



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

**10019 – 103 Avenue NW
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Date: December 12, 2018
Project Number: 293918320-001
File Number: SDAB-D-18-195

Notice of Decision

- [1] On November 28, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **November 11, 2018**. The appeal concerned the decision of the Development Authority, issued on October 23, 2018, to refuse the following development:

Construct exterior alterations to a Single Detached House (driveway extension)

- [2] The subject property is on Plan 0423766 Blk 19 Lot 11, located at 16412 - 63 Street NW, within the RF1 Single Detached Residential Zone. The Matt Berry Neighbourhood Structure Plan and Pilot Sound Area 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, stamped refused plans, and the refused Development Permit;
 - The Development Officer’s written submissions; and
 - The Appellant’s written submissions.

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. (“MGA”)

Summary of Hearing*i) Position of the Appellant, Mr. and Mrs. Rabah*

- [7] Mrs. Rabah explained to the Board that when she and her husband initially purchased the subject property, they hired a contractor to pour a concrete patio in the backyard and, while doing so, also had the contractor pour an extension for the driveway.
- [8] She was advised by the contractor that a development permit was not necessary; however, she acknowledged that he may have only been speaking about the backyard and not the driveway extension.
- [9] Mrs. Rabah noted that they have now sold the subject site to purchasers who have indicated to her that they would like the driveway extension to remain as it is.
- [10] The need for a permit for the driveway extension was brought to Mrs. Rabah's attention when she applied for a Compliance Certificate upon selling the property.
- [11] She gave verbal evidence that there are seven houses in the cul-de-sac area of the neighbourhood and that she has not received any complaints from neighbours in the cul-de-sac regarding the driveway. The driveway extension has existed since August 2013.
- [12] The driveway extension is used for parking and she believed the new owners will use it for parking as well.
- [13] Mrs. Rabah believed that there is room in the cul-de-sac for several vehicles to park. She indicated that at least four properties have available on-street parking in the cul-de-sac and only one of the neighbours utilizes this parking.
- [14] The extension is curved and decorated on the sides for aesthetic reasons.
- [15] Mrs. Rabah explained that there is one space available on the street in front of her property where the decorative rock begins and which abuts the front yard of the neighbour to the North. She noted that even if the driveway extension did not exist, only one vehicle would be able to fit in that space. She hypothesized that if it were two small Mini Cooper vehicles parked closely together they still may not fit in that space.
- [16] Mr. and Mrs. Rabah provided the following information in response to questions by the Board:
- a. The extension can be accessed from the existing driveway or the street.
 - b. The extended area takes up a portion of a public parking space.
 - c. There is not enough room to park two vehicles on the existing driveway.
 - d. There is room for four vehicles for public parking in the cul-de-sac.

- e. Not all of the properties in the cul-de-sac have on-street parking in front of their properties.
- f. Given a portion of the driveway was on City property, there would not be room on the driveway to park their truck.

ii) *Position of the Development Officer, Mr. Folkman*

[17] The Development Authority did not appear at the hearing and the Board relied on Mr. Folkman's written submission.

Decision

[18] The appeal is **ALLOWED IN PART** and the decision of the Development Authority is **VARIED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **CONDITIONS**:

1. Absolutely no parking is allowed within the required front yards/setbacks. (Reference Section 54.2 of the Edmonton Zoning Bylaw No 12800).
2. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the *Edmonton Zoning Bylaw*. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
3. Lot grades must match the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5500 for lot grading inspection inquiries.

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

1. The requirement as per Section 54.1(4) that a Driveway extension is to lead directly from a roadway to the Garage or Parking Area is waived to allow the Driveway extension to lead to the front of the Dwelling.

Reasons for Decision

[20] The proposed development, to construct exterior alterations to a Single Detached House (driveway extension), is Accessory to a Permitted Use in the (RF1) Single Detached Residential Zone.

- [21] The Board is tasked with deciding, based on the evidence provided, whether the proposed development would 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.
- [22] Based on the evidence before it today, the Board concludes that the proposed development would not unduly interfere with the amenities of the neighbourhood for the following reasons:
- a. There is sufficient parking in the cul-de-sac along the key hole.
 - b. There are four parking spaces in front of the houses in the cul-de-sac.
 - c. The majority of on-street parking is used by the public that access the area from 165 Avenue.
 - d. The Board finds that the driveway extension does not remove any on-street parking because of the dimensions and constraints associated with the configuration of the adjacent properties and the concave nature of the cul-de-sac.
 - e. Based on the evidence submitted, the driveway extension has existed for six years with no known complaints from neighbouring property owners.
 - f. No letters were received in opposition to the driveway extension and no one appeared in opposition at the hearing.
- [23] Furthermore, based on evidence provided, the Board concludes that the proposed development would not materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land for the following reasons:
- a. Individuals that are mostly impacted are those in the cul-de-sac and the Board finds there is no material impact on those neighbours.
 - b. The subject Site exists in a cul-de-sac that is somewhat removed from the broader community and any issues associated with the driveway extension are isolated by the location of the subject Site.
 - c. The visual impact of the driveway extension is isolated because of the location of the subject Site and is lessened by the material used in creating the driveway extension.
- [24] The Board is satisfied that the driveway extension should be allowed but chooses to continue the prohibition of parking in the Front Yard. The Board finds this for the following reasons:
- a. The driveway extension cannot accommodate the dimensional criteria for off-street parking.

b. There is ample space on the existing driveway for an additional parking space not contained within the Front Yard. The Board finds no reason to allow parking on this portion of the extension nor would it be possible if the Board found otherwise.

