

SDAB-S-13-002

Application No. 119998651-001

An appeal to create 75 Single Detached Residential lots, 36 Semi-detached Residential lots, two Municipal Reserve lots and four Public Utility lots on Lot 2, Block 1, Plan 0221098 and Lot 53, Block RW, Plan 3987MC, located at 1112 – 153 Avenue NW, was **WITHDRAWN**.



**Subdivision and
Development Appeal Board**

Office of the City Clerk
Main Floor, Churchill Building
10019 – 103 Avenue NW
Edmonton, AB T5J 0G9
Telephone: (780) 496-6079
Fax: (780) 496-8175

DATE: February 15, 2013
APPLICATION NO: 132098131-001
FILE NO.: SDAB-D-13-029

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated January 2, 2013, from the decision of the Development Authority for permission to:

Construct a Secondary Suite in a Single Detached House (1 bedroom)

on Lot 22, Block 92, Plan I17, located at 9713 – 86 Avenue NW, was heard by the Subdivision and Development Appeal Board at its hearing held on January 31, 2013. The decision of the Board was as follows:

SUMMARY OF HEARING:

“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.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct a Secondary Suite (one-bedroom) in a Single Detached House, located at 9713 – 86 Avenue NW. The subject site is zoned RF2 Low Density Infill Zone. The development permit application was refused due to a deficiency in the minimum number of required on-site parking spaces.

The Board notes that there were no letters of support or opposition received.

SUMMARY OF HEARING: (CONTINUED)

A written submission was provided by the property owners, a copy of which is on file.

The Board heard from Mr. M. Stolarz, representing the Appellant, Smyth Stolarz. He was accompanied by Ms. P. Mewhort and Mr. I. Mateeka, the property owners who had provided a written submission, including photographs, on January 24, 2013. They jointly provided the following information in support of the proposed development:

1. The proposed development will only have one bedroom and is not a large area.
2. The property owners wish to rent the area out at this time but as their family grows the area will be reincorporated as part of their home.
3. The parking space at the rear of the subject site cannot be added to.
4. Both Ms. Mewhort and Mr. Mateeka own vehicles which they park in the detached double garage at the rear of the subject site.
5. The property owners are looking at renting the proposed Secondary Suite to students attending the University of Alberta and McEwan University due to the close proximity to both institutions and the ready access to public transit.
6. There are public transit stops on 82 Avenue and on 99 Street, both of which are approximately 400 metres from the subject site.
7. Mr. Mateeka referenced the photographs previously submitted to the Board. These were photographs taken over a two-week period showing 86 Avenue at various times of the day. There appears to be ample on-street parking at any time of the day or evening, including when most residents would be at home.

In response to questions from the Board, the following information was provided:

1. Mr. Mateeka confirmed that they currently owned two vehicles that are parked in the double detached garage but noted that an additional vehicle could be parked parallel to the lane beside the detached garage which would not interfere with access or egress into the detached garage. He referenced the Board photograph SDAB-D-13-029c.

SUMMARY OF HEARING: (CONTINUED)

2. There is currently a garbage shelter located in that space. The area leading up to the space beside the detached garage from the lane is paved but the area between the detached garage and property line is not.
3. There is 3.82 metres between the detached garage and the property line and only 2.5 metres is required for the width of a parking space.
4. The property owners had done Community Consultation and obtained the support for the parking variance from 16 property owners residing within the 60 metre notification radius.
5. They indicated that there were two separate entrances to the house, one to the main floor and the second to the proposed Secondary Suite.
6. The mechanical room shown on the plans is a common laundry area. Mr. Stolarz confirmed there are two doors to the area, however each door is locked and the residents of the home can enter from one door and the tenants would have keys to the other locked door.
7. The property owners suggested that the cost of public transit was included in tuitions paid to one or both of the nearby educational institutions, thereby reducing the likelihood of the tenant requiring a vehicle.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the deficiency of one required on-site parking space be permitted

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development, a Secondary Suite, is a Permitted Use in the RF2 Low Density Infill Zone.
2. The Board accepts the evidence submitted by the Appellant that renting to students will reduce the likelihood of having a third vehicle on the subject site. Students, in the opinion of the property owners, tend to use public transit as parking at the nearby educational institutions is prohibitively expensive.

REASONS FOR DECISION: (CONTINUED)

3. The Appellant submitted written support from 16 surrounding property owners, all of whom had been advised of the variance being sought.
4. There were no letters of opposition and no one appeared in opposition to the proposed development.
5. Based on the above, it is the opinion of the Board, that the proposed development would 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.”

IMPORTANT INFORMATION FOR 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. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the Edmonton Zoning Bylaw, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.

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*, R.S.A. 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: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.

Mr. N. Somerville, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD