



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: December 1, 2016
Project Number: 176858707-001
File Number: SDAB-D-16-286

Notice of Decision

- [1] The Subdivision and Development Appeal Board, at a hearing on October 27, 2016, made and passed the following motion:

"That the hearing for 176858707-001 (SDAB-D-16-286) be tabled to November 16, 2016, at the written request of the Appellant."

- [2] On November 16, 2016, the Board made and passed the following motion:

"That SDAB-D-16-286 be raised from the table."

- [3] On November 16, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **October 17, 2016**. The appeal concerned the decision of the Development Authority, issued on September 26, 2016, to approve the following development:

Construct 36 Dwellings of Apartment Housing (4-Storeys with underground parking) and to demolish 4 existing Single Detached Houses and 3 detached Garages.

- [4] The subject property is on Plan 1523194 Blk 78 Lot 33, located at 10125 - 84 Avenue NW, within the DC2.922 Site Specific Development Control Provision. The Strathcona Area Redevelopment Plan applies to the subject property.

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

- A copy of Bylaw 17399;
- A copy of the Strathcona Area Redevelopment Plan;
- A copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
- The Development Officer's written submission; and
- An e-mail from the Appellant.

[6] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – A letter from Mr. S. Hesse, the Appellant.
- Exhibit B – A revised Site Plan from the Appellant.
- Exhibit C – A Landscaping Plan from the Appellant.
- Exhibit D – An e-mail to Kennedy from the Appellant.

Preliminary Matters

[7] 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.

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

[9] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

The Presiding Officer referenced section 641(4)(b) of the *Municipal Government Act* that states:

Despite section 685, if a decision with respect to a development permit application in respect of a direct control district is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

The Presiding Officer stated that Appellant must show how the Development Officer did not follow the directions of Council.

i) Position of the Appellant, Ms. L. Caffaro, representing Mr. S. Hesse

[10] Ms. Caffaro indicated that she lives within the notification area and was asked by Mr. S. Hesse to represent him at the hearing.

[11] She read a letter from Mr. S. Hesse that explained his concerns with the proposed development. ("Exhibit A").

[12] Mr. Hesse's property is immediately next to the proposed development and is concerned about the loss of privacy and light pollution.

- [13] In his view, the proposed development and the proposed application is not in accordance with Bylaw 17399 (“DC2.922 Bylaw”).
- [14] The plans that were reviewed by the Development Officer show a large break in the landscaping buffer instead of a continuous landscaping buffer as show in Appendix 1 and 2 of the DC2.922 Bylaw. This large break is due to a mechanical intake fan that eliminates the possibility of landscaping and it is proposed to be located directly behind his fence. He is concerned that this will cause noise issues for his family.
- [15] There is a side door to the Apartment and with people entering and exiting this door all day with a light shining continuously above the door, he feels this will affect his privacy and his enjoyment of his property.
- [16] He understands that there is no expectation of complete privacy in city living, but he finds this development is excessive.
- [17] He noted that if he knew that the mechanical intake fan was going to be located next to his Yard, he would have asked the Developer to redesign it and if that did not happen, he would have addressed it in front of Council.
- [18] He noted that he contacted Kennedy about his concerns once he received the Development Permit Notice. However, he received no response and had no other choice but to file an appeal. (“Exhibit D”).
- [19] He indicated that this modification to the Site Plan could not have been anticipated by the average citizen and he is hoping that there is a modification to the Development Permit to install a continuous landscaped buffer as shown in Appendix 1 and 2 of the DC2.922 Bylaw.
- [20] Ms. Caffaro stated that she wants the proposed development to be turned down because the property was sold after the DC2.922 Bylaw was approved.
- [21] A mechanical intake fan is located where the landscaping should be placed, therefore the Development Officer did not follow the directions of Council.
- [22] She is concerned with the number of dens shown on the floor plans. In her opinion, there is a possibility that those dens will be used as bedrooms, which will increase the number of parking spaces required.
- [23] The Presiding Officer referenced DC2.2922 section 4(a) which states “Development shall be in general conformance with Appendices I-IV.” The Presiding Officer asked if the Appellant could point to any discrepancy between that or any other written regulations of the DC2.922 Bylaw and how the Development Officer interpreted those regulations in approving the plans submitted with the Development Permit application. The Appellant indicated she had not seen the plans herself.

At this time the Presiding Officer adjourned to allow the Appellant and the parties in opposition to the proposed development an opportunity to review the plans and the provisions of the DC2.922 Bylaw.

[24] Ms. Caffaro pointed to a square box shown on several of the plans approved by the Development Officer and compared them with a continuous landscaped buffer shown in the Appendices.

[25] The Appendices also show maple trees and the plans reviewed by the Development Officer show a break where those trees should go.

[26] She referenced 5(g) in the DC2.922 Bylaw that states:

All mechanical equipment, including roof mechanical units, surface level venting systems, and transformers shall be concealed by screening in a manner compatible with the architectural character of the building or concealed by incorporating them within the building framework and be oriented to minimize negative impacts on Amenity Areas, public roadways other than Lanes, and surrounding properties.

[27] In her view, there is a violation because the mechanical intake fan is not screened.

[28] With respect to a question from the Board as to whether the 1.83-metre high fence would be considered screening, she indicated that it would, however the Appellant's deck is elevated so it will not really be screened. She did not know the height of the deck but indicated that it had 5 steps to the ground.

ii) Position of Ms. P. Rockwell, representing the Old Strathcona Community League, in opposition to the proposed development

[29] She stated that the Old Strathcona Community League is totally opposed to the proposed development.

[30] In her view, DC2.922 as adopted by Council which lists Apartment Housing goes against the Strathcona Area Redevelopment Plan which was carefully developed over time in consultation with the neighbours.

