



**Subdivision and
Development Appeal Board**

Office of the City Clerk
Main Floor, Churchill Building
10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
Telephone: (780) 496-6079
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DATE: January 23, 2015
APPLICATION NO: 81439690-007
FILE NO.: SDAB-D-15-004

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated November 28, 2014, from the decision of the Development Authority for permission to appeal an Order to:

Cease the Use (General Industrial – Waste Removal Business) and removal of ALL business related materials from the Site. This order is to be complied with on or before December 4, 2014

on Lot 1, Block 4, Plan 5765Q, located at 10851 – 75 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 8, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed outside of the allowable 14 day appeal period, pursuant to the requirements of the *Municipal Government Act*.

Mr. Peter provided evidence to the Board that he received the Stop Order dated November 13, 2014 sometime subsequent to November 13, 2014; therefore the appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The Board heard an appeal of the decision of the Development Authority to issue an Order to cease the Use (General Industrial – Waste Removal Business) and removal of ALL business related materials from the Site.

SUMMARY OF HEARING CONTINUED:

This Order is to be complied with on or before December 4, 2014, located at 10851 – 75 Avenue NW. The subject Site is zoned RF6 Medium Density Multiple Family Zone.

The Board notes that no letters were received in support or opposition to the Stop Order.

Mr. Peter stated that the appeal hearing was not scheduled within the required 30 days from the time he filed the appeal. He stated that when he filed the appeal he was asked to sign a waiver and he refused to sign the waiver. He stated that he reserved the right to object or file the appeal based on the fact that the appeal hearing would not be within 30 days. Mr. Peter chose to proceed with the appeal.

The Board heard from Mr. Peter, who made the following points:

1. He has operated his 1-800 Dump Now business for eight years.
2. In his opinion, he is a benefit to the City and his closest neighbours are in support of his business.
3. There is no business activity at the subject Site.
4. He feels harassed by City officials.
5. He presented a PowerPoint presentation to the Board, marked Exhibit "A".
6. In his opinion, his property should be zoned commercial and not RF6 Medium Density Multiple Family Zone.
7. His neighbourhood is full of rental properties that are not owner occupied.
8. No neighbours appeared in opposition at the hearing and there was no representation from the Development Authority at the hearing.

In response to questions by the Board, Mr. Peter provided the following information:

1. He confirmed that he owns two dump trucks which have a 4200 Gross Vehicle Weight.
2. He confirmed that he stores salvageable material in the sheds located on the subject Site.
3. He conceded that he does not have a valid development permit to operate the business from the subject Site and he confirmed that he does not have a right to operate his business or store business materials on the subject Site.

SUMMARY OF HEARING CONTINUED:

4. However, he stated that the salvageable material is not related to his business.
5. He may consider applying for a development permit to operate his business from the subject Site in the near future.

DECISION:

that the appeal be DENIED and the STOP ORDER UPHELD.

REASONS FOR DECISION:

The Board finds the following:

1. A General Industrial Use is neither a Permitted Use nor a Discretionary Use in the RF6 Medium Density Multiple Family Zone.
2. The Stop Order requires the Appellant to “CEASE the Use (General Industrial – Waste Removal Business) and removal of ALL business related materials from the Site. This Order is to be complied with on or before December 4, 2014.”
3. The Appellant acknowledged that the Development Permit for his 1-800 Dump Now business has expired.
4. The Appellant applied for a Development Permit renewal which was refused by the Development Authority and subsequently appealed to the Subdivision and Development Appeal Board. The appeal was refused on April 4, 2014.
5. The Appellant does not have a valid permit to operate a business from the subject Site and he confirmed that he does not have a right to operate his business or store business materials on the subject Site.
6. Based on the photograph evidence submitted to the Board, it was difficult for the Board to determine if all business related materials had been removed. The issue before the Board is whether the Stop Order dated November 13, 2014 was issued correctly and there should not be any General Industrial business taking place on the subject Site.
7. Accordingly, a Stop Order that requires compliance with those two stipulations was issued correctly.

IMPORTANT INFORMATION FOR 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*, R.S.A. 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 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, Edmonton.

Mr. I. Wachowicz, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

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DATE: January 23, 2015
APPLICATION NO: 162862587-001
FILE NO.: SDAB-D-15-005

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated December 2, 2014, from the decision of the Development Authority for permission to:

Construct an exterior alteration to an existing Single Detached House (Driveway extension, 3.05 metres by 7.62 metres), existing without permits

on Lot 25, Block 85, Plan 9021693, located at 18920 – 90A Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 8, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

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

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct an exterior alteration to an existing Single Detached House (Driveway extension, 3.05 metres by 7.62 metres), existing without permits, located at 18920 – 90A Avenue NW. The subject Site is zoned RF1 Single Detached Residential Zone. The development permit application was refused because the proposed development does not lead directly from the roadway to a required Garage; Parking Spaces shall not be located within a Front Yard; and the proposed Driveway extension exceeds the maximum allowable Width for a Driveway.

