



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
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Date: October 4, 2019
Project Number: 323613678-001
File Number: SDAB-D-19-503

Notice of Decision

- [1] On September 25, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on August 8, 2019. The appeal concerned the decision of the Municipal Enforcement Officer to issue an Order on July 22, 2019, to:

Remove and refrain from parking any vehicles and/or trailers in the required front yard area.

- [2] The subject property is on Plan 5088NY Block 11 Lot 9, located at 7716 – 141 Avenue NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Stop Order
 - The Enforcement Officer’s written submissions;
 - The Appellant’s reason for appeal and petition of support; and
 - Three e-mails in support of the appeal.

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 Appellant, G. Cote*

- [7] The trailer has been parked at this location for 15 years. The Appellant was not aware that he required a special permit to park the trailer here.
- [8] The Appellant referred to the petition of support from many of his neighbours (21 signatures) who have no objection to the Recreational Vehicle (RV) being parked at this location.
- [9] The Appellant is aware that access is supposed to be from the back alley but in this case this is not possible as there is not enough room.
- [10] The Appellant provided the following responses to questions from the Board:
- a) He believes that Section 45.4 of the *Edmonton Zoning Bylaw* allows him to park the RV at this location as this is a site with no vehicle access from the rear lane. The lot cannot be accessed from the back alley because of the way it was designed by the City.
 - b) The Appellant confirmed that he currently crosses a curb to park the trailer in the yard.
 - c) The trailer is parked on an RV pad made up of sidewalk blocks. He confirmed that he never obtained a Development Permit for this pad as he did not realize one was required.

ii) Position of the Municipal Enforcement Officer, T. Sustrik

- [11] Ms. Sustrik provided the following timeline of events:

- June 21, 2019: The area municipal enforcement officer was actively patrolling the Kildare Neighbourhood and observed a large Recreational Vehicle (RV) parked in the required front yard of the subject site.
- June 24, 2019: A Notice to Comply was issued to the registered owners of the property with instructions that the vehicle/trailer be removed by July 8, 2019.
- July 18, 2019: A follow up inspection found there was no change in the placement of the large RV and two photographs were taken by the enforcement officer from the public roadway.

July 22, 2019: Search results of the City of Edmonton database were received and it was confirmed that there were no permits or historical records allowing the RV to be parked in the required front yard or flanking side yard in the case of a corner site.

July 22, 2019: A 645 *Municipal Government Act* Order was issued as the property owners were found to be in contravention of section 45.7 of the *Edmonton Zoning Bylaw* which states:

7. In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:
 - a. vehicles shall not be located on the landscaped portion of the Yard; and
 - b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

[12] A phone call was received on July 24, 2019 from Mr. Cote who stated he understood the bylaw to read that if you have no rear lane access you can park your trailer in your front yard.

[13] Ms. Sustrik believes Mr. Cote is referring to sections 45(3) and 45(4) of the *Edmonton Zoning Bylaw* which read:

3. On a Site zoned Residential, no person shall keep a large Recreational Vehicle, for any longer than is reasonably necessary to load or unload such vehicle, in the Front Yard or in any Side Setback Abutting a public roadway other than a Lane.
4. Notwithstanding Section 45(3), from April 1 to October 31 inclusive, on a Site with no rear Lane, where vehicle access is available through the Front Setback or through the flanking Side Setback, Large Recreational Vehicles shall be parked at a Setback of at least 0.6 m from the interior edge of the sidewalk, or curb where no sidewalk is present. This distance may be reduced at the discretion of the Development Officer.

[14] The subject property has a rear lane and does not have vehicle access available through the Front Setback or through the flanking Side Setback. There is no approved or designated driveway, roadway or laneway. The vehicle would need to cross over the square curb, over the city sidewalk and through the city road right of way where a fire hydrant is located.

[15] The Order before the Board today was issued by a designated officer of the Development Authority as defined in section 624 of the *Municipal Government Act* and as a Bylaw Enforcement Officer appointed to enforce the *Edmonton Zoning Bylaw #12800*.

[16] Ms. Sustrik requests that the Order be upheld.