[31] The Community League would prefer Town Housing for more families in accordance with the initial plan for this Site. They object to a large Apartment next to a Single Detached House with a family.

iii) Position of Ms. H. Parker, a property owner in opposition to the proposed development

- [32] She is concerned with the number of Dwelling units, the bedroom count and the amount of parking available.
- [33] In her view, based on the floor plans, the dens are similar in size to the bedrooms and some of the dens have windows. In her view, there is no way to prevent these Dwelling units from being sold as 2-bedroom units and if the dens are used as bedrooms, the Apartment development will not meet the parking requirements.
- [34] She would prefer if all tenants of the Apartment parked underground and did not use the on-street parking that is already congested.
- [35] With respect to a question from the Board on whether the Development Officer followed the directions of council, she indicated that she was unsure.

iv) Position of the Development Officer, Mr. A. McLellan

- [36] There is no written requirement for a landscaping buffer, let alone an uninterrupted one, in the DC2.922 Bylaw. A buffer only appears in the Appendices. In his view, even with the mechanical venting unit; the proposed development is in general conformance with the Appendices as required by section 4(a) of the DC2.922 Bylaw.
- [37] In his opinion, Section 5(g) of the DC2.922 Bylaw is met as the mechanical venting unit is adequately screened by the 1.83-metre high fence and the mechanical structure itself adds to the screening.
- [38] As the DC2.922 Bylaw is silent, section 54 of the Edmonton Zoning Bylaw is used to determine the parking space requirement. Based on the number of bedrooms proposed, he determined that the proposed development meets the minimum parking requirement.
- [39] He reviewed the plans as proposed. If proposed dens were to be converted to bedrooms, it would be a Bylaw enforcement issue.
- [40] He clarified that per section 5(g) of the DC2.922 Bylaw with regard to screening, he believes the mechanical structure is screened in a manner that minimizes the impact on the neighbours.
- [41] The mechanical structure is slightly lower than the 1.83-metre high fence. He estimates it is approximately 2 metres by 2 metres and 1.6 metres to 1.7 metres in Height. He could not comment on possible noise or odour issues with respect to the ventilation fan and indicated that he did not consider adjacent residents with regard to the mechanical intake fan because he thought the location and screening was sufficient.

[42] With respect to questions from the Board, Mr. McLellan provided the following:

- a. There is no definition of bedroom in the *Edmonton Zoning Bylaw*. When reviewing the floor plans, he considers the layout of each Dwelling unit to determine if dens should be classified as bedrooms.

The Presiding Officer confirmed that under section 720.3(3) of the *Edmonton Zoning Bylaw*, all regulations of the Zoning Bylaw are applied if they are not included in a Site Specific Development Control Provision.

- b. In his opinion, a mechanical intake unit is not considered an Accessory building and he considered it as part of the underground parkade to which it is connected. This is an intake unit, the exhaust is on the other side of the property so it does not involve any fumes.
- c. He indicated that mechanical issues are more a Safety Codes issue and is regulated under Alberta Building Codes. They are not typically addressed at the development stage.
- d. He reiterated that he is satisfied with the location of the mechanical intake fan and he is satisfied that sections 4(u) and 5(g) have been met.

v) *Position of the Respondent, Mr. B. Kennedy of Kennedy and Ms. A. Hestuik*

[43] Mr. Kennedy indicated that they took a year with the consultation process and they dealt with the planning issues with City Council. They were the authors of DC2.922.

[44] He spoke with the Appellant, Mr. Hesse, multiple times during the consultation process and addressed his concerns by relocating the Garage Driveway, exhaust and garbage enclosure to the west side of the property.

[45] The existing trees were originally going to be removed, but they decided to shift the entire development to the west in order to save the trees to alleviate the Appellant's concerns.

[46] Ms. Hestuik indicated that a 1.83-metre high wood fence will be installed as per section 7(iv) of the DC2.922 Bylaw. A fence higher than that is not typical or practical.

[47] With regard to the landscaped buffer, she indicated that this buffer continues along the east yard with trees. The spaces in between the trees under the canopy are lower than the fence.

[48] The mechanical equipment is screened. The unit is rectangular in shape and is 1-metre by 3.5 metres in size.

- [49] No air comes out of the mechanical equipment. The intake fan motor is located well below the ground. There will not be any noise from this equipment and it is arranged strategically to face the rear Lot Line and mitigate any impact on adjacent neighbours. You would have to put your ear on the fence beside it to even hear it at all.
- [50] Mechanical intake structures are generally allowed in Setbacks, although she could not point to an explicit section in the Bylaw.
- [51] A lighting plan had been submitted with the application to show that no illumination will spill into adjacent properties. She reiterated there will be no noise or lighting issues. The development complies with section 5(e) of DC2.922.
- [52] In her opinion, this proposed development follows the directions of Council.
- [53] With respect to questions from the Board, Mr. Kennedy and Ms. Hestuik provided the following:
- a. Ms. Hestuik indicated that the mechanical intake valve is under the roof and the roof is lower than the 1.83-metre high fence.
 - b. The fan is internal and sucks air in and she reiterated that it will not affect adjacent neighbours.
 - c. She referenced an elevation drawing to demonstrate what the mechanical structure will look like. She indicated that the mechanical structure will be cladded to match the Apartment and she stated that the mechanical structure will be tucked right against the fence.
 - d. She did not have the actual dimensions of the mechanical structure available, but when the plans are reviewed by an Engineer at Building Codes, they will know what is exactly required.
 - e. She agreed that there is no Height rule that a mechanical structure must be lower than the fence but she reiterated that it will be lower than the fence.
 - f. Mr. Kennedy indicated that the fan is located more than 12 feet into the ground and around a corner. Mechanical intake fans are quieter than a typical A/C unit in a house. They have built dozens of these types of developments and there have never been concerns with mechanical intake fans.

vi) Rebuttal of the Appellant

- [54] With respect to the Community Consultation they conducted, she indicated that the Respondent does not have the community's support.

- [55] With regard to the location of the mechanical intake fan, she indicated that her daughter's sandbox abuts the subject fence.
- [56] The neighbours are concerned about possible drainage issues.
- [57] In her opinion, the dens will most likely be used as bedrooms as the neighbourhood accommodates many renters. She does not know how parking will be enforced if this happens.

Decision

- [58] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED** as approved by the Development Authority, and subject to all conditions imposed by the Development Authority.

Reasons for Decision

- [59] The proposed development, Apartment Housing is a listed Use in the DC2.922 Site Specific Development Control Provision.
- [60] Section 641(4)(b) of the *Municipal Government Act* states:

Despite section 685, if a decision with respect to a development permit application in respect of a direct control district is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

In making a decision, the Board must determine if the directions of Council were followed.

- [61] At the hearing, the Community League objected to the inclusion of Apartment Housing as a listed Use in DC2.922. The Board is bound by the directions of Council contained the DC2.922 Bylaw as approved by Council. The listed Uses represent the directions of Council for the subject Site. The Development Officer made no error in approving a listed Use, particularly given that the development regulations and Appendices I-IV of the DC2.922 Bylaw specifically contemplate an Apartment Housing development.
- [62] The Appellants object to the location of a screened mechanical air intake valve. At the hearing they alleged the directions of Council were not followed with respect to sections 4(a), 4(u), and 5(g) of the DC2.922 Bylaw or with respect to the parking requirements under section 54 of the *Edmonton Zoning Bylaw*.

a. Section 4(a) states “Development shall be in general conformance with Appendices I-IV.”

b. Section 4(u) states:

Elements of the development and of individual dwellings such as windows, doors, balconies and Private Outdoor Amenity Areas shall be sited, oriented and designed to minimize their impact on adjacent dwellings, considering such things as sunlight, ventilation, noise, visual privacy, shadowing and views. The applicant shall provide, at the discretion of the Development Officer, information regarding the location of such features on adjacent and abutting Sites and the relationship to the subject Site that demonstrates the minimizing of the impact described above to the satisfaction of the Development Officer.

c. Section 5(g) states:

All mechanical equipment, including roof mechanical units, surface level venting systems, and transformers shall be concealed by screening in a manner compatible with the architectural character of the building or concealed by incorporating them within the building framework and be oriented to minimize negative impacts on Amenity Areas, public roadways other than Lanes, and surrounding properties.

[63] The Board finds that the Development Officer did follow the directions of Council for following reasons:

a. The Board finds that the proposed development is in general conformance with Appendices I-IV. The Appendices provide a general visual illustration of an Apartment Housing Use. They do not include all technical specifications, including detailed mechanical drawings, required in plans submitted for development or building permit approval. The approved plans comply with the general scheme set out in the Appendices and the more specific written text of the other development regulations in the DC2.922 Bylaw.

b. Under section 7(a)(v) of the DC2.922 Bylaw, the existing Manitoba Maple trees along the east property line will be protected and the approved Landscaping plans conform with this section of the DC2.922 Bylaw. The canopy of those Maple trees, in conjunction with the addition of new coniferous trees and other Landscaping elements, will provide a continuous landscaping buffer along the east property line.

c. The Board accepts the submission of the Development Officer that he considered and was satisfied with the proposed location, impact and screening of the mechanical ventilation equipment. The Board also notes that the garage driveway and exhaust were relocated to the west side of the subject Site. Therefore, the

Board finds that the Development Officer followed the directions as required in section 4(u) of the DC2.922 Bylaw.

- d. Similarly, the Development Officer considered the Height and the screening provided by the 1.83-metre high wood fence, as required per section 7(a)(iv) of the DC2.922 Bylaw and the screening impact of the canopy of trees along the east property line as per section 5(g) of the DC2.922 Bylaw.
- e. The imposition of Conditions 9, 10, 11 as well as Condition 14 in particular confirm that the Development Officer followed the directions of Council in sections 4(u) and 5(g) of the DC2.922 Bylaw concerning the location, impact and screening of the mechanical ventilation equipment, including the intake valve.
- f. The Appellants stated that the Development Officer should have considered the rooms identified as dens to be bedrooms. They argue that this has led to a miscalculation of the parking requirement and; therefore, a failure to follow the directions of Council. The Board does not agree. The Board finds that the Development Officer properly assessed the plans as submitted including the designation of rooms as bedrooms and dens before calculating the required number of on-site parking spaces. Possible future conversion or deviation from the submitted plans by subsequent users is speculative and would be a Bylaw enforcement issue.

[64] Based on the above, the Board finds that the Development Officer followed the directions of Council in approving the proposed development.

[65] If the Board has erred and the Development Officer did not follow the directions of Council, the Board would uphold the development approval in any event for the following reasons:

- a. The proposed development is in general conformance with the illustrations in Appendices I-IV.
- b. The Board notes that the landscaping buffer in the Appendix I is labeled "LANDSCAPED BUFFER AGAINST RF5 ZONED EAST NEIGHBOUR," which supports the Respondent's submission that the plans were designed with consideration to the Appellant prior to Council's approval. The entire development was shifted to the west to maximize the landscaping buffer and preserve mature trees adjacent to the Appellant's Lot.
- c. The existing mature trees, proposed new trees and other elements provide a sufficient landscaped buffer along the east property line.
- d. The mechanical ventilation equipment located on the east side of the building is an air intake valve. It has been oriented towards the Rear Lot Line. The fan motor for this air intake valve is located over 3 metres underground and around a corner.

