

*Edmonton Subdivision and
Development Appeal Board*

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DATE: March 19, 2015
PROJECT NO.: 154455304-001
FILE NO.: SDAB-D-15-042

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 9, 2015, from the decision of the Development Authority for permission to:

Construct an Accessory Building (Garage Suite (above Grade) 7.32 metres by 11.13 metres) and to demolish an existing Accessory Building (rear detached Garage 3.75 metres by 6.17 metres)

On Plan 1367HW, Block 17, Lot 1, located at 11503 - 77 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 4, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

At the outset of the appeal hearing, Mr. Somerville disclosed that he was a member of the Subdivision and Development Appeal Board when the agent for the Appellant, Mr. Lerner, served on the Board. There was no opposition to the composition of the panel.

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

The Board heard an appeal of the decision of the Development Authority to approve an application to construct an Accessory Building (Garage Suite (above Grade) 7.32 metres by 11.13 metres) and to demolish an existing Accessory Building (rear detached Garage 3.75 metres by 6.17 metres) located at 11503 – 77 Avenue NW. The development permit was approved subject to conditions with variances granted in the maximum allowable Floor Area and to permit the proposed Platform Structure to face the Rear Yard.

The approved development permit application was subsequently appealed by an adjacent property owner.

SUMMARY OF HEARING (CONTINUED):

Prior to the hearing the following information was provided to the Board, copies of which are on file:

1. Written submission from the Development Authority, received February 24, 2015;
2. Written submission of the Respondent, including a set of photographs and a petition, received February 27, 2015;
3. Written submission of the Appellant, including a number of letters of opposition to the development from neighbouring property owners, received February 27, 2015; and
4. A letter of opposition to the development from a neighbouring property owner, received March 3, 2015.

The Board heard from the Appellant, Mr. Wei Yew, who submitted two letters of opposition to the development from neighbouring property owners, marked Exhibit "A", and used a PowerPoint presentation, marked Exhibit "B", to provide the following information in support of the appeal:

1. The proposed development does not comply with the City of Edmonton Bylaws. Mr. Yew summarized his eleven reasons for opposing the development, as outlined in Exhibit "B".
2. His main concern and that of his neighbours is that the proposed Garage with Garage Suite is too large and uncharacteristic of this mature neighbourhood.
3. The opposition to the development is not directed at Mr. S. or his family. Further, he is not opposed to infill densification if it is sensitive to the area and complies with the development requirements.
4. He referenced Exhibit "B" to illustrate developments that, in his opinion, were well designed.
5. The Respondent undertook limited community consultation after the development application was submitted. The Applicant did not consult with the Belgravia Community League and failed to fully explain the required variances to those individuals that were consulted.
6. The proposed development is not sensitive in scale to existing developments in this neighbourhood.
7. The Floor Area of the proposed Garage Suite has been calculated as 60 square metres. However, the proposed interior staircase should have been included in that calculation. With the staircase included, the proposed Floor Area is 81.38 square metres and a larger variance is required.
8. The proposed balcony does not fit the definition of a Platform Structure because it does not project from the building.

SUMMARY OF HEARING (CONTINUED):

