 156 Street and 4 parking spaces and a garbage bin area behind the building accessible only from the rear lane for a total of 7 parking spaces. The drive-through aisle will be removed and replaced by an outdoor play area.
- [84] The Board finds that the total required on-site parking spaces will increase to 18. As 7 are to be provided, the overall aggregate variance is 11 parking spaces. The net change in required parking is one additional on-site parking space.

- [85] Section 54.2, Schedule 1(A)(33) of the Bylaw provides additional requirements for passenger pick-up/drop-off spaces:
- i) Passenger pick-up/drop-off spaces shall be designated with signs to reserve the parking spaces for Child Care Service pick-up/drop-off, to the satisfaction of the Development Officer.
 - ii) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pickup/drop-off area and the main entrance of the Child Care Service shall be measured along the shortest publically accessible pedestrian route.
- [86] At the outset of his presentation, the Development Officer acknowledged that he had used incomplete, inconsistent or erroneous information when processing the application and this information was circulated to Transportation Services and formed the basis of its support of a parking variance.
- [87] The Board finds that the Development Officer and Transportation Services both made their decisions based on information that proved at the hearing to be in part inaccurate or incomplete. The additional information received by the Board was provided by various interested parties over time in written correspondence and in person. Some information was supplied by the owner of the subject Site who lives in another city and did not appear at the hearing. The Respondent Child Care Services Operator appeared at the hearing, but was unable to provide clarification of some issues for the Board.
- [88] First, the Board notes a discrepancy in the total number of children authorized by the Use. Transportation Services indicated that it based its decision on a maximum of 48 children even though a maximum of 56 children were confirmed at the hearing.
- [89] Second, the calculation of parking requirements and variances did not take account of any Use in the basement. As neither the currently occurring Religious Assembly Use, nor the previously approved General Retail Use were taken into account, Transportation Services and the Development Officer underestimated the overall parking shortfall. They calculated the required overall parking deficiency to be 4 parking spaces rather than the correct figure of 11 which is based on assessment of all 3 approved Uses located in the building. The Board recognizes that magnitude of a variance is not always indicative of its impact and that the variance in this case increases by one parking space. However, given the evidence of unauthorized parking on the Appellant's lot and the failure to include all the Uses, the Board finds that in this case the incremental adverse impact of the required parking variance may have been underestimated.

- [90] Third, Transportation Services relied on information, including hours of operation, provided by the owner of the subject Site suggesting that the peak hours would be staggered between the two known uses and determined that the Child Care Services Use hours of operation did not coincide with the top demand for parking at the Karate Studio. Similarly, the Development Officer supported a 4 parking space variance because the hours of operation of the two known uses were offset, a factor which he concluded ultimately reduced the impact from the total deficient parking spaces.
- [91] Based on all of the participants' written submissions to Board and the oral submissions at the hearing, the Board finds these conclusions to be incorrect.
- [92] While the hours of operation in one portion of the submitted materials match the Respondent's oral submissions, the letter specifically cited by Transportation Services also states there will be 6 staff parking spaces available from 8:00 a.m.-4:00 p.m. and that the Karate Studio would be operating a 4:00 p.m. to 9:00 p.m. business schedule with smaller classes until 6:00 p.m., when the Child Care Services would be closed.
- [93] According to the Respondent, the proposed hours of operation for the Child Care Service are from 7:00 a.m. to 6:00 p.m. Unlike a General Retail Store Use which spreads parking demands over the working day, the busiest times for Child Care Services are drop off in the early morning and pick up between the end of work and 6:00 p.m. The Karate Studio offers classes during the busy pick up period for the Child Care Services Use. In addition, the consecutive karate classes are not staggered, they occur immediately after one another which effectively doubles the demand for parking as drop off and pick up times coincide. Not only do the two peak demand hours overlap, they both involve quick stops to drop off and pick up children. The Board also notes that the off-site parking agreement between the Respondent and the third party Church provides that 6 staff parking spaces are available until 4:00 p.m. daily.
- [94] Therefore, the Board finds that the proposed Use is not complementary with respect to parking demands associated with the other approved Uses.
- [95] Fourth, in the materials provided to Transportation Services, the owner of the subject Site indicates there are no current parking problems and that none are anticipated. Subsequently, the Appellant strongly disputed this assertion.
- [96] He provided evidence of chronic ongoing daily conflict (occurring as recent as the day before the hearing) as users of the Karate Studio illegally park on his parking lot. This evidence was supported by his employee who indicated she observes these adverse impacts daily as her workstation has a window directly overlooking the parking area adjacent to the subject Site. The Appellant's landscaper and tenants affirmed the Appellant's position. In addition, the correspondence from the Karate Studio confirms that unauthorized use of the Appellant's parking lot has occurred occasionally and created conflict in the past.

