



Date: August 23, 2019
Project Number: 311915132-001
File Number: SDAB-D-19-120

Notice of Decision

- [1] On August 8, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on July 11, 2019. The appeal concerned the decision of the Development Authority, issued on June 25, 2019 to refuse the following development:

To construct exterior alterations a Single Detached House (Driveway extension, adding a second driveway access)

- [2] The subject property is on Plan 1620200 Unit 9, located at 9, 3466 - Keswick Boulevard SW, within the (RSL) Residential Small Lot Zone. The Keswick Neighbourhood Structure Plan and the Windermere Area Structure Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- From the Development Authority, copies of:
 - Refused Permit and Plans; and
 - Written Submissions
 - From the Appellant, Written Submissions with Supporting Materials

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, Ms. Parker, representing Habitat Studio

- [7] While working on the house design, it became apparent that a double drive or turn around driveway would complement the house. They wanted to create a driveway design that would focus more on landscape features and less on a single concrete driveway. An application was therefore made for two narrow driveways.
- [8] When considering two driveways, the major considerations relate to lot size, design, and impact to the street, which includes guest parking.
- [9] The size of the lots and homes in this area allow for a more grandiose scale with many design features, including entrances, hardscaping and softscaping. This lot is large enough to accommodate a dual driveway, and with the two front attached garages on opposing sides of the house, two narrow driveways are a natural fit and enforce the symmetrical exterior design.
- [10] Ms. Parker referred to a graphic in her supporting materials, which showed the two separate driveways and how they link to the garages.
- [11] The road leading to the 23 properties in the cul-de-sac is quiet and generally used only by residents and guests. The driveways for any of these houses are not accessing a busy roadway or major thoroughfare.
- [12] This particular property is located on a cul-de-sac at the end of the street, which limits street parking for guests. The centre of the cul-de-sac contains a round island that is landscaped and has a feature monument. This island eliminates virtually all parking at this end of the street.
- [13] Allocating parking for guests within the site would be extremely awkward if a singular driveway were the only access. Guests would have to either back their vehicle directly out onto the street, or configure a multi-point turn in order to turn around and drive out facing forward. If multiple vehicles are involved, maneuvering around in order to leave would be an issue.
- [14] Having two driveway entrances would allow guests to enter one driveway and then leave via the other in a simple manner. Multiple guests could park on the site quite easily because access in and out would be in one direction.
- [15] In her opinion, two narrow driveways will not have an impact on the neighbouring property owners or street, and would be beneficial to the street parking situation for guests.

- [16] Architectural controls for this subdivision request each property have a minimum three vehicle garage, which would allow all properties a minimum driveway width of 11.1 metres (36 feet, 4 inches). The total width of the driveway at the curb will be significantly less than the average of all other projects on the street.
- [17] Within the general neighbourhood, there are some examples of homes with dual driveways that have been approved. She referred to the graphics in her submission showing these examples.
- [18] Ms. Parker provided the following information in response to questions by the Board:
- a. Due to the monument in the cul-de-sac, there would be no room to park if there was a single driveway.
 - b. The driveway extension will make it easier for cars to enter and leave the property.
 - c. There is room for three vehicles to park on the driveway. There would be capacity for vehicles to park on the extension for short periods of time but will not be used for regular parking.
 - d. There will be an area within the main area of landscaping and on the side yard for snow removal. In her opinion, there will be not issue with regard to snow removal.
 - e. Both of the garages will hold two vehicles for a total of four vehicles.
 - f. The street boulevard is not treed at this time.
 - g. She is in agreement to the suggested conditions of the Development Officer.

ii) Position of the Development Officer, H. Tessera

- [19] The Development Authority did not appear at the hearing and the Board relied on H. Tessera'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. Absolutely no parking is allowed within the required front yards/setbacks. (Reference Section 54.2.i. of the Edmonton Zoning Bylaw No 12800).

2. 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.
3. Lot grades must match the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5500 for lot grading inspection inquiries.

