

Edmonton Subdivision and Development Appeal Board

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Date: December 4, 2015
Project Number: 175767569-001
File Number: SDAB-D-15-273

Notice of Decision

This is an appeal dated October 22, 2015, from the decision of the Development Authority to allow an application to construct a front addition (veranda, 1.10m x 2.82m) to a Single Detached House and interior alterations (main floor and second floor), existing without permits.

The development permit application was approved subject to conditions and variances granted in the minimum required Side Setback, the maximum allowable Site Coverage for a Principal Dwelling, the minimum required Front Setback and the requirement to complete a full community consultation. The approved development permit application was subsequently appealed by an adjacent property owner.

The subject site is on Plan RN37A Blk 2 Lot 13, located at 10425 - 92 Street NW. The subject site is zoned RA7 Low Rise Apartment Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The appeal was heard on November 19, 2015.

Summary of Hearing:

At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The following documentation was provided to the Board and referenced during the hearing, copies of which are on file:

- A written submission from the Development Authority dated November 17, 2015
- A copy of the Development Permit information
- Photographs of the subject site provided by the Appellant, Jim Podridske
- Photographs of the subject site provided by the Respondent, Steven Eliason
- A letter in support of the proposed development from a neighbour who resides immediately south of the subject site

The Board heard first from the Appellant, Mr. Jim Podridkse. He made the following points:

- The house is improperly located too close to the front lot line.
- The front veranda is improperly constructed.
- Water drains from the roof of the veranda onto his property because eaves troughs have not been installed.
- The front veranda obstructs his view of the street.
- The concrete on the subject site protrudes 14 inches onto his property and the height of the concrete restricts the natural drainage flow from the rear to the front of the site.

The Board then heard from Ms. Fiona Hamilton, representing the Sustainable Development Department, who provided the following information:

- The deficiencies in the side setback and site coverage are longstanding as the subject house is an existing non-conforming building. Even without the front veranda, the site coverage exceeds the maximum allowable for this site.
- There was previously a set of stairs where the new veranda has been constructed. As the front door is well above grade, it is unavoidable that some type of structure needs to be in that location to make the door functional. The new veranda creates an extra 0.6 metre protrusion into the front setback, which is minor.
- The proposed covered front veranda is characteristic of other developments on the street. It enhances the appearance of the house.
- The Community consultation requirement was relaxed for this development because the site is zoned RA7 Low Rise Apartment Zone. The Applicant was only required to contact the two abutting neighbours.
- No complaints were received about the proposed development.

The Board then heard from the Respondent and previous property owner, Mr. Eliason, who was accompanied by the current property owners, Mr. Green and Ms. Cooper. Mr. Eliason made the following comments in support of the proposed development:

- The subject house was built in 1912. He bought it in 2007.

- The house was badly in need of repair and he started a restoration project in 2010 when the small front veranda with a roof was built. The house has now been sold and a development permit is required in order to complete the sale.
- He has not received any complaints over the five years that the new veranda has existed.
- He spoke to the Appellant at the beginning of this project and at that time the Appellant was very complimentary about the new veranda and the restoration work.
- He referenced photographs of the house before and after his restoration work. He noted that the new veranda is aesthetically pleasing and in keeping with the style of this 1912 house.
- He showed a picture of the neighbouring house which is mirror version of his house, both built at the same time. He noted that the neighbouring house has an even larger veranda structure at the front which includes an upper storey deck.
- The concrete at the side of the house existed when he purchased the property. It had to be replaced but the location was not changed.
- He referenced photographs taken from the far corner of his neighbour's veranda and at the front door to illustrate that the view of the street is not obstructed.

Mr. Podridkse made the following points in rebuttal:

- He questioned whether or not the shed at the rear of the subject site had been considered in the site coverage calculation.
- His neighbour parks his truck on the concrete in the front yard and it is impossible for him to see around it.
- Mr. Eliason did not take any photographs of the street from his driveway which is where the view of the street is obstructed the most.
- He did not have any problems with the front step as it previously existed. However, the veranda with the roof obstructs his view.

