



**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
edmontonsdab.ca

Date: September 20, 2019
Project Number: 314522631-001
File Number: SDAB-D-19-140

Notice of Decision

- [1] On September 5, 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 Development Authority, issued on August 7, 2019, to refuse the following development:

Construct an Accessory Building (rear detached Garage, 6.71 metres by 7.32 metres)

- [2] The subject property is on Plan 6773MC Blk 19 Lot 13, located at 4059 – Aspen Drive East 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 Development Permit application with attachments, proposed plans, and the refused Development Permit;
 - The Development Officer’s written submissions; and
 - The Appellant’s supporting documents, including copies of the proposed plans; excerpt from the *Edmonton Zoning Bylaw*; and a petition with signatures from neighbouring property owners in support of the proposed development.

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, Mr. Northup, Mr. Woods, and Mr. Magnan, representing Premier Built Garages*

- [7] The Appellants disagreed with the Development Officer's calculation of Height and Grade.
- [8] They were provided with different options but did not have a chance to explore those options. They were told the development permit would be refused and they could appeal that decision.
- [9] There is a development in close proximity to the subject Site that is similar to the proposed development and may even be taller than the dwelling on that site.
- [10] The proposed development will not increase parking or traffic in the neighbourhood.
- [11] Existing trees along the boulevard and on the property will mitigate the proposed development.
- [12] They spoke to neighbouring property owners and provided the Board with 12 signatures in support of the proposed development.
- [13] The second floor will be used for storage and a hobby room.
- [14] The proposed detached garage will be on the same footprint as the existing garage.
- [15] Mr. Northup, Mr. Woods, and Mr. Magnan provided the following information in response to questions by the Board:
- a. They would like the elevation plans provided to the Board approved.
 - b. Mr. Northup referred to the elevation plan showing the mid-point of the highest portion of the roof.
 - c. If their calculation of the height is not correct, they are requesting a variance for the Height of the garage.
 - d. There is a retaining wall that is three feet tall near the rear lane.
 - e. The grading from the house to the retaining wall is minimal then drops significantly.
 - f. The development in close proximity to the subject site is not used as a Garage Suite.
 - g. They interpreted the *Edmonton Zoning Bylaw* regulations differently than the Development Officer. In their opinion, the proposed detached garage is designed to meet the regulations.

- h. In their opinion, the Height calculations should have been done using a 9.5/12 pitch. The majority of the roof is 4/12 pitch.
- i. In their opinion, the proposed detached garage will look like a single storey structure.
- j. They are agreeable to the suggested conditions of the Development Officer.

ii) *Position of the Development Officer, Ms. Lai*

[16] The Development Authority did not appear at the hearing and the Board relied on Ms. Lai's written submission.

Decision

[17] 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. The development shall be constructed in accordance with the stamped and approved drawings.
2. Eave projections shall not exceed 0.46 metres into required yards or Separations spaces less than 1.2 metres. (Section 44).
3. The area hard surfaced for a driveway, not including the area used for a walkway, shall comply with Section 54.6. The driveway shall be located in accordance with the stamped approved site plan.
4. The Driveway shall lead directly from the roadway to the Garage or Parking Area and shall not wider than the width of the Garage or Parking Area.

[18] In granting the development, the following variance to the *Edmonton Zoning Bylaw* is allowed:

1. The maximum allowable Height of 4.3 metres as per Section 50.3(3) is varied to allow an excess of 1.0 metres, thereby increasing the maximum allowed Height to 5.3 metres.

Reasons for Decision

- [19] The proposed development is Accessory to Single Detached Housing which is a Permitted Use in the RF1 Single Detached Residential Zone.
- [20] The Board accepts the calculations of the Development Officer which determined that the proposed development requires a variance to the Height contained in Section 50.3(3) of the *Edmonton Zoning Bylaw*.
- [21] The Board grants the required variance for the following reasons:
- a. The proposed garage will be built on the same footprint as the existing garage thereby retaining existing amenity area and green space in the rear yard.
 - b. The subject lot is large and backs onto a laneway and green space.
 - c. The lot has a significant grade variation from the front to back which results in the structure being significantly lower when viewed from the front of the Site. The Board is satisfied the development will have no visual impact on neighbouring property owners.
 - d. The Appellant provided the Board with documentation of Community Consultation showing 12 signatures of neighbours in support of the proposed development.
 - e. No letters were received in opposition to the development and no one appeared at the hearing to oppose the development.
- [22] 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.

Ms. G. Harris, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. V. Laberge; Mr. C. Buyze; Mr. J. Jones; Ms. D. Kronewitt Martin

CC: City of Edmonton, Development & Zoning Services, Attn: Ms. E. Lai / 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
P: 780-496-6079 F: 780-577-3537
sdab@edmonton.ca
edmontonsdab.ca

Date: September 20, 2019
Project Number: 313576896-001
File Number: SDAB-D-19-141

Notice of Decision

- [1] On September 5, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on August 10, 2019. The appeal concerned the decision of the Development Authority, issued on August 1, 2019, to refuse the following development:

Construct a Garden Suite with balcony and to demolish existing detached Garage.