In granting the development, the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. Section 54.1.4 to allow for a second driveway leading from the street.

Reasons for Decision

- [21] The proposed development, to construct exterior alterations to a Single Detached House (Driveway extension, adding a second driveway access), is a Permitted Use in the RSL Residential Small Lot Zone.
- [22] The Board heard presentations from the Appellant regarding the specific characteristics of this neighbourhood. Although the property is zoned RSL Residential Small Lot Zone, this particular cul-de-sac is located in a private, gated community containing oversized lots.
- [23] The Board further heard that the neighbourhood is characterized as including large scale estate homes with corresponding massing, features and amenities.
- [24] In reviewing the proposed development, the Board concurred with the Appellant that the addition of the Driveway extension / second Driveway would be characteristic of the neighbourhood and would fit in with the scale of the detached Dwelling on the property.
- [25] Unique to this cul-de-sac, there is a large monument on the street directly in front of the subject Site. The location of the monument is such that it effectively eliminates on street parking.
- [26] The Board accepted the Appellant's argument that by allowing the proposed development, the creation of additional parking on the Site would contribute positively to the amenities of the cul-de-sac.
- [27] The Board heard the Appellant's representation that due to the fact this is a gated community, there is no effective public thoroughfare or public access beyond the residents of the community and their guests.

- [28] The Board also heard evidence from the Appellant that potential designs for a single Driveway access for the property that would not require a variance would be excessively hardscaped. The Board agreed with the Appellant that the proposed development of two Driveways allows for the creation of a landscaping feature that would be more suitable to the streetscape.
- [29] No letters were received in opposition to the proposed development and no one appeared in opposition at the hearing.
- [30] 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.



Ms. S. LaPerle, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. V. Laberge; Ms. D. Kronewitt-Martin; Mr. J. Jones; Mr. A. Nagy

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from Development & Zoning Services, 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 Development & Zoning Services, 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.



Date: August 23, 2019
Project Number: 288627593-003
File Number: SDAB-D-19-121

Notice of Decision

- [1] On August 8, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on July 11, 2019. The appeal concerned the decision of the Development Authority, issued on July 2, 2019 to approve the following development:

To operate a Major Home Based Business (EVO AUTO DETAILING - Auto detailing services with waterless washing inside the attached Garage; maximum of one client per day; client visits are by appointment only); expires July 02, 2024

- [2] The subject property is on Plan 0422201 Blk 163 Lot 61, located at 2040 - Hilliard Place NW, within the (RSL) Residential Small Lot Zone. The Hodgson Neighbourhood Area Structure Plan applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- From the Development Authority, copies of:
 - Home Based Business Application and Approved Permit; and
 - Written Submissions
 - From the Public:
 - One online response in opposition to the 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, Mr. V. Agyapong:*

- [7] The occupant of 2040 Hilliard Place has for the last few months been running this business, presumably without a permit. Several cars are sometimes parked at this address and on the adjoining street in front of other properties.
- [8] He personally witnessed one of these vehicles, the driver whom he did not recognize as a resident of the neighbourhood, driving erratically from the subject site. This raises concerns because this is a safe neighbourhood in which many of the children who live in the cul de sac ride their bicycles around during the summer months.
- [9] On one occasion an errant driver broke the tree in front of his house while they were away and despite notifying Edmonton Police and the City, no one was ever caught. This hit and run, involving a driver who does not reside in the neighbourhood, makes it clear that the operation of this detailing business will invite more strangers into the neighbourhood which could result in negative consequences.
- [10] He questioned how the city will police the business owner to ensure that only one car per day visits the site and that all of the business activity is conducted inside the garage. Over the past months, many cars typically visit the site and have been washed in front of the garage using water.
- [11] There are at least four vehicles associated with this property that are most times parked at the front of the property.
- [12] He is not opposed to the operation of this business but is concerned that the proposed business will invite strange drivers into the neighbourhood which will create a safety risk for children who live and play in this area.
- [13] Mr. Agyapong provided the following information in response to questions from the Board:
- a) In the past, vehicles have been washed on the driveway with water but he has not seen that happen recently.
 - b) He could not confirm how many vehicles come and go from the subject site each day. There are at least four cars associated with this property and he has only ever seen one car being washed on the driveway at a time in frequent intervals. However, he has not seen any vehicles being washed on the driveway in the past week.
 - c) Drainage does not affect him directly and it is not his major concern. His concern is the risk to children created by strange drivers coming into the neighbourhood.

