

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
August 4, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-120

To install two (2) Freestanding Off-Premises Signs (OUTFRONT | STADIUM MINI MART)

9361 - 107A Avenue NW
Project No.: 392088753-002

II 10:30 A.M. SDAB-D-21-121

To construct exterior alteration to a Single Detached House (increase in overall height of house)

9732 - 146 Street NW
Project No.: 394604459-002

III 1:30 P.M. SDAB-D-21-122

To construct a Single Detached House with Unenclosed Front Porch, balcony, rear attached Garage, fireplaces, Basement development (NOT to be used as an additional Dwelling), and to demolish a Single Detached House

13703 - 79 Avenue NW
Project No.: 396872513-002

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-21-120

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 392088753-002

APPLICATION TO: Install two (2) Freestanding Off-Premises Signs
(OUTFRONT | STADIUM MINI MART)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 14, 2021

DATE OF APPEAL: July 6, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9361 - 107A Avenue NW

LEGAL DESCRIPTION: Plan RN23 Blk 18 Lot 22, Plan RN23 Blk 18 Lot 21, Plan
RN23 Blk 18 Lot 23

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Boyle Street McCauley Area Redevelopment Plan

Grounds for Appeal

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

The signs have existed for almost 25 years with no issues or complaints, and they provide a source of income in the form of rental payment, to the landlord. When built, one was classified a junior panel and complied in full with the Bylaw at the time, which has changed. Both exceed the required

setback of 3 m from a roadway when taking the sidewalk into consideration.

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 the decision in accordance with subsection (2.1).

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 board hearing the appeal referred to in subsection (1)

...

- (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 (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.

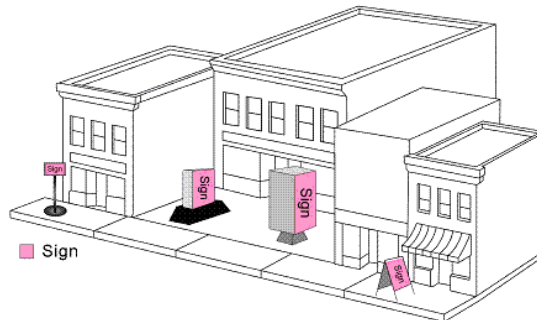
General Provisions from the *Edmonton Zoning Bylaw*:

Under section 330.3(39), a **Freestanding Off-premises Sign** is a **Discretionary Use** in the **(CB1) Low Intensity Business Zone**.

Under section 7.9(4), **Freestanding Off-premises Signs** means “a Freestanding Sign, which is a Permanent Sign, displays On-premises Advertising and contains no Digital Copy.”

Under section 6.2, a **Freestanding Sign** means:

means a Sign supported independently of a building.



Section 340.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses, and limited Residential-related Uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

Section 819.5(2) states “Signs shall complement the pedestrian-oriented commercial environment and shall be provided in accordance with Schedule 59E of this Bylaw, [...]”

Height

Section 819.5(2)(a) states “the maximum Height of a Freestanding Sign shall be 6.0 m, as measured from Grade to the top of the Freestanding Sign.”

Under section 6.1, **Height Signs** means “the vertical distance measured from the finished ground surface directly under the Sign to the highest point of the Sign.”

Development Officer’s Determination

1. Reference Section 819.5(2)(a) - the maximum Height of a Freestanding Sign shall be 6.0 m, as measured from Grade to the top of the Freestanding Sign.

Sign #1 Proposed: 8.0 m
Sign #1 Exceeds By: 2.0 m

[unedited]

Separation Distance

Schedule 59E.3(2)(g) states:

proposed Sign locations shall be separated from Signs with Digital Copy greater than 8.0 m² or Off-premises Signs as follows:

Proposed Sign Area	Minimum separation distance from Signs with Digital Copy greater than 8.0 m ² or Off-premises Signs
Greater than 8.0 m ² to less than 20 m ²	100 m
20 m ² to 40 m ²	200 m
Greater than 40 m ²	300 m

The separation shall be applied from the location of the larger Off-premises Sign or Sign with Digital Copy.

