



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: September 21, 2017
Project Number: 254029424-001
File Number: SDAB-D-17-161

Notice of Decision

- [1] On September 6, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on August 10, 2017. The appeal concerned the decision of the Development Authority, issued on August 8, 2017, to refuse the following development:

Construct a two-Storey Accessory building (main floor Garage 8.14m x 8.57 m, second floor Garage Suite 8.76 m x 8.57 m, with balcony 1.52 m x 3.06 m on Accessory building) and to demolish a detached Garage

- [2] The subject property is on Plan 1843KS Blk 50 Lot 21, located at 10665 - 69 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; Development Officer's written submissions dated September 5, 2017;
- Abandoned Wells Map and Confirmation Form;
- Appellant's written submissions; and
- Letters from neighbouring property owners in support of the development.

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

- Exhibit A – Excerpt from City of Edmonton City Council Minutes (July 10, 2017)

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.
- [8] The Presiding Officer noted that amendments to the *Edmonton Zoning Bylaw* in effect as of September 1, 2017, had a direct effect on this proposal. Although the Applicant had filed under the old bylaw provisions, the Board was required to hear this appeal under the new regulations as this was the bylaw in effect as of September 1, 2017.
- [9] The bylaw amendments eliminated the Height variances, but the plans then indicated that four other variances were needed under the amended bylaw:
- a) Section 87(19) requiring a covered entrance feature over the main door;
 - b) Section 87(15) requiring privacy screening for the proposed balcony;
 - c) Section 87(4) requiring a maximum total Floor Area of 120 square metres; and
 - d) Section 87(5)(d) requiring a maximum Second Storey Floor Area of 50 square metres.

Summary of Hearing

i) Position of the Appellant, Insulated Panel Kits Inc.

- [10] The Appellant was represented by Mr. R. Laplante. He was accompanied by the property owners Ms. J. Schlender and Mr. G. Schlender.
- [11] Ms. Schlender stated that she was not advised until the day of the hearing that the application would be reviewed by the Board based on new bylaws in effect as of September 1, 2017. Mr. Schlender did attend a meeting where there was some discussion about amending the floor area regulations governing Garage Suites, but the majority of people in attendance did not support the proposed amendment.
- [12] Ms. Schlender submitted Exhibit "A", an excerpt from the July 10, 2017 City Council meeting minutes. The minutes indicate that although Bylaw 18115 was passed on that same date, Council sought further information regarding Garage Suite regulations, including "maintaining the maximum 2nd storey floor area for dwelling space in mature and established zones at 60m²". This information was to be presented to the Urban Planning Committee in June 2018.
- [13] The Presiding Officer explained that pursuant to the *Municipal Government Act*, the Board's decision must comply with the land use bylaw in effect, which now include the amended regulations governing Garage Suites. Several options were therefore available to the Appellant and the property owners: first, they may wish to withdraw their appeal

and submit a completely new Garage Suite application that would comply with the amended bylaw; second, they may request a postponement of the subject hearing, which would afford them the opportunity to prepare appeal materials and submissions based on the new bylaw, or continue with this hearing.

