

## EDMONTON SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Citation: E. Harbison v Development Authority of the City of Edmonton, 2020 ABESDAB 100059

Date: June 4, 2020  
Project Number: 352231631-002  
File Number: SDAB-D-20-059

Between:

E. Harbison

and

The City of Edmonton, Development Authority

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Board Members

Mark Young, Presiding Officer  
Brian Gibson  
Robert Hobson

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### DECISION

[1] On May 21, 2020, the Board held a hearing regarding an appeal that was filed on April 21, 2020 for an application by Span Architecture Inc. The appeal concerned the decision of the Development Authority, issued on March 24, 2020, to approve the following development:

**Construct a 9 Dwelling Multi-unit Housing.**

[2] The subject property is on Plan RN60 Blk 28 Lot 16, located at 11123 – Groat Road NW, within the (RA7) Low Rise Apartment Zone. The West Ingle Area Redevelopment Plan applies to the subject property.

[3] In accordance with the SDAB Emergency Procedures, the appeal hearing on May 21, 2020 was held on a written submission only basis. In considering this appeal, the Board reviewed the following submitted material, which forms part of the record:

- SDAB Agenda and Notification Map;

- Copy of the approved Development Permit and plans;
- The Development Officer's written submission;
- The Appellant's written submissions, photographs and affected property owner's report;
- The Respondent's written submission, including photographs and a revised parking site plan.

[4] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the "*Municipal Government Act*").

### **Decision**

[5] The appeal is **DENIED**. The decision of the Development Authority is **VARIED** to approve the Revised Site Plan submitted by the Respondent to add 1 onsite parking space thereby eliminating the parking variance. The development is **GRANTED** as applied for to the Development Authority, subject to **CONDITIONS**.

### **Reasons for Decision**

[6] The Respondent was issued a development permit to construct a 9 Dwelling Multi-unit Housing. Multi-unit Housing is a Permitted Use in the (RA7) Low Rise Apartment Zone.

[7] The Appellant resides on the property immediately to the south of the proposed development.

[8] Two variances were allowed by the Development Officer. One of the variances relates to parking. Section 54.2, Schedule 1(C) requires six onsite parking spaces for residents and one space for visitors. The proposed development had only five parking spaces for residents and one for visitors. The Development Officer allowed the one parking space variance.

[9] In its written submission the Respondent advised that the parking variance is no longer required. EPCOR has indicated that the proposed pad transformer in the rear yard will not be necessary, thereby allowing that space to be used for an additional parking space.

[10] The Board approves the Revised Site Plan shown on page 8 of the Respondent's submission with the proviso that the only change being approved is the additional parking space.

[11] The second variance relates to the landscaping buffer in the Side Setback. Section 210.4(11) of the *Edmonton Zoning Bylaw* states that parking may be permitted within the Side Setback, provided a minimum 1.5 metres of wide soft landscaping buffer is provided within the Setback and that all parking and service areas are screened from view from any Site zoned to allow Single Detached Housing as a Permitted Use.

[12] The proposed development has the parking spaces in the rear yard angled so that some corners of the parking spaces are in the Side Setback and these corners extend to the

property line and do not allow for any landscaping buffer. However, it is only at the corners where the landscaping buffer is reduced; there is a landscaping buffer in the remainder of the Side Setback. As well, the approved landscaping plan shows that the proposed development will have a six-foot wooden fence along the property line screening the parking area from view of the Appellant's property.

- [13] One of the Appellant's demands regarding the proposed development is that adequate fencing between his property and the Respondent's should be constructed to protect his family during construction. In particular, he wants a six-foot high complete privacy fence to be constructed.
- [14] The Board does not have the authority to dictate what measures will be taken during the course of construction. As was noted, the landscaping plan specifies that there will be a six-foot wooden fence constructed by the Respondent separating the two properties. Given this fact and the fact that it is only at some corners of the parking spaces that the landscaping buffer will be reduced, the Board is of the view that the variance of 1.5 metres to the landscaping buffer will not have a significant impact on the Appellant or on the neighbourhood.
- [15] The Appellant's other concern relates to parking, although his focus is on difficulties he has experienced with the occupiers of the property to the south of his property. He did not express any issues with the one parking space variance granted to the Respondent for the permit under appeal. In any event, that parking variance is no longer required.
- [16] For all of the above reasons, the Board is of the opinion that the proposed development with the required variance 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 dismissed. The decision of the Development Officer is varied to approve the Revised Site Plan showing the addition of the additional parking space and eliminating the parking variance. The conditions imposed by the Development Officer remain in effect.



Mark Young, Presiding Officer  
Subdivision and Development Appeal Board

c.c.: E. Harbison  
City of Edmonton, Development & Zoning Services, Attn: K. Bauer / H. Luke

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*