



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: December 14, 2016
Project Number: 230273568-001
File Number: SDAB-D-16-314

Notice of Decision

- [1] On December 7, 2016, the Subdivision and Development Appeal Board “the Board” heard an appeal that was filed on **November 22, 2016**. The appeal concerned the decision of the Development Authority, issued on November 21, 2016, to refuse the following development:

To construct a Single Detached House with a front veranda, rear uncovered deck (3.05 metres by 5.18 metres) and Basement development (NOT to be used as an additional Dwelling).

- [2] The subject property is on Plan 1623046 Blk 1 Lot 10B, located at 9850 - 162 Street NW, within the (RF4) Semi-detached Residential Zone. The Mature Neighbourhood Overlay and the Jasper Place 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 Jasper Place Area Redevelopment Plan;
 - A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit; and
 - The Development Officer’s written submission and attachments.
- [4] The following exhibits were presented by the Appellants during the hearing and form part of the record:
- Exhibit A – Elevation drawings
 - Exhibit B – Aerial map of the neighbourhood
 - Exhibit C – Page 5 of the Jasper Place Area Redevelopment Plan
 - Exhibit D – Page 6 of the Jasper Place Area Redevelopment Plan
 - Exhibit E – Map of the neighbourhood
 - Exhibit F – A Plot Plan of the subject Site
 - Exhibit G – An aerial photograph of a condominium development
 - Exhibit H – A further aerial map of the neighbourhood

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 Appellants, Mr. D. Baum and Mr. B. Woolger of Baum and Woolger Homes Ltd.*
- [8] They submitted a copy of the front and rear elevation drawings to show the difference between the saddle roof dormer and the main roofline of the House (“Exhibit A”). They indicated that if the dormer was removed, the overall Height would be reduced by 1.48 metres and would comply with the Height regulation.
- [9] With respect to community consultation they canvassed the neighbourhood two times and received four signatures of support for the proposed development. They indicated that the neighbourhood has a lot of new infill development and renters. They dropped off their contact information into the mailboxes of neighbours who did not answer their door.
- [10] They provided all of their community consultation information and results to the Development Officer.
- [11] With respect to the ridgeline length of 1.7 metres, they indicated that they could comply with this regulation, but they prefer the architectural design of the ridgeline. In their view, it adds value to the neighbourhood and the excess of 0.2 metres is minor.
- [12] With respect to privacy issues the Appellants provided the following:
- a. They provided an aerial photograph of the neighbourhood to show that a schoolyard is across the street from the subject Site, (“Exhibit B”).
 - b. There are no windows on the rear of the dormer level and there is one window on the stairwell to this level. It is used for natural sunlight and is not easily accessible to view.
 - c. There are mature trees across the street from the subject Site, which somewhat shields the schoolyard.

- d. In their view, there are no privacy issues with their proposed development.
- [13] They provided excerpts from the Jasper Place Area Redevelopment Plan, (“Exhibits C and D”).
- [14] In their view, their proposed development meets the general plan purpose of policy 1.2 because they are providing more housing choices in the neighbourhood by building a newer house compared to the older housing stock that exists.
- [15] This new infill development provides more affordable housing for families that want to invest in the area and this new development will increase the value of the land.
- [16] They provided a map to show the location of the potential LRT station with regard to the subject Site, (“Exhibit E”).
- [17] They referenced their Plot Plan to show where the third Storey dormer will be sitting in relation to the footprint of the proposed House, (“Exhibit F”). In their opinion, the separation space between the Dwelling to the north and their proposed development is large enough, that there will be a minimal sun shadow impact.
- [18] They referenced an aerial photograph of a condominium development and indicated that there are a few condominium developments six to seven blocks away that are higher than their proposal, (“Exhibit G”).
- [19] They referenced an aerial photograph of the area to highlight other infill developments, (“Exhibit H”).
- [20] They reiterated that the proposed development meets the goals of the Jasper Place Area Redevelopment Plan and will be good for the neighbourhood.
- [21] With respect to questions from the Board, they provided the following:
- a. They did not have a copy of the letters of support from their consultation but reiterated that they were submitted to the Development Officer.
 - b. None of the residents in support are adjacent to the subject Site, but they were within the 60-metre radius.
 - c. The House immediately to the south is also their development and it is almost identical in design. For that approval, they had support from over 50 percent of the residents.
 - d. The House immediately to the south and their proposed development are the tallest buildings on the block but they reiterated that there are taller structures in the area.

- e. They have no issues with the proposed conditions of the Development Officer if the development is approved.

ii) Position of the Development Officer, Mr. K. Yeung

- [22] Mr. Yeung confirmed that the community consultation requirement was met and there were no negative responses from neighbours.
- [23] With respect to the Height calculation, the Development Authority always measures the highest roof structure.
- [24] He clarified that if the dormer was removed, there would not be a Height variance.
- [25] He considers the dormer an architectural feature and agreed that it can provide articulation to break up massing.
- [26] He confirmed the House immediately to the south is very similar to the proposed development.
- [27] He indicated that the neighbourhood appears to be going through change and taller homes are being built.
- [28] He indicated that he does not have the authority to vary Height.

iii) Rebuttal of the Appellant

- [29] The Appellants had nothing further to add.

