



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: June 11, 2019  
Project Number: 3017732885-001  
File Number: SDAB-D-19-501

**Notice of Decision**

- [1] On May 29, 2019, the Subdivision and Development Appeal Board (the “Board” or “SDAB”) heard an appeal that was filed on April 9, 2019. The appeal concerned the decision of the Development Compliance Officer, issued on March 14, 2019, to comply with an Order to:

**Remove all vehicles from the front landscaped portion of the yard**

- [2] The subject property is on Plan 6727ET, Block 12, Lot 2, located at 10208 – 158 Street NW, within the RF4 Semi-detached Residential Zone. The Mature Neighborhood Overlay and the Jasper Place Area Redevelopment Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Stop Order;
  - The Development Compliance Officer’s written submissions; and
  - The Appellant’s written submissions.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Letter submitted by Legal Counsel for 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 Presiding Officer outlined that the Board would first determine the Preliminary Matter relating to the request for a postponement prior to considering the merits of the appeal.

### **Summary of Hearing on Preliminary Matter 1: Request for Postponement**

*i) Position of Mr. Sproule, Legal Counsel, representing the Appellant, Mr. Routh*

[8] Mr. Sproule is requesting a postponement of the hearing to access information from City Archives.

[9] Mr. Routh's method of parking on his site has existed prior to the current *Edmonton Zoning Bylaw* was introduced.

[10] They need to access the City Archives, in order to provide the Board with what the previous Jasper Place Bylaw was with regards to parking.

[11] Due to construction, they have not been able to access any information from City Archives.

[12] Mr. Sproule provided the following information in response to questions by the Board:

a. They were provided with a listing of the documents by title only and without examining the documents, they cannot tell what it is they are looking for. They are looking for a previous *Land Use Bylaw*. He could not confirm if the documents he is looking for are at City Archives.

b. The office was unable to provide them with a date when they can receive the documents.

c. The purpose of the postponement did not relate to the late filing issue and they are prepared to speak to the late filing issue if required.

*ii) Position of the Development Compliance Officer, Ms. Friesen, who was accompanied by Ms. Sustrik*

[13] They are opposed to the postponement request.

[14] A Development Compliance Officer was in contact with both parties in January, 2019 and they were aware of the Stop Order.

[15] The Stop Order was due to a citizen complaint and not from the Development Compliance Office.

*iii) Rebuttal of the Appellant, Mr. Sproule*

[16] He informed the Development Compliance Officer in January that he had already been in contact with the Archives.

**Decision on Preliminary Matter 1: Request for Postponement**

[17] The Board reserves its decision on the postponement request until a determination can be made on the second preliminary matter relating to the issue of late filing.

**Reasons for Decision on Preliminary Matter 1: Request for Postponement**

[18] The Board notes that there was a second preliminary issue of late filing. The Board finds that if the second preliminary issue is decided against the Appellant, the request for postponement would be rendered moot.

[19] For these reasons, the Board reserves its judgement on granting a postponement until it can first decide the postponement issue.

**Preliminary Matter 2: Late Filing**

[20] The Board identified a jurisdictional issue regarding when the appeal was filed. The Board explained to the Appellant that it is constrained by the 21-day limitation period prescribed by Section 686(1)(a) of the *Municipal Government Act*, R.S.A 2000, c. M-26 (“*Municipal Government Act*”), which states:

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 [emphasis added]*

(a) in the case of an appeal made by a person referred to in section 685(1),

...

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

[21] The Board must therefore determine whether the Appellant filed his appeal within the 21-day limitation period outlined in Section 686(1)(a)(ii). If the appeal was filed late, the Board has no authority to hear the matter.

### **Summary of Hearing on Preliminary Matter 2: Late Filing**

*iv) Position of the Appellant, Mr. Sproule, Legal Counsel, representing the Appellant, Mr. Routh*

[22] The Stop Order was dated March 14, 2019 and received on March 15, 2019 by the Appellant. The Appellant sent their appeal documents to the incorrect address which was received by the City's general mailing address.