9. Section 87 of the *Edmonton Zoning Bylaw* requires windows contained within a Garage Suite to be placed and sized to minimize overlook into the yards and windows of abutting properties. It was his opinion the proposed development does not comply with that requirement and the privacy of neighbouring property owners will be compromised.
10. He questioned why the Development Officer based his decision on satellite images of the subject site and the surrounding neighbourhood.
11. There is a basement suite in the house on the subject site and the proposed Garage Suite will result in development on the site that is similar to a triplex.
12. There are no other four-car garages in this neighbourhood. The proposed four-car garage does not comply with the vision of the McKernan-Belgravia Area Redevelopment Plan (the “ARP”) to increase transit use.
13. The proposed development does not comply with the policies of the ARP, specifically 4.4.9(1) and (2) which encourage articulation of building elevations, appropriate building massing and ensure that buildings on corner sites provide attractive façades on both sides of the street and avenue.
14. As well, the proposed development is located within a Transit Oriented Development zone, but a four-car garage does not increase transit use.
15. The proposed development does not comply with several policies contained in the Municipal Development Plan, The Way We Grow (the “MDP”), specifically 3.5.1.2 which directs the location and design of residential infill in mature neighbourhoods through planning and design guidelines, and 3.5.1.5 which supports consultation with neighbouring residents.
16. Mr. Yew referenced illustrations in Exhibit “B”, which show the size and height of the proposed development in relation to neighbouring properties.
17. The approval of this development will set a precedent in the neighbourhood.
18. The proposed landscaping on the second floor landing, which includes a few potted plants, is inadequate.
19. The proposed development will have a negative impact on the adjacent lane parallel to 77 Avenue. The lane is poorly lit and access to 115 Street will be compromised. Privacy and safety are concerns.
20. The proposed Garage could be used as a workshop to refurbish vehicles and will negatively impact property values.
21. The plans for the Garage and Garage Suite could have been revised to reduce the height and the massing of the Garage and remain useable as a Garage Suite. Alternative attractive designs should be pursued.

SUMMARY OF HEARING (CONTINUED):

22. Infill development should create pride in the neighbourhood, which this development does not.

Mr. Wei Yew provided the following responses to questions:

1. The installation of screening on the proposed balcony would mitigate some of his privacy concerns.
2. Many of the signatures of support obtained by the Respondent were from residents who live outside of the 60-metre notification radius.
3. He acknowledged that the Respondent contacted him about the proposed development in December 2014.
4. The yellow boxes super-imposed on an aerial map in Exhibit "B" are a depiction of what the neighbourhood could look like if similar Garage Suites were developed.
5. The basement suite in the house on the subject site is being used as a rental property.
6. There is a two-car Garage with a Garage Suite in the neighbourhood.

The Board then heard from neighbouring property owners, Ms. Marie Sharpe, Ms. Anne Sharplin, and Mr. Richard Law who appeared in opposition to the proposed development:

1. They are concerned about the size and height of the proposed development, which leads to privacy and massing concerns, and the large variance required for the platform structure.
2. The consultation process was incomplete.
3. The proposed development is not well designed. Further, a four-car garage is not characteristic of the neighbourhood and will diminish property values.
4. The petition submitted by the Applicant contains signatures of many people who live outside the 60 metre notification radius.
5. Mr. Law conceded that he resides outside of the 60 metre notification radius but attended to summarize the concerns of two property owners who reside within the 60 metre radius.

Ms. Dianne Gillespie and Ms. Jeanette Bowman, representing the Belgravia Community League, provided the following information:

1. They expressed concern about the process and the lack of consultation, and expected the Development Officer to ensure the proper consultation process is completed.

SUMMARY OF HEARING (CONTINUED):

2. The Community League could support a smaller and lower Garage with a Garage Suite with a platform structure that faced the rear.
3. The proposed development, if approved, could set a precedent in this neighbourhood.
4. Development that reduces traffic and parking and that promotes a walkable neighbourhood is being encouraged in the neighbourhood.
5. Garages which are complementary to the existing house are preferred, which is not the case here.
6. In this case it was hard to assess the impact of the proposed garage because the principal dwelling will likely be replaced in the near future, and plans for that have not yet been finalized.
7. The intensity of development is controlled by the ARP and the Mature Neighbourhood Overlay.

The Board then heard from Mr. Adam Sheahan, representing the Sustainable Development Department, who provided the following information:

1. It was his opinion that Mr. Yew's written submission contained several misconceptions.
2. Community consultation was not a requirement in this case because the proposed development complies with all of the development requirements contained in the Mature Neighbourhood Overlay.
3. He did advise the Respondent to speak to the Appellant, Mr. Yew, about the proposed development, as the Appellant is the most affected property owner.
4. The plans were revised through discussions with the Applicant in an attempt to improve privacy for the neighbours.
5. The stairs are not included in Floor Area calculations because they are not enclosed.
6. He determined that the proposed balcony was a Platform Structure pursuant to the definition of a Platform Structure, which includes decks that do not project from a building.
7. The house on the subject site was inspected by the Compliance Branch who determined that the basement had been used as a Secondary Suite, but has since been decommissioned.
8. The proposed development is a Discretionary Use in the RF1 Single Detached Residential Zone that complies with the location criteria for a Garage Suite.
9. The ARP encourages the development of Garage Suites and it was his opinion that the subject site is suitable for the proposed development.

