



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: November 17, 2016
Project Number: 228055832-003
File Number: SDAB-D-16-274

Notice of Decision

- [1] On November 2, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on October 7, 2016. The appeal concerned the decision of the Development Authority, issued on October 3, 2016, to refuse the following development:

Construct exterior alterations to an existing Single Detached House -
Driveway extension in front of the front attached Garage

- [2] The subject property is on Plan 0720871 Blk 6 Lot 88, located at 6011 - 4 Avenue SW, within the RSL Residential Small Lot Zone. The Charlesworth Neighbourhood Structure Plan and Southeast Area Structure Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with plans, and the refused permit;
 - Appellant's appeal documents, received November 2, 2016; and
 - Development Officer's written submissions, dated October 27, 2016.

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, Ace Lange Homes

- [7] The property owners, Mr. B. Payne and Ms. M. Payne appeared. They were accompanied by a representative from Ace Lange Homes, Ms. J. Lange.
- [8] Mr. Payne referred to several pictures in his PowerPoint presentation. The pictures showed twelve homes in the cul de sac, and he identified homes throughout the neighbourhood with similar driveway extensions. He explained that he conducted community consultation with the homeowners in the cul de sac who were all willing to sign his petition in support of the development. His home was the last property to be completed in the cul de sac and most of the neighbours indicated that they felt the subject property complemented the existing homes in the neighbourhood.
- [9] Mr. Payne referenced a picture of the front of the property and noted that the Front Yard is very small. Leaving the grass on the lawn would have made it unusable. As a result, he decided to extend the Driveway, and to plant some landscaping elements for the remainder of the lawn. The picture showed that there is a tree, some shrubbery, perennials, and a boulder.
- [10] Upon questioning by the Board, Mr. Payne clarified that it was not the developer who extended the driveway. He had not realized that the driveway extension was more than what was allowable. He confirmed that the house has a two car garage, and his family uses two cars, so the extension is not intended for parking. The extension itself consists of a small slice of the pie-shaped driveway, providing access from the front step directly to the street.
- [11] The extension is not used for access during the winter months because snow removed from the driveway is piled onto the extension. In his view, the extension has also improved drainage, as water now flows down to the street.

ii) Position of the Development Authority

- [12] The Development Authority was represented by Mr. K. Yeung.
- [13] Upon questioning by the Board, Mr. Yeung clarified that the contested driveway extension is the portion of the hardsurfacing that leads directly to the front entrance. Under the Bylaw, a Driveway is required to lead to the overhead garage. He did not know the exact dimensions of the extension.
- [14] With respect to the landscaping, he confirmed that when the application was initially reviewed, information regarding the Front Yard landscaping was not provided.

Decision

[15] 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 CONDITION:

- 1) Parking is not allowed in the required Front Yard.

Advisements:

- 1) The applicant is advised that with the Development, there may be potential for drainage issues such as runoff (flooding) into the Basement of the Site and runoff into the abutting lot. The applicant is responsible for resolving any drainage issues arising from the Development.
 - 2) The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.
- [16] In granting the development, the following VARIANCES to the *Edmonton Zoning Bylaw* are allowed:
- 1) Section 54.1(4)(b) is varied to allow the subject Driveway to exceed the maximum allowable width of 6.20 metres.
 - 2) Section 54.1(5) requiring that Driveways lead directly from the roadway to the required Garage or Parking Area is waived, thereby allowing the subject Driveway extension to lead directly from the roadway to the front entrance of the property.
 - 3) Section 55.2(1)(g) is relaxed to permit hardsurfacing of the portion of the Front Yard that forms the subject Driveway extension.

Reasons for Decision

[17] The matter before this Board concerns a small Driveway extension for a Single Detached House, which is a Permitted Use in the RSL Residential Small Lot Zone. The existing extension constitutes a small increase to the existing Driveway that currently extends south of the two-car garage. There is an existing extension to the other side of the Driveway that was approved by the Development Authority in 2015.

[18] The subject extension is predominantly a walkway connecting the municipal sidewalk directly to the front door of the Single Detached House. Section 54.1(4)(b) states, in part:

The area hardsurfaced for a Driveway, *not including the area used as a walkway*, shall have a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage. [emphasis added]

- [19] Section 54.1(4)(b) therefore excludes a walkway from the calculation of the maximum Driveway width, while also allowing for the hardsurfacing of such walkway. The Board also notes that section 54.1(5) requires only Driveways to lead directly from the roadway to the Garage – this provision does not prohibit walkways from leading directly from the roadway to the front entrance. As the Board has found that the subject Driveway extension is properly characterized as a walkway, it is questionable whether variances to sections 54.1(4)(b) or 54.1(5) are even required. However, the Board accepts the review conducted by the Development Authority, and grants these variances accordingly.
- [20] The Board further notes that based on the photographic evidence presented, hardsurfaced Driveway extensions are typical of the cul de sac in which the subject property is located. Surrounding residents, who are the affected property owners in this cul de sac, have all expressed their support for this development in writing, and there is no evidence before this Board of any neighbours objecting to the variances. Granting the development, with the required variances, is therefore in keeping with the character of the neighbourhood.
- [21] 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. Accordingly, the appeal is allowed and the development is granted.

Mr. Ian Wachowicz, Chairman
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. Winston Tuttle, Mr. Lyall Pratt; Mr. James Kindrake; Ms. Shari LaPerle

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, 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, 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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SDAB-D-16-275

Project/Permit No. 188282372-001

An appeal to change the use from General Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space), located at 10204 – 104 Street NW was **WITHDRAWN**