[23] These documents were received by the City on March 27, 2019 and subsequently forwarded to the Board office. Those documents were received by the Board office on April 8, 2019 (Exhibit A).

[24] The error was made by the Appellant Counsel's assistant. Counsel for the Appellant submits that an administrative error should not be a reason to refuse to hear the appeal.

[25] In his opinion, the appeal was filed on time but sent to the wrong address.

[26] Mr. Sproule provided the following information in response to questions by the Board:

- a. He confirmed that the appeal was sent to the address on the top of the Stop Order.
- b. He confirmed that the SDAB office received the appeal on April 8 or 9, 2019.
- c. He confirmed that the Stop Order was received on March 14, 2019.
- d. He could not provide an authority for extending a limitation period on the basis of an administrative error.

*v) Position of the Development Compliance Officer, Ms. Friesen, who was accompanied by Ms. Sustrik*

[27] The address to appeal the Stop Order at the SDAB offices is outlined on the back of the Stop Order.

[28] Ms. Friesen provided the following information in response to questions by the Board:

- a. A cover letter is not sent out with the Stop Order.

- b. The appeal was sent to the Development Compliance Office.
- c. The Stop Order was mailed out on March 14, 2019 and they allow 7 days for mailing. Documents are put in the mail for the 2:00 mail out on each business day. The Inspection date is different. Additional information added to the Stop Order is mailed out the following day.

vi) *Rebuttal of the Appellant, Mr. Sproule*

[29] Mr. Sproule did not have anything further to add in rebuttal.

**Decision on Preliminary Matter 2: Late Filing**

[30] The appeal was not filed on time, in accordance with Section 686 of the *Municipal Government Act*.

**Reasons for Decision on Preliminary Matter 2: Late Filing**

[31] The Board declines jurisdiction on the basis that the appeal was filed outside of the limitation period identified in the *Municipal Government Act*.

[32] The Board heard evidence that the Stop Order was mailed on March 14, 2019 and complied with the requirements of Section 645(2.1) of the *Municipal Government Act*, which states:

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

[33] Accordingly, the Appellant was required to file the appeal with *the Board* within 21 days of March 14<sup>th</sup>.

[34] However, the appeal was received by the Board, and subsequently filed, well outside of the 21-day limitation period.

[35] The Appellant could not provide any authoritative legal basis to extend a limitation period under these circumstances.

- [36] Based on the foregoing, the Board has no jurisdiction to hear this appeal.
- [37] The Board's decision on this preliminary matter renders the postponement request in the first preliminary matter moot. Therefore, the Board declines to render a decision on that preliminary issue.

A handwritten signature in black ink, appearing to read 'R. Handa', with a stylized flourish at the end.

Mr. R. Handa, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. K. Cherniawsky; Mr. J. Kindrake; Mr. A. Nagy; Mr. A. Peterson

CC: City of Edmonton, Complaints and Investigations, Attn: J. Lallemand / J. Schultz / M.  
Friesen / C. Perizzolo / Ms. Sustrik

**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.



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Date: June 11, 2019  
Project Number: 153117453-003  
File Number: SDAB-D-19-075

**Notice of Decision**

- [1] On May 29, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on April 26, 2019. The appeal concerned the decision of the Development Authority, issued on April 11, 2019, to approve the following development:

**Operate a Major Home Based Business (Bed and Breakfast) expires April 11, 2024**

- [2] The subject property is on Plan 0727581 Blk 26 Lot 74, located at 1123 - 72 Street SW, within the RSL Residential Small Lot Zone. The Ellerslie Area Structure Plan and Summerside Neighbourhood Structure Plan apply 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 approved Development Permit;
  - The Development Officer’s written submissions;
  - The Appellant’s written submissions; and
  - Online responses;
  - Additional submissions submitted by the representative for the Appellant and the Respondent, prior to the hearing starting.

