

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 21, 2019**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-19-129	Construct exterior alterations to a Single Detached House, existing without permits (gazebo with deck atop and 2nd storey connection to the House) 9520 - 95 Avenue NW Project No.: 310393675-001
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II	10:30 A.M.	SDAB-D-19-130	Leave as built an Accessory building (detached Garage, 9.23m x 6.79m) 11542 - 75 Avenue NW Project No.: 312622832-002
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III	1:30 P.M.	SDAB-D-19-131	Construct a Single Detached House with an Unenclosed Front Porch, front attached Garage, fireplace and rear uncovered deck (3.66 metres by 3.66 metres) 7606B - 149 Street NW Project No.: 311812309-001
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NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-129

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 310393675-001

APPLICATION TO: Construct exterior alterations to a Single Detached House, existing without permits (gazebo with deck atop and 2nd storey connection to the House)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 18, 2019

DATE OF APPEAL: July 28, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9520 - 95 Avenue NW

LEGAL DESCRIPTION: Plan 2725Q Blk 6 Lot 4

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

I wish to appeal for subdivide as Gazebo only used for storage and providing a privacy screen on deck

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 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 50.1(4) states:

Where any building or structure on a Site is attached to a principal building on the Site by a roof, an open or enclosed structure above Grade, a floor or a foundation greater than 1.0 m above Grade, it is a part of the principal building and is not an Accessory building.

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.

Privacy Screening on Platform Structures

Section 814.3(9) states:

Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 m above the finished ground level, excluding any artificial embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties.

Under section 6.1, **Platform Structures** means:

an elevated structure intended for use as outdoor Amenity Area that may project and/or be recessed from the wall of a building, may be surrounded by guardrails, parapet walls or similar features. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

Under section 6.1, **Privacy Screening** means:

a feature that obscures direct and otherwise unimpeded sightlines. Common examples include: vegetative screening, such as shrubs and trees, lattice, masonry or wooden walls, parapet walls, translucent glass or any combination of these or like features. Privacy Screening does not include a balustrade railing or similar railing system.

Development Officer's Determination

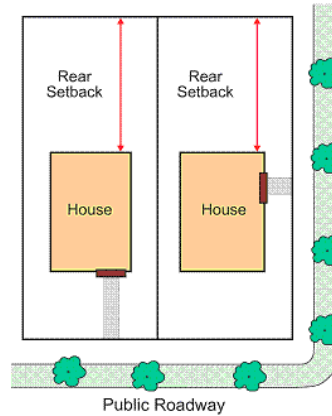
Privacy screening is not provided on the deck above gazebo. (Section 814.3.9) [unedited]

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.



Under section 6.1, **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

Development Officer’s Determination

The minimum rear setback shall be 40% of site depth. (Reference Section 814.3.4)

Required: 19.1m

Proposed: 16.6m (35% of site depth)

Deficient by: 3.4m (5% of site depth) [unedited]

Side Setback

Section 814.3(3) states:

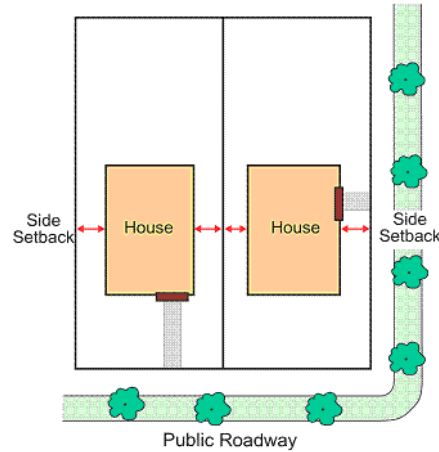
Side Setbacks shall be established on the following basis:

- a. ...
- b. where a Site Width is greater than 12.0 m and less than 18.3 m, the Side Setback requirements of the underlying Zone shall apply;
- c. ...

Section 110.4(10)(a) states “Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side.”

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

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



Under section 6.1, **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

Development Officer’s Determination

The minimum side setback shall be 1.2m. (Reference Section 814.3.3.b & 110.4.10.a).

