

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-496-8175
Email: sdab@edmonton.ca
Web: www.edmontontribunals.ca

DATE: March 20, 2015
PROJECT NO.: 162799206-002
FILE NO.: SDAB-D-15-044

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated February 5, 2015, from the decision of the Development Authority for permission to:

convert a Limited Group Home to a Lodging House (maximum of six residents)

on Plan 4170MC, Block 32, Lot 29, located at 3508 - 119 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 5, 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, subject to conditions, to convert a Limited Group Home to a Lodging House (maximum of six residents) located at 3508 – 119 Avenue NW. A variance was granted to reduce the number of off-street loading spaces from one to zero. The subject site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay.

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

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

1. A written submission from the Development Officer.
2. A letter of opposition submitted through the on-line system from a property owner within the 60 metre radius.

SUMMARY OF HEARING (CONTINUED):

The Board heard from Mr. S. O'Sullivan, the Appellant who provided the following information to the Board:

1. He was mainly concerned about the mismanagement of the property.
2. There were many individuals of unfavourable character living at the property that often fought and yelled. He does not want his daughter to be exposed to such behaviour.
3. Security guards patrolled the subject property but were unable to control activities on the property.
4. It was his understanding that five to six bedrooms in the basement are rented out by the day, week or month.
5. There is a three foot high chain link fence between the subject property and his property. He would like the fence to be replaced with a six foot high fence in order to increase privacy.
6. He feels the neighbourhood will only get worse if the proposed lodging house is approved.

Mr. S. O'Sullivan provided the following responses to questions from the Board:

1. He has called the City of Edmonton on numerous occasions regarding his concerns. He was told that no action can be taken unless he can provide proof that rooms were being rented out in a manner contrary to the limited group home.
2. He has also called the Edmonton Police Service on several occasions.
3. He acknowledged that special residential facilities such as a lodging house are expected to be in all City neighbourhoods. He reiterated that his main problem is the mismanagement of the property in the past and the proposed development will continue to be managed by the same company.

The Board heard from Ms. H. Marchick, a neighbouring property owner who provided the following information to the Board.

1. She currently lives in a home across the alley and is northeast of the subject property. She previously lived directly across the alley and has resided in the neighbourhood since 1998.
2. She was advised that the property was a rehabilitation group home and a clean living facility. She was informed of the facility only after it was in operation.
3. In her view the residents of this property were not drug and alcohol free and police frequently attended the residence.

SUMMARY OF HEARING (CONTINUED):

4. The property was not well managed. The yard was unsightly with overgrown grass that was three feet tall. There were frequent fires in the backyard.
5. She and her daughter were afraid to venture outside because of the residents of the subject property. In her opinion, the residents of the subject property are less than desirable people and were an ongoing aggravation.
6. She was informed by a resident of the subject property that he was paying \$800 a month for a room in the basement.

Ms. H. Marchick provided the following responses to questions from the Board:

1. She does not believe that a change of use from a limited group home to a lodging house would change anything as the property was already being operated as a lodging house.

Mr. B. Liang and Ms. K. Bauer, representing the City of Edmonton Sustainable Development Department, provided the following information in response to questions from the Board:

1. There is a difference between a limited group home and a lodging house. A limited group home requires 24/7 supervision and care of its occupants which is not the case with a lodging house. In addition, provincial licensing is required for a limited group home but not for a lodging house.
2. Any health related complaints regarding a limited group home would be handled by a provincial body.
3. As a result of a complaint to the City, an inspection of the property was conducted by the Development Compliance Team and the residents were questioned. This inspection confirmed that the subject property was being operated as a lodging house rather than a limited group home as no care was being provided.
4. As a result of this inspection, the Development Authority requested the property owner/management company to obtain a development permit for a lodging house in order to comply with the *Edmonton Zoning Bylaw*.
5. In their opinion, the proposed lodging house meets the requirements of Sections 76 and 96 of the *Edmonton Zoning Bylaw*.
6. In their opinion, a lodging house is a reasonable use for this property due to the close proximity of a hotel, motel and an apartment building.

SUMMARY OF HEARING (CONTINUED):

7. High density commercial uses along with high traffic volume are located across from the subject property. A lodging house will not be further disruptive to this area.
8. They stated that in reviewing a development application, the impact and compatibility of the use are considered but not the users.
9. A lodging house requires a business licence which would allow further inspections from the City. Enforcement of such parameters has come into effect very recently and was not available in the past when the limited group home was approved in 2010.

Mr. D. Martyshuk, representing the Respondent, Martyshuk Housing, provided the following information to the Board:

1. His company has been managing this property since 2008 and it has been operated as a Limited Group Home from January of 2010 to July of 2013.
2. The property was not under his management from July of 2013 until November of 2014 at which time Martyshuk Housing resumed the lease again. It remained vacant from November of 2014 until February of 2015.
3. He described the residents of Martyshuk Housing are categorized into 5 levels based on the type of abilities, needs and support system required. The residents of the limited group home on the subject property were described as Level 3 clients by the Respondent. He stated Level 3 individuals have mental and addiction issues and are attached to a support program. These individuals require assistance from the Edmonton Police Service and other support workers as and when the need arises.
4. The property had a few issues with past occupants. He cited one incident when the police were called in 2011. There was another incident relating to domestic issues involving residents who were renting the property during a period where the property was not managed by his company.
5. Martyshuk Housing works regularly with Alberta Health Services which oversees all group homes. His company works with fire and health departments at both the municipal and provincial levels. The subject property has completed fire and health inspections.
6. He stated that police visits to the property were not entirely in response to complaints but are of a proactive nature. Some of the police officers are deemed effective property agents and have permanent access to the property under the Innkeepers Act.

SUMMARY OF HEARING (CONTINUED):

7. He indicated that throughout the duration he has operated / owned the clean living facility, there has been a consistent struggle between himself and the City in determining the appropriate use class in which his properties should be deemed as and the type of business he wishes to operate. In his opinion, the use of the property was somewhere between a lodging house and a limited group home.
8. The City had requested that the lodging houses operating under his company to be re-designated as limited group homes in 2009. Through the re-designation process, the City realized there were inconsistencies in City and provincial regulations in respect to definitions. Five of his properties were licensed by the provincial body and the rest were not re-designated at that time.
9. The City and the provincial body has since worked together to align the definitions. The City of Edmonton has decided that the appropriate use class for this type of property is a lodging house which was the intended use of the property since 2008.

Mr. Martyshuk provided the following responses to questions from the Board.

1. The Respondent is willing to work with the Appellant to put up a six foot fence between the two properties.

In rebuttal Mr. O'Sullivan made the following points:

1. He acknowledged that the house was vacant for some time and he was not aware of any complaints while it was vacant.
2. The previous renters were good neighbours.
3. He believes there is another group home north of the subject property for residents with disabilities and questioned if the proposed development is within the threshold limit as prescribed in Section 96 of the *Edmonton Zoning Bylaw*.
4. In his opinion, the Respondent was unable to follow the regulations of operating a limited group home which included on-site supervision of the residents and is circumventing the process by reclassifying the use to a lodging house.
5. In his opinion, the Respondent has many properties to oversee and cannot manage all of his properties appropriately.
6. He confirmed that a six foot fence between the subject property and his property would minimize the impact of the use for his own purposes but not for any other neighbour.

DECISION:

That the appeal be DENIED and the decision of Approval of the Development Authority be UPHELD subject to the following conditions:

1. A 1.85 metre solid fence shall be constructed along the north Side Lot Line except in portions thereof that is deemed to be the Front Yard.
2. There shall be a maximum of six residents residing on the property (Reference Section 76(1)).
3. Three parking spaces shall be wholly provided on the same Site as the building. (Reference Section 54.2(1)(a) and 54.2(2)(a))
4. All required parking spaces shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be Hardsurfaced (Reference Section 54.6(1)(a)(i)). For an on-site Driveway or Parking Area, the area required to be Hardsurfaced may be constructed on the basis of separated tire tracks, with natural soil, grass, or gravel between the tracks, but shall be constructed so that the tires of a parked or oncoming vehicle will normally remain upon the Hardsurfaced area (Reference Section 54.6(2)(b)).
5. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of a Lodging House development or on the Site of such development (Reference Section 76(7))
6. For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information (Reference Section 96.5)
7. 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.
8. Prior to the Release of Drawings for Building Permit Review, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$1862.00. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

DECISION (CONTINUED):

Variance

Section 54.4(1)(a) relaxed - The number of off-street loading spaces relaxed from one required loading space to zero required loading space.

