



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: May 16, 2019  
Project Number: 302345691-001  
File Number: SDAB-D-19-061

**Notice of Decision**

- [1] On May 1, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on April 4, 2019. The appeal concerned the decision of the Development Authority, issued on March 28, 2019, to refuse the following development:

**Construct exterior alterations to a Semi Detached Housing (increase in Height)**

- [2] The subject property is on Plan 1822210 Blk 52 Lot 10A, located at 7736 - 80 Avenue NW and Plan 1822210 Blk 52 Lot 10B, located at 7734 - 80 Avenue 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:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
  - The Development Officer’s written submissions;
  - The Appellant’s written submissions;
  - Online responses; and
  - An email in opposition from a neighbouring property owner.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Site Plans; Compliance Certificates; Elevation Drawings; and photographs of the house and area, submitted by the Appellant.

**Preliminary Matters**

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

- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

### **Summary of Hearing**

- i) *Position of Mr. Romanesky, representing Permit Masters, and speaking on behalf of the Appellant, Jai Homes Ltd.*
- [8] Mr. Romanesky referred to the notification map showing the area of the subject Site.
- [9] The neighbourhood is in transition and single storey bungalows are being torn down and rebuilt with new infill developments.
- [10] The original development permit application was approved and the development built in 2018.
- [11] All the documents required were submitted, including a Real Property Report for the Compliance Certificate.
- [12] He referred to the Site Plan showing the Setbacks and the location of the buildings as built.
- [13] A Compliance Certificate was issued in October, 2018 according to the Real Property Report.
- [14] An inspection was done after the compliance and determined that the building was over the maximum allowable Height. If the development was planned below the maximum Height, they would have complied with the *Edmonton Zoning Bylaw*.
- [15] He referred to the front elevation showing the house is a three-storey building. The third storey is setback from the front of the property and slopes toward the front from the rear of the property.
- [16] Looking from the street, the Height variance would be at the top of third storey with a variance of 20 centimetres for the third floor. However, with their calculations, they believe the variance is 17 centimetres and the city rounded the calculation to 20 centimetres. From that elevation, the variance is 20 centimetres on the third floor.
- [17] The excess in Height is not noticeable from the street as the building is setback from the street.

- [18] He referred to the rear elevation and stated that the roof portion is the third floor which slopes to the front of the building. From the back you cannot see the third floor. There are windows on the third floor for natural light only and looks like a two storey from the rear of the property.
- [19] There is an excess of 40 centimetres from the midpoint of the slope roof and an excess of 20 centimetres to the top of the roof. Their calculation is 17 centimetres to the top of the roof and 37 centimetres from the midpoint of the slope, which was rounded up to 40 centimetres by the City.
- [20] He referred to the right elevation showing that the second storey is the full length of the building. The third floor does not cover the entire building. He showed the Board the areas on the third floor that are exceeding the allowable Height.
- [21] The portion that is towards the rear yards complies with the maximum Height.
- [22] He reiterated that, in his opinion, the excess in Height is not noticeable from the street or the neighbouring properties.
- [23] There is no change to the floor plans from the original development permit.
- [24] The starting point is the average Grade used by Development Officer to calculate Height which is 8.9 metres to the midpoint of the roof. Taking the midpoint between the bottom and top of the roof line which is the reference point for the Height. The second point of reference would be 10.4 metres which is the portion of the roof that is 20 centimetres too high.
- [25] He referred to the photographs submitted showing the front elevation and the area on the third floor that has an excess in Height.
- [26] The roof slopes toward the rear yard so it is not noticeable.
- [27] He referred to the street view and reiterated that there are several bungalows along the street. However, the neighbourhood is in transition and properties are being redeveloped.
- [28] There is a Semi-detached House being developed across the rear lane from the subject Site.
- [29] There are several mature trees along the street which mitigates any excess in Height.
- [30] He referred to the Development Officer's written submission and stated that the refusal does not identify if the variances have an impact on the neighbouring property owners.