Required: 1.2m

Proposed: 0.3m

Deficient by: 0.9m

The minimum side yard shall be 20% of site width. (Reference Section 814.3.3.b & 110.4.10.a).

Required: 20% (3.1m)

Proposed: 12% (1.8m)

Deficient by: 8% (1.3m) [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
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 Community League	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
Tier 3	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(3) – Side Setbacks 814.3(9) – Privacy Screening on Platform Structures

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 Alterations Permit</h2>	Project Number: 310393675-001 Application Date: APR 05, 2019 Printed: July 18, 2019 at 9:13 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) 9520 - 95 AVENUE NW Plan 2725Q Blk 6 Lot 4	
	Location(s) of Work Entryway: 9520 - 95 AVENUE NW Building: 9520 - 95 AVENUE NW	
Scope of Application To construct exterior alterations to a Single Detached House, existing without permits (gazebo with deck atop and 2nd storey connection to the House).		
Permit Details		
Class Of Permit: Stat. Plan Overlay/Amex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 726.08	
I/We certify that the above noted details are correct. Applicant signature: _____		
Development Application Decision Refused Issue Date: Jul 18, 2019 Development Authority: SELTZ, AARON Reason for Refusal Privacy screening is not provided on the deck above gazebo. (Section 814.3.9) The minimum rear setback shall be 40% of site depth. (Reference Section 814.3.4) Required: 19.1m Proposed: 16.6m (35% of site depth) Deficient by: 3.4m (5% of site depth) The minimum side setback shall be 1.2m. (Reference Section 814.3.3.b & 110.4.10.a). Required: 1.2m Proposed: 0.3m Deficient by: 0.9m The minimum side yard shall be 20% of site width. (Reference Section 814.3.3.b & 110.4.10.a). Required: 20% (3.1m) Proposed: 12% (1.8m) Deficient by: 8% (1.3m)		
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.		
THIS IS NOT A PERMIT		



Application for Alterations Permit

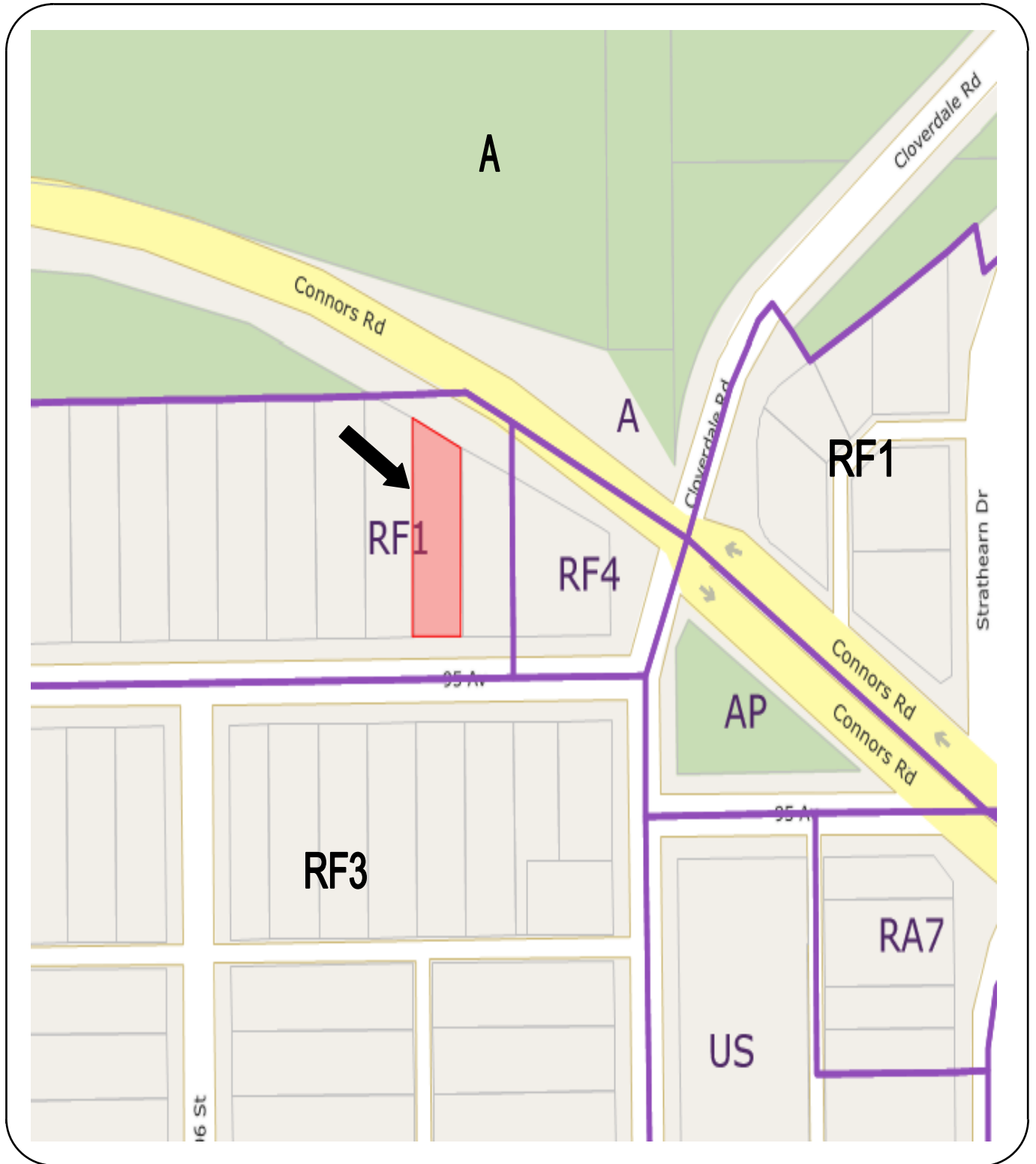
Project Number: **310393675-001**
Application Date: APR 05, 2019
Printed: July 18, 2019 at 9:13 AM
Page: 2 of 2