Decision

[17] The appeal is DENIED and the decision of the Municipal Enforcement Officer is UPHELD. The Stop Order is VARIED to amend the compliance date to October 31, 2019.

Reasons for Decision

[18] This is an appeal from a Stop Order. The role of the Board in Stop Order appeals is to confirm that the Stop Order was validly issued by an officer having the authority to do so and to confirm that the alleged breach of the *Edmonton Zoning Bylaw* referenced in the *Zoning Bylaw* has occurred.

[19] The Board is satisfied that the Stop Order was issued pursuant to section 645(1) of the *Municipal Government Act* by a duly authorized Municipal Enforcement Officer and in compliance with the procedural requirements of the *Municipal Government Act*.

[20] As for the breach of the *Zoning Bylaw*, it is alleged that the Appellant is parking a vehicle in the Front Yard of his property in violation of Section 45.7, which reads as follows:

7. In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:
 - a. vehicles shall not be located on the landscaped portion of the Yard; and
 - b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

[21] The Appellant gave evidence that a large Recreational Vehicle has been parked in his Front Yard for 15 years. The vehicle is parked on a parking pad that was constructed without a Development Permit.

[22] The Appellant was of the view that Section 45.4 allowed him to park the vehicle in his Front Yard. That section reads:

4. Notwithstanding Section 45(3), from April 1 to October 31 inclusive, on a Site with no rear Lane, where vehicle access is available through the Front Setback or through the flanking Side Setback, Large Recreational Vehicles shall be parked at a Setback of at least 0.6 m from the interior edge of the sidewalk, or curb where no sidewalk is present. This distance may be reduced at the discretion of the Development Officer.

[23] However, this section does not apply to the Appellant because there is a lane at the rear of his property and there is no vehicle access available through the Front Setback or the flanking Side Setback. The Appellant has been moving his RV on and off the site across the City curb and boulevard.

- [24] Accordingly the Board is satisfied that the regulation cited in the Stop Order is the appropriate regulation and that the Appellant is in breach of that regulation. The appeal of the Stop Order is dismissed.
- [25] The fact that the Appellant has the support of 21 of his neighbours to allow him to keep parking the vehicle in his Front Yard is immaterial in a Stop Order appeal because the issue is not whether the parking of the vehicle at that location is detrimental to the neighbourhood but whether the Stop Order was validly issued.
- [26] In order to give the Appellant time to comply with the regulation, the Board has extended the deadline for compliance to October 31, 2019.



Mark Young, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. L. Pratt, Mr. D. Fleming, Mr. R. Handa, Mr. A. Nagy

cc: Community Standards Branch – T. Sustrik / A. Szpytma

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 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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Date: October 4, 2019

File Numbers: SDAB-D-19-154/155/156/157

Notice of Decision

- [1] On September 25, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on August 26, 2019. The appeal concerned the decision of the Development Authority, issued on August 20, 2019, to refuse the following development:

SDAB-D-19-154 (Project Number: 323542029-001)
7616 - 83 Avenue NW (Plan 1922125 Blk 13 Lot 54):

To construct a Single Detached House with fireplace, rear uncovered deck (5.79 metres by 4.11 metres), rooftop deck (6.30 metres by 3.15 metres), and Basement development (NOT to be used as an additional Dwelling)

SDAB-D-19-155 (Project Number: 323769401-001)
7616G – 83 Avenue NW (Plan 1922125 Blk 13 Lot 54):

To construct a Garden Suite

SDAB-D-19-156 (Project Number: 323769604-001)
7618 – 83 Avenue NW (Plan 1922125 Blk 13 Lot 55):

To construct a Single Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck (4.11metres by 5.75 metres), roof top patio (6.30 metres by 3.15 metres), and Basement development (NOT to be used as an additional Dwelling)

SDAB-D-19-157 (Project Number: 323770215-001)
7618G – 83 Avenue NW (Plan 1922125 Blk 13 Lot 55):

To construct a Garden Suite

- [2] The subject properties are within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject properties.

[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;
- Four emails from a neighbouring property owners in opposition to the proposed development; and
- One email in support from a neighbouring property owner in support of the proposed development.

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

- Exhibit A – PowerPoint presentation submitted 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. The Presiding Officer advised that evidence for SDAB-D-19-154, SDAB-D-19-155, SDAB-D-19-156, and SDAB-D-19-157 will be heard together but will be considered as four separate appeals.

[7] The appeals were 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 Mr. Haynes and Ms. Jersak, representing the Appellant, Haynes Homes

[8] Ms. Jersak reviewed her PowerPoint submission.

[9] Ms. Jersak is a Planning Consultant with Situate and is speaking on behalf of the Appellant, Haynes Homes.

[10] She reviewed three main topics for the proposed development: the site and neighbourhood context of the applications; the reason for the refusals; and the rationale for the design choices and why they are requesting that the refusals be overturned.

[11] She referred to a map showing the location of the subject Site. The proposed developments are located within the mature neighbourhood of Idylwylde.

- [12] The subject Sites are located less than 800 metres from the future Bonnie Doon LRT stop and one bus route to downtown.
- [13] The subdivision for the two new homes was endorsed by the City of Edmonton Subdivision Authority in July of this year.
- [14] There is a mixture of older one and two storey single detached houses as well as a growing number of newer two and a half storey homes built on narrow lots in the surrounding neighbourhood.
- [15] She referred to the map showing the lot left of 7618 – 83 avenue that has applied for a subdivision.
- [16] She referred to the context map showing photographs of new developments in the neighbourhood. There is a pair on the corner of 77 Street and 83 Avenue. There are two directly behind the subject site, facing 77 Street. There is another two to the east of the site facing 76 Street. There are four on 83 Avenue to the west, just outside the frame of this map.
- [17] She referred to the concept map of her submission showing the renderings of the two new proposed homes.
- [18] The concept provides for mindful housing options that balance the needs of future residents with the needs of the neighbours and neighbourhood at large.
- [19] The homes accomplish this balance by maximizing the interior and exterior livable space for the residents, while ensuring the street interface is a two storey, small scale aesthetic that blends with the rest of the neighbourhood.
- [20] This design is targeted toward busy modern families looking for a sustainable housing option with a compact footprint, close to downtown, but without compromising space for kids, friends and family.
- [21] An important component of these applications is the proposed Garden Suites. New homes are a significant investment, and the Garden Suites will afford future home owners the option of rental income to help qualify for and offset the costs of a mortgage.
- [22] The proposed development permits for the two houses and two Garden Suites were refused by the Development Officer in August, 2019. The houses were refused because of an excess in allowable height and the Garden Suites were refused because of the variance in the side setbacks.
- [23] The *Municipal Government Act* indicates that the Board can approve a development permit if it does NOT interfere with the amenities of the neighbourhood or the use, enjoyment or value of neighbouring parcels of land, as long as the use conforms with the zone.

- [24] The subject Site is zoned RF1 Single Detached Residential Zone and the proposed houses and Garden Suites are Permitted Uses in that zone.
- [25] Both houses exceed the maximum allowable height. According to the Development Officer, there is an excess of 1.3 metres (4.3 feet) at the midpoint of the roof for the property at 7616 – 83 Avenue and an excess of 1.1 metres (3.6 feet) at the peak of the roof. The property at 7618 – 83 Avenue is 1.4 metres (4.6 feet) over height at the midpoint of the roof and 1.2 metres (3.9 feet) over height at the peak of the roof.
- [26] The third half storeys for both of the houses will be stepped back from both the front and the rear of the house. The excess in height will not be noticeable from either the avenue or the rear lane.
- [27] From a street and a design perspective, Haynes Homes wanted to create something more appealing and less obtrusive by having a stepback and a flat roof than just using an angled slope for the roof.
- [28] She referred to the renderings in her submission showing the view of the houses from 83 Avenue. The two storeys of the houses are visible from the sidewalk, but the third half storey is farther back so it is not as noticeable. The measurement of a flat roof makes the flat roof seem taller.
- [29] She referred to the sun shadowing study of the full daily cycle of the sun on June 21, 2019, the longest day of the year and the proposed building shadow. There is only a slight difference between the two, which would not be noticeable.
- [30] The sun shadow study shows what the shadow of a conforming building would be on December 21, as well as the proposed building shadow. Again, there is only a slight difference between the two, which would not be noticeable.
- [31] Although the third half storey will not make much, or any difference, to the neighbourhood, it will make a huge difference to the people who will live in these two houses.
- [32] The roof of the third half storey is not pitched, but flat. This is what makes it over height: conforming to the Mature Neighbourhood Overlay height restriction requires the roof to be pitched, creating an attic-like interior and significantly reducing the amount of interior space that people can walk around in comfortably. By flattening out the roof, they are giving future residents a viable living space on that half storey while shielding the half storey from being seen from the street.
- [33] The second reason for the excess in height is because the height of the ceiling was increased on the main floor to a modern standard of 10 feet. The former standard of 8-foot ceilings in new houses has been replaced by 9 and 10-foot ceilings.

