

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
April 12, 2018**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I 9:00 A.M. SDAB-D-18-050

To park a Recreational Vehicle in the required Front
Yard

12011 - 129 Street NW
Project No.: 275019995-001

NOTE: *Unless otherwise stated, all references to “Section numbers” in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-050

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 275019995-001

APPLICATION TO: Park a Recreational Vehicle in the required Front Yard

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 28, 2018

DATE OF APPEAL: March 14, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12011 - 129 Street NW

LEGAL DESCRIPTION: Plan 4068HW Blk 3 Lot 43

ZONE: RF1-Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

We have owned our home at 12011 129 Street for over five years, and we have lived under the assumption that the parking pad to the north side of our house (which is deemed as the required front yard of my property) was legal. The realtor we purchased through told us that there was an easement on the retaining wall to the parking pad which was all taken care of by the previous owner as his sole use for the parking pad was for his own RV/trailer. We have had our RV parked on said pad during our years here, without complaint. Our neighbors are willing to sign a letter stating they've no issue with our RV being on the parking pad, as it is hidden by a fence and a tree in our side yard. To park it in our backyard would require tearing out a section of fence along 129 st (collector road) and parking it between our house and our detached garage; because we're on a corner lot that would not only eliminate the use of our "backyard" and

decrease our enjoyment of our property, but also park the RV in plain sight to everyone driving along 129 Street, which is what I believe the bylaw was put in place to prevent. It would also require expanding our existing driveway/pad thus reducing green space adding more strain to existing drainage infrastructure. The initial bylaw officer indicated this was not a complaint put forth by anyone in the community, the residents that live and own property nearby, but rather herself who happened to drive by while in the area for another work related inquiry. I hope that a reasonable conclusion can be reached in regards to having an RV parked out of the way on a corner lot, rather than in a sticking out like a sore thumb along a major collector road with greater negative impact to neighbors surrounding our property.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the decision is made under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

(a.1) must comply with the land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

(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.

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

(a) to make it a conforming building,

(b) for routine maintenance of the building, if the development authority considers it necessary, or

(c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Under Section 110.2(4) states **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under Section 7.2(8), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is to provide Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

To regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Recreational Vehicle

Section 45.3 states no person shall keep, in the Front Yard in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone, any large Recreational Vehicle for any longer than is reasonably necessary to load or unload such vehicle.

Section 45.4 states notwithstanding subsection 45.3, from April 1 through October 31 inclusive, on a residential Site with no rear Lane, large Recreational Vehicles may be parked to within 2.0 metres of the interior edge of the sidewalk, or within 2.0 metres of the curb if there is no sidewalk:

- a. where vehicular access is solely available through the Front Yard; or
- b. in the case of a corner Site, where vehicular access is solely available through the Front Yard or through the exterior flanking Side Yard,

subject to the discretion of the Development Officer, who may exercise their variance power to decrease this minimum Setback requirement on a Site by Site basis, given the proximity and orientation of driveways, parking areas, buildings and other physical features which may affect sight lines and amenities on the subject property and on adjacent properties.

Section 45.5 states for the purposes of subsections 45.3 and 45.4, a "large Recreational Vehicle" shall include any motorhome, travel trailer, or fifth wheel trailer; any camper when it is not mounted on a truck, but placed on the ground, on a stand or otherwise stored; or any similar vehicles.

Section 45.6 states for the purposes of subsections 45.3 and 45.4, a "large Recreational Vehicle" shall not include: small utility trailers; camper van conversions; tent trailers; campers which are mounted in trucks; boats; snowmobiles; all-terrain vehicles; jet skis; or motorcycles and trailers to carry them.

Development Officer's Determination

1. Prohibited Objects: a Recreational Vehicle is not permitted to be parked in the Front Yard for any longer than is reasonably necessary to load or unload such vehicle (Section 45.3).

NOTE: this existing Driveway is Non-Conforming. If the permit were to be approved, variances to the following regulations would be required (Section 11.2.2):

Non-conforming Driveway

Section 11.2(2) states the Development Officer may approve, with or without conditions as a Class B Discretionary Development, an enlargement, alteration or addition to a non-conforming building if the non-conforming building complies with the Uses prescribed for that land in this Bylaw and the proposed development would not, in their opinion:

- a. unduly interfere with the amenities of the neighbourhood; or
- b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Section 54.1(4)(a) states the Driveway shall lead directly from the roadway to the Garage or Parking Area

Section 54.2(2)(e)(i) states parking spaces shall not be located within a Front Yard.

Section 814.3(17) states regardless of whether a Site has existing vehicular access from a public roadway, other than a Lane, no such access shall be permitted to continue where an Abutting Lane exists.

Development Officer's Determination

- 2. Parking - Driveways must lead directly from the roadway to the Garage or Parking Area (Section 54.1.4(a)).
- 3. Parking - Parking spaces shall not be located within a Front Yard (Section 54.2.2(e)(i))
- 4. Driveway - The driveway is located off of 121 Ave NW instead of the alley (Section 814.3.17).

Community Consultation

Section 814.5 states the following:

- 1. When the Development Officer receives a Development Permit Application for a new principal building, new Garage Suite, or new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) or 814.3(9) of this Overlay:
 - a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
 - b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the

Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and

- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

| Table 814.5(2) | | | |
|-----------------------|--|--|---|
| Tier # | Recipient Parties | Affected Parties | Regulation of this Overlay Proposed to be Varied |
| Tier 1 | The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League | The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League | 814.3(17) – Driveway Access |

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board’s decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

| | | | |
|---|--|---|--|
|  | Project Number: 275019995-001 Application Date: FEB 16, 2018 Printed: March 21, 2018 at 10:58 AM Page: 1 of 2 | | |
| <h2 style="margin: 0;">Application for Minor Development Permit</h2> | | | |
| This document is a Development Permit Decision for the development application described below. | | | |
| Applicant <div style="border: 1px solid black; width: 100%; height: 50px;"></div> | Property Address(es) and Legal Description(s) 12011 - 129 STREET NW Plan 4068HW Blk 3 Lot 43 Specific Address(es) Suite: 12011 - 129 STREET NW Suite: BSMT, 12011 - 129 STREET NW Entryway: 12011 - 129 STREET NW Building: 12011 - 129 STREET NW | | |
| Scope of Application To park a Recreational Vehicle in the required Front Yard. | | | |
| Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Park in required front yard Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table> | | # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Park in required front yard Secondary Suite Included?: N | Class of Permit: Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay |
| # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Park in required front yard Secondary Suite Included?: N | Class of Permit: Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay | | |
| I/We certify that the above noted details are correct. Applicant signature: _____ | | | |
| Development Application Decision Refused Reason for Refusal 1. Prohibited Objects – a Recreational Vehicle is not permitted to be parked in the Front Yard for any longer than is reasonably necessary to load or unload such vehicle (Section 45.3). NOTE: this existing Driveway is Non-Conforming. If the permit were to be approved, variances to the following regulations would be required (Section 11.2.2): 2. Parking - Driveways must lead directly from the roadway to the Garage or Parking Area (Section 54.1.4(a)). 3. Parking - Parking spaces shall not be located within a Front Yard (Section 54.2.2(e)(i)) 4. Driveway - The driveway is located off of 121 Ave NW instead of the alley (Section 814.3.17). Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act. | | | |
| Issue Date: Feb 28, 2018 Development Authority: BERNUY, MICHELLE Signature: _____ | | | |
| THIS IS NOT A PERMIT | | | |



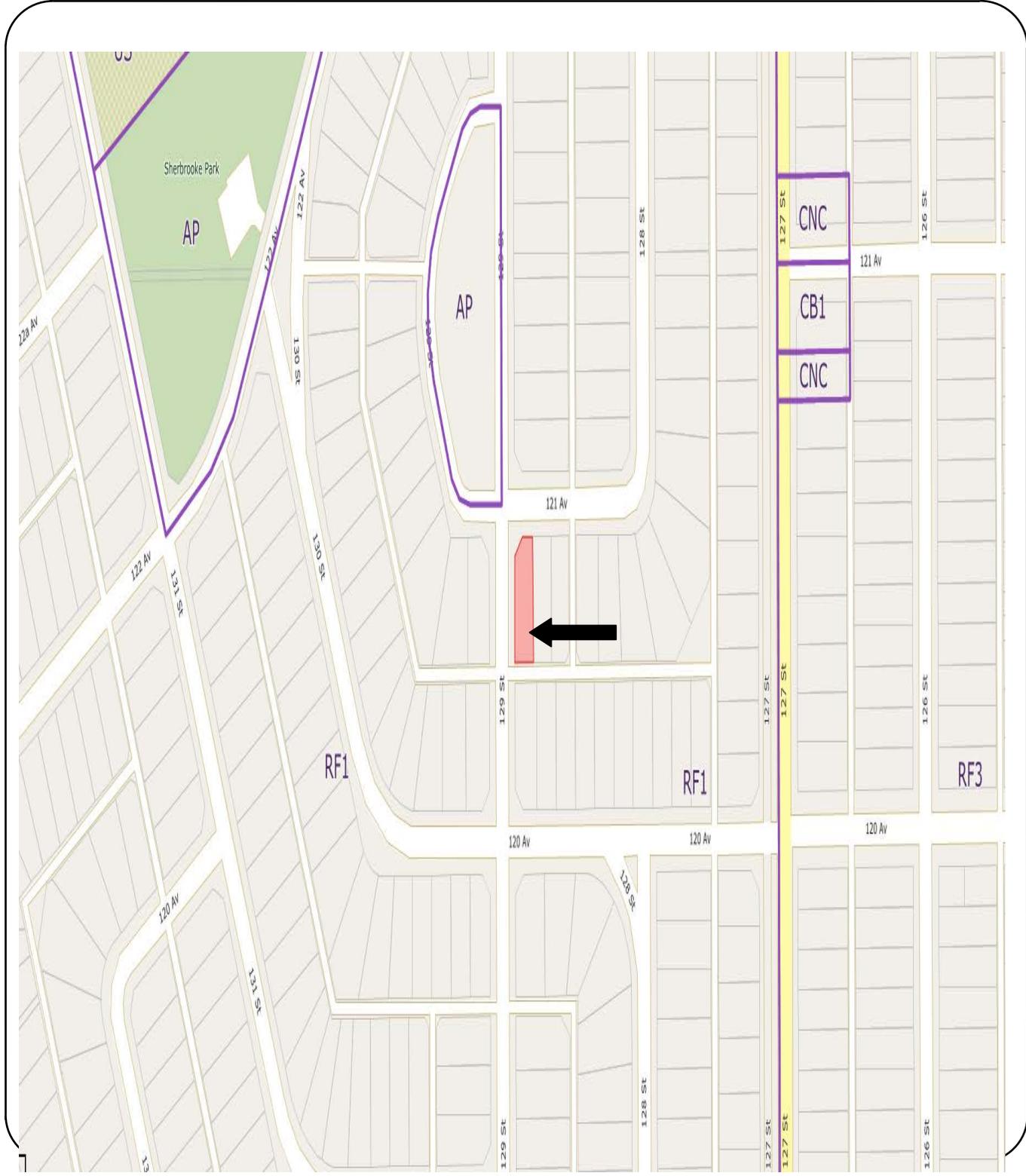
Project Number: 275019995-001
Application Date: FEB 16, 2018
Printed: March 21, 2018 at 10:58 AM
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Application for Minor Development Permit

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|----------------------|-------------------|--------------------|------------------|------------------|
| Dev. Application Fee | \$176.00 | \$176.00 | 04801631 | Feb 16, 2018 |
| Total GST Amount: | <u>\$0.00</u> | <u> </u> | | |
| Totals for Permit: | \$176.00 | \$176.00 | | |

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-050

