

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
August 15, 2019**

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

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

I	9:00 A.M.	SDAB-D-19-125	Construct exterior alterations to a Single Detached House (Front Yard parking pad, 5.79m x 11.89m) 11237 - 125 Street NW Project No.: 315387918-001
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TO BE RAISED

II	10:30 A.M.	SDAB-D-19-110	Construct an over-height Fence for a Religious Assembly, existing without Permits (maximum height 2.03m) 16310 - 106 Avenue NW, 10610 - 163 Street NW, 10614 - 163 Street NW Project No.: 264872041-002
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III	1:30 P.M.	SDAB-D-19-502	To comply with an Order to Develop the site in accordance with approved File No. SDAB-D-18-094 OR Submit a new Development Permit application to re-configure the roof pitch and comply with Edmonton Zoning Bylaw 12800 OR Demolish the building 10973 - 132 Street NW Order No.: 279658672-002
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NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-125

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 315387918-001

APPLICATION TO: Construct exterior alterations to a Single Detached House (Front Yard parking pad, 5.79m x 11.89m)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 19, 2019

DATE OF APPEAL: July 19, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11237 - 125 Street NW

LEGAL DESCRIPTION: Plan RN39C Blk 9 Lot 13

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

1. Severe health problems - both hands.
2. Need to be closer to my house door.
3. Doctor's certificate provided.
4. Next block from where I live have front driveways.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

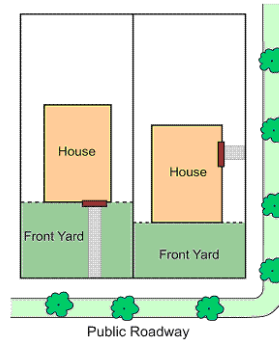
Under section 140.2(10), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

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 Yard** means:

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



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

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

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

Section 140.1 states that the **General Purpose** of (RF3) **Small Scale Infill Development Zone** is:

to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four principal Dwellings under certain conditions, including Secondary Suites and Garden Suites.

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

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

Driveway Access

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

Development Officer's Determination

Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17).

Proposed: The vehicular access is located off of 125 Street NW (front). [unedited]

Location of Vehicular Parking Facilities

Section 54.2(2) states:

...

- a. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:
 - i. **parking spaces shall not be located within a Front Yard in a Residential Zone;**

...

Development Officer's Determination

Parking - Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.i)

Proposed: The parking pad creates parking spaces in the Front Yard in a Residential Zone. [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.

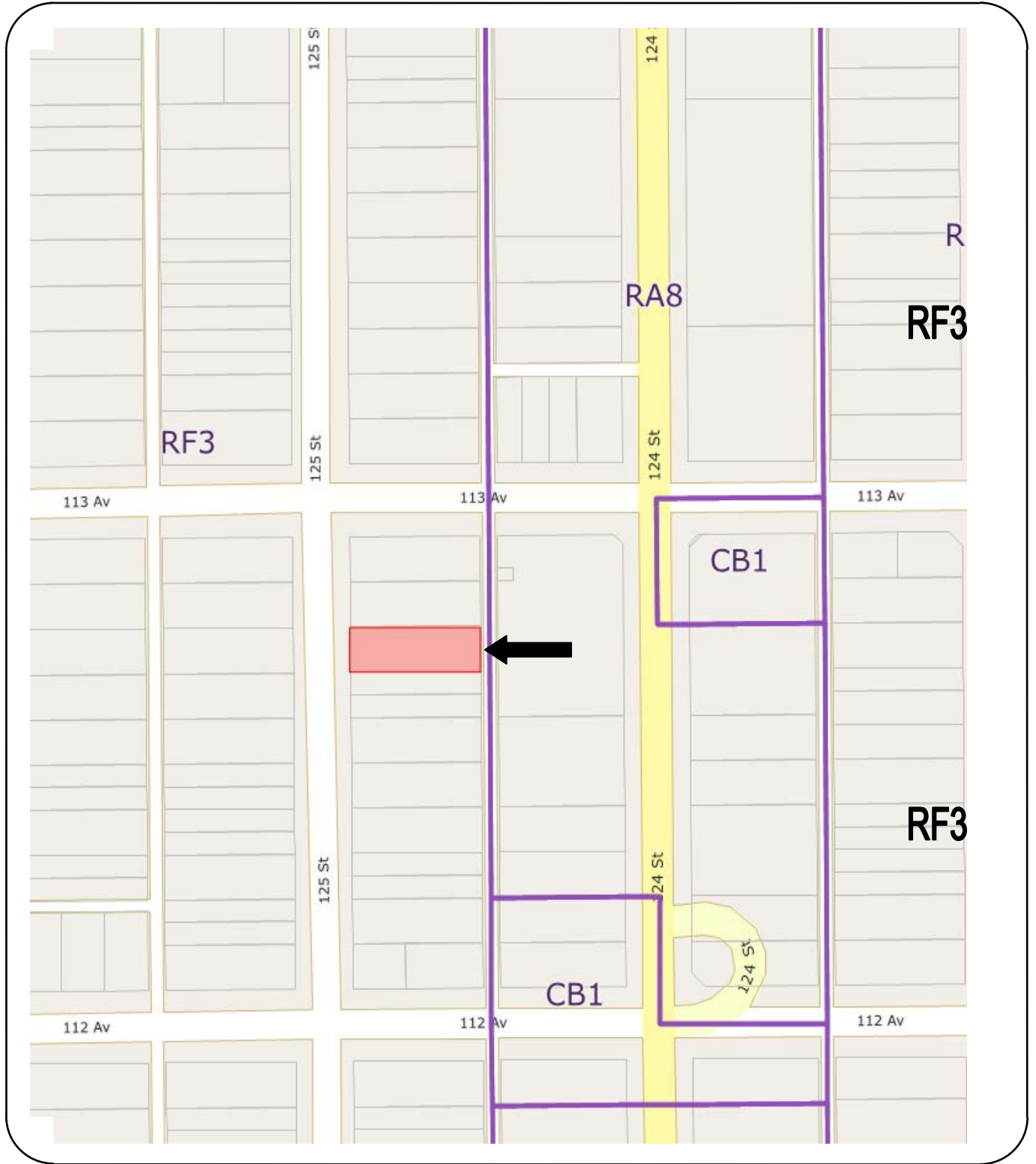
Section 814.5(2) states:

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 metres 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 metres of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	<h2 style="margin: 0;">Application for Driveway Extension Permit</h2>	Project Number: 315387918-001 Application Date: MAY 31, 2019 Printed: July 19, 2019 at 9:39 AM 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) 11237 - 125 STREET NW Plan RN39C Blk 9 Lot 13 Location(s) of Work Suite: 11237 - 125 STREET NW Entryway: 11237 - 125 STREET NW Building: 11237 - 125 STREET NW																					
Scope of Application To construct exterior alterations to a Single Detached House (Front Yard parking pad, 5.79m x 11.89m).																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%; border: none;"> Site Area (sq. m.): 696.85 </td> </tr> </table>			Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 696.85																		
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I/We certify that the above noted details are correct. Applicant signature: _____																						
Development Application Decision Refused Issue Date: Jul 19, 2019 Development Authority: ZHOU, ROWLEY Reason for Refusal Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17). Proposed: The vehicular access is located off of 125 Street NW (front). Parking - Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.i) Proposed: The parking pad creates parking spaces in the Front Yard in a Residential Zone. Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																						
Building Permit Decision Refused																						
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <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: right; width: 10%;">Receipt #</th> <th style="text-align: right; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">05889213</td> <td style="text-align: right;">May 31, 2019</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;">\$173.00</td> <td style="text-align: right; border-top: 1px solid black;">\$173.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$173.00	\$173.00	05889213	May 31, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$173.00	\$173.00		
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THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-125



TO BE RAISED

ITEM II: 10:30 A.M.

FILE: SDAB-D-19-110

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 264872041-002

APPLICATION TO: Construct an over-height Fence for a Religious Assembly, existing without Permits (maximum height 2.03m)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 31, 2019

DATE OF APPEAL: June 21, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16310 - 106 Avenue NW
10610 - 163 Street NW
10614 - 163 Street NW

LEGAL DESCRIPTION: Plan 4746KS Blk 1 Lot 26,
Plan 4746KS Blk 1 Lot 27,
Plan 4746KS Blk 1 Lot 25,
Plan 4746KS Blk 1 Lot 28

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

I am filing an appeal on behalf of St. Virgin Mary Ethiopian Orthodox Tewahido Church regarding the development refusal forwarded by the city. The existing fence is built in accordance with but which exceeds the allowed maximum height of 1.2 meters under the Edmonton Zoning

Bylaw 12800. The church requests the city to reconsider the decision due to the following reasons.

- It is a see-through mesh fence resembling the surrounding neighborhood, built for the sole purpose of security and safeguarding of children in the vicinity. The church also offers these children Bible study and other academic assistance on weekends. We believe our church plays a vital role in shaping the children in good behavior and academic excellence and in response, we request the city to reconsider their decision accordingly.

- The income of our church depends on the donation and offerings of our members and participants, we have spent a lot of our resources and money on constructing the fence. The demolition and reconstruction of the fence may cause some economic setbacks in the overall activity and progress of our church.

We hope the city accepts our appeal and changes its final decision.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on July 18, 2019:

“That the appeal hearing be postponed to August 14 or 15, 2019 at the verbal request of the Appellants”

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.3(5), a **Religious Assembly** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

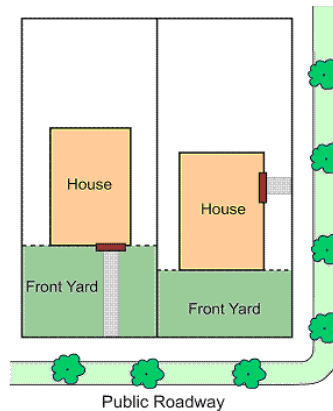
Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

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.”

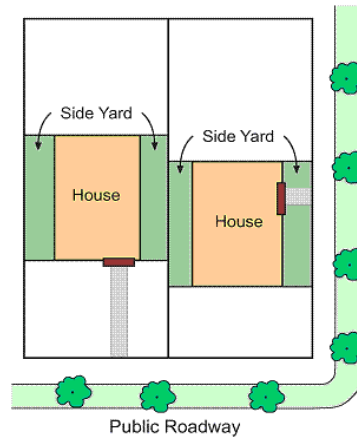
Under section 6.1, **Front Yard** means:

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:

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

The subject site is zoned RF1 (Single Detached Residential) Zone.

1. Section 49.1(e)(i) - On a Corner Site, the Height of a Fence, wall, or gate shall not exceed 1.2 m for the portion of the Fence , wall, or gate constructed in the Front Yard.

Proposed height: 1.96 m
Exceeds by: 0.76 m

2. Section 49.1(e)(ii) - On a Corner Site, the Height of a Fence, wall, or gate shall not exceed 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.

Proposed height: 1.78 m - 2.03 m
Exceeds by: 0.83 m

3. Section 49.1(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.


The Development Officer cannot exercise discretion above 1.85 m. The fence height is 1.78 m - 2.03 m. In addition, except as otherwise provided in this Bylaw, there shall be no variance from maximum Height regulations (Ref. Section 11.4.1(b))


NOTES:

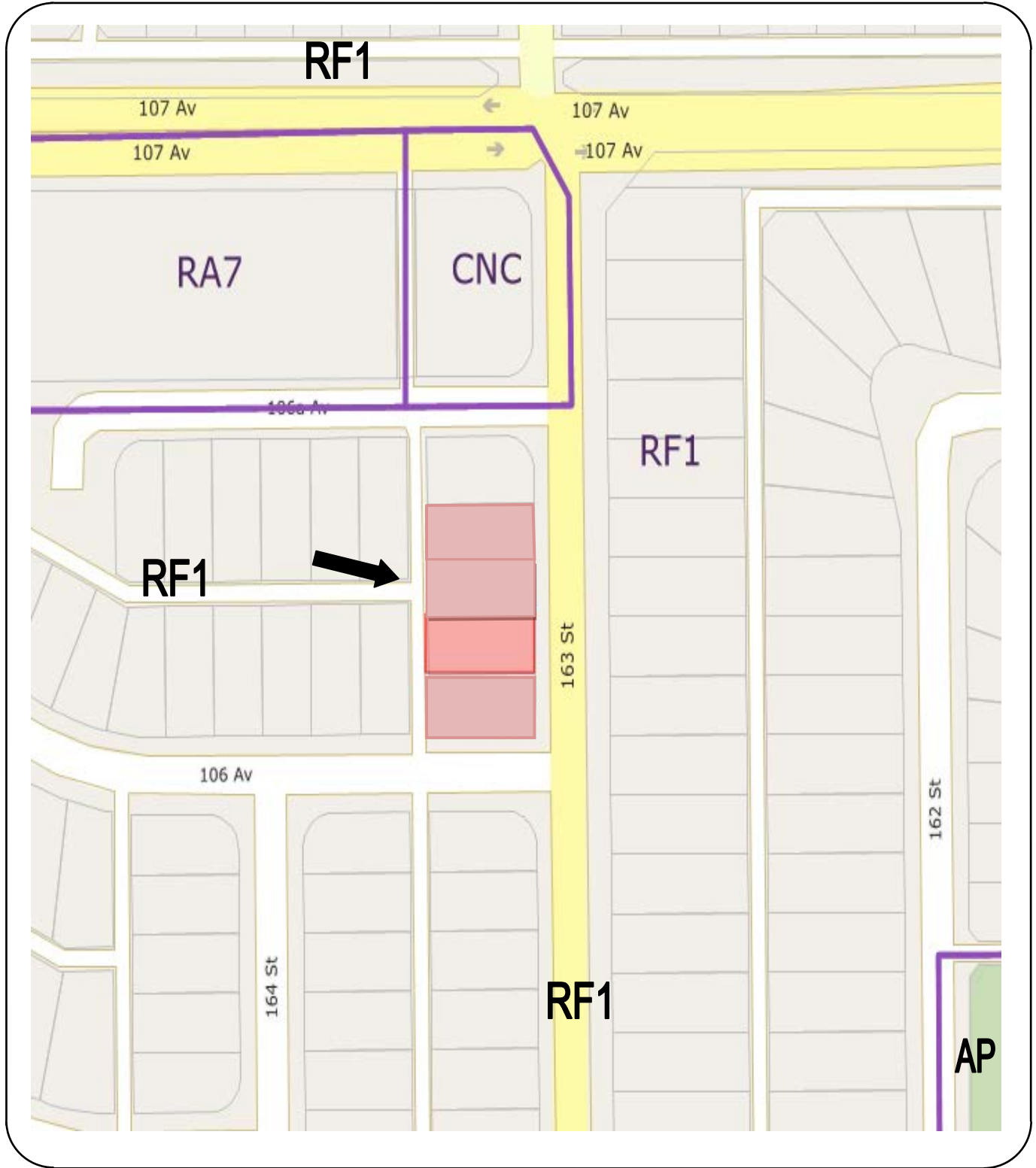
a. All above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended. [unedited]

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: 264872041-002 Application Date: MAY 09, 2019 Printed: June 21, 2019 at 3:51 PM Page: 1 of 2
<h2 style="margin: 0;">Application for Major Development Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 16310 - 106 AVENUE NW Plan 4746KS Blk 1 Lot 26 10610 - 163 STREET NW Plan 4746KS Blk 1 Lot 27 16310 - 106 AVENUE NW Plan 4746KS Blk 1 Lot 25 10614 - 163 STREET NW Plan 4746KS Blk 1 Lot 28
	Specific Address(es) Building: 16310 - 106 AVENUE NW
Scope of Application To construct an over-height Fence for a Religious Assembly, existing without Permits (maximum height 2.03 m).	
Permit Details	
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused Issue Date: May 31, 2019 Development Authority: XU, HAILEE	
THIS IS NOT A PERMIT	

	Project Number: 264872041-002 Application Date: MAY 09, 2019 Printed: June 21, 2019 at 3:51 PM Page: 2 of 2																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
<p>Reason for Refusal</p> <p>The subject site is zoned RF1 (Single Detached Residential) Zone.</p> <p>1. Section 49.1(e)(i) - On a Corner Site, the Height of a Fence, wall, or gate shall not exceed 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard.</p> <p>Proposed height: 1.96 m Exceeds by: 0.76 m</p> <p>2. Section 49.1(e)(ii) - On a Corner Site, the Height of a Fence, wall, or gate shall not exceed 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.</p> <p>Proposed height: 1.78 m - 2.03 m Exceeds by: 0.83 m</p> <p>3. Section 49.1(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.</p> <p>The Development Officer cannot exercise discretion above 1.85 m. The fence height is 1.78 m - 2.03 m. In addition, except as otherwise provided in this Bylaw, there shall be no variance from maximum Height regulations (Ref. Section 11.4.1(b))</p> <p>NOTES: a. All above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended.</p> <p>Rights of Appeal</p> <p>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>																					
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 15%; text-align: right;">Receipt #</th> <th style="width: 15%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$368.00</td> <td style="text-align: right;">\$368.00</td> <td style="text-align: right;">05836554</td> <td style="text-align: right;">May 09, 2019</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;">\$368.00</td> <td style="text-align: right; border-top: 1px solid black;">\$368.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$368.00	\$368.00	05836554	May 09, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$368.00	\$368.00		
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Total GST Amount:	\$0.00																				
Totals for Permit:	\$368.00	\$368.00																			
<p>THIS IS NOT A PERMIT</p>																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-110



ITEM III: 1:30 P.M.

FILE: SDAB-D-19-502

AN APPEAL FROM AN ORDER ISSUED BY THE DEVELOPMENT COMPLIANCE OFFICER

APPELLANT: .

APPLICATION NO.: 279658672-022

ORDER TO: Develop the site in accordance with approved File No. SDAB-D-18-094

OR

Submit a new Development Permit application to re-configure the roof pitch and comply with Edmonton Zoning Bylaw 12800

OR

Demolish the building

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: July 11 2019

DATE OF APPEAL: July 17, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10973 - 132 Street NW

LEGAL DESCRIPTION: Plan RN60 Blk 21 Lot 17

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

<i>Grounds for Appeal</i>

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

I would like to request to appeal a stop order that has been placed at a semi-detached house located at 10973 132 St.

I would also like to request for an extension on the order as well. As of right now the deadline is August 1st, 2019. Reason for my request is so that I can further determine what the best route would to be determine if height of house actually exceeds by 0.01 meters.

Please confirm that I am using the right permit number because on the stop order letter because on the letter it shows 279658672-002.

Thank you,

David Ngu and Christine Park

<i>General Matters</i>

Appeal Information:

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

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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 clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(6), **Semi-detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(7), **Semi-detached Housing** means:

development consisting of a building containing two principal Dwellings joined in whole or in part at the side or rear with neither of those Dwellings being placed over another in whole or in part. Each principal Dwelling has separate, individual, and direct access to ground level. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use does not include Duplexes.

Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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

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

<i>Requirement for a Development Permit</i>
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Section 5.1 states:

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-19-104	To construct exterior alterations to a Semi-Detached House (increased in building height)	July 4, 2019; Appeal withdrawn.
SDAB-D-18-094	To construct a Semi-Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck, Basement development (NOT to be used as an additional Dwelling), and to demolish the existing Single Detached House and Accessory building (rear detached Garage).	July 17, 2018; The appeal is ALLOWED and the decision of the Development Authority is REVOKED . The development is GRANTED as applied for to the Development Authority, subject to CONDITIONS .

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.

City of Edmonton
Development and Zoning Services
Development Permit Inspections

5th Floor
10111 - 104 Ave NW
Edmonton, AB T5J 0J4
Canada



July 11, 2019

Development Permit Inspection File: 279658672-002

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 10973 132 Street NW in Edmonton, Alberta, legally described as Plan RN60 Block 21 Lot 17.

This Property was inspected by Development Compliance Officer Jordan McArthur, on January 15, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned RF1 (Single Detached Residential Zone) in accordance with Section 110 of Edmonton Zoning Bylaw 12800. Our investigation revealed the Site has not been developed in accordance with File Number: SDAB-D-18-094 (To construct a Semi-Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck, Basement development (NOT to be used as an additional Dwelling), and to demolish the existing Single Detached House and Accessory building (rear detached Garage)) issued on July 17, 2018.

- 1) *The Basement elevation measured from Average Grade to the floor of the first Storey is higher than the height approved by File Number: SDAB-D-18-094.*

This is in contravention of Section 5 of Edmonton Zoning Bylaw 12800.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

1. Develop the Site in accordance with approved File No. SDAB-D-18-094

OR

City of Edmonton
Development and Zoning Services
Development Permit Inspections

5th Floor
10111 - 104 Ave NW
Edmonton, AB T5J 0J4
Canada



2. Submit a new Development Permit application to re-configure the roof pitch and comply with Edmonton Zoning Bylaw 12800

OR

3. Demolish the building.

CONSEQUENCES FOR NON-COMPLIANCE:

You have until August 01, 2019 to comply with this Order. The property will be inspected after August 01, 2019 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to 566(2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-496-5375.

Regards,

A handwritten signature in black ink, appearing to read "JM", written over the printed name.

Name

Jordan McArthur

780-496-5375

Jordan.mcarthur@edmonton.ca

Adding amounts owing to tax roll

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d) , (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) Unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,
- within the time set out in the notice.
- (2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Enforcement of stop order	<p>646(1) If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.</p> <p>(2) A municipality may register a caveat under the <i>Land Titles Act</i> in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.</p> <p>(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.</p>
Permit	<p>683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.</p>
Grounds for appeal	<p>685(1) If a development authority</p> <ul style="list-style-type: none"> (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, <p>the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.</p> <p>(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.</p> <p>(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).</p> <p>(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district</p> <ul style="list-style-type: none"> (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.
Appeals	<p>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</p> <ul style="list-style-type: none"> (a) in the case of an appeal made by a person referred to in section 685(1) <ul style="list-style-type: none"> (i) with respect to an application for a development permit, <ul style="list-style-type: none"> (A) within 21 days after the date on which the decision is made under section 642, or (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires, or (ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing
 - (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
 - (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-502

