

Appeal No.: SDAB 005 2025
Hearing Date: January 12, 2026

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

PRESIDING OFFICER: T. HEGER

PANEL MEMBER: S. CROOKS

PANEL MEMBER: D. WIELINGA

BETWEEN:

MARK TAYLOR

Appellant/Applicant

and

CITY OF RED DEER

Represented by J. Hallett, Senior Development Officer & A. McLaren, Development Officer

Development Authority

DECISION:

The Subdivision and Development Appeal Board overturns the decision of the Development Authority (the "DA") which Refused the Appellant's Development Permit ("DP") application for a Backyard Suite at 5726 41 Street Crescent, Red Deer. DP088561 is approved with the following conditions:

1. A Development Permit shall not be deemed completed based on this approval until all conditions except those of a continuing nature, have been fulfilled to the satisfaction of the Development Officer.
2. All Development must conform to the conditions of this Development Permit and the Approved Plans and any revisions thereto as required pursuant to this Approval. Any revisions to the Approved Plans must be approved by the Development Authority.
3. The Applicant shall repair or reinstate, or pay for the repair or reinstatement, to original condition, any public property, street furniture, curbing, boulevard landscaping and tree planting or any other property owned by the City which is damaged, destroyed or otherwise harmed by development or construction on the site. Repairs shall be done to the satisfaction of The City of Red Deer. In the event that the City undertakes the repairs the Applicant shall pay the costs incurred by the City within 30 days of being invoiced for such costs.
4. Prior to the occupancy of the Backyard Suite, the Applicant shall ensure the approved rear parking pad has been completed and any approved walkway from the parking pad to the Backyard Suite entrance has been completed, to the satisfaction of the Development Officer.
5. Prior to the occupancy of the Backyard Suite, the Applicant shall, at his own cost, and in consultation with the owner of 5730 41 Street Crescent, Red Deer, replace the existing fence on the

southwestern property line of the subject property with a continuous privacy fence measuring at least 6 feet (1.8 m) tall and made of durable, solid material(s). The fence shall have no spacing between panels or boards to ensure maximum privacy and an effective sound barrier. The design and material(s) used shall be complimentary to the surrounding properties and shall be to the satisfaction of the Development Officer.

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 also 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. None of the parties had any objection to the constitution of the Board. There were no conflicts identified by the Board Members.
4. The parties did not raise any preliminary issues for the Board to decide.
5. The Hearing was opened on December 11, 2025 and adjourned by mutual consent to January 12, 2026.
6. The Board indicated that it would first hear from the Development Authority, then the Appellant, then anyone else affected by the appeal. Following the submissions from the affected parties the Board provided the Appellant and the Development Authority 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

7. On October 30, 2025, the Applicant submitted a Development Permit application for a proposed Backyard Suite at 5726 41 Street Crescent, Red Deer in the West Park (West) Neighbourhood.
8. The subject lands are zoned R-L: Residential-Low Density Zone under the ZB. Under the ZB, a Backyard Suite outside Timberlands North neighbourhood is a Discretionary Use pursuant to section 6.10.3.1. Therefore, the proposed Backyard Suite conforms with the prescribed use.
9. The West Park (West) Neighbourhood is subject to a 15% cap for the number of House Suites / Backyard Suites as set out in section 4.50.5 of the Zoning Bylaw.
10. On November 27, 2025, the DA, refused the application for the Development Permit on the basis that the 15% cap could not be varied per section 4.50.10 of the ZB.
11. On the same day, the Appellant submitted an appeal and requested the Board to vary the 15% cap for the Proposed Backyard Suite in the West Park (West) Neighbourhood.

