



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: October 3, 2018  
Project Number: 282439929-001  
File Number: SDAB-D-18-153

**Notice of Decision**

[1] On September 25, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on August 28, 2018. The appeal concerned the decision of the Development Authority, issued on August 28, 2018, to refuse the following development:

Construct a Single Detached House with rear attached Garage and to demolish a Single Detached House and Accessory Building (Detached Garage)

[2] The subject property is on Plan 934AI Blk 45 Lot 20, located at 9747 - 152 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay and Jasper Place 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 refused Development Permit;
- The Development Officer’s written submissions;
- The Appellant’s written submissions; and
- Community League submission and online response.

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

- Exhibit A – Correspondence From EPCOR
- Exhibit B – Letters of support
- Exhibit C – Google maps view

**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 (the “*Municipal Government Act*”).

### **Summary of Hearing**

*i) Position of the Appellant, Paul Hua*

- [8] Mr. Hua appeared on behalf of Tyler Home Builders Ltd.
- [9] There are two power poles with an anchor in between the two poles which obstruct access from the lane. EPCOR has advised they are unable to remove the anchor as per their e-mail dated February 6, 2018. (Exhibit A). This e-mail also contains the following statement: “I think it would be in the best interest of all parties if the City of Edmonton will allow you to access a new garage from either the street or avenue.” In addition to the power poles and anchor, there are two transformer boxes obstructing rear lane access to the property.
- [10] Letters of support from neighbouring property owners were submitted (Exhibit B). No opposition was received to the proposed development during the Appellant’s neighbourhood consultation other than from the Community League. The Community League felt a triple attached garage would result in too much concrete and too much green space being lost. The Community League would be in favour of a double attached garage.
- [11] The Community League would support a 16 foot wide driveway; however, the Appellant advised this would not be wide enough to allow for proper access and egress.
- [12] The proposed development covers only 26 percent of the total site area. A second garage, as per the Community League’s suggestion, would result in greater site coverage with less green space remaining.
- [13] There are currently two skinny houses being built next door which have much less green space than the proposed development. The Community League has not expressed any opposition to these developments.
- [14] The Appellant provided the following responses to questions from the Board:
- a) 98 Avenue is a quiet street and is not a bus route. There is no sidewalk along 98 Avenue and on-street parking is permitted. The Appellant intends to plant trees on the property line running along 98 Avenue to further enhance the green space.
  - b) The existing development has a narrow gravel driveway which is used to access the garage from 98 Avenue. A Google street view photograph was submitted showing

this existing driveway. A second photograph confirmed the location of the two power poles and anchor at the rear of the property. (Exhibit C).

- c) No trees will need to be removed to construct the proposed development.
- d) The Appellant is aware of another three car garage two blocks away which has access from 98 Avenue.

ii) *Position of the Development Officer, R. Zhou*

[15] The Development Authority did not attend the hearing and the Board relied on R. Zhou's written submission.

**Decision**

[16] 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 and ADVISEMENTS:

**Conditions:**

1. 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).
2. The development shall be constructed in accordance with the stamped and approved drawings.
3. The maximum Height shall not exceed 8.9 metres, in accordance with Section 52 of the *Edmonton Zoning Bylaw 12800*.
4. Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 metres above the finished ground level, excluding any artificial embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties (Reference Section 814.3(9)).
5. Single Detached Housing requires 1 parking space per dwelling; parking may be in tandem as defined in Section 6.1 (Reference Schedule 1 of Section 54.2).
6. Landscaping shall be installed and maintained in accordance with Section 55.
7. Frosted or opaque glass treatment shall be used on windows to minimize overlook into adjacent properties (Reference Section 814.3(8)).
8. The existing 3 metres wide gravel driveway to 98 Avenue located approximately 24 metres from the east property line (as shown in Enclosure I), must be removed and

reconstructed as part of the new proposed 9.5 metres wide driveway to 98 Avenue located 18 m from the east property line (as shown in Enclosure II). The proposed driveway is acceptable to Subdivision Planning.

9. 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](http://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.
10. Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the *Edmonton Zoning Bylaw*. All expenses incurred for repair are to be borne by the owner.
11. 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. OSCAM permit applications require a Transportation Management Plan (TMP) information. The TMP must include:
  - the start/finish date of project;
  - accommodation of pedestrian connectivity during all phases of construction for access to the adjacent roadways and intersections
  - accommodation of vehicles during construction;
  - confirmation of lay down area within legal road right of way if required;
  - and to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.
    - It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:  
  