- [14] The Appellant and the property owners declined to exercise either of the first two options, as they wished to build the Garage Suite this fall, and expressed their preference to proceed with the hearing.
- [15] Ms. Schlender then reviewed her written submissions, which included background information about her community involvement and reasons for proposing the Garage Suite, namely that the old Garage must be replaced and they would like the potential to obtain some rental income.
- [16] Regarding the specific reasons listed by the Development Officer for refusing the application, she made the following submissions:
- a) Sunshading would mostly occur in the summer and would not be significant.
 - b) The design complies as much as possible with the regulations under the old bylaw, with the exception of Height. However, the Height deficiency was mainly a result of the existing low cottage roof of the principal Dwelling, which based on the old regulations, limits the Height of any Accessory building.
 - c) There are two existing Garage Suites in the neighbourhood, one of which was approved six lots down from the subject property.
 - d) The interior stairway was preferred to an external one, as the latter would have presented both safety concerns for the tenant during icy conditions and privacy impacts on the neighbouring property whenever a tenant entered or exited the suite.
- [17] Upon questioning by the Board, the Appellant indicated that the front entry will not extend further than the second Storey balcony, and would be integrated with the front façade. If necessary, an overhang to the Garage Suite entrance to provide additional cover is possible, but would result in a projection of three to four feet towards the rear lane.
- [18] If the proposed development were altered to comply with the new regulations governing floor area, the liveability of the second floor Dwelling would be altered significantly. The first floor would have to be enlarged to compensate for the reduced second storey space, and additional costs would be incurred. The Appellant stressed that the current design, which makes use of rooflines for articulation, was created specifically to minimize impact on abutting lots.
- [19] Regarding the recommended conditions of the Development Officer, the Appellant stated that privacy screening should not be required, as the proposed second storey balcony faces the rear lane. However, they would be prepared to accept such a condition to obtain an approved permit.

[20] The Appellants stated that if necessary they would comply with both the covered entryway and the privacy screening requirements.

ii) Position of the Development Authority

[21] The Development Authority was represented by Mr. B. Liang.

[22] During the initial review, he informed the Applicant that the proposed development would be refused because of the Height variance, as Development Officers have no authority to vary Height. He also notified the Applicant that due to the timelines in rendering a refusal decision, setting an appeal date and obtaining a Board decision, it could be possible that the development would have to be reviewed based on the amended regulations.

[23] Mr. Liang confirmed that with the new amendments, the following variances would be required:

- a) Total floor area now exceeds the maximum allowable by seven square metres. However, this additional seven square metres is the result of the interior stairwell being included in the calculation. Since the stairwell is located outside the second storey Dwelling, it is not included as part of the floor area calculation for the second storey.
- b) Second storey floor area now exceeds the maximum allowable by 10 square metres. The entire liveable space is located on the second floor at 60 square metres. However, if the liveable space were to be divided between both the second and ground floors, the maximum allowable space would actually be 75 square metres.

[24] No Height variance is now required due to the amended regulations. He noted that the proposed design and siting of the proposed development reduces impact and massing on neighbouring properties as much as possible.

[25] To the north, the building is set back 3.6 metres, which reduces or minimizes the sunshadow effect. Any shadow would generally be cast northward and land on the shed and grassy area of the neighbour's property to the north. Toward the south, the neighbour's garage separates the proposed Garden Suite from the neighbour's amenity space. The neighbouring property owner would therefore see their own garage before they can see the subject development. The neighbouring properties abutting the remaining property lines will be facing frosted windows, so there will be minimal privacy impacts.

[26] His written report also made note of other applicable regulations, such as privacy screening and covered entrance features. However, in his view, the privacy screening is not necessary in this case. The purpose of privacy screening is to mitigate potential overlook and impact upon neighbouring private amenity areas. However, the proposed

balcony overlooks the rear driveway of the south abutting lot, so there is no actual privacy impact caused by the balcony.

- [27] The covered entrance feature would enhance the aesthetics of the building, but in his view, the front elevation is visually interesting from the laneway. Furthermore, given the unique circumstances surrounding this development and the timing of bylaw amendments, a variance to this regulation would be appropriate. That being said, should the Board require the front entrance feature, the current total site coverage is about 30%, while the maximum allowable is 40%. As such, there should be no issue with any proposed front entrance projection.

iii) Rebuttal of the Appellant

- [28] The Appellant emphasized that the development would not benefit from building out the at-grade portion of the Garage Suite simply to reduce the second floor Dwelling space by 10 square metres. That 10 square metres amounts to a huge impact on the interior liveable space with minimal impact on the exterior of the structure viewed from the laneway.

