



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: June 3, 2016  
Project Number: 187516819-001  
File Number: SDAB-D-16-123

**Notice of Decision**

[1] On May 19, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on April 20, 2016. The appeal concerned the decision of the Development Authority, issued on April 11, 2016, to refuse the following development:

construct a Semi-Detached House with front verandas, fireplaces and rear uncovered decks (3.17m x 3.05m) and to demolish an existing Single Detached House and Accessory Building (rear detached Garage)

[2] The subject property is on Plan 2928HW Blk 47 Lot 14, located at 10634 - 151 Street NW, within the RF2 Low Density Infill Zone. The *Mature Neighbourhood Overlay* and *Jasper Place Area Redevelopment Plan* apply to the subject property.

[3] The following documents, which were received prior to the hearing and are on file, were read into the record:

- Three maps of the areas surrounding 151 Street and 106 Avenue, submitted by the Appellant;
- Information provided by the Appellant to the Development Officer;
- Copy of the Development Permit Application, Plans, and Refused Permit Decision; and
- Copy of the Development Officer's written submissions.

**Summary of Hearing**

[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 appeal was filed on time, in accordance with Section 686 of the Municipal Government Act, RSA 2000, c M-26.

i) *Position of the Appellant, Tech View Homes Ltd.*

- [6] The Appellant was represented by Mr. A. Raju, who was accompanied by Ms. A. Janiszewski, one of the property owners.
- [7] Mr. Raju submitted that he complies with all regulations under Section 120.4(3) of the *Edmonton Zoning Bylaw*, and acknowledged that the refusal of the Development Permit is based only on the Site not meeting the locational criteria under Section 120.4(4).
- [8] Referring the Board to Section 120.4(3)(b), he submitted that this section appears to consider the possibility of a non-Corner Semi-detached House. As such, since the development meets the criteria under Section 120.4(3)(b), the Appellant did not believe there would be any difficulties with respect to the location of the proposed development.
- [9] Mr. Raju explained that he has experience building Semi-detached properties in other areas. He referred the Board to the maps of the areas surrounding 151 Street and 106 Avenue to demonstrate that there are other Semi-detached properties in the neighbourhood.
- [10] Upon questioning by the Board, Mr. Raju stated that approximately 40% of these properties are new and built within the last three years.
- [11] Notwithstanding the *Jasper Place ARP*, which supports Semi-Detached Houses in the Canora neighbourhood only in locations specified by the *Edmonton Zoning Bylaw*, it was his view that the proposed development will not impact neighbouring properties. As shown on the maps he provided, similar properties exist in the neighbourhood, and the proposed development will have the required parking stalls and therefore will not utilize on-street parking.
- [12] When questioned by the Board, Mr. Raju acknowledged that community consultation had not been conducted. However, Ms. Janiszewski stated that her husband spoke with some neighbours who expressed excitement about the development. In her view, the development will be an improvement because there is an existing old house on this property. Furthermore, the entire neighbourhood has many young families who move into Semi-detached properties because they are more affordable.
- [13] Upon questioning, Mr. Raju confirmed that the development is located in a higher density area with other Semi-detached properties on the corner lots of this block. The subject development will be sandwiched between two single family dwellings and as this is an area that is undergoing change, it will not negatively impact the neighbourhood.

