



**SUBDIVISION AND DEVELOPMENT
APPEAL BOARD**

DATE: **Wednesday, October 23, 2019**
TIME: **6:00 p.m.**
PLACE: **Council Chambers**
FILE: **B02**

AGENDA

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

- a) 9 Leblanc Place**

The Appellant is appealing the decision of the Development Officer in refusing a development permit application to leave a hot tub and two sheds as built.

- b) 16 Oak Point**

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

- c) 2 Wedgewood Place**

The Appellant is appealing the decision of the Development Officer in refusing a development permit applications to leave an accessory building (treehouse) as built.

- 4. Adjournment**

ALLOWED

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB #33-2019

Re: Lot 20, Block 7, Plan 7822623 - known municipally as 2 Wedgewood Place, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to leave an accessory building (treehouse) as built.

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

No members of the Board identified a conflict that would cause them to recuse themselves from participating in 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 an accessory building (treehouse) as built at 2 Wedgewood Place. The decision of the Development Officer arose as a result of a complaint.

An accessory building is a permitted use in the Low Density Residential (R1) land use district. There are two items being appealed. First, the treehouse exceeds the maximum height permitted. Second, the treehouse does not meet the minimum rear yard setback required.

With respect to the height, as set out in Section 8.2(d) of the Land Use Bylaw, the maximum height for an accessory building is 3.7m. As built, the treehouse is 4.98m in height and a variance of 1.28m or 35% to the height is required.

With respect to the rear yard setback, as set out in Section 8.2(1b) of the Land Use Bylaw, the minimum rear yard setback required is 1.0m. As built, the rear yard setback is 0.60m, and a variance of 0.40m to the rear yard set back is required.

Both of the variances required exceed the capacity of the Development Officer to approve.

The Board heard from the Appellant who stated that:

The Appellant made submissions about how the treehouse was built. It is roughly in the middle of the yard and meets the side yard setback requirements. His children are 10 and 12 who use the treehouse. It likely will not be a permanent structure as it may be

removed when his children get older. The treehouse was originally a platform, the legs were added and his kids designed the structure. It was built about three years ago. There are no windows on the sides of the house portion, and one window at the front made of plexiglass. The roof is sloped to the rear of the property. There is an entrance at the front of the treehouse, and inside there is a second level which is accessed by a climbing wall. An adult could not stand up in the treehouse.

The Appellant also pointed out that the rear of the yard backs on to a green space, and there is tree cover around the tree house and there are aspen trees that provide cover on fence where the houses are perpendicular to his yard.

The Board also considered/reviewed the following

The Board reviewed two emails from affected properties who submitted emails. One email was from 10 Wedgewood Place which is directly across the street from the subject property who supported the appeal. The resident indicated that their children and others from the neighbourhood use the treehouse, and that it should remain as built.

The second email was from 31 Woodcrest Avenue to oppose the appeal. That property is located perpendicular to the subject property. The backyard backs on to the side yard of the subject property. They submitted that the treehouse impacts on their privacy, and may negatively impact their property value should they sell their house. No evidence was submitted to support a reduction in property value. Photographs were provided with the email that were taken recently that showed different perspectives looking into the subject property. They were taken recently as the leaves on the Aspen trees had fallen.

The treehouse exceeds the rear yard setback as one corner has a 0.60m setback and the other has a 0.80m setback. There are no issues with the side yard setback for the treehouse.

The Board finds the following:

Allowed:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to leave an accessory building (treehouse) as built located at 2 Wedgewood Place.

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*) the variance 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 backs on to a green space and there is ample separation between the rear yard setback between the as built structure and the most affected property;
- b. Only a small portion of the overall structure being proposed encroaches into the required rear; and
- c. There were no issues with the side yard set back.

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.


Chair _____ Date Oct 28/2019

ALLOWED

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB #32-2019

Re: Lot 31, Block 1, Plan 0324400 - known municipally as 16 Oak Point, St. Albert, AB.

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

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

No members of the Board had to recuse themselves as a result of any conflict with respect to 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 driveway as built at 16 Oak Point. A driveway is permitted in the Low Density Residential (R1) land use district.

As set out in section 8.24(1), in the R1 District, only 1 motor vehicle access per lot is allowed. Currently the property has a circular driveway with 2 motor vehicle accesses. As set out in section 8.24(2)(c) on a lot with a minimum of 30m frontage, the Development Officer may permit a circular driveway with 2 vehicle accesses. The lot frontage for this property is 18.13m. The frontage is 11.87m or 40% short of the minimum requirement for consideration.

In terms of comments from the Engineering Department, it is noted that the driveway and driveway apron are wider than what is permitted by City Engineering Standards.

