Appeal No.: 0262 001 2014
Hearing Held: 21 May 2014

SUBDIVISION & DEVELOPMENT APPEAL BOARD DECISION

CHAIR: B. FARR
PANEL MEMBER G. LEASAK
PANEL MEMBER Z. ORDMAN

BETWEEN:

STEVE & LAURA ERICKSON

Appellant

and

LAEBON DEVELOPMENTS LTD
Represented by Aaron Martin

Applicant

and

CITY OF RED DEER
MUNICIPAL PLANNING COMMISSION
Represented by M. Kvapil & E. Stuart

Development Authority

DECISION:

MOVED by Z. Ordman, seconded by G. Leasak:

RESOLVED that the Subdivision and Development Appeal Board having heard all of the parties who wished to speak both in favour and against the appeal filed by Steve and Laura Erickson regarding the April 03, 2014 decision of the Development Officer which approved the application by Laebon Developments Ltd. for the development of a detached garage located at 30 Trimble Close (Lot 43, Block 3, Plan 112 4166) zoned R1N (residential narrow lot) with the following relaxations:

1) 33.48 metre square relaxation for an accessory building (garage) which exceeds the size of the primary building (dwelling);
2) 5.04 metre relaxation to section 4.7(3) of the LUB which specifies that an accessory building not exceed 2/3rds of the rear yard width; and
3) 0.99 – 2.91 metre relaxation to section 3.5(4) of the LUB which specifies minimum rear yard requirements

hereby CONFIRMS the decision of the Development Authority. The development is approved.

CARRIED

BACKGROUND:

1. The Applicant is proposing to develop a 191.8 m² detached garage located at 30 Trimble Close (Lot 43, Block 3, Plan 112 4166). A detached garage in an R1N district is a permitted use.

2. The property is located in the Timberstone neighbourhood which consists primarily of single family dwellings. A four storey, multiple family dwelling is located immediately adjacent to the north of the of the subject property.

3. The subject property is a corner lot within the close and has an irregular shape. The following relaxations to *The City of Red Deer Land Use Bylaw* #3357/2006 as amm. (the 'LUB') have been requested:
   - section 4.7(3)(ii) - an accessory building shall not exceed 2/3rds of the rear yard width
     - required: 13.86 m
     - proposed: 18.90 m
     - relaxation: 5.04 m
   - section 3.5(4) – an accessory building shall comply with the minimum rear yard requirements
     - required: 2.5 m or 6.0 m
     - proposed: 3.49 - 5.41 m
     - relaxation: 0.99 – 2.91 m

4. Additionally, the area of the proposed garage is 191.8 m² which exceeds the dwelling planned for the site by 33.48 m² (158.35 m²).

5. The Development Officer approved the application and the Appellant has appealed the decision to this Board.

6. The Appellant was not in attendance at the hearing and did not provide arguments in addition to the Notice of Appeal that was submitted at the time the appeal was filed (see page 1-2 Exhibit A). The Board confirmed that notice of the hearing was sent to the Applicant, Appellant, Development Authority and area landowners within 100 meters of the subject site on May 2, 2014.

ISSUES / ARGUMENTS:

GARAGE FOOTPRINT LARGER THAN DWELLING

Appellant:

7. The Appellant's written submission stated that the footprint of the garage is too big, for the garage will be bigger than the dwelling.

Development Authority:

8. The Development Authority stated that the garage is a subordinate use to the principle building (dwelling) and that LUB is silent with respect to the size of an accessory building in relation to the

principle building. However, the LUB does regulate total size coverage at a maximum of 45% and the proposed development and dwelling has site coverage of 37%.

9. The Development Authority argued that the size of the proposed garage is mitigated by the following:

   a. Subject property is 2.35 times larger than the typical R1N lot;
   b. The multi-family development adjacent to the subject property will not have lane access;
   c. Front elevation is staggered which improves aesthetics; and
   d. Site lines are not impacted due to corner cut offs and the staggered front elevation.

Applicant:

10. The Applicant stated that the primary building (dwelling) is 2 stories with 3,000 square feet and that the proposed garage will complement the dwelling, not contrast with it.

Board:

11. The Board was not provided with any legislation that compels the proposed garage to be smaller than the dwelling. Also, the Board was not provided with any information or evidence to explain how the garage having a larger footprint than the dwelling is an issue.

12. The Board considered section 687(3) (d) of the *Municipal Government Act,* R.S.A. 2000, Ch. M-26 (the 'MGA') which speaks specifically to the impact an application has on the neighbourhood. It states that the Board:

    "'may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

    (i) the proposed development would not

    (A) unduly interfere with the amenities of the neighbourhood;"

13. There is a multi-family development in close proximity to the proposed development that will be much larger therefore the Board concludes that the proposed development would not unduly interfere with the amenities of the neighbourhood.

IMPACT ON APPELLANT / PROPOSED DEVELOPMENT IS EXCESSIVE

Appellant:

14. The Appellant's written submission stated that they are not opposed to a garage being built on the site however one of the proposed magnitude is too big.

15. The Appellant's written submission also stated that the lot in question is zoned R1N (residential narrow lot) for a reason and that the relaxations for the proposed garage are significant.

Development Authority:

16. The Development Authority stated that the site area of the subject property is 945.49 m^2 and that the average size of an R1N lot is 401.30 m^2. The Development Authority stated that applications for development in R1N districts often include requests for relaxations on garage development.

Applicant:

17. The Applicant stated that he is familiar with developments in the neighbourhood and that he believes the proposed development will enhance the neighbourhood.

Board:

18. Section 687(3) (d) (i) (A) of the MGA goes further to address the impact an application has on the neigbouring parcels of land. It states that the Board:

> *"may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,*
>
> *(i) the proposed development would not*
>
> *(A) unduly interfere with the amenities of the neighbourhood; or*
> *(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land"*

19. The Appellant is one out of 58 landowners within 100 metres of the subject property and is the only one to register an appeal or comments relative to the proposed development with this Board. Further, while the Appellant's property is within 100 meters it is on the furthermost edge of that radius and not directly adjacent to the proposed development.

20. The Board was not presented with any information or evidence that would indicate that the proposed development would detrimentally affect the Appellants or interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

21. In the absence of specific argument or criteria, The Board accepts that the proposed relaxations are within the normal range of other similar Development Authority approvals.

CONDITIONS OF APPROVAL

Development Authority:

22. In its written submission, the Development Authority requested that the proposed development be approved with an additional condition that no vehicle parking be permitted on the apron of the garage.

Board:

23. The Development Authority did not elaborate on this request during the hearing nor could the Board identify a compelling reason to impose an additional condition and therefore has not done so.

CLOSING:

For the reasons detailed above, the decision of the Development Officer is confirmed and the development is approved.

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 688 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at the City of Red Deer, in the Province of Alberta this 02 day of June, 2014 and signed by the Chair on behalf of all three panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.

Bill Farr, Chair
Subdivision & Development Appeal Board

EXHIBIT LIST

Exhibit A.......... Hearing Materials Package pages 1-17