

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
CITY OF ST. ALBERT

5 St. Anne Street
St. Albert, AB T8N 3Z9
Email: sdabsubmissions@stalbert.ca
Telephone: (780) 459-1500

HEARING DATE: 26 November, 2025
FILE NO.: LEG00986

Notice of Decision of Subdivision and Development Appeal Board

INTRODUCTION

- [1] On 3 November, 2025, the Development Authority of the City of St. Albert (the "Development Authority") refused to issue a development permit for a "leave as built" application (deck) at 21 Franklin Pl. St. Albert and legally described as Lot 64A Block 22 Plan 7922017 (the "Lands"). The applicant for the Development Permit was Jeff Kearl (the "Applicant").
- [2] Mr. Kearl filed an Appeal from the "leave as built" refusal on 5 November, 2025
- [3] The Subdivision and Development Appeal Board (the "Board") held the appeal hearing on 26 November, 2025, in a in person hearing.

PRELIMINARY MATTERS

A. Board Members

- [4] The Chair confirmed from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. No one in attendance objected to the members of the Board hearing the appeal.

B. Exhibits

- [5] The Chair confirmed that everyone in attendance had the full hearing package prepared for the hearing.
- [6] There were no additions or new submissions in this matter. The full hearing package referenced above will be Exhibit 1

C. Miscellaneous

- [7] There was no request for an adjournment of the hearing.

[8] There were no objections to the proposed hearing process.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

[9] The Subdivision and Development Appeal board allowed the appeal with the following conditions:

- a. The Subdivision and Development Appeal Board approves a development permit to 'leave the deck as built with variances to front and side yard setbacks.
- b. A variance is granted to allow the front yard setback for the deck to be 2.9m.
- c. A variance is granted to allow the side yard setback for the deck to be 3.16m.
- d. The deck shall remain, as located in accordance with the Real Property Report dated May 12, 2022.
- e. The deck as approved shall remain uncovered and unenclosed.
- f. Any proposed changes in design, elevation or site plan configuration shall first be submitted for review by the Development Officer and any such changes shall not be undertaken until written authorization is provided by the Development Officer.

NOTES:

- a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.
- b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.
- c) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations and standards.
- d) The City of St. Albert does not conduct independent environmental checks of land within the city. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of St. Albert, in issuing this development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on or within the property.
- e) The city property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering

Services. An inspection of the existing site conditions must be completed by city staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a city representative will contact the applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

f) An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

SUMMARY OF HEARING

[10] The following is a brief summary of the oral and written evidence and arguments submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written materials and submissions filed in advance of the hearing.

Development Authority

[11] The Development Authority stated this matter arose during the completion of a sale of the property that involved a Real Property Report. Details in that report showed the deck on the front of the home was not within the prescribed setbacks for the side and front of the deck. On Mr. Kearl's development application to leave the deck as built it was noted that the variances required were beyond the development officers authority to grant them (25%).

[12] The development officer noted that:

- a. Section 3.51(4) of Land Use Bylaw 18/2024 states that deck greater than **1.5m** above finished grade must be located at least **5.0m** from all property lines.
- b. The deck is **1.55m** in height.
- c. Required front yard setback: **5.0m**
- d. Actual front yard setback: **2.9m**
- e. Variance required: **2.1m (42%)**
- f. Required side yard setback: **5.0m**
- g. Actual side yard setback: **3.16m**
- h. Variance required: **1.84m (36.8%)**

[13] The development officer noted that the deck has been part of this building since at least 1986 when it first appeared in satellite photos. The development officer went on to say that the file for that location showed a development permit application in 1986 but could not say whether the current deck was built in accordance with that application. The development officer noted that there were no complaints or concerns from neighbours since 1986.

Applicant/Appellant

[14] The appellant, Mr. Kearl is the son of the property owner Mrs. Sharon Kearl. He is assisting his mother in the sale of her home. He learned of the issues with the deck and the lack of proper set-backs from the Real Property Report that was generated in the sale process. The sale is currently pending with a condition that the set back issues be resolved. His application for a "leave as built" permit was not successful, hence this appeal. He also noted that there has never been a problem for the neighbours regarding the deck as it is.