**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 (the “*Municipal Government Act*”).



**Summary of Hearing on Preliminary Matter***i) Position Mr. Kozlowski, speaking on behalf of the Appellant, Mr. Trotman*

- [7] The Appellant, Mr. Trotman and the most affected property owner in their opinion, Mr. Boulter, were called away for work.
- [8] They are requesting a further postponement so both parties can attend the hearing. Mr. Boulter is the most affected neighbour of the Bed and Breakfast (“B&B”).
- [9] He referred to the notification map showing the location of each property. The Appellant lives across the street; Mr. Kozlowski lives on one side of the subject Site; and Mr. Boulter lives on the other side of the subject Site where the entrance to the B&B is.
- [10] Mr. Trotman will be out of town working for approximately two weeks and then a planned vacation for one week after he returns.
- [11] Mr. Boulter is on a rotational shift and may not be sent out of town depending on the circumstances.
- [12] They are requesting a three week postponement. However, he could not confirm if the other parties could be called out of town again.

*ii) Position of the Respondent, Mr. Mano*

- [13] He agreed to a previous postponement request and is opposed to a further postponement.
- [14] The Appellant has submitted several documents to support the appeal.
- [15] His submission was sent to the Appellant who submitted a detailed response to his submission.
- [16] In his opinion, the Appellant has provided the Board with sufficient information to proceed with the hearing.
- [17] Mr. Kozlowski is aware of all of the documents that were submitted and is aware of Mr. Trotman’s and Mr. Boulter’s concerns.
- [18] Mr. Kozlowski provided a lengthy submission and should be prepared to proceed with the hearing.
- [19] Mr. Mano indicated that he is not available on June 26, 27 or the first week in July as he will be on vacation.
- [20] He has already taken time off work and may not be able to take time off for a later hearing.

- [21] The appeal process has caused him significant mental stress and a three week postponement will impact him further.
- [22] If the appeal hearing is postponed, there is nothing saying that the parties will not ask for a further postponement again.
- [23] Mr. Mano provided the following information in response to questions by the Board:
- a. The business is currently not in operation.
  - b. The process has been traumatic for him and the neighbours have stopped talking to him so they have not been able to discuss the appeal.
  - c. In his opinion, Mr. Kozlowski is prepared to speak on behalf of the Appellant and the neighbours.
  - d. He confirmed that he is not available on June 19 or 20, 2019 as well.

*iii) Rebuttal of the Appellant, Mr. Kozlowski*

- [24] Mr. Kozlowski has also taken the time off work to attend the hearing.
- [25] Mr. Boulter is the most affected neighbour but he has not had extensive conversations with him except for a few text messages or emails.
- [26] He is aware of issues that have happened on the side of Mr. Boulter's property but is not aware of any conversations between Mr. Boulter and Mr. Mano.
- [27] Mr. Boulter could provide the Board with more information about his concerns as he is the most affected neighbour.

**Decision on Preliminary Matter**

- [28] That the postponement request is DENIED.

**Reasons for Decision on Preliminary Matter**

- [29] The Board granted a previous postponement request, which was agreed to by the Respondent.

- [30] The Board heard evidence that the Respondent is experiencing prejudice as a result of not operating the Major Home Based Business.
- [31] The Board received lengthy submissions from the Appellant and neighbouring property owners, which are on file.
- [32] The Board finds that sufficient time was given to the parties that are absent to outline their concerns.
- [33] There is no certainty to what date would guarantee all participants to be in attendance.
- [34] Considering the foregoing, and in balancing the rights of all parties, the Board denies the postponement request and will proceed with the hearing today.

### **Summary of Hearing**

*iv) Position of Mr. Kozlowski, speaking on behalf of the Appellant, Mr. Trotman,*

- [35] They do not have anything against Mr. Mano but are concerned about the operation of the Major Home Based Business over the last five years.
- [36] He is speaking on behalf of the Appellant, Mr. Trotman and Mr. Boulter, the most affected neighbouring property owner.
- [37] Parties have submitted lengthy documents with their concerns how the Major Home Based Business is operating.
- [38] They do not want to stop Mr. Mano from operating a business if the regulations of the *Edmonton Zoning Bylaw* and other applicable bylaws are followed.
- [39] The neighbours were not aware of all of the conditions attached to the approved permit, and, in the Appellant's opinion, the Respondent has violated those conditions. Enough information was provided to the Board to show that the B&B is not following all of the conditions attached to the approved permit.
- [40] As outlined in Mr. Mano's submission, he does not agree that no complaints have been received. Neighbours have approached Mr. Mano with complaints but their concerns were not taken seriously.
- [41] Along the side of the house adjacent to the entrance of the B&B, there have been issues with rocks and people walking on Mr. Boulter's grass. Mr. Mano has not dealt with this issue.

