

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
August 4, 2016**

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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I	9:00 A.M.	SDAB-D-16-187	Construct a 3 Dwelling Apartment House and to demolish the existing Single Detached House  11007 - 85 Avenue NW Project No.: 182128114-001
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II	11:00 A.M.	SDAB-D-16-188	Construct an addition to a Single Detached House (3rd storey loft with Rooftop Terrace)  13908 - Valleyview Drive NW Project No.: 161944336-014
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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-16-187

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 182128114-001

ADDRESS OF APPELLANT: 11007 - 85 Avenue NW

APPLICATION TO: Construct a 3 Dwelling Apartment House and to demolish the existing Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 4, 2016

DATE OF APPEAL: July 5, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11007 - 85 AVENUE NW

LEGAL DESCRIPTION: Plan I23A Blk 161 Lot 31

ZONE: DC1 Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Garneau Area Redevelopment

***Grounds for Appeal***

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

We are solicitors for SAN Properties Limited, the owner of the lands on which the proposed development is situate. Our client's builder's Development Permit Application has been refused. On behalf of our client, we hereby appeal the refusal on the following grounds:

1. The Development Officer failed to follow the directions of Council by failing to consider discretion granted to the Development Officer:

- a. as set out in the Garneau Area Redevelopment Plan, section DC1..2; and/or
  - b. in sections 720.3, 11.2(5) and 11.3 of the Zoning Bylaw to the extent the Development Officer failed to consider the propriety of granting a variance relative to the Development Permit Application.
2. The Development Officer failed to consider the impact of the proposed development on the existing character of built forms and on the existing streetscape.
  3. In the particular circumstances of this application, the proposed development meets the requirements for a variance a provided in section 687(3)(d) of the Municipal Government Act.
  4. Such further and other reasons as may be presented at the hearing of this appeal.

[unedited]

<i>General Matters</i>
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**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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit,

**Hearing and decision**

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

...

- (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.

### **Direct Control Districts**

The *Municipal Government Act* states:

#### **Designation of direct control districts**

**641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

**(2)** If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

**(3)** In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

**(4)** Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or

- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

The Board is advised that the decision of refusal by the Development Officer is dated July 4, 2016. The Notice of Appeal was filed on July 5, 2016.

The Board is advised that the provisions referenced by the Development Officer in his decision refer to the Garneau Area Redevelopment Plan (Bylaw 6221), which was passed in 1982. The Garneau ARP refers to the Land Use Bylaw in effect at the time it was passed, Edmonton Land Use Bylaw 5996.

**General Provisions from Edmonton Land Use Bylaw 5996:**

Section 710.1 of the Land Use Bylaw states that the **General Purpose** of the **DC1 Direct Development Control District** is:

to provide a Direct Control District for detailed, sensitive control of the use, development, siting and design of buildings and disturbance of land where this is necessary to establish, preserve or enhance:

- a. areas of unique character or special environmental concern, as identified and specified in an Area Structure Plan or Area Redevelopment Plan; or
- b. areas or sites of special historical, cultural, paleontological, archaeological, prehistorical, natural, scientific, or aesthetic interest, as designated under the Historical Resources Act, 1980.

Section 710.4 of the Land Use Bylaw states:

**710.4 Development Regulations**

1. All developments shall comply with the development regulations contained in an approved Area Redevelopment Plan or Area Structure Plan, except that any regulations or conditions applying as a result of designation of a historical resource under the Historical Resources Act, shall take precedence.

2. In the case of designated historical resources, any application to demolish, alter, restore or repair a building or structure, or to excavate or otherwise disturb land, shall require prior written authority, in accordance with the Historical Resources Act, 1980.

3. A development may also be evaluated with respect to its compliance with:
  - a. the objectives and policies of an applicable Statutory Plan;
  - b. the General Regulations and Special Land Use Provisions of this Bylaw; and
  - c. the regulations of abutting Land Use Districts.

