



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: October 5, 2017  
Project Number: 254787736-002  
File Number: SDAB-D-17-172

**Notice of Decision**

[1] On September 20, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on August 29, 2017. The appeal concerned the decision of the Development Authority, issued on August 18, 2017, to refuse the following development:

Construct exterior alterations to a Single Detached House (Driveway extension, 3.5 metres by 7.0 metres), existing without permits.

[2] The subject property is on Plan 600MC Blk 6 Lot 3, located at 6219 - 129 Street 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:

- Copies of the refused permit, permit application, and plans;
- Canada Post receipt confirming delivery of the refused permit decision;
- Development Officer's written submissions dated September 13, 2017;
- One online response in support of the development; and
- Written submissions and supporting materials of the Appellant.

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

- Exhibit A – Photograph of the gate to the Rear Yard

**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 Appellant, Ms. T. Yu*

- [8] Ms. T. Yu was accompanied by legal counsel, Mr. St. Arnaud.
- [9] Mr. St. Arnaud reviewed the photographs contained in his supporting materials to illustrate the subject site and other similar driveway extensions located in the neighbourhood. He explained that Ms. Yu, the Applicant and previous property owner, has already sold the house. Should the Board require that the extension be removed, there would be financial implications and potential legal repercussions as the extension was one of the reasons that the buyers purchased the property.
- [10] He acknowledged the definition of Driveway under the *Edmonton Zoning Bylaw*, but it was his opinion that the driveway does lead directly from the roadway to the parking area because vehicles access the driveway and the extension from the front street.
- [11] The driveway extension is located behind a mature tree on the north side of the driveway. Steps were installed on the south side of the driveway at the same time that the extension was developed. Due to the driveway's slope, which is the steepest in the neighbourhood, these steps improve access to the front of the house, particularly during the winter months when there is buildup of ice and snow.
- [12] Ms. Yu, the previous property owner of the subject property, explained that the subject site is also located on a busy bus route, with buses driving past her home at relatively high speeds. She would back her vehicle out of the attached front garage onto the concrete extension before driving down the rest of the driveway, as the extension provided better sightlines of the oncoming buses. This method has proven safer than backing her vehicle straight down the driveway.
- [13] The front yard is tastefully landscaped and the concrete extension cannot be seen from the front street. Mr. St. Arnaud referenced photographs of at least 16 driveway extensions located in the neighbourhood. Although he could not confirm whether development permits had been issued for these driveways, the pictures demonstrated that driveway extensions were not uncommon and that some of the existing driveways were in fact wider, more visible from the street, and less aesthetically pleasing than the subject. It was also his view that none of the other driveway extensions had the slope and safety issues associated with the subject site.

- [14] It was noted that one on line response was received from a neighbouring property owner in support of the proposed development.
- [15] Mr. St. Arnaud and Ms. Yu provided the following information in response to questions from the Board:
- a) Ms. Yu advised that the driveway extension was developed in May 2014 by a contractor who assured her that all of the required permits had been obtained.
  - b) A photograph, marked Exhibit "A", was submitted to show the gate located behind the driveway extension that provides access to the rear yard.
  - c) The driveway was never used for additional parking. It provided a space for vehicles to turn around after exiting the attached front garage. It also provided some extra space for her young children to prepare their bicycle equipment before cycling down the driveway.

ii) *Position of the Development Authority:*

- [16] The Development Authority provided written submissions and did not attend the hearing.

## **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. This Development Permit authorizes the development of exterior alterations to a Single Detached house (Driveway extension, 3.5 metres by 7.0 metres). The development shall be constructed in accordance with the stamped and approved drawings.
  2. Immediately upon completion of the exterior alterations, the site shall be cleared of all debris.

Advisements:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the *Municipal Government Act*, the Safety Codes act or any caveats, restrictive covenants or easements that might be attached to the Site.

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

- 1) Section 54.1(4)(a) is waived to permit a Driveway extension that does not lead directly to the Garage.
- 2) Sections 54.1(4)(c) is waived to permit the Driveway extension to increase the maximum allowable width of the Driveway by 3.50 metres.
- 3) Section 54.2(2)(e)(i) is waived to allow parking in the Front Yard along the portion of the Driveway extension.
- 4) The landscaping requirements contained in Section 55.3(1)(e) are waived for the existing concrete extension.