Development Officer's Determination

2. Reference Section 59E.3(2)(g) - proposed Sign locations shall be separated from Off-premises Signs less than 20 m² by a minimum separation of 100 m

**Proposed: 36.01 m Sign #1 to Sign #2
Deficient by: 64.0 m**

[unedited]

Sign Regulations - General Provisions

Schedule 59.2(21) states:

Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site. This separation distance does not apply to different Sign Uses that are co-located on the same Freestanding Sign structure.

Development Officer's Determination

3. Reference Section 59.2(21) - Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site.

**Sign #1 Proposed: 20.16 m to Freestanding On-premises Sign
Sign #1 Deficient by: 24.84 m**

4. Reference Section 59.2(21) - Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site.

**Sign #2 Proposed: 30.77 m to Freestanding On-premises Sign
Sign #2 Deficient by: 14.23 m**

[unedited]

Schedule 59E Regulations

Schedule 59E.3(2)(c) states:

all proposed Freestanding Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development. The Development Officer may require revisions to the application to mitigate the impact of a proposed Off-premises Sign or may refuse a permit that adversely impacts the built environment.

Development Officer’s Determination

5. Reference Section 59E.3(2)(c) all proposed Freestanding Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development.

In the opinion of the Development Officer the Signs proximity to residential development adversely impacts the built environment.

[unedited]

Community Consultation

Section 819.5(3) states:

When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this section of the Overlay the notification process outlined in subsection 819.4(15) shall apply.

Section 819.4(15) states:


When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:


- a. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above 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 mailed, unless the Development Officer receives feedback from all specified recipients; 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 Section 11.3.

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.

	<h2>Application for Sign Permit</h2>	Project Number: 392088753-002 Application Date: APR 13, 2021 Printed: July 7, 2021 at 7:36 AM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.		
Applicant	Property Address(es) and Legal Description(s) 9361 - 107A AVENUE NW Plan RN23 Blk 18 Lot 22 9361 - 107A AVENUE NW Plan RN23 Blk 18 Lot 21 9361 - 107A AVENUE NW Plan RN23 Blk 18 Lot 23	
Scope of Application To install (2) Freestanding Off-Premises Signs (OUTFRONT STADIUM MINI MART).		
Permit Details		
ASA Sticker No./Name of Engineer: Construction Value: 25000	Class of Permit: Class B Expiry Date:	
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 2 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0	
Development Application Decision		
Refused		
Issue Date: Jun 14, 2021 Development Authority: MERCIER, KELSEY		
THIS IS NOT A PERMIT		

	<h2 style="margin: 0;">Application for Sign Permit</h2>	Project Number: 392088753-002 Application Date: APR 13, 2021 Printed: July 7, 2021 at 7:36 AM Page: 2 of 2																				
<p>Reason for Refusal</p> <p>1. Reference Section 819.5(2)(a) - the maximum Height of a Freestanding Sign shall be 6.0 m, as measured from Grade to the top of the Freestanding Sign.</p> <p style="margin-left: 20px;">Sign #1 Proposed: 8.0 m Sign #1 Exceeds By: 2.0 m</p> <p>2. Reference Section 59E.3(2)(g) - proposed Sign locations shall be separated from Off-premises Signs less than 20 m² by a minimum separation of 100 m</p> <p style="margin-left: 20px;">Proposed: 36.01 m Sign #1 to Sign #2 Deficient by: 64.0 m</p> <p>3. Reference Section 59.2(21) - Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site.</p> <p style="margin-left: 20px;">Sign #1 Proposed: 20.16 m to Freestanding On-premises Sign Sign #1 Deficient by: 24.84 m</p> <p>4. Reference Section 59.2(21) - Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site.</p> <p style="margin-left: 20px;">Sign #2 Proposed: 30.77 m to Freestanding On-premises Sign Sign #2 Deficient by: 14.23 m</p> <p>5. Reference Section 59E.3(2)(c) all proposed Freestanding Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development.</p> <p style="margin-left: 20px;">In the opinion of the Development Officer the Signs proximity to residential development adversely impacts the built environment.</p> <p>Rights of Appeal</p> <p style="margin-left: 20px;">THE Applicant has THE RIGHT OF appeal TO THE Subdivision AND Development Appeal Board (SDAB) WITHIN 21 days AFTER THE date ON which THE decision IS made AS outlined IN Chapter M-26, SECTION 683 THROUGH 689 OF THE Municipal Government Act.</p>																						
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 10%;">Receipt #</th> <th style="text-align: left; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Sign Development Application Fee</td> <td style="text-align: right;">\$750.00</td> <td style="text-align: right;">\$750.00</td> <td>06988326</td> <td>Apr 26, 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;">\$750.00</td> <td style="text-align: right; border-top: 1px solid black;">\$750.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Sign Development Application Fee	\$750.00	\$750.00	06988326	Apr 26, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$750.00	\$750.00		
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ITEM II: 10:30 A.M.

FILE: SDAB-D-21-121

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 394604459-002

APPLICATION TO: Construct exterior alteration to a Single Detached House
(increase in overall height of house)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 24, 2021

DATE OF APPEAL: July 8, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9732 - 146 Street NW

LEGAL DESCRIPTION: Plan 1922616 Blk 84 Lot 38A

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:

Impact of 6" over height on neighbourhood non-existent. Applying due to circumstances of the project and requesting leniency for this 6" construction error.

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 the decision in accordance with subsection (2.1).

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 board hearing the appeal referred to in subsection (1)

...

- (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 (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 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.

Height

Section 814.3(5) states “The maximum Height shall not exceed 10.0 m in the RF5 Zone and 8.9 m in all other Zones.”

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

Development Officer’s Determination

- 1. Height - The height to the midpoint of the roof is 9.05m, instead of the maximum of 8.90m (Reference Section 814.3.5).**

[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 11.3 and 11.4.

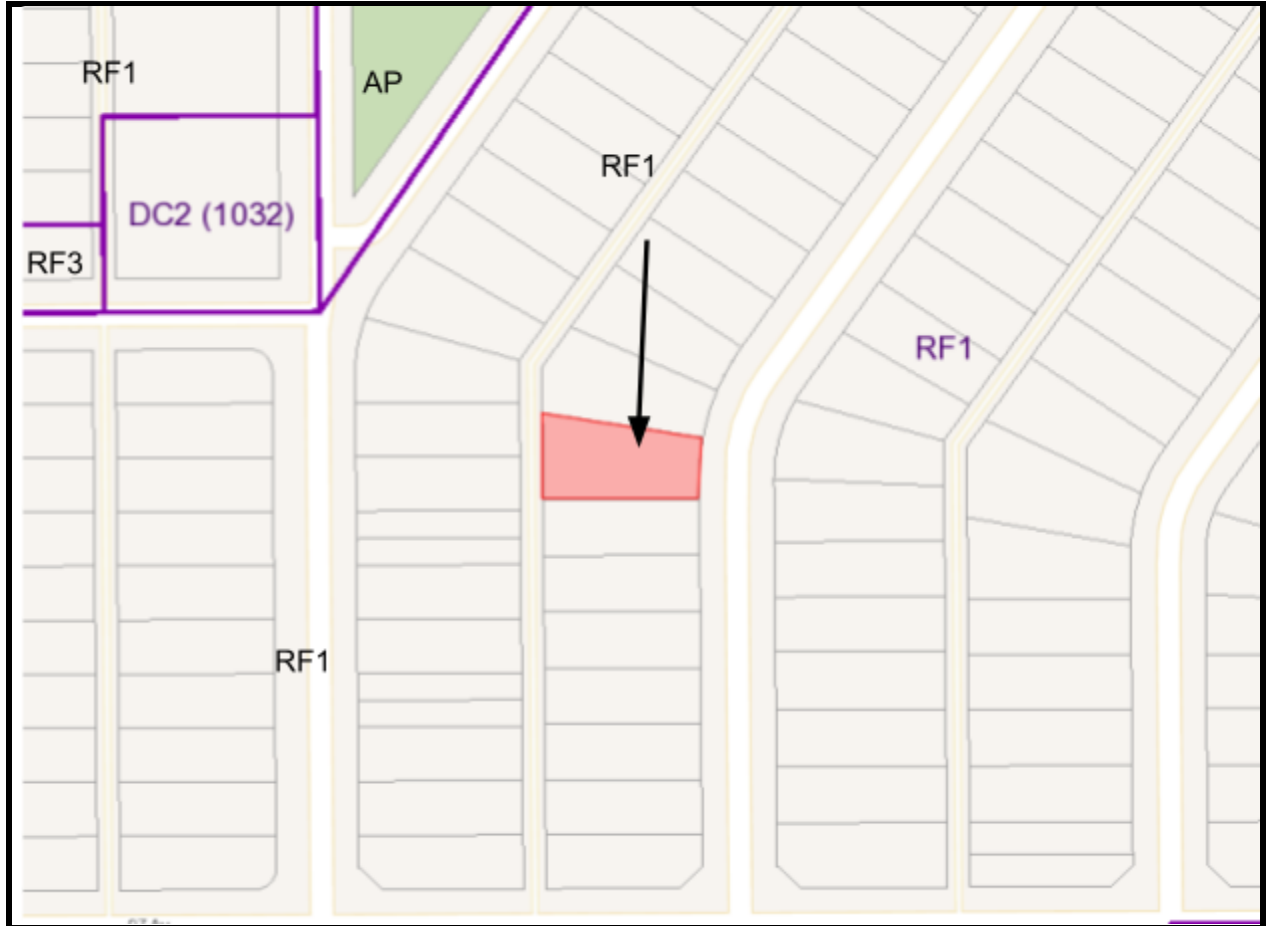
Section 814.5(2) states:

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 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(5) – Height

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.

	<h2 style="margin: 0;">Application for Home Improvement Permit</h2>				Project Number: 394604459-002 Application Date: MAY 05, 2021 Printed: June 24, 2021 at 3:39 PM Page: 1 of 1																			
This document is a Development Permit Decision for the development application described below.																								
Applicant	Property Address(es) and Legal Description(s) 9732 - 146 STREET NW Plan 1922616 Blk 84 Lot 38A																							
	Location(s) of Work Suite: 9732 - 146 STREET NW Entryway: 9732 - 146 STREET NW Building: 9732 - 146 STREET NW																							
Scope of Application To construct exterior alteration to a Single Detached House (increase in overall height of house).																								
Permit Details <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding-right: 10px;"> Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%; padding-left: 10px;"> Site Area (sq. m.): 883.85 </td> </tr> </table>					Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 883.85																		
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Development Application Decision Refused Issue Date: Jun 24, 2021 Development Authority: LANGILLE, BRANDON Reason for Refusal 1. Height - The height to the midpoint of the roof is 9.05m, instead of the maximum of 8.90m (Reference Section 814.3.5). Rights of Appeal The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.																								
Building Permit Decision No decision has yet been made.																								
Fees <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right; border-bottom: 1px solid black;">Fee Amount</th> <th style="text-align: right; border-bottom: 1px solid black;">Amount Paid</th> <th style="text-align: left; border-bottom: 1px solid black;">Receipt #</th> <th style="text-align: left; border-bottom: 1px solid black;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$433.00</td> <td style="text-align: right;">\$433.00</td> <td>005082070748001</td> <td>May 05, 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; border-bottom: 1px solid black;">\$433.00</td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$433.00</td> <td></td> <td></td> </tr> </tbody> </table>						Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$433.00	\$433.00	005082070748001	May 05, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$433.00	\$433.00		
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Total GST Amount:	\$0.00																							
Totals for Permit:	\$433.00	\$433.00																						
THIS IS NOT A PERMIT																								



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-121

▲
N

ITEM III: 1:30 P.M.