FINDINGS OF FACT

[15] The Lands are legally described as Lot 64a; Block 22; Plan 7922017

[16] The Appeal was filed on 5 November, 2025

[17] The Applicant is an affected person.

REASONS

Other Affected Persons

[18] There were no other affected persons who participated in this appeal hearing

Jurisdiction

[19] The Board's jurisdiction is found in s. 687(3) of the MGA.

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with any applicable land use policies;*
- (a.2) subject to section 638, must comply with any applicable statutory plans;*
- (a.3) subject to clause (a.4) and (d), must comply with any land use bylaw in effect;*
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;*
- (b) must have regard to but is not bound by the subdivision and development regulations;*
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;*
- (d) 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,*
and
(ii) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

[20] In making this decision, the Board has examined the provisions of the MDP and the LUB and has considered the oral and written submissions made by and on behalf of those who provided evidence: the Development Authority, and the Appellant.

Issues to be Decided

[21] The Board must determine the following issues:

- a. Will this proposed development (leave as built) unduly interfere with the amenities of the neighbourhood?
- b. Will this proposed development (leave as built) materially interfere with or affect the use, enjoyment or value of the neighbouring parcels of land?

[22] The board considered both these issues and found that despite the notification of 14 surrounding neighbours, no one communicated any concerns or comments of support. Additionally, the board found the development officer's comments regarding the lack of any complaints or concerns shared with the development authority in over 39 years, to be very persuasive with respect to any negative impacts this development would have on neighbours. The board found that there were no negative impacts.

Conclusion

[23] For the above reasons, the Board finds for the appellant and orders the following variances:

- a. Front yard setback of 2.9m or a variance of 42%.
- b. Side yard set back of 3.16m or a variance of 36.8%.

[24] Issued this 1st day of December, 2025 for the City of St. Albert Subdivision and Development Appeal Board.

Bill Newton *Bill Newton*
Bill Newton (Dec 12, 2025 12:12:00 MST)

Bill Newton, Vice Chair
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to s. 688 of the Municipal Government Act, RSA 2000, c M-26.

APPENDIX "A"
BOARD MEMBERS

MEMBERS

- 1. Bill Newton (Acting Chair)
- 2. Gary Rorke
- 3. Christian Benson

APPENDIX "B"
REPRESENTATIONS

PERSONS APPEARING

- 1. Jeff Kearn (Appellant)
- 2. Melanie Smith (Development Officer)
- 3. Kairee Droogers (SDAB Clerk)

APPENDIX "C"
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

Agenda Package			
	Description	Date	Pages
1.	Agenda	November 21, 2025	1-2
2.	Development Officer Report	November 21, 2025	3-7
3.	Appellant Submission	November 21, 2025	8-10
4.	Development Permit Decision	November 21, 2025	10-13
5.	Radius Map & Labels	November 21, 2025	14-16

Exhibits			
	Description	Date	Exhibit
1.	Development Officer Presentation	November 26, 2025	A
2.	Development Officer Report	November 26, 2025	B

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FILE NO.: LEG00987

Notice of Decision of Subdivision and Development Appeal Board

INTRODUCTION

- [1] On 3 November, 2025, the Development Authority of the City of St. Albert (the "Development Authority") refused to issue a development permit for a "leave as built" application (car port) at 21 Franklin Pl. St. Albert and legally described as as Lot 64A Block 22 Plan 7922017 (the "Lands"). The applicant for the Development Permit was Jeff Kearl (the "Applicant").
- [2] Mr. Kearl filed an Appeal from the "leave as built" refusal on 12 November, 2025
- [3] The Subdivision and Development Appeal Board (the "Board") held the appeal hearing on 26 November, 2025, in a in-person hearing.

PRELIMINARY MATTERS

A. Board Members

- [4] The Chair confirmed from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. No one in attendance objected to the members of the Board hearing the appeal.

B. Exhibits

- [5] The Chair confirmed that everyone in attendance had the full hearing package prepared for the hearing.
- [6] There were no additions or new submissions in this matter. The full hearing package referenced above will be Exhibit 1

C. Miscellaneous

- [7] There was no request for an adjournment of the hearing.

[8] There were no objections to the proposed hearing process.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

[9] The Subdivision and Development Appeal board allowed the appeal with the following conditions:

1. The Subdivision and Development Appeal Board approves a development permit.
2. To leave the attached carport as built with variance to the side yard setback.
3. A variance is granted to allow the side yard setback for the attached carport to be 0.65m.
4. The attached carport shall remain, as located in accordance with the Real Property Report dated May 12, 2022.
5. The carport as approved shall remain as built and unenclosed. Any rebuild or alterations to the carport will require a new development permit to be applied for.
6. Any proposed changes in design, elevation or site plan configuration shall first be submitted for review by the Development Officer and any such changes shall not be undertaken until written authorization is provided by the Development Officer.

NOTES:

- a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.
- b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.
- c) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations and standards.
- d) The City of St. Albert does not conduct independent environmental checks of land within the city. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of St. Albert, in issuing this development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on or within the property.

- e) The city property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by city staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a city representative will contact the applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.
- f) An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

SUMMARY OF HEARING

- 3. The following is a brief summary of the oral and written evidence and arguments submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written materials and submissions filed in advance of the hearing.

Development Authority

- 4. The Development Authority stated this matter arose during the completion of a sale of the property that involved a Real Property Report. Details in that report showed the car port on at the side of the home was not within the prescribed setbacks for the side of the car port. On Mr. Kearl's development application to leave the car port as built it was noted that the variance required were beyond the development officer's authority to grant them (25%). The application was denied.
- 5. The development officer noted that:
 - a. Section 3.49(1)(b) of Land Use Bylaw 18/2024 states that car port must comply with the building setback requirements that apply to the principal building.
 - b. Required side yard setback: **1.25m**.
 - c. Actual side yard setback: **.65m**.
 - d. Variance required: **.6m (48%)**.
- 6. The development officer noted that the carport has been part of this building since at least 2014 when it first appeared in satellite photos. The development officer went on to say that the file for that location showed a development permit application in 2014 but could not say whether the current car port was built in accordance with that application. The development officer noted that there were no complaints or concerns from neighbours since 2014.

Applicant/Appellant

7. The appellant, Mr. Kearl is the son of the property owner Mrs. Sharon Kearl. He is assisting his mother in the sale of her home. He learned of the issues with the car port and the lack of a proper set-back from the Real Property Report that was generated in the sale process. The sale is currently pending with a condition that the set back issue be resolved. His application for a "leave as built" permit was not successful, hence this appeal. He also noted that there has never been a problem for the neighbours regarding the car port as it is.

FINDINGS OF FACT

8. The Lands are legally described as Lot 64a; Block 22; Plan 7922017
9. The Appeal was filed on 12 November, 2025
10. The Applicant is an affected person.

REASONS

Other Affected Persons

11. There were no other affected persons who participated in this appeal hearing

Jurisdiction

12. The Board's jurisdiction is found in s. 687(3) of the MGA.

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- (a.1) must comply with any applicable land use policies;*
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- (d) 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,*
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(A) *unduly interfere with the amenities of the neighbourhood, or*
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(ii) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

13. In making this decision, the Board has examined the provisions of the MDP and the LUB and has considered the oral and written submissions made by and on behalf of those who provided evidence: the Development Authority, and the Appellant.

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14. The Board must determine the following issues:

- a. Will this proposed development (leave as built) unduly interfere with the amenities of the neighbourhood?
- b. Will this proposed development (leave as built) materially interfere with or affect the use, enjoyment or value of the neighbouring parcels of land?

15. The board considered both these issues and found that despite the notification of 14 surrounding neighbours, no one communicated any concerns or comments of support. Additionally, the board found the development officer's comments regarding the lack of any complaints or concerns shared with the development authority in over 11 years, to be very persuasive with respect to any negative impacts this development would have on neighbours. The board found that there were no negative impacts.

Conclusion

16. For the above reasons, the Board finds for the appellant and orders the following variances:
a. Side yard set back of 0.65m or a variance of 48%.

17. Issued this 1st day of December, 2025 for the City of St. Albert Subdivision and Development Appeal Board.

Bill Newton *Bill Newton*
Bill Newton (Dec 12, 2025 12:19:49 MST)

Bill Newton, Vice Chair
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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