

Appeal No.: SDAB 002 2026

Hearing Date: July 30, 2026

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

PRESIDING OFFICER: T. HEGER

PANEL MEMBER: M. KARTUSCH

PANEL MEMBER: D. WIELINGA

BETWEEN:

ANDREAS UFFELMANN AND LILIA UFFELMANN, Property Owner

Appellant/Applicant

and

CITY OF RED DEER

Represented by Jay Hallett, Senior Development Officer and Anne McLaren, Development Officer

Development Authority

DECISION

The Subdivision and Development Appeal Board denies the appeal and CONFIRMS the decision of the Municipal Planning Commission which REFUSED the Appellant's Development Permit application for a proposed use of an Addition to an existing home (with variances) at 36 Owens Close, Red Deer. The Development Permit shall not be issued.

A detailed summary of the decision is provided herein.

JURISDICTION AND ROLE OF THE BOARD

1. The Subdivision and Development Appeal Board (the "Board") is governed by the Municipal Government Act, RSA 2000, c. M-26 as amended (the "MGA"). Planning and Development is addressed in Part 17 of the MGA, and in the Matters Related to Subdivision and Development Regulation, Alta. Reg. 84/2022 (the "SDR").
2. The Board is established by the City of Red Deer, Bylaw No. 3680/2022, Red Deer Tribunals Bylaw, April 11, 2022. The duty and purpose of the Board is to hear and make decisions on appeals for which it is responsible under the MGA and the City of Red Deer Zoning Bylaw 3357/2024, May 13, 2024, as amended (the "ZB").
3. The Hearing was opened via email on June 16, 2026, and postponed with consent of the parties to July 15, 2026. The hearing was then re-scheduled to July 30, 2026, when it concluded.
4. The Appellant was not present at the hearing. The Board Clerk informed the Board that she had contacted the Appellant to encourage him to attend the hearing or send a representative in his place but was told that he was not going to attend the hearing. The Board relied solely on the Appellant's written submissions in understanding his arguments in favour of the appeal.

5. None of the parties present had any objection to the constitution of the Board. There were no conflicts identified by the Board Members.
6. The parties present at the hearing did not raise any preliminary issues for the Board to decide.
7. Two documents were received from the Appellant after the disclosure date noted in the hearing notice. One was received on July 29 and the other mid-afternoon on July 30 (the day of the hearing). The Development Authority (the "DA") was given an opportunity to review both documents during a recess at the outset of the hearing. The DA, after reviewing the documents, had no objections to the documents being admitted as exhibits and part of the hearing record. The documents were marked as Exhibits C.6 and C.7, respectively.
8. The Board indicated that it would first hear from the Development Authority, then the Appellant (should they arrive later in the hearing), then anyone else affected by the appeal. Following the submissions from the affected parties, the Board provided the Development Authority and the Appellant an opportunity to respond to anything arising from the affected parties' comments. There was no objection to the process as set out by the Board.

BACKGROUND

9. On March 12, 2026, the Applicant submitted a Development Permit application for a proposed use of "Addition to an existing home" at 36 Owens Close, Red Deer in the Oriole Park Neighbourhood.
10. The subject lands are zoned Residential Low-Density (R-L) under the ZB. Under the ZB, an Addition to an existing house use is a Permitted Use.
11. The proposed development requires several variances to requirements found in the ZB and discussed in more detail later in this decision.
12. Since the Applicant was requesting several variances and since there were concerns raised by nearby landowners, the Development Officer referred the application to Municipal Planning Commission ("MPC") for a decision.
13. On May 20, 2026, the Application was heard by MPC and refused. A letter of refusal dated the same day was sent to the Applicant.
14. On June 8, 2026, the Applicant filed an appeal to the SDAB regarding the decision of MPC.

SUMMARY OF EVIDENCE AND ARGUMENT

The Development Authority

15. On March 12, 2026, the Applicant submitted a DP application (DP088705), for the Permitted Use of an addition to an existing House located at 36 Owens Close, Red Deer. The Proposed Development was for an addition above the existing attached garage, reaching a height of 8.82m, together with a wrap-around second-storey Deck (on the front and north side) with a walking surface at 4.0m above grade.

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16. The subject is located on the curved portion of a cul-de-sac. The proposal required a few variances including:
- The Front Yard Setback requirement to be within 1.2m of the average existing Front Yard Setback of the Immediate Road Context (in accordance with section 3.190.4.1.1 of the ZB);
 - The requirement that the threshold of Decks and other access points be less than 1.0m above grade (in accordance with section 3.190.6.5 of the ZB);
 - The requirement for overlook mitigation measures on Side Yard windows to minimize direct line of sight into the Dwelling Unit on an Abutting Site (in accordance with section 3.190.6.4 of the ZB), and;
 - The requirement for fencing, screening, or landscaping to protect the privacy of Abutting Sites (in accordance with section 3.190.6.6 of the ZB).
17. In accordance with the ZB, details of the application were sent to properties within 100m of the subject site. 32 letters were mailed out and four responses were received – all of which were opposed to the Proposed Development. The concerns primarily centered on the elevated deck and the compatibility of the Proposed Development with the established character of the close.
18. The Development Officer recommended that MPC refuse the application after concluding the proposal did not comply with the intent of the Developed Areas Regulations (the “DAR”) and would materially interfere with the use, enjoyment, or value of neighbouring land through a loss of privacy and overlook.
19. MPC ultimately refused the application for the following reasons:
- The Development does not comply with the intent of the Developed Areas Regulations, as it does not maintain neighbourhood compatibility due to the introduction of a built form and elevated outdoor amenity space that is not typical of the established low-density residential character.
 - The Development is inconsistent with the prevailing pattern of setbacks and built form within the cul-de-sac.
 - The Development will materially interfere with and affect the use, enjoyment, or value of neighbouring land through the loss of privacy and overlook due to the 4m height of the Deck and the lack of screening or landscaping.
20. The DA provided relevant sections of the MGA and discussed its interpretation of the MGA in relation to the ZB, including the DAR. The DA stated that the DAR are intended to ensure that development in mature, established neighbourhoods remains compatible with adjacent properties.
21. The DA stated that in practice, minor variances may be considered where permitted by the ZB. In this case, the proposed Deck requires a variance of 300% to the maximum permitted height of the walking surface above grade, which significantly exceeds what would be considered minor.
22. The DA reviewed relevant sections of the ZB including the R-L zone in section 6.10.1 and 6.10.2 and the DAR in section 3.190.1.
23. Section 3.190.4.1.1 requires that Front Yard Setbacks be within 1.2m of the average existing Front Yard Setback of the Principal Buildings in the Immediate Road Context. Immediate Road Context refers to existing Development along the same Road Frontage, on both sides of the Road, as the proposed Development and within the same block. In their review, the DA looks at the surrounding homes on the same street or close to determine whether the proposed Development is consistent with the established streetscape and neighbourhood character.

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24. Section 3.190.6.5 of the ZB states “The threshold of the Rear Yard and Side Yard doors, and walking surfaces of Decks, balconies, patios, and other similar access points, should be less than 1.0m above Grade to maintain privacy of Abutting sites.”
 25. Section 3.190.6.4 of the ZB requires that building design place Side Yard windows to minimize overlook into living spaces and Rear Yards of Abutting Sites, including by reducing direct line of sight into windows of the Dwelling Unit on an Abutting Site using obscured glass, staggered window location, raised windows, or privacy screening (as stated in section 3.190.6.4.1).
 26. Section 3.190.6.6 of the ZB states “Fencing, screening, or landscaping must be used to protect the privacy of Abutting Sites.”
 27. The DA went through the analysis undertaken by it and MPC in considering the application and the justifications put forward by the Applicant for the required variances. The first was related to the Front Yard Setback variance. The Applicant submitted that because the subject property is on the curved portion of the close, the Front Yard Setback varies from 7.5m to 8.9m. The Applicant stated that if the setbacks were uniform at the deeper 8.9m, the Deck would fall within the permitted 1.2m tolerance. In response, the DA stated that the requirement is measured against the average Front Yard Setback of the Immediate Road Context which equals 8.04m yielding a minimum required setback of 6.84m. The application proposes a 5.77m setback which introduces a building projection that is not consistent with the established streetscape pattern of Ownes Close.
 28. With regard to the Deck, the applicant submitted that the Deck would be open-railed and visually permeable, modest at the front (being 1.2m deep), partially screened by an existing mature tree, and that optional privacy screening could be added on the south side. The DA found that these measures do not fully mitigate the overlook and privacy concerns. The existing tree provides only partial screening to the side Deck and does not address overlook from the front portion of the Deck into adjacent front and side yards. No obscured glazing, staggered window placement or committed screening was provided as required by sections 3.190.6.4 and 3.190.6.6 of the ZB.
 29. The DA continued their presentation noting that the applicant submitted that a 4.0m Deck above the garage avoids new ground-level access and concealment space and noted an existing 1.35m rear Deck that has not generated complaints. These points do not address the core concern, that the 4.0m walking surface is 300% above the 1.0m maximum contemplated by section 3.190.6.5 and creates elevated sightlines into neighbouring front and side yards that a rear Deck would not.
 30. The Applicant also submitted that the bedroom above the garage is the only second-floor room, that a rear-yard elevated Deck would worsen overlook, and that the Deck provides outdoor access, sun exposure, and cross-ventilation. The DA accepts that the amenity is beneficial to the Applicant but “that the benefit does not satisfy the statutory variance test, which is concerned with the impact on the amenities of the neighbourhood and on neighbouring parcels”.
 31. The DA then summarized the magnitude of the variances required. The required Front Yard Setback is 6.84m while the proposed Front Yard Setback is 5.77m which is 1.07m or 15.6% outside the requirement. The required maximum permitted Deck height is 1.0m while the proposed Deck has a height of 4.0m which is 3.0m or 300% beyond the limit. The other variances required are more qualitative/subjective. The elevated Deck, combined with the associated glazing and open-railing design, creates direct sightlines toward adjacent residential properties and front yards within the close. The Deck does not

incorporate effective design measures to minimize direct sight lines or reduce overlook into Abutting properties, as required in section 3.190.6.4 of the ZB. While there is an existing, mature tree providing some screening for the side Deck, it does not address potential overlook from the front portion of the Deck into adjacent front and side yards. No obscured glazing, staggered window placement, raised windows, committed privacy screening, fencing, screening, or landscaping has been provided in a manner that protects the privacy of Abutting Sites, as required by section 3.190.6.6.

32. Taken together, MPC found that the Proposed Development is not typical of the established low-density residential character of the close. Further, MPC found that the Proposed Development would not comply with the intent of the DAR, is inconsistent with the prevailing pattern of setbacks and built form within the close, and would materially interfere with and affect the use, enjoyment, or value of neighbouring land through the loss of privacy and overlook resulting from the 4.0m Deck and the lack of committed screening or landscaping.
33. In response to the questions from the Board, the DA provided the following responses:
- Any owner can cut down a tree at any time so the existing mature tree could be removed at any time.
 - Part of why the privacy and overlook variances were raised was due to feedback from the neighbouring property owners.
 - The referral to MPC was also due in part to the feedback received by the Development Officer through the notification letters.
 - Regarding examples of front decks provided by the Appellant on page 84 of Exhibit C.1, the DA clarified that these areas have a different Road Context and front decks are not inconsistent with the streetscape or neighbouring properties. Therefore, it is not a proper comparison since those areas are characterized by a very different design and layout than Owens Close.
 - The Deck is considered to be within the required setback due to the position of the support post, the deck itself, and the roof over the deck. Each of these would need to be scaled back to satisfy the setback requirements.