NOTE: Signs require separate Development Applications.

NOTE: This is not a Business Licence. A separate application must be made for a Business Licence.

REASONS FOR DECISION:

The Board finds the following:

1. A Lodging House is a Discretionary Use in the RF1 Single Detached Residential Zone.
2. The Board accepts the submissions of the Development Authority and finds the proposed Use is suitable for the subject property for the following reasons:
 - a. Section 96.2.b. of the *Edmonton Zoning Bylaw* states that the purpose of special residential facilities, which include Lodging Houses, is to ensure that special residential facilities are available in all neighbourhoods. This is also in accordance with Section 4.4.1.1 of the Municipal Development Plan which encourages the Development Authority to “provide a broad and varied housing choice incorporating housing for various demographic and income groups in all neighbourhoods”.
 - b. The proposed Lodging House is appropriately located as there is a Hotel along with a large parking lot directly south of the property across 119 Avenue NW; a Motel is located southwest of the property on 36 Street NW; and a three-Storey Apartment Housing is located on the southwest corner of 119 Avenue NW and 36 Street NW.
 - c. The subject area is a high traffic volume area and a Lodging House will not generate disruptive volumes of traffic.
 - d. With the exception of the provision of an on-site loading space, the development complies with all of the development regulations for a Lodging House in the *Edmonton Zoning Bylaw*.

REASONS FOR DECISION (CONTINUED):

3. The Board accepts the evidence of the Appellant that there may be privacy issues which could occur when a more intensive Use is juxtaposed onto an abutting land that contains a less intensive use such as a Single Detached Housing. The Board has alleviated such concern by requiring the Respondent to construct a solid privacy fence as stated above.
4. The Board notes that neither the submissions made at the hearing nor the written submissions submitted by parties in opposition to the development mentioned the variance of one on-site loading space as a concern. The Development Authority has demonstrated that the proposed use will not generate traffic volume that is uncharacteristic of the area or create any traffic disruption.
5. The Board finds that upholding the variance granted by the Development Authority 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/APELLANT

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.

Ian Wachowicz
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

***Edmonton Subdivision and
Development Appeal Board***

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SDAB-D-15-045

Application No. 164026809-002

An appeal to operate a Major Home Based Business (sales and storage of hydrovac trucks) Lot 3, Block 2, Plan 7521733, located at 2340 – 28 Avenue SW was
WITHDRAWN

**Edmonton Subdivision and
Development Appeal Board**

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Email: sdab@edmonton.ca
Web: www.edmontontribunals.ca

DATE: March 20, 2015
APPLICATION NO: 155964613-001
FILE NO.: SDAB-D-15-019

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated November 26, 2014, from the decision of the Development Authority for permission to:

Construct an Accessory Building (detached garage, 4.88 metres by 6.10 metres)

on Lot 68A, Block 3, Plan 7822457, located at 8805 – 101A Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 21, 2015 and March 5, 2015. The decision of the Board was as follows:

January 21, 2015 Hearing:

MOTION:

“that SDAB-D-15-019 be tabled to March 5, 2015 at the written request of the Appellant.”

March 5, 2015 Hearing:

MOTION:

“that SDAB-D-15-019 be raised from the table.”

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 refuse an application to construct an Accessory Building (detached Garage, 4.88 metres by 6.10 metres), located at 8805 – 101A Avenue NW. The subject site is in the RF2 Low Density Infill Zone and is within the Mature Neighbourhood Overlay. The development permit application was

SUMMARY OF HEARING (CONTINUED):

refused due to an excess in the maximum number of Storeys, a deficiency in the number of required Parking Spaces, a deficiency in the minimum required Front Setback, an excess in the maximum allowable Site Coverage, and that the proposed detached Garage has vehicular access from the front public roadway where a treed landscaped boulevard is present along the roadway adjacent to the property line and a rear lane exists which is not permitted in the Mature Neighbourhood Overlay.