These factors mitigate any nuisance impact. Thus, the Board is satisfied that the proposed development meets the requirements of Section 4(u).

- e. The materials used to screen for this mechanical ventilation equipment match the principal building and are designed in a manner compatible with the architectural character of the building. It is further concealed from view by mature Maple trees and a 1.83-metre high wood fence which exceeds the Height of the screening structure. Thus, the Board is satisfied that the proposed development meets the screening requirements of Section 5(g) of DC2.922.
- f. The Board accepts the evidence of the Respondents that a lighting plan has been prepared to show that the proposed development complies with the requirements for lighting in Sections 5(d) and 5(e) of DC2.922.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance;

Mr. B. Gibson, Ms. D. Kronewitt Martin, Mr. L. Pratt, Ms. N. Hack.

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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Date: December 1, 2016
Project Number: 222221652-001
File Number: SDAB-D-16-290

Notice of Decision

- [1] On November 16, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **October 17, 2016**. The appeal concerned the decision of the Development Authority, issued on October 6, 2016, to refuse the following development:

Construct a Semi-detached House with verandas and front Rooftop Terrace, and to demolish a Single Detached House and Accessory Building (rear detached Garage).

- [2] The subject property is on Plan 5765Q Blk 11 Lot 35, located at 10752 - 72 Avenue NW, within the RF3 Small Scale Infill Development Zone. The Mature Neighbourhood Overlay applies to the subject property.

- [3] 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 plans, and the refused Development Permit;
- The Development Officer's written submission;
- A Community Consultation submitted by the Development Officer; and
- The Appellant's written submissions.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – Presentation submitted by the Appellant.
- Exhibit B – A revised Site Plan submitted by the Development Officer.

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 Appellant, R. Mr. Bastian

[8] Mr. Bastian reviewed his presentation, "Exhibit A".

[9] The Queen Alexandra neighbourhood is in transition with a mix of older houses built in the 1930s and 1940s and new infill development with higher density.

[10] He reviewed his photographs to demonstrate the housing stock in the neighbourhood.

[11] The contemporary and striking design for his proposed Semi-detached House came from a development in Vancouver. The purpose of this development is to attract young families that want to live close to Old Strathcona and the river valley. The two Units are small, but functional and more affordable.

[12] The proposed Semi-detached House is designed to mirror a symmetrical design proposed for the Abutting Lot to the west.

[13] The exterior of the development consists of a pergola above the balcony, acrylic stucco, and longboard along both Units of the front door to give each Dwelling an individual identity.

[14] He worked with the Development Officer to make changes to alleviate any negative impact on adjacent properties. He understands the need for continuity in the neighbourhood. The third floor was reduced as much as practicable. The balcony proposed for the rear Unit has been eliminated and the balcony for the front facing Dwelling has been reduced in area. The reductions reduce privacy concerns for adjacent neighbours and any imposing look for passersby.

[15] Photos on pages 10 to 13 of his presentation demonstrate the existence of similar developments with similar variances in the neighbourhood on similar lot sizes. The photographs showed RF1 and RF3 Zoning, similar front/back style Semi-detached Housing, and a mix of two-Storey and three-Storey developments on a mix of interior and corner lots.

[16] A photo on page 14 shows a condominium apartment development within the notification area. In sum, there is a mix of multi-family housing in the immediate neighbourhood.

[17] To minimize the Site Coverage variance, the designer tried to make the Units smaller; however, any further changes would reduce the functionality and livability of the space.

- [18] In his opinion, the Site Coverage variance is minimal and when viewing the entire development, it is insignificant.
- [19] The impact of the Rooftop Terrace Stepback deficiencies are minimal. He views that space as a balcony, not a Terrace, because it is only 40 square feet. The space is used as a walkout from the master bedroom to be used for enjoying a cup of coffee in the morning.
- [20] He spoke with the Development Officer about the Front Setback variance and was told that if both the house on the subject Site and the house immediately to the west (the Site for the symmetrical Semi-detached House) were demolished simultaneously, there would be no variance as the two new proposed Semi-detached Houses have similar Front Setbacks.
- [21] He was unsure of the exact location and dimensions used by the Development Officer to determine the Private Outdoor Amenity Area deficiencies.

The Presiding Officer allowed the Appellant and the Development Officer to review the plans to identify the location and dimensions of the Private Outdoor Amenity Area.

- [22] The Development Officer, Mr. J. Angeles hi-lighted a portion of the (east) Front Yard on the Plot Plan to demonstrate where the Private Outdoor Amenity Area could be located for the front Dwelling. (“Exhibit B”).

The Presiding Officer clarified that under the *Edmonton Zoning Bylaw*, a Private Outdoor Amenity Area is only allowed in a Front Yard if the development is a Row House and indicated the proposed development would accordingly require an additional variance if approved.

- [23] With regard to the Community Consultation requirement, Mr. Bastian received 10 positive responses and no opposition to the proposed development.
- [24] The final page of his presentation included an aerial map illustrating the type of properties in the immediate area and identifying the properties that signed in support of the proposed development.
- [25] With respect to questions from the Board, Mr. Bastian provided the following:
- a. He and the appellant for the abutting proposed Semi-detached House together presented their rendering and the plans reviewed by the Development Officer to each property in the 60-metre notification area.
 - b. They did not obtain signatures for every property because some were renters and others preferred verbal support. The adjacent property to the east has been abandoned for some time and they were unable to contact the owners. Other adjacent neighbours

- provided support. The neighbour to the east across 108 Street sent a supportive email and asked to be part of the process.
- c. He was unaware if the other similar developments shown in his photographs had Site Coverage or Private Outdoor Amenity Area variances. In his view, based on their designs, Front Yard sizes and Lot sizes, those Semi-detached Houses most likely had been granted similar variances.
 - d. To address privacy issues for the adjacent property to the east, the development was designed so the windows will not look into that house.

ii) Position of the Development Officer, Mr. J. Angeles

[26] With respect to questions from the Board, Mr. Angeles provided the following:

- a. He believes the Appellant met the Community Consultation requirement under section 814.3(24) of the Mature Neighbourhood Overlay.
- b. He gave the Appellant instructions to do at least two site visits and, if a neighbour was not home, to drop off a flyer with the variance and contact information in their mailbox.
- c. The Total Site Coverage variance including the proposed detached Garage was placed on the Permit by mistake and should not be considered part of this application because the detached Garage is not included in this proposal.
- d. He confirmed that he had calculated the setback range in part using the mean of all of the existing houses on the block face, including one anomalous house which is setback three times more than other properties on the block face. He confirmed that if both this development and the proposed development to the west were built at the same time, it would not in his view affect the Front Setback from the streetscape.
- e. He would allow the variance permitting the Private Outdoor Amenity Area to be located in a Front Yard as the development includes installation of landscaping in the 1-metre Setback along the Front Lot Line which creates a private area.
- f. Although he believes the proposed development is an overdevelopment because of the number of variances and particularly due to the Site Area and Site Coverage variances, he also believes that the development as proposed will not have an adverse impact on the adjacent neighbours or the neighbourhood amenities.
- g. The proposed development is characteristic of the area; meets the General Purpose of the Mature Neighbourhood Overlay; and is generally an improvement over the existing conditions.

- h. After the Board pointed out that it has no “standard conditions” for this Semi-detached House, the Development Officer confirmed that he has no additional conditions, except for the sign condition noted in his written submission.

vii) Rebuttal of the Appellant

- [27] Mr. Bastian indicated that based on the Development Officer’s comments, the variances are minor and the proposed development will enhance the neighbourhood by replacing a derelict building with a suitable development which increases density and affordable housing options.

Decision

- [66] 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. A minimum of one development permit notification sign on Site must be posted by the applicant in accordance with Section 20.2 of this Bylaw. (Reference Section 15.9).
2. The Development Permit Notification Sign must be posted on-site prior to any demolition or construction activity and within 14 days of Subdivision and Development Appeal Board approval.

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

1. The minimum Site Area of 442.2 square metres required per section 140.4(3)(a) is varied to allow a deficiency of 38.57 square metres, thereby decreasing the minimum Site Area to 403.63 square metres.
2. The maximum Site Coverage for a Principal Building of 28 percent (113.02 square metres) allowed per section 140.4(10)(d) is varied to permit an excess of 1.48 percent (5.99 square metres), thereby increasing the maximum allowed Site Coverage to 29.48 percent (119.01 square metres).
3. The minimum Stepback of 1.0 metres from any building Façade facing a Front Lot Line required per section 61.1(a)(i) is varied to allow a deficiency of 0.40 metres, thereby decreasing the minimum Stepback to 0.60 metres.
4. The minimum Stepback of 2.0 metres from any building Façade facing a Side Lot Line, where the Site Width is 10.0 metres or greater required per section

61.1(a)(iv) is varied to allow a deficiency of 0.93 metres, thereby decreasing the minimum Stepback to 1.07 metres.

5. The requirement that a Private Outdoor Amenity Area may be provided above Grade, and may be located within any Yard other than a Front Yard as per section 47.4 is waived to allow a Private Outdoor Amenity Area in the Front Yard as highlighted in pink on "Exhibit B."
6. The minimum Private Outdoor Amenity Area width of 4.0 metres as per section 47.5 is varied to allow a deficiency of 1.13 metres, thereby decreasing the minimum width to 2.87 metres.

Reasons for Decision

[68] The proposed development is a Permitted Use in RF3 Small Scale Infill Development Zone.

[69] The Board notes that the number of required variances may (but does not necessarily) indicate an over development with material adverse impacts.

[70] While this proposed development involves six variances, the following factors in general support granting all six variances:

- a. The Appellant provided positive written evidence and verbal feedback of support for the proposed development from individuals who viewed the plans. The Board received no indication of opposition toward this proposed development.
- b. Based on the photographic evidence, this style of front/back Semi-detached Housing on this size of Lot is characteristic of the neighbourhood.
- c. The development is typical of the neighbourhood, including the immediate area, which is currently undergoing transition to increase density on RF1 and RF3 Lots.
- d. Replacing dated and derelict buildings will visually enhance the amenities of this neighbourhood.
- e. The proposed development meets policy 4.2.1.1 of the Municipal Development Plan, "The Way We Grow" which states: Support neighbourhood revitalization, redevelopment and residential infill that contributes to the livability and adaptability of established neighbourhoods.
- f. While the Development Officer concluded this was an overdevelopment based on the number of variances, he also agreed that the variances are minor in nature and that both individually and in concert these variances would not have a negative impact on adjacent properties or the neighbourhood. The Board agrees with his view that the proposed development added to the amenities of the area.

- [71] Based on the Hagen Surveys Plot Plan that was submitted and reviewed by the Development Officer, the Board finds that no variance to Front setback is required for the following reasons:
- a. Section 814.3(1) states in part: The Front Setback shall be a minimum of 3.0 m and shall be consistent within 1.5 m of the Front Setback on Abutting Lots and with the general context of the block face.
 - b. There is one anomalous property on the block face with a 14.81-metre Front Setback that significantly warps the average calculation used by the Development Officer.
 - c. The Board agrees with the surveyor, that this anomalous Lot should not be used in the mean calculation of the “general context of the block face” and accepts the average of 5.37 metres noted on the Plot Plan.
 - d. Therefore, Board finds that the proposed Front Setback is within the 1.5 metres of the Abutting Lots and within 1.5 metres of the general context of the block face as required per Section 814.3(24).
 - e. If the Board is incorrect and a Front Setback Variance is required, it finds that the variance would have no adverse impact given that it is within 1.5 metres of the Abutting Lots; there are two other almost identical Front Setbacks; and, a variance is required only due to the inclusion of one anomalous setback.
- [72] While the subject Lot is deficient in Site Area and Site Coverage, there are no variances to the Front Setback, the Side Setbacks, the Rear Setback, or Height. The Board notes the Appellant has made several alterations to the plans including reducing the third floor and its balcony to lessen the scale of the development and ameliorate any imposing massing effects. This size of Lot is typical in this particular RF3 Small Scale Infill Development Zone and Semi-detached Housing is a typical Use in this neighbourhood and a Permitted Use. Therefore, the Board finds that these two variances will have no material adverse impact on neighbouring properties.
- [73] With respect to the two Rooftop Terrace Stepback variances, the Board notes that the balcony is 2.44 metres by 1.52 metres in size. The Board finds that this small area mitigates any adverse impact that the deficient Stepback may have on pedestrians viewing the property from the street. Further, the location and size of the balcony, and its arrangement relative to the roofline eliminates privacy concerns for adjacent properties.
- [74] With respect to the variance in the minimum Private Outdoor Amenity Area width, the Board notes that its length as shown on Exhibit B significantly exceeds the required 4.0 metres minimum length and the proposed development provides a usable space 2.87 metres by 5.94 metres, approximately 17 square metres.

- [75] The Board grants the variance to allow one Private Outdoor Amenity Area to be located in the Front Yard for two reasons. First, it is the most practical, accessible location given the front/back design of the building and the Lot dimensions. Second, Landscaping to be installed within the 1-metre Setback along the Front Lot Line will provide a suitable buffer from the walkway and some privacy for the residents.
- [76] Based on the evidence provided by the Appellant and the Development Officer's stance, the Board finds that the Appellant has substantially complied with the Community Consultation requirement under section 814.3(24). The Board notes that this Community Consultation is not required given its determination that the Front Setback no longer requires a variance.
- [77] 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.

Ms. Kathy Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance;

Mr. B. Gibson, Ms. D. Kronewitt Martin, Mr. L. Pratt, Ms. N. Hack.

Important Information for the Applicant/Appellant

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 - 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.



**EDMONTON
TRIBUNALS**

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Date: December 1, 2016
Project Number: 222218322-001
File Number: SDAB-D-16-291

Notice of Decision

- [1] On November 16, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on **October 17, 2016**. The appeal concerned the decision of the Development Authority, issued on October 13, 2016 to refuse the following development:

Construct a Semi-detached House with verandas and front Rooftop Terrace, and to demolish the existing Single Detached House.

- [2] The subject property is on Plan 5765Q Blk 11 Lot 36, located at 10756 - 72 Avenue NW, within the RF3 Small Scale Infill Development Zone. The Mature Neighbourhood Overlay applies to the subject property.
- [3] 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 plans, and the refused Development Permit;
 - The Development Officer's written submission;
 - A Community Consultation submitted by the Development Officer; and
 - The Appellant's written submissions.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Presentation submitted by the Appellant.
 - Exhibit B – Revised Landscaping Plan with Private Outdoor Amenity Area submitted by the Appellant.

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 Appellant, Mr. C. Coulombe

- [8] Mr. Coulombe reviewed his presentation, "Exhibit A".
- [9] Page 5 of his presentation outlines his infill vision. He would like to:
- a. Build new residential homes for the Queen Alex neighbourhood, and add exciting design elements to an evolving mature neighbourhood
 - b. Use a contemporary front / back duplex complimented by a mirrored symmetrical design located on two adjacent lots. (The development on the Abutting Lot to the east has just received verbal approval from the Subdivision and Development Board (SDAB 16-290)).
 - c. Use a Vancouver concept designed for Edmonton
 - d. Use this development in conjunction with the development approved for the Abutting Lot to create a symmetrical, visually appealing and interesting design
 - e. Build for sale (not rental)
 - f. Design and build for young families (3 Bedrooms) at affordable, duplex pricing
- [10] His Lot is a corner Lot. There is a condominium apartment building kitty corner to his Lot which shows the trend to add density in the immediate area. He is adding to that trend and replacing a derelict home.
- [11] Photographs in his presentation show existing derelict houses in the neighbourhood. Contemporary infill development such as the proposed development will visually enhance the neighbourhood. His design fits in with the current and proposed housing stock.
- [12] At page 8 of his presentation, he explains how he has worked with the Development Officer to mitigate any negative impact on adjacent neighbours by making design changes. The changes include exterior changes to reduce the impact of dormers, changing roof pitch and materials, reduction of third floor, balcony reduction and removal and adjustment to the remaining balcony railings for privacy.

[13] His development requires variances similar to those verbally approved by the Board (SDAB 16-290) for the symmetrical development on the Abutting Interior Lot to the east and additional variances for the subject Site, a Corner Lot.

