



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: June 8, 2018
Project Number: 275535725-001
File Number: SDAB-D-18-075

Notice of Decision

- [1] On May 24, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 23, 2018**. The appeal concerned the decision of the Development Authority, issued on April 23, 2018, to refuse the following development:

Construct an addition (front attached Garage with second floor addition) to a Single Detached House.

- [2] The subject property is on Plan 2442KS Blk 56 Lot 2, located at 6520 - Capilano Crescent 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:
- A 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 submission; and
 - On-line responses from two neighbours in support of the proposed development.
- [4] The following exhibit was presented during the hearing and forms part of the record:
- Exhibit A – A written submission referred to at the hearing 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.

Summary of Hearing

i) Position of the Appellant, Mr. J. Alberda

[8] Mr. Alberda referred to his PowerPoint presentation. He stated that the property was purchased one month prior to changes in the Mature Neighbourhood Overlay and the design was made during this time.

[9] He referred to photographs in his submission stating that there is approximately a 10 foot difference in elevation from the back door to the rear lane which makes it difficult to access the property.

[10] He referred to the community consultation and an aerial map stating that approximately 70 percent of the houses in the area have front attached garages with rear lanes.

[11] With regard to the Front Setback, he stated that the most adjacent properties have different Setbacks than the subject site. However, the curve in the road creates a congruent blockface by bridging the 5.0-metre difference in Setback between the two neighbours.

[12] He referred to photographs in his submission showing the distance from the sidewalk to the most forward point of the addition which is approximately 7.75 metres.

[13] The reduced Setback will not extend past the adjacent garage to the west and will not negatively affect the neighbouring amenities.

[14] The neighbourhood consists of large lots and there will still be sufficient green space between the two most adjacent properties.

[15] He received support from all the neighbours within the 60-metre notification radius. He contacted the Capilano Community League and received a response from them indicating they did not have the expertise to comment on the proposed development. Letters were received from the immediate adjacent neighbours in support of the proposed development. The most affected neighbour to the west of the subject site provided an on-line response in support of the proposed development.

[16] In response to questions by the Board, Mr. Alberda stated that the utility pole is on the northwest side of the site but not located on the property. The support wires on the utility pole are anchored inside the fence of the subject site.

[17] The garage is a single storey with a bedroom above the garage area.

[18] Demolition of the driveway was part of the building permit that was issued last fall. The driveway will be removed this year.

- [19] The curbs are low and rounded and, therefore, no curb cut will be required.
- [20] There is approximately 2.5 metres of utility right-of-way between the front lot line and the edge of the sidewalk.
- [21] He referred to photographs in his submission showing that there are different styles of houses with additions in the neighbourhood.
- [22] He stated that he is agreeable to conditions and advisements suggested by the Development Officer.

ii) Position of the Development Officer, Mr. K. Yeung

- [23] The Development Authority provided written submissions and did not attend the hearing.

Decision

- [24] 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 **CONDITIONS**:

1. Prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2).
2. Immediately upon demolition of the building, the site shall be cleared of all debris.
3. The maximum Height shall not exceed 8.9 metres, in accordance with section 52 of the *Edmonton Zoning Bylaw 12800*.
4. Frosted or opaque glass treatment shall be used on windows to minimize overlook into adjacent properties.

TRANSPORTATION CONDITIONS:

5. The existing 3.64 metres residential driveway access to Capilano Crescent located approximately 4.10 metres on the east property line must be removed and boulevard restored to grass from the back of walk to the south property line within the road right-of-way, as shown on the Enclosure. The owner/applicant must obtain a permit to remove the access, available from Development Services, 2nd floor, Edmonton Tower, 10111-104 Avenue.
6. The proposed 6.70 metre access located approximately 8.59 metres from the east property line, as shown on the Enclosure, is acceptable to Subdivision Planning.

7. 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.
8. Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.
9. Any Hoarding or Construction taking place on Road Right-of-Way (ROW) requires an O.S.C.A.M. (On-Street Construction and Maintenance) Permit. O.S.C.A.M. Permit applications require Transportation Management Plan (TMP) information. The TMP must include:
 - the Start / Finish date of project
 - accommodation of pedestrians and vehicles during construction;
 - confirmation of lay down area within legal road right of way if required;
 - and to confirm if crossing the sidewalk and / or boulevard is required to temporarily access the site.
 - It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an O.S.C.A.M. online at: https://www.edmonton.ca/business_economy/licences_permits/oscam-permit-request.aspx, and <https://vwww.edmonton.ca/documents/ConstructionSafety.pdf>

ADVISEMENTS:

1. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.
2. This neighbourhood was constructed with a roll faced curb, therefore a Curb Crossing Permit is not required for this access. However, should the applicant/owner wish to cut the curb in the future, a curb crossing permit will be required, available from Development Services, 2nd floor, Edmonton Tower, 10111-104 Avenue.
3. Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.
4. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw 12800*.

[25] In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. The Driveway access requirement per section 814.3(17) is waived.
2. The minimum required Front Setback of 7.5 metres per section 814.3(1) is varied to allow a deficiency of 2.2 metres, thereby allowing a Front Setback of 5.3 metres.
3. The minimum required distance between the eaves of the proposed addition to the Front Lot Line per section 44.1(a) is waived.

Reasons for Decision

[26] The proposed development is an addition to a Permitted Use in the (RF1) Single Detached Residential Zone.

[27] The Board is waiving the rear lane Driveway requirements for the following reasons:

1. Based on the evidence submitted, the Board finds that there is a large Grade difference to the Rear Lot Line which creates a hardship in trying to build a rear detached Garage that would be functional.
2. Correspondence received from Subdivision Planning indicates that they do not have an issue with front access to the property from Capilano Crescent.
3. Based on the evidence submitted, there is a roll top curb with no need for a curb cut or disruption to the sidewalk.
4. The Board accepts the photographic evidence that the majority of Houses in the area have front Driveway access.
5. The Board finds that the front attached Garage and Driveway access is characteristic of the neighbourhood.
6. The Board finds that the variance in the Front Setback and the eave projection is similar to other properties in the neighbourhood.
7. The Board finds that there is a road right-of-way along Capilano Crescent that increases the amount of space between the Front Lot Line and the sidewalk.

[28] The proposed development meets all of the requirements in the *Edmonton Zoning Bylaw*, specifically the Height of the proposed development.

- [29] The Board acknowledges that the Appellant received support from all of the neighbouring property owners within the 60-metre notification radius, except for one neighbour that could not be reached. The Board was provided with support letters from the most affected neighbouring property owners east and west of the subject Site.
- [30] Based on photographic evidence, the Board finds that the proposed development will blend in with and meet the characteristics of the neighbourhood.
- [31] 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. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. P. Jones; Mr. C. Buyze, Ms. K. Thind, Mr. K. Hample

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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SDAB-D-18-076

Application No. 272844623-001

An appeal to construct a Single Detached House with front veranda, fireplace, balcony, rear attached Garage, Secondary Suite (above rear attached garage), uncovered deck, rooftop terrace and demolition of an existing Single Detached House, located at 9123 - 68 Avenue NW, was **TABLED TO JUNE 20, 2018.**