Decision

- [29] 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 construction of a two-storey Accessory building, with a main floor Garage (8.14 m x 8.57 m) and a Garden Suite (8.76 m x 8.57 m) with a 1.52 m x 3.06 m balcony and the demolition of the existing Accessory Building (rear detached Garage). The development shall be constructed in accordance with the stamped and approved drawings.
2. WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2).
3. Immediately upon demolition of the building, the site shall be cleared of all debris.
4. The maximum Height of the Garden Suite shall be 6.5 m (Section 87.3.a).
5. The Façade facing the lane shall have exterior lighting (Section 87.18).

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.
10. A minimum of two parking spaces shall be used for the purpose of accommodating the vehicles of residents in connection with the Single Detached House or the Garage Suite (Section 54.1.2.a, Section 54.2.1.a).

[30] In granting this development, the following VARIANCES to the *Edmonton Zoning Bylaw* are allowed:

- 1) Section 87(19) requiring a covered entrance feature over the main door is waived.
- 2) Section 87(15) requiring privacy screening for the proposed balcony is waived.
- 3) Section 87(4) is varied to permit the Floor Area of the Garden Suite to be 127 square metres instead of 120 square metres.
- 4) Section 87(5)(d) is varied to permit the second Storey Floor Area of the Garden Suite's Dwelling space to be 60 square metres instead of 50 square metres.

Reasons for Decision

[31] The proposed development is for a Garage Suite, which is deemed a Garden Suite under section 3.2(1)(i) of the *Edmonton Zoning Bylaw* and is a Permitted Use within the RF1 Single Detached Residential Zone.

[32] The Appellant filed an application for the subject development on June 6, 2017. City Council subsequently passed Bylaw 18115 on July 10, 2017, which amended regulations pertaining to Garden Suites and Garage Suites. However, these amendments were to be

effective on September 1, 2017. The Development Authority issued its decision to refuse the application on August 8, 2017 based on the pre-amended regulations.

- [33] The Appellant filed an appeal to this Board on August 10, 2017, and in accordance with section 686(2) of the *Municipal Government Act*, an appeal hearing was scheduled within 30 days of receipt of the Appellant's notice of appeal. This hearing was accordingly held on September 6, 2017, at which time the amended regulations passed under Bylaw 18115 were in effect. Under section 687(3)(a.1), "In determining an appeal, the subdivision and development appeal board must comply with... the land use bylaw in effect".
- [34] One of the property owners had attended a public meeting in which these amendments were discussed, and the other property owner referenced City Council Meeting Minutes dated July 10, 2017, the date that Bylaw 18115 was passed. The Board also accepts the submission of the Development Officer that he provided notice to the Appellant that the Board's decision would likely be based on the amended regulations, due to the statutory timelines as set out in paragraphs 28 and 29, above.
- [35] The Board recognizes that although the Appellant and property owners were aware of upcoming amendments, neither were fully cognizant that the Board's decision would be based on the amended regulations. However, the Board obtains its jurisdiction from the *Municipal Government Act*, and therefore must review the subject application based on the land use bylaw now in effect, pursuant to section 687(3)(a.1).
- [36] Under the pre-amendment regulations, the proposed development required two variances related to Height regulations. Subsequent to Bylaw 18115, the development now complies with the amended Height regulations for Garage Suites, but four other variances are now required.
- [37] First, under section 87(19), Garden Suites are required to have a covered entrance feature over the main door. The Board has determined that this regulation may be waived, as the proposed Garage Suite faces the laneway and is set further back, thus minimizing the impact upon adjacent neighbours. The Board also accepts the Development Officer's submission that the front façade is already aesthetically pleasing without the covered entrance feature.
- [38] Second, section 87(15) requires privacy screening for Platform Structures greater than one metre above Grade, such as the proposed second floor balcony. The purpose of this regulation is to reduce overlook into Abutting properties. The Board has determined that this regulation may be waived for the following reasons:
- a) The balcony faces the rear laneway and privacy screening, if necessary, would only be required on the sides of the balcony to reduce overlook into the two Abutting properties.

b) However, the balcony is 1.2 metres from the south property line (where a drive and garage abut it on the adjacent property) and faces the Driveway to the detached garage of the neighbouring property to the east. The proposed balcony therefore does not overlook any private Amenity Area of neighbouring properties.

[39] The two remaining variances relate to Floor Area. Under section 87(4), the maximum total Floor Area for a Garden Suite is 120 square metres. The proposed development is 127 square metres. Section 87(5)(d) also requires that the maximum second Storey Floor Area for Dwelling space be 50 square metres. The proposed development will have a second Storey Dwelling space of 60 square metres.

[40] The Board grants the required variances to the Floor Area regulations for the following reasons:

- a) By having the roof ridge in the middle of the building, the massing effect upon adjacent neighbours is minimized.
- b) As there is a 3.6 metre setback from the north property line; both potential massing and sunshadow effect upon the northern neighbour will also be minimized.
- c) The Garden Suite faces the Driveway of the property to the east and is adjacent to the detached Garage of the property to the south. Any impacts upon these properties will be minimized.

[41] The Appellant has complied with all other regulations. The Board also notes that the property owners consulted with neighbours and obtained letters of support from both the neighbours to the north and south. Additional neighbours to the north, south and across the lane were also consulted, as were community league members. No objections were noted.

[42] For the above stated 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.



Patricia Jones, Presiding Officer
Subdivision and Development Appeal Board

Board Members Present:

Mr. M. Young; Ms. E. Solez; Ms. L. Gibson; Mr. K. Hample

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 21, 2017
Project Number: 219991859-013
File Number: SDAB-D-17-162

Notice of Decision

- [1] On September 6, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on August 9, 2017. The appeal concerned the decision of the Development Authority, issued on July 26, 2017, to refuse the following development:

Construct exterior alterations to a Single Detached House (concrete parking extension, 2.92 m x 2.30 m) and to keep the front vehicular access to a Single Detached House in MNO area

- [2] The subject property is on Plan 1621253 Blk 16 Lot 15B, located at 11920 - 42 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 with plot plan;
- Appellant's supporting materials, including photographs and petition; and
- Development Officer's written submissions dated September 5, 2017.

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

- Exhibit "A" – Approved Plot Plan dated August 12, 2016
- Exhibit "B" – Approved Development Permit for Single Detached House (2016)

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, Ellipse Developments Ltd.

[8] The Appellant was represented by Mr. T. Bolton, who is both the owner and builder of the project.

[9] When he first applied for the Single Detached House development in 2016, Mr. Liang, the Development Officer, indicated that he would be in support of allowing the existing driveway to remain. Upon further review and feedback from Mr. Liang's supervisor, Mr. Bolton was advised that the Single Detached House would be approved but the front driveway would not be permitted.

[10] Mr. Bolton subsequently applied for a permit to keep the existing front driveway (likely poured between 1950 and 1960) and to add a 2.92 metre by 2.3 metre extension to meet the minimum required dimensions for a parking space under the land use bylaw currently in effect. He identified the location of the existing driveway and the proposed extension on the site plan.

[11] The front yard parking space would serve the interests of both the neighbourhood and the property owner by increasing available off-street and, therefore, on-street parking and by avoiding the inconvenience of shuffling vehicles parked in tandem to the rear. Backing out of a front driveway would be less hazardous than jostling vehicles in the back alley.

[12] There are currently four graveled parking spaces in the rear yard. Mr. Bolton's intention is to pave this parking area and eventually to build a double garage when funds become available.

[13] He referred the Board to the four signatures of support he had received from nearby neighbours including the immediately adjacent neighbour to the north. The owner of the immediately adjacent south property does not live in the City; therefore, he was unable to obtain his signature. Several neighbours felt he should be permitted to have front yard parking as it is common on this street. Two neighbours verbally advised him they did not approve of the front driveway but provided no reasons or written objections.

[14] He then addressed the Development Officer's reasons for refusal

- a) He acknowledged there is a landscaped boulevard with mature trees in front of the property. One of these trees is within one metre of the existing driveway and he is concerned that removing the driveway will compromise this tree by damaging the root system. There is also an existing 50 year old tree in his front yard which could also be damaged. He has worked very hard to preserve these existing trees during construction of the Single Detached House.

