



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: October 28, 2016
Project Number: 218943973-001
File Number: SDAB-D-16-250

Notice of Decision

- [1] On October 13, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **September 16, 2016**. The appeal concerned the decision of the Development Authority, issued on September 13, 2016, to refuse the following development:

Construct a Single Detached House with front veranda, rear uncovered deck (3.05m x 5.18m), and Basement development (NOT to be used as an additional Dwelling).

- [2] The subject property is on Plan 2521HW Blk 1 Lot 10, located at 9846 - 162 Street NW, within the RF4 Semi-detached Residential Zone. The Mature Neighbourhood Overlay and Jasper Place Area Redevelopment Plan apply to the subject property.
- [3] The following documents were received and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, the Refused Development Permit, and a Community Consultation; and
 - The Development Officer's written submission;
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Revised plans submitted by the Appellants;
 - Exhibit B – Height calculations submitted by the Appellants; and
 - Exhibit C – A document with a reference to the Jasper Place Area Redevelopment Plan submitted by the Appellants.

Preliminary Matters

- [5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

i) Position of the Appellants, Mr. D. Baum and Mr. B. Woolger (Baum and Woolger Homes Ltd.)

- [8] The Appellants clarified that the plans submitted in “*Exhibit A*” are used to highlight the rooflines of the proposed development. They indicated that the Development Officer measured the Height from the saddle roof midpoint, which makes the Height measurement seem higher than what the Single Detached House really is.
- [9] In their opinion, the Height of the proposed development should be measured to the midpoint of the main roofline and not the saddle roofline.
- [10] They indicated if they removed the dormer, the proposed development would comply with the maximum Height. In their opinion, the dormer does not add to the overall Height of the Single Detached House.
- [11] They indicated that they are willing to comply with the regulations but it is difficult to make adjustments to the elevation plans.
- [12] With regard to the Development Officer’s written submission, the Presiding Officer indicated there is an additional variance to the overall Height, as per section 52.2(c) of the *Edmonton Zoning Bylaw* that states the overall ridge line of the roof shall not exceed 1.5 metres above the maximum permitted Height of the Overlay. The proposed development proposes a ridge line Height of 1.7 metres.

The Appellants agreed with the Development Officer’s variance; however they indicated that the variance of 0.2 metres is minimal and will have no negative impact.

- [13] The Appellants reiterated that it is difficult to change the roof Height without altering the House plans. In their opinion, the Height should be measure to the main roof line.

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

- [14] Mr. Yeung referenced section 52.1(a) and indicated that for this style of roof, the Height is measured to the midpoint of the highest roof. He clarified that the proposed development exceeds the maximum Height of the Mature Neighbourhood Overlay and

the maximum ridge line Height of 1.5 metres. He confirmed that the correct variance is 0.2 metres.

[15] He indicated that a dormer is not defined in the *Edmonton Zoning Bylaw*.

[16] He confirmed that if the Height was measured to the main roof line, the proposed development would comply with the *Edmonton Zoning Bylaw*.

iii) Position of the Appellants

[17] With regard to the Community Consultation required as per section 814.3(24) of the *Edmonton Zoning Bylaw*, the Appellants provided the following:

- a. They went door-to-door and covered every property in the 60-metre notification radius.
- b. They indicated that approximately 50 percent of the neighbours responded back. They confirmed that a neighbour on the corner lot to the north had concerns about the Side Setback.
- c. They conducted and submitted the results of the Community Consultation to the Development Officer before Mr. Yeung's decision.
- d. They showed the plans and the City's documentation to neighbours and left this information in the mailboxes of those that were not home. They explained the Height variance and explained their interpretation of the Height regulation.
- e. The neighbour immediately south did not respond.
- f. They did not contact the Community League.

iv) Position of the Development Officer

[18] Mr. Yeung confirmed that the Appellants' Community Consultation was completed and submitted after 21 days since providing information to neighbours.

[19] He confirmed that the requirement for Community Consultation was met.