SUMMARY OF EVIDENCE AND ARGUMENT:*The Development Authority*

11. On October 30, 2025, the Applicant submitted a Development Permit application to remove an existing garage and build a new 50.2m² garage with a Backyard Suite at 5726 41 Street Crescent, in the West Park (West) Neighbourhood. As part of his application, the Applicant requested a variance to the 15% cap on the number of House Suites or Backyard Suites permitted in each neighbourhood as set out in the ZB.
12. On November 19, 2025, the Senior Development Officer contacted the Applicant noting that the 15% cap could not be varied and offered three possible options to the applicant. Option 1: the Applicant could withdraw the application. Option 2: the DA could refuse the application after the applicant paid the application fee. Option 3: the applicant could withhold payment of the application fee and after a 40-day period, the permit would expire and the application refused for non-payment. The applicant chose refusal after payment.
13. On November 27, 2025, the DA refused the application via email to the Applicant. On that same day, the Applicant submitted an appeal of the decision of Refusal by the Development Officer.
14. The DA provided relevant sections of the MGA and the ZB and left it for the Board to ask questions as needed.
15. The DA then reviewed the analysis that was undertaken to determine the application.
16. The DA explained that there was only one consideration for the subject application: "Does the Development Authority have the ability to vary section 4.50.5, which limits the number of Houses in a neighbourhood that may have either a Backyard Suite or House Suite?" (Para. 12 of Exhibit B.1).
17. The DA explained that while it ordinarily has discretion to consider variances where the Bylaw allows, Council has explicitly withdrawn discretion in this context by prohibiting variances to the 15% cap. As a result, even if the DA were satisfied that the proposal would not unduly impact neighbouring properties, the non-variability clause means that the DA must refuse any application over the 15% cap.
18. The DA stated that the subject application "complies with all other requirements of the Zoning Bylaw." (Para. 15 of Exhibit B.1).
19. The DA raised a previous decision of the Board from November 2025, where the Board overturned a refusal of a House Suite Application in West Park (East) by granting a variance to the 15% cap pursuant to section 687(3)(d) of the MGA.
20. To conclude its presentation, the DA explained that it made the only decision possible under the ZB since West Park (West) is over the 15% cap by one house suite (46 allowable suites versus 47 suites currently in place not including this proposed suite).
21. In response to questions from the Board, the DA explained that there are a standard set of conditions that the DA would normally attach to an approval of a Development Permit like the subject application. The Board asked if those standard conditions could be provided to the Board and the

Appellant, in the event the Board were to grant a variance, and the DA submitted those conditions to the Board with a copy to the Appellant. After review by the Appellant, he had no objections to the Board entering the standard conditions as Exhibit B.2 in the Board's record.

22. In response to another question from the Board, the DA noted where other, nearby House/Backyard Suites were located in the area. The Appellant raised no objection to the Board taking note of those nearby suites. The Board noted that on the subject block, there were suites located at 5742 41 Street Crescent, 5721 West Park Crescent, and 5713 West Park Crescent. There were other suites noted in the area on different blocks.
23. In response to further questions from the Board, the DA indicated that the subject application would comply with the requirement for parking stalls. Namely, the main house requires two parking stalls while the proposed suite requires one. The proposed garage contains two stalls for the house while a parking pad west of the proposed building gives one stall for the suite. Regarding the school and nursing home southeast of the subject site, the DA confirmed that those are not considered as part of the application. When reviewing the on-street parking in the area, the DA undertakes a very robust review to ensure there aren't undue impacts on the surrounding area.
24. The Board also asked about the definition of Home Occupation Major found in the R-L section of the ZB. The DA stated that a Home Occupation Major is a home-based business where more than one customer would be expected to be at the house at one time. The DA also explained that a Bed and Breakfast is where a service (like preparing food) is provided. The subject application, even if it were used as a short-term rental, would not count as a Home Occupation nor are short term rentals regulated by the City.

The Appellant

25. The Appellant provided no written materials beyond what was filed with the Appeal. The Appellant was present at the hearing to provide oral arguments and respond to questions from the Board.
26. The Appellant explained that he owns other properties and lives in the house immediately east of the subject property. He discussed his goal of improving the community with thoughtful development. The subject property has an old garage on the site which needs to be taken down. By replacing the existing dilapidated garage with a high-quality garage/Backyard Suite, this should bring value to the area.
27. The Appellant went on to discuss that in his view, Red Deer is in need of more housing options, and this property is well located near to Red Deer Polytechnic and the Red Deer Regional Hospital which both have increased housing needs for the people visiting and working at these two facilities.
28. In support of the application, the Appellant discussed that there is a parking stall provided for the proposed suite via a parking pad to the west of the building.
29. The Appellant went on to discuss his opinion of the 15% cap found in the ZB. He noted that in his research, he couldn't find exactly when it came into effect nor how the Council at the time arrived at 15% versus 16%, 20% 10%, etc. He stated that in his view, 15% is arbitrary and not supported by some sort of study or data. The Appellant also explained that when Backyard Suites were added to the ZB, the 15% cap was not updated. For neighbourhoods like West Park (West) with a lot of House Suites already, this 15% cap has the effect of limiting or preventing Backyard Suites.