The Appellant/Applicant

34. The Appellant provided very thorough written materials but was not in attendance at the hearing. The Board relied solely on the written materials to understand the Appellant's argument.
35. The Appellant stated that the proposed development was an expansion of an existing bedroom which is currently undersized. The Proposed Development makes better use of the space above the garage which is underutilized. The addition would also add functionality to the existing bedroom. The deck is included in the Proposed Development to add access to outdoor space and improve the room's functionality, livability, and enjoyment. It would also enable the Applicant the chance to enjoy sun throughout the day, improve cross-ventilation, it would maximize utility of the deck by connecting to the only second floor room in the house. The Deck as proposed would also not create any new ground access points adding security to the design.
36. In response to the refusal, the Appellant provided a point-by-point response starting with the Front Yard Setback issue. The issue arises largely from the location of the house along the bulb of the cul-de-sac. This is not an attempt to unnecessarily intrude into the setback but rather is only because of the curvature of the street. If not for the location of the subject property along the bulb of the cul-de-sac, this variance

would not be required. Given the variation of Front Yard Setbacks, the proposed 5.77m setback should not be fatal to the application. Further, there is no expansion of the site coverage at grade and the intrusion into the setback is only due to the second-floor deck. The magnitude of the setback (at 15.6%) is not indicative of its impact on the street. Only one corner of the deck is within the setback, so it should not be viewed as a reason to deny the application.

37. In response to the second reason for refusal of the MPC, namely that the proposed development does not comply with the DAR, the Appellant submits that the proposed height of 4.0m is required for them to safely maneuver their boat and planned camping trailer around the property to park it in the rear of the property. The deck cannot be re-designed to be any lower while still allowing for the effective use of the garage or the rear parking yard.
38. In response to concerns about neighbourhood compatibility, the Appellant stated that while a 4m high deck is not typical of Owens Close, it is not incompatible. The Appellant provided examples of properties along Owens Close with front decks and rear decks showing that elevated spaces are not uncommon in the area. Additionally, rear decks can create greater overlook potential than front decks.
39. The Appellant went on to discuss the variety of built forms along Owens Close and state that there is a range of designs and features which would make the Proposed Development not atypical in nature. Additionally, as the Oriole Park neighbourhood is aging, there is a need for renovation, and this is a modest improvement/addition to the subject property.
40. The Appellant provided numerous examples of front decks showing potential overlook into the neighbouring properties and neighbouring Dwellings. The Appellant also provided numerous examples of side windows looking toward neighbouring properties and asked, why would the Proposed Development be denied when there are so many examples in Oriole Park and other neighbourhoods in Red Deer which are designed in a very similar way?
41. The Appellant similarly provided examples of rear decks looking into the rear yards of neighbouring properties to show that the proposed deck is not atypical.
42. In response to reason for MPC refusal 3, the privacy of abutting sites, the Appellant argued that the separation between the subject property and the one to the north was a considerable distance. Furthermore, the house to the north has windows which are angled away from the subject property so there would be minimal sightlines from the deck to that neighbour's house. The Appellant also showed that the house to the north has sightlines into the subject property from their second storey windows.
43. The Appellant provided some potential privacy enhancements to the deck including privacy/frosted glass, solid privacy panels, or a combination of the two.
44. Regarding the neighbour to the south, the Appellant provided photos showing the current view into their front and rear yards from an existing side window. There is also some degree of privacy measures already in place with the south neighbour which would offset any concerns from the proposed development.
45. Overall, the Appellant argued through their written materials that the proposed development is not atypical for the area, would not unduly create privacy concerns, and should not be denied. However, should the Board require, the Appellant was willing to incorporate some changes into the design including the installation of privacy measures on the deck and the moving or removal of some windows.

