

Lloydminster Subdivision and Development Appeal Board Decision

Hearing Date: May 5, 2022
Appellant: Homes to Go – Craig Benoit
Location: 5008 57 Ave, Lloydminster, AB.
Proposed Development: R1 Single – Detached Residential
Appeal: SDAB-02-22-175

A. INTRODUCTION

1. The Appellant, Homes to Go, on April 11, 2022, applied for a variance for an existing garage at 5008 57 Ave, Lloydminster AB, to reduce the yard setback from the garage to the property line from 0.9 metres to 0.67 metres. The Site is under the City's Land Use Bylaw 5-2016 (LUB).
2. The development officer (DO) refused the application for the variance for the existing garage at 5008 57 Ave, Lloydminster AB for the following reason(s):
 - a. The application to vary the setback from 0.9 metres to 0.067 metres exceeds the variance powers granted to the development authority through the LUB.

B. PRELIMINARY MATTERS

3. The Subdivision and Development Appeal Board (SDAB) members – The Chair asked the appellant and other parties in attendance whether there were any objections to the SDAB members. There were no objections.
4. Hearing Process - The Chair reviewed the hearing process. The Chair asked the Appellant and other parties in attendance whether there were any objections to the hearing process. There were no objections.

C. SUMMARY OF HEARING

5. The SDAB heard from the Development Officer (DO), Natasha Pidkowa, who read from the City's submission that was provided to the Board and did not expand further on the original submission.

6. The Board asked the City, what if any additional conditions would be appropriate. The City indicated that no additional conditions would be necessary under those circumstances.
7. The SDAB then heard from the Appellant, Craig Benoit representing Home to Go, who also reiterated the contents of their submission.
8. The Board asked the Appellant, what if any additional conditions would be appropriate. The Appellant indicated that no additional conditions would be necessary.
9. No one else was in attendance who wished to speak to the appeal, in addition there were no written submissions.
10. The Appellant did advise the Board that the reason the need to request the variance was the residents on the property had burnt down and to reconstruct or replace the residence the variance matter needed to be addressed. When questioned by the Board the Appellant indicated that the garage had suffered no damage from the fire and that the home was being rebuild it the same footprint as the previous home. The garage was constructed by a previous homeowner.
11. The SDAB Board asked the DO if the variance requested was within their approval would it be allowed. The DO indicated that as the structure was pre-existing and given the specific circumstances of this application if variance was within their approval authority it would have been granted.
12. The DO further elaborated that the original garage structure was properly permitted, with appropriate drawing showing different setbacks, but when it was constructed, it was not placed as indicated in the approved design drawings. This information only came to light when the application to reconstruct the home was submitted to the development authority and the real property report identified that the garage was non-conforming.

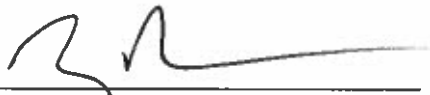
D. DECISION

13. The SDAB allows the appeal and approves the Appellants requested to reduce the side yard set back for the garage from 0.9 to 0.67 metres for the property located at 5008 57 Ave, Lloydminster, AB.


E. REASONS FOR DECISION

14. The SDAB considered the impact of the variance and the SDAB considered the affect of Section 687(3)d in that the reduction of the setback to 0.67 metres would not unduly interfere with; the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment, or value of the neighbouring parcels of land.
15. The request was not opposed by neighbouring residents.
16. The City DO indicated that if the variance requested was within their approval authorities, they would have granted the approval.
17. Considering the foregoing, the SDAB is of the view that the requested variance had met the requirements of the LUB and will not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of the neighbouring properties.

Per


SDAB Clerk, Doug Rodwell
City of Lloydminster, Subdivision
and Development Appeal Board

Per


Chair, Bernal Ulsifer
City of Lloydminster Subdivision
and Development Appeal Board

IMPORTANT INFORMATION FOR APPELLANT

This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, R.S.A. 2000, c. M26