



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

**10019 – 103 Avenue NW
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Date: August 23, 2019
Project Number: 315387918-001
File Number: SDAB-D-19-125

Notice of Decision

- [1] On August 15, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 19, 2019**. The appeal concerned the decision of the Development Authority, issued on July 19, 2019, to refuse the following development:

Construct exterior alterations to a Single Detached House (Front Yard parking pad, 5.79m x 11.89m).

- [2] The subject property is on Plan RN39C Blk 9 Lot 13, located at 11237 - 125 Street NW, within the (RF3) Small Scale Infill Development Zone. The Mature Neighbourhood Overlay and West Ingle 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 proposed plan and the refused Development Permit;
 - The Development Officer’s written submission;
 - The Appellant’s photo submission and petition; and
 - One online response in support and one e-mail in opposition to the proposed development.

Preliminary Matters

- [4] 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.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] 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, H. Tablizo*

- [7] Mr. K. Cooper, an Urban Planner, appeared to represent the Appellant who was also in attendance.
- [8] Ms. Tablizo has resided in the neighbourhood for approximately 30 years and applied for a parking pad in the front yard to allow her to age in place. She requires close and consistent access to her home due to medical conditions.
- [9] A front driveway would provide a sense of security as well as better accessibility. The main entrance is at the front of the house and there is no back door.
- a) Ms. Tablizo would prefer to enter the house from the front entrance which is more visible to the neighbours who could provide help if she had trouble entering her home.
 - b) The rear lane is not as visible or well-lit as the street and is adjacent to walk-up apartments. Ms. Tablizo does not know the apartment tenants and they may not be willing to provide support if she requires help.
- [10] Mr. Cooper referred the Board to their photo submission to demonstrate that the proposed development will not unduly interfere with the use, value and enjoyment of adjacent properties.
- a) The abutting side neighbours do not use their front yards for any particular purpose. The front yard of the south adjacent property has been covered in dirt since that house was built in 2015, while the front yard of the north adjacent property has been shaded in shrubs for over a decade.
 - b) Front driveways in Inglewood are not unusual and are sprinkled throughout the neighbourhood. Many are in close proximity to the subject site; therefore, the proposed development conforms to the character of the neighbourhood.
 - c) A petition of support was submitted which demonstrates that Ms. Tablizo has built positive relationships during the time she has lived at her home.
- [11] Mr. Cooper provided the following responses to questions from the Board:
- a) There are no other front driveways on the east and west blockface of the subject site.
 - b) There is a secondary access to the house that is located approximately mid-way along the south side.
 - c) There is currently no garage on the subject site.

- d) While there is no barrier for vehicle access from the rear lane it would be a significant distance to access the front door from a rear parking pad.
- e) They have reviewed the conditions of the Development Officer and Subdivision Planning (Transportation) should the parking pad be granted and have no objections.

ii) *Position of the Development Officer, R. Zhou*

- [12] The Development Authority was not in attendance and the Board relied on Mr. Zhou's written submission.

Decision

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

Reasons for Decision

- [14] The proposed parking pad is Accessory to a Single Detached House, which is a Permitted Use in the (RF3) Small Scale Infill Development Zone.
- [15] The Board, when considering granting this appeal, must give thought to the future uses that this property may have and not necessarily just the issues or needs of the current property owner. If the Board were to grant this appeal it would allow the future ability for increased front vehicle access, front yard parking and perhaps an attached front drive garage that would not be characteristic to the streetscape of this particular block.
- [16] The Board heard evidence that there are other front drive accesses in Inglewood; however, there are no front drive accesses on the east and west blockface of the subject site and a front drive access would interfere with the pedestrian-oriented design of the streetscape and would not be in character with surrounding development.
- [17] It is clear that the Appellant has the opportunity to develop the rear yard and could provide safe access to the side entry by developing a new garage or rear parking area.
- [18] Subdivision Planning (Transportation) was consulted, and provided a sketch of the proposed development. It was their opinion that allowing this development could result in some damage to the existing boulevard trees.
- [19] The Board finds that the community consultation was done in accordance with the *Edmonton Zoning Bylaw*.

- [20] Notwithstanding community support of some of the neighbours, the south adjacent property owner is opposed the proposed development and is one of the most directly affected parties.
- [21] The Board was presented with no planning reasons to justify the addition of a front parking pad to the subject site. Therefore, pursuant to section 687(3)(d) of the *Municipal Government Act* 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.

V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

B. Gibson, L. Gibson, A. Peterson

cc: Development & Zoning Services – R. Zhou / A. Wen

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.
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.



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Date: August 23, 2019
Project Number: 264872041-002
File Number: SDAB-D-19-110

Notice of Decision

- [1] The Subdivision and Development Appeal Board (the “Board”) at a hearing on July 18, 2019, made and passed the following motion:

“That the appeal hearing be postponed to August 14 or 15, 2019 at the verbal request of the Appellants.”