- b) He cannot change the site width deficiency but it is not causing the neighbours or the City of Edmonton any tangible problems. He acknowledged that his lot is narrower than the majority of the other lots along the block as it is one half of a split lot.
 - c) At least 70 percent of the Dwellings along this block have front vehicular access which is much greater than the 50% required in Section 814.3(10) of the *Edmonton Zoning Bylaw*.
 - d) Section 54.2(2)(e)(i) of the *Edmonton Zoning Bylaw* stipulates that Parking Spaces shall not be located within a Front Yard; however, front yard parking is common on this street. In support, he referenced a series of photos from his materials. Several of these properties also have four rear parking spaces for a total of six parking spaces. He is not asking for special consideration – just to be treated like all the other neighbours. The last photo is of his property prior to the start of development.
 - e) Thirteen houses within the 60 metre notification area have front driveway access and only three of these lead to garages as required by the bylaw. He identified these thirteen properties on the 60 metre notification map. Ten of these properties also have rear access.
- [15] He realizes that the City of Edmonton has rules in place to prevent new front driveways from being constructed but Old Beverly is a small town within a big city. He is looking for a fair decision so all homeowners on 42 Street can have the same privileges.
- [16] There are no safety issues with the proposed driveway and there are no fences or trees blocking the sightlines of a driver backing out. This is not the case with some of the other existing front driveways he previously identified.
- [17] Only 35 to 40 percent of the front yard would be surfaced with concrete. They have managed to keep two very large existing trees and have gone out of their way to keep the area green and to fit in with the neighbourhood.
- [18] He feels the existence of a legal secondary suite is a good reason to allow the proposed parking stall. He believes there are other secondary suites along the block but feels they may not be legal.
- [19] He confirmed that on-street parking is allowed on both sides of 42 Street.
- ii) *Position of the Development Officer, Mr. B. Liang*
- [20] The Applicant originally applied for a Single Detached House at this location. At the time of the application, he proposed to retain the front driveway. In order to move the application along, the Development Permit for a Single Detached House was approved with the stipulation that the front driveway be removed as not all of the required Mature Neighbourhood Overlay conditions were met. Mr. Liang submitted a copy of the

previously approved development permit and plot plan requiring the removal of the driveway (Exhibits "A" and "B").

- [21] Mr. Bolton made an application last fall to add a Secondary Suite to the house as well as to keep the existing front driveway. The Secondary Suite required a variance to the minimum required site area and the Driveway would have required variances under the Mature Neighbourhood Overlay. During the review process, which included community consultation conducted by the applicant, the Development Authority decided it could not support the front driveway access so only the Secondary Suite was approved.
- [22] The current application was made to retain the front driveway and add additional hard surfacing in order to increase the dimension of the parking space to meet the bylaw requirements. This application was refused.
- [20] The amended Mature Neighbourhood Overlay regulations came into effect on September 1, 2017. The amended regulations are more stringent and there are no circumstances where a property can be developed with a front driveway if there is lane access. Also, this application did not meet the requirements of the old regulations as both a rear lane and a treed boulevard existed at the time of application as well as a deficiency in the minimum required site width.
- [21] The purpose of the Mature Neighbourhood Overlay is to support a pedestrian oriented design and streetscape. In older neighbourhoods, homes tend to have large, landscaped front yards and parking in the rear of the property. The absence of front driveways enhances the appearance of the street. All future redevelopments in mature neighbourhoods will require removal of front yard driveways to encourage front yard landscaping.
- [22] On this particular blockface, six of nine properties have vehicular access from the street but all lead to a side yard or a rear detached garage. While some of the neighbours choose to park in the front yard, this is a violation of the zoning bylaw and could be subject to enforcement if a complaint is received. Just because something is being done does not make it acceptable. In the Development Officer's opinion a variance to allow front yard parking and access detracts from the appearance of the neighbourhood.
- [23] There are four proposed parking spaces and under the new regulations only two parking spaces are required for a Single Detached House with a Secondary Suite. There is no hardship at this site to require a front yard parking space.
- [24] Under the new Mature Neighbourhood Overlay regulations Community Consultation is not required for the proposed development. In any event the consultation had been done last year.
- [25] Although the driveway existed for many years before the site was subdivided there are no other skinny lots in the neighbourhood with front driveways.