[25] Based on the above, it is the opinion of the Board that the proposed development, when subject to the stated conditions, 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.

A handwritten signature in black ink, appearing to read 'R. Handa', written in a cursive style.

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

Board Members in Attendance:

Mr. V. Laberge; Ms. Delfs; Mr. Fleming; Mr. Wall

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. Folkman / 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: December 12, 2018
Project Number: 296086164-001
File Number: SDAB-D-18-196

Notice of Decision

- [1] On November 28, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **November 9, 2018**. The appeal concerned the decision of the Development Authority, issued on November 9, 2018, to refuse the following development:

Construct a Residential Sales Centre for a time period of five years.

- [2] The subject property is on Plan 1822562 Blk 21 Lot 300, located at 2504 - 66 Street SW, within the (RPL) Planned Lot Residential Zone. The Ellerslie Area Structure Plan and The Orchards at Ellerslie Neighbourhood Structure Plan apply 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 submission; and
 - The Appellant’s written submissions.

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.

- [7] At the outset of the hearing, the Presiding Officer indicated that there was an amendment to the *Edmonton Zoning Bylaw* on November 26, 2018; therefore, the Appellant did not need to address the overall Height and Parapet Height of the proposed development.

Summary of Hearing

i) Position of Ms. K. Salm and Mr. M. Yochim, representing the Appellant, Brookfield Residential

- [8] Documents provided to the Board show the overlay of the proposed development, the occupied homes, and where the Residential Sales Centre will be located.
- [9] There will be several houses built over the next few years.
- [10] There is a small parking lot directly north of the Residential Sales Centre that will be paved which will provide for sufficient parking.
- [11] A five year development permit is preferred as they are working with Brookfield communities as well as three home builders and foresee the subject location as the most ideal place for a Residential Sales Centre in The Orchards neighbourhood.
- [12] The subject location is on the northeast corner of the community which is easily accessible for customers.
- [13] Individual home builders will occupy separate trailers and the centre portion of the building will contain the Residential Sales Centre which will also be used for business and residential gatherings.
- [14] Ms. Salm and Mr. Yochim provided the following information in response to questions by the Board:
- a. The five year time period will allow them to provide a business plan for the housing market.
 - b. There are approximately 1,500 homes in The Orchard neighbourhood currently and up to 4,000 homes when the neighbourhood is fully developed.
 - c. Sales Centres are usually built in the garage of a show home or a trailer. Their goal is to create a different experience for the customer with an environment that is not necessarily sales focused and more community focused.
 - d. The main building will be demolished and the individual trailer units will be reused when the development permit expires.

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

[15] The Development Authority did not appear at the hearing and the Board relied on Mr. Yeung's written submission.

Decision

[16] 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 development shall be constructed in accordance with the stamped and approved drawings.
2. This approval is valid for a period of five years and will expire December 13, 2023.
3. All exterior lighting shall be developed in accordance with Section 51 (Reference Section 82).

ADVISEMENT:

1. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

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

1. The minimum required number of parking spaces of 30 per section 54.2, schedule 1(A)(10) is varied to allow a deficiency of 14 parking spaces, thereby decreasing the minimum required number of parking spaces to 16.
2. Section 82.8 is waived to allow the Development Permit for the Residential Sales Centre to be valid for five years (December 13, 2018 to December 13, 2023).

Reasons for Decision

[18] The proposed development, a Residential Sales Centre, is a Discretionary Use in the (RPL) Planned Lot Residential Zone.

- [19] The Board finds that the Residential Sales Centre is necessary in the community undergoing significant development to help foster development in the area.
- [20] Based on the evidence submitted, the Appellant wants to provide a development that adds amenity space to the community which suggests that it is compatible with surrounding uses to be developed in a neighbourhood.
- [21] The location of the Residential Sales Centre was chosen to minimize disruption from traffic in the neighbourhood. The Residential Sales Centre is located on the periphery of the neighbourhood making it compatible with the framework of The Orchards Neighbourhood Structure Plan.
- [22] The Board notes that the overall Height and Parapet Height are no longer applicable to the proposed development due to an amendment to the *Edmonton Zoning Bylaw* on November 26, 2018. The Board can only deal with the remaining two variances regarding parking and the duration of the proposed development.
- [23] The Board finds that the remaining two variances 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 for the following reasons:
- a. The Board finds that certain portions of the area will remain undeveloped to provide additional on-street parking for customers.
 - b. City of Edmonton Subdivision Planning (Transportation) has no concerns with the proposed parking space reduction.
 - c. The Board is satisfied that the combination of on-site parking, the abundance of on-street parking, and the City's position confirms that this variance will not have a negative effect on the neighbourhood.
 - d. The Board is satisfied that the five year time period is not unreasonable under these circumstances.
 - e. The five year time period will allow sufficient time for the complete development of the neighbourhood. The Orchards neighbourhood will see approximately 2,500 additional houses built in the future.
- [24] Based on the evidence submitted, the Residential Sales Centre is a temporary structure that will be demolished and individual trailers will be moved to a different location after the development permit expires.
- [25] The Residential Sales Centre is to support the development of the neighbourhood. There were no concerns submitted by neighbouring property owners or City departments.

[26] 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.

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

Board Members in Attendance:

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CC: City of Edmonton, Development & Zoning Services, Attn: Mr. K. Yeung / Mr. H. Luke

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SDAB-D-18-197

Application No. 290361783-001

An appeal to construct and operate an Automotive and Minor Recreation Vehicle Sales/Rentals building. (Go Auto - Jaguar and Land Rover South), was **TABLED TO JANUARY 23 or 24, 2019.**