- [2] On August 15, 2019, the Board made and passed the following motion:

“That SDAB-D-19-110 be raised from the table.”

- [3] On August 15, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **June 21, 2019**. The appeal concerned the decision of the Development Authority, issued on May 31, 2019, to refuse the following development:

Construct an over-height Fence for a Religious Assembly, existing without Permits (maximum height 2.03 m).

- [4] The subject property is on Plan 4746KS Blk 1 Lots 25-28, located at 16310 - 106 Avenue NW, 10610 - 163 Street NW and 10614 - 163 Street NW, within the (RF1) Single Detached Residential Zone. The Mature Neighbourhood Overlay and Jasper Place Area Redevelopment Plan apply to the subject property.

- [5] The following documents were received prior to the hearing and form part of the record:

- A copy of the Development Permit application with attachments, proposed site plan, and the refused Development Permit;
- The Development Officer’s written submission;
- The Appellant’s written submission and petition; and
- One online response in support and one online response in opposition to the proposed development.

Preliminary Matters

- [6] 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.
- [7] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [8] 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, St. Virgin Mary Ethiopian Orthodox Tewahedo Church Edmonton*

- [9] Mr. G. Sasiga and Mr. F. Woldemarian made a presentation on behalf of the Appellant.
- [10] When they first decided to build a fence they were advised that no permit was required if the fence did not exceed six feet in height. They hired a contractor and constructed a chain link fence and stayed within the required six feet.
- [11] After the fence was already built they received correspondence from the City advising that a permit was required for the fence and received a fine for building a fence without a permit. The fine was paid and they applied for the required permit which was subsequently denied. At this point the fence had already been in place for more than a year.
- [12] An adjacent property to the north has a similar fence and they do not understand why they are being singled out. They maintain that their fence does not exceed six feet in height.
- [13] As the fence is chain link there is a clear vision of oncoming traffic.
- [14] The chain link fence has improved the appearance of the surrounding area and is a nice feature of the property.
- [15] It would be financially difficult if they were required to demolish and re-erect the fence.
- [16] The main reason for the fence height is to protect the numerous children who attend the church from running out into traffic. A four foot high fence would not be adequate to prevent children from jumping over it.
- [17] There were two near misses between children and drivers prior to the fence being erected.
- [18] The Appellants provided the following responses to questions from the Board:

- a) The property operates strictly as a church, mostly on Sundays, from 5:00 a.m. to 11:00 a.m. No daycare is operated from this site but a separate church session is held for children in the basement. There is no outdoor play area for children.
- b) They were not aware of the exact capacity of the church.
- c) A four foot fence would still allow some of the children to jump over it. The fence was left open with no slats so as not to hinder traffic.
- d) No one objected to the fence during the course of construction.
- e) The Appellants would have no issue if a condition were added to the permit stipulating that the fence must remain chain link, free of slats or altered or changed in any way that would prevent people from seeing through it.

ii) Position of the Development Officer, H. Xu

[19] The Development Authority was not in attendance and the Board relied on Ms. Xu's written submission.

Decision

[20] 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. **For this application the fencing material shall remain chain link and is not to be altered or changed in any way that would hinder the visual aspects for traffic and pedestrians such as converting to a solid fence material or inserting slats in the chain link fence. Any alterations shall require a new Development Permit.**
2. The development shall be in accordance with the stamped and approved drawings.
3. Any sign attached to the subject Fence will require a separate Development Permit. More information about Permanent Signs can be found on the City of Edmonton's website : https://www.edmonton.ca/programs_services/permanent-signs.aspx
4. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.1.c)

5. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51).
- [21] In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:
1. The requirement that the maximum permitted Height of 1.2 metres for the portion of the Fence constructed in the Front Yard of a Corner Site is waived. (Section 49.1(e)(i)).
 2. The requirement that the maximum permitted Height of 1.2 metres for the portion of the Fence situated between the flanking Side Lot Line and the foremost side Façade of the principal structure, and extending from the Front Lot Line to the Rear Lot Line is waived. (Section 49.1(e)(ii)).

Reasons for Decision

- [22] The proposed Fence is Accessory to a Religious Assembly, which is a Discretionary Use in the (RF1) Single Detached Residential Zone.
- [23] Section 49.1(f) states “In the case where the permitted Height of a Fence, wall, or gate is 1.2 metres, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 metres, in order to provide additional screening from public roadways or incompatible adjacent Uses.”
- The Board notes under section 49.1(f), there is an incremental Height variance and has determined that a chain link Fence that is over height by five to eight inches to provide additional screening from public roadways for this Use at this location has no material impact nor does it unduly interfere with the neighbourhood.
- [24] The Board finds that by imposing the condition to ensure that the proposed development remains an open chain link fence would help mitigate any future opportunities for this Fence to be of a solid material that could impact the visual sightlines of the subject site.
- [25] The Board notes that it received one letter of opposition and one letter of support. No other correspondence was received from any affected properties or the Britannia Youngstown Community League.
- [26] The Fence has been constructed and has been up for in excess of one year with no known complaints provided.

