



**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](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)*

Date: October 6, 2017  
Project Number: 255383984-001  
File Number: SDAB-D-17-176

**Notice of Decision**

- [1] On September 27, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **September 2, 2017**. The appeal concerned the decision of the Development Authority, issued on August 22, 2017, to refuse the following development:

Convert a single detached house to a Child Care Services (33 Children)

- [2] The subject property is on Plan 0225719 Blk 159 Lot 1, located at 704 - Lauber Crescent NW, within the RSL Residential Small Lot Zone. The Leger Neighbourhood Area Structure Plan 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;
  - The Appellant’s written submissions; and
  - One e-mail in opposition to the proposed development.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Photos of parking availability (from Appellant)
  - Exhibit B – Petition in support (from 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.

- [7] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 (the “*Municipal Government Act*”).

### **Summary of Hearing**

*i) Position of the Appellant, Ms. S. Vargas*

- [8] Ms. Vargas was accompanied by her business partner, Ms. N. Payne.
- [9] Ms. Vargas has 20 years of child care experience and is currently the director of a very large company overseeing 152 children and 28 staff.
- [10] Ms. Payne has run a successful day home immediately across the street from the proposed development for the last three years. She often receives requests from families in need of child care and sees how families suffer when siblings must be separated. She plans to close her current day home, which has a limit of 6 children, to join Ms. Vargas in running the proposed development.
- [11] There is a huge demand for Child Care Services in this neighbourhood. The only services currently offered in the area are an out of school care program for children ages 6 to 12 and a pre-school program for children ages 4 to 4 ½ with limited hours.
- [12] The proposed site is a perfect location as it is one of the larger lots in the area and has enough play space for children. It is within walking distance to Joseph McNeil School, five minutes to the recreation centre and is surrounded by parks and playgrounds. The subject home was built 10 years ago with the intention of being used as a Child Care Service and has built features required to comply with licensing requirements, such as extra exits.
- [13] The proposed daycare will be run using a holistic approach to promote the mental, physical and emotional development of the children. This approach will provide the best opportunity for the children to grow into confident and capable adults while enjoying their childhood. All Social Services and Health Services regulations will be followed.
- [14] The proposed ratios of babies, toddlers and preschoolers could change depending on the needs of the neighbourhood and the direction of Social Services. The current proposal is to provide care for 33 children but this could be reduced.
- [15] The current proposal requires five drop-off / pick-up spots. A series of photos (marked “Exhibit A”) was submitted to depict the two on-site parking spaces as well as the available on-street parking. The photos were taken on two separate days during the anticipated morning and afternoon busy times. Very few cars were parked on-street in any of the photos. Ms. Payne, who lives directly across the street, is also providing two parking spots on her driveway for the child care use. Parking arrangements and rules will be clearly explained to parents.

- [16] Leger Boulevard runs along the south side of the subject Site and street parking between the entrance of Lauber Crescent and the mailbox would be within the required 100 metres from the main entrance and would not impact any other properties. Although Leger Boulevard is a bus route, no stops are near their development and there are no parking restrictions in effect.
- [17] Community consultation was conducted and a petition with 31 signatures in support was provided which included the most affected neighbours (marked "Exhibit B"). There was no response at seven homes despite numerous attempts, three homes were up for sale and two owners refused to sign the petition. The Appellants confirmed that the neighbours were made aware of the parking issue. They have corresponded with the community league via e-mail and have been attempting to arrange a time to meet.
- [18] No one will reside at the house and there will be a total of five employees, including Ms. Vargas and Ms. Payne. Ms. Payne will not require parking as she lives across the street and Ms. Vargas is planning to purchase a house in the vicinity so she can walk to work.
- [19] They confirmed that they have no objections to any of the suggested conditions of the Development Officer should this development be approved.

*ii) Position of the Development Officer, Ms. S. Buccino*

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

**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) This Development Permit approves the conversion of a Single Detached House to a Child Care Services Use. It does not approve any structure erected on Site for which additional approval is required.
  - 2) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 metres from the main entrance used by the Child Care Service. (Section 54.2 Schedule 1)
  - 3) Access from the site to Lauber Crescent exists and any modification to the existing access requires the review and approval of Subdivision Planning.

- 4) The proposed pick up and drop off stalls along Leger Blvd. must not interfere with the operation of the existing mail box.

Advisement:

- 1) Signs require separate Development Applications.