Decision

- [30] 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 proposed Basement development(s) shall NOT be used as an additional Dwelling. Proposed wet bar shall only be used by the household which uses the principal kitchen on the main floor. No lockable doors shall be installed that physically separates the main floor and basement.
 2. Platform Structures greater than 1.0m above Grade shall provide privacy screening to prevent visual intrusion into adjacent properties. (Reference Section 814.3.8)

3. The maximum number of Dwellings per lot and applicable density regulations shall be as follow: Where Single Detached Housing is developed in this Zone, a maximum of one Dwelling per Site, and, where the provisions of this Bylaw are met, up to one Secondary Suite, Garage Suite or Garden Suite shall be allowed. (Reference Section 150.4.13.b)
4. Except for the hardsurfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw.
5. On-Site parking shall be located in accordance with Section 50 of this Bylaw. On-Site parking may be provided by means of a Parking Area, the dimensions of which shall conform to the off-street parking space requirements of subsection 54.2.4 of this Bylaw. The Parking Area shall include an underground electrical power connection with outlet on a post approximately 1.0 min Height, located within 1.0 m of the Parking Area. (Reference Section 150.4.9.c)
6. Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House. (Reference Section 55.2.1)
7. One deciduous tree or one coniferous tree, and two shrubs shall be required in the Front Yard for each Dwelling, except where the Front Setback is 4.5 m or less, and a landscaped boulevard is provided in accordance with subsection 150.4.6.b.i of this Bylaw, the tree may be placed within the Rear or Side Yard, rather than the Front Yard. (Reference Section 150.4.1 O.a)
8. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or artificial turf, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens. (Reference Section 55.2.1)
9. Private Outdoor Amenity Area shall be provided on Site in accordance with Section 47 of the Edmonton Zoning Bylaw 12800.

ADVISEMENTS

- Any future deck enclosure or cover requires a separate development and building permit approval.
- Any future additional dwelling such as Secondary Suite shall require a separate development permit application.

- Dwelling means a self-contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

- Household means: (1) one or more persons related by blood, adoption, foster care, marriage relationship; or (2) a maximum of three unrelated persons; all living together as a single social and economic housekeeping group and using cooking facilities shared in common.

For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative.

- The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.

- Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Services at 780-496-5500 for lot grading inspection inquiries.

- 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 Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

- Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

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

1. The maximum Height of 8.6 metres allowed per section 814.3(13) is varied to permit an excess of 1.3 metres, thereby increasing the maximum Height to 9.9 metres.
2. The maximum ridge line of the roof of 1.5 metres allowed per section 52.2(c) is varied to permit an excess of 0.2 metres, thereby increasing the maximum ridge line of the roof to 1.7 metres.

Reasons for Decision

- [32] The proposed development is a Permitted Use in the (RF4) Semi-detached Residential Zone.
- [33] The Board accepts the submission of the Appellants and the Development Officer that a satisfactory community consultation has been completed for the proposed development per section 814.3(24) of the Mature Neighbourhood Overlay.
- [34] The Board notes that the Development Officer does not have the authority to vary Height but notes that the Development Officer supports the proposed development.
- [35] The Board accepts the evidence of the Appellant that any privacy concerns (though none were raised by any party) would be largely mitigated due to existing mature trees and the park across 162 Street to the east.
- [36] The Board accepts the submission of the Appellant that the proposed development is in accordance with the principles of the Jasper Place Area Redevelopment Plan, specifically policy 1.2 that encourages more housing choice and investment in the neighbourhood.
- [37] The Board accepts the evidence of the Appellant that infill housing is becoming characteristic of the neighbourhood. This was supported by Exhibits A-H.
- [38] The Board accepts the joint submission from the Appellants and the Development Officer that the proposed dormer is an architectural feature which alleviates massing. The Board notes that the proposed dormer is what triggered the Height variances, which are allowed in any event.
- [39] For 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.



Mr. W. Tuttle, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance;

Mr. V. Laberge, Mr. R. Hobson, Ms. C. Weremczuk, Mr. M. Jummun

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 5th Floor, 10250 – 101 Street NW, Edmonton.
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 5th Floor, 10250 – 101 Street NW, Edmonton.

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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SDAB-D-16-315

Application No. 230570608-001

An appeal to construct a two-Storey Accessory Building (Garage on the main floor and garage Suite on the second floor, 6.71 metres by 8.84 metres) and to demolish an existing Accessory Building (rear detached Garage), located at 8731 – 85 Avenue NW was **WITHDRAWN**



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SDAB-D-16-316

Application No. 220587701-001

An appeal to construct an addition and exterior alterations to an existing Religious Assembly (250-seat addition to 250-seat building and parking lot expansion) (Ethiopian Church), located at 11409 – 124 Street NW was **TABLED** to a date to be determined