The Garneau Area Redevelopment Plan, at page 147, states that the following Development Criteria shall apply to developments within the DC1 Development Control District pursuant to Section 710.4 of the Land Use Bylaw:

1. The General Regulations and Special Land Use Provisions of the Land Use Bylaw.
2. The development regulations of the RF3 (Low Density Redevelopment) District, provided that the Development Officer may relax these regulations for individual applications, where such relaxations would assist in the achievement of the development criteria in Clauses 3, 4 and 5 below.
3. New developments or additions to existing buildings shall be compatible with the scale, massing and siting of adjacent buildings along the same street frontage.
4. The rehabilitation and renovation of existing buildings shall retain the original details of rooflines, doors and windows, trim, exterior finishing materials and similar architectural features to the greatest extent practical.
5. The design and appearance of new developments shall incorporate building details and finishing materials which are common to the domestic architecture of the turn of the century and early 1920's detached housing in the area.
6. Existing trees and vegetation shall be retained wherever possible and where removal for new construction

Under Section 140.3(3) of the Edmonton Land Use Bylaw 5996, **Apartment Housing** is listed as a **Discretionary Use** in the (RF3) Low Density Redevelopment District.

Section 10.1(1) of the Land Use Bylaw states:

**Apartment Housing** means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

<b><i>Reduced Side Setback</i></b>
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Section 140.4(8)(a) of the Land Use Bylaw states:

8. Side Yards shall be established on the following basis;

- a) Side Yards shall total at least 20% of the site width, but the requirement shall not be more than 6.0 m (19.7 ft.) with a minimum Side Yard of 1.2 m (3.94 ft.) except that the minimum Side Yard for buildings over 7.5 m (24.6 ft.) in Height shall be 2 m (6.6 ft.);

**Development Officer's Determination**

Reduced Side Setback - The distance from the house to the property line shared with 11009 - 85 Avenue (West side lot line) is 1.2m instead of 2.0m and the distance from the house to the property line shared with 11003 - 85 Avenue (East side lot line) is 1.2m instead of 2.0m (Section 140.4.8.a)..

[unedited]

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**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.

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Project Number: **182128114-001**  
 Application Date: NOV 06, 2015  
 Printed: July 20, 2016 at 2:21 PM  
 Page: 1 of 2

## Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

<p><b>Applicant</b></p> <div style="border: 1px solid black; height: 50px; width: 100%;"></div>	<p><b>Property Address(es) and Legal Description(s)</b>                  11007 - 85 AVENUE NW                  Plan I23A Blk 161 Lot 31</p> <hr/> <p><b>Specific Address(es)</b></p> <p>Suite: 101, 11007 - 85 AVENUE NW                  Suite: 201, 11007 - 85 AVENUE NW                  Suite: BSMT, 11007 - 85 AVENUE NW                  Entryway: 11007 - 85 AVENUE NW                  Building: 11007 - 85 AVENUE NW</p>
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**Scope of Application**  
 To construct a 3 Dwelling Apartment House and to demolish the existing Single Detached House.

<p><b>Permit Details</b></p> <p>Class of Permit:                  Gross Floor Area (sq.m.): 363.8                  New Sewer Service Required: Y                  Site Area (sq. m.): 405</p>	<p>Contact Person:                  Lot Grading Needed?: Y                  NumberOfMainFloorDwellings: 1                  Stat. Plan Overlay/Annex Area: (none)</p>
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I/We certify that the above noted details are correct.  
 Applicant signature: \_\_\_\_\_

**Development Application Decision**  
 Refused

**Reason for Refusal**  
 Reduced Side Setback - The distance from the house to the property line shared with 11009 - 85 Avenue (West side lot line) is 1.2m instead of 2.0m and the distance from the house to the property line shared with 11003 - 85 Avenue (East side lot line) is 1.2m instead of 2.0m (Section 140.4.8.a)..