[27] Given 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.

V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

A. Bolstad, B. Gibson, L. Gibson, A. Peterson

cc: Development & Zoning Services – H. Xu / A. Wen

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: August 23, 2019
Project Number: 279658672-002
File Number: SDAB-D-19-502

Notice of Decision

[1] On August 15, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **July 17, 2019**. The appeal concerned an Order issued on July 11, 2019, by Development and Zoning Services to:

- 1. Develop the Site in accordance with approved File No. SDAB-D-18-094; OR**
- 2. Submit a new Development Permit application to re-configure the roof pitch and comply with Edmonton Zoning Bylaw 12800; OR**
- 3. Demolish the Building.**

[2] The subject property is on Plan RN60 Blk 21 Lot 17, located at 10973 - 132 Street NW, within the (RF1) Single Detached Residential Zone. The Mature Neighbourhood Overlay and West Ingle 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 Stop Order;
- The Development Authority’s written submission and photographs; and
- The Appellant’s appeal submission and a photograph.

Preliminary Matters

[4] 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.

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

[6] 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 Development Compliance Officer, J. McArthur*

[7] Mr. McArthur confirmed that he has the proper authority to issue Orders under the *Municipal Government Act*. The Stop Order was issued because the building is 10 centimetres over the permitted height with no development permit.

[8] He reviewed the permit history of the subject site from his written submission:

June 6, 2018: An application to construct a Semi-detached House (File No. 279658672-001) was refused by the Development Officer. The application was refused as a Discretionary Use and not meeting Location Criteria.

July 17, 2018: An appeal of the decision (SDAB-D-18-094) overturned the decision of the Development Authority and granted the development.

March 5, 2019: An application to increase height of structure was submitted (File No. 279658672- 022).

May 13, 2019: An application to construct exterior alteration was refused by the Development Officer for exceeding the maximum allowable midpoint and peak heights.

No appeal was received within the allowable appeal period.

January 15, 2019: Development Inspection found that the Finished Floor Elevation appeared to have increased from the stamped height of 69.99 metres.

January 17, 2019: Violation Notice issued.

February 14, 2019: As-built Survey received that confirmed an increase in Finished Floor Elevation to 70.17 metres.

July 11, 2019: Municipal Government Act Order Issued.

[9] Mr. McArthur provided the following responses to questions from the Board:

- a. He confirmed that the Appellants would have to wait six months from the date of the original refusal as per section 18.1(a) of the *Edmonton Zoning Bylaw* to re-submit an application for the building as it stands. Since the Development Authority does not have the discretion to vary height such an application would again be refused by the Development Officer but could be appealed to this Board for a variance.
- b. Mr. McArthur agrees that it could potentially take a significant amount of time to comply with options one (1) or two (2) of the Stop Order when such factors as weather, availability of trades, and obtaining quotes are taken into account.

ii) *Position of the Appellant, Swish Developments Inc.*

- [10] Mr. D. Ngu and Ms. C. Park appeared to represent the Appellant.
- [11] To comply with options one (1) or two (2) of the Stop Order could take anywhere from 2.5 months to the spring or summer of 2020. An engineer would have to be involved, City approval would be required, the existing trusses and roof shingles would have to be demolished and the building would have to be protected from the weather. The homeowners currently occupy the building.
- [12] Their preference is to obtain an extension to the compliance date of the Stop Order to allow them to go through the process of re-submitting an application. They are unsure of the exact time line that would be required.

Decision

- [13] The decision of the Development Authority is **CONFIRMED** and the Stop Order is **UPHELD**. The Stop Order compliance date is **VARIED** from August 1, 2019 to **July 3, 2020**.

Reasons for Decision

- [14] The Stop Order was issued correctly pursuant to section 645(1) of the *Municipal Government Act*. The Board confirms that the Stop Order was issued by an approved authority within the *Municipal Government Act*.
- [15] The Board analyzed the three remedies presented within the Stop Order and finds that two of the three remedies would take a considerable period of time to comply with. Based on the evidence of the Development Authority and the Appellants, the Board has extended the compliance date to July 3, 2020, to allow the completion of the work required by the Stop Order.

- [16] While the Board cannot and did not consider the over-height issue, it must, in its determination of granting an extension of time to comply with the Stop Order, ensure that there is no material effect created to the surrounding neighbourhood through this process. The Board finds that the existing Use and building as it currently stands would not create nuisance issues to the neighbourhood that other Uses may create.
- [17] For the reasons above, the Stop Order is upheld and the compliance date is varied.

V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

A. Bolstad, B. Gibson, L. Gibson, A. Peterson

cc: Development & Zoning Services – J. McArthur / A. Chaudhary

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.
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 Development & Zoning Services, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.