- [34] In summary, she believes that the design for the houses balances the development rights of the landowner, the needs of the future homeowners, as well as the rights of the neighbours to privacy and access to the sun.
- [35] The neighbourhood is evolving and is a mixture of one and two storey homes, with six new narrow lots and houses in the vicinity and four more are a two minute walk away. The houses on the subject site appear to be two storey homes and in fact look much smaller than others in the vicinity that have the half storey component flush with the street. There is no meaningful additional shadow impact beyond what's already allowed under the RF1 Single Detached Residential Zone and Mature Neighbourhood Overlay.
- [36] The Garden Suite component of this application is very important because it offers the potential for meaningful rental income to the homeowners, helping them to offset their mortgage.
- [37] She referred to the applicable regulations for a Garden Suite:

Section 7.2(2) Garden Suite means an Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use Class does not include Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Garden Suites shall be developed in accordance with the following regulations:

Section 87(8) The minimum Side Setback shall be the same as that prescribed for Single Detached Housing within the underlying Zone or applicable Overlay.

Section 50.3(5)(b) an Accessory building or structure shall be located not less than 0.9 metres from the interior Side Lot Line, except:

1. where it is a mutual Garage erected on the common property line to the satisfaction of the Development Officer;
2. where a Garage is placed on the common property line in accordance with the provisions of the RPL Zone;
3. where it is located on a Site governed by the RF4 Zone and is a detached Garage where the vehicle doors face a Lane Abutting the Site, the minimum distance shall be 0.6 metres from the Side Lot Line; or
4. where the Accessory building does not exceed the permitted Fence Height.

- [38] Each of the two lots has a Garden Suite facing the rear lane. The parking area component of the building conforms to the accessory building setback of 0.9 metres, and the upper portion, the suite component, conforms to the garden suite setback of 1.2 metres on the neighbouring sides of the lot. She believe this meets the intent of the *Edmonton Zoning Bylaw* regulations for setbacks, while at the same time allowing for two parking spots to be located in the garage.
- [39] Ms. Jersak referred to the concept diagrams showing the stepback of the suite component of the building to 1.2 metres.
- [40] With regards to parking, usually the issue with parking is that too much parking is required, and the Applicants want to provide less. In this case, the Applicant wants to provide more parking than what is required. That is, a parking spot for both the residents of the house and the suite.
- [41] The subject sites are located within the residential parking reduction area, so only one parking space is required. However, the Appellant wants to provide two parking spaces in the garage, one for the resident of each dwelling unit. Using the accessory building setback of 0.9 metres allows 0.3 metres on each side to be usable space inside the garage, which is small, rather than unusable space outside the garage.
- [42] The 0.3 metres will not have more impact on the neighbours than a regular garage would have, but will allow residents to park indoors. Having the residents parking indoors rather than outdoors will mitigate any impact on the neighbouring properties.
- [43] The door placement is best on the side due to safety.
- [44] Both the house and the Garden Suite are Permitted Uses in the RF1 zone.
- [45] Although the increase in height seems like a lot on paper, in reality there's essentially no impact to the community, the impact of the side setback reduction is negligible, but the benefits are significant.
- [46] Mr. Haynes and Ms. Jersak provided the following information in response to questions by the Board:
- a. Mr. Haynes stated that the neighbour east of the subject site gave him verbal support for the proposed development.
 - b. Mr. Haynes reviewed the plans with neighbouring property owners within and outside the 60-metre notification radius.
 - c. He stated that although some neighbours are in opposition to the proposed development, they did review the plans.
 - d. Mr. Haynes spoke to neighbouring property owners even before the development permit was refused. However, he did not compile a petition.