SUMMARY OF HEARING CONTINUED:

Prior to the hearing, the Board received one letter in support of the proposed development dated December 15, 2014; a submission from the Appellant which includes 24 names from neighbouring property owners in support of the proposed development dated December 12, 2014; and a submission from the Development Officer dated December 12, 2014.

At the outset of the hearing, Mr. Lam indicated that English is his second language. The Presiding Officer indicated that Mr. Lam could request to postpone the appeal hearing to seek a translator or the Board could proceed slowly. Mr. Lam chose to proceed with the appeal hearing.

The Board heard from Mr. Lam, the Appellant, who made the following points:

1. He stated that the construction of the Driveway extension took place after he was involved in a vehicular accident in 2012 and he had difficulty backing out of the Driveway.
2. The adjacent neighbour to the west has several vehicles; and visitors to that property often park and obstruct the Driveway access of other properties.
3. All of the other neighbours in the 60 metres notification radius are in support of the proposed development with the exception of the neighbour located immediately west of the subject Site.
4. The Driveway extension is on the east side of the property and does not affect the neighbour to the west.

In response to questions by the Board, Mr. Lam provided the following information:

1. He clarified that only two vehicles are registered to the subject property. Occasionally, visitors park in the Driveway.

The Board then heard from Mr. Xie, representing the Sustainable Development Department, who made the following points:

1. He confirmed that the Driveway extension occurred in 2011.

In response to questions by the Board, Mr. Xie provided the following information:

SUMMARY OF HEARING CONTINUED:

1. He was asked to clarify why the development was classified as an extended Driveway when it appeared to be a walkway from the front door to the sidewalk.
2. The primary concern is the increased width of the Driveway.
3. He acknowledged that there was no evidence that the Driveway extension was utilized as a Parking Space.

The Board heard from Mr. Weikum, a neighbouring property owner, who made the following points:

1. He lives west of the subject property and is opposed to the proposed development.
2. His concern is whether or not the Driveway extension is a legal development since no development permit was issued.
3. He owns one motorcycle, one motorhome, one vehicle, two trucks, and a boat.
4. There is a shortage of parking as the subject property is located on a cul-de-sac which makes it difficult for visitors to park in front of his house.
5. Several visitors have been ticketed when parked in front of his property based on complaints by the neighbours.

In response to questions by the Board, Mr. Weikum provided the following information:

1. He confirmed that the Driveway extension on Mr. Lam's property has not been used to park vehicles.

In rebuttal, Mr. Lam made the following point:

1. He confirmed that he has not used the Driveway extension to park vehicles.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of 2.33 metres in the maximum width of a Driveway be permitted, and the requirement that the Driveway shall lead directly from the roadway to the required Garage or Parking Area be waived, subject to the following conditions:

DECISION CONTINUED:

1. The additional 2.33 metres of the extended hardsurfaced area to the east shall not be used for parking or storage of vehicles.
2. The existing landscaped Front Yard shall be preserved and maintained and not altered with any additional hardsurfacing in addition to the approved permit.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is Accessory to a Permitted Use in the RF1 Single Detached Residential Zone.
2. Based on photographic evidence, the proposed hardsurfaced portion of the Front Yard provides direct access from the sidewalk and is an extension of the existing walkway that leads to the front door of the Principal Dwelling.
3. The northerly portion of the new hardsurfaced area incorporates a decorative landscaping feature that contains a flower bed.
4. Based on the evidence submitted by the Appellant, the newly extended hardsurfaced area is only used to access the Garage. The existing Driveway prior to the extension was narrow and resulted in difficulties when exiting the Driveway. This evidence was confirmed by the neighbouring property owner that the extended Driveway has not been used to park vehicles.
5. The Board acknowledges that any increase in size of the Driveway will reduce on-street parking.
6. Based on the evidence submitted, a significant distance remains between the extended Driveway and the neighbouring property immediately east of the subject Site. As such, the 2.33 metres extension granted by the Board will minimally impact the on-street parking situation.
7. Based on the evidence submitted, a significant portion of landscaped area still remains in the Front Yard which will be maintained as a result of the second condition imposed by the Board.
8. Based on photographic evidence, the extended Driveway is characteristic of other developments in the cul-de-sac.
9. There is support from neighbouring property owners with the exception of the adjacent neighbour to the west of the property.

