



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: September 29, 2017  
Project Number: 155374557-002  
File Number: SDAB-D-17-156

**Notice of Decision**

- [1] On September 14, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **August 3, 2017**. The appeal concerned the decision of the Development Authority, issued on July 19, 2017, to approve the following development:

**Convert an existing Semi-detached House to 4 Dwellings of Apartment Housing, existing without permits.**

- [2] The subject property is on Plan 9420679 Blk 40 Lot 18A, located at 11745 - 125 Street NW and Plan 9420679 Blk 40 Lot 18B, located at 11743 - 125 Street NW, within the (RF3) Small Scale Infill Development Zone. The Mature Neighbourhood Overlay and the West Ingle 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 West Ingle Area Redevelopment Plan;
  - A copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
  - The Development Officer’s written submission;
  - The Appellant’s written submissions; and
  - The Respondent’s written submissions.
- [4] The following exhibit was presented during the hearing and forms part of the record:
- Exhibit A – The Appellant’s written presentation.

**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.

### Summary of Hearing

i) *Position of the Development Officer, Ms. H. Vander Hoek*

- [8] Ms. Vander Hoek stated that the stamped site plan showed an incorrect site width dimension and the correct site width is 15.24 metres. The stamped site plan also showed an incorrect (north) side setback of 1.57 metres and an incorrect (south) side setback of 1.77 metres, the correct (north) side setback is 1.50 metres and the correct (south) side setback is 1.54 metres. She had used an old real property report in making her decision and calculating the required variances. Therefore, the stated variances in the approval decision are correct.
- [9] The *Edmonton Zoning Bylaw* (the “*Bylaw*”) was amended September 1, 2017 and section 140.4(20) no longer applies to the proposed development. Section 140.4(23) now applies, which states:

Except for Garden Suites and Secondary Suites, each Dwelling that has direct access to Grade shall have an entrance door or entrance feature facing a public roadway, other than a Lane. On Corner Sites, the entrance door or entrance feature may face either the Front Lot Line or the flanking Side Lot Line. However, Row Housing and Stacked Row Housing shall orient a minimum of one entrance door or entrance feature towards each adjacent public roadway, other than a Lane. Sliding patio doors shall not serve as the entrance door or entrance feature.

ii) *Position of the Appellant, Ms. L. Tarnowski*

- [10] Ms. Tarnowski read from her written presentation, marked *Exhibit A*.
- [11] She has owned and lived in her house for over 20 years.
- [12] She canvassed the neighbourhood when she thought about filing the appeal. Property owners indicated that they did not receive notification and were opposed to the proposed development.
- [13] In her opinion, the diagram stamped and approved by the Development Officer is not accurate. The front and rear yard is not drawn to scale and both yards appear to be larger than what they actually are.
- [14] With regard to the site area, the site needs an additional 55 square metres to meet the requirements of the *Edmonton Zoning Bylaw*. In her opinion, the proposed development is too large for the lot.

- [15] She is concerned about the size of the variances and wants more information about the acceptable limits on variances. She believes that there is a lack of green space with oversized developments.
- [16] She surveyed the vehicles in her neighbourhood and determined that there were up to 12 vehicles that are parked on the street that do not live in the neighbourhood.
- [17] The police have been called several times due to potential drug activity at the subject site. She does not believe the Respondent is aware of what takes place at his property.
- [18] She does not have an issue with a four-unit Apartment being built on a corner lot as those lots are typically larger. This type of development is more suitable in a high density area.
- [19] She is concerned that a portion of the amenity space is in the front yard.
- [20] There is a significant concentration of people and traffic in the area and on the subject site, which causes noise and negative impacts.
- [21] The immediately adjacent neighbour to the subject site could not attend the hearing, but told her that he constantly deals with excessive noise and people standing outside the side entrance of the building near his bedroom window.
- [22] She consulted some of the present and past Community League members who indicated that they are not supportive of the development or appeal hearings.
- [23] In response to questions by the Board, Ms. Tarnowski provided the following:
- a. Side entrances on buildings will negatively impact adjacent properties. If the side door entrance was moved to the rear of the building, she would not be opposed to the proposed development.
  - b. She is more accepting of a basement suite in a house since there would be more space but the noise could still be an issue. However, if there was a side door to the basement suite she would be opposed to it as well.
- iii) *Position of Affected Property Owners in Support of the Appellant, Mr. G. Lyderik and Ms. M. Luczak*
- [24] Mr. Lyderik stated that he lives six houses down from the subject site and he only found out about the appeal hearing last week.
- [25] He is unaware of the variances or the requirements in the *Bylaw*.