- e. Mr. Mielczarek, representing Design Two Group, stated that Mature Neighbourhood Overlay is important to them. The roof is pitched from the front to back as the majority of the skinny houses use this design to meet the regulations.
- f. The Garden Suite was designed with the Development Officer as a solution for the Garden Suite. The 0.3 metres on the side of each neighbour was suggested by the Development Officer.
- g. An email was received from Fire Rescue Services indicating that the proposed development complies with Fire Rescue Services access requirements for the proposed project type.
- h. There is a fire hydrant approximately 30 metres from the subject Site.
- i. When looking at the renderings of the proposed development, the houses appear to be taller than what they are proposing due to the stepbacks.
- j. Mr. Haynes stated that the Garden Suites will create a living space comfortable for the owner and renter. The entrance doors will be on the inside of the pathway at the rear of the property.
- k. This lot was specifically chosen for this type of development.
- l. A 10-foot ceiling height is important for extra space in a skinny house.
- m. They wanted to ensure the proposed development fits in with the characteristics of the neighbourhood. Under the Mature Neighbourhood Overlay, there is a need to find balance and stepback on the third storey is to respect that.
- n. Design Two Group does a sun shadow study on all of the houses they design and build.
- o. A fence will not be developed between the two properties.
- p. There will be a wider sidewalk at the rear of the property for easy access to service vehicles.
- q. The sidewalk will be poured for the proposed development.

ii) *Position of the Development Officer, Mr. A. Seltz*

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

Decision

- [48] **The appeals are ALLOWED and the decisions of the Development Authority are REVOKED. The development are GRANTED as applied for to the Development Authority, subject to the following CONDITIONS:**

7616 – 83 Avenue NW/7618 – 83 Avenue NW

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 20.6).
2. Landscaping shall be installed and maintained in accordance with Section 55.
3. Frosted or translucent glass treatment shall be used on windows to minimize overlook into adjacent properties (Reference Section 814.3.8).

Advisement:

1. Lot grades must match the *Edmonton Drainage Bylaw 18093* and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

7616G – 83 Avenue NW/7618G – 83 Avenue NW

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 20.6).
2. Only one of a Secondary Suite or Garden Suite may be developed in conjunction with a principal Dwelling (Section 87.19).
3. A Garden 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 (Section 87.21).
4. A maximum of one Household shall occupy a Garden Suite (Section 87.20).
5. The Garden Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision (Section 87.23).
6. Façades facing a Lane shall have exterior lighting (Section 87.17).
7. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices (Section 51).

ADVISEMENTS:

1. The driveway access must maintain a minimum clearance of 1.5 metres from all surface utilities.
2. Lot grades must match the *Edmonton Drainage Bylaw 18093* and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

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

7616 – 83 Avenue NW

1. The maximum allowable building Height of 8.9 metres pursuant to section 814.3(5) is varied to allow an excess of 1.3 metres, thereby increasing the maximum allowed Height to 10.2 metres.
2. The maximum allowable building Height of 9.3 metres (to top of parapet) pursuant to section 52.1(b) is varied to allow an excess of 1.1 metres, thereby increasing the maximum allowed Height to 10.4 metres.

7616G – 83 Avenue NW

1. The minimum allowable (east) Side Setback of 1.2 metres pursuant to section 87(8) is varied to allow a deficiency of 0.3 metres, thereby decreasing the minimum allowed to 0.9 metres.
2. The minimum allowable (west) Side Setback of 1.2 metres pursuant to section 87(8) is varied to allow a deficiency of 0.3 metres, thereby decreasing the minimum allowed to 0.9 metres.