The aprons are provided to allow access to the site and cannot be greater than 7.5m at the sidewalk. The restriction is to allow for the planting of boulevard trees, and the installation of utility facilities, fire hydrants, streetlights and to allow for on-street parking for residents and visitors. With respect to surface drainage, the Surface Drainage Bylaw of 2015, requires that driveways extended to the side yard property line shall be set back 30 cm from the side property line. Driveways built prior to the date of the Bylaw coming into effect are not affected by the Bylaw.

The Board heard from the Appellant who stated that:

The Appellant purchased the property in the spring of 2019 by way of a foreclosure. They were advised that there were no outstanding issues with the property and there were no issues with any permits. The Appellant indicated that there were 3 other houses in the

neighbourhood that had similar frontages with circular driveways to his property. He submitted that those did not meet the frontage requirements. He also indicated that he spoke with the neighbours on either side of his property and they did not have any issues in leaving the driveway as built. He also submitted that there were no issues with utilities in relation to the driveway. The Appellant indicated that the cost to remove the driveway in order that it would conform with the required frontage and single entrance would be between \$15,000.00 and \$20,000.00 dollars.

The Board also considered/reviewed the following

It was noted that the house was built in or around 2007. There was no indication of when the driveway was built. The 2015 Surface Drainage Bylaw was likely not applicable and the engineering guidelines were effective in 2013 and those were not likely applicable.

Also, all utilities were in place and there were likely no further activities that would take place in the boulevard area that would be affected by this driveway. Also, there are 3 other driveways in the neighbourhood that are similar.

The Board finds the following:

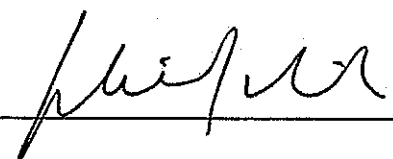
Allowed:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to leave a driveway as built located at 16 Oak Point.

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*) the variance 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 most affected neighbours were notified and consulted by the Appellant and advised they has no issue with the variance; and
 - b. There were no objections from any of the other neighbours.

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.

Chair  Date Oct 28/2019

ALLOWED WITH CONDITIONS

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB # 31 -2019

Re: Lot 20, Block 32, Plan 8122926 - known municipally as 9 Leblanc Place, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to leave two sheds and a hot tub as built.

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

None of the members of the Board had to recuse themselves from hearing this appeal.

The Appellant did not appear to speak to this matter when it was first scheduled on October 9, 2019, and the Board set the matter over until the next hearing, October 23, 2019 to allow the Appellant to appear and make submissions in support of his appeal. The Appellant did not appear on October 23, 2019 and the Board decided to proceed in his absence.

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 hot tub and two sheds as built at 9 Leblanc Place. The hot tub is a discretionary use in the R1 Land Use District, and it meets all the requirements of the Land Use Bylaw, however the sheds are too close to the property line and too close to the dwelling.

With respect to the Shed 1, on the garage side. The required separation from the dwelling is 1.5m, and it is 2.12m. The required side property setback is 1.2m and the as built side property line setback is 0.62m, which requires a variance of 0.58m or 48%.

With respect to Shed 2, on the house side. The required separation from the dwelling is 1.5m and the as built separation distance from the dwelling is 0.27m, which requires a variance of 1.23m or 82%. The required side property line setback is 1.2m and the as built side property setback is 0.80m, which requires a variance of 0.40m or 33%.

The variances required for Shed 1 and Shed 2 both exceed the variance capacity of the Development Officer.

The Board heard from the Appellant who stated that:

As was noted, the Appellant did not appear in person. In the Appellants Development Appeal Form, he indicated that the reasons for appeal were:

- The sheds have been in place for a long time, likely since 1984 (approximately 35 years).
- He was selling the property.
- He was looking to leave the sheds where they were.

The Board also noted that it received an email from the owner of 5 Leblanc place in favour of the appeal. The properties most directly affected did not make any submissions.

The Board finds the following:

Allowed with conditions:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to leave two sheds and a hot tub as built located at 9 Leblanc Place.

The development is approved with the following conditions:

1. The hot tub must be enclosed by fences equipped with gates that lock in accordance with the Alberta Building Code in effect at the date of the application for development permit.
2. The exterior finishes of the sheds must match or compliment the existing dwelling.
3. Any changes in design, elevation, or location shall be submitted for approval.
4. Future accessory development shall be subject to separate development permit approval.

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*) the variances 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 most affected neighbours were notified and made no submissions with respect to the variances; and
 - b. There was an email in support and there were no objections from any of the other neighbours.

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.

Chair  Date 