FILE: SDAB-D-21-122

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 396872513-002

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

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 7, 2021

DATE OF APPEAL: July 7, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13703 - 79 Avenue NW

LEGAL DESCRIPTION: Plan 450MC Blk 30 Lot 2

ZONE: (RF1) Single Detached Residential Zone

OVERLAY(S): Mature Neighbourhood Overlay
North Saskatchewan River Valley and Ravine System Protection Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

We intend to provide drawings, sketches and photos to show that this property is unique and not in keeping with a typical mature neighbourhood

overlay residential site. The size, configuration, topography, landscaping, and context of neighbouring properties abutting this site are unusual and the variances listed in the reasons for refusal should not apply. The following is a summary of our rationale:

Increased Front Setback – The front of the property is screened by City trees. The proposed front setback is significantly less than the existing dwelling. The house is not visible from the front street and the Average abutting setback variance should not apply.

Reduced Rear Setback – The proposed rear setback is greater on average than the existing house. The properties to the East are at a lower geodetic elevation and the proposed house is not visible from the East properties. The proposed house setbacks were established to reduce impact on the North neighbour. The proposed setbacks are a result of direct consultation and collaboration with the North Neighbour.

Midpoint and Parapet Height – Roof stairways, elevator housings and entrances are not considered for the purpose of height determination. The proposed height increase is only a small extension of the entrance. The proposed height increase is stepped back from the perimeter building footprint. The step back is similar to the massing of a conforming slope roof ridge or dormer. The proposed height projection has no additional impact on the neighbor as a conforming house. A conforming house could have more sun shadow impact on neighbouring properties.

River Valley Overlay – The site is not directly adjacent to the river or ravine. The development was approved by a City geotechnical engineer and geotechnical engineering was carried out with no geotechnical issues with the proposed house. There is significant development including private and public buildings including the Valley Zoo constructed closer to the river than this site. The River Valley Overlay should not apply.

Given the above context, we respectfully ask that you approve the proposed development.

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 the decision in accordance with subsection (2.1).

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 board hearing the appeal referred to in subsection (1)

...

- (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 (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 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.

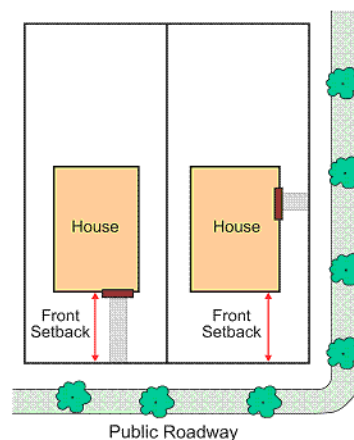
Section 811.1 states that the **General Purpose** of the **North Saskatchewan River Valley and Ravine System Protection Overlay** is “to provide a development Setback from the North Saskatchewan River Valley and Ravine System.”

Front Setback

Section 814.3(1)(b) states “the maximum Front Setback shall be 1.5 m greater than the average Front Setback on Abutting Lots;”

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.



Development Officer’s Determination

1. Increased Front Setback - The maximum Front Setback shall be 1.5 m greater than the average Front Setback on Abutting Lots (Section 814.3.1.b).

Maximum: 14.5m (13.0m +1.5m)

Proposed: 20.8m

Exceeds by: 6.3m

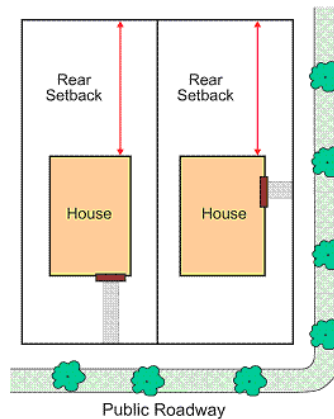
[unedited]

Rear Setback

Section 814.3(4) states “The minimum Rear Setback shall be 40% of Site Depth, [...]”

Under section 6.1, **Rear Setback** means:

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



Development Officer’s Determination

2. Reduced Rear Setback - The minimum Rear Setback shall be 40% of Site Depth (Section 814.3.4).

Minimum: 29.5m (40% of Site Depth)

Proposed: 23.4m (32% of Site Depth)

Deficient by: 6.1m

[unedited]

Height

Section 814.3(5) states “The maximum Height shall not exceed 10.0 m in the RF5 Zone and 8.9 m in all other Zones.”

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

Development Officer’s Determination

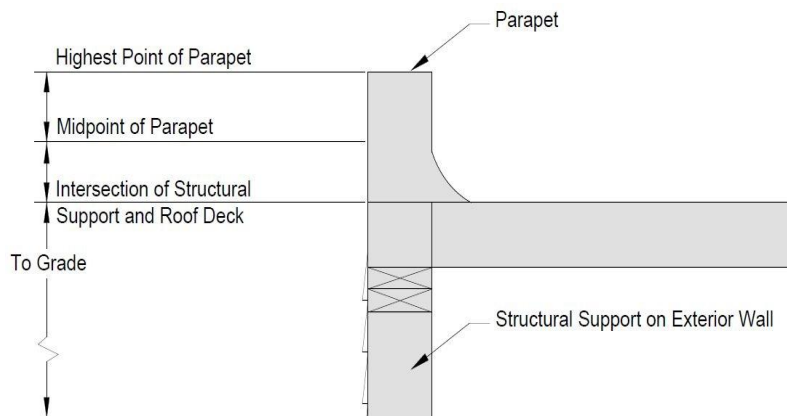
**3. Midpoint Height - The house shall not exceed a Height of 8.9m (Section 814.3.5).
 Maximum: 8.9m
 Proposed: 10.1m
 Exceeds by: 1.2m**

[unedited]

Height and Grade

Section 52.1(b) states:

For the flat roof type, Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest parapet, provided the resulting top of the parapet is no more than 0.4 metres above the maximum Height allowed in the zone or overlay;



Development Officer’s Determination

4. Parapet Height - The top of the parapet shall be no more than 0.4m above the maximum Height of 8.9m (Section 814.3.5 and Section 52.1.b).

Maximum parapet Height: 9.3m (8.9m + 0.4m)
Proposed parapet Height: 10.3m
Exceeds by: 1.0m

[unedited]

Rear Attached Garage

Section 814.3(19) states “Rear attached Garages shall not be allowed.”

Development Officer’s Determination

5. Rear Attached Garage - Rear attached Garages shall not be allowed (Section 814.3.19).

Proposed: The rear garage is attached to the house.

[unedited]

North Saskatchewan River Valley and Ravine System Protection Overlay - Setback

Section 811.3(1) states “All developments shall maintain a minimum 7.5 m Setback from the North Saskatchewan River Valley and Ravine System, as shown on Appendix I to this Overlay.”

Under section 6.1, Setback means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officer’s Determination

6. Overlay - All developments shall maintain a minimum 7.5 m Setback from the North Saskatchewan River Valley and Ravine System Overlay (Section 811.3.1).

Proposed: 2.5m from the Overlay to the house on the right side lot line (south).

Deficient by: 5.0m

[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 11.3 and 11.4.


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 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(1) – Front Setback 814.3(5) – Height
Tier 2	The municipal address and assessed owners of the land Abutting the Site, directly adjacent across a Lane from the Site of the proposed development and the President of each	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback 814.3(19) – Rear Attached Garage

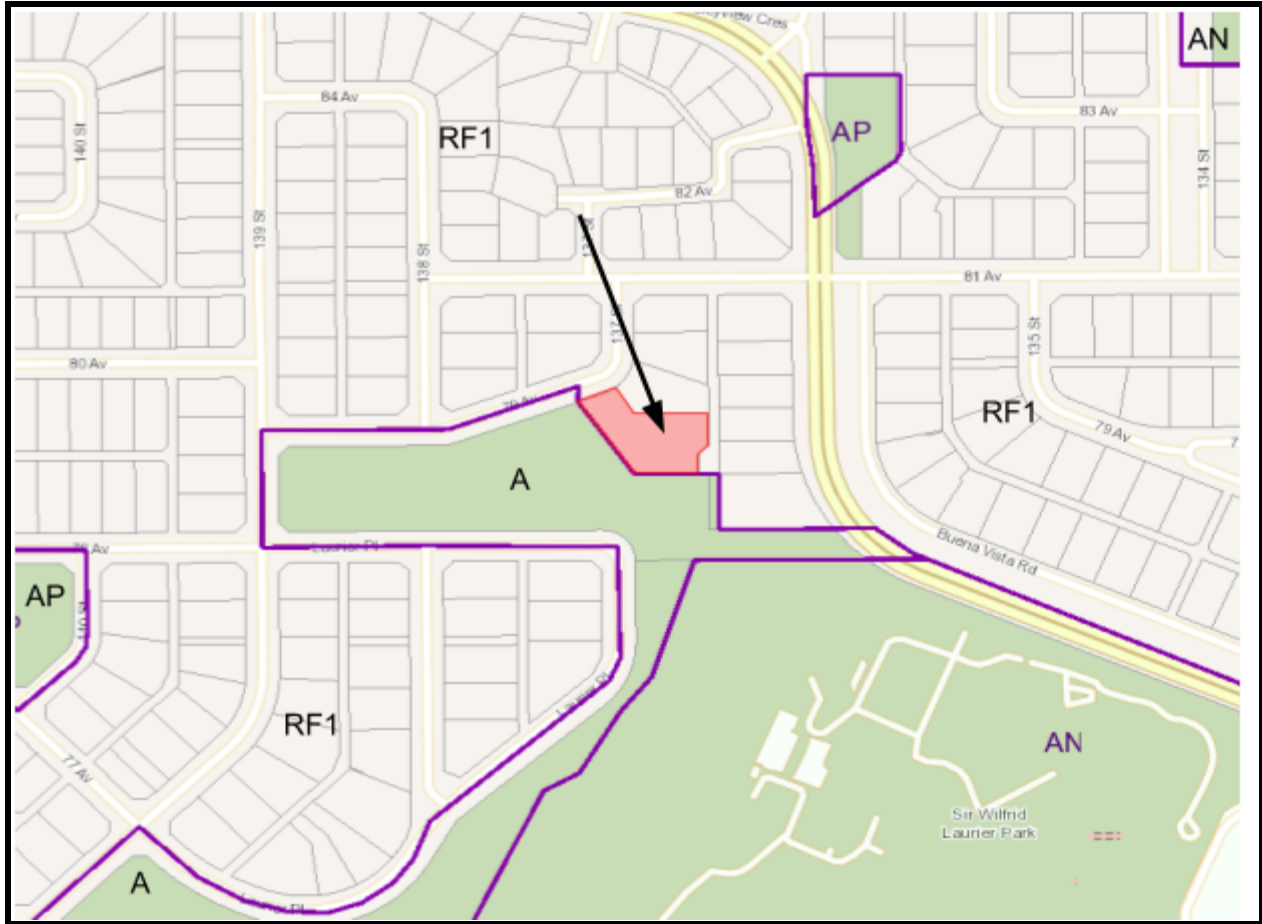
	Community League		
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Notice to Applicant/Appellant

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.

	Project Number: 396872513-002 Application Date: MAY 21, 2021 Printed: July 7, 2021 at 12:08 PM 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	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" data-bbox="824 464 1224 491">Property Address(es) and Legal Description(s)</td> </tr> <tr> <td colspan="2" data-bbox="857 491 1073 518">13703 - 79 AVENUE NW</td> </tr> <tr> <td colspan="2" data-bbox="899 518 1110 546">Plan 450MC Blk 30 Lot 2</td> </tr> <tr> <td colspan="2" data-bbox="824 556 997 583">Specific Address(es)</td> </tr> <tr> <td data-bbox="816 583 808 611">Entryway:</td> <td data-bbox="857 583 1122 611">13703 - 79 AVENUE NW</td> </tr> <tr> <td data-bbox="816 611 808 638">Building:</td> <td data-bbox="857 611 1122 638">13703 - 79 AVENUE NW</td> </tr> </table>	Property Address(es) and Legal Description(s)		13703 - 79 AVENUE NW		Plan 450MC Blk 30 Lot 2		Specific Address(es)		Entryway:	13703 - 79 AVENUE NW	Building:	13703 - 79 AVENUE NW
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Scope of Application To construct a Single Detached House with Unenclosed Front Porch, balcony, rear attached Garage, fireplaces, Basement development (NOT to be used as an additional Dwelling), and to demolish a Single Detached House.													
Permit Details <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td data-bbox="282 810 521 837"># of Dwelling Units Add/Remove: 0</td> <td data-bbox="816 810 1110 837"># of Primary Dwelling Units To Construct: 1</td> </tr> <tr> <td data-bbox="282 837 610 865"># of Secondary Suite Dwelling Units To Construct:</td> <td data-bbox="816 837 980 865">Class of Permit: Class B</td> </tr> <tr> <td data-bbox="282 865 480 892">Client File Reference Number:</td> <td data-bbox="816 865 964 892">Lot Grading Needed?:</td> </tr> <tr> <td data-bbox="282 892 626 919">Minor Dev. Application Fee: Single Detached House</td> <td data-bbox="816 892 1032 919">New Sewer Service Required: N</td> </tr> <tr> <td data-bbox="282 919 480 947">Secondary Suite Included?: N</td> <td data-bbox="816 919 1182 947">Stat. Plan Overlay/Ames Area: Mature Neighbourhood Overlay</td> </tr> </table>		# of Dwelling Units Add/Remove: 0	# of Primary Dwelling Units To Construct: 1	# of Secondary Suite Dwelling Units To Construct:	Class of Permit: Class B	Client File Reference Number:	Lot Grading Needed?:	Minor Dev. Application Fee: Single Detached House	New Sewer Service Required: N	Secondary Suite Included?: N	Stat. Plan Overlay/Ames Area: Mature Neighbourhood Overlay		
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THIS IS NOT A PERMIT													

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<p>Reason for Refusal</p> <p>1. Increased Front Setback - The maximum Front Setback shall be 1.5 m greater than the average Front Setback on Abutting Lots (Section 814.3.1.b). Maximum: 14.5m (13.0m + 1.5m) Proposed: 20.8m Exceeds by: 6.3m</p> <p>2. Reduced Rear Setback - The minimum Rear Setback shall be 40% of Site Depth (Section 814.3.4). Minimum: 29.5m (40% of Site Depth) Proposed: 23.4m (32% of Site Depth) Deficient by: 6.1m</p> <p>3. Midpoint Height - The house shall not exceed a Height of 8.9m (Section 814.3.5). Maximum: 8.9m Proposed: 10.1m Exceeds by: 1.2m</p> <p>4. Parapet Height - The top of the parapet shall be no more than 0.4m above the maximum Height of 8.9m (Section 814.3.5 and Section 52.1.b). Maximum parapet Height: 9.3m (8.9m + 0.4m) Proposed parapet Height: 10.3m Exceeds by: 1.0m</p> <p>5. Rear Attached Garage - Rear attached Garages shall not be allowed (Section 814.3.19). Proposed: The rear garage is attached to the house.</p> <p>6. Overlay - All developments shall maintain a minimum 7.5 m Setback from the North Saskatchewan River Valley and Ravine System Overlay (Section 811.3.1). Proposed: 2.5m from the Overlay to the house on the right side lot line (south). Deficient by: 5.0m</p> <p>Rights of Appeal The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.</p>																																
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 20%;">Receipt #</th> <th style="text-align: left; width: 20%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$148.00</td> <td style="text-align: right;">\$148.00</td> <td>1022940409910010</td> <td>May 21, 2021</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$502.00</td> <td style="text-align: right;">\$502.00</td> <td>1022940409910010</td> <td>May 21, 2021</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$211.00</td> <td style="text-align: right;">\$211.00</td> <td>1022940409910010</td> <td>May 21, 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;">\$861.00</td> <td style="text-align: right; border-top: 1px solid black;">\$861.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Lot Grading Fee	\$148.00	\$148.00	1022940409910010	May 21, 2021	Dev. Application Fee	\$502.00	\$502.00	1022940409910010	May 21, 2021	Development Permit Inspection Fee	\$211.00	\$211.00	1022940409910010	May 21, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$861.00	\$861.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-122

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N