SUMMARY OF HEARING (CONTINUED):

10. Immediately south of the Site is an apartment style condominium complex, which has several balconies facing north over the Lane. The variance was granted to allow the Platform Structure to face the Rear Yard to minimize any privacy concerns.
11. He determined that a variance in Height was not required after reviewing the submitted drawings as the Height of the Garage is under that of the principal building.
12. When he was informed that an appeal had been filed, he advised the Respondent to contact the Appellant.
13. A four-car Garage without a Garage Suite on this site would be a fully compliant Permitted Use.
14. The proposed development would help to alleviate parking congestion on the street.

The Board then heard from the Respondent, Mr. I. S. and his father, Mr. A. S., who provided the following information in support of the proposed development:

1. They purchased the Site as a second house approximately two years ago. They also own 11447 - 77 Avenue, which is in this neighbourhood.
2. Mr. A.S. was out of the country when the initial planning for the Garage Suite was undertaken. Upon his return, he learned that the Appellant had not been consulted about the proposed development. He subsequently contacted the Appellant in December 2014, hoping that he would facilitate a review of the proposed design.
3. The Appellant advised him that he would review the proposed plans and respond at a later date. However, the only response that he received was that the Appellant did not support the proposed development.
4. On-street parking is an ongoing problem in this neighbourhood. The proposed four-car garage will allow them to park many of their vehicles on site and alleviate some of the problems.
5. The proposed garage will not be used as a work shop or to service vehicles.

Mr. I. S. and Mr. A. S. provided the following responses to questions:

1. They own five trucks and one car.
2. The previous owners did have a tenant residing in the Secondary Suite in the basement.

SUMMARY OF HEARING (CONTINUED):

3. One of the conditions of the sale was that the lease for the existing Secondary Suite be allowed to expire and they had honored this condition. Following the expiry date of the lease, the Secondary Suite was decommissioned, which occurred approximately one year ago.
4. A full community consultation had not been undertaken because he understood that the consultation process only had to be completed when variances were required to the development requirements of the Mature Neighbourhood Overlay.
5. The Appellant had been aware of the proposed development for a considerable period of time and was pleased when they removed the overgrown trees and landscaping in preparation for the proposed Garage.
6. The proposed balcony faces the principal building in an attempt to preserve the privacy of neighbouring property owners.
7. A privacy screen will be installed on the west side of the proposed balcony as well as landscaping to ensure the privacy of neighbouring property owners.
8. Many commuters come and park their vehicles in this neighbourhood to access the LRT Station that is in close proximity to the subject site.
9. The proposed four-car garage will provide additional on-site secure parking for their vehicles, which will alleviate the strain on on-street parking.
10. There is a similar sized three-car garage in this neighbourhood.
11. The photographs that were submitted along with the Respondent's written submission depict sun shadowing on the subject site at various times of the day.
12. The proposed development is only for family use; they have no intention of renting out any of the space, once the current tenants leave in August.
13. They chose to develop the Garage to the maximum size allowed within the guidelines to accommodate the needs of their family. The platform structure allows them to have this size of Garage, which would be able to accommodate their trucks.

Mr. Yew made the following points in rebuttal:

1. He did not agree with the Development Officer's interpretation of the definition of a Platform Structure.
2. It was his opinion that the decommissioning of the Secondary Suite should be documented.
3. One family moved out of the rental suite last year and another family moved in.

SUMMARY OF HEARING (CONTINUED):

4. He reiterated his opinion that the proposed interior staircase should be included in the Floor Area calculations.
5. The proposed four-car garage is not in keeping with the guidelines of the Area Redevelopment Plan.
6. The on-street parking spaces for LRT users are limited to two hours and this is a parking enforcement issue.
7. The community consultation was misleading because the Respondent failed to convey information regarding the true nature of the development.
8. He would be prepared to support a “nice” infill development on the subject site.
9. He stated that Mr. S. never asked him to suggest design changes for the proposed development.