Decision:

The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED** as approved by the Development Authority. In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. Section 150.8(a) – relaxed the Side Setback from 1.2 to 0.04 metres.
2. Section 150.4(5) – relaxed the maximum allowable Site Coverage for the Principal dwelling from 28% to 40%.
3. Section 814.3(1) – relaxed the minimum Front Setback from 4.65 metres to 4.36 metres.
4. Section 814.3(24) – relaxed the requirement to complete a full community consultation.

Reasons for Decision:

The Board finds the following:

1. The proposed development is an addition to a Single Detached House which is a Discretionary Use in the RA7 Low Rise Apartment Zone.
2. The Board has granted the required variances in the Side Setback, Site Coverage and Front Setback requirements for the following reasons:
 - a) The Development Authority determined that the subject site is a hardship lot. The lot was subdivided many years ago and the lot is extremely small which makes it impossible to comply with the required setback and site coverage requirements without unreasonably reducing the dimensions of the single detached house.
 - b) The Board notes that the house has existed on this site since 1912.
 - c) Based on a review of the photographic evidence provided, the veranda does not project past the north wall of the principal dwelling and therefore does not increase the side setback which has existed for more than a century.
 - d) The deficiency in the front yard setback is inevitable because a landing and steps are required to provide access and egress to the elevated front door of the single detached house.
 - e) Based on a review of the photographic evidence provided, the Board notes that there is an existing veranda that extends into the front yard setback on the house located immediately south of the subject site as well as a second storey veranda which adds to the visual impact of its incursion into the front yard. Therefore, the proposed small veranda is in keeping with the aesthetics and characteristics of the neighbourhood.
 - f) The veranda is only 3.5 feet by 8 feet in size, and based on a review of the photographic evidence provided, it does not significantly or materially affect the view from the Appellant's property.

- g) Accordingly, the Board finds that granting these three variances will not unduly affect the amenities of the neighbourhood or materially affect the use, enjoyment or value of neighbouring parcels of land.
3. The Board also grants the variance to the community consultation requirements of the Section 814 of the *Edmonton Zoning Bylaw*. Based on the evidence provided by the Development Authority, the consultation requirements were reduced to only the most affected parties. Those parties either expressed support for the development or attended the hearing to oppose the development permit application and have their concerns heard by the Board.
 4. The Board heard conflicting evidence regarding drainage issues between the Respondent's and the Appellant's properties. However, the Board notes that drainage problems are outside the purview of the Board and should be directed to Drainage Services.
 5. 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.

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
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*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
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 the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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

Mr. Ian Wachowicz, Chairman
Subdivision and Development Appeal Board

Edmonton Subdivision and Development Appeal Board

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230 Lee Ridge Road
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Date: December 4, 2015
Project Number: 175038407-002
File Number: SDAB-D-15-274

Notice of Decision

This is an appeal dated October 22, 2015, from the decision of the Development Authority to refuse an application to construct exterior alterations (Driveway Extension, 4.72m x 7.01m).

The development permit was refused because a Driveway must lead to a Garage or parking area, a parking area shall not be located within the Front Yard and the Front Yard shall be landscaped.

The subject site is on Plan 2544TR Blk 24 Lot 32, located at 230 - Lee Ridge Road NW. The subject Site is zoned RMH Mobile Home Zone.

The appeal was heard on November 19, 2015.

Summary of Hearing:

At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed outside of the allowable 14 day appeal period, pursuant to the requirements of the *Municipal Government Act*. On the basis of a Canada Post delivery confirmation document and verbal evidence from Mr. Gullrie, the Board determined that the appeal was filed within the allowable 14 days and assumed jurisdiction to hear the matter.