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

- Written submission from the Development Authority dated February 27, 2015
- Memorandum from Transportation Services dated October 24, 2014
- Geotechnical Review from Transportation Services dated September 3, 2014
- Petition provided by the Appellant on March 5, 2015
- Three letters of support from neighbouring property owners provided by the Appellant on March 5, 2015, dated December 22, 2014 and February 28 and February 26, 2015.

The Board heard from the Appellants, Ms. M. Landry, property owner and Mr. L. Rebonni, the contractor, who provided the following information to the Board:

1. They reviewed their submission, Exhibit "A", a set of revised plans which showed a one Storey, 6.1 metres by 6.1 metres double detached garage. They stated the revised plan has eliminated 3 of the 5 variances required by the original plan that was refused by the Development Authority.
2. They stated that the double garage removed the parking deficiency requirement; and revisions to the roof plan will eliminate the excess of a half-storey in height.
3. They stated that site coverage was an issue on the original plans but by removing portions of the roof over the covered deck, they were able to create a 2 car garage and conform to the 42 percent allowable site coverage. They provided a photograph showing the current state of the partially covered deck marked as Exhibit "B".
4. The two variances are:
 - a. A variance to Section 814.3(10) of the *Edmonton Zoning Bylaw* to allow access from a public roadway where an abutting lane exists.

SUMMARY OF HEARING (CONTINUED):

- b. A variance to Section 120.4(8) of the *Edmonton Zoning Bylaw* reducing the minimum required front setback.
5. They reviewed photographs, marked as Exhibit “C”, which showed the availability of parking in the surrounding area.
6. They stated the reasons for orienting the access of the garage to 101A Avenue:
 - a. the Boys and Girls Club is located directly across the rear lane and it spans 3 lots. There are 40 employees in that office accommodated by 15 parking stalls along the rear lane. In their opinion, the rear lane has more traffic than 101A Avenue;
 - b. the rear lane is narrow and is covered in snow windrows which make maneuvering a vehicle difficult;
 - c. if the proposed garage access was oriented towards the rear lane, it would be difficult to reverse the vehicle due to reduced sight lines as there are many vehicles in the Boys and Girls Club parking lot;
 - d. if the proposed garage access was oriented towards 101A Avenue, there would be enough room to maneuver the vehicle on the driveway and see clearly in both directions before entering the road;
 - e. there is limited parking along 101A Avenue as parking is only allowed on one side of the street. In addition, there is currently no on-site parking for either semi-detached dwelling on the subject lot and the abutting lot to the east. If the proposed garage access was oriented towards 101A Avenue, there will be room on the driveway for guest parking.
7. They reviewed pictures marked as Exhibit “D”, a map showing six other properties with driveways that access 101A Avenue. Photos of these properties marked as Exhibit “E” were also supplied.
8. They reviewed pictures marked as Exhibit “F” and “G” and described parking limits in the surrounding area.
9. They have support from the following individuals and groups:
 - a. the two most affected neighbours which are the immediate neighbours on the abutting properties to the east and south;
 - b. the Boys and Girls Club which is west of the property and directly across the rear lane;
 - c. 86 percent of neighbours as stated in the community petition. They were unable to reach the remaining neighbours; and
 - d. the Riverdale Community League;

SUMMARY OF HEARING (CONTINUED):

10. They have spoken to the owner of the abutting semi-detached home to the east. The owner plans to build a garage in the future and the proposed garage will access 101A Avenue as she would like the semi-detached homes to appear symmetrical in terms of having a garage in similar location on each side; and there is no rear lane access on the property.
11. They stated that the location of the Boys and Girls Club office building across the alley presents a hardship and the proposed development is the best solution for the site.

