

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
August 30, 2018**

**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-18-131	Construct exterior alteration to an existing Semi-detached House on Lot 42 (Driveway extension, 2.44 metres by 6.0 metres). 420 - Crystallina Nera Drive NW Project No.: 284417740-001
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II	10:30 A.M.	SDAB-D-18-132	Erect a fence 1.5 metres in Height in the front Yard (along north property line) and a fence 2.4 metres in Height (within the south side yard) 12410 - 93 Street NW Project No.: 275438152-001
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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-18-131

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 284417740-001

APPLICATION TO: Construct exterior alteration to an existing Semi-detached House on Lot 42 (Driveway extension, 2.44 metres by 6.0 metres).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 30, 2018

DATE OF APPEAL: August 1, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 420 - Crystallina Nera Drive NW

LEGAL DESCRIPTION: Plan 1524653 Blk 4 Lot 42

ZONE: RF4-Semi-Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Crystallina Nera West Neighbourhood Structure Plan
Edmonton North Area Structure Plan

Grounds for Appeal

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

High construction traffic area for new subdivision. This is a main road for construction and will become a bus route. one vehicle too long to fit in garage and must park on road causing extra congestion on street due to many other vehicles required to park on street. Must be shuffled for multiple vehicle household. Each neighbor has several vehicles and limited parking available and must park down the road to accommodate vehicles. this causes hazards for pedestrian traffic and excessive difficulties for large construction vehicles

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 clause (d), must comply with any land use bylaw in effect;

...

- (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 150.1, the **General Purpose** of the **(RF4) Semi-detached Residential Zone** is to provide a zone primarily for Semi-detached Housing and Duplex Housing.

Section 150.2(6) states **Semi-detached housing** is a **Permitted Use** in the **(RF4) Semi-detached Residential Zone**.

Under Section 7.2(7), **Semi-detached housing** means a development consisting of a building containing only two Dwellings joined in whole or in part at the side or rear with no Dwelling being placed over another in whole or in part. Each 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 Secondary Suites or Duplexes.

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

Under 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 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.

Location - Driveway

Section 54.1(4)(a) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall lead directly from the roadway to the Garage or Parking Area.

Development Officer's Determination

Driveway location - The Driveway does not lead directly from the roadway to the required Garage. (Section 54.1.4(a)) [unedited]

Width - Driveway

Section 54.1(4)(c) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall for a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser.

Development Officer's Determination

Driveway width - The maximum Driveway width is greater than the width of the front attached Garage. (Section 54.1.4(c)) [unedited]

Location - Vehicle Parking

Section 54.2(2)(e)(i) states that except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, ...shall not be located within a Front Yard in a Residential Zone.

Development Officer's Determination

Location of Vehicular Parking - Parking spaces shall not be located within a Front Yard. (Section 54.2.2.e.i) [unedited]

Landscaping


Section 55.2(1)(g) states that all Yards visible from a public roadway, other than a Lane, shall be seeded or sodded.