Building Permit Decision
Refused

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$4.50	\$4.50	05763454	Apr 05, 2019
Existing Without Permit Building Penalty Fee	\$110.00	\$110.00	05763454	Apr 05, 2019
Building Permit Fee (Construction Value)	\$110.00	\$110.00	05763454	Apr 05, 2019
Development Application Fee	\$173.00	\$173.00	05763454	Apr 05, 2019
Existing Without Permit Dev Application Penalty Fee	\$173.00	\$173.00	05763454	Apr 05, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$570.50</u>	<u>\$570.50</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-129



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-130

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY A COMMUNITY LEAGUE

APPELLANT:

APPLICATION NO.: 312622832-002

APPLICATION TO: Leave as built an Accessory building (detached Garage, 9.23m x 6.79m)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: July 2, 2019

DATE OF APPEAL: July 29, 2019

NOTIFICATION PERIOD: July 9, 2019 through July 30, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11542 - 75 Avenue NW

LEGAL DESCRIPTION: Plan 1275HW Blk 3 Lot 10

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan / Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

The owner has a history on this site and on others in Belgravia of poor building that does not conform to the original plans. Previously on this site the City issued two stop work orders, one of which was violated. At the previous SDAB hearing for this site the Belgravia Community League expressed strong concerns about these poor building practices and also that it sets a precedent for this and other builders to ignore the rules. The Belgravia Community League also expressed concern that this is likely to occur again with this owner.

Given this owners persistent violation of his own plans and after hearing concerns expressed by three neighbouring property owners, the Belgravia Community League believes this owners actions are leading to a reduced use and enjoyment of properties neighbouring this property, and potentially other properties owners who live near other sites in Belgraiva owned by this builder.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

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

...

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 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, **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.”

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.

Accessory Buildings in Residential Zones

Section 50.3(5) states:

Accessory buildings and structures shall be located as follows:

...

- c. the distance between an Accessory building and the lot line running parallel to any flanking public roadway, other than a Lane, shall not be less than the Side Setback required for the principal building. If the principal building was developed before October 2, 1961, the distance may be reduced, if the placement of the proposed Garage is consistent with the placement of other existing Garages in the same block;

...

Section 814.3(3)(b) states “where a Site Width is greater than 12.0 m and less than 18.3 m, the Side Setback requirements of the underlying Zone shall apply.”

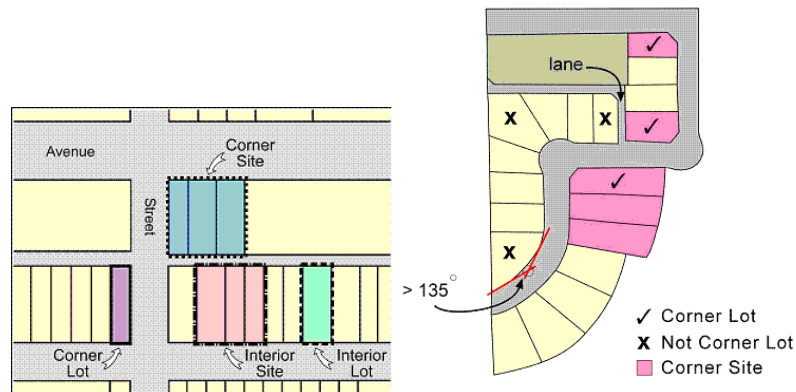
Section 110.4(10)(c) states “on a Corner Site where the building faces the Front Lot Line or the Side Lot Line, the minimum Side Setback abutting the flanking Side Lot Line shall be 20% of the Site Width, to a maximum of 4.5 m.”

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

an area of land consisting of one or more adjacent Lots where at least one Lot is:

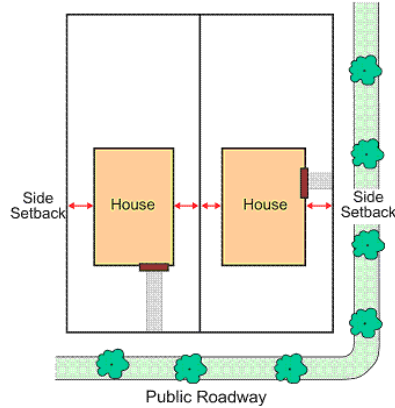
- a. located at the intersection of two public roadways, other than Lanes; or
- b. abuts a public roadway, other than a Lane, which changes direction at any point where it abuts the Site;

provided that in both cases the Site shall not be considered a Corner Site where the contained angle formed by the intersection or change of direction is an angle of more than 135 degrees. In the case of a curved corner, the angle shall be determined by the lines tangent to the property line abutting the public roadways, provided the roadway is not a Lane, at the point which is the extremity of that property line. In the case of a curved corner, the point which is the actual corner of the Site shall be that point on the property line abutting the public roadway, provided the roadway is not a Lane, which is nearest to the point of intersection of the tangent lines.



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

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



Under section 6.1, **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

Development Officer’s Determination


Reduced Side Setback - The distance from the rear Garage to the property line along 116 Street (flanking side lot line) is 2.61m, which is 19% of the lot width, instead of 2.68m, which is 20% (Section 50.3(5)(c)). [unedited]

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-15-268	To leave as built a Single Detached House.	January 29, 2016; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The appeal is 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.

	Project Number: 312622832-002 Application Date: JUN 17, 2019 Printed: July 29, 2019 at 2:21 PM Page: 1 of 2
<h2 style="margin: 0;">Minor Development Permit</h2>	
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.	
Applicant	Property Address(es) and Legal Description(s) 11542 - 75 AVENUE NW Plan 1275HW Blk 3 Lot 10 Specific Address(es) Entryway: 11542 - 75 AVENUE NW Building: 11542 - 75 AVENUE NW
Scope of Permit To leave as built an Accessory building (detached Garage, 9.23m x 6.79m).	
Permit Details	
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built (Accessory Bldg.) Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved Issue Date: Jul 02, 2019 Development Authority: HETHERINGTON, FIONA	



Project Number: **312622832-002**
 Application Date: JUN 17, 2019
 Printed: July 29, 2019 at 2:21 PM
 Page: 2 of 2

Minor Development Permit

Subject to the Following Conditions

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21. (Reference Section 17.1)

This Development Permit authorizes the development of a rear detached Garage (9.23m x 6.79m). The development shall be constructed in accordance with the stamped and approved drawings.

The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.

An Accessory building or structure shall not exceed 4.3m in Height. (Reference Section 6.1 and 50.3(3)).

Eave projections shall not exceed 0.46m into required Setbacks or Separations spaces less than 1.2m. (Reference Section 44.1(c)(ii))

ADVISEMENTS:

An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)

Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

Variances

Reduced Side Setback - The distance from the rear Garage to the property line along 116 Street (flanking side lot line) is 2.61m, which is 19% of the lot width, instead of 2.68m, which is 20% (Section 50.3(5)(c)).

Rights of Appeal

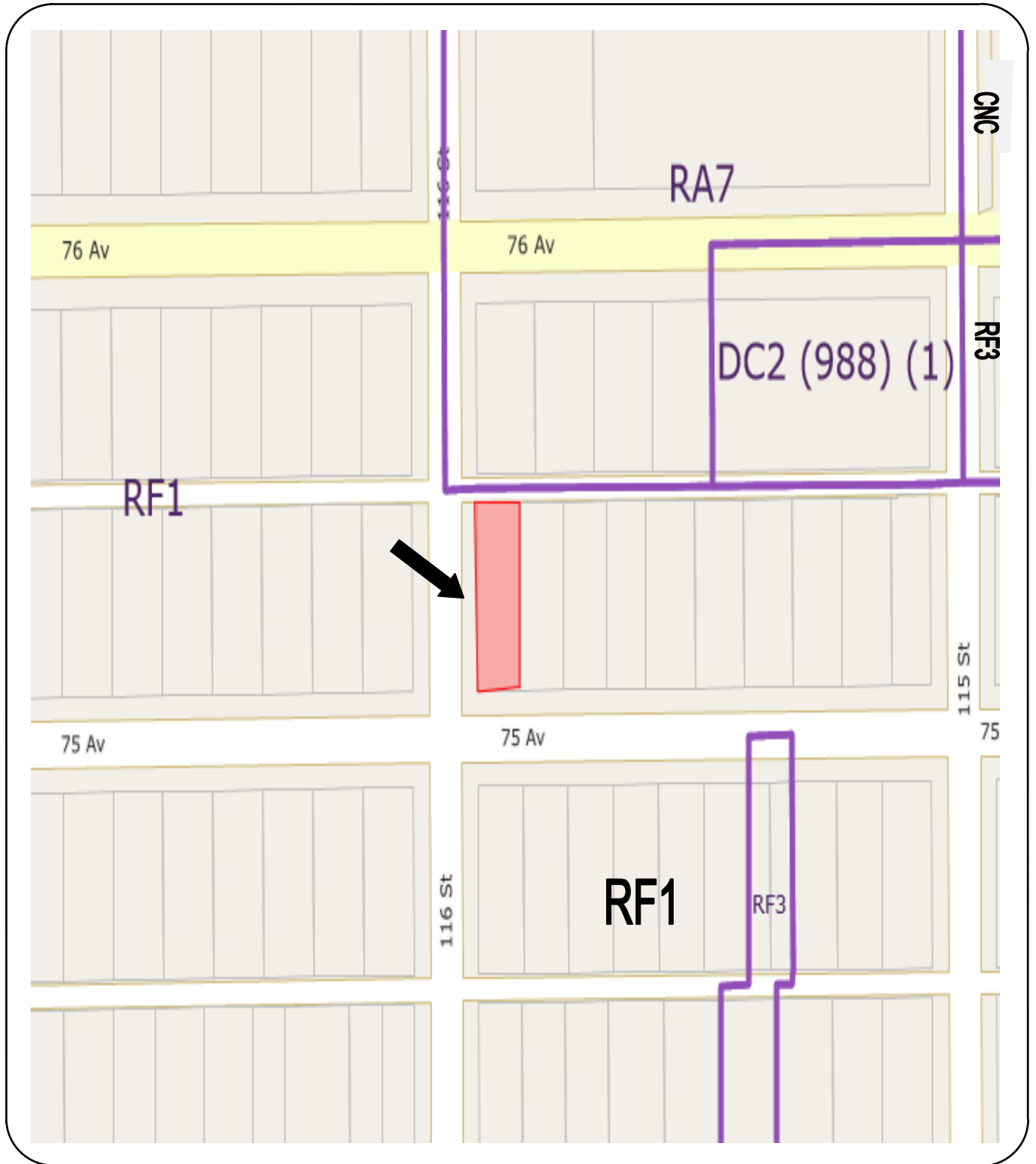
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Notice Period Begins: Jul 09, 2019

Ends: Jul 30, 2019

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$112.00	\$112.00	05923667	Jun 17, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$112.00	\$112.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-130



ITEM III: 1:30 P.M.

FILE: SDAB-D-19-131

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 311812309-001

APPLICATION TO: Construct a Single Detached House with an Unenclosed Front Porch, front attached Garage, fireplace and rear uncovered deck (3.66 metres by 3.66 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: July 4, 2019

DATE OF APPEAL: July 25, 2019

NOTIFICATION PERIOD: July 11, 2019 through August 1, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7606B - 149 Street NW

LEGAL DESCRIPTION: Plan 1721535 Blk 3 Lot 22A

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

I believe the mature neighbourhood development rules in place are appropriate and should be adhered to. The applicant bought an empty lot knowing what the rules are and have no reason to seek any variances.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

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

...

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(5), **Single Detached Housing** means:

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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

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

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

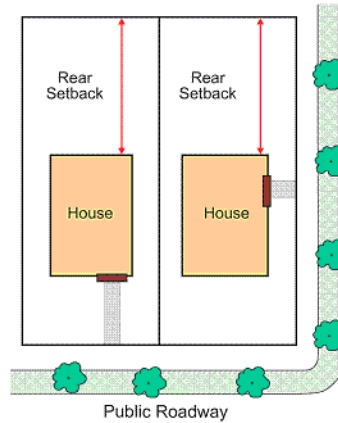
to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the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

Rear Setback

Section 814.3(4) states "the minimum Rear Setback shall be 40 percent 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

1. Rear Setback - The distance from the House to the rear lot line is 13.3m, 33% of the site depth, instead of 15.9m, 40% of the site depth; deficient by 2.6m (7%) (Section 814.3.4) [unedited]

Projection into Setbacks

Eaves

Section 44.1(a) states:

The following features may project into a required Setback or Separation Space as provided for below:

verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, provided such projections do not exceed 0.6 metres in the case of Setbacks or Separation Spaces of 1.2 metres or greater. Where unenclosed steps extend into Side Setbacks, such steps shall not exceed a Height of 1.0 metres;

Development Officer’s Determination

2. Rear Eave Projection - The distance from the rear eave of the house to the rear lot line is 12.8m instead of 15.3m, exceeded by 2.5m. (Section 44.1) [unedited]

3. Front Eave Projection - The distance from the front eave of the house to the front lot line is 6.9m instead of 7.2m, exceeded by 0.3m. (Section 44.1) [unedited]

Platform Structures

Section 44.3(b) states:

The following features may project into a required Setback or Separation Space as provided for below:

Platform Structures provided such projections do not exceed 2.0 metres into any other Setbacks or Separation Spaces with a depth of at least 4.0 metres.

Under section 6.1, **Platform Structures** means:

an elevated structure intended for use as outdoor Amenity Area that may project and/or be recessed from the wall of a building, may be surrounded by guardrails, parapet walls or similar features. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

Development Officer's Determination

4. Platform Structure Projection - The distance from the rear uncovered deck to the rear lot line is 11m, instead of 13.9m, exceeded by 2.9m. (Section 44.3(b)) [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 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 Community League	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

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: 311812309-001 Application Date: APR 24, 2019 Printed: July 25, 2019 at 1:24 PM Page: 1 of 4		
<h2 style="margin: 0;">Minor Development Permit</h2>			
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.			
Applicant	Property Address(es) and Legal Description(s) 7606B - 149 STREET NW Plan 1721535 Blk 3 Lot 22A		
Scope of Permit To construct a Single Detached House with an Unenclosed Front Porch, front attached Garage, fireplace and rear uncovered deck (3.66m x 3.66m).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Permit Decision Approved Issue Date: Jul 04, 2019 Development Authority: LAI, ECHO			
(Empty space for additional notes or comments)			



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Minor Development Permit

Subject to the Following Conditions

NOTE: Subject to the right of appeal, the permit is NOT VALID until the required Notification Period expires (date noted below) in accordance with Sections 21.1 and 17.1.

This Development Permit authorizes the development of a Single Detached House with an Unenclosed Front Porch, front attached Garage, fireplace and rear uncovered deck (3.66m x 3.66m).

The development shall be constructed in accordance with the stamped and approved drawings

WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.6)

The maximum Height shall not exceed 8.9 m in accordance with Section 52. (Section 814.3.5)

Frosted or translucent glass treatment shall be used on windows as required on the side elevations to minimize overlook into adjacent properties (Reference Section 814.3.8).

Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 m above the finished ground level, excluding any artificial embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties. (Section 814.3.9)

Existing vegetation should be preserved and protected unless removal is demonstrated to be necessary or desirable to efficiently accommodate the proposed development. (Reference Section 55.6)

Landscaping shall be installed and maintained in accordance with Section 55. (Reference Section 55)

Except for the hard surfacing of Driveways and/or Parking Areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw 12800.

TRANSPORTATION CONDITIONS:

1. The proposed 6.1 m access to 149 Street must be reduced in width to 5.2 m within legal road right-of-way and situated approximately 2.2 m from the north property line, as shown on the Enclosure. The access must be constructed to the current City of Edmonton Complete Streets Design and Construction Standards. The north edge of the driveway must be gradually shoulder tapered and reduced in width within legal road right-of-way to maintain the separation distance(s) required by Forestry from the closest edge of the existing boulevard tree(s), as shown on the Enclosure. The owner/applicant must obtain a curb crossing permit to construct the proposed access, available from Development Services, 2nd floor, Edmonton Tower, 10111-104 Avenue. The proposed residential driveway access must maintain a separation distance of 3.1 m from the existing south boulevard tree and maintain a separation distance of 3.0 m from the existing north boulevard tree within the legal road right-of-way as required by City Operations, Parks and Roads Services, as shown on the Enclosure.

2. Any and all tree work costs including pruning, remediation, exploratory work and removal is borne on to the applicant as per the Corporate Tree Management Policy (C456B). Live tree removal guidelines must be followed if tree removal takes place in the understanding that Forestry does not support this. It includes but is not limited to support of removal from the surrounding community, and the understanding that all costs (asset value, operational removal costs, and Forestry's administration fees) are to be paid for by the proponent.

3. The existing boulevard trees adjacent to the proposed access must be protected during construction, as shown on the Enclosure. Prior to construction, the owner/applicant must contact Bonnie Fermanuik of City Operations, Parks and Roads Services (780-496-4960) to arrange for hoarding and/or root cutting. All costs shall be borne by the owner/applicant.

4. Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.

5. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is



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Minor Development Permit

responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

6. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:

- the start/finish date of project;
- accommodation of pedestrians and vehicles during construction;
- confirmation of lay down area within legal road right of way if required; and
- confirmation if crossing the sidewalk and/or boulevard is required to temporarily access the site.

DEVELOPMENT ADVISEMENT:

Lot grades must match the Edmonton Drainage Bylaw 18093 and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

Any future deck/landing development greater than 0.6m (2ft) in Height and/or greater than 1.5m² in size will require development and building permit approvals

Any future deck enclosure or cover requires a separate development and building permit approval.

Unless otherwise stated, all the above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site.

A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

Variations

1. Rear Setback - The distance from the House to the rear lot line is 13.3m, 33% of the site depth, instead of 15.9m, 40% of the site depth; deficient by 2.6m (7%) (Section 814.3.4)
2. Rear Eave Projection - The distance from the rear eave of the house to the rear lot line is 12.8m instead of 15.3m, exceeded by 2.5m. (Section 44.1)
3. Front Eave Projection - The distance from the front eave of the house to the front lot line is 6.9m instead of 7.2m, exceeded by 0.3m. (Section 44.1)
4. Platform Structure Projection - The distance from the rear uncovered deck to the rear lot line is 11m, instead of 13.9m, exceeded by 2.9m. (Section 44.3(b))

Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Notice Period Begins: Jul 11, 2019

