



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: September 18, 2018  
Project Number: 289886819-001  
File Number: SDAB-D-18-139

**Notice of Decision**

- [1] On September 12, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on August 17, 2018. The appeal concerned the decision of the Development Authority, issued on August 16, 2018, to refuse the following development:

**Construct an exterior alterations to a Single Detached House (driveway extension, 2.44 metres by 8.32 metres)**

- [2] The subject property is on Plan 0224595 Blk 86 Lot 7, located at 7709 - 166A Avenue NW, within the RF1 Single Detached Residential Zone. The Edmonton North Area Structure Plan and the Mayliewan 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;
  - 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 (the “*Municipal Government Act*”).

**Summary of Hearing***i) Position of the Appellants, Mr. and Mrs. Habiak*

- [7] The driveway currently only covers the garage area.
- [8] The extension will be used only for additional room for people to walk when vehicles are parked on the garage pad.
- [9] The sidewalk goes from the house to the garage.
- [10] They do not intend to park on the extension. This area will only be used to load and unload passengers from vehicles.
- [11] The extension will accommodate access for handicapped relatives and potential wheelchair access for one of the Appellants who has health challenges.
- [12] The extension will not be in the front yard.
- [13] The extension will be only 32 inches.
- [14] In their opinion, the driveway extension will not negatively impact the neighbourhood.
- [15] They have signatures in support from 7 neighbouring property owners.
- [16] There are several driveway or sidewalk extensions in the cul-de-sac, but could not confirm if they have permits.
- [17] The Development Officer indicated to them that the extension could be done with gravel or paving stones but not concrete.
- [18] Mr. and Mrs. Habiak provided the following information in response to questions by the Board:
- a. The sidewalk could be extended to accommodate their needs.
  - b. The additional room is needed for wheelchair access to the house.
  - c. The driveway extension is used for loading and unloading passengers and will not be used for parking.
  - d. They have two vehicles that are parked on the original garage pad.
  - e. There is no on-street parking in their cul-de-sac.

- f. The referred to photographs in their submission showing several driveway and walkway extensions in their neighbourhood.
- g. Some of the neighbouring property owners park on their driveway extensions.
- h. The Development Officer advised them that they could not extend their sidewalk with concrete.
- i. They may build a ramp in their front yard in the future to accommodate wheelchair access.
- j. They are not willing to add a planter at the bottom of the driveway as this will impact vehicles from accessing the extension for loading and unloading purposes.

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

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

**Decision**

[20] 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. 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 780496-5500 for lot grading inspection inquiries.

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

1. The Board waives the requirements of Section 54.1(4)(a) as per the submitted stamped plan.

2. The maximum allowable Driveway width as per Section 54.1(4)(c) is varied to allow an excess of 2.44 metres as per the submitted stamped plan.

### **Reasons for Decision**

- [22] The proposed development is Accessory to a Permitted Use in the RF1 Single Detached Residential Zone.
- [23] The Board accepts the evidence submitted that the proposed development is in keeping with the characteristics of the neighbourhood.
- [24] The Board accepts the photographic evidence submitted that there are several driveway and sidewalk extensions in the neighbourhood.
- [25] The Board finds that the extension will not be used for parking and will accommodate handicapped relatives who are wheelchair bound and the potential wheelchair use of one of the Appellants who has health challenges.
- [26] The Appellants received 7 signatures in support from neighbouring property owners.
- [27] No letters were received in opposition to the proposed development and no one appeared in opposition at the hearing.
- [28] 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, and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



Mr. W. Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

### Board Members in Attendance:

Mr. V. Laberge; Mr. A. Peterson; Ms. D. Kronewitt Martin; Ms. E. Solez

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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## **SDAB-D-18-140**

### **Application No. 288510987-001**

An appeal to install (1) Freestanding On-premises Sign (Wilfred's Restaurant), was TABLED TO OCTOBER 10 or 11, 2018.