### **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] Based on a review of the photographic evidence provided by the Appellant, there are 16 similar driveway extensions located within the Grandview subdivision. Therefore, the existing driveway extension is not uncharacteristic of the neighbourhood.

[21] The concrete driveway extension is screened by a large mature tree and is not visible from the front street because of the slope of the driveway.

[22] Based on the evidence provided by the Appellant, the concrete extension provides additional space to allow a vehicle to back out of the front attached garage and then drive down the driveway, which addresses the safety issues associated with the slope of the driveway and the location of the property on a busy bus route.

[23] The driveway extension has existed for more than three years without any known complaint. The Board notes that one on line response was received from a neighbour in support of the proposed development. There were no letters or emails of objection and no one attended the hearing in opposition to the proposed development.

[24] For all of the above reasons, 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.

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Mr. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance: Mr. M. Young; Mr. J. Wall; Ms. G. Harris; Ms. L. Gibson

**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: October 5, 2017  
Project Number: 257674399-001  
File Number: SDAB-D-17-173

**Notice of Decision**

- [1] On September 20, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on August 23, 2017. The appeal concerned the decision of the Development Authority, issued on August 17, 2017, to refuse the following development:

Operate a Major Home Based Business (Hair Salon - HAIR ON POINT)

- [2] The subject property is on Plan 9222418 Blk 37 Lot 140, located at 159 - River Point NW, within the RPL Planned Lot Residential Zone. The Kernohan Neighbourhood Structure Plan applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copies of the refused permit and permit application;
  - Development Officer's written submissions dated September 19, 2017;
  - One online response and two letters in opposition to the development; and
  - Appellant's written submissions and supporting materials, including a petition in support of 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, Ms. Canu*

- [7] Ms. Canu has worked as a hairstylist for 12 years and has an established clientele; therefore she does not require signage to advertise her business. All of her clients are scheduled by appointment to ensure that one client leaves before the next client arrives.
- [8] She referenced photographs to illustrate the parking situation in the cul de sac located in front of her house. The photographs were taken on different days of the week at different times of the day. Five small cars can park in this cul de sac.
- [9] She acknowledged that parking has always been a problem in River Point. However, it was her opinion that one parking space will be available in front of her house for her clients to use during the morning and afternoon hours. She referenced a photograph to illustrate that the main roadway is less than a minute walk from her house and it provides public parking for all visitors. If parking is not available in front of her house or on the pad in front of her rear detached garage, the main street is always an option.
- [10] Photographs of different sized vehicles parked on the pad behind the rear detached garage were submitted to illustrate that parking on the pad does not impede or interfere with traffic in the rear lane.
- [11] Both her vehicle and her boyfriend's vehicle fit inside the rear detached garage. During the day, while her boyfriend is at work, her clients will be able to park inside this garage. There should never be an issue of more than one client vehicle at a time during business hours because she is the sole employee and can only accommodate one client at a time. If she is still with a client when her boyfriend returns home, he will park his vehicle on the public street.
- [12] She does not work more than eight hours per day, five days a week, and does not work on statutory holidays.
- [13] A letter explaining the proposed business and parking options was sent to her neighbours on July 19, 2017. She attempted to visit as many neighbours as possible. None of the neighbours that she contacted were opposed to her development. One of her immediate neighbours provided written support, but she was unable to contact her other adjacent neighbour. She does not wish to cause any problems for her neighbours and is willing to make whatever compromises are required.

*ii) Position of the Development Authority*

[14] The Development Authority provided written submissions and did not attend the hearing.

*iii) Position of Affected Property Owner in Opposition to the Development*

[15] Mr. R. Keenan, Property Manager with Premier Asset Management, appeared on behalf of the River Point Homeowners Association (the "HOA").