DECISION:

that the appeal be DENIED and the decision of approval by the Development Authority CONFIRMED

The approval of the Development Authority contains the following variances and conditions:

Variances:

Class B Discretionary Development: Garage Suite is a Discretionary Use in the RF1 zone. (Section 110.3(3))

Section 87.3 - Relaxed - the maximum Floor Area shall be:

- a) 60 m² for a Garage Suite (above Grade).
- b) 50 m² for a Garden Suite and for a Garage Suite (at Grade).
- c) notwithstanding (a) and (b) above, the maximum Floor Area may be increased

by up to 7.5 m², only where this additional floor area comprises the area of a Platform Structure associated with the Garage Suite or Garden Suite.

Permitted Floor Area of a Platform Structure: 7.5 m²

Proposed Floor Area of a Platform Structure: 15.25 m²

Exceeds by: 7.75 m²

Section 87.3 - Relaxed - Platform Structures, including balconies, shall be allowed as part of a Garage Suite developed above a detached Garage only where the balcony faces the lane or a flanking roadway.

- Platform Structure faces the Rear Yard

DECISION (CONTINUED):

Conditions:

This Development Permit authorizes the development of an Accessory Building (Garage Suite (above Grade) 7.32 metres by 11.13 metres)) and to demolish an existing Accessory building (rear detached Garage 3.75 metres by 6.17 metres). The development shall be constructed in accordance with the approved drawings and is subject to the following conditions:

1. The Height of the principal building shall not exceed 6.5 metres or the Height of the principal Dwelling as constructed at the time of the Development Permit Application, whichever is the lesser, where the building containing the Garage Suite has a roof slope of 4/12 (18.4 degrees) or greater, as per the Height definition. (Reference Section 87(2)(i));
2. Except for the hardsurfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw;
3. A Garage Suite or Garden Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision;
4. A Garage Suite or Garden Suite shall not be allowed within the same Site containing a Group Home or Limited Group Home, or a Major Home Based Business and an associated principal Dwelling, unless the Garage Suite or Garden Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business;
5. Notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Garage Suite or Garden Suite shall not exceed three;
6. Only one of a Secondary Suite, Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling;
7. The Private Outdoor Amenity Area provided above grade shall not be enclosed;
8. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

DECISION (CONTINUED):

Note: Lot grades must match the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5500 for lot grading inspection inquiries.

Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

REASONS FOR DECISION:

The Board finds the following:

1. A Garage Suite is a Discretionary Use in the RF1 Single Detached Residential Zone.
2. The proposed Garage Suite meets the locational criteria for Garage Suites in the RF1 Single Detached Residential Zone.
3. The proposed development aligns with the policies of the McKernan-Belgravia Station Area Development Plan, specifically Objective 4.4.6:

For areas not identified as appropriate for significant redevelopment there are still opportunities to support modest intensification through small scale neighbourhood infill. In these locations redevelopment should be limited to construction of garden/garage suites, duplexes and semi-detached dwelling with row housing and apartment housing up to four dwellings per site. All new developments should be required to match the scale of existing single family dwellings.

and Policy 4.4.6.5:

Allow small scale infill (secondary suites, garden suites, garage suites, semi-detached, row housing and apartment housing with up to four dwelling units per site) in locations specified in the Zoning Bylaw 12800.

4. The proposed development is in keeping with the Municipal Development Plan, The Way We Grow, specifically 4.4.1.1, which states:

Provide a broad and varied housing choice, incorporating housing for various demographic and income groups in all neighbourhoods.

4.4.1.4, which states:

Develop higher density housing and a mix of uses in proximity to LRT stations and transit centres[.]

and 4.4.1.5, which states:

Preference for multiple unit density will be given to neighbourhood with LRT stations and transit centres.