- [26] Mr. Liang clarified that his recommended Condition 3 means that the proposed driveway extension should be hard surfaced concrete as opposed to gravel.
- [27] He believes that the existing driveway can be removed without damaging existing trees. In the original development permit for the Single Detached House the removal of the driveway is discussed in Conditions 14 and 16. Condition 14 directs that the existing access to 42 Street must be filled in and the sidewalk, curb and gutter constructed and the boulevard restored to grass. Condition 16 states the existing boulevard tree must be protected and provides a phone number to the Urban Forestry Department to obtain directions.

iii) Rebuttal of the Appellant

- [28] Mr. Bolton understands the City is requiring more trees and shrubs in new developments. He has managed to keep two mature trees that are 50 plus years old. There will be much more landscaping than hard surfaced concrete if the development is granted.
- [29] Many of the houses on the block have front access and residents are parking in the front yard as evidenced in the photos he took last night. The zoning bylaw is apparently not being enforced and if he took more photos tonight they would show the same situation.
- [30] People want more parking stalls, not less and some homes have up to six parking stalls.
- [31] He confirmed he is in agreement with the recommended conditions of the Development Officer should this Board grant this appeal.

Decision

- [32] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

Reasons for Decision

- [33] The driveway extension is Accessory to Single Detached Housing, which is a permitted Use in the RF1 Single Detached Residential Zone.
- [34] The Board finds that two large mature trees, one on the boulevard and one in the front yard, can be protected and preserved if the existing driveway is removed.
- [35] The original approved application for the Single Detached House stipulated that the existing front drive must be removed. The removal of the front drive was also a condition of the approval of the Secondary Suite and the applicant is now attempting for a third time to try to keep the driveway and to add an extension to make it viable for parking a vehicle in the front yard.

- [36] The Board is opposed to having a car parked in the front yard for several reasons:
- a) This is a subdivided lot. Although it is still 30 feet in width, section 54.2(2)(e)(i) of the *Edmonton Zoning Bylaw* stipulates there are to be no parking spaces in the front yard.
 - b) The Board feels that having cars parked in the front yard does not add to the pedestrian amenities of a street in this area.
 - c) Even though the driveway was in place when this property was purchased and has been there for a considerable length of time, the City states that when there is a lane, there will be no vehicular access to the front. A front driveway is a concrete area and will prevent landscaping.
 - d) Although there are several houses on this blockface with front access they all lead to parking at the side or at the back of the house. Some residents have chosen to park in their front yard but that does not make it acceptable.
- [37] This development does have room for parking four vehicles in the rear yard with lane access. Under the present bylaws for a Single Detached Housing with a Secondary Suite only two parking spaces are required. If the Board were to allow the front driveway with the proposed extension, this site would have five parking spaces. The Board does not feel that number is required.
- [38] The driveway that is proposed with the extension does not lead to a garage or a parking area. It is only a driveway where parking would occur.
- [39] The Appellant stated that having tandem parking in the rear would be inconvenient. However, inconvenience is not a hardship; therefore, the Board does not find there is any hardship associated with this property.
- [40] By removing the driveway there will be more available street parking which will enhance the streetscape.
- [41] The Board finds that the proposed development will unduly interfere with the amenities of the neighbourhood and materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



Patricia Jones, Presiding Officer
Subdivision and Development Appeal Board

Board Members Present:

Mr. M. Young; Ms. E. Solez; Ms. L. Gibson; Mr. K. Hample

Important Information for the Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.