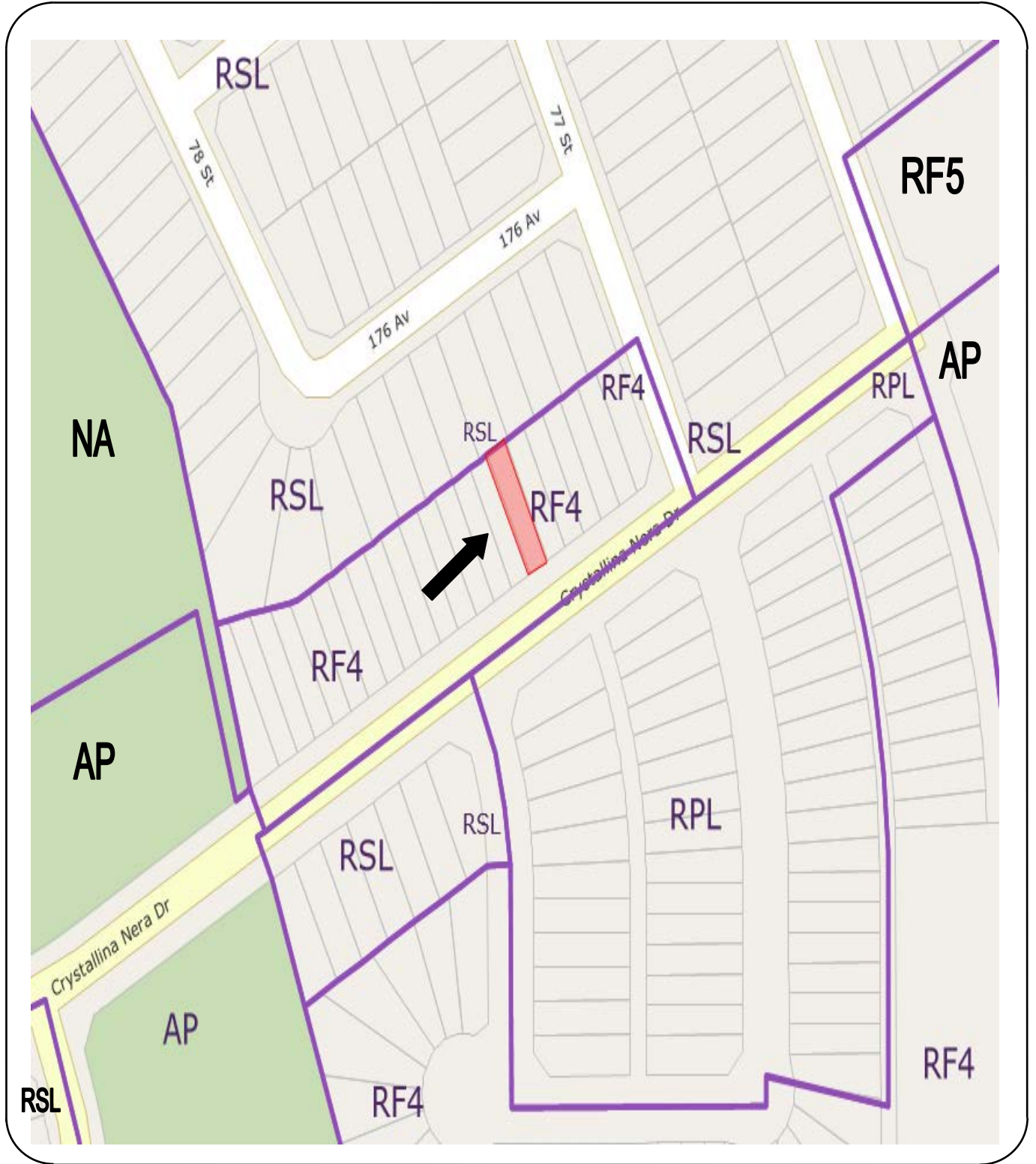
Development Officer's Determination

Landscaping - The Front Yard has not been landscaped (seeded or sodded) in accordance with Section 55 (Section 55.2.1(g)) [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: 284417740-001 Application Date: JUN 07, 2018 Printed: August 1, 2018 at 11:42 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 420 - CRYSTALLINA NERA DRIVE NW Plan 1524653 Blk 4 Lot 42 Specific Address(es) Suite: 420 - CRYSTALLINA NERA DRIVE NW Entryway: 420 - CRYSTALLINA NERA DRIVE NW Building: 420 - CRYSTALLINA NERA DRIVE NW																				
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Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Issue Date: Jul 30, 2018 Development Authority: LAI, ECHO Reason for Refusal <ol style="list-style-type: none"> 1. Driveway location - The Driveway does not lead directly from the roadway to the required Garage. (Section 54.1.4(a)) 2. Driveway width - The maximum Driveway width is greater than the width of the front attached Garage. (Section 54.1.4(c)) 3. Location of Vehicular Parking - Parking spaces shall not be located within a Front Yard. (Section 54.2.2.c.i) 4. Landscaping - The Front Yard has not been landscaped (seeded or sodded) in accordance with Section 55 (Section 55.2.1(g)) 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.																					
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%; text-align: right;">Fee Amount</th> <th style="width: 10%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: right;">Receipt #</th> <th style="width: 10%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">05084670</td> <td style="text-align: right;">Jun 07, 2018</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;">\$170.00</td> <td style="text-align: right; border-top: 1px solid black;">\$170.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$170.00	\$170.00	05084670	Jun 07, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$170.00	\$170.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-131