[20] He confirmed that the proposed development was going to be refused regardless because the Development Officer cannot vary Height under the *Edmonton Zoning Bylaw*.

v) Position of the Appellants

- [21] The Appellants indicated that the subject Site is across from a schoolyard and there are no privacy issues. In their opinion, the only affected properties are the lots abutting the subject Site and none of those neighbours are opposed to their proposed development.
- [22] They indicated that there are no windows on the third floor, except for one on the stairwell which is used for sun exposure.
- [23] Their plans are based on a Semi-detached House that was approved in an RF3 Zone in the McKernan neighbourhood in 2013. They thought the design of that structure was attractive.
- [24] They referenced policy 1.2 of the Jasper Place Area Redevelopment Plan that states:

The ARP also seeks to enhance other themes that were highlighted throughout the process, including promoting a safe neighbourhood, encouraging more housing choice, supporting vibrant commercial areas, and introducing new open space.

The Jasper Place ARP provides opportunities for residents and landowners to capitalize on the potential of the Jasper Place area and to welcome new investment, businesses and residents that will support a vibrant community.

In their opinion, their proposed development meets this policy.

- [25] They indicated that their client wants an infill development in the core and they believe that this development is aesthetically pleasing, will help to rejuvenate the neighbourhood, and increase property values.
- [26] They referenced an aerial photograph and indicated that there is proposed infill abutting the subject Site to the north and there are other infill developments on the 162 Street and across the Lane.
- [27] With regard to a question from the Board, in their opinion, there will not be a sun shadowing impact to the properties to the north.

vi) Position of the Development Officer

- [28] With regard to a question from the Board with regard to how the Development Officer determined that the proposed development does not meet the General Purpose of the Mature Neighbourhood Overlay, he provided the following:

- a. The Development Officer explained that based on the block face, there is some new infill but the block face is predominately comprised of small bungalows. Based on the plans, the proposed development looks like a 3-Storey House from the street level, which in his opinion is not sensitive scale to the bungalows.
- b. He agreed that based on photographic evidence, it appears that this block is in transition with different housing styles.

vii) Rebuttal of the Appellants

- [29] With regard to the proposed development appearing to be a 3-Storey House from the street, they indicated that there is a 3-Storey condo-style building on the same block face.
- [30] They reiterated that across the street is a park with tall trees immediately east of their Site.

Decision

- [31] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority.
- [32] In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:
1. The maximum Height of 8.6 metres as per section 814.3(13) is varied to allow an excess of 1.3 metres, thereby increasing the maximum Height to 9.9 metres.
 2. The maximum ridge line of the roof of 1.5 metres as per section 52.2(c) is varied to allow an excess of 0.2 metres, thereby increasing the maximum ridge line of the roof to 1.7 metres.

Reasons for Decision

- [33] The proposed development is a Permitted Use in the RF4 Semi-detached Residential Zone.
- [34] The Board accepts the Development Officer's calculations with respect to the variances in Height as per section 52.1(a) of the *Edmonton Zoning Bylaw*.
- [35] Based on the evidence, the Board accepts that the Community Consultation was completed as per section 814.3(24) of the Mature Neighbourhood Overlay.

- [36] When reviewing the Height variances, the Board considered privacy, sunshadowing, and massing with respect to the impact on the neighbourhood and granted the Height variances for the following reasons:
- a. The Board was presented evidence of other developments in the immediate area that are similar in Height and massing and therefore does not find this proposed development out of character in this neighbourhood.
 - b. With regard to privacy issues, the proposed development does not have any windows on the side elevations except for a third floor stairwell window which is used to provide natural sunlight.
 - c. The Board finds that the dormer feature on the (east) front elevation of the proposed development creates the Height variances. However, this dormer feature faces a park and is blocked by a strand of tall trees across the roadway.
 - d. With respect to the dormer, the Board finds that this feature positively impacts the streetscape and diminishes massing by adding aesthetically pleasing articulation to the façade.
 - e. From a sunshadow perspective, the Board finds that there is no impact on the neighbour to the south and there is no opposition from the neighbour to the north.
 - f. With regard to the neighbour with concerns on the Corner Lot to the north, the Board agrees that the vacant lot between the Subject Site and the Corner Lot will eventually be developed, and this proposed development will have no impact on the Corner Lot.
- [37] Based on photographic evidence this block is in transition with a variety of housing forms and Uses.
- [38] The Board agrees with the Appellant that the proposed development meets the purpose of the Jasper Place Area Redevelopment Plan, as per policy 1.2.
- [40] For the above reasons, the Board finds 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.

Vincent Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members Present:

B. Gibson, A. Nagy, G. Harris, K. Thind

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 NW, 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*, 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 the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street NW, 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.



