



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: November 10, 2016
Project Number: 224784576-001
File Number: SDAB-D-16-268

Notice of Decision

- [1] On October 27, 2016, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **October 3, 2016**. The appeal concerned the decision of the Development Authority, issued on September 21, 2016, to refuse the following development:

Construct exterior alterations to a Single Detached House (driveway extension), existing without permits

- [2] The subject property is on Plan 1026123 Blk 11 Lot 28, located at 4304 - WESTCLIFF LANDING SW, within the RSL Residential Small Lot Zone. The Windermere Area Structure Plan and the Windermere 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 refused Development Permit; and
- The Development Officer’s written submissions.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – Photographs of the subject Site and the neighbourhood.

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*, R.S.A 2000, c. M-26.

Summary of Hearing

i) Position of the Appellant, Mr. L. Priemaza

- [8] Mr. Priemaza reviewed Section 54.1(4) of the *Edmonton Zoning Bylaw* and understands that only one driveway is allowed.
- [9] His developer may have interpreted the Bylaw that if the driveways were connected, it was considered as one driveway.
- [10] He referred to the photographs provided which show that there are other properties in the area that have two driveways that do not lead to separate doors.
- [11] In his opinion, the existing driveway has an H-shape and he believes it is a continuous driveway.
- [12] There are other driveways in this neighbourhood that are the same design as his driveway.
- [13] The builder was asked to pour the driveway the same as the show home the Appellant viewed.
- [14] With regard to the Development Officer's submission that there is not enough landscaping in the front, he stated that fifty percent of the front is driveway and 50 percent is landscaping.
- [15] The existing driveway fits in with the neighbourhood and does not negatively impact the neighbourhood.
- [16] When he completed his landscaping, he became aware that what is existing differs from what was approved. He applied for an exterior alteration permit in order to get his landscaping deposit back.

- [17] Upon questioning from the Board, he agreed that there are two entrances to the garage.
- [18] He confirmed that the garage can accommodate four vehicles, two side by side and two in tandem.
- [19] He confirmed that there is sufficient space to maneuver in and out of each garage door.
- [20] He could not confirm if the side garage door is wider than permitted in the original plan.
- [21] With regard to the landscaping area not being a driveway, he stated that he has since landscaped this area closest to the sidewalk and added shrubs to the u-shaped area by the house.
- [22] Depending on the outcome of the appeal hearing, he intends to add planting on the south side of the garage.
- [23] There are shrubs planted in the u-shaped area under the window.
- [24] He confirmed that there is room for vehicles on the street by the u-shaped area. Vehicles are often parked there as there is a lot of construction taking place in the neighbourhood.
- [25] He confirmed that there are other properties in the neighbourhood that have large driveways that are similar to his that do not have landscaping in the front yard.
- [26] He confirmed that there are no rear lanes in the neighbourhood, just walking or bike paths.
- [27] He confirmed that all the properties have front drive garages.
- [28] He stated that the other properties with similar driveways in the area are within two blocks of his property.
- [29] The Board referenced the Development Officer's pictometry photographs showing two cars parked on the driveway and asked whether the driveways of the house next to the subject Site and across the street were the same width as his driveway. He stated that both of those driveways are wider and are approximately 11 metres wide and some that are more than 11 metres wide.

- [30] He confirmed that the Plot Plan does not show the cut out u-shape and he could not confirm if the developer applied for that area.
- [31] He was asked to clarify and compare the proposed width of the driveway on the original plans to what is existing now. He stated that the builder was hired to pour the driveway exactly the same as the show home and could not confirm the two widths.
- [32] He confirmed that vehicles that park on the street block the front landscaping area and occasionally the driveway. However, he can still maneuver his vehicles out of the garage and off the driveway when this happens.
- [33] He confirmed that if the driveway was not as wide he could still get vehicles in and out of the garages.
- [34] He confirmed that he would be able to park three vehicles side by side in the double garage door section. It would be tight but it could be done.
- ii) *Position of the Development Officer, Mr. J. Folkman, accompanied by Ms. M. Ziober*
- [35] The proposed application was for a driveway extension, existing without a permit, which was different from the approved Development Permit.
- [36] The previous Development Permit was approved for a single y-shaped driveway.
- [37] Section 54.1(4) of the *Edmonton Zoning Bylaw* allows for a maximum of one Driveway. There shall be a minimum width of 3.1 metres and a maximum width of 3.1 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage. The existing driveway does not comply with the *Edmonton Zoning Bylaw*.
- [38] There is no unnecessary hardship to allow a variance for the existing driveway as a single driveway was approved with the proposed house plan.
- [39] Under Section 54.2(4)(a) of the *Edmonton Zoning Bylaw*, the number of parking spaces available with the minimum width of 2.6 metres is 3.
- [40] The house could contain a three car garage if it was designed that way.
- [41] The allowable width exceeds the maximum allowed by 2.0 metres.