- [42] The safety and security for the B&B has not been taken seriously by the Respondent.
- [43] Mr. Boulter is concerned that he has found drug paraphernalia and garbage in his back yard. He has small children who play in the back yard. Mr. Mano told Mr. Boulter that he cannot do anything about the issue.
- [44] Mr. Kozlowski has also had litter thrown on his property
- [45] Guests of the B&B show up at all hours of the night and have even tried to access Mr. Boulter's house in error. Neighbours can hear guests pulling their luggage along the rock area at the side of the house near the entrance of the B&B.
- [46] There are several hotels in the area and the neighbours feel like they are living next to one.
- [47] Mr. Mano informed Mr. Boulter that he has installed security cameras but that does not stop guests from going to the wrong house, doing drugs, or littering.
- [48] They are concerned with the number of vehicles coming and going from the cul-de-sac. A major concern is parking. There is limited parking in the cul-de-sac and there are often more vehicles associated with the B&B than there is parking spaces.
- [49] In his opinion, the neighbours should not have to watch the business to ensure it is operating safely and Mr. Mano has not provided any solutions how to resolve the neighbours' concerns.
- [50] Mr. Boulter and Mr. Mano discussed building a fence between the two properties where the entrance to the B&B is. If a fence is built, it will have to comply with the Summerside Architectural Guidelines. In his opinion, this will not stop guests from going on to Mr. Boulter's property.
- [51] They are concerned about safety and with all the information the Board has received, it should not be up to the residents to police the business.
- [52] They are concerned that guests of the B&B are not screened when booking the B&B.
- [53] Mr. Kozlowski has the same concerns of his neighbours as outlined in the written submissions.
- [54] Mr. Mano has not taken measures to resolve any of Mr. Boulter's concerns and there is still a concern for the children's safety.
- [55] Mr. Kozlowski provided the following information in response to questions by the Board:
- a. He has a concern with the condition regarding parking as there are multiple people accessing the B&B at one time.

- b. He confirmed that he does not have an objection to the Major Home Based Business but how it is being operated.
- c. There is limestone on the side of the house to the entrance to the B&B. Water drains on both sides of the house.
- d. He confirmed that there is a concern with the excess of guests, vehicles, onsite parking, and noise.
- e. He confirmed that Mr. Boulter has a concern with the number of guests, guests inviting friends over, guests being on his property, and litter.
- f. Installing security cameras will not necessarily address the concerns. Cameras will not stop guests from entering neighbours properties.
- g. Installing a fence will not stop guests from being noisy and littering.
- h. Guests are given a code to enter the house. Mr. Mano may not be at the house at all times to monitor the guests.
- i. A large group of Mr. Mano's friends stayed at the B&B and had several vehicles. Mr. Mano did not speak to the guests about where they were parking in the cul-de-sac.

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

[56] The Development Authority did not appear at the hearing and the Board relied on Ms. Bauer's written submission.

vi) *Position of the Respondent, Mr. Mano*

[57] The Appellant re-raised the several concerns of the neighbours in relation to the Major Home Based Business.

[58] Mr. Boulter did not indicate in his submission that noise and litter were a concern.

[59] In his opinion, the Major Home Based Business has operated for five years with no issues or concerns.

[60] The garbage shown on the property in the photographs was from Mr. Mano's property and not the guests.

[61] He occasionally parks his vehicle on the street. The guests of the B&B park on the driveway. He provided the Board with photographs of the neighbourhood showing several cars parked in the cul-de-sac. There is no evidence that the cars are for the B&B and have resulted increasing parking concerns in the cul-de-sac.