The following documentation was provided to the Board and referenced during the hearing, copies of which are on file:

- 27 photographs of the subject site provided by the Appellant.
- A written submission from the Development Officer dated November 18, 2015
- A copy of the Development Permit information
- A letter in support of the Development Application from a neighbouring property owner

The Board heard from the Appellant, Mr. Gillrie, who provided the following information in support of the appeal:

- He needs the driveway extension because he is disabled and the street in front of his home is very narrow. It is dangerous to park on the street in front of his house. Vehicles travel at a high speed because there are no speed bumps or stop signs for a span of over three blocks.
- He requires extra parking because he owns antique vehicles that are all licensed and insured but not often driven. The vehicles are valuable. At any given time he has five or six vehicles on site. He owns all of the vehicles on his site and does not repair or restore vehicles for anyone else.
- He has a two car garage, but he can only use it to park one vehicle because he used half of the garage for storage.
- He cannot park any vehicles on his driveway because he needs access to his garage.
- The parking area in front of his house is finished with gravel and paving blocks.
- He referred to his photographs to illustrate other properties in the immediate area with the same parking arrangement.

The Board then heard from Mr. Stephen Cooke, representing the Development Authority, who provided the following information:

- Parking in the Front Yard is not permitted and the Front Yard should be landscaped to comply with the requirements of Section 55 of the *Edmonton Zoning Bylaw*.
- It might be possible to accommodate five or six vehicles inside the garage and on the driveway.
- Only a portion of the driveway is concrete.
- He did not view any of the other properties in this area that have a similar parking arrangement.

Mr. Gillrie made the following point in rebuttal:

- The driveway is paved to the front door of the house to provide wheelchair access and the remainder of the driveway is finished with gravel.

Decision:

The appeal is **DENIED** and the decision of refusal by the Development Authority is **CONFIRMED**.

Reasons for Decision:

The Board finds the following:

1. The proposed development is an Accessory to a Mobile Home, a Permitted Use in the RMH Mobile Home Zone. However, the Board finds that the proposed development is, in fact, a parking area located within the Front Yard of the subject site.
2. Section 6.1(26) of the *Edmonton Zoning Bylaw* defines Driveway as an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.
3. Based on a review of the photographic evidence provided, the area finished with gravel located in front of the house between the front street and the Principal Dwelling does not provide access to a Garage or a Parking Area, but in fact is a separate parking area for the Appellant's vehicles.
4. Section 54.2(2)(e)(i) of the *Edmonton Zoning Bylaw* states that except as otherwise provided for in this bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall not be located within a Front Yard.
5. The Board has not granted a variance because the proposed parking area is not part of the Driveway and is therefore prohibited by the regulations of the *Edmonton Zoning Bylaw*.
6. The proposed development virtually eliminates the entire Front Yard and has the appearance of a gravel parking lot in the Front Yard of the subject site.
7. This is not appropriate in a residential zone and based on a review of the photographic evidence provided by the Appellant, not characteristic of this area which is comprised predominantly of landscaped Front Yards.
8. The Board finds that there is no hardship in this case because all of the required onsite parking is provided.
9. Based on the above, it is the opinion of the Board that granting the variances required for the proposed development will unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use, enjoyment and value of neighbouring parcels of land.

Important Information for the Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
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Mr. I. Wachowicz, Chairman
Subdivision and Development Appeal Board

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1215 Haliburton Close
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Date: December 4, 2015
Project Number: 175121786-001
File Number: SDAB-D-15-275

Notice of Decision

This is an appeal dated October 22, 2015, from the decision of the Development Authority to refuse an application to construct exterior alterations (Driveway extension) to an existing Single Detached House.

The development permit was refused because a Driveway must lead to a Garage or parking area, a parking area shall not be located within the Front Yard and the Front Yard shall be landscaped.

The subject site is located on Plan 0124844 Blk 11 Lot 55, located at 1215 - Haliburton Close NW. The subject Site is zoned RF1 Single Detached Residential Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The appeal was heard on November 19, 2015.