- [31] They spoke to neighbouring property owners who did not necessarily like the look of the development but were not opposed to the development.
- [32] In their opinion, the excess in Height will not overlook neighbouring property owners. There could be a sun shadowing impact on the property north of the subject site but there is no sun shadowing impact in the front of the property.
- [33] The main and second floors were built according to the approved plans.
- [34] Once the excavation reached the existing sewer hookup, they stopped excavation and later discovered the sewer hookup was higher than expected when the building was designed.
- [35] The difference in Height is between the Grade and the main level of the house.
- [36] In their opinion, the variances required are minimal and will not negatively impact the neighbouring property owners.
- [37] Mr. Romanesky provided the following information in response to questions by the Board:
- a. With regard to Section 52.1(d) of the *Edmonton Zoning Bylaw*, he stated that he does not necessarily agree how the Height calculation was done. Using the midpoint on this roof it is more stringent as there is only one sloped roof. So the midpoint will be further into the sloped roof. If you use a different way of calculating, it may reduce the variance but not necessarily change the way to evaluate Height.
  - b. With regard to the rear yard impact, he stated that the sloped roof is lower in the rear so there is less of an impact on the neighbours. A flat roof would have more of a massing impact from the street.
  - c. He referred to the photograph showing houses along the street. One house along the street is similar in Height but the roof line is different which may have less of an impact on the neighbouring properties.
  - d. They did not have a sun shadowing study done and only relied on a visual of the area to determine if there would be a negative impact.
  - e. They did not have additional discussion with the Development Officer regarding the Height before making applying for a development permit.
  - f. They did not determine there was an excess in Height until after the house was built.

- g. He provided the Board with a letter in support from the neighbour across the rear lane that is also building a house.
- h. He referred to the letter received by email and stated that the letter did not provide an address of their property so they cannot determine if the individual is affected.

*ii) Position of Mr. Baker, affected Property Owner in Opposition to the Development*

- [38] Mr. Baker lives in the area and is not opposed to new developments in the area but more concerned with the building trends in the area.
- [39] In his opinion, the *Zoning Bylaw* regulations should be complied with.
- [40] Any sun shadowing from the proposed development will not impact him as he is not adjacent to the subject site.

*iii) Position of the Development Officer, Ms. Bauer*

- [41] The Development Officer did not appear at the hearing and the Board relied on Mr. Bauer's written submission.

*iv) Rebuttal of the Appellant*

- [42] Mr. Romanseky did not have anything to add in rebuttal.

**Decision**

- [43] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **ADVISEMENT**:

1. Lot grades must match the *Edmonton Drainage Bylaw 18093* and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or [lot.grading@edmonton.ca](mailto:lot.grading@edmonton.ca) for lot grading inspection inquiries.

- [44] In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:
1. The maximum allowable building Height of 8.9 metres as per Section 814.3(5) is varied to allow an excess of 0.4 metres, thereby increasing the maximum allowed to 9.3 metres.
  2. The maximum allowable Height to ridge line of 10.4 metres as per section 52.2 is varied to allow an excess of 0.2 metres, thereby increasing the maximum allowable Height to ridge line 10.6 metres.

### **Reasons for Decision**

- [45] The proposed development, a Semi-detached House, is a Permitted Use in the RF3 Small Scale Infill Development Zone.
- [46] The Appellant submitted that the Semi-detached House was not intentionally built over Height.
- [47] The variances required in the allowable Height are minimal and will not have a significant impact on the neighbourhood or neighbouring properties.
- [48] The third floor of the development covers only a portion of the building, which lessens the impact of the Height variances.
- [49] The variances do not cause any additional overlook into adjacent yards.
- [50] There are several mature trees along the street that will mitigate any potential impact the excess in Height will have as you move through the neighbourhood.
- [51] The immediately adjacent neighbours who would be most affected by the variances did not voice any opposition to the excess in maximum allowable Height.
- [52] The property owner that appeared in opposition at the hearing was concerned about building trends in the neighbourhood and would like to see the regulations of the *Edmonton Zoning Bylaw* followed but he had no specific concerns about this particular development.
- [53] The written responses received from other property owners in the notification zone were primarily concerns regarding the building quality and appearance of the development rather than the variances required.

[54] 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.



Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. R. Handa; Ms. D. Kronewitt Martin; Ms. M. McCallum; Mr. L. Pratt

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. Xie / Mr. Wen

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. 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.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
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*, 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.
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 Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*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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Date: May 16, 2019  
Project Number: 256849571-022  
File Number: SDAB-D-19-062

**Notice of Decision**

- [1] On May 1, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 9, 2019**. The appeal concerned the decision of the Development Authority, issued on March 28, 2019, to refuse the following development:

**Construct an addition to a Single Detached House (breezeway connection to detached Garage).**

- [2] The subject property is on Plan 6773MC Blk 14 Lot 21, located at 3915 - Aspen Drive West NW, within the (RF1) Single Detached Residential 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:

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submission;
- The Appellant’s written submissions;
- A PowerPoint presentation from an adjacent neighbour in opposition to the proposed development; and
- Online responses, one in support and three 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 appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

### **Summary of Hearing**

- i) *Position of Mr. E. Hammermeister, representing the Appellant Graphtec Design & Consulting. The property owner, Mr. M. Curial and the contractors, Mr. L. & Mr. B. Liske were also in attendance:*

- [7] Mr. Hammermeister is an architectural consultant acting on behalf of the property owners and has much experience in dealing with the requirements of the Mature Neighbourhood Overlay.
- [8] Mr. Curial explained that this lot was purchased from a different builder and that he and his wife have been trying to build their home since 2017. Their goal is to build a house that they can live in forever, raise a young family and age in place in a four season city. One of their original must haves was an attached garage to provide safety and security as well as convenience.
- [9] The original plans included options to develop an attached garage in accordance with the requirements of the Mature Neighbourhood Overlay.
- [10] During the process the original builder experienced some financial problems and they parted ways in 2017. Graphtec Design was subsequently hired and they advised that the original plans were prepared based on requirements contained in the Mature Neighbourhood Overlay but those regulations were amended in May 2017. One of the changes included the requirement that any lot with a rear lane must provide vehicular access from the lane and that no existing vehicular access from a public roadway other than a lane would be allowed to continue.
- [11] The decision was made to apply for a development permit for a single detached house and a detached garage in order to avoid the possible refusal of the entire project. A development permit for the single detached house and detached garage were subsequently approved without a variance.
- [12] The approved single detached house and detached garage met all of the maximum allowable height and setback requirements pursuant to the Mature Neighbourhood Overlay and are not in question today.
- [13] The original approved drawings for the single detached house and detached garage were reviewed to illustrate that the garage takes access from the rear lane on this corner lot.
- [14] Subsequent discussions were held with the Development Officer following this approval regarding the desire of the property owners to provide security and comfort and the

decision was made to apply for a development permit to construct an addition (breezeway connection) between the house and the garage.

- [15] The plans for the addition were reviewed to illustrate that the proposed 10-foot connection is one storey and blends into the roofline of the garage. It complies with all of the development requirements of the (RF1) Single Detached Residential Zone, including site coverage, height, and side setback. However, the question is massing, which is addressed in the Mature Neighbourhood Overlay. The proposed connection results in a deficiency in the minimum required 40 percent rear setback.
- [16] They worked with the Development Officer regarding their suggestions to provide some articulation or a recessed cantilever to the proposed connection. The Development Officer also suggested that they discuss the proposed development with the most affected neighbours to obtain their feedback.
- [17] The elevation drawings were reviewed to illustrate the north elevation and the proposed connection between the house and the garage. The connection will consist of a mud room and provide a transition between the house and the garage to address the security concerns of the property owners. There is also a rooftop balcony.
- [18] Aspen Gardens is a unique neighbourhood because it is bordered by the river valley and a golf course and is comprised of a unique mix of streetscapes. Over 50 percent of the properties do not have a rear lane. Many of the sites that border the river valley only have front access. There is a variety of housing styles including front attached garages, front driveways, rear attached garages and rear detached garages. The mix is unique to any other neighbourhood simply because of the way it is designed.
- [19] The subject site is a corner lot with a view of a park and the river valley to the south. Aspen Drive West has a number of front driveways and approximately 30 percent of the houses on the lane have rear detached garages.
- [20] The site context is not cut and dried because not every property complies with the requirements of the Mature Neighbourhood Overlay.
- [21] Despite the context of the neighbourhood, the Development Officer decided that he could not grant a variance and provided them with the option of appealing the decision to the Board.
- [22] A photograph of a recently developed two-storey house on a corner lot with a rear attached garage with a full two-storey development over the garage was referenced although details of the development could not be provided.
- [23] Another photograph of a house currently under construction on a corner lot in this neighbourhood was referenced. While he could not speak to the details of the development, it is evident that there is a three-car side driveway taking access from a flanking roadway even though there is a rear lane and there is a full two-storey