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30. The Appellant stated in SDAB 004 2025, the Board noted that the ZB changed mid-way through the application process. Although he didn't have anything to confirm this claim, he stated that he had started working on the subject application before the change to section 4.50.5 removing the ability for the DA to vary the 15% cap. The Appellant also raised concerns about the boundaries of West Park which are broken out into five neighbourhoods per Figure 4.50-1 of the ZB. Those being West Park (West), West Park (North), West Park (East), West Park (South), and Westlake. He noted that the West Park Area Redevelopment Plan doesn't break out West Park in the same way while Census Zones break up the area to seven segments. If West Park were counted as a single neighbourhood, the subject application could have been approved by the DA since West Park (North) and (South) are well under their limits as is Westlake.
31. The Board asked the Appellant what he believed were the strongest arguments in support of the present appeal. Specifically, the Board asked him to address the impact on the neighbouring properties. The Appellant responded stating that the current tenants in the house are supportive of the application; that he (the Appellant) lives adjacent to the subject property to the east and he is not concerned about the addition of the Backyard Suite; and that this proposal will see the dilapidated garage removed, a new, high-quality garage/suite built, and private investment made in the community.
32. In response to the letters received (discussed in more detail later in this decision) the Appellant explained that two of the letters state this is a two-story suite which it is not. In terms of drainage in the lane, this shouldn't have any impact. Unfortunately, the lane has a very low slope so drainage is an issue every time it rains. In terms of the lot, it flares slightly at the back and is perfect for a development like this. If this site shouldn't have a Backyard Suite (based on the lot size, access, demand for housing, etc.) then where should a Backyard Suite go? Regarding noise, the Appellant stated that the nearby owners could bring it to him directly as he lives next door or could contact Red Deer Peace Officers. Ultimately, no one has raised these concerns with the Appellant in the past and he hopes they will in the future. As well, living nearby, he plans to keep an eye on things in the event that noise becomes an issue.
33. In response to an additional question from the Board, the Appellant stated that he was open to replacing the fence on the west side of the property with a 6-foot-high privacy fence to further mitigate concerns of the neighbour immediately west of the subject site.
34. In response to another question for the Board, the Appellant clarified his Letter of Intent which was included with the original application. In there, the Appellant had stated that the suite would be used for some combination of a place for guests to stay when visiting, a short-term rental (like Airbnb), or a longer-term residence for elderly parents. The Board asked the Appellant about these options and that renting out to the public on a longer term is not one of the proposed uses of this suite. In response, the Appellant explained that his plan is to rent it out on a regular basis and to make sure that it is always occupied but that he wants the flexibility of personal use should he need.

Closing Arguments

35. The DA stated it had nothing further to add to what was already presented.
36. The Appellant closed by thanking the Board for their time, by asking for the variance to the 15% cap, and noting that the 15% cap is arbitrary and this site is among the most ideal options for a Backyard Suite.

Public Submissions

37. The Board received three letters from the public as discussed below.
38. The first letter was from C. Newton who lives on the same block along West Park Crescent, north of the proposed development. The Board finds that she is affected by the appeal. Her letter raised concerns related to over densification with the addition of the Backyard Suite, increased and unwanted back lane traffic, drainage issues in the back lane which may be exacerbated by the proposed development, and concerns that the proposed Backyard Suite is not in keeping with the overall design and layout of West Park.
39. The second letter was from S. O'Connor who stated she lived in the neighbourhood but did not identify where she lived. The Appellant addressed the concerns in her letter (noting that they were largely duplicated in the other letters received) and made a reference to her living north and west of the proposed development. Upon review, the Board was unable to determine that she was indeed an affected person and placed no weight on her submission.
40. The third and final letter was received from C. O'Connor who lives adjacent to the subject property. The Board finds that she is an affected person. Her letter raised eight main concerns. Those concerns are summarized as follows:
- i. Privacy: a suite above a garage would significantly reduce the privacy of her backyard and house.
 - ii. Noise and Disturbance: there will be an increase in residents and visitors which will result in an increase in voices, music and vehicle activity in the area.
 - iii. Parking and Traffic Issues: the additional unit will result in an increased demand for on-street parking and will exacerbate the congestion already caused by the nursing home on the south side of 41 Street Crescent.
 - iv. Loss of Sunlight and Views: the height of the proposed structure would impede evening sunlight into Ms. O'Connor's yard.
 - v. Neighbourhood Character and Density: the two-story nature of the proposed development will stand out significantly in a single-story neighbourhood. This development would also set a precedent for other Backyard Suites leading to an eventual overdevelopment.
 - vi. Property Value Impacts: increased density, reduced privacy, and increased noise may negatively affect property values.
 - vii. Construction Impacts: construction will result in months of noise, dust, and vibrations which may affect Ms. O'Connor's home. Further, construction vehicles may block streets or access to properties during the building phase.
 - viii. Safety and Infrastructure Concerns: this development will further add to the strain on existing utilities. There will also be double the number of garbage carts on pickup days with inadequate storage for the added carts.

