

## Subdivision and Development Appeal Board Appeals Summary, 2019

The Subdivision and Development Appeal Board hears from people who have been affected by a decision of the Development Authority under the Zoning Bylaw. If a permit is refused, the applicant may appeal to the Board and, in certain circumstances, if a permit is approved, affected parties, such as nearby neighbours, may appeal to the Board.

The decision of the Subdivision and Development Appeal Board is based on criteria set out in Section 687(3) of the Municipal Government Act. The considerations for granting a variance by the Subdivision and Development Appeal Board are the same considerations reviewed by the development officer, however the Subdivision and Development Appeal Board is not subject to the same restrictions. The Subdivision and Development Appeal Board does not have to consider unnecessary hardship or practical difficulties (Section 11.4 of Zoning Bylaw 12800). More information about the authority of the Development Officer and Subdivision and Appeal Board can be found in the recent [Notifications and Variances Discussion Paper](#) as part of the Zoning Bylaw Renewal Initiative.

In evaluating a potential variance, the Development Officer considers whether the project "unduly interferes with the amenities of the neighbourhood" or "materially interferes or affects the use, enjoyment and value of neighbourhood parcels of land" as per the Municipal Government Act (MGA). The Development Officer is not permitted to vary uses, height, floor area ratio or density maximums. Additionally, minimum width of a site for new single detached housing in some residential zones cannot be varied. No variances to the general purpose statement of a Zone or Overlay can be made.

In 2019, a total of 123 appeals were made to the Board, including 33 appealed approvals and 90 appealed refusals. This includes the nine development permit types analyzed, as well as other commercial permit types such as change of use and exterior alteration. Overall the analysis shows that the number of permit decisions that are appealed are a small proportion of the total number of decisions.

The Board upheld 73 percent of the 33 appealed approvals issued by the Development Authority, and overturned 74 percent of the 90 appealed refusals issued by the Development Authority.

The following tables and text provide an overview of the outcome of Board decisions and the variances that were granted or refused. These totals may not necessarily align with refusal totals reported in Attachment 1 - Development

Permit and Variance Analysis, as it includes change of use and exterior alteration permits for commercial developments, applicants may forego appealing the Development Officer's decision, or because remaining appeals from the previous year may be processed during this year's reporting period.

**Table 1: Approved Permits appealed to the Board**

Permit Type	Total Number of Approved Permits Analyzed with Decisions Appealed to the Board	Number of Approvals Upheld by the Board	Number of Approvals Overturned by the Board	Number of Approvals where the Board had No Jurisdiction*
Single Detached Housing	4	1 (25%)	0	3 (75%)
Garden Suites	0	0	0	0
Semi-detached Housing	0	0	0	0
Multi-family Residential Projects	12	10 (83%)	0	2 (17%)
House Additions	0	0	0	0
Accessory Buildings	3	3 (100%)	0	0
Uncovered Deck	3	3 (100%)	0	0
Residential Sales Centre	0	0	0	0
Major Commercial and Industrial Projects	1	1 (100%)	0	0
Other Commercial Projects**	10	6 (60%)	1 (10%)	3 (30%)
<b>Total</b>	<b>33</b>	<b>24 (73%)</b>	<b>1 (3%)</b>	<b>8 (24%)</b>

**Table 2: Refused Permits appealed to the Board**

Permit Type	Total Number of Refused Permits Analyzed with Decisions Appealed to the Board	Number of Refusals Upheld by the Board	Number of Refusals Overturned by the Board	Number of Refusals where the Board had No Jurisdiction*
Single Detached Housing	21	2 (10%)	19 (90%)	0
Garden Suites	8	1 (13%)	7 (88%)	0
Semi-detached Housing	3	1 (33%)	1 (33%)	1 (33%)
Multi-family Residential Projects	7	0	7 (100%)	0
House Additions	2	1 (50%)	1 (50%)	0
Accessory Buildings	12	2 (17%)	9 (75%)	1 (8%)
Uncovered Deck	3	0	3 (100%)	0
Residential Sales Centre	0	0	0	0
Major Commercial and Industrial Projects	2	0	2	0
Other Commercial**	32	6	18	8
<b>Total</b>	<b>90</b>	<b>13 (14%)</b>	<b>67 (74%)</b>	<b>10 (2%)</b>

Percentages may not necessarily sum to 100% due to rounding.

\*Common reasons for the Subdivision and Development Appeal Board to have no jurisdiction in an appeal decision include: late filing of appeal or withdrawal of appeal by the appellant.

\*\*Other Commercial Projects include change of use and exterior alterations to commercial buildings.

### **Single Detached Housing**

Four approval decisions were appealed to the Subdivision and Development Appeal Board.

- One appealed approval decision was upheld by the Board. This permit included variances to: a reduction in the rear setback, an increase in the projection of eaves into the front and rear setbacks and an increase in projection of the deck into the rear setback
- The Board had no jurisdiction in three approval decisions. The appeals were withdrawn in two cases. One appeal was filed late.

Twenty-one refusal decisions were appealed to the Subdivision and Development Appeal Board.

- Two appealed refusal decisions were upheld by the Board. Reasons for refusal in these permits include an increase in permitted height and site coverage. One of these permits proposed to include a parking pad in the front setback.
- Nineteen appealed refusal decisions were overturned by the Board. Reasons for refusal in these permits include an increase in the permitted number of driveways, increased garage width, an increase in the permitted height and a reduction of side setbacks.
- Of those 19 overturned refusal decisions, four applications (19%) proposed to include front driveways where a lane was already present. These four applications also contained additional variances unrelated to front driveways.

### **Garden Suites**

There were no approval decisions appealed to the Subdivision and Development Appeal Board.

Eight refusal decisions were appealed to the Subdivision and Development Appeal Board.

- One appealed approval decision was upheld by the Board. This permit included variances to: an increase in permitted height and site coverage and increases to the permitted main and second floor area
- Seven appealed refusal decisions were upheld by the Board. These permits included variances to: an increase in permitted height, a reduction to the side setbacks and increases to the main and second floor area.

### **Semi Detached Housing**

There were no approval decisions appealed to the Subdivision and Development Appeal Board.

Three refusal decisions were appealed to the Subdivision and Development Appeal Board.

- One appealed refusal decision was upheld by the Board. The reason for refusal includes a decrease in the required side setback.
- One appealed refusal decision was overturned by the Board. The reason for refusal includes an increase in permitted height.
- The Board had no jurisdiction in one refusal decision. This appeal was withdrawn.

### **Multi-Family Residential Projects**

Twelve approval decisions were appealed to the Subdivision and Development Appeal Board.

- Ten appealed approval decisions were upheld by the Board. These permits included variances to: a decrease in the number of required parking and loading spaces, a reduction to the front setback and a reduction to the tower setback.
- The Board had no jurisdiction in two approval decisions. These appeals were withdrawn.

Seven refusal decisions were appealed to the Subdivision and Development Appeal Board.

- Seven appealed refusal decisions were overturned by the Board. Some reasons for refusal contained in these permits include: an increase in the permitted Floor Area Ratio, a reduction in the front and rear setbacks.

### **House Additions**

There were no approval decisions appealed to the Subdivision and Development Appeal Board.

Two refusal decisions were appealed to the Subdivision and Development Appeal Board.

- One appealed refusal decision was upheld by the Board. Reasons for refusal contained in this permit include: provision of a rear attached garage, where a rear detached garage was required, and a reduction in the required rear setback.
- One appealed refusal decision was overturned by the Board. Reasons for refusal contained in this permit include: a reduction in the required front and side setbacks and an increased eave projection into the side yard.

### **Accessory Buildings**

Three approval decisions were appealed to the Subdivision and Development Appeal Board.

- Three appealed approval decisions were upheld by the Board. These permits included variances to: a reduction in the required side setback and an increase in permitted site coverage.

Twelve refusal decisions were appealed to the Subdivision and Development Appeal Board.

- Two appealed refusal decisions were upheld by the Board. Reasons for refusal contained in these permits include: a decrease in the required side setback, providing vehicular access from a side yard on a corner property rather than a lane and incompatible building design with the surrounding area.
- Nine appealed refusal decisions were overturned by the Board. Reasons for refusal contained in this permit include: an increase in permitted height and site coverage.
- The Board had no jurisdiction in one refusal decision. These appeals were withdrawn.

### **Uncovered Decks**

Three approval decisions were appealed to the Subdivision and Development Appeal Board.

- Three appealed approval decisions were upheld by the Board. Some variances contained in these permits include: an increase in the permitted projection into a rear setback.

Three refusal decisions were appealed to the Subdivision and Development Appeal Board.

- Three appealed refusal decisions were overturned by the Board. Reasons for refusal contained in this permit include: development unsuitably located within the North Saskatchewan River Valley and Ravine System Protection Overlay, and increased projections into setbacks.

### **Residential Sales Centres**

There were no approval or refusal decisions appealed to the Subdivision and Development Appeal Board.

### **Major Commercial and Industrial Projects**

One approval decision was appealed to the Subdivision and Development Appeal Board.

- This approval decision was upheld by the Board. This permit contained a variance to the landscaping ratio of deciduous trees to coniferous trees and shrubs.

Two refusal decisions were appealed to the Subdivision and Development Appeal Board.

- Two appealed refusal decisions were overturned by the Board. Reasons for refusal contained in these permit include: a reduction in the required number of parking spaces, a reduction to the required side setback and required landscaping provision.

### **Other Commercial Projects**

This category includes change of use development permits, including those for cannabis retail sales.

Ten approval decisions were appealed to the Subdivision and Development Appeal Board.

- Six appealed approval decisions were upheld by the Board.
  - Two of these permits included variances to: a reduction in the required number of parking and loading spaces, and a reduction in the required tree height
  - Four of these appealed permits contained no variances, however they were deemed as a discretionary development within the Direct Control zone, requiring notification letters to be delivered to surrounding property owners.
- One appealed approval decision was overturned by the Board. This permit contained variances, however the application was deemed as a discretionary development within the Direct Control zone, requiring notification letters to be delivered to surrounding property owners.
- The Board had no jurisdiction in three approval decisions. These appeals were withdrawn.

Thirty-two refusal decisions were appealed to the Subdivision and Development Appeal Board.

- Six appealed approval decisions were upheld by the Board. Reasons for refusal contained in these permits include: provision of a nightclub as a discretionary use in the (UW) Urban Warehouse Zone, a reduction in the minimum separation distance between cannabis stores, and a reduction in the required number of parking spaces.
- Eighteen appealed approval decisions were overturned by the Board. Reasons for refusal contained in these permits include: a reduction in the minimum separation distance between cannabis stores, reduction in the required setback abutting a residential area and provision of Child Care

Services as a discretionary use in the (RF1) Single Detached Residential Zone.

- The Board had no jurisdiction in eight approval decisions. Four of these appeals were Leave to Appeal. Two appeals were withdrawn and one appeal was filed late.