7618 – 83 Avenue NW

1. The maximum allowable building Height of 8.9 metres pursuant to section 814.3(5) is varied to allow an excess of 1.4 metres, thereby increasing the maximum allowed Height to 10.3 metres.
2. The maximum allowable building Height of 9.3 metres (to top of parapet) pursuant to section 52.1(b) is varied to allow an excess of 1.2 metres, thereby increasing the maximum allowed Height to 10.5 metres.

7618G – 83 Avenue NW

1. The minimum allowable (east) Side Setback of 1.2 metres pursuant to section 87(8) is varied to allow a deficiency of 0.3 metres, thereby decreasing the minimum allowed to 0.9 metres.
2. The minimum allowable (west) Side Setback of 1.2 metres pursuant to section 87(8) is varied to allow a deficiency of 0.3 metres, thereby decreasing the minimum allowed to 0.9 metres.

Reasons for Decisions**7616 – 83 Avenue NW/7618 – 83 Avenue NW**

- [50] The proposed developments, Single Detached Houses, are Permitted Uses in the RF1 Single Detached Residential Zone.
- [51] The house at 7616 – 83 Avenue requires two variances with regard to Height. The maximum allowed in the regulations is 8.9 metres to the midpoint of the parapet and it exceeds this by 1.3 metres. The second variance is to the top of the parapet, which is not to exceed 9.3 metres, but it is 1.1 metres higher than this.
- [52] The house at 7618 – 83 Avenue also requires two variances with regard to Height. The midpoint of the parapet is 1.4 metres over height and the top of the parapet is 1.2 metres over height.
- [53] The Appellant advised the Board that the property owners immediately east and west of the subject Sites, those neighbours who would be most affected by the variances, are not opposed to the proposed developments having an excess in Height.
- [54] The Board finds that the sun shadow study completed by the Appellant demonstrates that there is no significant impact in sun shadowing as a result of the Height variances granted.
- [55] The Board notes that the variances in Height all relate to the third half storeys of the houses, which are stepped back from the front and rear of the house. This significantly reduces the visual impact of the excess in Height.
- [56] A number of the written comments received in opposition to the proposed developments related to the character of the neighbourhood being changed by skinny house developments. The Board heard evidence that there are several developments in the neighbourhood that are similar to the proposed development. There is no doubt that this is changing the character of the neighbourhood, but these types of development are Permitted Uses that have been sanctioned by City Council.

7616G – 83 Avenue NW/7618G – 83 Avenue NW

- [57] The proposed developments, Garden Suites, are a Permitted Uses in the RF1 Single Detached Residential Zone.
- [58] Side Setback variances of 0.3 metre are required on each side of both Garden Suites.
- [59] The Board finds that the 0.3 metre variances to the Side Setbacks are minimal and will not have a material impact for the following reasons:
- a. The property owners to the immediate east and west of the subject Sites are not opposed to the variances.
 - b. Any visual impact because of the Setbacks will be visible from the rear lane only and will not impact the amenities of the neighbourhood.
 - c. A portion of the second storeys has been stepped back to 1.2 metres, which mitigates the impact of the variances.
 - d. None of the letters received in opposition from neighbouring property owners specifically addressed the required variances to the Side Setbacks for the Garden Suites.

Conclusion

- [60] Based on the above, it is the opinion of the Board that the proposed developments 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. M. Young, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. R. Handa; Mr. D. Fleming; Mr. A. Nagy; Mr. L. Pratt

CC: City of Edmonton, Development & Zoning Services, Attn: Mr. A. Seltz / Mr. A. 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.



EDMONTON
TRIBUNALS

*Subdivision &
Development
Appeal Board*

10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
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SDAB-D-19-158

Application No. 277599944-001

An appeal to install (1) Minor Digital On-premises Off-premises Freestanding Sign (2 sided Facing N/S: 3.8 m x 7.7 m)(ASTRAL | Revolve Home) was **WITHDRAWN**.