- d) There is some on street parking available across from the subject site that is almost filled to capacity, including some vehicles and a trailer associated with the subject site. The proposed business will utilize one of the parking spaces available inside the garage which will result in the need to park one of their personal vehicles on the street.

ii) *Position of Affected Property Owners in Support of the Appellant*

Mr. and Ms. Nayar:

- [14] This property is located in a quiet cul de sac that is comprised of families with young children who play outside especially during the summer months. A lot of pedestrians also use the pathway located north of the subject site to access Hodgson Park.
- [15] The car wash has been operating for several months with multiple clients. Cars have been washed on the driveway with soap and water that runs off the driveway onto the sidewalk and the road as well as his driveway which is located immediately to the south. He has raised his concern with the Applicant but nothing has been done to resolve the issue.
- [16] He has never witnessed any vehicle parked in the garage, whereas on many occasions, three vehicles are parked in front of the subject site at a 90 degree angle which creates a hazard. They have discussed the issue with the property owner on many occasions but they finally had to contact Bylaw Enforcement who have visited the subject site and ticketed vehicles on numerous occasions.
- [17] The washing residue runs onto the driveway, sidewalk and road which creates a slipping hazard along a very busy pedestrian corridor.
- [18] He was told that the products used in the waterless wash process are not hazardous. However, it was his opinion that any chemical is not 100 percent safe. It involves spraying on a liquid of some sort.
- [19] Their major concerns are increased traffic, parking vehicles at a 90 degree angle in front of the subject driveway, and run off from the soap and water in front of their driveway and the street.
- [20] They questioned how one client per day would be enforced based on their history with the site.
- [21] Mr. and Mrs. Nayar provided the following information in response to questions from the Board:

- a) The cars being washed on the driveway are not the Respondent's personal vehicles.
- b) The walkway to Hodgson Park is located immediately north of the subject site. Their house is immediately south of the subject site. The water drains in front of their house and the walkway which means that pedestrians have to use the roadway. Vehicles are parked on the road at a 90 degree angle.
- c) To accommodate vehicles in the garage, they would have to be maneuvered on and off the driveway.
- d) The last time he saw a customer vehicle being washed on the driveway was approximately one month ago.
- e) They noticed the operation of the business in the springtime but could not confirm when the business actually began operating.
- f) They were not aware that two other home based businesses were operating from the subject site and could not confirm whether or not parking vehicles at a 90 degree angle on the road in front of the property had anything to do with the operation of those businesses.
- g) Parking vehicles at a 90 degree angle on the road in front of this house has been a long term problem.

iii) Position of the Development Officer, Mr. A. Seltz:

[22] Mr. Seltz did not attend the hearing but provided a written submission that was considered by the Board.

iv) Position of the Respondent, Mr. J. Akl:

[23] He is also concerned about the children in this neighbourhood and would not consider operating this business if he thought that it created a safety concern. The majority of his clientele is more than 30 years old and own high end luxury cars. His clients are mature drivers who do not drive erratically. They also have concern for the safety of the children in this area.

[24] There are five vehicles associated with this property. Two vehicles are business related vehicles.

[25] The aerial photo was referenced to illustrate how his clients access the site. The vehicles can drive straight down the street to enter the driveway and the garage and exit the same way. They have no need to enter the cul de sac where the children usually play.