[16] The roadways within River Point are private. Maintenance of these roads, including paving and streetlights, is managed by the HOA. The roadways are undersized and parking has always been a problem. Approximately 18 months ago, Fire Rescue Services contacted him to raise concerns about difficulties accessing a residence for an emergency call. The HOA cooperated with Fire Rescue Services to survey the neighbourhood. As a result of the investigation, and at a high cost to the HOA, emergency access signage was installed to improve access for emergency vehicles by limiting on-street parking.

[17] He referenced photographs submitted by the Appellant to show the locations of the emergency access signs and the area where parking is not permitted. Upon questioning by the Board, he confirmed that the parking spaces in the cul de sac were located just outside the emergency access signage and therefore were available for on-street parking.

[18] A towing company has been hired to patrol the area and remove cars that are parked illegally. The HOA is not opposed to the proposed home based business but there is a concern regarding the impact that the business will have on the already limited parking on River Point. He is aware of two other home based businesses operating legally in River Point: a computer company and a painting contractor. The painting contractor works off site so parking is not an issue. He has never received any complaints, parking or otherwise, regarding these other home based businesses.

[19] He acknowledged that parking is available for the residents on the public roadway that is located within 300 metres of the subject site. A condition requiring all customers to park in the rear detached garage or on the parking pad in front of that garage would address the parking concerns.

*iv) Rebuttal of the Appellant, Ms. Canu:*

[20] She has been in contact with Mr. Keenan throughout the entire application process and does not object to the imposition of any conditions that would address the concerns of the HOA and her neighbours.

**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, subject to the following CONDITIONS:

1. The Major Home Based Business shall be operated by a resident of the Dwelling on the property (Section 7.3.7);
2. The Major Home Based Business must be secondary to the residential Use of the building (Section 7.3.7);
3. **Customers shall park inside the rear Detached Garage or on the public roadway;**
4. There shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 centimeters by 30.5 centimetres in size located on the Dwelling (Section 75.1);
5. There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings (Section 75.2);
6. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
7. All client visits shall be scheduled by appointment only and no two appointments shall overlap;
8. There shall be no dedicated waiting room;
9. There shall be no non-resident employees or business partners working on site;
10. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory Buildings (Section 75.5);
11. The Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory Buildings (Section 75.6);
12. A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site

containing a Garage Suite or Garden Suite and an associated principal Dwelling (Section 75.10);

13. This approval is for a five year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location.

Notes:

1. This Development Permit is not a Business Licence.
2. Signs require separate Development Applications.
3. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the *Edmonton Zoning Bylaw*. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the *Municipal Government Act*, the ERCB Direction 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants, or easements that might be attached to the Site.

### Reasons for Decision

- [22] A Major Home Based Business is a Discretionary Use in the RPL Planned Lot Residential Zone.
- [23] The Board acknowledges that parking has always been a problem in River Point because of the narrow, undersized roadways.
- [24] The Board notes the written objection received from the River Point Homeowners Association. However, the Property Manager for River Point was in attendance at the hearing and advised the Board that the Homeowners Association does not object to the proposed Major Home Based Business but is concerned about the impact that the business will have on the ongoing parking problems.
- [25] The Appellant was agreeable and the Board has imposed a condition that requires customers to park inside the rear Detached Garage or on the public roadway, which should mitigate the parking concerns of the Homeowners Association and minimize any conflicts between the customers of the business and the residents in this area.
- [26] The Board acknowledges the three written objections received from residents of River Point. However, the substance of these comments relate to parking concerns (which have been addressed by the Board through condition 3 above) and traffic enforcement matters outside the purview of this Board. The Board notes that the Appellant submitted a petition of support signed by seven residents of River Point who reside within the 60 metre notification area.

[27] For all of the above reasons, the Board finds that the proposed development with the conditions imposed 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.

A handwritten signature in blue ink, appearing to read 'B. Gibson', is centered on the page.

Mr. B. Gibson, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance: Mr. M. Young; Mr. J. Wall; Ms. G. Harris; Ms. L. Gibson

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**SDAB-D-17-136**

Project No. 237601282-001

An application to demolish an existing Freestanding Off-premises Sign (Existing without Permit) and install a Freestanding Minor Digital Off-premises Sign (Single sided facing Southeast) was **TABLED** to October 11 or 12, 2017