[14] He provided the following submissions to support those variances:

- a. With regard to the Corner Lot Site Width and the flanking Side Setback deficiency, the existing House on the subject Site is closer to the flanking Side Lot Line than what he is proposing.
- b. His photograph of the existing building immediately to the (north) rear of his property and shows that it is located closer to the flanking Side Lot Line than what he is proposing. From the street level, this deficiency will not be noticeable and it will not affect any neighbours.
- c. The front/back brick duplex located 150 m north of the subject Site fronts onto 108 Street and is located closer to the flanking roadway than his development.
- d. There is no sidewalk on the flank of the subject Site.
- e. He is unaware of the exact width of the City boulevard between the curb and his property line, but as shown in the photographs it is fairly wide and is used as a power pole right-of-way.
- f. The other variances that he requires were discussed in appeal involving the Abutting Lot to the east. They will not have a material impact on the neighbourhood. Furthermore, as the Semi-detached House on the Abutting Lot to the east has been approved, his development will complement the block face as the two were planned as mirror developments using the same design.
- g. Developments on neighbouring properties shown in his submission and the Abutting Lot to the east involve similar or identical variances. His development is in scale. It will not be overbearing or ridiculous. The proposed development has been cut down to make the balcony look like a half storey and to look less foreboding.
- h. The Front Setback aligns with the Front Setback of the proposed development on Abutting Lot to the east. He received no negative feedback on this variance to the Mature Neighbourhood Overlay
- i. The small Front Yard allows the residents of the rear Unit to utilize the amenities in the Rear Yard. The small Private Amenity Area for the front unit is mitigated by the boulevard space and augmented by the front balcony area.
- j. He performed Community Consultation as required by the Development Officer. Based on the results of his Community Consultation, there is no opposition to the

proposed development. He received overwhelming support from his neighbours, including 5 adjacent neighbours. The neighbours across the flanking street provided a support as did the neighbours in the Corner Lot located kitty corner to the subject Site.

- k. He referenced his Landscaping Plan and hi-lighted the Private Outdoor Amenity Area location. The Private Outdoor Amenity Area will be 5.07 metres by 2.87 metres in size and in his opinion, that space with the front balcony will be a sufficient Amenity Area.

[15] With respect to questions from the Board, Mr. Coulombe provided the following:

- a. On-street parking is available on both sides of 108 Street and there is only a sidewalk on the west side.
- b. He will install a fence on the flanking Side Lot Line.
- c. He estimates that the City boulevard is approximately 5 metres in width from the curb to his flanking Side Lot Line.

ii) Position of the Development Officer, Mr. J. Angeles

[16] With respect to questions from the Board, Mr. Angeles provided the following:

- a. He does not know the actual width of the City boulevard, but agrees it is approximately 5 metres from the curb to the flanking Side Lot Line.
- b. He agrees that given the Board's previous approval for the Abutting Lot to the east, no Front Setback variance is required.
- c. He agrees that it is appropriate to calculate the block face average as shown on the Plot Plan for the purposes of Section 814 using the method of the surveyor (without the one anomalous House with the almost 15-metre Front Setback).
- d. The 3-metre Stepback requirement for the Rooftop Terrace is measured between the building wall and the balcony. So that variance is still required.
- e. He agrees that there is a significant separation space between the (east) Side Lot Line and the balcony. The Corner Lot location means there are less privacy concerns as there is no Abutting Lot to the west.
- f. He agrees the proposed development is located further from the Side Lot Line than the existing house and given its staggered design, half of the west side of the proposed development exceeds the required Side Setback in any event.

- g. In his opinion, the Lot size and Lot Coverage create a potential overdevelopment, but given that the requested variances are minor, he believes that the proposed development will not have a material negative impact on the neighbourhood.

viii) *Rebuttal of the Appellant*

- [17] Mr. Coulombe indicated that based on what the Development Officer stated, he agrees that the variances are minimal and will not negatively impact the neighbourhood.

Decision

- [18] 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. A minimum of one development permit notification sign on Site must be posted by the applicant in accordance with section 20.2 of this Bylaw. (Reference section 15.9).
2. The Development Permit Notification Sign must be posted on-site prior to any demolition or construction activity and within 14 days of Subdivision and Development Appeal Board approval.

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

1. The minimum Site Area of 442.2 square metres required per section 140.3(a) is varied to allow a deficiency of 38.46 square metres, thereby decreasing the minimum Site Area to 403.74 square metres.
2. The minimum Site Width of 14.8 metres required per section 140.4(3)(c) is varied to allow a deficiency of 4.73 metres, thereby decreasing the minimum Site Width to 10.07 metres.
3. On a Corner Site, the minimum Side Setback flanking the roadway of 2.01 metres (that being 20 percent of the Width of the Lot) required per section 140.4(13)(b) is varied to allow a deficiency of 0.51 metres, thereby decreasing the minimum flanking Side Setback to 1.5 metres.
4. The maximum Site Coverage for a Principal Building of 28 percent (113.05 square metres) required per section 140.4(10)(d) is varied to allow an excess of 1.48 percent (5.96 square metres), thereby increasing the maximum Site Coverage to 29.48 percent (119.01 square metres).

5. The minimum Stepback of 1.0 metres from any building Façade facing a Front Lot Line required per section 61.1(b)(i) is varied to allow a deficiency of 0.40 metres, thereby decreasing the minimum Stepback to 0.60 metres.
6. The minimum Stepback of 3.0 metres from any building Façade facing a Side Lot Line, where the Site Width is 10.0 metres or greater required per section 61.1(b)(iv) is varied to allow a deficiency of 0.40 metres, thereby decreasing the minimum Stepback to 2.6 metres.
7. The requirement that a Private Outdoor Amenity Area may be provided above Grade, and may be located within any Yard other than a Front Yard as per section 47.4 is waived to allow a Private Outdoor Amenity Area in the Front Yard as highlighted in yellow on “Exhibit B”
8. The minimum Private Outdoor Amenity Area width of 4.0 metres as per section 47.5 is varied to allow a deficiency of 1.13 metres, thereby decreasing the minimum width to 2.87 metres.