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

APPELLANT:

APPELLANT ADDRESS: 12406 - 91 Street NW

APPLICATION NO.: 275438152-001

APPLICATION TO: Erect a fence 1.5 metres in Height in the front Yard (along north property line) and a fence 2.4 metres in Height (within the south side yard)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: July 12, 2018

DATE OF APPEAL: July 22, 2018

NOTIFICATION PERIOD: July 12, 2018 through July 26, 2018

RESPONDENT: S. Jasinowski

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12410 - 93 Street NW

LEGAL DESCRIPTION: Plan 777HW Blk 15 Lot 3

ZONE: RF3-Small Scale Infill Development 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:

Susan Jasinowski and myself have been in a dispute over her plans for her fence since she sent us a letter in May 2018 outlining her plans. Our first concern is that she is tearing down a row of perfectly healthy cedars in order to build her fence. We offered options in writing which she rejected. During our last conversation in person on July 6 it became clear that she was not remotely open to any other plans other than what she had already told us in

the initial letter. I told her then that we would not consent to a fence any higher than the 6'1" of bylaw along the common property line. She assured me at that time that she was not doing a taller fence. I was unaware that she was also planning a taller than bylawed fence along the front of the property. We do not approve of these variances. We will not stop her from tearing out the trees, as much as it feels unnecessary to us as the trees are healthy and are an excellent privacy barrier. However, we will no consent to a taller fence to compensate for the lesser amount of privacy created by the removal of the trees.

General Matters

The Subdivision and Development Appeal Board made and passed the following motion on August 1, 2018:

That the appeal hearing regarding **275438152-001** be **TABLED** to August 30, 2018.

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,

- (A) within 21 days after the date on which the written decision is given under section 642, or
- (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

- (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 140.1, the **General Purpose** of the **(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 Dwellings under certain conditions, and including Secondary Suites and Garden Suites.

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

Under section 7.2(8), **Single Detached Housing** means “development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

Under section 6.1, **Accessory** is “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, a **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.”

<i>Height</i>

Under section 49.1, 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 metres for the portion of the Fence, wall, or gate constructed in the Front Yard
 - ii. 1.85 metres in all other Yards.
- ...
- f. In the case where the permitted Height of a Fence, wall, or gate is 1.2 metres, 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 metres, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 2.44 metres, in order to provide an additional screening to the public roadways or incompatible adjacent Uses.


...

Finishing Materials

Section 57.3(1) states in all non-industrial developments, the design and use of exterior finishing materials shall be to the satisfaction of the Development Officer who shall ensure, as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development.

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: 275438152-001 Application Date: FEB 22, 2018 Printed: July 23, 2018 at 7:50 AM Page: 1 of 2				
Minor Development Permit					
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.					
Applicant	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Property Address(es) and Legal Description(s)</td> </tr> <tr> <td style="padding: 2px;">12410 - 93 STREET NW Plan 777HW Blk 15 Lot 3</td> </tr> <tr> <td style="padding: 2px;">Specific Address(es)</td> </tr> <tr> <td style="padding: 2px;">Entryway: 12410 - 93 STREET NW Building: 12410 - 93 STREET NW</td> </tr> </table>	Property Address(es) and Legal Description(s)	12410 - 93 STREET NW Plan 777HW Blk 15 Lot 3	Specific Address(es)	Entryway: 12410 - 93 STREET NW Building: 12410 - 93 STREET NW
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I/We certify that the above noted details are correct. Applicant signature: _____					
Development Permit Decision Approved Issue Date: Jul 12, 2018 Development Authority: BAUER, KERRY					



Project Number: **275438152-001**
 Application Date: FEB 22, 2018
 Printed: July 23, 2018 at 7:50 AM
 Page: 2 of 2

Minor Development Permit

Subject to the Following Conditions

This Development Permit authorizes the development to erect a fence 1.5m in Height in the front Yard (along north property line) and a fence 2.4m in Height (within the south side yard). The development shall be constructed in accordance with the stamped and approved drawings;

The fence shall be installed entirely on the subject property.

The fence shall not impede any sightlines for vehicular or pedestrian traffic.