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Date: October 28, 2016
Project Number: 225805449-001
File Number: SDAB-D-16-251

Notice of Decision

- [1] On October 13, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **September 14, 2016**. The appeal concerned the decision of the Development Authority, issued on September 8, 2016, to approve the following development:

**Operate a Major Home Based Business (pet grooming - DOODLE DO'S) -
Expire September 8, 2021.**

- [2] The subject property is on Plan 7721468 Blk 19 Lot 15, located at 3519 - 56 Street NW, within the RF1 Single Detached Residential Zone.
- [3] The following documents were received and form part of the record:
- A written submission by the Appellant;
 - Copy of the Development Permit application with attachments and the Approved Development Permit;
 - The Development Officer's written submission; and
 - An On-line response from a property in opposition to the proposed development.

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.

Summary of Hearing*i) Position of the Appellants, Mr. T. Vaillancourt and Ms. A. Vaillancourt*

- [7] They confirmed that they live directly behind the subject Site.
- [8] They indicated that the notice that they received by the City about the proposed development was too vague.
- [9] They indicated that there are at least 10 grooming businesses in the area.
- [10] With regard to this proposed business, they are concerned about noise from barking, and increased vehicle traffic.
- [11] In their opinion, the parking space in the Rear Yard is an eyesore and indicated that there is no parking in the front.
- [12] With respect to questions from the Board, the Appellants provided the following:
- a. There are already noise issues with dogs barking because there is a greenspace nearby used by pet owners. As well, there is noise from a nearby day care. There are already traffic issues and a bus route and convenience store nearby.
 - b. With regard to the proposed business being used at the front door and not the rear, they were unaware of where the business activity would take place.

ii) Position of the Development Officer, Mr. B. Liang

- [13] He indicated that pet grooming activities includes washing and drying both of which are performed indoors. He indicated that the two owners of the business both reside at the Dwelling and there are no outside employees.
- [14] He indicated that pets are expected to be groomed one at time, therefore in his opinion; vehicle traffic will be contained and will not be noticeable. Two business related visits are permitted at one time to allow one pet to be groomed, while another client comes to pick up or drop off their pet.
- [15] He confirmed that pets are not allowed in the Rear Yard, except “to do their business” while on a leash and supervised.
- [16] He confirmed pets are not allowed to be housed overnight and the business is prohibited from boarding pets.
- [17] He confirmed he granted the parking variance because as pick up and drop off of dogs will be done on 56 Street, no permanent parking spaces are required.

- [18] With regard to Condition #10 of the Development Permit that states there shall be no outdoor business activity, he agreed that technically pets “doing their business” could be interpreted as outside activity.
- [19] With regard to the Discretionary aspect of this Use, he indicated that each Home Based Business must be evaluated on a case by case basis, since they come in multiple forms.
- [20] With regard to Condition #8 that restricts the Business from generating vehicular traffic that is not characteristic of the Zone, he indicated that same condition restricts overlapping visits. In his opinion, this Business will not create any more traffic than what is already in the neighbourhood.
- [21] With respect to a question from the Board on restricting overlapping visits, how would it be enforced if a client shows up the same time as another client, he indicated that the business owners are encouraged to abide by the conditions. In his view, this is a workable and reasonable requirement.
- [22] He confirmed that he did not conduct any search of existing businesses in the area because there are no restrictions on the threshold in the *Edmonton Zoning Bylaw*.
- [23] He indicated that this business only operates two days per week but he did not restrict this as a condition.
- [24] He confirmed that this specific property has not had any concerns or complaints prior to this application.

iii) Position of the Respondents, Ms. T. Spokes and Ms. T. McKilligan

- [25] Ms. Spokes indicated that she has been a pet groomer for 13 years and currently owns a commercial pet grooming business on a commercial property.
- [26] The respondent wants to conduct the grooming business in her home in order to spend more time with her children.
- [27] In her opinion, there is approximately 250 pet groomers across Edmonton and cater to approximately one business for every 4000 people.
- [28] She indicated that her business specializes in a specific dog breed and they are well-mannered.
- [29] With regard to vehicle traffic, in her opinion vehicle traffic is constant and no one would even notice if someone visited her House.