Ms. M. Landry and Mr. L. Rebonni provided the following responses to questions from the Board:

1. There is currently no sidewalk along the south side of 101A Avenue.
2. There will be no floor in the attic of the garage and the joists will be used for storage.
3. They acknowledge the Memo from Transportation Services dated October 24, 2014, stating there may be a future sidewalk along the south side of 101A Avenue eliminating the opportunity to park on the proposed driveway. However, the house was built in 1978 and to this date there are no sidewalks built.
4. They conceded that the subject property and the abutting property to the east was one corner lot prior to subdivision. They agreed that there is a potential for two driveways on this lot and no other properties will have two driveways on a single property. However, the proposed development is characteristic of the neighbourhood; there are examples of two driveways leading to different garages for semi-detached homes and large, wide driveways where semi-detached homes contain common-wall garages.
5. They are unaware if the immediate neighbor to the south has difficulty backing into the lane.

Mr. J. Xie, representing the City of Edmonton Sustainable Development Department, provided the following information to the Board:

1. He recommends that Transportation Services should review the new driveway plan.
2. He confirmed that there would no longer be a parking variance required as both parking stalls are now contained within the garage.

SUMMARY OF HEARING (CONTINUED):

3. The half-storey in height has been eliminated from the garage so there is no longer an excess in the allowable storeys for an accessory building.
He stated that the proposed plan meets the 42 percent allowable site coverage.
4. There is still a variance required for the front setback. If the lot had not been subdivided, the flanking side setback requirement for a detached garage would be 3 metres. However, as the lot has been subdivided the flanking lot line becomes the front lot line in which a 6 metre setback is required.
5. In regard to the variance for the garage access, he stated that there are very few instances when the requirements of Section 814.3(10) of the *Edmonton Zoning Bylaw* are waived or varied. He cited the examples of no lane being present or a power pole making access impossible. In his opinion, there is not a strong hardship to warrant a variance in this case. However, he stated that there would not be a negative impact on neighbours or the neighbourhood if the requirements of Section 814.3(10) of the *Edmonton Zoning Bylaw* were waived.
6. When asked if the other driveways with access to 101A Avenue would make the proposal characteristic of the neighbourhood, he indicated that each situation has to be looked at individually to determine if the front driveway access is required.

Ms. Landry and Mr. Rebonni made the following points in rebuttal:

1. The expense of the curb cut is the home owner's responsibility and they are willing to pay.
2. The orientation of the lot creates a hardship and this is the best possible solution.
3. The Riverdale Community League is in support of the plans. They are a very vocal and active community and would appear at the development appeal hearing if there was any opposition.

DECISION:

That the appeal be ALLOWED and the decision of Refusal of the Development Authority be OVERTURNED subject to the following variances and conditions:

DECISION (CONTINUED):

VariANCES

1. The required Front Setback has been reduced from 6 metres to 1.2 metres.
2. The requirement of Section 814.3(10) of the *Edmonton Zoning Bylaw* regarding the orientation of the proposed development towards the public roadway is waived.

Conditions

This approval is based on the revised Site Plan dated March 1, 2015 and the revised elevation drawings dated February 28, 2015 (Exhibit "A").

An Accessory Building or Structure shall not exceed 4.3 metres nor one Storeys in Height. (Reference Sections 50.3(2))

Eave projections shall not exceed 0.46 metres into required yards or Separation spaces less than 1.2 metres. (Reference Section 44.1(b))

The driveway access must maintain a minimum clearance of 1.5 metres from service pedestals and all other surface utilities.

A curb crossing permit is required.

Note:

An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

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

Note: The applicant is advised to research the Land Title for this property and to be aware of any restrictions in any Restrictive Covenants registered against the legal title. This approval does not imply consent for any structure that does not meet the requirements of the Restrictive Covenant.