development over the garage. It was his opinion that this development is more extreme than what is being proposed.

[24] While the Mature Neighbourhood Overlay attempts to retain the character of older neighbourhoods, it also recognizes that not every neighbourhood is the same and provides the opportunity for consultation. They have tried to work with the City and the neighbours through this process.

[25] Section 814.1 of the *Edmonton Zoning Bylaw* states that the General Purpose of the Mature Neighbourhood Overlay is to:

Regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

[26] They undertook community consultation in accordance with the Mature Neighbourhood Overlay prior to the decision of the Development Officer. Mr. Hammermeister referenced the letter that was circulated to the neighbouring property owners including a description of the development as identified by the Development Officer, the required variances, elevation drawings, and 3D renderings showing the plans before and after the addition.

[27] Fifteen of 21 neighbours signed in support of the proposed development. They received several positive responses from neighbours. Mr. Curial had discussions with the immediately adjacent property owner to the north who felt that the proposed development was detrimental. They offered to provide more information regarding the impacts and a sun shadow study with several other sketches and options for the development of the breezeway connection.

[28] Renderings were referenced to illustrate the options provided and the view from the adjacent property to the north with the breezeway attachment. The options included changes in the exterior finishes, changing the roofline to maximize sunlight penetration, including more articulation on the house, installing a transom window in the breezeway connection and landscaping.

[29] The sun shadow study was prepared using March 21, June 21 and September 21 at 8:00 a.m., 1:00 p.m. and 5:00 p.m., with and without the proposed connection to illustrate the impact on the immediately adjacent property to the north. The results determined that the proposed 10-foot connection will have little impact on the amount of sunlight onto this property.

[30] The garages on the subject site and the site to the north line up.

[31] The neighbour to the north did not accept any of these options and advised that he was still opposed to the proposed development. Based on this opposition, the Development

Officer refused the development permit application and advised them that they had the option to file an appeal.

[32] The proposed development will meet the needs of the property owner and will increase the value of properties in this neighbourhood.

[33] Mr. Hammermeister and Mr. Curial provided the following information in response to questions from the Board:

- a) The approved house is currently under construction, including some framing and rough-in work. The framer inadvertently erected the north wall for the proposed breezeway. As soon as it was erected, Mr. Hammermeister called the neighbour to advise him and asked him to look at it. It was subsequently taken down.
- b) The house with the breezeway is 59 feet long and the garage is 33 feet long. The lot is approximately 120 feet long.
- c) The proposed options addressed the massing impact because they would change the roofline, provide articulation with different finishes and provide screening with the addition of more landscaping. The massing is garage against garage. There will also be a five foot fence erected between the subject site and the adjacent property to the north. The exterior finish of the addition is acrylic stucco with some stone. One of the options available is cantilevering towards or away from the property line to provide some articulation.
- d) It was acknowledged that the most imposing mass could have been sited away from the property to the north. However, in most instances the City wants to have a garage sited against another garage because it has the most desirable effect. This configuration was chosen in order to preserve the south yard on this lot.
- e) Most of the garages on corner lots in this neighbourhood are sited similarly.
- f) In the original design the garage was sited in approximately the same location but it proposed front access from the south which is no longer permitted.