- [30] She indicated that it takes approximately 1.5 hours to groom a dog and on average she will not groom more than 4 or 5 dogs per day. She indicated that in extraordinary circumstances she might groom up to 8 dogs in one day.
- [31] She indicated that she plans to operate her Home Based Business 2 days per week.
- [32] She indicated she is aware of another Home Based Business approved in the neighbourhood because she received a Notice.
- [33] She indicated that she owns 3 dogs and 2 cats at her House. She agreed that there could potentially be 7 pets at her House at once. She indicated that her pets rarely spend anytime outside and are indoor pets.
- [34] She indicated that she has never transferred clients' pets between her commercial business and her House.
- [35] With regard to concerns about noise from her neighbours, she reiterated that the pets will not be outside and in her opinion, any noise from pets is caused by there being an off leash dog park nearby. She indicated that none of her neighbours across 56 Street have concerns with her proposed business.
- [36] She indicated that there is a lot of on-street parking available.

The Board had one additional question for the Development Officer with regard to there being any regulations in the Edmonton Zoning Bylaw about the number of pets allowed.

Mr. Liang confirmed that there are none.

iv) Rebuttal of the Appellants.

- [37] They stated that there is a restriction under the Animal Control Bylaw with regard to the number of pets allowed.

The Board clarified that the Animal Control Bylaw is outside their jurisdiction.

- [38] The Appellants had nothing further to say.

Decision

- [39] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority, subject to the following CONDITIONS:

1. This Development Permit may be revoked or invalidated, at any time, if the Major Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes.
2. The Major Home Based Business shall be operated by a resident of the Dwelling on the property (Section 7.3.7).
3. The Major Home Based Business must be secondary to the residential Use of the building (Section 7.3.7)
4. A minimum of 1 parking space [located in the rear yard] shall be used for the purpose of accommodating the vehicles of residents and visitors in connection with the Single Detached House (Reference Section 54.1.1.c, 54.2.1.a, and 54.2.4).
5. There shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling (section 75.1)
6. There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings (section 75.2)
7. 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). All client visits shall be scheduled by appointment only between noon to 8:00 PM, and no two appointments shall overlap. No dedicated waiting room for this business shall be created inside the dwelling.
8. There shall be no non-resident employees or business partners working on site.
9. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings (Section 75.5).
10. The Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings (Section 75.6).
11. A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling (Section 75.10).
12. There shall be a maximum of two household pets belonging to the clients of this business on the property at any time.
13. Household pets belonging to the clients of this business shall remain inside the Dwelling at all times, except when the client is dropping off or picking up their

household pet on their scheduled appointment, or to allow dogs belonging to clients to perform bodily functions in the rear yard.

14. No household pets belonging to the clients of this business shall remain on the property overnight.

15. This approval is for a 5 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 October 28, 2021.

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

1. The minimum number of off-street parking spaces required of 3 as per Section 54.2, Schedule 1(A)(3) and Schedule 1(A)(8) is varied to allow a deficiency of 2 parking spaces, thereby decreasing the minimum number of off-street parking spaces required to 1.

Reasons for Decision

[41] The proposed development, a Major Home Based Business is a Discretionary Use in the RF1 Single Detached Residential Zone.

[42] The Board must determine if the Discretionary nature of this proposed development is reasonably compatible with the surrounding properties and the neighbourhood. The Board finds that this Major Home Based Business is reasonably compatible for the following reasons:

- a. The Board finds that there is an off-leash dog park in close proximity to the subject Site and the nature of the proposed Business coincides with the use of this park.
- b. The Board finds that the business activity will be done through the front entrance of the subject House.
- c. Based on photographic evidence, there is an existing fence and temporary structure in the Rear Yard of the subject Site. The Board finds that the existing fence and temporary structure will provide some screening when pets perform bodily functions in the Rear Yard.
- d. The Board did not receive any planning reasons specific to this neighbourhood that this proposed development will cause traffic and parking issues.
- e. Further, Woodvale Road is a collector road that has traffic volumes associated with being a collector road and this proposed development will not impact the existing traffic flow.

- [43] The Board accepts the conditions attached by the Development Officer and finds that the business activity with the conditions will mitigate any impact on the neighbourhood.
- [44] For the above reasons, the Board finds 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.

Vincent Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members Present:

B. Gibson, A. Nagy, G. Harris, K. Thind

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 - 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.
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SDAB-D-16-252

An appeal to operate a Major Home Based Business (Filling Sandbags – Sandbags.ca located at 1951 – 232 Avenue NE was tabled to NOVEMBER 23 OR 24, 2016