



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: May 28, 2019  
Project Number: 306128517-001  
File Number: SDAB-D-19-066

**Notice of Decision**

- [1] On May 15, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 19, 2019**. The appeal concerned the decision of the Development Authority, issued on March 19, 2019, to approve the following development:

**Construct a Single Detached House with an Unenclosed Front Porch, a rear covered deck (2.13 m x 1.83 m), and a Secondary Suite in the Basement.**

- [2] The subject property is on Plan 1920454 Blk 33 Lot 9A, located at 12235 - 89 Street NW, within the (RF3) Small Scale Infill Development Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
  - The Development Officer’s written submissions;
  - The Appellant’s written submissions; and
  - One online response from an adjacent property in opposition to the proposed development.

**Preliminary Matters**

- [4] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

- [6] The Presiding Officer raised a jurisdictional issue regarding when the appeal was filed. The Presiding Officer explained to the Appellant that the Board is constrained by the 21-day limitation period prescribed by section 686(1)(b) of the *Municipal Government Act*, RSA 2000, c M-26, which states:

**Appeals**

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

- [7] The Board must therefore, determine whether the Appellant filed the appeal within the 21-day limitation period. If the appeal was filed late, the Board has no authority to hear the matter.

**Summary of Hearing on Preliminary Matter**

*i) Position of the Appellant, Mr. and Mrs. Mielewczyk*

- [8] There was only one notification sign installed on the fence for only one development on the subject site.
- [9] They received a Development Permit Notice on March 20, 2019 that was only for the development of one house, which they did not have an issue with.
- [10] They were not aware that the lot was being subdivided and two houses were being built until the developer informed them.
- [11] They attempted to contact Development & Zoning Services and could not reach anyone.
- [12] They called the City Call Centre on April 15, 2019 but were not provided with any information.
- [13] The appeal was filed as soon as possible after that time. The main reason the appeal was filed late was due to the lack of information received.

*ii) Position of the Respondent, Mr. Z. Wolski, who was accompanied by Mr. B. Naboulsi*

- [14] Mr. Wolski spoke to his neighbours to explain that the existing house on the subject site would be demolished and the lot would be subdivided for two houses to be built.

- [15] He was informed by the Development Officer on March 19, 2019 that the development permit application was approved.
- [16] Mr. Naboulis stated that the regulation to file an appeal within 21 days should be followed.
- [17] They feel there was sufficient time to contact Development & Zoning Services to obtain more information regarding the proposed development before the appeal was filed.

*iii) Rebuttal of the Appellant, Mr. and Mrs. Mielewczyk*

- [18] They stated that Mr. Wolski did not speak to them about the proposed subdivision or the development.
- [19] The appeal was filed once they became aware that the lot was being subdivided and two houses were being built.

**Decision**

- [20] The appeal was not filed on time, in accordance with section 686(1)(b) of the *Municipal Government Act*.

**Reasons for Decision**

- [21] The Board has no jurisdiction to hear the appeal as it was filed outside of the timeline set out in section 686(1)(b) of the *Municipal Government Act* that states:

**Appeals**

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

- [22] Section 20 of the *Edmonton Zoning Bylaw* provides the following with respect to *Notification of Development Permit Decisions*:

**Section 20.2 Class A Permitted Development**

1. For all lands in Residential Zones within the Mature Neighbourhood Overlay as shown in Appendix I to Section 814, and Established Neighbourhoods as identified in Edmonton's The Way We Grow: Municipal Development Plan, Bylaw 15100, Maps:
  - a. within seven days of the issuance of a Development Permit for a Class A Permitted Development, the Development Officer shall send notice of their decision to the municipal address and assessed owners of the land Abutting and directly adjacent across a Lane from the Site which is the subject of the Development Permit for construction of, and any demolition associated with new:
    - i. Apartment Housing, Duplex Housing, Garden Suite, Row Housing, Semi-detached Housing, Single Detached Housing, or Stacked Row Housing.

[23] Based on the evidence submitted, the Board finds that the Development Permit was issued on March 19, 2019 and a Class A Development Permit Notice was sent on March 20, 2019.

[25] The Appeal was filed on April 19, 2019, in excess of 21 days from when the Development Permit was given pursuant to section 686(1)(b) of the *Municipal Government Act* and pursuant to section 20.2(1)(a)(i) of the *Edmonton Zoning Bylaw*.

[26] Based on the above, the Board has no jurisdiction to hear this appeal.



Ms. S. LaPerle, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. Mr. Young; Ms. M. McCallum; Mr. R. Hachigian; Mr. C. Buyze

CC: City of Edmonton, Development & Zoning Services, Attn: Ms. C. Potter / Mr. A. Wen

**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 Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.