REASONS FOR DECISION CONTINUED:

10. Based on the above, it is the opinion of the Board, that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with and affect the use, enjoyment and value of neighbouring parcels of land.

IMPORTANT INFORMATION FOR 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, Edmonton.
2. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
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*, R.S.A. 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, Edmonton.

Mr. I. Wachowicz, Presiding Officer
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DATE: January 23, 2015
APPLICATION NO: 162106704-001
FILE NO.: SDAB-D-15-006

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated December 2, 2014, from the decision of the Development Authority for permission to:

Construct an Accessory Building (6.71 metres by 9.14 metres Detached Garage), existing without permits

on Lot 34, Block 3, Plan 1124699, located at 4058 - Alexander Way SW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 8, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed outside of the allowable 14 day appeal period, pursuant to the requirements of the *Municipal Government Act*.

The Board heard from Mr. Zorzetto, the Appellant, who provided the following information with regard to the timing of filing the appeal:

1. The refused Development Permit was sent to the property owner at 4058 – Alexander Way SW.
2. He was notified by the property owner a few days prior to December 2, 2014 that the Development Permit was refused.

SUMMARY OF HEARING CONTINUED:

3. He reviewed his text messages and indicated that he received the decision notice on November 24, 2014 at 9:08 a.m.
4. He could not provide information when the refusal was received by the property owners and there was no evidence submitted when the property owners received the refused Development Permit.

The Board then heard from Ms. Gordychuk, representing the Sustainable Development Department, who made the following points regarding the late filing.

1. She did not know the exact date the refused Development Permit was sent by registered mail; however, it was no later than October 30, 2014.
2. She could not provide documentation with regard to the date of receipt of the registered mail to the property owners.

DECISION:

“that the Board assumes jurisdiction.”

REASONS FOR DECISION:

The Board finds the following:

1. Section 685(1) of the *Municipal Government Act* states “... the person applying for the permit or affected by the order under Section 645 may appeal to the Subdivision and Development Appeal Board.”
2. The Development Permit Application indicates that Mr. Zorzetto was the person that applied for the permit.
3. Mr. Zorzetto filled out his name as the Applicant with his mailing address and signed the permit as the Applicant.
4. The Development Permit Application does not list the names of the property owners.
5. The Board notes that the refused Development Permit was not sent to Mr. Zorzetto at the address provided.
6. The Board finds that Mr. Zorzetto is the Applicant as outlined in Section 685(1) of the *Municipal Government Act*, and was notified of the refused permit within the 14 days of the time this appeal was filed as outlined in Section 686(1) of the *Municipal Government Act*.

SUMMARY OF HEARING CONTINUED:

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct an Accessory Building (6.71 metres by 9.14 metres Detached Garage), existing without permits, located at 4058 - Alexander Way SW. The subject Site is zoned RPL Residential Planned Lot Zone. The development permit application was refused because the proposed development exceeds the maximum allowable Height for an Accessory Building.

Prior to the hearing, the Board received a submission from the Development Authority dated December 12, 2014.

Mr. Zorzetto continued to make the following points:

1. He spoke to 11 neighbouring property owners that could view the proposed development as outlined in Exhibit "A".
2. He sent an email and visited neighbouring property owners and explained the variance requested.
3. The responses received were positive with no opposition. Some of the neighbours visited the subject property to see the development.
4. The building north of the subject property is approximately 2 to 3 inches lower in Height than the proposed development and is similar to other developments in the area.

Ms. Gordychuk, representing the Sustainable Development Department continued to make the following points:

1. She has no authority to vary Height.
2. In her opinion, the proposed development will not have a negative impact on neighbouring property owners.
3. In her opinion, the proposed development looks like a standard garage which is characteristic of the neighbourhood.

Mr. Zorzetto did not have anything to add in rebuttal.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of 0.58 metres in the maximum allowable Height be permitted.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is Accessory to a Permitted Use in the RPL Planned Lot Residential Zone.
2. The Board accepts the evidence of the Appellant and the Development Authority that the proposed detached Garage is characteristic of the neighbourhood.
3. The Board accepts the evidence submitted by the Development Authority that the detached Garage is similar in size, style, and appearance to other Garages in the neighbourhood.
4. There is support from neighbouring property owners.
5. No letters were received in opposition to the proposed development and no one appeared in opposition at the hearing.
6. Based on the above, it is the opinion of the Board, that the proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with and affect the use, enjoyment and value of neighbouring parcels of land.

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4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.

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*, R.S.A. 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.
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