### **Reasons for Decision**

- [22] Child Care Services is a Discretionary Use in the RSL Residential Small Lot Zone.
- [23] This Child Care Service requires five pick-up/drop-off spots. It can accommodate two of these spots on the driveway of the site, leaving a deficiency of three parking spots for this development. However, Section 54.2 Schedule 1(A)(33)(a)(iii) states that an on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirements *without a variance* (emphasis added) if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.
- [24] The Development Officer did consult with Transportation Operations who stated that they had no objection to the parking deficiency as there are available pick-up/drop-off stalls. It appears that they were referring to the parking spaces available on Leger Boulevard and Lauber Crescent that are adjacent to the site of the proposed development.
- [25] Notwithstanding the lack of objection from Transportation Services, the Development Officer turned down the application because of the comments by Transportation Services that a loading zone could not be installed along Leger Boulevard as it would take away from the on-street parking inventory and that on-street parking cannot be relied upon as it is not always available as an alternative parking measure.
- [26] At the hearing the Board was presented with photographic evidence taken during the morning and afternoon during typical pick-up and drop-off times showing very little parking on these streets at that time. In addition, there is widespread community support in the neighbourhood for allowing this Child Care Services notwithstanding the potential parking issues.
- [27] The only opposition was from a neighbour whose primary concern was that residential development should not be used for Child Care Services. However, this particular house was specifically built with that use in mind and Child Care Services are a Discretionary Use in this Zone.
- [28] Given this, the Board is of the opinion that there is adequate parking available for pick-up and drop-off spaces in the immediate vicinity of the proposed development with no variance being required to do this.

[29] Accordingly, the appeal is allowed.

A handwritten signature in blue ink, appearing to read "Mark Young", is centered on the page. The signature is fluid and cursive, with the first name "Mark" and last name "Young" clearly distinguishable.

Mark Young, Presiding Officer  
Subdivision and Development Appeal Board

Board Members in Attendance:

Ms. A. Lund; Mr. J. Wall; Ms. M. McCallum; Ms. G Harris

**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.*



**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](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

Date: October 6, 2017  
Project Number: 240845024-001  
File Number: SDAB-D-17-177

**Notice of Decision**

[22] On September 27, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on **August 30, 2017**. The appeal concerned the decision of the Development Authority, issued on August 25, 2017, to refuse the following development:

Construct a two storey Accessory Building (Garage Suite on second floor,  
Garage on main floor; 7.01 metres by 8.23 metres)

[23] The subject property is on Plan 1837KS Blk 69 Lot 3, located at 12912 - 134 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay applies to the subject property.

[24] 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; and
- The Development Officer's written submission.

**Preliminary Matters**

[25] 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.

[26] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[27] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

[28] The Presiding Officer outlined the variances required for the proposed development as a result of amendments that were recently made to the *Edmonton Zoning Bylaw* and came into effect on September 1, 2017. These amendments significantly revised the regulations pertaining to Garden Suites, Garage Suites and the Mature Neighbourhood

Overlay. Section 3.2(1)(i) of the *Edmonton Zoning Bylaw* states for the purpose of any Development Permit, a Garage Suite is deemed to be a Garden Suite.

### **Summary of Hearing**

*i) Position of the Appellant, Mr. T. Sheehan:*

- [29] A variance is required because the proposed rear detached Garage will not be contained within the rear 12.8 metres of the Site because it will be built on an existing concrete slab in the rear yard.
- [30] There are other existing detached garages in this neighbourhood of a similar height and with the same side setbacks. The proposed height now complies with the maximum allowable height requirements pursuant to the Bylaw amendments that came into effect on September 1, 2017.
- [31] A full community consultation was undertaken to comply with the requirements of the Mature Neighbourhood Overlay and the proposed development received overwhelming support from the neighbourhood, including the two most affected adjacent neighbours.
- [32] Discussions have been held with the Development Officer and the Appellant has agreed to include a covered entrance feature over both people entrances, to use different finishing materials in this area and install window trim that is wider than 0.075 metres although these changes are not reflected on the submitted drawings.
- [33] Mr. Sheehan did not object to the imposition of conditions requiring these changes if the Board allowed the appeal and granted the development.
- [34] The proposed plans could have been revised to comply with the minimum required north side setback. However, the most affected neighbour to the north supports the proposed development and did not have any concerns regarding the required variance in the side setback. No windows will be located on the north elevation to ensure the privacy of his neighbour to the north.
- [35] The plans reviewed with the neighbours included the proposed 57.7 square metre Floor Area of the second Storey and none of the neighbours opposed the required variance.
- [36] The proposed window on the west side of the second storey facing the lane will be frosted.
- [37] One of the neighbours asked him to install more windows to break up the façade.
- [38] The second storey entrance is located on the east elevation that faces the rear yard. The main floor entrance is located in the south elevation.



ii) *Position of the Development Authority:*

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

**Decision**

[19] 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. A covered entrance feature shall be developed over the main entrance to the proposed Garden Suite on the second storey of the detached Garage and the person door located on the main floor of the detached Garage (Section 87(20));
2. Different exterior finishing materials shall be used to finish the area located under the covered entrance features (Section 87(17));
3. Window trim with a minimum width of 0.075 metres shall be installed (Section 87(17));
4. Façades facing a Lane shall have exterior lighting. (Section 87(19));
5. Eave projections shall not exceed 0.46 metres into required yards or Separations spaces less than 1.2 metres. (Reference Section 44.1(b));
6. Only one of a Secondary Suite or Garden Suite may be developed in conjunction with a principal Dwelling. (Section 87(21));
7. Notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Garden Suite shall not exceed three. (Section 87(22));
8. 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 Garden Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business. (Section 87(23));
9. A Garden Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision. (Section 87(25));
10. WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.5).