As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development (Reference Section 57.2.1).

Immediately upon completion of the development of the fence, the site shall be cleared of all debris.

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

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.

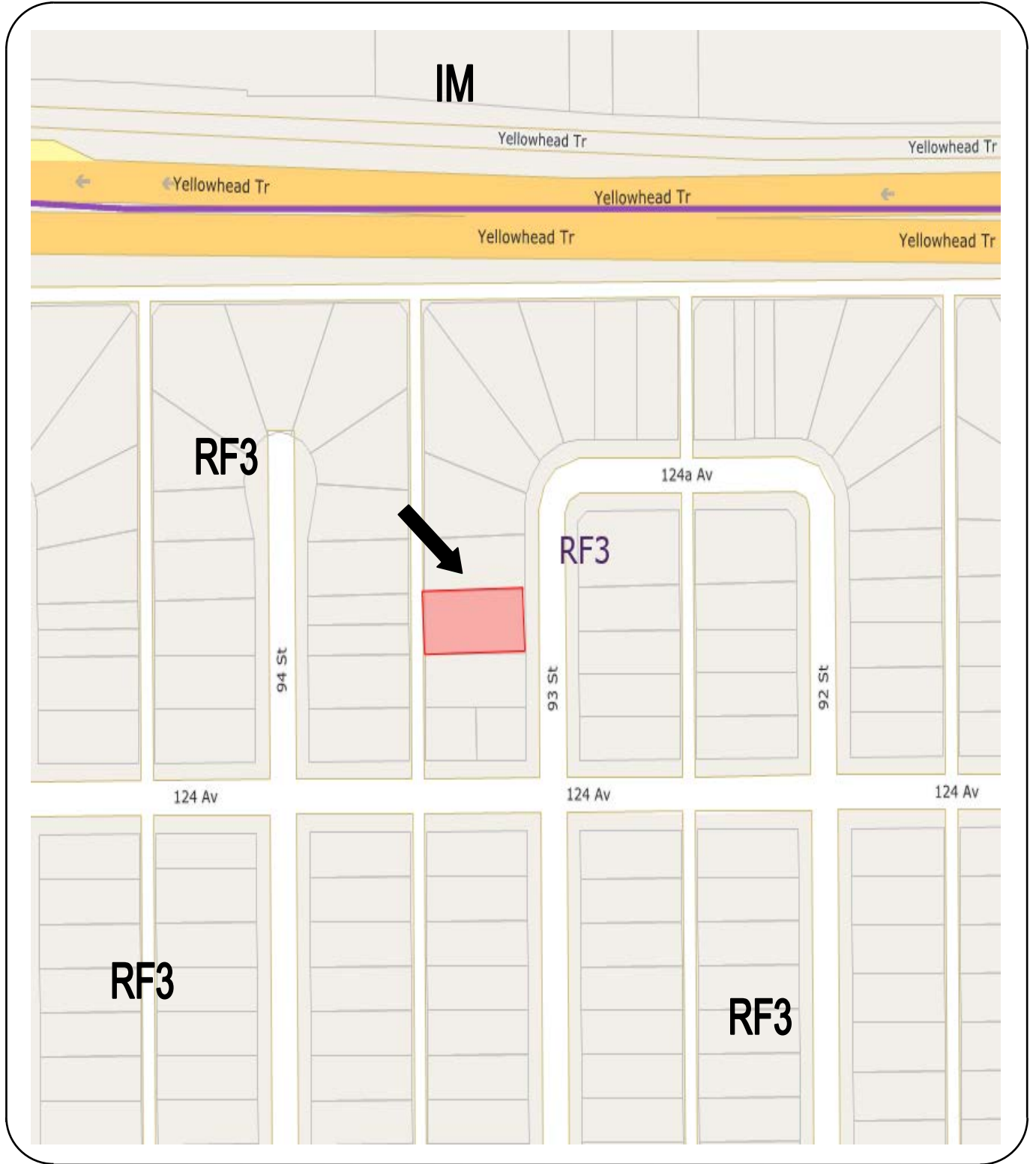
Rights of Appeal

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 19, 2018 **Ends:** Aug 09, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$176.00	\$176.00	04811909	Feb 23, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$176.00	\$176.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-132