DECISION (CONTINUED):

Transportation Conditions:

1. The proposed access to 101A Avenue located approximately 1.2 m from the west property line, shall be constructed as a private crossing as per the City of Edmonton Design and Construction Standards. Given the close proximity of the access to the residential alley, Transportation Services will require that a concrete "tie-in" be constructed with this permit, as shown on the Enclosure. Given this, the applicant must coordinate the construction with Pat McMaster at 780944-7661, 48 hours prior to construction. The owner/applicant must obtain a crossing permit, available from Sustainable Development, 5th Floor, 10250 - 101 Street.
2. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
3. Any alley, sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15 .5(t) of the Zoning Bylaw. The alley, sidewalk and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.
4. Any hoarding or construction taking place on road right-of-way requires an OSCAM (OnStreet Construction and Maintenance) permit. The owner or Prime Contractor can apply for an OSCAM online at: http://www.edmonton.ca/bylaws/licences/licences_permits/oscam-permit-request.aspx

Advisement:

1. It is the goal of the City of Edmonton to install sidewalks in neighbourhoods that have missing sidewalk linkages along existing bus routes in order to ensure pedestrian connectivity. The applicant is advised that with existing transit service along 101A Avenue, that sidewalk may be installed along the south side of 101A Avenue at some point in the future when funding is available. Once a sidewalk is installed in this location it will bisect the driveway and vehicular

DECISION (CONTINUED):

parking on the boulevard may be affected and no longer allowed. We do note that there is on-street parking available adjacent to the proposed curb crossing. Should you require any additional information please contact James Rockey at 780-496-6878.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development, a detached Garage is an Accessory structure to a Permitted Use in the RF2 Low Density Infill Zone.
2. The Appellant submitted a set of revised plans to the Board, which the Development Authority confirmed, complies with the maximum allowable Site Coverage of 42 percent, the required number of parking spaces for a Semi-detached House and the maximum number of Storeys for an Accessory structure. There were two issues to be considered before the board:
 - a. the orientation of the Driveway onto 101A Avenue; and
 - b. the Front Setback from the property line that faces 101A Avenue to the new Garage.
3. The Board waives the provisions of Section 814.3(10) that would require the Driveway to be oriented towards the lane to the west of the subject site for the following reasons:
 - a. Based on photographic evidence from the Appellant, the orientation of the Driveway on several properties facing 101A Avenue in the immediate area are the same as the proposed development. The orientation is therefore characteristic of this neighbourhood.
 - b. The Appellants had extensive community support. The Board notes that in their community consultation required by the Mature Neighbourhood Overlay, the Appellant specifically asked their neighbours' opinion on the issue of having their Driveway exit onto 101A Avenue instead of the alley.
4. The Board notes there is a large grassed boulevard between the property line and 101A Avenue which will alleviate some concerns about the sight lines for exiting and entering the Driveway onto 101A Avenue.

REASONS FOR DECISION (CONTINUED):

5. The Board notes that the property is not a Corner Lot as it does not meet the definition in Section 6.1(18) of the *Edmonton Zoning Bylaw* as the lot is not located at the intersection of two public roadways. Accordingly, the Front Lot Line is the property line that abuts 101A Avenue and must comply with Front Setback requirements as set out in the RF2 Low Density Infill Zone.
6. The Board accepts the submission of the Development Officer that due to the unique nature of this lot being the result of a subdivision of a Corner Lot and the two resultant parcels are bound by 88 Street and the rear lane, it is not possible to calculate a blockface average from 101A Avenue. Therefore, the Board agrees with the Development Officer that a 6 metre Setback would be required by the *Edmonton Zoning Bylaw*. The Board grants a variance to 4.8 metres for the following reasons:
 - a. The majority of properties along 101A Avenue have a Front Lot Line that abuts a (north-south) street and the flanking Side Lot Line of these properties is adjacent to 101A Avenue. As such, most of the buildings on 101A Avenue have a Side Setback of 3.0 to 4.5 metres which is less than the required Front Setback of 6.0 metres.
 - b. The existence of a large grassed boulevard between 101A Avenue and the north property line reduces the impact of the Garage's proximity to the front lot line.
7. The Board finds that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Advisement:

The appellants are advised that they must still apply to the City of Edmonton Transportation Services for permission for a curb crossing and it is recommended that they not commence any construction until they have obtained that permission.

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.

Ian Wachowicz, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD