

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

Date: October 23, 2015
Project Number: 168072825-001
File Number: SDAB-D-15-232

Notice of Decision

This appeal dated September 11, 2015, from the decision of the Development Authority for permission to:

Construct twelve (12) Row House buildings with a total of 58 Dwellings

on Plan 1221444 Blk 5 Lot 47, located at 130 Hawks Ridge Boulevard NW, was heard by the Subdivision and Development Appeal Board on October 8, 2015.

Summary of Hearing:

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.

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

The subject Site is zoned RF5 Row Housing Zone.

The development permit application was approved, subject to conditions, and with the following variances:

- 1) The minimum required Separation Space between opposing Principal Living Room Windows was reduced from 15m to 13.8m between buildings 5 and 8, and between buildings 4 and 7;
- 2) The Private Outdoor Amenity Areas for buildings 1, 2 and 3 are located in the Front Yard abutting Hawks Ridge Boulevard; and
- 3) Not all Dwellings have entrance doors facing the public roadway.

The approved permit was subsequently appealed by a neighbouring property owner.

Prior to the hearing the following information was provided to the Board, copies of which are on file:

- A written submission received from Sustainable Development;
- A copy of a letter regarding the address of the subject Site;
- A copy of the Drainage Assessment;

- A copy of Fire Services Response;
- A copy of a memorandum from Transportation Services; and
- A copy of comments from Waste Management.

The Board heard from Mr. Huang, the Appellant, who made the following points:

1. He read his reasons for the appeal from page 3 of the Agenda.
2. He is concerned with:
 - a. more people moving into the community;
 - b. an excess of traffic;
 - c. parking issues;
 - d. access along Hawks Ridge Boulevard;
 - e. the number of Dwellings on the subject Site;
 - f. dust from the construction affecting his property; and,
 - g. the proximity of new Dwellings on the northeast corner of the subject Site to his home.

The Board asked Mr. Huang to refer to the proposed plans. With the assistance of the Development Authority, each of the three variances were identified and explained. Mr. Huang made the following comments:

1. With regard to the variance in the Separation Space, he had no concerns.
2. With regard to the Private Amenity Space being in the front yard along Hawks Ridge Boulevard instead of the Rear Yard, he had no concerns.
3. With regard to the entrances of the Row House facing the interior roadway rather than the public roadways, he had no concerns.

The Board then heard from Mr. Bacon, representing the City of Edmonton's Sustainable Development Department, who made the following points:

1. He confirmed that the proposed development meets the Density requirement, required Setbacks, and that access to the subject Site was approved by Transportation Services.
2. This type of development has a strong street presence, given the single access in and out of the Site.

In response to questions by the Board, Mr. Bacon provided the following information:

1. The notification date starts when notice of the decision is advertised in the Edmonton Journal. In this case, the notice was advertised on September 1, 2015, so the 14 days notification period would have ended on September 14, 2015. Since the appeal was filed on September 11, 2015, the Appellant met the legislated filing requirements.
2. He confirmed that the subject Site has 126 on-Site Parking spaces, 9 visitor Parking spaces, and Parking available on the interior roadway. The proposed development requires 108 Parking spaces.

3. Each Dwelling will have two Parking spaces and the visitor Parking will be identified by signage.
4. He confirmed that the conditions listed in the approved permit are standard conditions and that the Landscaping condition is the only one that was added specific to this development.
5. He requested treed screening on the west side of the property in addition to the proposed Landscaping due to the 7.5 metres Setback on the west property line from abutting residences.
6. The north and east sides of the proposed development meet the required Setbacks. Along these property lines, the development abuts a public utility lot with a drainage swale and a multi-use trail, not the adjacent residential properties.

The Board then heard from Ms. Warkentine, who made the following points:

1. She lives south of the subject Site and opposes the proposed development.
2. She expressed the following concerns:
 - a. The required on-Site Parking is insufficient and people will park on Hawks Ridge Boulevard.
 - b. During winter, windrows will limit parking on Hawks Ridge Boulevard.
 - c. Additional Landscaping will not be added on the east side of the property as there is only a drainage swell in the public utility lot.
 - d. There will only be a chain link fence surrounding the subject Site.
3. Parking is already under pressure even though Hawks Ridge Boulevard is wide enough to park on both sides of the road.
4. During the evening, Hawks Ridge Boulevard is full of vehicles, but is not as congested during the day.

The Board then heard from Mr. Stuchenko who made the following points:

1. He lives directly across from the subject Site and opposes the proposed development.
2. He supports the design of the proposed development with the front doors facing Hawks Ridge Boulevard.
3. His only concern is the Private Amenity Space being located in the Front Yard as there will be no fence in the Front Yard and this could be a safety issue for children playing.
4. There is already an excess of traffic in the area without the proposed development being constructed.
5. He is concerned that during winter, windrows will narrow the roadway.

