

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
April 14, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-055

████████████████████
To erect a Fence at 1.85 metres abutting the Front
Yard along 66 Avenue NW and the Flanking Side
Yard along 91 Street NW

6516 - 91 Street NW
Project No.: 384469668-002

II 10:30 A.M. SDAB-D-21-056

████████████████████
To construct exterior alterations (Driveway
extension, irregular shape (3.6m x 8.0m))

3650 -Westcliff Way SW
Project No.: 379875196-002

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-21-055

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: [REDACTED]

APPLICATION NO.: 384469668-002

APPLICATION TO: Erect a Fence at 1.85 metres abutting the Front Yard along 66 Avenue NW and the Flanking Side Yard along 91 Street NW

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: February 16, 2021

DATE OF APPEAL: March 16, 2021

NOTIFICATION PERIOD: February 23, 2021 through March 16, 2021

RESPONDENT: [REDACTED]

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6516 - 91 Street NW

LEGAL DESCRIPTION: Plan 6045HW Blk 12 Lot 17

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:

I am a neighbor of the house 6516-91 street and would like to express my concerns for the appeal of the fence bylaw for this property. The 6-foot-tall fence surrounding the entire property is a concern to me and my neighbors (we have had many discussions) for the following reasons:

-The neighborhood of Hazeldean is now considered to be an infill neighborhood and many new houses are going up. These houses and their fencing should be designed to complement the neighborhood. This fence does not. The fence has multiple beware of dog, keep out and video cameras in use signs. The home owner has never made any attempt to speak with any of the neighbors and neighborly connections are deterred by this fence.

-If this fence is allowed to stay as built, it will set a precedent for others who wish to build the same tall fences surrounding their entire yard. This does not contribute to the healthy walking communities that the City of Edmonton wants to create. There are no other fences on this street, let alone a 6 foot one. This owner should be held to abide by City Bylaws.

-Our street is one that many use as a walking location, it is close to the ravine and we have a fair bit of foot traffic. This fence is right against the sidewalk and presents as an ominous wall for everyone walking down the street.

-The front face of the house at 6516 91 street is facing a City green space. All those that use the green space are met with a great wall of fence. Should the City allow 6-foot fences adjoining green spaces?

-This fence was constructed in fall of 2019. I reported this fence height to 311 at that time. I question why it is March 2021 and this permit is just now coming to light.

-The garage on this property is also next to the fence. If the home owner is parked on the garage pad or in the garage, the fence blocks the view for the driver of any cars on the street or pedestrians on the sidewalk. It poses a danger to others.

-The fence prevents the home owner from actually seeing the sidewalk from the house. This home owner did not maintain the sidewalk free of snow during this winter. There were reports regarding this to 311. If the home owner could see the sidewalk, perhaps they would show greater time and consideration to keeping it clean and safe for the many pedestrians who use it.

-As the fence is 6 feet tall and the sidewalks are not kept clean, the fence blocked the sunlight from reaching the snow and ice and helping to melt it. It freezes over night and becomes one block of ice that does not melt. Members of my house have slipped multiple times on this danger partially created by the fence and the home owner.

-The house at 6516-91 street is a corner lot. The fence runs along both street fronts of this lot, effectively blocking the view for cars that are turning onto the street or avenue. It also blocks the view for pedestrians seeing vehicles as they are crossing the street.

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 written decision is given 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;
- (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**.

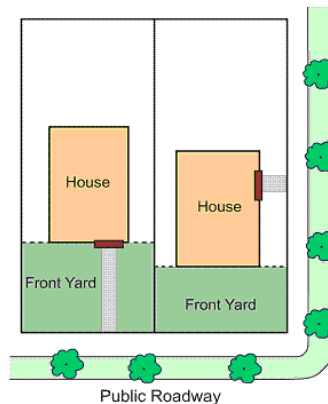
Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Under section 6.1, **Fence** means “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

Under section 6.1, **Height** means “a vertical distance between two points.”