**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:** Jul 04, 2016      **Development Authority:** HARRISON, MARK      **Signature:** \_\_\_\_\_

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$275.00	\$275.00	02877264	Nov 06, 2015
Major Dev. Application Fee	\$770.00	\$770.00	02877264	Nov 06, 2015

**THIS IS NOT A PERMIT**



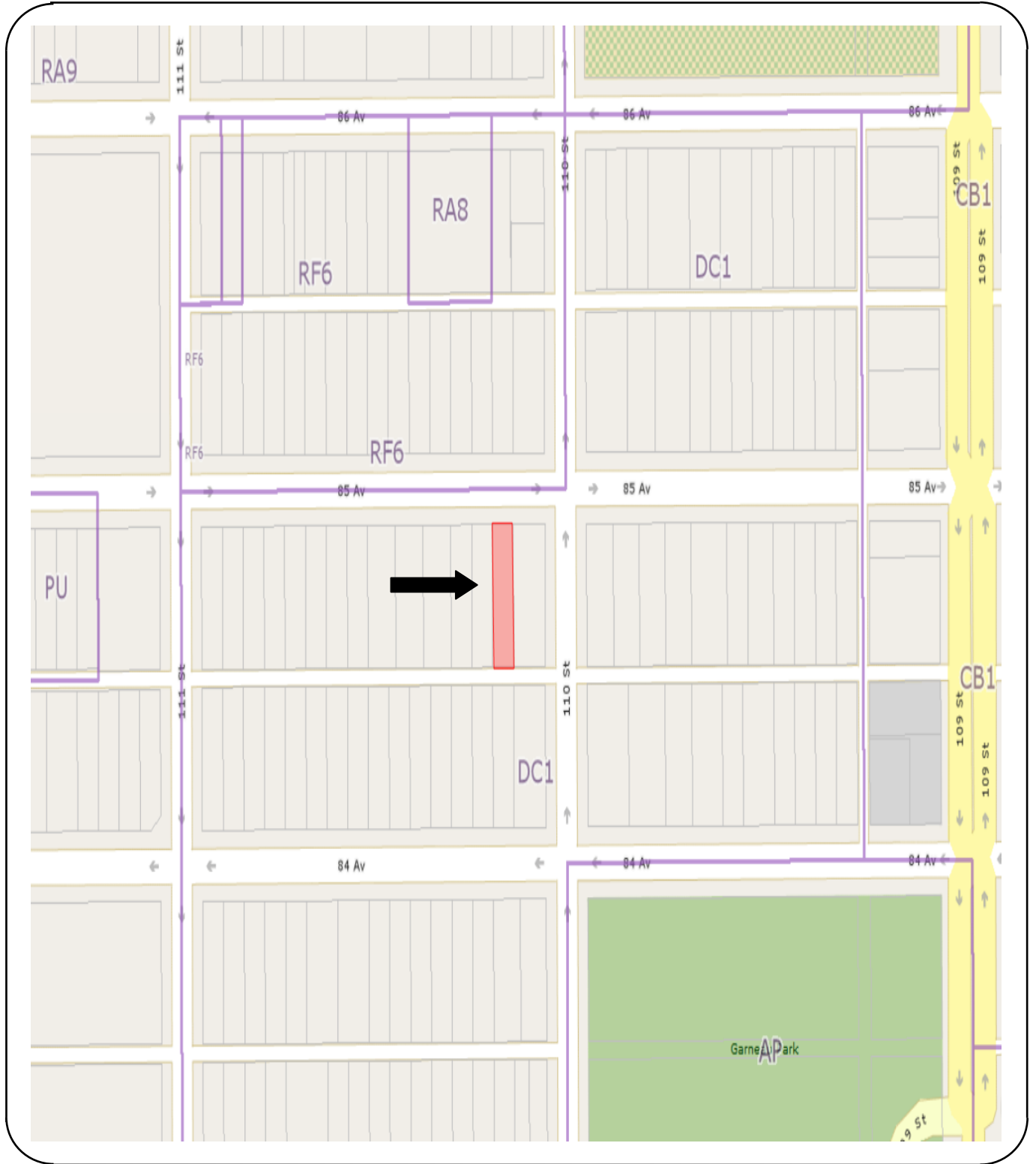
Project Number: **182128114-001**  
Application Date: NOV 06, 2015  
Printed: July 20, 2016 at 2:21 PM  
Page: 2 of 2

## Application for Major Development Permit

### Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund 2012+	\$2,198.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,243.00	\$1,045.00		
(\$2,198.00 outstanding)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-187



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-188

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 161944336-014

ADDRESS OF APPELLANT: 13908 - Valleyview Drive NW

APPLICATION TO: Construct an addition to a Single Detached House (3rd storey loft with Rooftop Terrace).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 5, 2016

DATE OF APPEAL: July 8, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13908 - VALLEYVIEW DRIVE NW

LEGAL DESCRIPTION: Plan 2630KS Blk 1 Lot 15

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

The Development Permit is for a roof top terrace with a seating area accessed by an interior stair. The design has purposely set back this loft area from the perimeter of the house, and has limited the size to be less than 50% of the roof area. (Similar to older homes that have occupied Attics with Dormers, which are considered 2 1/2 storeys because of their sloped roofs). There are a lot of precedents throughout this City that allow this feature on single family homes, including some within the neighborhood of this development.

[unedited]

***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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit,

**Hearing and decision**

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

...

- (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.

The Board is advised that the decision of refusal by the Development Officer is dated July 5, 2016. The Notice of Appeal was filed on July 8, 2016.

**General Provisions from the *Edmonton Zoning Bylaw*:**

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, Semi-detached Housing and Duplex Housing under certain conditions.

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

Section 7.2(9) states:

**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 Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to [Section 78](#) of this Bylaw.

Section 6.1(2) states:

**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;

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

... to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

<b><i>Maximum Height</i></b>
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Section 824.3(13) states that "the maximum Height shall not exceed 8.6 m, in accordance with Section 52."

**Development Officer's Determination**

1. The maximum Height shall not exceed 8.6 m, in accordance with Section 52. (Reference Section 814.3.13).

Proposed Height = 11.1 m  
Excess Height of = +2.5 m  
[unedited]

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**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.

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Project Number: **161944336-014**  
 Application Date: MAY 16, 2016  
 Printed: July 8, 2016 at 3:36 PM  
 Page: 1 of 1

## Application for Minor Development Permit

This document is a Development Permit Decision for the development application described below.

<p><b>Applicant</b></p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	<p><b>Property Address(es) and Legal Description(s)</b>                  13908 - VALLEYVIEW DRIVE NW                  Plan 2630KS Blk 1 Lot 15</p>
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**Scope of Application**  
 To construct an addition to a Single Detached House (3rd storey loft with Rooftop Terrace).

<p><b>Permit Details</b></p> <p># of Dwelling Units Add/Remove: 1                  Client File Reference Number:                  Minor Dev. Application Fee: House Addition                  Secondary Suite Included?: N</p>	<p>Class of Permit: Class B                  Lot Grading Needed?: N                  New Sewer Service Required: N                  Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</p>
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I/We certify that the above noted details are correct.

Applicant signature: \_\_\_\_\_

**Development Application Decision**  
 Refused

**Reason for Refusal**

- The maximum Height shall not exceed 8.6 m, in accordance with Section 52. (Reference Section 814.3.13).

Proposed Height = 11.1 m  
 Excess Height of = +2.5 m

**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: Jul 05, 2016      Development Authority: LIANG, BENNY      Signature: \_\_\_\_\_

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$41.00			
Dev. Application Fee	\$393.00	\$393.00	03290535	May 18, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$434.00	\$393.00		
(\$41.00 outstanding)				

**THIS IS NOT A PERMIT**





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-188



**BUSINESS LAID OVER**

SDAB-D-16-136	An appeal by <u>Bill Co. Incorporated</u> to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing South) <b><i>August 17 or 18, 2016</i></b>
SDAB-D-16-176	An appeal by <u>Outfront Media</u> to install (1) Freestanding Off-premises Sign (Outfront Media), existing without permits <b><i>August 25, 2016</i></b>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <b><i>November 30 or December 1, 2016</i></b>

**APPEAL HEARINGS TO BE SCHEDULED**

189288219-004	An appeal by <u>Moroz Law Office</u> to leave as built an Accessory Building <b><i>August 17, 2016</i></b>
186484308-002	An appeal by <u>Elaine (Jo) &amp; Myron Kucher; Starr Curry; Mark Stephen; Ryan McCann &amp; Arianna Piccinin; and Ross Brown VS Nasib Ranu</u> to convert an existing Single Detached House to Child Care Services and to construct interior and exterior alterations (120 children occupancy). <b><i>September 7 or 8, 2016</i></b>