[https://www.edmonton.ca/business\\_economy/licences\\_permits/oscam-permit-request.aspx](https://www.edmonton.ca/business_economy/licences_permits/oscam-permit-request.aspx)  
  
and,  
  
<https://www.edmonton.ca/documents/ConstructionSafety.pdf>

**Advisements:**

1. Any future deck development greater than 0.6 metres (2 feet) in height will require development and building permit approvals.
2. Any future deck enclosure or cover requires a separate development and building permit approval.
3. Any future basement development requires development and building permit approvals.
4. Any future additional dwelling such as Secondary Suite shall require a separate development permit application.
5. The driveway access must maintain a minimum clearance of 1.5 metres from the service pedestal and all other surface utilities.
6. Lot grades must match the *Edmonton Drainage Bylaw 16200* and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or [lot.grading@edmonton.ca](mailto:lot.grading@edmonton.ca) for lot grading inspection inquiries.
7. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.
8. 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.
9. A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.
10. This neighbourhood was constructed with roll faced curb, therefore a Curb Crossing Permit is not required for the proposed development. However, should the applicant/owner wish to cut the curb in the future, a Curb Crossing Permit will be required, available from Development Services, 2nd floor, Edmonton Tower, 10111- 104 Avenue.

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

1. Section 814.3(17) is waived to allow the driveway to be located off of the flanking avenue instead of the alley.
2. Section 814.3(19) is waived to allow the rear garage to be attached instead of detached.

**Reasons for Decision**

- [18] A Single Detached House is a Permitted Use in the RF1 Single Detached Residential Zone.
- [19] The Board accepts the verbal submissions of the Appellant and the photographic evidence submitted (marked Exhibit C) that rear access off of the lane is hindered by the existence of the two power poles, a power anchor and the two transformer boxes.
- [20] The Board finds that forcing access of the rear lane would be a hardship or not feasible in any reasonable configuration.
- [21] The Appellant submitted an email from a representative from the City of Edmonton power provider, EPCOR, who supports the development, as proposed (marked Exhibit A). The letter provides:
- The original house that was built on this lot did not have a rear garage so that is most likely the reason the poles and anchors are configured the way they are. It would be very difficult to reposition the anchors and, because they must remain at the rear of your lot, we would most likely only be able to marginally increase the amount of vehicle access from the lane. I think it would be in the best interest of all parties if the City of Edmonton will allow you to access a new garage from either the street or the avenue.
- [22] The Board notes there is no loss of trees or on-street parking resulting from the proposed development.
- [23] The Board finds that the Community Consultation provisions under Section 814.5(1) of the Mature Neighbourhood Overlay have been complied with.
- [24] The Board notes that the Appellant received neighbourhood consultation from at least 10 neighbours in support of the development (Exhibit B). No neighbours submitted written opposition or appeared in opposition to the proposed development.
- [25] Opposition was received from the West Jasper/Sherwood Community League. The Community League would be in favour of the construction of an attached double garage with the same access from 98 Avenue and a single detached garage with access from the lane. As stated above, the Board finds that any access off of the lane is not possible in this case. Further, the Board finds that there would be an insignificant difference in the massing effect between a triple attached garage and a double attached garage and the proposed development is characteristic of the neighbourhood. The Board is not bound by previous decisions and each appeal is decided on its own merits.

[26] 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.

[27] For all of the foregoing reasons the appeal is allowed.



Winston Tuttle, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. S. Laperle, Mr. A. Peterson, Mr. J. Wall, Ms. S. McCartney

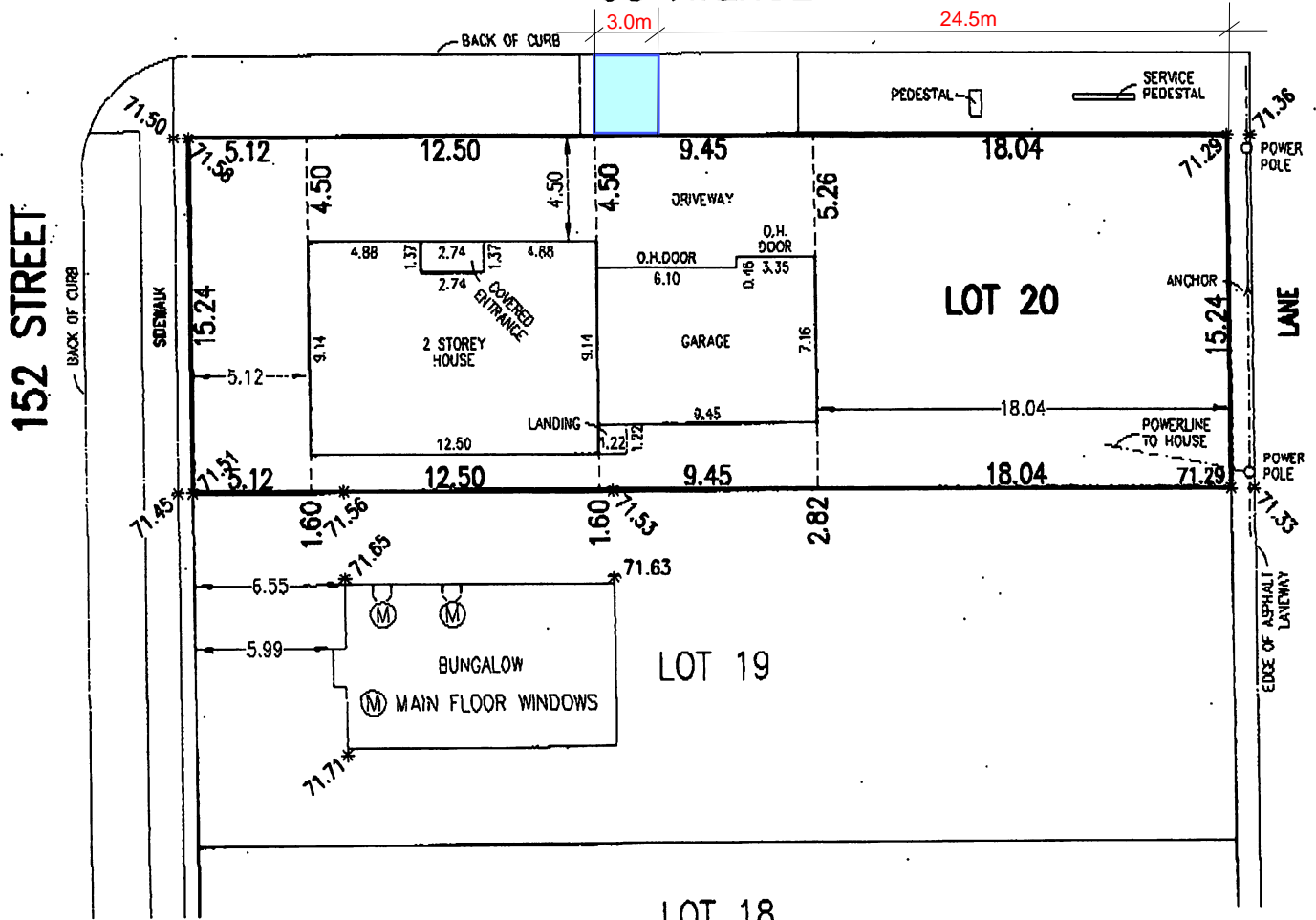
CC: Development & Zoning Services – R. Zhou / A. Wen

**LEGAL DESCRIPTION: LOT 20 BLOCK 45 PLAN 934 A1**

**MUNICIPAL ADDRESS:  
9747 - 152 STREET  
RF1 ZONING**

**WEST JASPER PLACE CITY OF EDMONTON**

**98 AVENUE**



**LANDSCAPE REQUIREMENTS:**  
 (2) NEW DECIDUOUS TREES (50 mm. CALIPER)  
 (2) NEW CONIFEROUS TREES (2.5m. HEIGHT)  
 (8) NEW SHRUBS (300 - 450 mm. SPREAD)

**ZONING: RF1** (MATURE NEIGHBOURHOOD OVERLAY)  
 SITE WIDTH=15.24 AVERAGE LOT GRADE=71.42  
 HOUSE AREA 114.27 sq.m.  
 HOUSE COVERAGE=16.62%  
 DECK AREA 00.00 sq.m.  
 DECK COVERAGE=0.00%  
 GARAGE AREA 64.89 sq.m.  
 GARAGE COVERAGE=9.44%  
 LOT AREA 687.48 sq.m.  
 TOTAL SITE COVERAGE 26.06%  
 (EXCLUDING DECK)

SCALE: 1:300

**NORTHLAND SURVEYS**

PREPARED FOR:  
**TYLER HOMES**



**PLOT PLAN**

FILE: 18-826HBR MAY 2, 2018

JOB# \_\_\_\_\_

**NOTES:**  
 • Distances and elevations shown are in metres and decimals thereof  
 • The design information shown on this plan is subject to approval of the Local Approving Authority.

**LEGEND:**  
 Existing 3.0m wide gravel driveway located 24.5m from the east property line to be reconstructed as part of the new proposed driveway



TYPE: 2 STOREY  
 X  
 Floor 72.  
 nished Grade (4 rise) 71.  
 nished Grade (4 rise) 71.