Ends: Aug 01, 2019

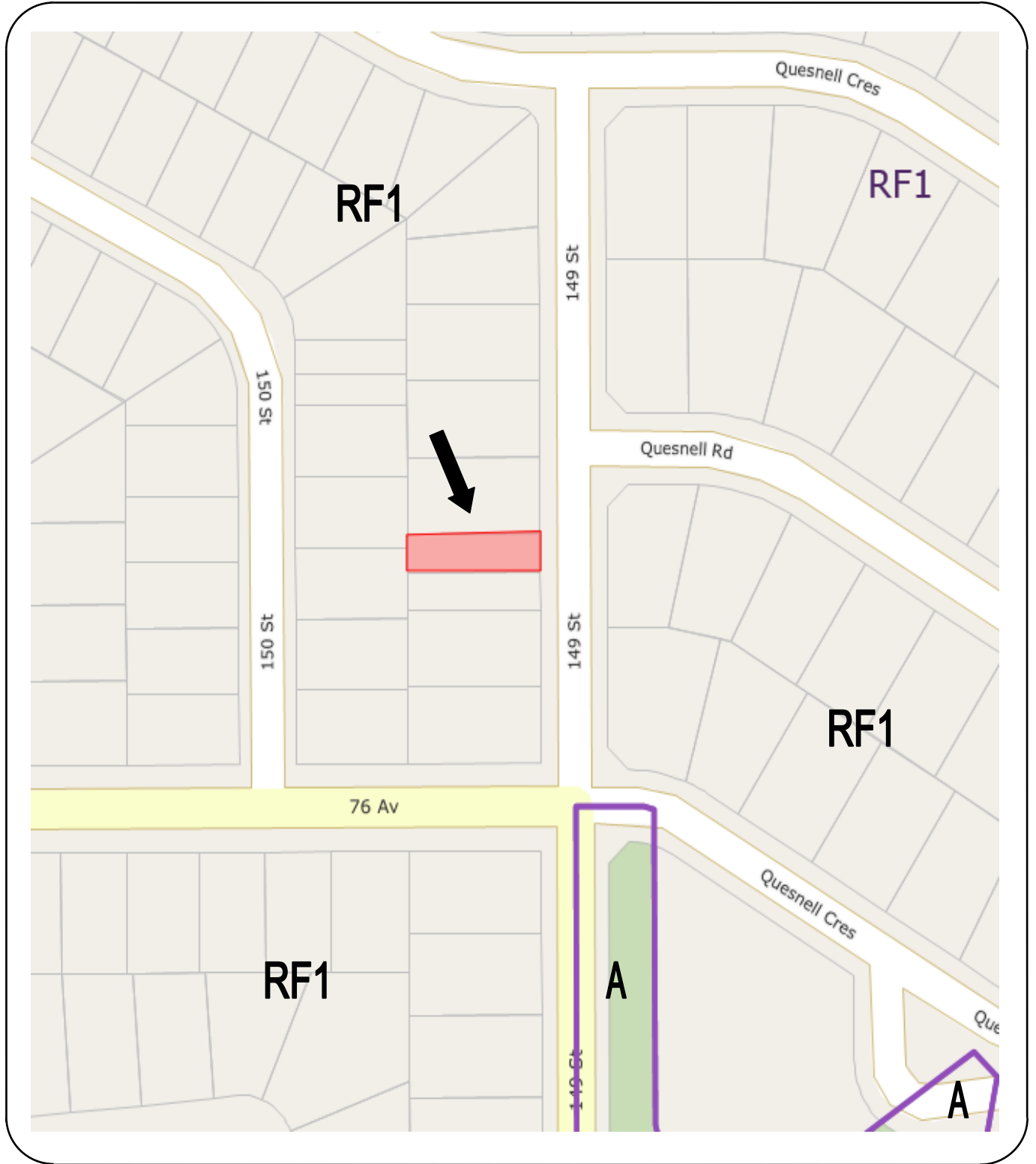


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Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$493.00	\$493.00	05800302	Apr 24, 2019
Lot Grading Fee	\$145.00	\$145.00	05800302	Apr 24, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	05800302	Apr 24, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$845.00</u>	<u>\$845.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-131