- [2] The subject property is on Plan 2938HW Blk 10 Lot 54, located at 11674 - 72 Avenue NW, within the (RF1) Single Detached Residential Zone. The Mature Neighbourhood Overlay and McKernan/Belgravia Station Area Redevelopment Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the refused Development Permit and the proposed plans;
 - The Development Officer’s written submission;
 - The Appellant’s written submissions including a letter of support from an adjacent property owner to the east and a photograph of the house north of the subject site; and
 - One online response from a neighbouring property owner in opposition to the development.

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.

Summary of Hearing

i) Position of the Appellant, M. Agnew

- [7] Mr. Agnew referred the Board to his written submissions.
- [8] He spoke to the adjacent property owner east of the subject site and received support for the proposed development.
- [9] He was unable to contact the neighbour in the house across the rear lane north of the subject site as the house is vacant and for sale.
- [10] Notices were sent to property owners and only one online response was received in opposition to the proposed development.
- [11] He spoke to Mr. M. Huculak from the Belgravia Community League and provided him with details for the proposed development. Mr. Huculak did not provide any concerns for the proposed development.
- [12] The proposed development is within the University area and a transit oriented development area.
- [13] The proposed Garden Suite may be rented to students attending the University and in the future may provide housing for their aging parents.
- [14] The floor area variances needed for the development are for the living space and not the building space under the requirements of the *Edmonton Zoning Bylaw*. The size of the development and site coverage are as allowed.
- [15] In his opinion, the *Edmonton Zoning Bylaw* is restrictive and does not accommodate the City's mandate.
- [16] There are several one bedroom suites on top of double and three car garages in the area.
- [17] The proposed Garden Suite will provide a range of housing options in the neighbourhood.
- [18] With regard to the online response in opposition to the proposed development. He stated that the property owner lives down the street from the subject site. He reiterated that he has the support from the immediately adjacent property owner to the east.
- [19] Mr. Agnew provided the following information in response to questions by the Board:
- a. The neighbour north of the subject site has a two car garage that faces the subject site. The trees on that lot provide a sun shadow on that property. In his opinion, the proposed development will not impact the property to the north.

- b. Mature trees on the subject site will not be removed when building the proposed development.
- c. The Garden Suite will be designed and finished so that it will be aesthetically pleasing as it will be seen from the principal dwelling.
- d. The lot is greater than 50 feet wide and is large enough to be subdivided allowing for two houses and two garages to be built on the lot. Building a garage with a Garden Suite will have less of an impact on neighbouring property owners than subdivision.
- e. He is agreeable to the suggested conditions of the Development Officer.

ii) *Position of the Development Officer, K. Payne*

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

Decision

[21] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority.

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

1. The maximum total Floor Area of 130 square metres for a Garden Suite per section 87.3(b) is varied to allow for an excess of 34 square metres, thereby increasing the maximum total Floor Area to 164 square metres.
2. The maximum second Floor Area of 50 square metres for a Garden Suite per section 87.3(c) is varied to allow for an excess of 28 square metres, thereby increasing the maximum second storey Floor Area to 78 square metres.

Reasons for Decision

[23] The proposed development, a Garden Suite, is a Permitted Use in the (RF1) Single Detached Residential Zone.

[24] The proposed development complies with regulations of the *Edmonton Zoning Bylaw* including Site Coverage, Height and Setbacks. It does not comply in respect of the total Floor Area and second storey Floor Area.

- [25] The lot is large and can accommodate a three-car garage with a Garden Suite.
- [26] The immediately adjacent neighbour east of the subject site is in support of the proposed development.
- [27] The online response in opposition was from a neighbour living across 72 Avenue and several houses away from the proposed development. This neighbour did not provide detail as to concerns with the proposed development or identify how the increased floor area would have an impact on that property.
- [28] The proposed Garden Suite meets Housing Choices policy 4.4.1.1 of the Municipal Development Plan (“The Way We Grow”) which states:
- Provide a broad and varied housing choice, incorporating housing for various demographic and income groups in all neighbourhoods.
- Further, the proposed Garden Suite meets Affordable Housing policy 4.4.14.2 of the McKernan/Belgravia Station Area Redevelopment Plan which states:
- Provide a mix of housing types and tenures that cater to a diverse range of household sizes, abilities, ages, incomes and lifecycle needs such as family oriented housing, student and seniors housing.
- [29] Based on the evidence submitted, the Board is satisfied that the design and articulation of the proposed development will reduce any massing effect on neighbouring property owners.
- [30] For the above reasons, 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.

Ms. G. Harris, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. V. Laberge; Mr. C. Buzye; Mr. J. Jones; Ms. D. Kronewitt Martin

CC: City of Edmonton, Development & Zoning Services, Attn; Mr. K. Payne / 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
P: 780-496-6079 F: 780-577-3537
sdab@edmonton.ca
edmontonsdab.ca*

SDAB-D-19-142

Application No. 311645449-001

An appeal to install a Freestanding Minor Digital On-premises Off-premises Sign (4.9m x 6.1m, incl digital panel 3m x 6.1m facing N) (PATTISON - TOOR HOLDINGS INC.) was TABLED TO NOVEMBER 13 or 14, 2019.