

# **Edmonton Subdivision and Development Appeal Board**

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Date: July 31, 2015  
Project Number: 170995492-001  
File Number: SDAB-D-15-153

## **Notice of Decision**

This appeal dated June 16, 2015, from the decision of the Development Authority for permission to:

Construct an Accessory Building (detached Garage, 8.23m x 11.27m)

on Plan 4116HW Blk 12 Lot 12, located at 8332 - 120 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on July 16, 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*, RSA 2000, c M-26.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct an Accessory Building (detached Garage, 8.23m x 11.27m), located at 8332 - 120 Street NW. The subject Site is zone RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay.

The development permit was refused because of an excess in the maximum allowable Height for an Accessory Building.

The Board heard from the Appellant, Mr. Larry Willes, and the property owner, Mr. Kyle Willes, who provided the following information in support of the appeal:

1. The proposed development will not negatively or materially affect their neighbours.
2. It was their opinion that the development will enhance the appearance of the neighbourhood.
3. They confirmed that the height of the proposed detached garage is 20 feet.
4. They want to install power and water services to the garage but not sewer.
5. The existing small detached garage that is currently being used for storage will remain and will be used as a garden shed once the new garage is built.
6. The second storey of the new garage will be used for ski and bicycle storage.

7. Mr. Willes referenced photographs of similar sized garages that have been built in the neighbourhood.
8. They discussed the development and reviewed the plans with some of the neighbours.
9. All but two of the neighbours they had contacted provided written support.
10. The property located directly west and north across the rear lane has been vacant for two years and the Appellant was not able to contact the owner. One other neighbour provided verbal support.
11. The size of the proposed garage complements the size of the existing house.
12. He would not object to installing opaque glass in the windows on the proposed second storey if required by the Board.
13. The driveway behind the existing garage will be used as a parking pad.
14. In the future they hope to add solar panels to provide natural light.
15. The installation of water services in the garage will make outdoor watering more convenient.

The Board then heard from Mr. Cleary, an affected property owner, who appeared in support of the proposed development:

1. His dining room and kitchen window face the subject site, and the proposed development will not have any negative impact.
2. The mature evergreen trees and vegetation at the rear of his property and on the north side between his site and the subject site will mitigate any privacy concerns.
3. The subject site has an east/west orientation and therefore the proposed garage will not create a significant sun shadowing effect on neighbouring properties.
4. Any shadowing as a result of the garage will occur in the rear lane or on the Appellant's property.
5. The proposed garage is setback quite a distance from the rear lane and cannot be seen from the front street.
6. A similar development was approved on the same block.
7. It is his opinion that the proposed development will add to the quality of the neighbourhood.

The Board then heard from Mr. Jeff Booth, representing the City of Edmonton Sustainable Development Department, who provided the following information:

1. He determined the height of the proposed garage to the midpoint of the roof.
2. The upper level is an attic with a sloped roof.
3. The height of the midpoint of the roof is 4.57 metres and the total height exceeds the maximum allowable height by 0.27 metres.
4. The site coverage of the proposed new garage and the existing detached garage does not exceed the maximum allowable 12 percent Site Coverage for Accessory buildings on this site.
5. The *Edmonton Zoning Bylaw* does not restrict the number of accessory buildings on a site if the site coverage requirements are not exceeded.
6. Hardsurfacing of the area behind the existing garage is permitted to provide additional parking.

7. It was his opinion that the proposed development would not negatively affect the neighbours because of the large rear setback on the lot, which is similar to all of the other lots in the neighbourhood.
8. He could not grant the required variance because Development Officers cannot vary height.

Mr. Willes had nothing further to add in rebuttal.

**Decision:**

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 installation of a sewage system for the Accessory building is not permitted;
2. Eave projections shall not exceed 0.46 metres into required setbacks or Separation spaces less than 1.2 metres, as per Section 44(1)(b) of the *Edmonton Zoning Bylaw*.

In granting the development, the following variance to the *Edmonton Zoning Bylaw* is allowed:

1. The excess of 0.27 metres in the maximum allowable Height for an Accessory Building or Structure, pursuant to Section 50.3(2).

**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 the evidence provided, the proposed development is characteristic of Garages of a similar size and Height that have been constructed in the neighbourhood.
3. The lots in the neighbourhood are large and the proposed Garage has a significant setback from the rear lane.
4. The proposed development will not affect sun shadowing for adjacent property owners because of the east/west orientation.
5. The proposed development will be screened by large mature trees and Landscaping that will mitigate any privacy concerns and the massing effect.
6. The condition imposed and the incorporation of angled walls on the proposed second Storey will decrease the possibility of using this area as a Dwelling.
7. The proposed windows do not overlook adjacent properties and will not create any privacy concerns.
8. Notwithstanding the retention of the existing detached Garage, the proposed development does not exceed the maximum allowable 12 Percent Site Coverage requirement for Accessory Buildings or Structures.

9. The Appellant undertook community consultation, including a review of the proposed plans. Four immediate neighbours provided written support and one affected neighbour attended the hearing in support of the proposed development.
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 or affect the use, enjoyment or 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 5<sup>th</sup> Floor, 10250 – 101 Street, 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*, RSA 2000, c S-1;
  - c) the requirements of the *Permit Regulation*, Alta Reg 204/2007;
  - d) the requirements of any other appropriate federal, provincial or municipal legislation; and
  - 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 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, 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.*

Ms. P. Jones, Presiding Officer  
Subdivision and Development Appeal Board

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**SDAB-D-15-154**

Application No. 150074417-003

An appeal by Sukhjinder Cheema to construct an Accessory Building (6m x 24.38m) existing without permits on Plan 138KS Lot 2, located at 6503 - 3 Street NW, was **TABLED** to August 12 or 13, 2015.