*ii) Position of the Development Officer, Mr. J. Xie:*

[34] Mr. Xie did not attend the hearing but provided a written submission that was considered by the Board.

*iii) Position of Affected Property Owners in Opposition to the Appellant, Mr. V. Uchacz:*

[35] He and his wife live at the adjacent property to the north and are the residents most affected by the proposed development.

- [36] They have lived in their house for 27 years and object to the massing that will be created by the construction of the house, breezeway and garage, which will result in the creation of a 93-foot wall that will completely obstruct their south exposure.
- [37] Many discussions have been held with the Appellants regarding their concerns. They expected to live with the impact of the new two-storey house but the proposed connection between the house and the garage is objectionable to them.
- [38] He understands that the proposed connection will be convenient for the property owners but questioned their concerns regarding safety and security. People are moving into this neighbourhood because it is a safe place to live.
- [39] The proposed design facilitates comfortable access to the garage plus the enjoyment of 100 percent of the south exposure for the property owners but at their expense.
- [40] A copy of the letter, sent to the property owners on October 19, 2017 outlining their concerns, was referenced to illustrate that they have objected to this development from the beginning.
- [41] He acknowledged that houses are constantly getting larger but it was his opinion that there has to be some consideration for neighbouring property owners.
- [42] The photograph submitted by the Appellant of an existing house with an attached garage in this neighbourhood is a completely different situation because the garage is located on the north facing side of a corner lot. Therefore, the shadow falls on the street not on an adjacent property.
- [43] The main concern is not the shadowing but rather the huge massing impact of the proposed addition on the south property line.
- [44] The secondary issue is that there is a rooftop patio that invades their privacy and a window that creates privacy concerns, which he assumed was not allowed. It was his assumption that the window has to be translucent to protect his privacy.
- [45] The letter that was provided to the neighbours by the developer states that the proposed development will enhance the quality of lifestyle. It will certainly enhance the quality of life of the owners of this beautiful house.
- [46] Photographs were referenced to illustrate the view to the south before and after the proposed development.
- [47] Their quality of life will be impacted by the massing impact and it was his opinion that the proposed development does not fit in with the traditional character of the neighbourhood.

- [48] A photograph was referenced to illustrate the foundation extension that has been poured in addition to the extension on the garage in preparation for the proposed connection.
- [49] It is clear that the architect and owner appreciate the southern exposure based on the configuration of the design layout which provides them with 100 percent southern exposure, which will no longer be available from his home. This is not fair or equitable.
- [50] While there may have been some precedent set in this neighbourhood for this type of development, he questioned what building controls will remain if these variances continue to be granted upon appeal. He would have more appreciation if the proposed connection was required to accommodate a disabled individual but that is not the case. This is simply a-nice-to-have feature at their expense.
- [51] The breezeway phraseology is nice but in the end the proposed development will create a wall and an obstruction.
- [52] He did not have time to solicit his neighbours but noted that none of them are as impacted by the proposed development as he and his wife are. However, it was noted that several of the adjacent neighbours who originally supported the proposed development, rescinded their support through an online submission.
- [53] The proposed development should be refused because it is not fair or equitable and will impact the use and enjoyment of his property.
- [54] Mr. Uchacz provided the following information in response to a question from the Board:
- a) He could not recall being contacted by the developer regarding the framing of the breezeway. It was discussed when he met with the Applicant and the walls were taken down at the request of the City because the development permit had not been issued.

*iv) Rebuttal of the Appellant:*

- [55] The window that was addressed by Mr. Uchacz does not overlook a window on the house to the north, in fact there are no windows on that side of the house and, therefore, it is allowed. The rooftop patio has been moved to the south side of the property and does not overlook the property to the north and has been approved.
- [56] The previous house on this lot was a bungalow and therefore the benefits of the south sun were available to the adjacent property to the north. However, there is always the potential for redevelopment which is the right of the property owner and the development of a two-storey house on this site is permissible.
- [57] The proposed development will not interfere with the view of sunrises or sunsets from the property to the north because the sun comes up behind the property and sets in front of the property.