- [26] There is no way that he can accept more than one vehicle at a time because he is the only service provider.
- [27] It was his opinion that Skip the Dishes and Uber drivers are more erratic and cause more concerns than his clientele.
- [28] Mr. Akl provided the following information in response to questions from the Board:
- a) An administration office for Allure Homes, a house building company and an engineering company operate from this site as Minor Home Based Businesses. There is a work truck and trailer associated with the house building company.
 - b) The trailer is parked at construction sites the majority of the time. However, he estimated that when the trailer is not left at a construction site, it is parked on the driveway 50 percent of the time and on the street the remainder of the time.
 - c) The existing Minor Home Based Businesses do not generate a lot of traffic. His business has only had four clients over the summer because of the weather.
 - d) Mr. Akl was previously issued a Minor Home Based Business permit. During that process, he was advised that he could work on his client's vehicles on the driveway which he recently learned was not correct. However, this development permit for a Major Home Based Business includes a condition that requires all work to be done inside the garage and not on the driveway.
 - e) Biodegradable soap was used to water wash vehicles, and biodegradable chemicals were used to wash the tires and windows. Neither of these substances creates any fumes. There is a bay car wash located in close proximity to the site where he takes the very dirty vehicles to do the preliminary wash. The vehicles are then brought back to the site to complete the remainder of the waterless washing process. Products used in the waterless washing process are very popular and create a professional result.
 - f) Clients drop off their vehicle the day of their appointment. Detailing usually takes a full day so they either come back later in the evening or the next day to pick up their vehicle.
 - g) He acknowledged that he did work on vehicles on the driveway in the past. However, all business related activities can now be done inside the garage because of the new waterless washing process.
 - h) A pump sprayer is used to apply the waterless washing product to clean the vehicle. Detailing involves a more in depth cleaning with the same waterless products and the vehicle is then polished. The waterless washing product is comprised of water softener and some lubrication. The product is stored on shelves inside the garage.

- i) The two car garage is used to conduct his business. The single garage and the three parking spaces on the driveway are still available for parking family vehicles.
 - j) The engineering business and the construction business have both been issued Minor Home Based Business permits. No employees come to the site for either of these businesses. Some equipment associated with the construction business is stored along the side of the house behind the fence and in the shed at the rear of the property. Neither of these businesses requires any business related visits.
 - k) They have stopped parking their vehicles at a 90 degree angle on the roadway since they were notified by the City that it is not permitted. The previous owner parked his vehicles this way so when they purchased the property they assumed it would not be a problem.
 - l) When he first opened his business he used water to wash the vehicles and he acknowledged that water did pool at the front of the house. The previous owner experienced the same drainage problems and attempted to work with the city to resolve the problem without success.
 - m) In order to redirect the water from running onto the road and the pathway, he would have to block the sidewalk, which was not appropriate because of the pedestrian traffic.
 - n) However, these issues are no longer relevant because water will no longer be used to wash vehicles. The vehicles will now be washed with steam or waterless washing products. He offered to provide the name of these products that have been used for a long time in this industry.
 - o) The last water wash occurred in May 2019, prior to submitting his application for a Major Home Based Business using a waterless system. Only personal vehicles have been water washed on the driveway since then.
 - p) The garage is heated.
 - q) He clarified that only one client vehicle is on site at any given time. Business has been slow this summer and he has only had four clients. It was his opinion that the business does not have a significant impact on traffic in this neighbourhood.
 - v) *Rebuttal of the Appellant:*
- [29] The fact that the clientele of this business own and drive high end vehicles does not mean that they will drive responsibly while in the neighbourhood.

Decision

[30] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **REFUSED**.

Reasons for Decision

[31] Major Home Based Business is a Discretionary Use in the (RSL) Residential Small Lot Zone.

[32] The proposed development does not require any variances to the development regulations governing Major Home Based Businesses under section 75 of the *Edmonton Zoning Bylaw*.

[33] Therefore, the only issue before this Board is whether the proposed Discretionary Use is reasonably compatible with neighbouring land uses.