The Presiding Officer noted that he lives outside the 60-metre notification radius and asked him to indicate how he is affected by the proposed development.

- [26] Mr. Lyderik stated that he is an affected party since he has lived in the community on the same blockface as the subject site for almost 20 years.
- [27] He is concerned with noise, vagrancy, and police that are often in the area. He could not confirm if this was related to the subject site but noted that these issues are always down the street toward the subject site.
- [28] Emergency vehicles have not been able to drive down the street in the winter due to the width of the road and the excess of vehicles that park on the road.
- [29] There are several spruce trees that block the front of the subject building.
- [30] There is a dog run on the property where children play. In his opinion, this area is not an amenity space.
- [31] Even though there are other four-plexes in the neighbourhood, the community does not support them.
- [32] Ms. Luczak lives across the street from the subject site. Her property has been vandalized and broken into several times.
- [33] She referred to a duplex behind the subject site and the issues she deals with involving those tenants.
- [34] In the winter, she parks in the front of her property as the rear lane is usually blocked with vehicles. However, she does not want to use the front street as she does not want her children to see what goes on at the subject site.
- [35] She does not believe the property owner lives at the subject site and she does not know whether he is aware of what takes place at the site.
- [36] Tenants of the subject site store trailers with tools, garbage and other items in the parking area. She is concerned about how the parking area is used and notes vehicles are often parked illegally in the rear lane and in her rear lane.

*iv) Position of the Development Officer, Ms. H. Vander Hoek*

- [37] In response to questions from the Board, Ms. H. Vander Hoek provided the following:
- a. The proposed development involves no exterior alterations to the existing building. With regard to the side entrance variance, she essentially reviewed the information that was provided to her. She reviewed the side setbacks based on a prior real property report and other information available to the City, rather than the submitted erroneous site plan which was ultimately stamped as approved.

- b. On the issue of notice of her decision, she confirmed that the notice of decision was processed July 19, 2017 and sent out July 20, 2017 following City procedures. She confirmed through Mailing Services that notices were sent out. The Board Officer confirmed that there was no returned mail when the Subdivision and Development Appeal Board office sent out the appeal hearing information.
  - c. Ms. Vander Hoek indicated that the site plan shows the required landscaping in the front yard amenity area. The existing large trees were not considered when she reviewed the proposed development.
  - d. She does not know the size of the separation distance between the trees and the house or whether they are in the proposed amenity areas.
  - e. The proposed development meets the minimum amenity area dimensions.
  - f. The fact that the four dwellings are existing is not taken into account when reviewing a proposed development.
  - g. She is unaware of illegal activity occurring on the subject site. However, in her opinion providing an amenity area to the front yard provides more security as more people will be observing the street.
  - h. She clarified that all of the required space for private amenity areas can be met in the rear yard. However, this will cause a tenant of one dwelling to cross into another tenant's amenity area, from this perspective moving two private amenity areas to the front yard has a planning benefit.
  - i. She confirmed that the Respondent will need some sort of fence or landscaping to separate the two private amenity areas in the front yard.
- v) *Position of the property owner, Mr. K. Twumasi and Mr. M. Cedro, speaking on behalf of the Respondent MIKITECTURE*

- [38] Mr. Twumasi is willing to provide the landscaping that will work best on the subject site given the growing conditions.
- [39] In his opinion, there is also sufficient space in the rear yard for amenity space.
- [40] The proposed development meets all of the setback requirements.
- [41] He disagrees that individuals hang out on the side of the building by the entrance and he feels his tenants are targeted as bad people even though they care about the neighbourhood.

