

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Tuesday, 9:00 A.M.
April 16, 2019**

**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-19-053	Construct exterior alterations to a Single Detached House (Driveway extension, 3.35 metres by 12.80 metres), existing without permits. 17223 - 61 Street NW Project No.: 303277578-001
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II	10:30 A.M.	SDAB-D-19-054	Construct a Single Detached House with a front attached Garage, Front Unenclosed Porch, fireplace and Basement development (NOT to be used as an additional Dwelling) 10609 - 60 Avenue NW, Project No.: 296346702-001
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NOTE: *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-053

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 303277578-001

APPLICATION TO: Construct exterior alterations to a Single Detached House (Driveway extension, 3.35 metres by 12.80 metres), existing without permits.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 1, 2019

DATE OF APPEAL: March 20, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17223 - 61 Street NW

LEGAL DESCRIPTION: Plan 1720278 Blk 16 Lot 21

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): McConachie Neighbourhood Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

When we purchase our home we specifically chose a corner lot as we noted a number of homes in our area as well as surrounding communities have extended driveways, with RV's parked on them. For this reason, we do not agree with reason #5 listed on the refusal. It has obviously been approved before or it's just not enforced? We disagree with refusal reason #4, as the extension does not encroach the corner radius of the roadway as the driveway is 10 plus feet from the corner. We disagree

with refusal reason #3 as the space in question is a side yard and not a front yard as stated on the refusal.

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.

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 written decision is given under section 642, [...]

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 clauses (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;

...

(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.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot Zone**.

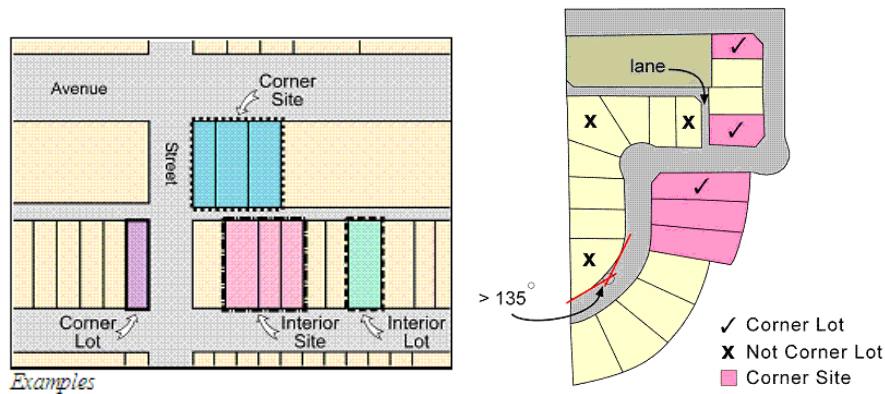
Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Under section 6.1, **Corner Lot** means:

- a. a Lot located at the intersection of two public roadways, other than Lanes; or
- b. a Lot located abutting a public roadway, other than a Lane, which changes direction at any point where it abuts the lot;

provided that in both cases the Lot shall not be considered a Corner Lot where the contained angle formed by the intersection or change of direction is an angle of more than 135 degrees. In the case of a curved corner, the

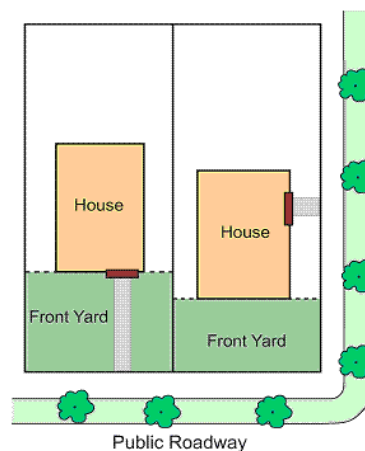
angle shall be determined by the lines tangent to the property line abutting the public roadways, provided the roadway is not a Lane, at the point which is the extremity of that property line. In the case of a curved corner, the point which is the actual corner of the Lot shall be that point on the property line abutting the public roadway, provided the roadway is not a Lane, which is nearest to the point of intersection of the tangent lines.



Under section 6.1, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

Section 115.1 states that the **General Purpose** of the (RSL) **Residential Small Lot Zone** is:

to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

Off-street Parking and Loading Regulations

Section 54.1(4) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. **lead directly from the roadway to the Garage or Parking Area;**
- b. for a Garage or Parking Area with one parking space, have a maximum width of 4.3 metres, or the width of the Garage or Parking Area, whichever is the lesser;
- c. **For a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser; and**
- d. ...

Development Officer’s Determination

1) Driveway Location - The driveway does not lead directly from the roadway to the garage (Section 54.1.4(a)). [unedited]

2) Driveway Width - The width of the driveway is 14.2m instead of 11.1m (Section 54.1.4(c)). [unedited]

Location of Vehicular Parking Facilities

Section 54.2(2) states:

...

- e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:
 - i. **parking spaces shall not be located within a Front Yard in a Residential Zone;**
 - ii. on a Corner Lot in a Residential Zone, parking spaces, in addition to complying with the other provisions of this Bylaw, shall not be located within the Side Setback Abutting the flanking public roadway, other than a Lane; and
 - iii. ...

Development Officer’s Determination

3) Parking Space - Parking spaces shall not be located within a front yard in a residential zone (Section 54.2.1(e)(i)). [unedited]

Access to Sites

Section 53.1 states “All access locations and curb crossings shall require the approval of Transportation Services.”

Development Officer’s Determination

4) Access To Site - All Site access shall require the approval of Transportation Development and Engineering (Section 53.1). Transportation Development and Engineering denied site access in this area. "No portion of the driveway shall encroach within the corner radius of the roadway." [unedited]

Objects Prohibited or Restricted in Residential Zones

Section 45.3 states “On a Site zoned Residential, no person shall keep a large Recreational Vehicle, for any longer than is reasonably necessary to load or unload such vehicle, in the Front Yard or in any Side Setback Abutting a public roadway other than a Lane.”

Section 45.4 states:

Notwithstanding Section 45(3), from April 1 to October 31 inclusive, on a Site with no rear Lane, where vehicle access is available through the Front Setback or through the flanking Side Setback, Large Recreational Vehicles shall be parked at a Setback of at least 0.6 m from the interior edge of the sidewalk, or curb where no sidewalk is present. This distance may be reduced at the discretion of the Development Officer.

Section 45.5 states “Notwithstanding Section 45(4), the 0.6 m Setback requirement does not apply to any portion of the Recreational Vehicle under 1.0 m in height where a sidewalk is present.”

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

5) Prohibited Object - On a Site zoned Residential, no person shall keep a large Recreational Vehicle, for any longer than is reasonably necessary to load or unload such vehicle, in the Front Yard or in any Side Setback Abutting a public roadway other than a Lane (Section 45.3). [unedited]

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.

	Project Number: 303277578-001 Application Date: JAN 23, 2019 Printed: March 1, 2019 at 9:23 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Driveway Extension Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 17223 - 61 STREET NW Plan 1720278 Blk 16 Lot 21
Scope of Application To construct exterior alterations to a Single Detached House (Driveway extension, 3.35m x 12.80m), existing without permits.	
Permit Details	
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 470.25
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused Issue Date: Mar 01, 2019 Development Authority: WINGET, MARK Reason for Refusal <ol style="list-style-type: none"> 1) Driveway Location - The driveway does not lead directly from the roadway to the garage (Section 54.1.4(a)). 2) Driveway Width - The width of the driveway is 14.2m instead of 11.1m (Section 54.1.4(c)). 3) Parking Space - Parking spaces shall not be located within a front yard in a residential zone (Section 54.2.1(e)(i)). 4) Access To Site - All Site access shall require the approval of Transportation Development and Engineering (Section 53.1). Transportation Development and Engineering denied site access in this area. "No portion of the driveway shall encroach within the corner radius of the roadway." 5) Prohibited Object - On a Site zoned Residential, no person shall keep a large Recreational Vehicle, for any longer than is reasonably necessary to load or unload such vehicle, in the Front Yard or in any Side Setback Abutting a public roadway other than a Lane (Section 45.3). Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.	
Building Permit Decision Refused	
Fees	
THIS IS NOT A PERMIT	



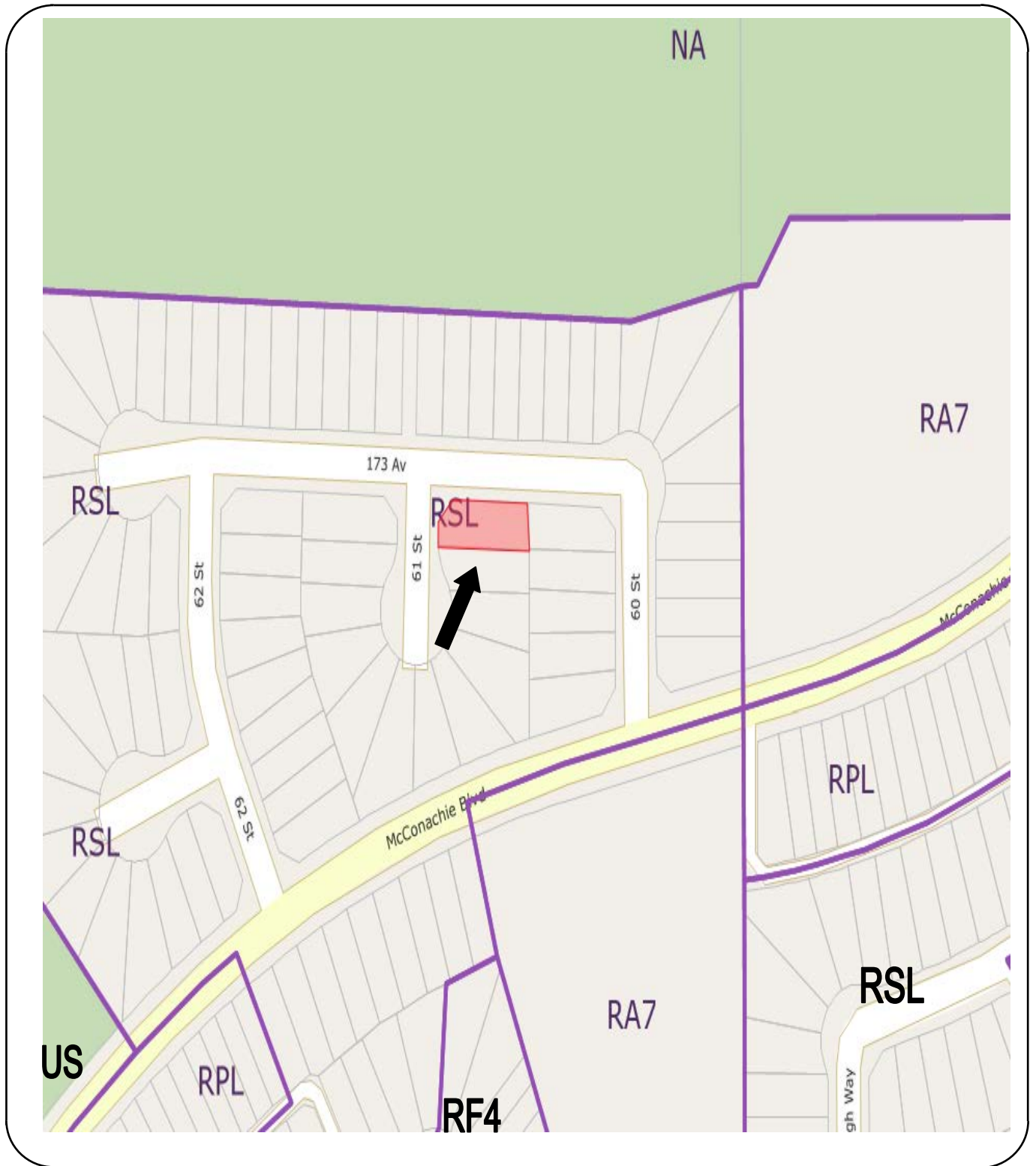
Application for Driveway Extension Permit

Project Number: **303277578-001**
Application Date: JAN 23, 2019
Printed: March 1, 2019 at 9:23 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$173.00	\$173.00	05604887	Jan 23, 2019
Existing Without Permit Dev Application Penalty Fee	\$173.00	\$173.00	05604887	Jan 23, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$346.00</u>	<u>\$346.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-053



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-054

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 296346702-001

APPLICATION TO: Construct a Single Detached House with a front attached Garage, Front Unenclosed Porch, fireplace and Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 13, 2019

DATE OF APPEAL: March 26, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10609 - 60 Avenue NW

LEGAL DESCRIPTION: Plan 239HW Blk 7 Lot 3, Plan 1823270 Blk 7 Lot 3A

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 wish to request a hearing for an appeal to be granted a variance for the development permit for 10609 - 60 Avenue NW (Plan 239HW Blk 7 Lot 3). Our development permit was refused by Development Authority Ms. Echo Lai with the City of Edmonton for the following reason:

- Driveway:
The driveway is located off of 60 Avenue NW (front) instead of the Lane (Section 814.3.17).

The basis for our appeal is fourfold, as outlined in the sections below.

Comparable Properties in Neighbourhood

There are multiple houses with shared back lane access to the subject property in the immediate vicinity of the subject property that have either a front attached garage or a front approach driveway. See Drawing A for a map identifying these properties and Drawing B for photos (attached).

Also of note, the previous house on this lot had a front approach driveway and attached carport.

Listed are a sampling of ten houses with front attached garages and shared back lane access to the subject property, many of which are recently built homes. It seems apparent from these houses that a precedent exists in the neighborhood for homes with both front attached and rear detached garages, per builder preference.

1. 10613 - 60 Avenue NW – *Front attached garage*
2. 10615 - 60 Avenue NW – *Front approach driveway*
3. 5815 - 107 Street NW – *Front attached garage*
4. 5807 - 107 Street NW – *Front attached garage*
5. 5607 - 107 Street NW – *Front attached garage*
6. 5603 - 107 Street NW – *Front attached garage*
7. 5507 - 107 Street NW – *Front attached garage*
8. 5503 - 107 Street NW – *Front attached garage*
9. 5415 - 107 Street NW – *Front attached garage*
10. 5409 - 107 Street NW – *Front attached garage*

Transportation Approval

In a Memorandum from Development and Zoning Services dated February 28, 2019, Karen Haromy, Senior Transportation Technician in Subdivision Planning, stated that their Section does not have any technical concerns with the Proposed Curb Crossing Permit. If the development permit and/or appeal is approved, the front driveway can be built with certain conditions, as outlined in the attached document, Appendix A.

We are happy to comply with all conditions as outlined.

Mature Elm Tree

The subject property has a mature elm tree on the lot in the rear. The approximate age of the tree is 135 years, based on stem circumference entered into the online Tree Age Calculator tool (www.tree-guide.com/tree-agecalculator). See Drawing C for photos of the tree (attached). The tree in the rear would need to be cut down to build an unattached rear garage. However, the tree can remain intact with a front approach driveway and front attached garage.

Although this tree is on private property, it is our wish to follow the spirit of the guidelines for the preservation of City trees:

https://www.edmonton.ca/residential_neighbourhoods/gardens_lawns_trees/trees-construction.aspx

Accessibility for Elderly Residents

Age-related accessibility is an issue of concern for me and my wife. We are approaching 70 years in age and worry about slip-related falls walking and carrying items between a rear unattached garage and the back entrance of the house. We will feel safer entering the house through a dry, heated attached garage.

Thank you for your consideration in this matter. Our son Jorey Klein will represent us at the hearing as we are currently out of the country. However, we are happy to answer any further questions you may have via phone or e-mail.

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,

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 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

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 clauses (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;
- ...
- (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.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(7), **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 one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is “to provide for Single Detached Housing while allowing other forms of small

scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.”

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.

Driveway Access

Section 814.3(17) states “where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Development Officer’s Determination

Driveway - The driveway is located off of 60 Avenue NW (front) instead of the Lane (Section 814.3.17). [unedited]

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a 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) and 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.

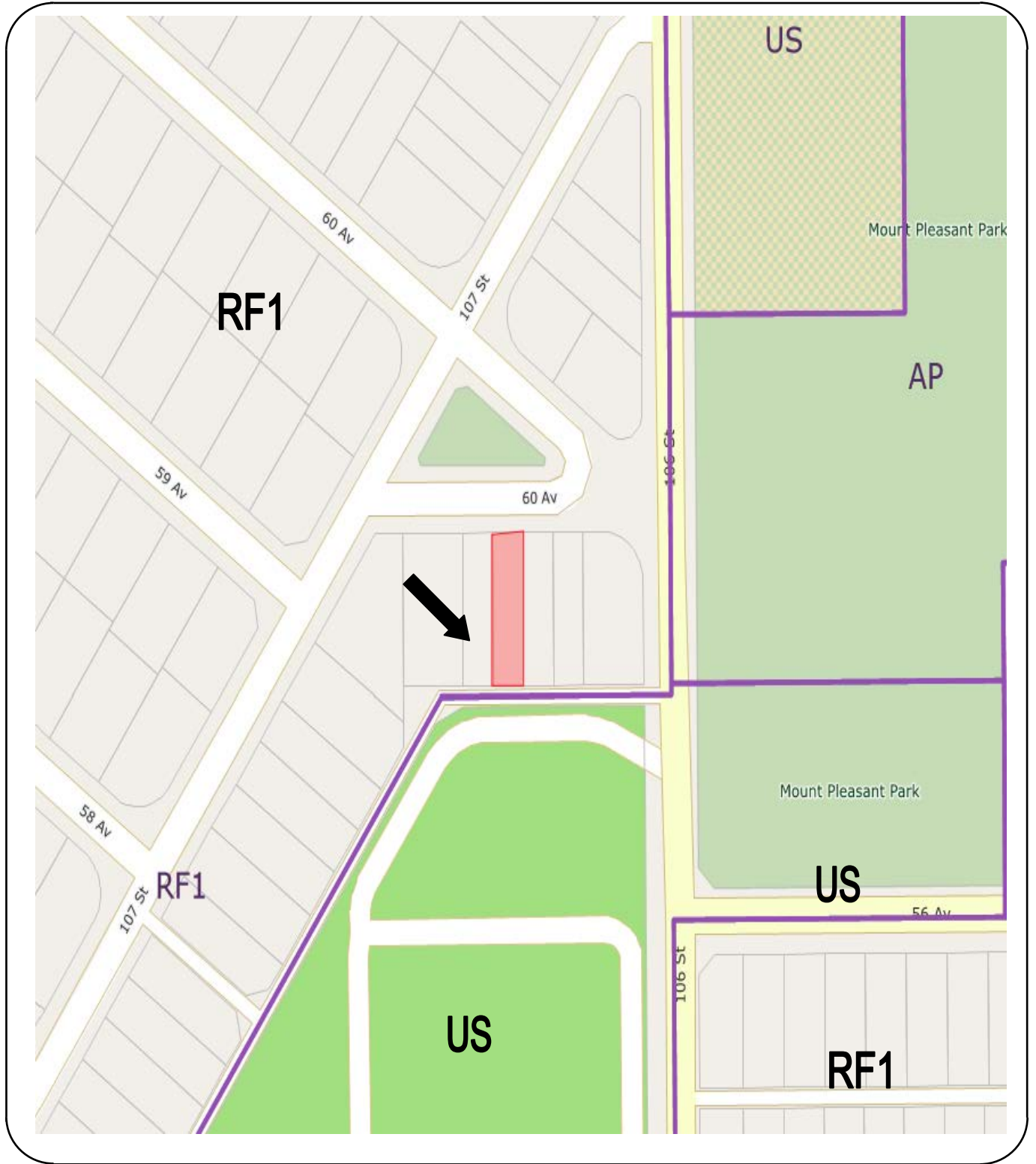
Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> 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 <u>60.0 m</u> 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.

	Project Number: 296346702-001 Application Date: OCT 29, 2018 Printed: March 26, 2019 at 8:58 AM Page: 1 of 1																														
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Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																												
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Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$143.00</td> <td style="text-align: right;">\$143.00</td> <td>781908061197001</td> <td style="text-align: right;">Nov 27, 2018</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$204.00</td> <td style="text-align: right;">\$204.00</td> <td>781908061197001</td> <td style="text-align: right;">Nov 27, 2018</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$485.00</td> <td style="text-align: right;">\$485.00</td> <td>781908061197001</td> <td style="text-align: right;">Nov 27, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$832.00</td> <td style="text-align: right; border-top: 1px solid black;">\$832.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Lot Grading Fee	\$143.00	\$143.00	781908061197001	Nov 27, 2018	Development Permit Inspection Fee	\$204.00	\$204.00	781908061197001	Nov 27, 2018	Dev. Application Fee	\$485.00	\$485.00	781908061197001	Nov 27, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$832.00	\$832.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-054