REASONS FOR DECISION (CONTINUED):

5. The proposed development complies with the maximum allowable 12 percent Site Coverage requirement for an Accessory Building or Structure and the maximum allowable Height requirements for an Accessory Building or Structure and a Garage Suite.
6. The proposed Platform Structure complies with Section 6.1(74) of the Edmonton Zoning Bylaw which specifically includes “balconies, raised terraces and decks”.
7. The variance granted in the maximum allowable size of the proposed Platform Structure will be mitigated by the fact that the rear attached Garage on the most affected property to the west has been constructed along the shared property line and will mask the additional appearance of massing created by the enlarged Platform Structure.
8. The variance granted to allow the proposed Platform Structure to face the Rear Yard will be mitigated by the proposed landscaping and design features, including privacy screening that will assist in masking potential visual overlook into the neighbouring property.
9. The Board is satisfied that the community consultation undertaken by the Applicant was sufficient given that the proposed development complies with the requirements of the Mature Neighbourhood Overlay and consultation was therefore not a requirement.
10. The Board notes both the support and opposition of affected property owners. However, the Board is satisfied, based on the evidence provided, that the proposed development is reasonably compatible for the neighbourhood.
11. Based on the above, it is the opinion of the Board, 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.

IMPORTANT INFORMATION FOR APPLICANT/APPELLANT

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. 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.

3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the Municipal Government Act, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

Ms. D. Poon Phillips, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

NOTE: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.

Edmonton Subdivision and Development Appeal Board

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DATE: March 19, 2015
PROJECT NO.: 166990960-001
FILE NO.: SDAB-D-15-043

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 9, 2015, from the decision of the Development Authority for permission to:

Construct a Semi-detached House with front verandas and to demolish an existing Single Detached House and Accessory Structure (Detached Garage)

On Plan RN43A Blk 43 Lot 11, located at 11335 - 93 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 4, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

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

The Board heard an appeal of the decision of the Development Authority to approve an application to Construct a Semi-detached House with front verandas and to demolish an existing Single Detached House and Accessory Structure (Detached Garage) located at 11335 – 93 Street NW. The development permit was approved subject to conditions and with variances granted to the minimum required Site Area and the minimum required length of the proposed Private Outdoor Amenity Area.

The approved development permit application was subsequently appealed by an adjacent property owner.

SUMMARY OF HEARING (CONTINUED):

Prior to the hearing, the following information was provided to the Board, copies of which are on file:

1. Written submission from the Development Authority, received February 24, 2015; and
2. A letter of opposition to the development from a neighbouring property owner, received March 2, 2015.

The Board heard from the Appellant, Ms. Andreas who provided a written submission, including a petition and an additional letter in opposition to the development from a neighbouring property owner, marked Exhibit "A". Ms. Andreas reviewed her written submission and provided the following information in support of the appeal:

1. The variances granted will unduly interfere with the amenities of the neighbourhood, and there is no hardship to justify granting the variances.
2. Although the proposed development was approved, it is not suited for the subject lot.
3. Her concerns relate to siting, sunshadow, traffic, parking, noise, compatibility, and streetscape.
4. Each of the proposed dwellings should have a private outdoor amenity area.
5. The proposed two and one-half Storey structure will block sunlight penetration to her property, which is located across 93 Street.
6. Parking is inadequate because the proposed area for vehicles to park in tandem behind the detached Garage is using space that could provide an outdoor amenity area.

Ms. Andreas provided the following responses to questions:

1. The lot is too small for this development.
2. The Mature Neighbourhood Overlay is in place to protect mature neighbourhoods.
3. The proposed development does not comply with the requirements to protect privacy and sunlight penetration.
4. The proposed development is located between two existing two and one-half Storey Single Detached Houses that already block the sunlight in this area.
5. She expressed concern about the lack of parking and the fact that there was no community consultation.

SUMMARY OF HEARING (CONTINUED):

6. She referenced photographs contained in her written submission to illustrate the existing parking problems on the street, particularly in the evenings when there is no street parking available.