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

1. The maximum allowable Second Storey Floor Area of 50.0 square metres pursuant to Section 87(5)(d) is varied to allow an excess of 7.7 square metres, thereby increasing the maximum allowed to 57.7 square metres.
2. The minimum required (north) Side Setback, that being at least 20 percent of the Site Width, with a minimum Side Setback of 1.2 metres on each side, pursuant to Section 87(10) and Section 110.4(10)(a), is varied by 0.3 metres, thereby allowing a (north) Side Setback of 0.9 metres.
3. The requirement that a rear detached Garage or Garden Suite shall be fully contained within the rear 12.8 metres of the Site pursuant to Section 814.3(21) is varied to allow an excess of 1.1 metres, thereby increasing the distance to 13.9 metres.

### **Reasons for Decision**

- [21] A Garden Suite is a Permitted Use in the RF1 Zone.
- [22] On July 10, 2017 City Council passed Bylaw 18115 and Bylaw 18013, to be effective on September 1, 2017. These Bylaws significantly amended the regulations pertaining to Garden Suites, Garage Suites and the Mature Neighbourhood Overlay. Garden Suites were previously a Discretionary Use in the RF1 Single Detached Residential Zone, now they are a Permitted Use. Section 3.2(1)(i) states that for the purposes of any Development Permit or Direct Control Provision, a Garage Suite is deemed to be a Garden Suite.
- [23] The Development Officer refused the development permit application on August 25, 2017, based on the requirements of the *Edmonton Zoning Bylaw* that was in place on that date. The Applicant was aware of the proposed regulation changes that would be effective on September 1, 2017 but requested that the refusal to be put through in order to start the appeal process.
- [24] Therefore, the Board has reviewed and evaluated the proposed development based on the amended regulations for Garden Suites, Garage Suites and the Mature Neighbourhood Overlay that came into effect on September 1, 2017.
- [25] The Board has granted the required variances for the following reasons:
- a) Section 87.5(d) has been varied to allow a Second Storey Floor Area of 57.7 square metres based on the evidence provided that the plans were shared with affected neighbours and no one objected.
  - b) Section 110.4(10)(a) has been varied to allow a 0.3 metre variance in the minimum required north Side Setback because the proposed development complies with the 20 percent Site Width Setback requirement and because the adjacent property owner to the north did not object to the required variance in the north Side Setback.
  - c) Section 814.3(21) has been varied to allow the proposed detached Garage and Garden Suite to be fully contained within the rear 13.9 metres of the subject site based on the evidence provided that the Appellant undertook extensive community consultation

that identified this variance and none of the neighbours objected to the variance. The Board is satisfied that the Appellant has substantially complied with the community consultation requirements in the Mature Neighbourhood Overlay notwithstanding the fact that the community consultation was done prior to September 1, 2017 when the amendments came into effect.

[26] Section 87(17) states that:

“Facades shall be articulated to the satisfaction of the Development Officer through two or more of the following: a) projection or recession of portions of the façade; b) projecting architectural features; c) platform structures; d) use of two or more exterior finishing materials; e) Landscaping with shrubs along the building Facades, in addition to Landscaping required by Section 55 of this Bylaw; f) entrance features oriented toward the public roadway, including a Lane; g) dormers; or h) window trim with a minimum width of 0.075 metres.”

[27] The Appellant advised the Board that window trim that is at least 0.075 metres wide will be used for the proposed development and that different exterior finishing materials will be used to finish the area located under the covered entrance features that will be installed over the proposed entrance to the Garden Suite and the person door located on the main floor of the detached Garage. Therefore, with the conditions imposed by the Board, the proposed development will comply with the development regulations contained in Section 87(17) and Section 87(20) of the *Edmonton Zoning Bylaw*.

[28] The Board is satisfied that, with the additional requirements for the Appellant to comply with Section 87(17) and Section 87(20) of the *Edmonton Zoning Bylaw* and the additional conditions imposed, the proposed development with variances granted 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: Ms. A. Lund; Mr. J. Wall; Ms. M. McCallum; Ms. G Harris

**Important Information for the Applicant/Appellant**

7. 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.
8. Obtaining a Development Permit does not relieve you from complying with:
  - f) 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,
  - g) the requirements of the *Alberta Safety Codes Act*,
  - h) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - i) the requirements of any other appropriate federal, provincial or municipal legislation,
  - j) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
9. 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.
10. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
11. 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.
12. 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.*