



EDMONTON  
**TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

*10019 - 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079 F: 780-577-  
3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)*

## **SDAB-D-16-205**

Application No. 163311037-001

An appeal by **Rossdale Community League & Gabe Shelley VS Edmonton Fire Rescue Services** continue and intensify the use of an existing Protective and Emergency Services use (Fire Station 21 with a 24/7 crew) and to allow interior and exterior alteration was **TABLED TO OCTOBER 6, 2016.**



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Date: September 16, 2016  
Project Number: 224732696-001  
File Number: SDAB-D-16-212

**Notice of Decision**

- [1] On September 1, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **August 8, 2016**. The appeal concerned the decision of the Development Authority, issued on July 27, 2016, to refuse the following development:

**To construct an Accessory Building (rear detached Garage, 7.31 metres by 9.75 metres).**

- [2] The subject property is on Plan 1909HW Blk 15 Lot 13, located at 9818 - 159 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay and the Jasper Place Area Redevelopment apply to the subject property.
- [3] The following documents were received and form part of the record:
- A Development Permit Application, including the plans of the proposed Development;
  - The refused Development Permit; and
  - The Development Officer's written decision that includes an aerial photograph.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – A Community Consultation with signatures provided by the Appellant.

**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 Board determined 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 Appellant, Mr. B. Prasad*

- [8] Mr. Prasad indicated that he has lived at the subject site for over 16 years. He and his family built their House and front attached Garage in 2000.
- [9] His family has grown since then and requires more parking spaces.
- [10] They currently have a Secondary Suite and rear addition under construction which requires further on-site parking.
- [11] He indicated that he owns three rental properties and when evictions occur, he needs storage space for leftover items.
- [12] He clarified that the existing front Driveway and front Garage can accommodate 4 vehicles, but does not meet the needs of his family and the future Secondary Suite will also further the parking constraint.
- [13] He confirmed that the proposed detached Garage will accommodate three vehicles.
- [14] He confirmed that the proposed detached Garage will also be used to store his tools.
- [15] With regard to the number of people living on the subject site and using the proposed detached Garage he indicated that there will be 5 family members and 2 Basement Suite tenants.
- [16] With regard to the reduced Amenity space for that many people from the excess Building Coverage, he indicated that the Amenity space was not a concern.
- [17] He clarified that existing landscaping and trees will not be affected by the proposed detached Garage.
- [18] He reviewed his Community Consultation (Exhibit A) and confirmed that he has not received any opposition to this proposed detached Garage or his approved Secondary Suite.
- [19] With regard to proposed detached Garage designed to face the north lot line instead of the rear lane, he indicated that he believed there would be a Setback variance if he rearranged the Garage doors.
- [20] With regard to the Garage doors facing the north lot line, he clarified that there is plenty of space for vehicle access or egress.

ii) *Position of the Development Officer, Mr. C. Lee*

- [21] Mr. Lee reviewed his written submission and confirmed that the Secondary Suite and rear addition were applied for and Approved with notices on June 22, 2016.
- [22] He confirmed that the Site Coverage calculations for the proposed detached Garage also included the Approved rear addition and the entire House.
- [23] He indicated that he saw no practical difficulty or hardship peculiar to this proposed detached Garage.
- [24] He confirmed that there was one variance for the Approved rear addition and Secondary Suite, which was a deficient Rear Setback as per section 814.3(5) of the Mature Neighbourhood Overlay.
- [25] He clarified that with the Approved addition, the allowable Site Coverage would only allow for a small shed and that the excess in Site Coverage of 48 percent caused by the proposed detached Garage was excessive.
- [26] With regard to whether the proposed detached Garage would negatively affect surrounding properties and the neighbourhood, it was his determination that the proposed development with the excessive hardsurfacing would cause drainage issues.
- [27] He clarified that drainage issues are not within the *Edmonton Zoning Bylaw* and are covered in Drainage Services.
- [28] With regard to Amenity Area, he clarified that the Rear Yard with the proposed detached Garage complies with the *Edmonton Zoning Bylaw*.
- [29] He clarified that the only Amenity Area requirement under section 47 of the *Edmonton Zoning Bylaw* is that neither the width nor length shall be less than 4 metres.
- [30] He could not confirm whether the detached Garage would have a Site Coverage variance if the addition was not proposed.
- [31] He clarified that if a detached Garage doors face the lane, a 1.2 metres Setback is required and if a detached Garage were to be placed further into the Rear Yard to accommodate a 3-car parking pad, it would have to be contained within 12.8 metres of the rear Site.
- [32] It was his opinion that there would be a snowball effect, granting a further variance to accommodate the previous development variance.
- [33] He confirmed that the Driveway angle meets the *Edmonton Zoning Bylaw* requirement.

*iii) Rebuttal of the Appellant*

[34] Mr. Prasad had nothing further to say.

**Decision**

[35] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

**Reasons for Decision**

[36] The proposed detached Garage is Accessory to a Permitted Use in the RF1 Single Detached Residential Zone.

[37] The Board acknowledges the receipt of a Community Consultation conducted by the Appellant providing 16 signatures of support for the proposed development including the President of the Glenwood Community League.

[38] However, the Board notes that the existing 2-Storey House has an approved addition which encroaches into the minimum 40 percent of Site depth required Rear Setback of the Mature Neighbourhood Overlay. The Board notes that this requirement exists, in part, to ensure there is adequate Amenity space in the Rear Yard.

[39] The Board notes that the proposed development, a 3-car Garage has been oriented so that the Garage doors face the (north) Side Lot Line. This has created a 16.76 metres by 7.01 metres concrete pad on the Rear Yard that absorbs a significant portion of the Amenity space of the subject Site.

[40] The Board notes that section 110.4(7) of the *Edmonton Zoning Bylaw* imposes a Maximum Site Coverage limitation of 40 percent of the total Site area on Principal buildings with attached or detached Garages or other Accessory buildings.

[41] Forty percent of the subject Site area is 275 square metres. The existing Principal residence with the Approved addition covers 255.9 square metres (37.2 percent) while the proposed development would cover 327.25 metres (47.6 percent).

[42] While section 687.3 of the *Municipal Government Act* does grant the Board authority to vary Site Coverage where the Use conforms to that prescribed in the *Edmonton Zoning Bylaw*, the Board finds that the excess of approximately 20 percent of Site Coverage is excessive.

- [43] The Board finds that the overall massing of both the Principal Dwelling with its addition and the proposed Accessory Garage is uncharacteristic of this RF1 Single Detached Residential Zone and would have an adverse effect on adjoining properties and the neighbourhood.
- [44] Further, the Board notes that the subject Site does provide the required on-site parking for both the Principal residence and the Secondary Suite, and that additional on-site parking can be provided on the subject Site without requiring such a large incursion into the buildings Amenity space.
- [45] Based on the above, the Board is of the opinion that the proposed development will unduly interfere with the amenities of the neighbourhood, and will materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

Mr. N. Somerville, Presiding Officer  
Subdivision and Development Appeal Board

**Important Information for the Applicant/Appellant**

1. 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.
2. 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.



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**SDAB-D-16-190**

Application No. 222047927-001

An appeal by **Outfront Media** to install a Freestanding Off-premises Sign (6.1m x 3 m facing N/S) was **WITHDRAWN**.