- [62] Mr. Boulter who is the most affected neighbouring property owner did not indicate that parking or noise was a concern.
- [63] He books approximately eight guests per month and approximately 250 in the last five years. Guests are usually away the majority of the day and return in the evening.
- [64] He encourages families that will arrive in one car to use the B&B.
- [65] Guests are told to park on the right hand side of the driveway where the entrance to the B&B is located.
- [66] He may have friends over during the time there are guests using the B&B so this may be parking in a different area that the neighbours referred to.
- [67] Mr. Kozlowski spoke to Mr. Mano about one concern he had in the five years the B&B has operated.
- [68] Mr. Mano has a family with two small children and will ensure that safety is not an issue.
- [69] There has only been one incident regarding drug paraphernalia in the neighbourhood in five years. There is no evidence that it came from the B&B.
- [70] He is willing to install a fence between the two properties along the path where the guests access the B&B.
- [71] He spoke to several of his neighbours who were not aware that a B&B was operating out of the subject Site.
- [72] He is willing to install security cameras to mitigate any potential concerns.
- [73] In his opinion, he has complied with all of the conditions of the approved development permit.
- [74] Mr. Mano provided the following information in response to questions by the Board:
- a. There are two bedrooms in the basement with a queen bed in each room.
  - b. With regard to the negative reviews on the B&B, he said they are unjustified. He stated that a certain number of guests are listed when a booking is done. On occasion, the guests will arrive with more people than what was listed. He has had to address the issue when the guests arrive.
  - c. There is a maximum of four people at one time.
  - d. He confirmed that he does not have an issue with complying with the conditions of the Major Home Based Business.
  - e. He has two onsite parking spaces that accommodate the B&B.

- f. He is not able to monitor his guest all the time but does inform them of the rules of the B&B and will speak to them if they do not follow the rules.
- g. He confirmed that the guests are screened at the time of booking.
- h. He is agreeable to a condition imposed by the Board to install a fence between the subject Site and the neighbouring property.
- i. Neighbours are not able to determine if cars parked in the cul-de-sac are family; friends; or guests of the B&B.
- j. He agreed that there would be a better separation on the side of the house if there was a sidewalk leading to the entrance of the B&B.
- k. The B&B is not booked if he is out of town or when he has family or friends staying at his place.

*vii) Rebuttal of Mr. Kozlowksi, speaking on behalf of the Appellant, Mr. Trotman*

- [75] He does not agree to the way Mr. Mano operates the Major Home Based Business.
- [76] The neighbours are not able to determine when there is family; friends; or guests using the B&B at the subject Site.
- [77] Although security cameras may be installed, guests may be gone by the time Mr. Mano views the recordings.
- [78] With regard to the photograph showing several vehicles in the cul-de-sac, he stated that he spoke to those individuals who did not confirm whether they were Mr. Mano's brother's friends who were staying with Mr. Mano.
- [79] He is not aware if criminal record checks are done on the guests.
- [80] He is concerned where Mr. Mano will park his car if two parking spaces are required for the B&B. There is limited parking in the cul-de-sac.
- [81] Although there are rules for the guests using the B&B, he is concerned how Mr. Mano will enforce the rules.
- [82] There have been incidents where guests of the B&B have knocked on Mr. Boulter's door in the middle of the night. Neighbours across the street have witnessed people knocking on doors and trying to get in. Safety in the neighbourhood is a major concern.

**Decision**

[83] The appeal is DENIED and the decision of the Development Authority is CONFIRMED, subject to an amendment of the CONDITIONS.

The Board imposes the following CONDITIONS:

1. This approval is for a 3-year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on June 11, 2022.
2. The Applicant must erect a fence contained only on his property extending from the existing rear gate to the front of his garage, at his sole expense. The fence shall be constructed in accordance with the *Edmonton Zoning Bylaw* and any neighbourhood regulations in place for the area.
3. The Applicant must hardsurface the walkway from the driveway to the entrance of the B&B at his sole expense.
4. The number of temporary sleeping accommodations on-site shall not exceed two. Cooking facilities are prohibited within temporary sleeping accommodations (Section 75.7). The number of guests for the Major Home Based Business shall not exceed four persons. The term "persons" includes adults and children.
5. Two parking spaces for the Major Home Based Business must be accommodated on site. This is in addition to the parking spaces required for the primary Dwelling.
6. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
7. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
8. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
9. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
10. If there are visits associated with the business the number shall not exceed the number applied for with this application.



11. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
12. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
13. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighbourhood.
14. This Development Permit may be cancelled at any time if the Major Home Based Business as stated in the Permit Details changes (Section 17.2).
15. This Development Permit may be cancelled at any time if the Major Home Based Business contravenes any of the conditions imposed herein.

Notes:

1. 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 (Section 5.2).
2. This Development Permit is not a Business License.

### Reasons for Decision

- [84] The proposed development, a Major Home Based Business (Bed and Breakfast), is a Discretionary Use in the RSL Residential Small Lot Zone. There are no variances sought for the development.
- [85] Therefore, this Board's test in determining this appeal is whether the development is reasonably compatible with the surrounding neighbourhood.
- [86] While evidence was presented by the Appellant that the Major Home Based Business infringed conditions of the previously approved development permit, the Board notes that these concerns are related to Bylaw Enforcement and are not before the Board when considering whether a Discretionary Use is appropriate for the neighbourhood.
- [87] The Board heard evidence that several neighbouring property owners were not aware that the Major Home Based Business has been operating for the last five years.
- [88] The Board heard evidence that no official complaints were received from neighbouring property owners during the five year period.

- [89] The Board accepts the evidence submitted that the existence of the Major Home Based Business is not out of character in this neighbourhood. However, the Board also recognizes that legitimate concerns exist in relation to the existence of the Major Home Based Business that the Respondent was willing to address.
- [90] Based on the photographic evidence submitted, the concerns of the most affected neighbours, and the acquiescence of the Respondent, the Board imposes the following additional conditions to ensure some of the most pressing concerns are addressed:
- a. The Applicant must erect a fence contained only on his property extending from the existing rear gate to the front of his garage, at his sole expense.
  - b. The Applicant must hardsurface a walkway from the driveway to the entrance of the B&B, at his sole expense.
- [91] Moreover, in order to further balance the competing rights of these neighbours, the approved development permit has been reduced from five years to three years. This will allow neighbouring property owners to reassess compatibility of the Major Home Based Business at that time and for the Respondent to demonstrate a continued compatibility with the surrounding neighbourhood.
- [92] At the appeal hearing, it was unclear whether or not many of the concerns relating to parking related issues at the subject property were associated with the B&B or the primary residence. Given this lack of clarity, and the fact that the parking issues were indistinguishable between the uses, the Board finds that the operation of the B&B in and of itself does not unreasonably contribute to noise or parking issues.
- [93] Moreover, the Respondent sought clarity on the imposed conditions of the approved development permit and stated he would adhere to the conditions once clarified. This approval, and the conditions contained herein, provides that clarity. This is specifically so in relation to the number of persons who may occupy the Major Home Based Business at any given time which cannot exceed four, regardless of the composition of adults and children.
- [94] The Board reminds the Respondent that contravention of any of the imposed conditions may result in the approved development permit being revoked.
- [95] Therefore, on a balance of probabilities and relying on the evidence provided at the hearing, the Board finds that the proposed development is reasonably compatible with surrounding area and there are no valid planning reasons to deny the application.
- [96] While the Board was presented with many legitimate concerns from the neighbours, these concerns relate entirely to enforcement. These concerns may develop into legitimate planning reasons in the future, but the Board is not satisfied that they have crossed that threshold at this time.

[97] Furthermore, the Board trusts that the additional conditions will address the enforcement-related concerns of neighbouring property owners and finds it reasonable to impose these conditions given the acquiescence of the Respondent.

[98] For the foregoing reasons, the Board denies the appeal and grants the development.

A handwritten signature in black ink, appearing to read 'R. Handa', with a stylized flourish at the end.

Mr. R. Handa, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. K. Cherniawsky; Mr. J. Kindrake; Mr. A. Nagy; Mr. A. Peterson

CC: City of Edmonton, Development & Zoning Services, Attn: Ms. Bauer / 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.*