

SDAB-D-13-106

Application No. 134653887-001

An appeal by Richard Serna VS 1708978 Alberta Ltd. to construct a Semi-detached House with front verandas, uncovered rear decks, and fireplaces and to demolish existing Single Detached House, on Lot 1, Block 37, Plan 1738HW, located at 8154 and 8156 – 79 Avenue NW, was **WITHDRAWN**.

SDAB-D-12-107

Application No. 134653887-001

An appeal by Richard Serna VS 1708978 Alberta Ltd. to construct an Accessory Building (Detached Garage – 11.18 metres by 5.79 metres) and to demolish existing Detached Garage, on Lot 1, Block 37, Plan 1738HW, located at 8154 and 8156 – 79 Avenue NW, was **WITHDRAWN**.



**Subdivision and
Development Appeal Board**

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DATE: June 14, 2013
APPLICATION NO: 96279142-003
FILE NO.: SDAB-D-13-108

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This appeal dated May 1, 2013, from the decision of the Development Authority for permission to:

Construct a Secondary Suite (one-bedroom), existing without permits

on Lot 17, Block 4, Plan 1345AJ, located at 8844 – 93 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on May 30, 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), existing without permits, located at 8844 – 93 Street NW. The subject site is zoned RF3 Small Scale Infill Development Zone. The development permit application was refused because a Secondary Suite shall be developed in such a manner that the exterior of the Principal Building containing the Secondary Suite shall appear as a Single Dwelling. The front of the subject Principal Building has two exterior doors and looks like two Dwelling Units.

The Board notes that no letters were received in support or opposition to the proposed development.

SUMMARY OF HEARING CONTINUED:

At the outset of the hearing, the Presiding Officer indicated that the Board cannot vary the definition and there was no record of a development permit application for a duplex.

The Board heard from Mr. Atema, the Appellant, who made the following points:

1. He stated that he spoke to neighbouring property owners but received nothing in writing in support of the proposed development.
2. He stated that the subject site has existed this way since it was built in 1968.
3. He confirmed that there is an entrance and common landing on the north side of the existing building.
4. He confirmed that access to the lower and upper level of the dwelling is accessed by the front door.
5. He stated that an Inspector confirmed that no alterations have been made to the house since it was built.
6. He stated that his neighbour has lived in the neighbourhood since 1969 and can attest that both doors on the house have existed since the house was built and the Secondary Suite was developed at the same time.
7. He would like to make the house a safe place to live and maintain the affordable housing component.
8. He stated that a City Inspector agreed that the Secondary Suite meets the requirements of the Edmonton Zoning Bylaw.

In response to questions by the Board, Mr. Atema provided the following information:

1. He confirmed that the side entry to the common landing is accessible to the Secondary Suite in the basement and the main floor dwelling.
2. He stated that the entry at the front of the house is an additional entry.
3. He is willing to change the front entry door.
4. He confirmed that the house has two electrical panels and two furnaces.
5. With regard to the Development Authority's note that the proposed development is deficient of one parking space, he stated that there are two parking spaces on the side of the garage, one parking space in the garage, and one parking space in the front of the garage.
6. He stated that he is considering demolishing the garage which will provide additional parking spaces.
7. He stated that the existing garage is a single car oversize garage.

SUMMARY OF HEARING CONTINUED:

8. He stated that it would be costly to convert the front landing to comply with a single door as opposed to the existing double doors. However, he is not aware of the cost and he does not have an estimate of what the cost might be.
9. He stated that he bought the subject site as a revenue property and at that time he was not aware of the issue with the double doors.
10. He stated that the basement has been vacant for 4 to 5 months and that the side door is mostly used by the tenant of the main floor.
11. If necessary, he is willing to revise the front door area to comply with the Edmonton Zoning Bylaw.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the requirement that the exterior of the principal Dwelling containing a Secondary Suite shall appear as a Single Dwelling to be waived, subject to the following conditions:

1. a Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business;
2. notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Secondary Suite shall not exceed three;
3. the Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision;
4. the access to the Garage and the two required tandem proposed parking spaces on the north side of the existing Detached Garage, shall be hardsurfaced. Hardsurfacing shall mean provision of a durable, dust-free material constructed of concrete, asphalt or similar pavement.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is a Permitted Use in the RF3 Small Scale Infill Development Zone.

REASONS FOR DECISION CONTINUED:

2. Although there are two separate front entrance doors, based on the evidence submitted, the Board accepts that the proposed development meets the definition under Section 7.2(7) of the Edmonton Zoning Bylaw as there is an indoor common landing from a side entrance to the development.
3. Section 86.4 of the Edmonton Zoning Bylaw states that a Secondary Suite shall be developed in such a manner that the exterior of the principal building containing the Secondary Suite shall appear as a single Dwelling. Based on the photographs provided by the Subdivision and Development Appeal Board Office, the Board finds that the double doors have existed since the dwelling was built and the Board is satisfied that the two side by side entrances appear to be similar to a large double door that can be put on a Single Detached Dwelling.
4. Based on the photographs provided by the SDAB Office, with the finishing and design of the house, the Board finds that the two doors do not constitute a reason for the house to be considered as two separate dwellings.
5. Based on the evidence submitted, three parking spaces can be provided on-site; one in the existing detached garage and two in tandem on the north side of the garage.
6. No letters were received in support or opposition to the proposed development and no one appeared in opposition at the hearing.
7. 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.”

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. M. Figueira, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD