



**SUBDIVISION AND DEVELOPMENT  
APPEAL BOARD**

DATE: **Wednesday, September 8, 2021**  
TIME: **6:00 p.m.**  
PLACE: **Via Zoom Platform**  
FILE: **B02**

## **AGENDA**

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- 1. Adoption of Agenda**
- 2. Radius Notifications**
- 3. Appeals**

- a) 78 Woodcrest Avenue**

The Appellant is appealing the decision of the Development Officer in refusing a development permit to leave a gazebo as built.

- 4. Adjournment**

## ALLOWED WITH CONDITIONS

### CITY OF ST. ALBERT

#### SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB#LEG00891-2021

**Re: Lot 54, Block 9, Plan 7822623 - known municipally as 78 Woodcrest Avenue, St. Albert, AB.**

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to leave a gazebo as built.

The Appellant had no objection to the members of this Board hearing and deciding this Appeal.

**The Board considered the Development Officer's written report and heard from the Development Officer who stated that:**

- The appellant is appealing the decision of the Development Officer in refusing a development permit application to leave a gazebo as built in a side yard.
- An accessory structure located in a side yard is required to be located a minimum of 1.5m from the dwelling and 1.2m from the side property line.
- The gazebo is located the required distance from the dwelling but is only 0.30m from the side property line.
- The variance required of 0.90m or 75% exceeds the variance capacity of the Development Officer to grant.
- The Development Officer submitted to the Board, by way of PowerPoint presentation, aerial photos of the subject property and the location of the existing gazebo in relation to the dwelling and adjacent lands.

**The Board heard from the Appellant who stated that:**

- Mr. Douglas Ritzen, representing the former landowner Mr. David Hiebert, requests to leave the existing gazebo as built.
- The former landowners originally purchased the property in 1993.
- The gazebo was likely built more than sixteen (16) years ago.
- The gazebo has a metal roof, canvas/mosquito netting sides, and is only attached via four (4) screw posts.
- The subject property is a corner lot, therefore there is not a lot of yard space to utilize.
- There is no record of complaints from any neighbours over the years.
- Only neighbour affected, who sent in a written submission, noted no objection but a comment on potential affects to property values in the future.
- The adjacent property has a garage constructed directly adjacent to the subject gazebo, therefore, it is not in any site line.
- In response to Board questions, Mr. Hiebert advised:

- W.B. Martin, author of the comment submitted via email, owns the property 47 Willowbrook Crescent, which is directly adjacent to the subject property.

### **The Board also reviewed the following**

The Board received and reviewed one written submission in with regard to the Appellant's appeal:

- 47 Willowbrook Crescent: W.B. Martin
  - Most affected adjacent landowner
  - Expressed that only concern they would have about the present location of the gazebo is if it could be a deterrent to future buyers of their property.

### **The Board finds the following:**

The Board considered all materials before it, as well as the oral and written submissions from the Appeal hearing and find the following:

- The Lands are located at Lot 54, Block 9, Plan 7822623 and are municipally described as **78 Woodcrest Avenue**, St. Albert.
- The Lands are located within the R1 – Low Density Residential District.
- The subject development falls within the definition of Accessory Building (gazebo).
- An Accessory Building is an allowable use within the R1 District.
- The structure complies with the minimum required setback from the dwelling.
- The most affected adjacent landowner submitted a written response expressing concern regarding the location of gazebo affect on future sale of their property.
- No expert evidence or other hard evidence was provided regarding the impact on property values.
- In the absence of any evidence supporting the allegations of a future decrease in property value or saleability of their home, the Board is not prepared to find that there will be an impact on property values.
- The structure is compatible with the neighbouring uses.

The Board is of the view that the structure will not unduly interfere with the amenities of the neighbourhood, and/or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and as such, the Appeal is allowed subject to the Conditions and Notes proposed by the Development Officer.

### **Allowed with conditions:**

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to leave a gazebo as built at the property located at 78 Woodcrest Avenue (Plan 7822623, Block 9, Lot 54).

The development is approved with the following conditions:

Conditions:

1. The gazebo shall exist as per the stamped approved plans and the variance(s) granted by the Subdivision and Development Appeal Board.
2. Any proposed changes in design, elevation or site plan configuration shall first be submitted for review by the Development Officer and any such changes shall not be undertaken until written authorization is provided by the Development Officer.
3. The exterior of the gazebo shall match or compliment the existing dwelling.
4. Future accessory building development is subject to separate development permit approval.

Notes:

- a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.
- b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.
- c) Without limiting the generality of the foregoing clause, the applicant/developer shall be responsible for acquiring various permits as required from the City's Engineering Department including an On-Street Construction Permit, Water and Sewer Connection Permit, etc. In this regard, please contact the Manager of Development Engineering.
- d) The City of St. Albert does not conduct independent environmental checks of land within the city. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of St. Albert, in issuing this 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 or within the property.
- e) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations and standards.

The Board makes its decision for the following reasons:

1. The Board concludes that (in accordance with section 687(3)(d) of the *Municipal Government Act*) allowing the gazebo to remain as built will not unduly interfere with the amenities of the neighbourhood, and/or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land based on the following because:
  - a. The structure, as located, does not visual impede on the neighbouring land uses due to location of gazebo in proximity to adjacent structures.

2. The proposed development conforms with the use prescribed for the land within the Land Use Bylaw.

The Applicant is responsible for complying with all applicable federal, provincial and municipal enactment and any other applicable law and for obtaining all applicable permits, licenses and approvals. Building permits must be obtained from the Building Inspector who can be contacted at 780-459-1655



September 9, 2021

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Chair

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Date