- [42] He spoke to neighbouring property owners, not the renters, and received signatures in support of the proposed development, which was provided in his submission. He was unable to contact anyone from the Community League.
- [43] He tried to speak to Ms. Tarnowski about the proposed development but she did not return his phone call.
- [44] Currently, his brother and family live on one side of the house. He previously lived in one of the units, but no longer lives there.
- [45] He confirmed that one of the signatures listed on Ms. Tarnowski's petition was not the property owner.
- [46] This is an area where the City is allowing higher density developments.
- [47] The mature trees are outside the amenity area which increases privacy in the front yard. He is willing to plant shrubs if necessary to increase privacy.
- [48] The subject site is well kept and is family-oriented as children live there.
- [49] In response to questions by the Board, Mr. Twumasi and Mr. Cedro provided the following:
- a. He purchased the property in 2012.
  - b. The Real Property Report shows two titles and he owns both titles.
  - c. Mr. Cedro stated that the drawings were done to the best of his ability and they are to scale. He made the erroneous on-site measurements included in the application based in part on the location of the fence which he assumed was on the property line.
  - d. The rear amenity area requirements are met for all four dwellings and a fence will be developed between the two lots. There will be seven parking spaces and only five are required. This will alleviate parking pressure given that commuters who work at nearby businesses park on the street during the day.
  - e. The front does not have landscaping and was done in a way so that it is low maintenance. They do not have any plans to change the landscaping in the front yard other than adding shrubs to divide the two areas. Plants may not grow given the very large evergreen trees in the front yard. However, they are agreeable to any suggested landscaping conditions.

vi) *Rebuttal of the Appellant, Ms. L. Tarnowski*

[50] It is not clear to her what the measurements are and she questioned what the limit is to the number of variances allowed in a development permit.

The Presiding Officer referenced section 687(3)(d) of the *Municipal Government Act* and explained the Board's test for variances.

[51] In her opinion tenants that may have lived in the area for several years should be considered an affected party.

[52] In her opinion, there are better sites for developments such as this.

[53] She spoke to two of the four people that the Respondent also contacted.

### **Decision**

[54] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED** as approved by and subject to the conditions imposed by the Development Authority.

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

1. The minimum required Site Area is 750 square metres. The existing Site Area is 696.77 square metres and a deficiency of 53.23 square metres is allowed. (Section 140.4(5)(a)).
2. The minimum required Site Width is 17.0 metres. The existing Site Width is 15.24 metres and a deficiency of 1.76 metres is allowed. (Section 140.4(5)(b)).
3. Section 140.4(23) is waived to allow two side entrance doors for two of the four Dwellings.
4. Section 47.4 is varied to allow two Private Outdoor Amenity Areas for two of the Dwellings to be located in the Front Yard as indicated on the stamped Site Plan.

### **Reasons for Decision**

[56] At the outset of the hearing, the Board identified errors in the stamped Site Plan and confirmed that the Development Officer conducted her assessment and granted variances based on accurate information provided in a Real Property Report, dated March 10, 1994.

The Board used the Real Property Report dimensions to make its determination and marked the corrections on the stamped Site Plan.

- [57] The Board considered submissions from all parties concerning notice.
- [58] The Appellant and the property owners opposed to the proposed development indicated that they received late or no notice of the decision and that other persons they contacted did not receive notice of the approval in the mail.
- [59] The Development Officer submitted that notices of the approval were mailed out in accordance with the requirements of the *Edmonton Zoning Bylaw* (the “*Bylaw*”) following the City’s practice to send notice to property owners registered under land titles. The Board notes that the properties of some of these individuals were outside the notification radius and some others were not the registered owners of properties within the notification radius and therefore would not have been sent notification of the approval. Further, notices of this appeal were properly sent out in accordance with the *Bylaw* and there was no record of returned mail to the Subdivision and Development Appeal Board office. The Board also considered that both the Respondent and Appellant actively canvassed the neighbourhood in advance of the hearing.
- [60] Based on all these factors, the Board finds the interested parties did receive adequate notice and that on balance it was in the interests of fairness to all parties for the Board to proceed with its determinations.
- [61] The proposed development, an Apartment House with four Dwellings, is a Permitted Use in the (RF3) Small Scale Infill Development Zone.
- [62] The proposed development is consistent with the density contemplated under the West Ingle Area Redevelopment Plan, specifically policy 4 – Infill Housing that states:
- The Administration will encourage small scale, infill housing which reflects the character of surrounding older homes in those areas of West-Ingle districted for RF3(Low Density Redevelopment) District Section 140 in the Land Use Bylaw). Infill housing that would be encouraged includes discretionary uses such as threeplexes, and row housing up to four units.
- [63] The Board received mixed evidence concerning neighbourhood support and competing petitions in favour of and opposed to the proposed development. Neither petition provided detailed reasons for support or opposition.
- [64] Many of the concerns voiced by the Appellant and other neighbours that oppose the development centered on general deterioration of the neighbourhood due to increased density that is inherent in Apartment Housing and the impacts of the illegal activities, garbage and unkempt yards. The Board notes that some issues they raised did not relate to the proposed development in particular and the parties disagreed about whether the remaining concerns were attributable to the subject Site.



- [65] While the Board is not unsympathetic to these concerns, apart from noise at the side entrances, they are largely issues under the jurisdiction of Bylaw Enforcement and the Edmonton Police Service and are not relevant to the variances associated with the proposed Permitted Use.
- [66] The Board grants the variances to Site Area and Site Width for following reasons:
- a. The parties opposed to the development focused on the absolute magnitude of these variances. The Board must make its decision based on the impact of a variance. While the magnitude of a variance may well be indicative of the impact of the variance, it is not necessarily determinative and other factors must be considered in assessing the impact of a variance.
  - b. The Side Setbacks exceed the minimum requirements on both sides of the property.
  - c. The proposed development includes two on-site parking spaces in excess of the minimum required number of spaces. Even with seven on-site parking spaces, the requirements for Private Outdoor Amenity Areas can be fully accommodated on the subject Site with no variances to the dimensions or the size.
  - d. The subject Site meets all other applicable development regulations including the locational criteria for Apartment Housing per section 140.4(7) of the *Bylaw* and there are no variances to the required Setbacks, Site Coverage and Height that would tend to indicate an overdevelopment of the subject Site.
  - e. The proposed development involves no exterior alterations to the building which has been in place and operating as four separate Dwellings, albeit with no permit, for several years.
- [67] The side entrance door location for two of the Dwellings is allowed for the following reasons:
- a. The Side Setback adjacent to the south residential lot is 1.54 metres, which exceeds the minimum requirement.
  - b. The *Bylaw* requires that each Dwelling in the Building shall have an entrance door or entrance feature facing a public roadway, other than a Lane, however nothing in the *Bylaw* prohibits side entrances to the subject building.
  - c. Given that on-site parking spaces are in the rear, accessing four required front entrances would carry the same potential for foot traffic and associated nuisance.
- [68] The variance to allow two Private Outdoor Amenity Areas within the Front Yard space for two Dwellings is granted for the following reasons:

- a. Due to the configuration of the entrance locations of front Dwellings, locating the Amenity Area in the Front Yard will make them more accessible and therefore more likely to be used by the residents and also increase their privacy.
  - b. While all four Private Outdoor Amenity Areas could have been accommodated in the Rear Yard, this configuration would add to traffic along the side of the building and potentially exacerbate the noise experienced by the adjacent neighbour.
  - c. The Development Officer indicated that there would be potential security benefits by providing Private Outdoor Amenity Areas in the Front Yard and consequently increasing surveillance along the block.
  - d. Based on the photographic evidence, the Private Outdoor Amenity Areas in the Front Yard will be separated from the public sidewalk and partially screened by the existing mature trees.
  - e. The required landscaping per section 55 of the *Bylaw* will ensure adequate landscaping will be provided and there will be separation of Private Outdoor Amenity Space assigned to each Dwelling unit.
- [69] Based on the above, 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.

Ms. K. Cherniawsky, Presiding Officer  
Subdivision and Development Appeal Board

**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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Date: September 29, 2017  
Project Number: 254327867-001  
File Number: SDAB-D-17-171

**Notice of Decision**

- [1] On September 14, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **August 17, 2017**. The appeal concerned the decision of the Development Authority, issued on August 9, 2017, to refuse the following development:

**Construct a Single Detached House with an Unenclosed Front Porch, rear attached Garage, fireplace, and Basement development (NOT to be used as an additional Dwelling), and to demolish an existing Single Detached House and Accessory Building (rear detached Garage).**

- [2] The subject property is on Plan 2000U Blk 2 Lots 12-13, located at 9140 - 77 Avenue NW, within the (RF3) Small Scale Infill Development Zone and the (A) Metropolitan Recreation Zone. The Mature Neighbourhood Overlay and the North Saskatchewan River Valley and Ravine System Protection Overlay (the “Ravine Overlay”) 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 Development Permit application with attachments, proposed plans, and the refused Development Permit;
  - The Development Officer’s written submissions;
  - The Appellant’s written submissions; and
  - An on-line response from an adjacent property 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.

### **Summary of Hearing**

*i) Position of the Development Officer, Ms. H. Vander Hoek*

[7] Ms. Vander Hoek clarified that the Mature Neighbourhood Overlay was recently amended and all rear attached garages are prohibited. She indicated that there is an additional side setback variance of 7.5 metres because of the Ravine Overlay.

[8] She reviewed the entire site under the Mature Neighbourhood Overlay.

[9] The refused plot plan shows a dotted line where the Ravine Overlay crosses the southwest portion of the site and there is a zero-metre separation space between the proposed house and the top-of-bank setback line.

*ii) Position of the property owner, Mr. D. Bodnarchuk, who was accompanied by the Architect, Mr. S. Mielczarek*

[10] The proposed development was designed to fit the shape of the lot which borders the ravine.

[11] The total site coverage is 39 percent which meets the regulations of the *Edmonton Zoning Bylaw*.

[12] Mr. Bodnarchuk referred to the photographs in his submission and outlined the elevation drawings of the proposed development and how the development will fit on the lot.

[13] The plot plan shows the ravine setback line. Mr. Mielczarek stated that the variance in the setback was because of the Ravine Overlay.

[14] They intend to build the house to be consistent with the neighbouring properties.

[15] The majority of the windows face the ravine so there will not be a privacy impact on adjacent properties.

[16] In their opinion, the subject lot is similar to a corner lot. If the garage was detached, it would still be positioned in the same location.

[17] The plot plan shows where the existing house was located and that the new house will be pushed back farther.

- [18] The neighbourhood is being revitalized and the house is being built to be in keeping with the characteristics of other houses in the neighbourhood. In their opinion, the proposed development will enhance the curb appeal and increase the value of neighbouring properties.
- [19] The immediate adjacent neighbour to the east verbally supports the proposed development. That neighbour uses the front of their property more than their rear yard as referenced in the photographs in their submission. The President of the Community League provided support for the proposed development. Mr. Bodnarchuk was unable to contact two neighbours even though he attempted to reach them several times.
- [20] He referred to the photographs in his submission showing the location of houses and garages on adjacent properties.
- [21] Due to the Ravine system, there are challenges to build on this lot.
- [22] The width of the proposed house is 39 percent less than what is allowed on the subject site.
- [23] They do not intend to have a basement or garage suite.
- [24] There is minimal front street access to the subject site.
- [25] They addressed any concerns raised in the Geotechnical report.
- [26] He referred to the Development Officer's submission and indicated that attached Garages are characteristic of the neighbourhood.
- [27] In their opinion, the proposed development will not have a negative impact on sunshading on the adjacent lot as their rear yard is small.
- [28] Building the house in this location will provide them a better view of the ravine.
- [29] In response to questions by the Board, they stated that they have not noticed a change in the land on the adjacent property and are confident the land is stable.
- [30] Mr. Mielczarek confirmed that a 10.0-metre setback from the ravine will be stable.
- [31] Mr. Mielczarek confirmed that the proposed breezeway will encroach slightly into the Ravine Overlay setback.
- [32] If the house was pushed forward on the lot a variance would be required in the Front Yard.

*iii) Position of the Development Officer, Ms. H. Vander Hoek*

- [33] Ms. Vander Hoek provided the following responses with respect to questions from the Board:
- a. The Geotechnical response from the City had no issues with the Ravine Overlay regulations with respect to the proposed development. She confirmed that she did not review the Ravine Overlay because the Geotechnical Engineer had no issues with the setback to the ravine.
  - b. She confirmed that the Appellant met the community consultation requirement per the Mature Neighbourhood Overlay.
  - c. With regard to photographs of adjacent properties, she indicated that despite the existing sightlines, she is obligated to review any potential future development that might be affected by the variances of the subject proposal. Further, the Development Officer has to look at the intent of the regulations and why they exist.
  - d. She agrees there is a hardship to build because of the unique lot and top-of-bank line.
  - e. She indicated that if a new house was built with the same footprint as what is there now on the adjacent lot to the east, there would be a variance to the 12.8-metre rear containment regulation and the 40-percent rear setback requirement.
  - f. She confirmed that the proposed conditions in her written submission came from the City's Geotechnical response and standard house conditions. The glass treatment condition is the only unique condition to this house.

*vii) Rebuttal of the Appellant, Mr. D. Bodnarchuk*

- [34] Mr. Bodnarchuk indicated that there is a new development on the adjacent property.

**Decision**

- [35] 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. Frosted or opaque glass treatment shall be used on windows as required on the right elevation to minimize overlook into adjacent properties.
3. The geotechnical consultant must review and comment on the revised lot grading plans that address the issue of overland drainage from the subject property to the neighbouring lot to the east, to ensure that the slope stability analysis is still valid with the revised lot grades and to ensure that it is consistent with their development restrictions.
4. All construction debris should be removed off site. Dumping of any type of fill, grass cuttings or construction debris adjacent to or on/over the crest of slope shall not be allowed.
5. No fill materials shall be placed unless such fill is placed in accordance with the approved lot grading plan. Lot grades shall be maintained at or below existing levels. No fill or other development shall be undertaken within the building setback area, nor on the slopes, except where approved by the geotechnical consultant.
6. Grading, landscaping, and construction excavations shall not allow any ponding of water, or the focussed discharge of water toward the ravine slopes. Surface runoff shall be directed away from the slopes and into the storm drainage system, wherever possible.
7. Slope vegetation shall not be disturbed and/or reduced to prevent surface erosion and local instability and sloughing. The retention and enhancement of existing vegetation and vegetative cover during site development is considered highly desirable, and all vegetation on the slopes and within the building setback area shall be maintained, where possible. Revegetation and re-planting of trees on the slope and within the setback zone (on the subject property) shall be carried out in accordance with the recommendations of the geotechnical consultant.
8. Swimming pools, decorative ponds, or other water retention structures should not be constructed or installed within the setback zone. Engineering Services would recommend that water retention structures shall not be installed or constructed on this property to further reduce risk.
9. No permanent sprinkler or irrigation systems shall be constructed or installed within the setback zone. Engineering Services would recommend that permanent sprinkler or irrigation systems shall not be installed or constructed on this property to further reduce risk.
10. Roof leaders, downspouts, and sump pumps shall not be allowed to discharge onto the ground surface. They shall be connected to the storm sewer system.



11. Surface runoff shall be controlled so as to direct surface water away from the slope and into storm drainage systems. Uncontrolled channelized flow toward or over the bank shall not be permitted.
12. All buried water and sewer lines, connections to manholes and catchbasins should be constructed with water tight joints to minimize the risk of excessive seepage into the ground.
13. No geothermal devices shall be constructed or installed, as defined in the report.
14. Grading and drainage plans shall be reviewed by the geotechnical consultant prior to construction to ensure that geotechnical recommendations are met.

NOTES:

1. Any future additional dwelling such as Secondary Suite shall require a separate development permit application.
2. Any future deck enclosure or cover requires a separate development and building permit approval.
3. Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Services at 780-496-5500 for lot grading inspection inquiries.
4. Unless otherwise stated, all above references to "section numbers" refer to the authority under the *Edmonton Zoning Bylaw*.
5. The various site development restrictions outlined in the geotechnical report (Section 6) must be followed in any development of the site. The owner is also encouraged to become familiar with the site management guidelines and to fully adhere to them.
6. Such restrictions are proposed not to be punitive, but rather to improve the long term viability of the property and reduce risk.
7. Relative to foundation construction for the new residence, it is also recommended that inspections by qualified geotechnical personnel be undertaken during construction, to confirm that recommended construction procedures are followed.
8. The applicant must be aware that they are fully responsible to mitigate all geotechnical risks to surrounding properties and structures and infrastructure. Notably, all design and construction measures, including permanent retaining structures and temporary shoring to support the basement excavations must suitably protect neighbouring properties, structures and infrastructure from any adverse impacts during construction.

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

1. The minimum required Rear Setback is 16.04 metres. The proposed Rear Setback is 1.35 metres and a deficiency of 14.69 metres is allowed. (Section 814.3(4)).
2. Section 814.3(19) is waived to allow a rear attached Garage.
3. Section 811.3(1) is waived to allow the proposed development to be located as per the approved stamped plans.

### **Reasons for Decision**

[37] The proposed development, a Single Detached House, is a Permitted Use in the (RF3) Small Scale Infill Development Zone (the “RF3 Zone”) and a Discretionary Use in the (A) Metropolitan Recreation Zone (the “A Zone”).

[38] The Board allows the variances for the following reasons:

[39] The subject Site is located at the dead end of a residential street and is abutting the North Saskatchewan River Valley and Ravine System Protection Overlay (the “Ravine Overlay”). The Site straddles the RF3 Zone and the A Zone. The Board finds that the proposed development is compatible with surrounding residential uses and has not been provided any planning reason to deny the appeal.

[40] The Board notes that the Appellant embarked on extensive community consultation, making repeated visits to all properties identified by the Development Officer and was able to obtain responses from 23 out of 24 properties. The Board notes that the Appellant contacted more residents than what is currently required per section 814(5) of the Mature Neighbourhood Overlay. Therefore, the Board finds substantial compliance with the community consultation requirements given that the development has variances within the Mature Neighbourhood Overlay.

[41] The evidence of the community consultation yielded no negative responses. Neighbours provided significant support for the proposed development and neutral responses. The Board notes all adjacent neighbours to the north across the lane support the proposed development. Further, the Appellant discussed the proposal in detail with the abutting neighbour to the east that is adversely impacted the most and received full support.

[42] With respect to the bank Setback line, the Board notes that there are unique features of the subject Site that brings development challenges. The bank Setback line diagonally cuts the southeast portion of the lot, which limits the available building pocket.

- [43] The Board notes that the Geotechnical Report had no concerns with the proposed development subject to stated conditions which the Board has affirmed.
- [44] The top-of-bank typically pushes development north and east and the proposed development incorporates a 7.3-metre Front Setback which preserves the block face and the amenities for surrounding neighbours and their view of the ravine.
- [45] The Board recognizes that a significant portion of the two-storey addition of the House extends into the Rear Setback. However, the rear attached Garage is a single-storey development with a breezeway. The adjacent neighbour has limited usable space of their Rear Yard and limited view of the subject Site.
- [46] The Board notes that there are two existing rear attached Garages in the area based on the photographic evidence and although the majority have rear detached Garages, rear attached Garages are not totally unique to the area.
- [47] The Board further notes that the proposed development is fully compliant with the Site Coverage and Height requirements.
- [48] Based on the above, 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.

Ms. K. Cherniawsky, Presiding Officer  
Subdivision and Development Appeal Board

**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.*