Public Submissions

46. The Board received submissions from several owners on the street. The submissions opposed to the development raised privacy concerns, including looking directly into the windows of neighbouring homes. The submission in support of the project noted that the proposed development would be a positive improvement to the streetscape, there are similar developments/renovations already on the street, and this is not atypical for Red Deer.

Closing Arguments

47. The DA closed by re-iterating its position that the impact to adjacent properties by approving the requested variances will be material and are incompatible with the DAR.

FINDINGS AND REASONS

48. The Board reviewed all the materials, oral presentations, and relevant sections of the ZB and MGA.
49. The Board finds that the MPC was within its authority to Refuse the application based on variances requested by the Applicant.
50. The Board considered each variance requested in isolation and as part of the overall requested variances.
51. The Board finds that the requested Front Yard Setback would not, on its own, be so significant to deny the variance. The portion of the deck which impinges on the required setback is relatively minor and would not materially impact the neighbouring properties when considered on its own. However, when taken with the other variances, it would contribute to a greater impact on the neighbouring properties.
52. The Board finds that the raised Deck at 4.0m is a significant variance when considering the impact to the streetscape and neighbouring properties. While the magnitude of a variance (in this case 300%) is not determinative of the request, it raises a question of the magnitude of the impact should the variance be granted. A 4.0m tall deck on the bulb of the close would provide a high vantage point to look toward neighbouring properties. The Board finds that the overlook created by the proposed Deck would lead to a significant infringement on the privacy of neighbouring properties such that the variance criteria found in section 687(3)(d) cannot be satisfied.
53. The Board then considered the requirement for overlook mitigation measures on Side Yard windows to minimize direct lines of sight into the Dwelling Unit of an Abutting Site. While a side window already exists in the subject property, the Proposed Development would add several more side windows looking toward the neighbours to the north and south. The proximity of these neighbours to the subject property increases the impact to the privacy caused by the new windows. The Board finds that the Proposed Development would have a material impact to the use, enjoyment, and value of the neighbouring properties due to the impact to the privacy from the side windows.
54. The final requested variance is that fencing, screening, or landscaping be provided to protect the privacy of Abutting sites. The Board finds that there is no proposed fencing, screening, or landscaping to protect the privacy of abutting sites. Furthermore, the Board finds that the options provided by the Appellant of solid or frosted privacy panels/glass would exacerbate the impact of the proposed development on the streetscape. Given the form and mass of the Proposed Development, there would be a significant impact to the streetscape which would have a material impact to the value of neighbouring properties. The

intrusion into the Front Yard Setback would further exacerbate this impact making the first variance also fail the variance criteria in section 687(3)(d) of the MGA.

55. The Board considered whether conditions could be added to the Development Permit to resolve the impacts noted above. After reviewing the materials of both parties and considering the possible options advanced by the Appellant, the Board finds that conditions could not resolve the issues, specifically the privacy and overlook concerns.

CLOSING:

56. For these reasons, the Board denies the appeal and CONFIRMS the decision of the Municipal Planning Commission, which REFUSED the Development Permit application for an Addition to an existing home (with variances) at 36 Owens Close, Red Deer.

Dated at the City of Red Deer, in the Province of Alberta, this 12th day of August, 2026 and signed by the Presiding Officer on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations, and decision of the Board.



Tim Heger, Presiding Officer
Subdivision and Development Appeal Board

APPENDIX A

Exhibit A.1	Hearing Materials	19 pages
Exhibit A.2	Public Comments sent to the Board Clerk	7 pages
Exhibit B.1	Development Authority Submission	51 pages
Exhibit C.1	Appellant Submission Part 1	311 pages
Exhibit C.2	Appellant Submission Part 2	9 pages
Exhibit C.3	Appellant Submission Part 3	1 page
Exhibit C.4	Appellant Submission Part 4	6 pages
Exhibit C.5	Appellant Submission Part 5	4 pages
Exhibit C.6	Appellant Submission Part 6 - Received July 29, 2026	14 pages
Exhibit C.7	Appellant Submission Part 7 - Received July 30, 2026	3 pages