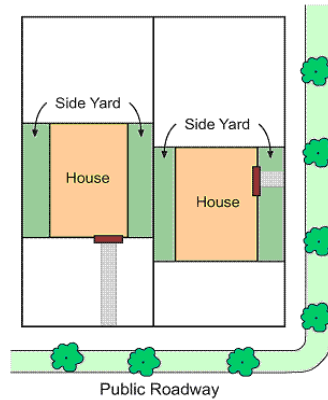
Under section 6.1, **Front Yard** means:

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, **Side Yard** means:

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



Section 110.1 states that the **General Purpose** of the **(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.

Fences, Walls, Gates, and Privacy Screening in Residential Zones

Section 49.1 states the following with respect to *Fences, walls and gates*:

- a. The regulations contained within Section 49.1 of this Bylaw apply to:
 - i. the Height of the material used in the construction of a Fence, wall, or gate, such as but not limited to boards, panels, masonry, ornamental iron, and chain link, plus any additional elements used for screening, such as, but not limited to, lattice.
- b. Notwithstanding subsection 49(1)(a), the regulations for Fences, walls, and gates contained within this Section do not apply to the Height of the posts or other supporting material used to anchor the Fence, wall, or gate.
- c. The Height of a Fence, wall, or gate shall be measured from the general ground level 0.5 m back from the property line of the Site on which the Fence, wall, or gate is to be constructed.

- d. On an Interior Site, the Height of a Fence, wall, or gate shall not exceed:
 - i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard, and
 - ii. 1.85 m in all other Yards.
- e. **On a Corner Site, the Height of a Fence, wall, or gate shall not exceed:**
 - i. **1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard,**
 - ii. **1.2 m for the portion of the Fence, wall, or gate situated between the flanking Side Lot Line and the foremost side Façade of the principal structure, and extending from the Front Lot Line to the Rear Lot Line, and**
 - iii. 1.85 m in all other Yards.
- f. **In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,**
- g. In the case where the permitted Height of a Fence, wall, or gate is 1.85 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 2.44 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,
- h. Notwithstanding subsection 49.1(f) and subsection 49.1(g) of this Bylaw, in the case of Double Fronting Sites, the Development Officer may grant a variance to allow a Fence, wall, or gate of up to 1.85 m in Height in one of the Front Yards, and allow a Fence, wall, or gate of up to 2.44 m in Height in the other Front Yard, having regard to the location of Fences, walls, and gates in the surrounding area and the requirement for screening.


Development Officer's Determination


Fence Height - The fence along 91 Street NW and 66 Avenue NW is 1.85m high, instead of 1.2m (Section 49.1.e)

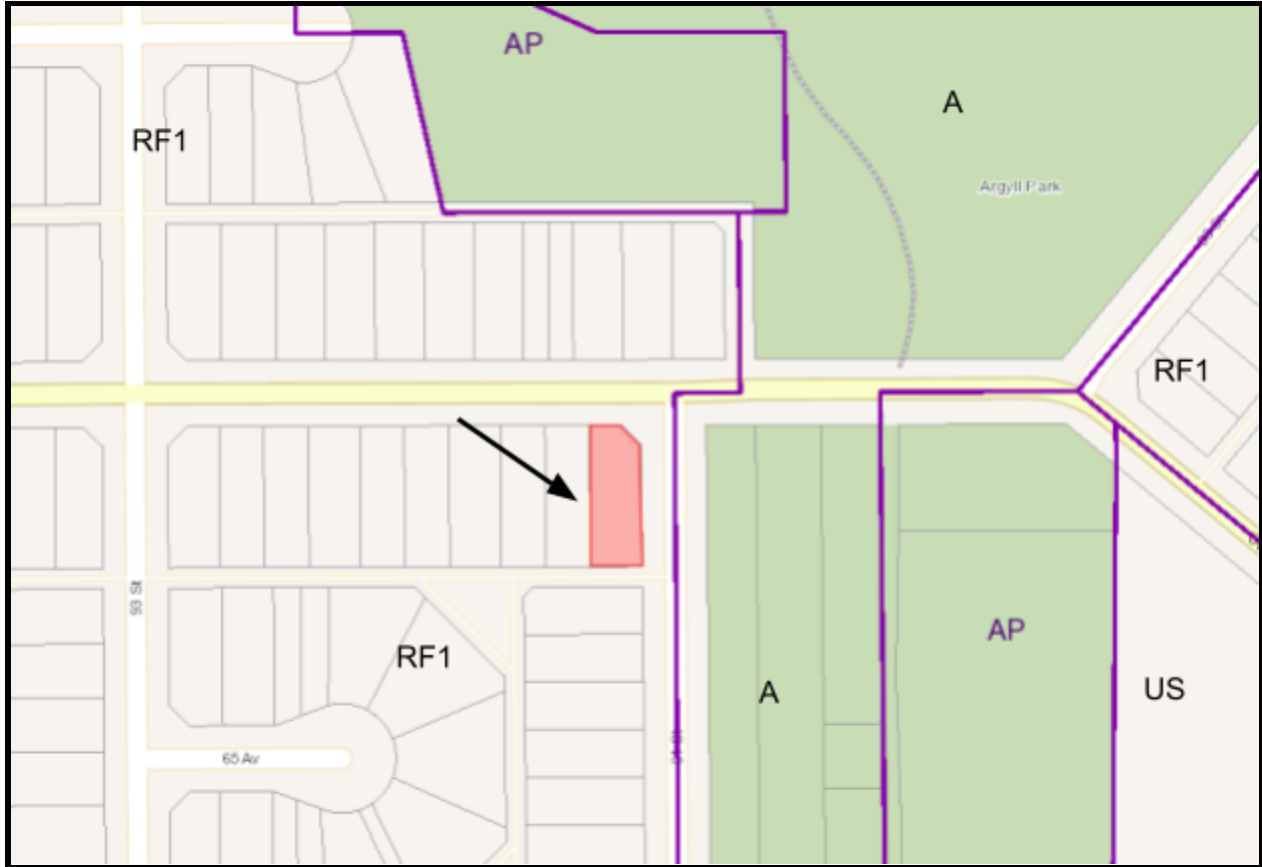
[unedited]

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: 384469668-002 Application Date: JAN 22, 2021 Printed: February 16, 2021 at 10:37 AM Page: 1 of 2		
<h2>Overheight Fence Permit</h2>			
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.			
Applicant	<table border="1"> <tr> <td data-bbox="816 449 1386 537"> Property Address(es) and Legal Description(s) 6516 - 91 STREET NW Plan 6045HW Blk 12 Lot 17 </td> </tr> <tr> <td data-bbox="816 541 1386 667"> Location(s) of Work Suite: 6516 - 91 STREET NW Entryway: 6516 - 91 STREET NW Building: 6516 - 91 STREET NW </td> </tr> </table>	Property Address(es) and Legal Description(s) 6516 - 91 STREET NW Plan 6045HW Blk 12 Lot 17	Location(s) of Work Suite: 6516 - 91 STREET NW Entryway: 6516 - 91 STREET NW Building: 6516 - 91 STREET NW
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Scope of Permit To erect a Fence at 1.85m abutting the Front Yard along 66 Avenue NW and the Flanking Side Yard along 91 Street NW.			
Permit Details <table border="1" style="width: 100%;"> <tr> <td data-bbox="228 793 808 873"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td data-bbox="816 793 1386 873"> Site Area (sq. m.): 672.03 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 672.03
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 672.03		
Development Permit Decision Approved Issue Date: Feb 16, 2021 Development Authority: LANGILLE, BRANDON Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21 (Section 17.1). This Development Permit authorizes the development of a Fence at 1.85m abutting the Front Yard along 66 Avenue NW and the Flanking Side Yard along 91 Street NW. The development shall be constructed in accordance with the stamped and approved drawings. The fence shall be installed entirely on the subject property. The fence shall not impede any sightlines for vehicular or pedestrian traffic. As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development (Section 57.3.1). Immediately upon completion of the development of the fence, the site shall be cleared of all debris. ADVISEMENTS: An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Section 5.2). Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800. VariANCES Fence Height - The fence along 91 Street NW and 66 Avenue NW is 1.85m high, instead of 1.2m (Section 49.1.e)			

	Project Number: 384469668-002 Application Date: JAN 22, 2021 Printed: February 16, 2021 at 10:37 AM Page: 2 of 2																									
<h2>Overheight Fence Permit</h2>																										
<p>Rights of Appeal This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act. Notice Period Begins: Feb 23, 2021 Ends: Mar 16, 2021</p>																										
<p>Building Permit Decision No decision has yet been made.</p>																										
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <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: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$182.00</td> <td style="text-align: right;">\$182.00</td> <td>05160707850F001</td> <td>Jan 22, 2021</td> </tr> <tr> <td>Existing Without Permit Dev Application Penalty Fee</td> <td style="text-align: right;">\$182.00</td> <td style="text-align: right;">\$182.00</td> <td>06896809</td> <td>Feb 01, 2021</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;">\$364.00</td> <td style="text-align: right; border-top: 1px solid black;">\$364.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$182.00	\$182.00	05160707850F001	Jan 22, 2021	Existing Without Permit Dev Application Penalty Fee	\$182.00	\$182.00	06896809	Feb 01, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$364.00	\$364.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-055

▲
N

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-056

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: [REDACTED]

APPLICATION NO.: 379875196-002

APPLICATION TO: Construct exterior alterations (Driveway extension, irregular shape (3.6 metres by 8.0 metres))

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 3, 2021

DATE OF APPEAL: March 16, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3650 - Westcliff Way SW

LEGAL DESCRIPTION: Plan 1224748 Blk 2 Lot 165

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Windermere Area Structure Plan
Windermere Neighbourhood Structure Plan

Grounds for Appeal

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

The development permit for the extension of the driveway was declined as per the response from the city for being compliant with section 54.3.3c .
Section 54 states: The Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site, either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway.

The subject property is an inside cul-de-sac and therefore similar to a corner site. Because of the irregular shape of the lot, the driveway would have to accommodate the shape for a few reasons such as the approach to the garage and the sidewalk to the entry of the home. Also, because the narrow shape of the front (as it widens to the back) it limits the number of vehicles and the way the vehicles must park when guest is attending the homeowners home. So not block off the street or create any obstruction on the main road they will be forced to use the driveway.

If the garage was an L-shaped garage this section of the bylaw would not be applicable as the driveway would far exceed the multiple of 3.7m.

Beautiful landscaping of trees, shrubs and rocks will be on both sides of the driveway/sidewalk with beautiful lanterns on either side creating a beautiful site for the neighbors and area for this estate home.

<i>General Matters</i>

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 written decision is given 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;

(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*:

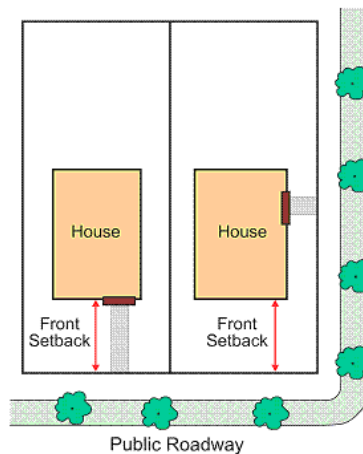
Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot Zone**

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, **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 Setback** means:

the distance that a development or a specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space or Separation Space.



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.”

<i>Vehicle Parking Design for Low-density Residential</i>
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Section 54.3(3) states:

The Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site, either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;
- ...
- c. for a Garage or Parking Area with two or more Vehicle Parking spaces, the width of the garage or parking area or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less; and
- ...

Development Officer’s Determination

The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a).

Proposed: The proposed Driveway extension does not lead directly to the Garage.


The Driveway shall be the width of the garage or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less. (Section 54.3.3.c)

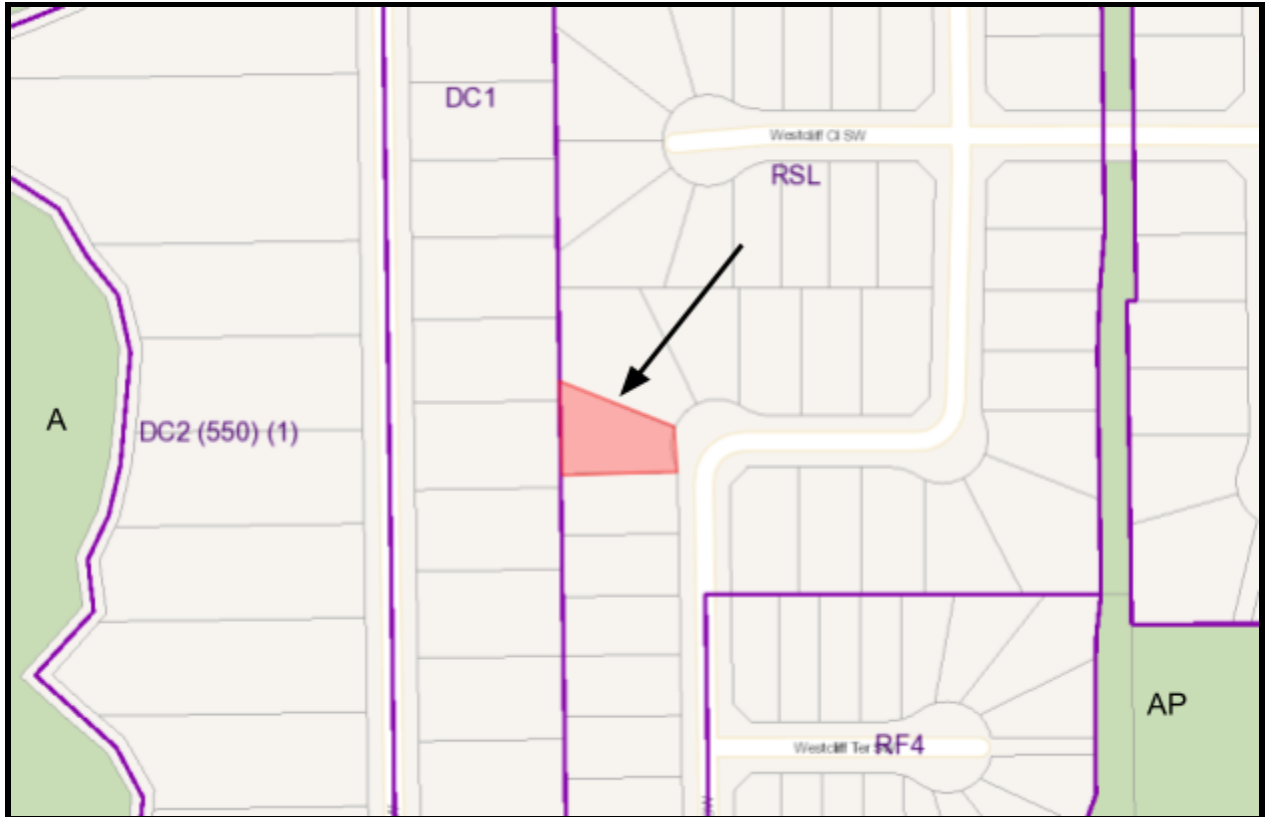
Proposed: 13.97m

Exceeds by: 2.87m.

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.

	<p>Application for Driveway Extension Permit</p>				<p>Project Number: 379875196-002 Application Date: DEC 02, 2020 Printed: March 3, 2021 at 3:08 PM Page: 1 of 1</p>																			
<p>This document is a Development Permit Decision for the development application described below.</p>																								
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 3650 - WESTCLIFF WAY SW Plan 1224748 Blk 2 Lot 165</p>																							
<p>Scope of Application To construct exterior alterations (Driveway extension, irregular shape (3.6m x 8.0m)).</p>																								
<p>Permit Details</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Class Of Permit:</td> <td style="width: 50%;">Site Area (sq. m.): 844.95</td> </tr> <tr> <td>Stat. Plan Overlay/Amend Area:</td> <td></td> </tr> </table>					Class Of Permit:	Site Area (sq. m.): 844.95	Stat. Plan Overlay/Amend Area:																	
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<p>Development Application Decision Refused Issue Date: Mar 03, 2021 Development Authority:BERNUY, MICHELLE</p> <p>Reason for Refusal The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a). Proposed: The proposed Driveway extension does not lead directly to the Garage.</p> <p>The Driveway shall be the width of the garage or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less. (Section 54.3.3.c) Proposed: 13.97m Exceeds by: 2.87m.</p> <p>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.</p>																								
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	Fee Amount	Amount Paid	Receipt #	Date Paid																				
Development Application Fee	\$176.00	\$176.00	0321520538610010	Dec 02, 2020																				
Total GST Amount:	\$0.00																							
Totals for Permit:	\$176.00	\$176.00																						
<p>THIS IS NOT A PERMIT</p>																								



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-056

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