Reasons for Decision

- [20] The proposed development is a Permitted Use in RF3 Small Scale Infill Development Zone.
- [21] The Board notes that the number of required variances may, but does not necessarily, indicate an over development. Many other factors including Site conditions determine whether variances alone or together carry material adverse impacts.
- [22] While this proposed development involves eight variances, the following factors support granting all of them:
- a. The Appellant consulted neighbouring property owners and showed them plans and a visual rendering of the proposed development. He collected written evidence and verbal feedback of support for the proposed development. The Board received no opposition toward the proposed development. Support was received from adjacent neighbours to the north (across the lane), east (interior side), south (across the avenue) and west (across the flanking roadway, 108 Street).
 - b. Based on the photographic evidence, this style of front/back Semi-detached Housing on this size of Lot is characteristic of the neighbourhood.
 - c. The neighbourhood and the immediate area is currently undergoing transition involving increases in density. Infill development on RF1 and RF3 Zoning is common.

- d. Replacing dated and derelict buildings will visually enhance the amenities of this neighbourhood.
- e. The proposed development meets policy 4.2.1.1 of the Municipal Development Plan, “The Way We Grow” which states: Support neighbourhood revitalization, redevelopment and residential infill that contributes to the livability and adaptability of established neighbourhoods.
- f. While the Development Officer concluded this was an overdevelopment of the Lot based mainly on Lot Size and Site Coverage; he also felt the variances are minor and would not individually or in concert have a negative impact on adjacent properties or the neighbourhood, particularly in view of the unusually wide abutting boulevard to the east. The Board accepts his opinion that the proposed development will add to the amenities of the area.

[78] Based on the Hagen Surveys Plot Plan that was submitted and reviewed by the Development Officer, the Board finds that no variance to Front setback is required for the following reasons:

- i)* Section 814.3(1) states in part: The Front Setback shall be a minimum of 3.0 m and shall be consistent within 1.5 m of the Front Setback on Abutting Lots and with the general context of the block face.
- ii)* The Board has provided verbal approval to a mirror development on the only Abutting Lot. That development incorporates a Front Setback identical to the proposed development and changes the average Front Setback on the block face.
- iii)* In addition, there is one anomalous property on the block face with a 14.81-metre Front Setback that significantly warps the average calculation used by the Development Officer.
- iv)* The Board agrees with the surveyor, that this anomalous Lot should not be used in the mean calculation of the “general context of the block face.” The Development Officer also agreed with this approach.
- v)* Therefore, the Board finds that the proposed Front Setback matches the Abutting Lot Front Setback and is within within 1.5 metres of the general context of the block face as required per Section 814.3(24).

[79] If the Board is incorrect and a Front Setback Variance is required, it finds that the variance would have no adverse impact given that the proposed Front Setback is identical to the one on the only Abutting Lot; there are two other almost identical Front Setbacks further along the block face; and, a variance required only due to the inclusion of one anomalous setback.

- [80] The variance to minimum Side Setback flanking the roadway is granted for two reasons. First, the boulevard consists of a greenspace with no sidewalk at least 5 metres in width creates a significant separation between the proposed development and 108 Street ameliorating the 0.51 metres deficiency. Second, while the south 10.10 metres portion of the proposed development is 1.5 metres from the (west) flanking Side Lot Line, the rear 8.80 metres portion of the development is more than compliant at 2.72 metres from the (west) flanking Side Lot Line, which also mitigates any massing effect from the street level.
- [81] While the subject Lot is deficient in Site Area, Site Coverage and Site Width for a Corner Lot, the development has been scaled down as far as practicable and no variances are required for the Front Setback, the interior Side Setback, the Rear Setback, or Height. This size of Lot is typical in this particular RF3 Small Scale Infill Development Zone and Semi-detached Housing is a typical Use in this neighbourhood and a Permitted Use. Further, in this case the narrow corner Lot is abutted by a 5 metre wide greenspace between the (west) flanking Side Lot Line and the curb that significantly reduces any adverse impact of these three variances on the small Lot.
- [82] With respect to the two Rooftop Terrace Stepback variances, the Board notes that the balcony is 2.44 metres by 1.52 metres in size. The Board finds that this small area mitigates any impact that the deficient Stepback may have on pedestrians viewing the property from the street. With regard to the Interior Lot Stepback, the Board finds that the Rooftop Terrace is more than 3 metres from the (west) Side Lot Line. Its location, size, and arrangement relative to the roofline also eliminate privacy concerns for adjacent properties.
- [83] With respect to the variance in the minimum Private Outdoor Amenity Area width, the Board notes that proposed length of the Amenity Area exceeds the required minimum and the space is practically usable. Additional Private Outdoor Amenity Area for this Unit is found in the balcony area. The abutting green space to the west also reduces the impact of this variance and provides an immediately accessible outdoor amenity area.
- [84] One Private Outdoor Amenity Area may be located in the Front Yard, as Landscaping will be installed within the 1-metre Setback providing a buffer along the Front Lot Line. Also, the flanking green space and fence will provide a buffer and privacy along 108 Street.
- [85] Based on the Appellant's submission and the Development Officer's stance, the Board finds that the Appellant has substantially complied with the Community Consultation requirement under section 814.3(24), even though it was unnecessary given the Board's finding that the Front Setback complies with the Mature Neighbourhood Overlay.

[86] 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.

Ms. Kathy Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

Board Members in Attendance;

Mr. B. Gibson, Ms. D. Kronewitt Martin, Mr. L. Pratt, Ms. N. Hack.

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