The Board then heard from the neighbouring property owners, Ms. Herzog, Ms. Wowk, and Mr. Day who appeared in opposition to the proposed development:

1. The proposed development would be more appropriate for a new subdivision.
2. The lack of outdoor amenity area may cause occupants of the dwellings to use the front yard as amenity area.
3. Increased traffic, noise and activity will disrupt an otherwise quiet neighbourhood.
4. The developer should be considerate of the neighbours and comply with the development requirements.
5. The proposed development is not characteristic of the neighbourhood and will block sunlight to neighbouring properties.
6. The owner will be an absentee landlord and undesirable renters can bring problems into the neighbourhood.
7. Developers are automatically granted variances without any input from adjacent property owners.
8. Mr. Day acknowledged that a large single family house with a Secondary Suite could be built on the site but it was his opinion that single family houses are usually lived in by the purchasers.
9. The proposed development will decrease property values.

The Board then heard from Ms. Hetherington, representing the Sustainable Development Department, who provided the following information:

1. The proposed Semi-detached Housing is a Permitted Use in the RF3 Small Scale Infill Development Zone.
2. The proposed development is in keeping with the objectives of the Norwood Neighbourhood Improvement Plan and falls within the Mature Neighbourhood Overlay.
3. A variance was granted to the minimum required Site Area for a Semi-detached House because it complied with the minimum required lot depth and width requirements as well as all of the required setbacks.
4. The Semi-detached House was designed and oriented along the depth of the lot.

SUMMARY OF HEARING (CONTINUED):

5. The variance in the minimum required length of the Private Outdoor Amenity Area was granted because there is amenity area proposed in the rear yard as well as along the right side yards. The square footage of these amenity areas exceeds the area that a 4.0 metre by 4.0 metre amenity area would provide.

Ms. Hetherington provided the following responses to questions:

1. Two parking spaces are provided inside the garage and two are provided in tandem behind the garage.
2. These units could be condominiumized and owned independently.
3. The proposed entrance for the second Dwelling complies with the requirements for Semi-detached Housing having an entrance facing the front street.
4. Secondary Suites are not allowed in Semi-detached Housing.

The Board then heard from the Respondents, Mr. Correia and Mr. Chemimi, who provided the following information:

1. On-site parking is provided at the rear of the site and visitors will park on the street at the front of the property.
2. They purchased the property on October 15, 2014, and are ready to start construction.
3. The proposed development is the same height as the existing houses on either side of the subject site.
4. Many of the new developments in this neighbourhood are Duplexes or Semi-detached Houses.
5. This type of housing is affordable new construction.
6. They had discussions with the City prior to purchasing the lot.
7. This development will not be used as a rental property because the costs are too high.
8. The proposed development will increase property values in the neighbourhood.

Mr. Correia and Mr. Chemimi provided the following responses to questions:

1. The units could be sold as condominiums.
2. The proposed entrance for the second dwelling unit complies with the development requirements for Semi-detached Housing.

SUMMARY OF HEARING (CONTINUED):

Ms. Andreas made the following points in rebuttal:

1. She reiterated her concern that the developers will build, sell and leave without any consideration for the neighbourhood.
2. The fact that there could be two different owners has the potential to create additional problems.
3. She is aware of similarly designed developments that have created problems in neighbourhoods.
4. She expressed concern that the developers are first time builders who may not be aware of all of the requirements.
5. The development of a sidewalk in the side yard could impact the use of that area as amenity space.
6. The proposed development is too large for the site and is not suitable for the neighbourhood.

DECISION:

that the appeal be DENIED and the decision of approval by the Development Authority CONFIRMED

The Development Authority's decision of approval contains the following variances and conditions:

Variances:

Section 140.4(3)(a) The minimum Site area for a Semi-Detached House shall be 442.2 m².