FINDINGS AND REASONS

41. The Board reviewed the materials, oral presentations, relevant sections of the Zoning Bylaw and MGA, and the letters received in opposition to the appeal.
42. The Board finds that the Development Officer was within his rights in refusing the DP application for contravening section 4.50.5 of the ZB. While the R-L Zone lists a Backyard Suite outside the

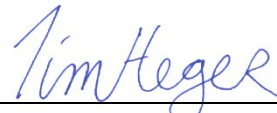
Timberlands North Neighbourhood as a discretionary use, the Board finds that the application of section 4.50.5 was correct in this situation and refusal was the only option open to the Development Officer.

43. The Board then considered the variance test laid out in section 687(3)(d) of the MGA.
44. The first part of the variance test requires that the Board find that the proposed development would not unduly interfere with the amenities of the neighbourhood. The Board finds that the subject property would provide sufficient off-street parking to accommodate both the existing house and the proposed Backyard Suite. While there may be times when visitors park on the street in front of the property, this is no different than if the existing house were to have visitors parking in the same place. The addition of a Backyard Suite at the subject property would not unduly interfere with the amenities of the neighbourhood as it is a one-bedroom suite which could more than likely be accommodated in the existing home without a Development Permit. Therefore, the Board finds that the first part of the variance test is satisfied.
45. The second part of the variance test requires the Board to find that the proposed development would not materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land. The Board finds that the proposed development would improve the area and subject property by providing a quality Backyard Suite which will replace the existing dilapidated garage on the site with a modern, aesthetically pleasing garage and Backyard suite right along the back lane where any impacts to the adjacent properties will be minimized.
46. The third and final part of the variance test requires that the proposed development conforms with the use prescribed for that land or building in the land use bylaw. The subject property is zoned R-L: Residential Low-Density Zone in the ZB. The purpose of the R-L zone is to allow development of low-density housing and residential uses. Under section 6.10.3.1 of the ZB, a Backyard Suite outside the Timberlands North neighbourhood is a Discretionary Use in the R-L zone. The Board finds that the proposed development conforms with the use prescribed for the subject lands in the ZB. Therefore, the third part of the variance test is satisfied.
47. One of the main concerns raised in the letters from affected persons was privacy. The Board finds that the replacement of the fence on the west side of the subject property with a taller privacy fence will mitigate the privacy and noise impacts from the suite especially to the adjacent property to the west. The Appellant stated that he was willing to replace the existing fence as a sign of good faith to his neighbour and to help mitigate the impact of the suite on the neighbour's backyard. The Board has therefore made the upgrade of the fence a condition as listed above.
48. In terms of the other concerns raised by the affected persons, the Board finds that some of those concerns do not apply to this situation. Namely, the proposed suite is a single-story building located east of Ms. C. O'Connor and south of Ms. Newton so there will not be an easy way for the occupants of the proposed suite to look into their yards nor will this affect the evening sun for either of them. The Board finds that the traffic and parking impacts are mitigated by the parking provided off the back lane offering one stall to the proposed suite and two stalls to the main house. All other parking will need to be on the street in the area. While there will be an increase in the number of residents in the area, the increase in parked vehicles should be minimal and not a material impact on the area.
49. The Board finds that the test in 687(3)(d) of the MGA is satisfied and thus grants a variance to section 4.50.5 of the ZB.

CLOSING:

50. For these reasons, and in accordance with section 687(3)(d) of the MGA, the Board grants the variance to section 4.50.5 of the ZB. The decision of the Development Authority is revoked, and Development Permit DP088561 shall be issued subject to the conditions at the beginning of this decision.

Dated at the City of Red Deer, in the Province of Alberta, this 26th day of January, 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.



T. Heger, Presiding Officer
Subdivision and Development Appeal Board

APPENDIX A

Exhibit A.1:	Hearing Materials prepared by the clerk	18 pages
Exhibit B.1:	Development Authority Report	47 pages
Exhibit B.2:	DA Standard Conditions for Backyard Suites	1 page