- [97] The Respondent suggested the illegal parking may be attributable to other nearby businesses. However, given the aerial photographs and as the Respondent is new to the situation and as the Appellant has been vigilant in monitoring the users of his parking lot for several years, the Board accepts that the parking on the Appellant's lot is attributable to users of the subject Site.
- [98] While unauthorized parking on the Appellant's property is a Bylaw Enforcement issue, the Appellant's evidence is relevant about the sufficiency of the available on-site parking spaces prior to the addition of the proposed development as well as the likely impact of a further parking variance.
- [99] Further, in the materials submitted to Transportation services, the landowner indicates that:
- a. there will be "8 stalls available exclusively to the Daycare from 8:00 am to 4:00 pm"
 - b. the Karate Studio drop off and pick up "does not use any of the parking on the premises. They mostly use the Meadowlark mall parking, Next door TD bank parking, Street Parking to drop off and pick up kids"; and
 - c. "If they wish to park, they use street parking. This has been the normal practice since 2003."
- [100] In a subsequent letter, the Karate Studio acknowledges that at least some parents do come into their premises and the Appellant provided evidence that there is a seating area to accommodate parents who wait during their children's classes and that these parents park at the subject Site and on his property.
- [101] The Board notes that if all the required pick up and drop off spaces are reserved and designated for the Child Care services Use, the 7 spaces currently available for the other two approved uses are reduced to zero. There will be no spaces whatsoever to accommodate the parents who wish to observe their children in the Karate Studio as they have done in the past.
- [102] The owner of the subject Site indicated that the current clients use three adjoining on-site parking lots belonging to the Weinlos Centre, the TD Bank and Meadowlark mall, but not the closer lot belonging to the Appellant. However, the Board received evidence of only one parking agreement to accommodate the current Uses: an agreement between the Religious Assembly Use and the Weinlos Centre. The Respondents indicated that there is only one off-site parking agreement in place for 6 staff parking spaces that is located at the corner of 155 Street and 89 Avenue.

- [103] The proposed development also involves closing off the current drive-through aisle which allows traffic to flow from 156 street to the rear lane and facilitates drop off and pick up for the Karate Studio according to their letter of support.
- [104] With the closure of the drive through aisle, this means of efficiently dropping of students will disappear which will also adding to congestion.
- [105] Given the small size of the front lot (3 parking spaces), it will now be more difficult for parents to access the subject Site for any Use from 156 Street. Vehicles stopped waiting to access the front parking lot may create traffic congestion on 156 street where on-street parking is prohibited and increase the likelihood that the adjacent property owners' lots (including the Appellant's lot) will be used to serve the parking needs for the proposed development.
- [106] The Board finds that there is a lack of on-street parking in close proximity which increases the likelihood that a variance will adversely impact the Appellant.
- [107] Parking is not allowed in front of the subject Site along either side of 156 Street as it is an arterial road.
- [108] Transportation Services suggests that the patrons of the proposed Child Care Service could use 155 Street or 88 Avenue for on-street parking. The Board notes this would require the patrons to park and then traverse a significant distance far in excess of 100 metre distance set in the development regulations for pick-up and drop-off spaces.
- [109] Alternatively, Transportation Services proposes patrons of the Child Care Service use the Meadowlark shopping centre parking lot across 156 Street. Based on the aerial photograph, the subject Site and the parking area are both midblock and there is no cross walk across 156 Street. Parents and children must traverse past the vehicular entrances for the existing Gas Bar, to a controlled intersection and then past the vehicular access to the adjacent bank parking lot which includes an automatic teller drive through kiosk to access the Child Care Service.
- [110] Based on the above, the Board finds that parking conflicts have occurred while the main floor of the building has been vacant and that any further relaxation to the parking variance included with the proposed Child Care Service, will materially exacerbate the parking situation given that the peak hours of operation for Karate Studio and the pick-up times for the Child Care Service coincide and occur in part while the businesses on the Appellant's property are still open. The quick and transient nature of the pick-up and drop-off of children for both Uses and the lack of on-street parking along 156 Street or in close proximity also makes the variance more likely to result in an adverse impact on the neighbouring property to the north.

[111] Therefore, the Board concludes that the proposed development will unduly interfere with the amenities of the neighbourhood, and will materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

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

Board Members in Attendance:

Ms. S. LaPerle, Mr. L. Pratt, Ms. N. Hack

Important Information for the Applicant/Appellant

1. 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.
2. 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.