The Board heard from Ms. Ver Eecke and Mr. Anderson, representing the Respondent, Norr Architects Engineers, who made the following points:

1. The RF5 Row Housing Zone provides for more housing choices than Single Family Dwellings.
2. The Height of the proposed development was kept below the maximum allowable 10.0 metres.

3. There will be no more than six units per Row House building.
4. The development meets and exceeds requirements for visitor and residential Parking.
5. The existing area transportation network can meet the needs of this additional development.
6. Transportation Services is in support of the proposed development.
7. There will be a chain link fence along the north and east side of the public utility lot.
8. Additional trees will be planted on the west side of the proposed development for privacy screening.

In response to questions by the Board, Ms. Ver Eecke and Mr. Anderson provided the following information:

1. The variances make the project a Class B permit.
2. In their opinion, the chain link fence with additional fencing is more secure and aesthetically pleasing due to the 7.5 metres Setback on the east side of the proposed development. There is only 1.5 metres between the east property line of the subject Site and the buildings.
3. She provided the Board with a revised landscaping plan that had not yet been reviewed or approved by the Development Authority, marked "Exhibit A".
4. Should the Board decide to impose a condition for additional Landscaping on the eastside of the property, they would be agreeable to working with the Development Authority to meet such a condition.

The Board asked Mr. Bacon to answer further questions, and he made the following points:

1. If the Board wished to impose a condition for additional Landscaping along the east side of the development, it could add a condition similar to the one applicable to the west side - that the development be approved on submission of an approved landscape plan to the satisfaction of the Development Authority.
2. In the future, the City intends to add Landscaping in the public utility lot which abuts the development.

Mr. Huang did not have anything to add in rebuttal.

Decision:

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 CONDITIONS imposed by the Development Authority:

All access locations and curb crossings shall have the approval of the City Transportation Department prior to the start of construction. Reference Section 53(1).

- 1) The proposed 10m access to Hawks Ridge Boulevard must be constructed as a commercial crossing access and located such that the proposed access lines up with the roadway (Northern Harrier Lane) to the south and located approximately 79m from the west property line of Lot 47.
- 2) There is an existing curb ramp on Hawks Ridge Boulevard situated in the location of the proposed commercial crossing access that will require relocation with construction of the access. The new curb ramp must be located such that a minimum separation of 1m is maintained between the flare of the proposed access and lines up with the curb ramp across the road.
- 3) The owner must enter into a Municipal Improvement Agreement with the City for the following improvements:
 - a) construction of a 10m commercial crossing access to Hawks Ridge Boulevard aligned with Northern Harrier Lane to the south and located approximately 79m from the west property line of Lot 47; and
 - b) reconstruction of a curb ramp on the north side of Hawks Ridge Boulevard.

Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Municipal Improvement Agreement must be signed PRIOR to the release of the drawings for Building Permit review. The Agreement must be signed by the property owner and returned to Transportation Services to the attention of Loli Fernandez (780-944-7683) including an irrevocable Letter of Credit in the amount of \$19,000.00 to cover 100% of construction costs. The Agreement will be forwarded directly to the owner for his signature.

- 4) A public shared use path borders the proposed development. A sidewalk connection must be constructed to provide connectivity and increase area walkability. The proposed sidewalk connections to Hawks Ridge Boulevard are acceptable to Transportation Services. Proposed gates must swing into the site and permanent objects must NOT encroach into or over/under road right-of-way.
- 5) There is an existing fire hydrant in the vicinity of the proposed 10m access to Hawks Ridge Boulevard. The access must maintain a minimum clearance of 1.8m from the fire hydrant. Should relocation of this water infrastructure be required, it will be at the cost of the owner/applicant. The owner must contact Faraz Shaikh at 780-412-3178 of EPCOR at least 1 year in advance, to design and reschedule relocation.
- 6) Parallel parking is NOT permitted on the internal road system where the road width (carriageway) is less than 7.5m. A road width of less than 7.5m will not accommodate parking and still allow emergency vehicle access.
- 7) A minimum 12m radius (measured at the centre of the road) is required for the corners of the internal roadway to accommodate the turning requirements for emergency response vehicles.

- 8) There are existing boulevard trees adjacent to the site that must be protected during construction. Prior to construction, the owner/applicant must contact Marshall Mithrush of Community Services (780-496-4953) to arrange for hoarding and/or root cutting. All costs shall be borne by the owner/applicant.
- 9) Any sidewalk, shared use path or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The sidewalks and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

Transportation Department Advisements:

- 1) Garbage bins must be located so that all turning maneuvers for the waste management vehicles are accommodated on site. Transportation Services will not permit the backing up of vehicles onto or off of a public roadway.
- 2) The internal roadway must be signed 'Private Road'. The sign is to be located on private property at the site entrance.
- 3) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
- 4) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. 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
- 5) Residential Sales Trailers require a separate development permit. Construction trailers must be located on private property or within the hoarded area.