- [58] It was the decision of the Development Authority to classify the proposed development as a breezeway.
- [59] The photograph of the garages submitted by Mr. Uchacz is taken at an angle but the garages line up with each other. The tree in this photograph will screen the proposed breezeway when it is in leaf.
- [60] Mr. Hammermeister reiterated that he did call Mr. Uchacz when the wall for the breezeway was framed.
- [61] The Mature Neighbourhood Overlay requires community consultation and it is unfortunate that emotions have entered into the process. They are not trying to be confrontational and have been and are still willing to make changes to address the concerns of the most affected property owner.
- [62] It was noted that the Development Officer was willing to consider the required variances depending on feedback from the neighbours.
- [63] Options to minimize the massing impact were proposed but rejected by the adjacent property owner.
- [64] The proposed attached garage is not unreasonable given the context of this neighbourhood where 60 percent of the houses have attached garages.
- [65] Mr. Curial clarified that developing an attached garage was allowed when the property was purchased. However, the regulations changed after the property was purchased. This is the neighbourhood that they want to live in and they approached the development of their lot with the regulations that changed over time.
- [66] Mr. Hammermeister and Mr. Curial provided the following information in response to questions from the Board:
- a) The development of this lot will increase the value of neighbouring properties. The proposed 10-foot breezeway will be screened from the property to the north by landscaping, a mature tree and a fence. If the breezeway is not approved, a deck will be developed in this space which has the potential to have more of an impact on the privacy of the neighbour to the north.

## Decision

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



**Reasons for Decision**

- [68] Single Detached Housing is a Permitted Use in the (RF1) Single Detached Residential Zone.
- [69] Development Permits to construct a Single Detached House and a detached Garage on this Site were previously issued.
- [70] The proposed application is to construct an addition to the Single Detached House (breezeway connection to the detached Garage).
- [71] The proposed development requires a variance to Section 814.3(19) of the *Edmonton Zoning Bylaw*, which states that “Rear attached garages shall not be allowed” and Section 814.3(4), which states that “the minimum Rear Setback shall be 40 percent of the Site Depth”.
- [72] A variance is required to Section 814.3(4) because the proposed breezeway will connect the detached Garage to the house, which causes the Garage to be considered part of the Single Detached House. However, based on the evidence provided, the Board is of the view that this variance will not have any significant impact on the amenities of the neighbourhood or on the neighbouring parcels of land. The basic configuration of the buildings on the Site and the lane access to the Garage will not change because of the construction of the breezeway.
- [73] The primary concern is the variance that is required to allow a rear attached Garage. The Board does not grant a variance to section 814.3(19) for the following reasons:
- a) The proposed addition (breezeway connection to the detached Garage) will result in the creation of a 94-foot 6-inch wall along the north property line.
  - b) The most affected property owner, who owns the adjacent lot to the north, appeared in opposition to the proposed development. He acknowledged that the proposed addition would not exacerbate sun shadowing on his property because it has already been impacted by the permitted development of the two-storey Single Detached House and the detached Garage. His main concern is the significant massing effect that the breezeway would have on the use and enjoyment of his property.
  - c) The Board agrees with those concerns. The addition of the breezeway would create an unacceptable sense of massing that would have a significant impact on the use and enjoyment of the parcel of land to the north of the proposed development.
  - d) Although the Appellant provided 12 signatures of support from 21 property owners who reside within the 60-metre notification zone, the Board notes that none of those neighbours would be affected by the breezeway because it is located away from the street close to the interior property line.

[74] Based on the above, it is the opinion of the Board that the proposed development would materially interfere with and affect the use and enjoyment of the neighbouring parcel of land to the north.



Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance: Mr. R. Handa; Ms. D. Kronewitt Martin; Ms. M. McCallum; Mr. L. Pratt

c.c. City of Edmonton, Development & Zoning Services, Attn: Mr. J. Xie / 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.
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.