ii) *Position of the Development Officer, Mr. B. Liang*

- [14] Referring to the Appellant's maps, Mr. Liang noted that three of the properties identified as "duplexes" were approved as Semi-detached developments in 1975, 1981, and 1978, at a time when the *Edmonton Zoning Bylaw* was significantly different. Two other properties were approved in 2007 and 2011, prior to the 2013 amendments to the RF2 Low Density Infill Zone. Mr. Liang stated that he must review the application according to the Bylaw as it currently stands.
- [15] Prior to the amendment, Semi-detached Housing was a Discretionary Use in the RF2 Zone, and the Development Officer had discretion regarding development regulations such as siting, grading, and building height, similar to how they might evaluate a Garden Suite today.
- [16] However, subsequent to Bylaw 16271, which amended the RF2 Zone, Semi-detached Housing became a Permitted Use with additional locational criteria. These amendments were made partially to fulfill the City of Edmonton's infill guidelines.
- [17] This site is in the north-east section of the Jasper Place Area Redevelopment Plan, referred to as 'Canora'.
- [18] Under the *Jasper Place ARP*, one of the proposed land uses for Canora is "To support ongoing incremental change in established residential areas to provide additional small scale, ground-oriented housing choices" (page 42). Mr. Liang drew attention to the requirement that "the Development Officer shall ensure... [that] Location criteria for different housing forms are not varied."
- [19] Upon questioning by the Board, Mr. Liang acknowledged that the ARP appears to anticipate mixed uses. Planning considerations take into account both the number of buildings and the number of Dwellings. For example, one Single Detached House can accommodate fewer Dwellings than one Semi-Detached House, which can accommodate fewer Dwellings than one Apartment House. In this way, the ARP does consider existing Semi-Detached Houses.
- [20] In addition, if a neighbourhood has more apartments, then the locational criteria would permit more consideration for Semi-Detached Housing. He stated that such considerations are intended to direct new density to preferred locations. Referring the Board to Figure 10 of the ARP, he noted that the proposed land use for Canora intends to direct new density toward Stony Plain Road, where LRT development is anticipated, or along 156 Street which is an arterial road.
- [21] He acknowledged that Section 120.4(3) appears to consider non-Corner Semi-detached Housing. However, it must be read in conjunction with Section 120.4(4), which requires that at least one of the locational criteria be met. He explained that it is possible for a

non-Corner Site to meet at least one of the criteria under subsection (4). For example, a non-Corner Site might abut an arterial road.

- [22] In this case, however, the proposed development meets none of the locational criteria under subsection (4). In his view, Section 120.4(4) operates to provide certain limitations to protect the remaining single family Dwellings, particularly in the middle of the block.
- [23] The Board noted that the regulations distinguish between Duplexes and Semi-Detached Housing, but both developments allow the same number of Dwellings. Mr. Liang expressed the view that although a Duplex could have two Dwellings, it could be designed to appear as one Single Detached Housing development. He speculated that when amending the Bylaw, this visual perspective was perhaps taken into consideration.
- [24] When questioned, he clarified that the proposed development meets the parking requirements, and in his view, there is nothing else about the development itself which would cause an adverse impact upon the neighbourhood.

*iii) Rebuttal of the Appellant*

- [25] The Appellant submitted that although the development does not meet the locational criteria directly, it does so indirectly because the corner lot further down the block face could be approved for Semi-detached Housing in the future. If more Sites are approved for Semi-detached Housing developments on this block, the subject Site itself would then fulfill the locational criteria.
- [26] Mr. Raju noted several scenarios where a Single Detached House could be occupied by multiple families by being granted permits for Basement Suites for additional Dwellings, and therefore impact density in a way that is similar to Semi-detached Housing.
- [27] Mr. Raju clarified that the previous infill projects he developed were approved prior to the amendment of the *Jasper Place ARP*.

**Decision**

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

**Reasons for Decision**

- [29] Semi-Detached Housing is a Permitted Use in the RF2 Low Density Infill Zone.
- [30] The Appellant cited Section 120.4(3)(b), which provides regulations for Semi-detached Housing developed on non-Corner lots. Since the development complies with this provision, the Appellant did not realize there could be a problem with the development.

[31] However, Section 120.4(4) stipulates locational criteria for Semi-Detached Housing in the RF2 Zone. This provision states:

Semi-detached Housing shall be located:

- a. on Corner Sites;
- b. on Sites abutting an arterial or service road;
- c. where both Side Lot Lines abut existing Duplex or Semi-detached Housing; or
- d. where a minimum of one Side Lot Line:
  - i. abuts a Site where Row Housing, Apartment Housing, or a commercial Use is a Permitted Use; or
  - ii. is not separated from a Site where Row Housing, Apartment Housing or a commercial Use is a Permitted Use by a public roadway, including a Lane, more than 10.0 m wide.

[32] The subject property is located three lots south of 107 Avenue in the middle of the block, therefore, it is not located on a corner lot. The Site abuts 151 Street, which is neither an arterial road, nor a service road. In addition, there are two Single Detached Houses abutting each of the Side Lot Lines. Finally, Row Housing, Apartment Housing, and commercial Uses are not Permitted Uses within the RF2 Zone, therefore, the fourth locational criteria cannot be met. This Site does not meet any of the four location requirements listed in Section 120.4(4).