Landscaping shall be in accordance to the approved landscape plan, Section 55 and to the satisfaction of the Development Officer. A revised landscape plan shall be submitted in accordance with Section 55 and to the satisfaction of the Development Officer. The landscape plan shall be revised to provide a minimum of an additional 7 Trees (the overall Tree count for the Site shall be increased by a minimum of 7 Trees) within the required 7.5m west Setback for a total of a minimum of 19 Trees within this Setback. The additional Trees shall be placed between the buildings (proposed buildings 1, 4, 7, and 10) and the west property line to the satisfaction of the Development Officer.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:

- a) cash to a value equal to 100% of the established landscaping costs;
- or
- b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55(6).

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$3,410.00.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$59,218.00 (based on 2015 rate of \$1,021.00 / Dwelling). All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification fee of \$100.00.

The developer shall provide a minimum of 9 visitor parking spaces readily available to an entrance of the building to be served, and clearly identified as visitor parking to the satisfaction of the Development Officer. Reference Section 54.2.1(a), Schedule 1A(1).

The proposed parallel visitor parking stalls shall have a minimum length of 7.0m. Reference Section 54.2.4.a(i).

The proposed Private Outdoor Amenity Areas shall be permanently retained as open space, unencumbered by Accessory buildings or future building additions. Reference Section 160.4.9(b).

A solid screen fence, 1.83m in height, shall be installed along the west property line where this Site abuts the Residential Small Lot (RSL) Zones. Reference Section 160.4.15(c).

The proposed outdoor communal recreation space shall be Setback a minimum of 3m from the west property line. Reference Section 160.4.14(b).

Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.

The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54(6).

All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).

NOTES:

- 1) Signs require separate Development Applications.
- 2) A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
- 3) This approval 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.
[unedited from the Development Permit]

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

1. A relaxation to Sections 48.1(6) and 48.2(1) reducing the minimum required Separation Space between opposing Principal Living Room Windows from 15 metres to 13.8 metres between buildings 5 and 8, and between buildings 4 and 7.
2. A relaxation to Section 47(4) allowing the Private Outdoor Amenity Areas for buildings 1, 2 and 3 to be located within the Front Yard abutting Hawks Ridge Boulevard.
3. A relaxation to Section 160.4(24) permitting dwellings on the subject Site which do not face a public roadway to have an entrance door or feature facing the internal roadway on-Site.

Reasons for Decision:

The Board finds the following:

The proposed development, twelve (12) Row House buildings, is a Permitted Use in the RF5 Row Housing Zone and requires three variances:

- a. A 1.2 m reduction in internal Separation Space between opposing Principal Living Room Windows for units facing one another in four buildings within the complex.
 - b. Approval to locate the Private Outdoor Amenity Areas for buildings 1, 2 and 3 within the Front Yard abutting Hawks Ridge Boulevard along the southern boundary of the Site.
 - c. Approval to permit all dwellings which are not facing any public roadway to have an entrance door or feature facing the internal roadway located on the Site.
2. During the hearing, these specific variances were individually explained to the Appellant and identified on the Site plan. The appellant then acknowledged that he did not have any concerns with any of them.
 3. His concerns relate to Density, potential increase of traffic in the area, too many dwellings on the subject Site, limited parking on Hawks Ridge Boulevard, the location of the building on the northeast corner of the subject Site to his property, and nuisance associated with construction.
 4. Apart from these variances, the proposed permitted Use development complies with all the development regulations in the *Edmonton Zoning Bylaw*.
 5. The development is fully compliant with required Setbacks along the entire length of the north and east property lines, including the area closest to the Appellant's home.
 6. In addition, a 12 metre wide public utility lot separates the Appellant's home from the subject Site.
 7. The Board accepts the Development Officer's submission that the public utility lot which runs along the north and east property lines of the Site is to be used for a drainage swale and a multi-use trail and that the City plans to landscape it.
 8. The Board acknowledges the concerns of neighbouring property owners regarding safety, parking, and traffic. However, the proposed development complies with the Density and parking requirements. In addition, Transportation Services has reviewed and approved access to the subject Site via Hawks Ridge Boulevard.
 9. Additional neighbourhood-wide parking, traffic, and safety concerns are beyond the purview of this appeal.
 10. 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 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*, RSA 2000, c S-1;
 - c) the requirements of the *Permit Regulation*, Alta Reg 204/2007;
 - d) the requirements of any other appropriate federal, provincial or municipal legislation; and
 - 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 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.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

CC:

***Edmonton Subdivision and
Development Appeal Board***

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

SDAB-D-15-233

Application No. 169385106-004

An appeal by Jennifer Vuong to Convert an existing Single Detached House to a Lodging House and construct interior alterations (8 bedrooms / units - Existing without Permits), located at 11512 - 82 Street NW, was **WITHDRAWN**.