Summary of Hearing:

At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The following documentation was provided to the Board and referenced during the hearing, copies of which are on file:

- A written submission from the Development Authority dated November 18, 2015
- A written submission from the Appellant dated November 19, 2015, which includes a letter of support from an affected neighbor, photographs, and hand drawn plans of the subject site.
- A copy of the Development Permit information

The Board heard first from the Appellant, Mr. Richter, who provided the following information in support of the appeal:

- Although his proposal has been classified as a driveway extension, he explained that he really wants a 48 inch wide walkway that will provide a smooth, continuous look into the existing driveway. It was his opinion that it would increase the curb appeal of his house and is similar to other houses in the neighbourhood.
- He does not intend to park vehicles on the extended portion of concrete.
- They are planning into the future because his parents and his wife's parents may require wheelchair access and the proposed extension will facilitate a wheelchair ramp.
- He referenced his photographs of existing similar driveway and sidewalk extensions in this neighbourhood.

The Board then heard from Mr. Stephen Cooke, representing the Sustainable Development Department, who provided the following information:

- Section 54.2(e)(i) of the *Edmonton Zoning Bylaw* states that parking spaces shall not be located within a Front Yard.
- It was his opinion that the proposed development is a prohibited driveway extension rather than a permitted walkway. Thirty-six inches of the proposed walkway already exist as part of the existing driveway. The proposal will add an additional 48 inches as a walkway for a total width of 92 inches.
- There are no specifications for walkway width in the zoning bylaw.
- It was his opinion that the proposed extension would have to be separated from the existing driveway in order to be considered as a walkway.
- He acknowledged that there is landscaping located beside the proposed walkway but it was his opinion that the entire front yard should be landscaped.
- There is adequate onsite parking with 2 spaces inside the garage and 2 in tandem on the driveway.

Mr. Richter made the following points in rebuttal:

- The driveway is 18 feet wide with a 1 foot overlap on either side of the 16 foot garage door.
- It was his opinion that a separation between the existing driveway and the sidewalk would not be as aesthetically pleasing as a continuous finish.

- He reiterated that other houses in the neighbourhood have driveways exactly like his proposal and he has no intention of parking on the extension. It will be used exclusively as a walkway.

Decision:

The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority.

Reasons for Decision:

The Board finds the following:

1. Based on the evidence provided, the Board finds that the proposed development is a concrete walkway that will be contiguous with the existing Driveway.
2. The proposed development is Accessory to a Permitted Use in the RF1 Single Detached Residential Zone.
3. The only evidence provided to the Board regarding the width of the existing Driveway was a sketch prepared by the property owner. Based on that information, the Board has determined that the existing driveway is 5.48 metres wide.
4. Section 54.1(4) of the *Edmonton Zoning Bylaw* states that the Front Yard of any at Grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall:
 - a. a minimum width of 3.1 m;
 - b. for a Site 10.4 m wide or greater, have a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage; and
 - c. for a Site less than 10.4 m wide, have a maximum width of 3.1 m.
5. Pursuant to Section 54.1(4) of the *Edmonton Zoning Bylaw*, the Driveway can be a maximum of 6.2 metres wide, not including the area used as a walkway. Based on the evidence provided, the proposed development is for a walkway and not to extend the existing Driveway more than 6.2 metres in width and therefore complies with Section 54.1(4) of the *Edmonton Zoning Bylaw*.
6. The Board does recognize that parking is not permitted in a Front Yard, except on a defined Driveway, pursuant to the regulations of the *Edmonton Zoning Bylaw*. However, the Board finds that the proposed development is a walkway and not a Driveway extension and therefore will not be used to provide parking spaces in the Front Yard.

7. Based on a review of the photographic evidence provided, the proposed development is characteristic of existing similar developments in the neighbourhood.
8. The Appellant submitted a letter of support from an affected property owner. No letters of objection were received and no one appeared in opposition to the proposed development.
9. The proposed development is an Accessory Use to a Permitted Use that complies with all of the development regulations of the *Edmonton Zoning Bylaw* and therefore the permit must be granted

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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*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
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Mr. I. Wachowicz, Chairman
Subdivision and Development Appeal Board