[34] The Development Authority approved the proposed development permit application based on information provided by the Applicant, including: that there would only be one client visit per day, that client vehicle would be washed inside the attached garage, the method would be waterless washing and that there was no outdoor business activity or storage of equipment required.

[35] In addition to the objections of the Appellant, the Board heard evidence from two other affected property owners in opposition to the proposed development. Their concerns included:

- a) The impact that the number of vehicles coming and going from the site has on traffic, street parking and safety.
- b) Run-off of water and soap from client vehicles collecting onto the neighbouring driveway and pedestrian pathway to the park, creating a safety hazard for children and pedestrians accessing the nearby park.
- c) Vehicles associated with the site habitually parked at a 90 degree angle on the road in front of the driveway.
- d) The operation of this business has changed the quiet, residential character of this neighbourhood.

[36] During the hearing the Respondent provided new information to the Board. He stated that two Minor Home Based Businesses are currently operating from the proposed development Site: a home building company and an engineering administration business. The Respondent advised that a commercial truck and trailer are used by the house

building company and are parked at the same site on a regular basis. In addition, these operations include some outdoor storage of materials on the Site.

- [37] The Board notes that the two current Minor Home Based Businesses on Site were not identified, or addressed by the Development Officer in their written submissions. Since the Development Authority was not in attendance at the hearing, the Board could not confirm whether these other businesses held valid development permits for either a Minor or Major Home Based Business, nor whether the Development Officer was informed and able to consider their impacts on the Site.
- [38] Based on the evidence provided by the Respondent, the Board considered the cumulative impact of the existing two home based businesses in conjunction with the proposed permit.
- [39] The Board finds that the proposed development is not reasonably compatible with surrounding land uses for the following reasons:
- a) The proposed Major Home Based Business will add to the intensity of the use on this site, which would then include a residential use and three home based businesses. The joint intensity of these uses are in jeopardy of contravening section 75.6 of the *Edmonton Zoning Bylaw* which prohibits changing the principal residential character of the Dwelling.
 - b) The development would result in the generation of traffic and pedestrian impacts are not characteristic of this neighbourhood, contravening section 75.3 of the *Edmonton Zoning Bylaw*.
 - c) Based on the evidence provided, the sidewalk located in front of the subject site and the walkway located immediately north of the subject site are heavily used by children and pedestrians to access the public park to the east. The cumulative effect of the operation of three home based businesses from this site creates both an intensity of use and safety concern.
 - d) There is significant neighbourhood objection to the development, as evidenced by the written opposition received from one affected property owner and the attendance of an adjacent property owner at the hearing. The Board heard substantial evidence from them regarding the current adverse impacts caused by operations at this site.
- [40] During the hearing, the Respondent admitted that he had been operating EVO Auto Detailing on this site without a development permit for at least the past year. He presents that the permit up for consideration would be different from past operations and that changes from his past practices will eliminate any current impact being experienced by neighbouring land uses. The Board was ultimately not convinced by these arguments.

[41] Based on the evidence submitted from all parties, the Board finds that this Major Home Based Business would be better suited in a Commercial or Industrial Zone as per section 75.9 of the *Edmonton Zoning Bylaw*:

The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

[42] Based on these reasons, the Board finds that the proposed Major Home Based Business is not reasonably compatible with the surrounding residential land uses and will unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use, enjoyment or value of neighbouring parcels of land. The development is refused.

Ms. S. LaPerle, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance: Mr. V. Laberge, Ms. D. Kronewitt-Martin, Mr. J. Jones, Mr. A. Nagy

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.

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TRIBUNALS**
*Subdivision &
Development
Appeal Board*

*10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
P: 780-496-6079 F: 780-577-3537
sdab@edmonton.ca
edmontonsdab.ca*

SDAB-D-19-122

Project No. 309767066-001

An appeal to operate a Major Home Based Business (Minor personal vehicle detailing – YEG DETAL BROS. The Development Permit was CANCELLED.