- [42] Allowing the variance would unduly interfere with the amenities of the neighbourhood because vehicles are able to park across the entire front of the house and possibly shine the lights onto neighbouring properties.
- [43] Upon questioning from the Board, he confirmed that there are other extended driveways in the area; however, they do not look at those driveways unless a neighbour is complaining.
- [44] He believes that the show home was approved without a driveway and does not believe an extended driveway would get approved.
- [45] He confirmed that on-street parking in front of the subject Site was not a concern. The issue is that only one driveway is allowed on the property so property owners do not pave their whole driveway.
- [46] He confirmed that if there was one access they could still park one vehicle sideways on the driveway and still get in the garage.
- [47] He confirmed that joining the driveway in the middle does not make it one driveway. There are two garages with two separate entrances which makes it two driveways.
- [48] He confirmed that only one driveway is allowed from the front street.
- [49] He was asked if having one y-shape driveway would look better than a landscaped area, he stated that it is up to the person how it will look as cars could be parked there year round.
- [50] With regard to whether or not having two landscaped areas is more pleasing, Mr. Folkman stated that landscaping was not considered as the application was for a driveway.
- [51] He confirmed that after speaking with his colleagues he was unaware of any complaints or issues with this type of driveway.
- [52] He confirmed that the City is moving away from monolithic driveways; however the issue is the two entrances.
- [53] Ms. Ziober stated that having one driveway allows for space on the street to park between houses. Property owners are encouraged to park on their own property.

- [54] The subject Site is a challenge with the driveway because the garages are separated.
- [55] The Bylaw does not outline how property owners can construct the entrance ways and where they put the doors on the garage.
- [56] The original approved driveway meets the requirements for a single driveway and the y-shape allows entry into both garages and still allows for on-street parking.
- [57] Sustainable Development has received several applications for driveway extensions. They try to help property owners modify their Development Permit application so they can maintain one driveway with a walkway.
- [58] They try to follow what the Bylaw and landscaping requirements are as outlined in the *Edmonton Zoning Bylaw*.
- [59] In response to a question, the Development Officer stated that given that the term “walkway” is undefined in the *Edmonton Zoning Bylaw* and that the front stair landing is 4.0 metres, the excess of 2 metres could be considered a walkway.
- [60] The issue is the large cemented areas are being used as parking spaces, they can be unsightly, and can cause an excess of vehicles on the property.
- [61] The property owner parks his truck in the middle on the driveway which is not necessary; therefore, the middle area could be landscaped.
- [62] The Presiding Officer stated that the design of the driveway covers most of the middle area already.
- [63] The Board questioned as to what impact does parking 4 to 5 vehicles inside have as it is taking parking off the street? Ms. Ziober agreed with the Board it could lessen the requirement for street parking.
- [64] Ms. Ziober stated that this is a unique property with a large garage and there are several ways to accommodate parking.
- [65] She clarified that they do not regulate on-street parking; however, the minimum parking space length is 5.5 metres.
- [66] In the 2012 permit, there were 2 proposed driveways and the Applicant was told to modify the permit.

- [67] There is a challenge with extended driveways having more than one entrance rather than having a three or four car garage which may have less of an impact.
- [68] She confirmed that landscaping could be done where the truck was parked on the driveway but would be better with two separate driveways.
- [69] She confirmed that if they allow the truck to be parked on the driveway this will encourage other property owners to do the same thing.
- [70] There are provisions in the *Edmonton Zoning Bylaw* that there shall be no parking in the Front Yard.

iii) Rebuttal of the Appellant

- [71] He did not believe he would be allowed to remove the u-shaped area on the driveway to make it two separate driveways.
- [72] In his opinion, the *Edmonton Zoning Bylaw* is vague regarding one driveway with 2 entrances.
- [73] There is on-street parking in front of his property. The 3.3 metre width of u-shaped area in front of the house is at the property line and is over 2 metres back from the curb.
- [74] In his opinion, parking on the driveway does not have a negative impact on the neighbours because his vehicle is not parked there for hours.
- [75] In response to a question, regarding if the middle part of the driveway was not there, he stated that if this portion was not there it would not impact him as the main design points of the driveway is the two separate garage areas which best compromises that u-shaped portion and is used temporarily used.

Decision

- [76] The appeal is ALLOWED and the decision of the Development Authority REVOKED. The development is GRANTED as applied for to the Development Authority. In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

- a. The maximum allowable area hardsurfaced for a Driveway of 9.3 metres as per Section 54.1(4) is varied to allow an excess of 2.0 metres, thereby increasing the maximum allowable to 11.3 metres.
- b. Section 54.2.2.e.i is waived to allow Parking spaces to be located within a Front Yard.

Reasons for Decision

- [77] The proposed development is Accessory to a Permitted Use in the RSL Residential Small Lot Zone.
- [78] The subject Site is a corner lot and the unique design of the house has garage access doors in two different directions.
- [79] Section 6.1(26) of the *Edmonton Zoning Bylaw* states that a Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.
- [80] Given this unique lot, the Board finds there is only **ONE** wider Driveway existing which accommodates the access to both garage entrances. Thus, no variance is required to a portion of Section 54.1(4) of the *Edmonton Zoning Bylaw*.
- [81] The Board finds that the section of Driveway in front the garage exterior wall forms part of the Driveway and therefore waives Section 54.2.2.e.i of the *Edmonton Zoning Bylaw*.
- [82] In considering the variance of Section 54.1(4)(b), the maximum width of the driveway, the Board finds that a portion of the driveway is deemed to be a walkway to the front door entrance.
- [83] In lieu of the term “walkway” being undefined, the Board finds that granting the 2 metre variance is reasonable.
- [84] There are two landscaping areas directly adjacent to the wall of the garage and one that separates the curb from the concrete portion of the driveway. The Board finds that this will mitigate any potential negative effects of a large concrete slab.
- [85] Based on the photographic evidence provided, this type of driveway is characteristic of the neighbourhood.

- [86] No letters of opposition were received and no one appeared in opposition at the hearing.
- [87] The Board finds the proposed development will not interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

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*, 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, 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: November 10, 2016
Project Number: 224117386-001
File Number: SDAB-D-16-269

Notice of Decision

- [1] On October 27, 2016, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **September 27, 2016**. The appeal concerned the decision of the Development Authority, issued on September 23, 2016, to refuse the following development:

Construct a 2 storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor, 8.69 metres by 14.94 metres) and to demolish the existing Garage with Carport

- [2] The subject property is on Plan 635KS Blk 16 Lot 41, located at 7373 - Saskatchewan Drive NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay and the McKernan/Belgravia Station 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 Development Permit application with attachments, proposed plans, and the (approved /refused) Development Permit;
- The Development Officer’s written submissions; and
- Online response.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – Photographs submitted with the appeal
- Exhibit B – Google map

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*, R.S.A 2000, c. M-26.