**LEGEND (DESIGN LOCATIONS)**  
 POWER CONNECTION  
**ENCLOSURE I:**  
 FILE: 282439929-001  
 DATE: July 30, 2018

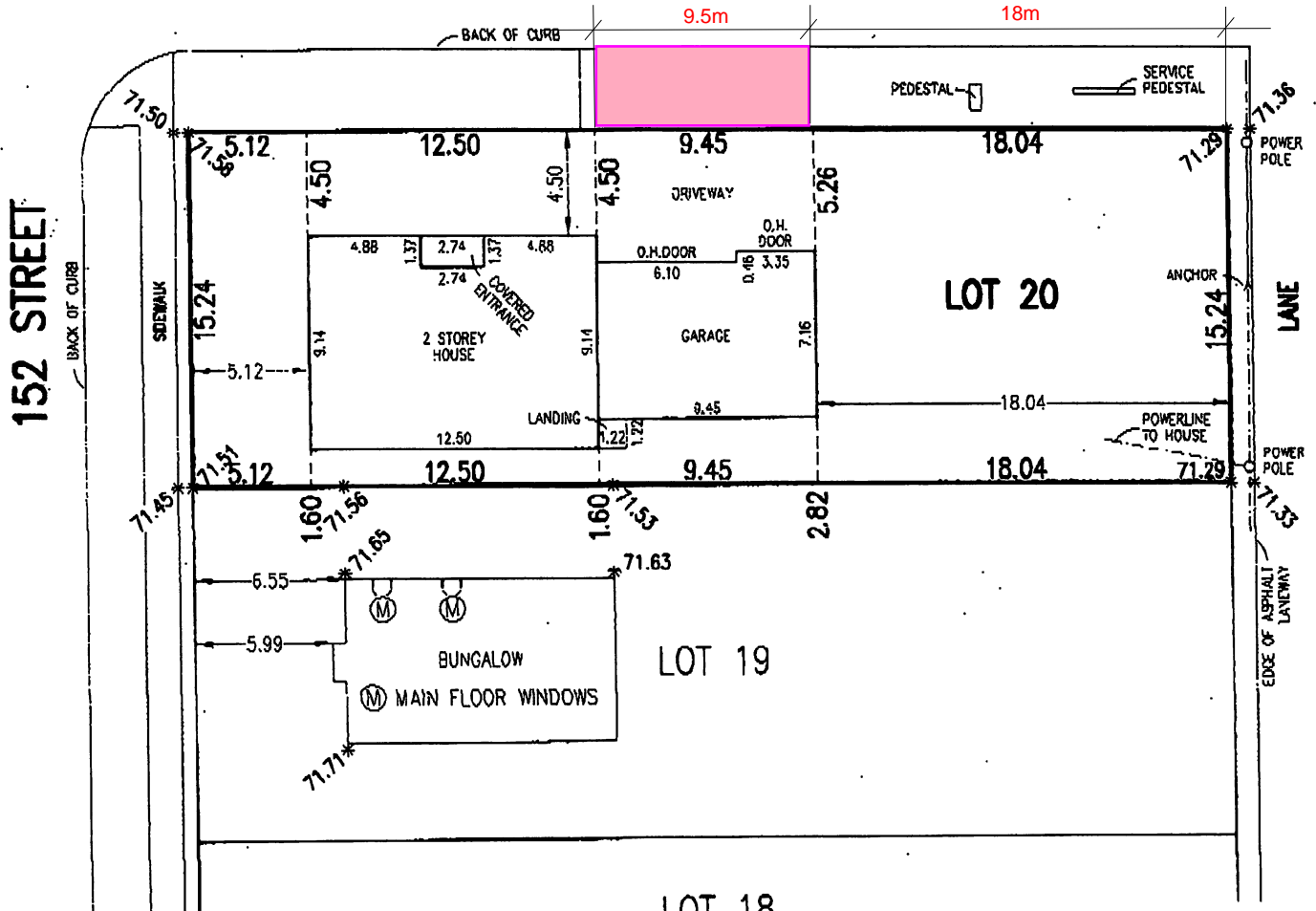


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**WEST JASPER PLACE CITY OF EDMONTON**

**98 AVENUE**



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**NORTHLAND SURVEYS**

PREPARED FOR:  
**TYLER HOMES**



**PLOT PLAN**

FILE: 18-826HBR MAY 2, 2018 JOB# \_\_\_\_\_

**NOTES:**  
 • Distances and elevations shown are in metres and decimals thereof  
 • The design information shown on this plan is subject to approval of the Local Approving Authority.

**LEGEND:**  
 Proposed 9.5m wide driveway located 18m from the east property line



**LEGEND (DESIGN LOCATIONS)**  
**ENCLOSURE II:**  
 72.66  
 71.75  
 71.85

FILE: 282439929-001  
 DATE: July 30, 2018

**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 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 the Sustainable Development Department, 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-18-154**

### **Application No. 286124849-001**

An appeal to Operate a Major Home Based Business (To create 0.5m x 0.5m plaster wall panels - MODERN PLASTERWORKS), located at 6126 Maynard Crescent NW, was **WITHDRAWN**.