SUBDIVISION AND DEVELOPMENT APPEAL BOARD

AGENDA

DATE: **Wednesday, July 10, 2024**
TIME: **6:00 p.m.**
PLACE: Council Gallery, 3rd flr, St. Albert Place
FILE: B02

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1. Adoption of Agenda

2. Radius Notifications

3. Appeal

a) 22 Burnham Avenue, St. Albert, AB

The Appellant is appealing a decision of the Development Officer in refusing a development permit application to leave the rear deck as built, with variance for side yard setback.

b) 43 Rosewood Way, St. Albert, AB

The Appellant is appealing a decision of the Development Officer in refusing a development permit application to construct a new single detached dwelling.

4. Adjournment

ALLOWED WITH CONDITIONS

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION
SDAB #LEG00959 - 2024

Re: PLAN 2459RS; BLOCK 8; LOT 10 - known municipally as 22 Burnham Avenue, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to leave the rear deck as built, with variance for side yard setback.

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

One member of the Board indicated that he was an acquaintance of the Appellants. No party involved in the appeal raised an objection. No other members of the Board declared an interest 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 the rear deck as built, with variance for side yard setback.

Development Officer Review:

Section 8.9(1)(b) of Land Use Bylaw 9/2005 states that deck must be located at least 1m from a side property line.

Required side yard setback: 1.0m
Actual side yard setback: 0.02m
Variance required: 0.98m (98%)

The variance required exceeds the capacity of the Development Officer to approve as per Section 3.14(3).

Should the Board grant the Appeal, Administration requests that the conditions below be applied to the decision:

Conditions:

1. The Subdivision and Development Appeal Board approves a development permit for a 'leave rear deck as built with variance for side yard setback'.

2. A variance is granted to allow the side yard setback for the rear deck to be 0.02m.

3. The deck shall remain, as located in accordance with the Real Property Report dated May 29, 2024.

4. The deck as approved shall remain uncovered and unenclosed.

5. 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.

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) 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.

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) The City property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman, or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by City staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a City representative will contact the Applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

f) An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

The Board heard from the Appellant who stated that:

The Appellant advised that he purchased the property approximately 10 years ago, and it was purchased from the original owners. He only became aware of the non-complying elements of the property when he obtained a Real Property Report.

The Appellant advised that he worked with the City to make the property compliant. It has been sold and this is the only remaining non-compliant element, the side deck set-back.

He advised that the deck was about 25 years old and that the most affected neighbour had no issue with the deck.

The Board also considered/reviewed the following:

The Board noted that none of the adjacent neighbours made submissions with respect to the Appeal. The Board also noted that the Appellant cooperated with the City in terms of all non-complying elements identified in the Real Property Report for the property.

The Board finds the following:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal 22 Burnham Avenue, St. Albert, AB.

Allowed with conditions:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to leave a rear deck as built, with a variance for the side yard setback located at located at 22 Burnham Avenue, St. Albert, AB.

The development is approved with the following conditions:

Conditions:

1. The Subdivision and Development Appeal Board approves a development permit for a 'leave rear deck as built with variance for side yard setback'.

2. A variance is granted to allow the side yard setback for the rear deck to be 0.02m.

3. The deck shall remain, as located in accordance with the Real Property Report dated May 29, 2024.

4. The deck as approved shall remain uncovered and unenclosed.

5. 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.

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) 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.

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) The City property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman, or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by City staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a City representative will contact the Applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

f) An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

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 neighbour was notified of the appeal and did not respond to the notification;

b. The Appellant worked with the City in relation to all other non-complying elements with the subject property to bring them within compliance; and

c. There were no objections from any of the other neighbours in the radius notification area.

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.

Michael Kirk
Michael Kirk (Jul 18, 2024 16:51 MDT)

Chair

July 18, 2024

Date

ALLOWED WITH CONDITIONS

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION
SDAB #LEG00960 - 2024

Re: PLAN 2320078; BLOCK 4; LOT 30 - known municipally as 43 Rosewood Way, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to construct a new single detached dwelling.

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

Also, no member of the Board identified a conflict in hearing this matter.

