



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: June 8, 2018
Project Number: 270509418-004
File Number: SDAB-D-18-077

Notice of Decision

- [1] On May 31, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 26, 2018**. The appeal concerned the decision of the Development Authority, issued on April 24, 2018, to refuse the following development:

Construct an Accessory Building (Detached Garage 6.71m x 6.10m).

- [2] The subject property is on Plan 2803AF Blk 88 Lot 14, located at 10305 - 132 Street 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, the refused Development Permit, and a memorandum from Subdivision Planning;
 - The Development Officer’s written submission; and
 - The Appellant’s written submissions.

Preliminary Matters

- [4] At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Chair 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 the Appellant, Mr. P. Leighsmith, who was accompanied by Mr. M. Lapner, the property owner

- [7] Mr. Leighsmith submitted that the proposed development is part of the renovations to the house that require the current garage to be removed.
- [8] The proposed rear detached garage will be in keeping with the Mature Neighbourhood Overlay. The rear detached garage will be designed to complement the existing dwelling.
- [9] They will be maximizing the green space between the house addition and the garage and it will complement the neighbours' yard to the east.
- [10] The proposed garage is designed to be as small as possible. There will be 21 feet from the garage to the rear of the house.
- [11] The rear lane does not serve as a useful purpose for parking or turning as it is a dead end lane.
- [12] There are other garages in the neighbourhood that are located at the edge of the rear lane which are similar to the proposed development.
- [13] Mr. Lapner spoke to and reviewed the proposed plans with neighboring property owners who are in support of the proposed development. They received support from all of the neighbours within the 60 metre notification radius as well as a letter in support from the Old Glenora Conservation Association.
- [14] The immediate adjacent neighbours to the east are in support of the rear setback to ensure that the sight line from their property will not be negatively impacted.
- [15] The original rendering of the garage was set on the rear property line so the distance between the house and garage was maximized. The proposed development will be moved back 0.15 metres to prevent the eave from encroaching into the rear lane.
- [16] Mr. Lapner noted that the power poles are being replaced in the area and after discussions with EPCOR, the power pole noted on the site plan will be relocated to better accommodate the proposed garage.
- [17] Mr. Lapner stated that he spent a significant amount of time designing the proposed detached garage to ensure that it will be in keeping with the neighbourhood and the Mature Neighbourhood Overlay.
- [18] He referred to the site plan on Page 7 of the Development Officer's written submission to show how the proposed garage would be situated with a setback of 1.2 metres.

- [19] He stated that a vehicle will be entering the garage no matter where it is located on the property.
- [20] He referred to the photographs in his submission showing the rear lane and the proposed garage location. Approximately 100 metres from the subject site is a narrow rear lane that has detached garages similar to the proposed development.
- [21] In response to questions by the Board, both Mr. Leighsmith and Mr. Lapner confirmed that detached garages 100 metres from the subject site are accessed directly from the rear lane.
- [22] They further confirmed that the eaves of the detached garage will project 6 inches from the garage and will not overhang onto City property.
- [23] They tested the turning radius at their garage and had no issue entering the garage. Because of this they believe they will not have an issue entering and exiting the proposed garage.
- [24] Mr. Lapner stated that the neighbours at the end of the lane have garages off of Churchill Crescent, and do not use the lane for access.
- [25] They are in agreement with the suggested conditions of the Development Officer and stated that the eave projection will not be an issue.

Decision

- [26] 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. The proposed detached Garage will be built in accordance with the stamped approved plans.
 2. No part of the structure, including eaves, shall encroach onto the Lane.

Subdivision Planning Conditions:

1. The proposed 6.10 metre driveway to the abutting lane located 0.92 metres from the east property line, is acceptable to Subdivision Planning. However, we note that there is an existing power pole in close proximity to the proposed driveway as shown on the Enclosure.

All proposed residential driveways, located in close proximity to any surface utility, do not have city enforced at grade offsets and therefore must be located to meet the at grade offset requirements of the associated utility company. All costs associated with relocation of the surface utility will be borne by the owner/applicant. The applicant should contact Ron Hewitt (780-412-3128) of EPCOR Customer Engineering and Soon Chung of Telus (780-446-4913) regarding minimum clearance to be maintained from the existing power pole located adjacent to the proposed driveway.

2. Any alley 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.
3. 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.
4. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM 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
 - confirmation 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 OSCAM online at:

https://www.edmonton.ca/business/economy/licences_permits/oscaml-permit-request.aspx and <https://www.edmonton.ca/documents/ConstructionSafety.pdf>

ADVISEMENT:

- i. The proposed access for the garage is to the alley, as shown on the Enclosure. An alley access does not require a curb crossing permit.

[27] In granting the development the following variance to the *Edmonton Zoning Bylaw* is allowed:

1. The minimum required distance from the Rear Lot Line to a rear detached Garage where the vehicle door faces the lane shall be 1.2 metres as per section 814.3(22) is varied to allow a deficiency of 1.05 metres, thereby decreasing the minimum required distance to 0.15 metres.

Reasons for Decision

[28] The proposed development is Accessory to a Permitted Use in the RF1 Single Detached Residential Zone.

[29] There is an issue as to whether or not a variance should be granted in the Rear Setback outlined in Section 814.3(22) of the *Edmonton Zoning Bylaw* that states:

The minimum distance from the Rear Lot Line to a rear detached Garage where the vehicle doors face the Lane shall be 1.2 metres.

[30] The Board grants the variance for the following reasons:

1. The Board acknowledges that the proposed development exceeds the minimum required 3.0 metre separation distance between the principal Dwelling and the rear detached Garage as per section 814.3 (20) and, in fact, provides an excess of 3.45 metres over the 3.0 metre minimum.
2. The Board notes that this excess in the distance between the detached Garage and the principal Dwelling ensures no interference with the existing sunlight penetration on the east abutting property.
3. The Board received photographic evidence showing that Garages that are located close to the rear lane are characteristic of the neighbourhood.
4. The Board notes that EPCOR does not object to the proposed detached Garage.
5. The Board notes that there will be no encroachment onto the City property with the location of the proposed development.
6. The property immediately east of the subject Site prefers the proposed location of the detached Garage as it will improve their sight line from their deck.

7. There is support from all of the neighbouring property owners within the 60 metre notification radius regarding the proposed Rear Setback variance.

[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. I. Wachowicz, Chair
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. B. Gibson; Mr. L. Pratt; Mr. A. Nagy; Ms. D. Kronewitt Martin

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-18-078

Application No. 274185671-001

An appeal to change use from Single Detached House to Lodging House (7 sleeping units), located at 11003 - 85 Avenue NW was **TABLED TO JUNE 14, 2018.**