Summary of Hearing*i) Position of the Appellant, Mr. L. Wittenberg*

- [8] It was Mr. Wittenberg's opinion that the proposed Garage Suite, which is a Discretionary Use in the RF1 Single Detached Residential Zone, is reasonably compatible for this neighbourhood and he addressed the required variances.
- [9] He purchased this 1949 vintage house approximately one year ago and intends to demolish the existing one storey house, reside in the proposed Garage Suite and build a new two storey house on this site.
- [10] Mr. Wittenberg referenced a photograph of the subject site, marked Exhibit A, to illustrate that there is an existing 1 metre drop from the front of the existing house to the street while the rear portion of the lot is relatively flat.
- [11] The photographs also illustrate the proposed location of the garage and the neighbour's garage across the rear lane.
- [12] Section drawing S001 was referenced to show that the grade of this lot rises approximately 1 metre to the front of the existing house while the rear of the lot is relatively flat.
- [13] It was his opinion that it would have been more appropriate for the Development Officer to use an alternate method to calculate Grade by using the rear portion of the lot adjacent to the siting for the proposed Garage instead of the average Grade of the lot.

This together with the planned future development of a two storey house would make the proposed development comply with the Height requirements of the Edmonton Zoning Bylaw.

- [14] The design includes a large eyebrow shaped dormer which cannot be classified as a dormer according to the *Edmonton Zoning Bylaw*. Therefore, the building Height has to be calculated from the upper dormer roof.
- [15] The Floor Area of the proposed Garage Suite is 98.4 square metres and exceeds the maximum allowable size of 60 square metres.
- [16] The size of this lot allows for the development of a relatively large three stall garage that complies with all of the development regulations for an Accessory building.
- [17] They would like to take advantage of using the entire second storey of the garage for the suite which results in an excess in the maximum allowable Floor Area.
- [18] The size of the suite could be reduced to the centre area of the second floor to comply with the Floor Area requirements but the preferred option would be to develop the area above the third parking stall as the bedroom.
- [19] The appearance and size of the proposed Garage would remain the same with or without the development of the entire second floor.
- [20] The proposed Garage Suite will remain as a one bedroom suite with a maximum of two residents.
- [21] The neighbours were consulted in June, 2016 and letters of consent were submitted as part of the application package.
- [22] The neighbour who resides across the rear lane was happy with the proposed design but expressed some concern that the proposed garage was too close to the rear property line and would like the garage to be moved further into the rear yard.
- [23] The garage could be pulled further into the rear yard to address this concern but it would result in the removal of some mature trees which they are trying to avoid. The wall of the garage is 8 feet from the rear property line which should accommodate the access and egress of vehicles in the rear lane without any difficulty.

- [24] One other property owner expressed concern about the development of rental units in Belgravia but was otherwise happy with the proposed design.
- [25] It was his opinion that the concern raised by the Belgravia Community League is not relevant because the garage will be located 25 feet from the corner of the site and there are existing large mature shrubs in the area. Therefore, the proposed garage will not exacerbate any problems with sight lines.
- [26] Photographs were referenced to illustrate that there are large mature trees in this area that will screen the proposed garage from adjoining properties and address any overlook problems.
- [27] There is only one window that will overlook the house on the neighbouring property to the south but it is located in a stairwell. The one window located on the second storey of the east elevation will overlook the existing garage located across the rear lane.
- [28] The proposed Garage Suite does not have any balconies on the second storey.
- [29] The majority of the proposed garage will overlook the existing garage on the property across the rear lane. The one window on this elevation is located in the common living area of the proposed suite.
- [30] The comments of the Belgravia Community League are inaccurate because there is a single rear lane located behind his property.
- [31] If the eyebrow dormers that are included in the design could be defined as dormers, the Height requirement would be satisfied.
- [32] Adjustments could be made in order to comply with the definition of a dormer.
- [33] He estimated that three quarters of the lot is at grade with the front portion of the lot dropping off to the sidewalk. Mr. Wittenberg thought that the top portion of the proposed Garage would be seen from the front sidewalk.
- [34] The proposed eyebrow dormer is 24 feet long and may not comply with the maximum allowable width according to Section 814.3(15) of the *Edmonton Zoning Bylaw*.

ii) *Position of the Development Officer, Mr. George Robinson*

- [35] The property is located within the McKernan-Belgravia Station Area Redevelopment Plan with the goal of allowing small scale infill (secondary suites, garden suites, garage suites, duplexes, semi-detached, row housing and apartment housing with up to four dwelling units per site).

- [36] Based on the height of the existing Principal Dwelling, a Garage Suite cannot exceed 6.22 metres and a height of 6.62 metres is proposed. Even though there are plans to demolish the existing house and build a two storey house on this site, a decision has to be made based on the height of the existing house.
- [37] Section 52(1)(a) of the *Edmonton Zoning Bylaw* states in part that a Development Officer shall determine building Height for a gable roof by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the end of the eave (intersection of the fascia board and the top of the roof sheathing, or less, in accordance with Section 44), and the top of the roof.
- [38] The proposed Accessory building complies with all of the development regulations in a RF1 Single Detached Residential Zone but the proposed Garage Suite exceeds the maximum allowable size of 60 square metres.
- [39] The regulations for Garage and Garden Suites are currently under review.
- [40] It was his opinion that some design changes could be made in order to comply with the Floor Area requirements.
- [41] Mr. Robinson referenced Exhibit B, a Google map, to illustrate the subject site and the surrounding area. He noted that there are a significant number of mature trees and vegetation in the immediate area and the Appellant's wish to retain as many mature trees as possible on the subject site. It was his opinion that this, in conjunction with the siting of the proposed garage, will eliminate any problems with overlook into adjacent properties.
- [42] Mr. Robinson provided several conditions for the Board to consider if the proposed development was approved.
- [43] In most instances, Grade is determined by using the method outlined in Section 52.4(b) of the *Edmonton Zoning Bylaw*. However, Section 52.4(d) allows a Development Officer to determine Grade by using another method and this method has been used in other development application reviews although it is not normal practice.
- [44] It was his opinion that the proposed Garage and Garage Suite will not be visible from the front street.
- [45] It is not unusual to have large grade differentials on larger lots in older neighbourhoods.

- [46] A Development Permit application for a new house on this lot would require the development of a lot grading plan.
- [47] It was his assumption that the dormer size was regulated in the Mature Neighbourhood Overlay in an attempt to reduce the massing impact of a second storey.
- [48] He acknowledged that the rear portion of the subject lot is relatively flat and that it would not be unreasonable to calculate Grade from points closer to the proposed location of the garage.
- [49] He acknowledged that the proposed Height is not out of character with other existing two and one half storey houses in this neighbourhood.
- [50] The proposed development is a high quality aesthetically pleasing design for a one bedroom Garage Suite on a large lot which will have a negligible impact on the massing of this site.
- [51] The inclusion of the eyebrow dormer will not change the overall Height of the proposed structure.
- [52] It was his opinion that compliance with the maximum allowable Floor Area for the Garage Suite may result in some design articulation changes.
- [53] Privacy and overlook onto neighbouring properties is not a concern given the number of large mature trees on the subject site and surrounding properties.
- [54] City Council is currently reviewing the development regulations contained in the Mature Neighbourhood Overlay which is the only section of the Bylaw that references dormers. It was his opinion that this regulation was not intended to be applied to Garage Suites.

iii) Rebuttal of the Appellant

- [55] The regulations for Garage Suites are currently being reviewed by City Council. One of the recommendations is an amendment for the calculation of Grade.
- [56] The eyebrow dormers will be included in the design for the new two storey house.
- [57] The Architect has used this design for many craftsman style houses in other municipalities and the eyebrows have always been defined as dormers.

Decision

[58] 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/ADVISEMENTS:

1. This Development Permit authorizes the development of a 2 storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor, 8.69 metres by 14.94 metres) and to demolish the existing Garage with Carport. The development shall be constructed in accordance with the stamped and approved drawings.
2. Immediately upon demolition of the building, the site shall be cleared of all debris.
3. Only one of a Secondary Suite, a Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling.
4. A Garage Suite shall not be allowed within the same Site containing a Group Home or Limited Group Home, or a Major Home Based Business and an associated principal Dwelling, unless the Garage Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business.
5. Notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Garage Suite shall not exceed three.
6. The Garage Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision.
7. All access locations and curb crossings shall have the approval of the City Transportation prior to the start of construction (Reference Section 53(1)). PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Curb Crossing Permit application fee of \$50.00. Vehicular access shall be from the rear lane only.
8. WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2)

ADVISEMENTS:

1. Lot grades must comply with the *Edmonton Drainage Bylaw 16200*. Contact Drainage Planning and Engineering at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

2. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.
3. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx
4. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw* 12800.
5. 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 including, but not limited to, the *Municipal Government Act*, the *Safety Codes Act* or any caveats, restrictive covenants or easements that might be attached to the Site.

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

1. The maximum allowable Height of 6.22 metres as per Section 87.2(a)(i) is varied to allow an excess of 0.40 metres, thereby increasing the maximum allowed to 6.62 metres.
2. The maximum allowable Floor Area of 60 square metres as per Section 87.3(a) is varied to allow an excess of 38.4 square metres, thereby increasing the maximum allowed to 98.4 square metres.

Reasons for Decision

[60] A Garage Suite is a Discretionary Use in the RF1 Single Detached Residential Zone, pursuant to Section 110.3(3) of the *Edmonton Zoning Bylaw*.

[61] The proposed two-storey Garage complies, except for Height, with all of the other development regulations for an Accessory Building in the RF1 Single Detached Residential Zone.

[62] The Development Authority has reviewed this application and has considered all of the impacts of the development of a Garage Suite in a Single Detached Residential Zone.

- [63] The Board accepts the findings of the Development Authority that the proposed Garage Suite will not create any privacy or overlook issues for adjacent property owners because of the existing mature trees and landscaping on the subject site and adjacent sites and because of the proposed setbacks.
- [64] The Board accepts the calculation of Height provided by the Development Authority and grants the required variance for the following reasons:
1. Section 52(1)(a) of the *Edmonton Zoning Bylaw* states in part that a Development Officer shall determine building Height for a gable roof by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the end of the eave (intersection of the fascia board and the top of the roof sheathing, or less, in accordance with Section 44), and the top of the roof. Therefore, the Height of the proposed Garage containing a Garage Suite is 6.62 metres.
 2. Section 87.2(a)(i) of the *Edmonton Zoning Bylaw* states that the Height of a Garage containing a Garage Suite (above Grade) shall be 6.5 metres or up to 1.5 metres greater than the Height of the Principal Dwelling as constructed at the time of the Development Permit Application, whichever is lesser, where the building containing the Garage Suite has a roof slope of 4/12 (18.4 degree) or greater.
 3. The excess in maximum allowable Height is the result of the method used to calculate the Grade of this lot. The Board reviewed and considered changing the method to calculate average Grade which could have eliminated the Height variance, but would not have changed the actual peak Height of the proposed development and confirms the average Grade calculation provided by the Development Officer.
 4. The Board accepts the evidence provided that this lot slopes significantly from back to front and the sidewalk along Saskatchewan Drive is lower than the front property line. Therefore, it will be difficult, if not impossible, to see the proposed Garage containing a Garage Suite from the front street.
 5. The inclusion of the eyebrow dormer feature will not impact the overall Height of the structure and the calculation of Height to the highest point of the roof line, above the eyebrow dormer, does not change the overall Height, size or massing of the proposed development. The eyebrow dormer does mitigate the massing effect that one larger roof area may create. As a dormer is not defined in the *Edmonton Zoning Bylaw*, the Board accepts the Development Officer's determination that it is the highest roof component when considering the Height calculation.

- [65] Even though the proposed Garage Suite exceeds the maximum allowable Floor Area by 38.4 square metres, it is only a one bedroom suite and will not increase traffic, noise or any other occupancy issues.
- [66] This is a large lot that can accommodate the development of a large three stall Garage that complies with all of the development regulations for an Accessory Building. The Board was not provided with any planning reasons to conclude that the development of a Garage Suite on the second storey would materially impact the neighbourhood.
- [67] The Board acknowledges the online response provided by the Belgravia Community League, but finds that the concern was not directly related to the required variances.
- [68] The Board concludes that the proposed development is reasonably compatible with the neighbourhood and is of the opinion that granting the required 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.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

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*, 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, 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.



EDMONTON
TRIBUNALS

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SDAB-D-16-270

Application No. 152981405-001

An appeal by Stanley Boonstra to comply with a Stop Order to cease the use of General Contractor Services and remove all related materials from the site was **TABLED TO NOVEMBER 16 or 17, 2016.**