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

The Appellant is appealing the refusal of a development permit application to construct a new single detached house. Section 8.35(9) states that the maximum lot coverage in this land use district is 40% for the house and garage. This house is proposed with a 42.10% lot coverage. In accordance with Section 3.14(2)(a), the Development Officer cannot vary lot coverage.

It may interest the Board to note the following:
Maximum lot coverage: 40%
Proposed lot coverage: 42.10%
Variance required: 2.10% or 9.02 sq. metres or 97 sq. feet.

If the Board approves the appeal, the following conditions should be noted on the decision:

Conditions:

1. Development Permit approval is issued for the construction of a single-detached dwelling with attached garage, deck and basement development, issued in accordance with the provisions of Land Use Bylaw 9/2005.

2. The lot coverage shall be permitted by the Subdivision and Development Appeal Board at 42.10%.

3. No portion of a fireplace chase or cantilevered section including eaves shall project more than 0.6 metre into a required sideyard.

4. The finished floor of the main level shall not be located more than 2.0 m above the finished grade.

5. The dwelling shall be constructed in accordance with approved site plan.

6. The dwelling height shall not exceed 11.0m.

7. 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.

8. The exterior finishes must be completed within two (2) years of the date of the development permit.

9. The deck as approved shall remain uncovered and unenclosed.

10. Future deck development shall be subject to a separate development permit application.

11. The basement development shall not be used as a separate dwelling unit.

12. The landscaping shall be completed within two (2) years of the date of development permit approval.

13. Failing to comply with the conditions of development permit approval shall render this permit invalid.

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) 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.

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) The City property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by City staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a City representative will contact the Applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

The Board heard from the Appellant who stated that:

The Appellant represented by Jeremy Walker indicated that the property is located in Riverside. It is a walkout lot that backs east onto a storm water management facility, which is adjacent to McKenney Avenue.

The Appellant indicated that this is a small lot, and the proposed bungalow complies with all other bylaws.

Their client would like to build a modest 1448 sq. ft. bungalow with 1 bedroom, 1-½ baths and a small den on the main floor. The design includes an undersized two car garage and a small deck off the back of the home. With the design we have considered an aging in place concept for the occupants, meaning avoiding stairs as much as is economical and keeping everything on one floor. The primary bedroom, the laundry and the main living spaces are all together on the same floor, as is the den for remote work. They would like to live and age in this beautiful home for as long as possible.

The house exceeds the lot coverage of 40% by only 2.10%

The Board also considered/reviewed the following:

There were no objections to the proposed variance from any parties within the radius notification area.

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 construct a new single dwelling located at 43 Rosewood Way, St. Albert, AB.

The development is approved with the following conditions:

Conditions:

1. Development Permit approval is issued for the construction of a single-detached dwelling with attached garage, deck and basement development, issued in accordance with the provisions of Land Use Bylaw 9/2005.

2. The lot coverage shall be permitted by the Subdivision and Development Appeal Board at 42.10%.

3. No portion of a fireplace chase or cantilevered section including eaves shall project more than 0.6 metre into a required sideyard.

4. The finished floor of the main level shall not be located more than 2.0 m above the finished grade.

5. The dwelling shall be constructed in accordance with approved site plan.

6. The dwelling height shall not exceed 11.0m.

7. 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.

8. The exterior finishes must be completed within two (2) years of the date of the development permit.

9. The deck as approved shall remain uncovered and unenclosed.

10. Future deck development shall be subject to a separate development permit application.

11. The basement development shall not be used as a separate dwelling unit.

12. The landscaping shall be completed within two (2) years of the date of development permit approval.

13. Failing to comply with the conditions of development permit approval shall render this permit invalid.

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) 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.

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.

f) The City property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by city staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a City representative will contact the Applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

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 neighbour was notified and did not object to the variance;

    b. The property backs onto a green area that contains a storm drainage pond;

    c. It complies with all other bylaws other than the lot coverage; and

d. There were no objections from any of the other neighbours.

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.

Michael Kirk
Michael Kirk (Jul 18, 2024 16:50 MDT)

Chair

July 18, 2024

Date