[33] The Board also accepts the oral submissions of the Development Officer with respect to the approved Semi-Detached Houses (identified as “duplexes” on the Appellant’s map) located near the proposed development. The Board accepts that some of these properties were built in the 1970s and 1980s, while others were built in 2007 and 2011. In all cases, these Semi-Detached Houses were approved before 2015, when the *Jasper Place ARP* was adopted by City Council under Bylaw 17260.

[34] Under the *Jasper Place ARP*, small scale housing is listed as one of the proposed land uses for the Canora neighbourhood (page 42 at C1). The purpose of this proposed land use is “To support ongoing incremental change in established residential areas to provide additional small scale, ground-oriented housing choices.” One of the supported built forms for small scale housing includes “duplexes/semi-detached houses in locations specified by the Zoning Bylaw.” This also supports the City of Edmonton’s infill policies.

- [35] However, the same policy as mentioned in the previous paragraph also stipulates (page 42 at C7) that “When considering discretionary development, the Development Officer shall ensure... Location criteria for different housing forms are not varied.”
- [36] Although the Board is not bound by the same limitations as the Development Officer, its jurisdiction derives in part from Section 687(3)(a.1) of the *Municipal Government Act*, which states that “In determining an appeal, the subdivision and development appeal board... must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect”. As such, the Board must still turn its mind to the statutory plan in effect, and comply with its objectives and policies.
- [37] The *Jasper Place ARP* is a statutory plan as defined under the *Municipal Government Act*. Having reviewed the relevant portions of the *Jasper Place ARP*, the Board finds the following:
- 1) The policies and supported built forms for small scale housing within the Canora neighbourhood clearly contemplate a restriction of Semi-Detached Housing to specific locational criteria as outlined in the *Edmonton Zoning Bylaw*. The proposed development does not meet any of these locational criteria.
  - 2) The ARP supports an “incremental change” in the provision of small scale housing in the Canora neighbourhood. The locational criteria under the *Edmonton Zoning Bylaw* are intended to ensure that small scale housing in the Canora neighbourhood is developed on an incremental basis. The proposed development, which does not meet the locational criteria under the *Edmonton Zoning Bylaw*, does not represent an “incremental change” as contemplated under the ARP. Although other Semi-Detached Houses exist in the area, these developments were approved prior to the adoption of the *Jasper Place ARP* in 2015 and prior to the amendments to the development regulations under the RF2 Zone. As such, the majority of these existing Semi-Detached Houses would not meet the locational criteria under the RF2 Zone as it stands today. To approve a Semi-Detached House in the current environment would represent a marked departure from both the *Edmonton Zoning Bylaw* and the *Jasper Place ARP*.
- [38] The Board does not accept the Appellant’s submissions that the proposed development “indirectly” meets the locational criteria. In effect, the Appellant suggests that so long as the development complies with regulatory requirements sometime in the future, then it complies “indirectly” with the Bylaw and the development should therefore be granted. Such a reading of the Bylaw is illogical and introduces greater uncertainty with respect to the application and enforcement of development regulations.
- [39] When questioned, the Appellant expressed the view that the proposed development will not negatively impact the neighbourhood. However, no community consultation was conducted, and no further evidence was provided by the Appellant with respect to community impacts or lack thereof. In the absence of such evidence, the Board is not

convinced 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. As such, the appeal is denied and the development is refused.

Ms. P. Jones, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance

Mr. V. Laberge; Ms. C. Chiasson; Mr. J. Kindrake; Mr. L. Pratt

**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*, 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.
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 5th Floor, 10250 – 101 Street, Edmonton.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*



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**SDAB-D-16-124**

Application No. 175500226-004

An appeal by Darren Oltmanns VS 1191979 Alberta Ltd. to construct a 2 Storey Accessory Building (garage suite on 2nd floor, Garage on main floor; 7.30m x 6.89m) with rear uncovered deck (0.30 m x 1.83 m) was **WITHDRAWN**.