Proposed area: 368.58 m²

Deficient by: 73.62 m²

Section 47(5) Neither the width nor the length of any Private Outdoor Amenity Area shall be less than 4.0 m

Proposed width: 7.66 m

Proposed length: 3.10 m

Length deficient by: 0.90 m

Conditions:

1. This Development Permit authorizes the development of a Semi-Detached House with verandas and to demolish an existing Single Detached House and Accessory Building (rear detached garage). The development shall be constructed in accordance with the stamped and approved drawings;

DECISION (CONTINUED):

2. The height of the principal building shall not exceed 8.6 m nor 2 1/2 Storeys as per the Height definition of Section 6.1(49) of the Edmonton Zoning Bylaw 12800;
3. Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals;
4. Any future deck enclosure or cover requires a separate development and building permit approval;
5. Any future basement development may require Development and Building Permit approvals;
6. Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion into adjacent properties;
7. The maximum number of Dwellings per lot and applicable density regulations shall be as follows: Where Semi-detached Housing and Duplex Housing are allowed in this Zone, a maximum of two Dwellings per lot or and where Single Detached Housing is developed in this Zone, a maximum of one Dwelling per Site, and, where the provisions of this Bylaw are met, up to one Secondary Suite, Garage Suite or Garden Suite shall be allowed. Reference Section 140.4 (17)(b);
8. Semi-detached Housing requires 2 on-site parking spaces per Dwelling and may be in tandem to the attached garage. (Reference Section: 54.2(3));
9. Except for the hardsurfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw;
10. Notwithstanding the Landscaping regulations of Section 55 of this Bylaw, where new development consists of replacement or infill within areas of existing housing, Landscaping shall be implemented as a component of such new development in order to replace vegetation removed during construction or to reinforce an established Landscaping context in the area. (Reference Section 140.4(16));
11. The Private Outdoor Amenity Area may be located within any Yard, other than a Front Yard, and shall be permanently retained as open space, unencumbered by an Accessory Building or future additions. (Reference Section 140.4(15));
12. Each Dwelling within Semi-detached Housing shall be individually defined through a combination of architectural features that may include variations in the rooflines, projection or recession of the facade, porches or entrance features, building materials, or other treatments. (Reference Section 140.4(18))

DECISION (CONTINUED):

Note: Lot grades must match the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5500 for lot grading inspection inquiries.

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

Note: The development of a Secondary Suite(s) in a Semi Detached House is prohibited by the Edmonton Zoning Bylaw 12800. There may be an inspection in the future to ensure that no illegal suite has been developed.

Note: Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

REASONS FOR DECISION:

The Board finds the following:

1. Semi-detached Housing is a Permitted Use in the RF3 Small Scale Infill Development Zone.
2. The proposed development complies with the General Purpose of the RF3 Small Scale Infill Development Zone to provide for Single Detached Housing and Semi-detached housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four dwellings, and including Secondary Suites under certain conditions.
3. The proposed development is consistent with the Housing Objectives of the Norwood Neighbourhood Improvement Plan:
To provide for the needs and income levels of a variety of people, there is also a need to provide the opportunity for a variety of housing types to develop, as well as encourage land use efficiency through an appropriate mix of densities.
4. The proposed development is consistent with the objectives of the Municipal Development Plan, The Way We Grow, specifically 4.4.1.1, which states:
Provide a broad and varied housing choice, incorporating housing for various demographic and income groups in all neighbourhoods.

REASONS FOR DECISION (CONTINUED):

5. The impact of the variances required will be mitigated for the following reasons:
 - a) The proposed development complies with all of the Setback requirements for Semi-detached Housing.
 - b) The front/back design of the proposed Semi-detached House is appropriate for the width of the subject lot.
 - c) The Board is satisfied that the size of the proposed Amenity Area in the Rear Yard and along the Side Yard is adequate.
6. The Board acknowledges the concerns of the Appellant regarding sunlight penetration but finds that the development of a two and one-half Storey Single Detached House, which would be a fully compliant Permitted use, on the subject site would have the same impact.
7. The Board is satisfied that the proposed development will not negatively affect property values in this neighbourhood.
8. While the Board acknowledges the concerns of the Appellant and affected property owners regarding prospective buyers or tenants, that matter is outside the purview of the Board.
9. Based on the above, it is the opinion of the Board, 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.

IMPORTANT INFORMATION FOR APPLICANT/APPELLANT

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.

4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the Municipal Government Act, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

Ms. D. Poon Phillips, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

NOTE: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.