

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

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

**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-18-119	To construct an Accessory Building (rear detached Garage, 7.32 metres by 7.32 metres). 9281 - 86 Street NW Project No.: 256656933-004
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II	10:30 A.M.	SDAB-D-18-103	To leave as built a Single Detached House. 2674 - Maple Way NW Project No.: 270028546-002
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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-18-119

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 256656933-004

APPLICATION TO: Construct an Accessory Building (rear detached Garage, 7.32 metres by 7.32 metres).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 26, 2018

DATE OF APPEAL: July 13, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9281 - 86 Street NW

LEGAL DESCRIPTION: Plan 2947HW Blk 7 Lot 20

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:

We are formally appealing the refusal decision recently rendered by the Subdivision Planning department in respect to our permit request for a garage to be built with access off of 93rd Ave., Edmonton.

Rationale for the Refusal Appeal

- 1) While the property has back alley access, entry into and especially out of the property is hampered by the high bank of the property immediately to the east of ours (the other side of the back alley). This bank measures 3 feet in height and makes backing into the back lane treacherous, particularly in the winter when windrows created by snow plows makes this bank much higher and closer to our property. It should be

noted that no other property along this back alley (from 93 Ave. to 92 Ave.) has a bank of this magnitude to contend with.

- 2) The Bonnie Doon/Strathearn area is unfortunately a high crime area, recently ranked as eighth highest in the city (both our next door neighbour and our framer had their vehicles broken into within the past week). Having driveway access off of 93rd Ave. would give us an unobstructed view of our driveway and garage door which would assist in lessening the likelihood of a break-in to either the garage or vehicles parked on the driveway.
- 3) Within the Mature Neighbourhood Overlay, two of the key underlying reasons for adopting the change in regulations were to (a) “ensure small scale infill is developed in context with mature area built form” and (b) “70% of respondents preferred a larger back yard than front yard”. We feel that our permit application supports both of these premises. Of the eight properties directly situated on 93rd Ave., six of them currently have driveway access directly off of 93rd Ave., even though they each have unobstructed access off of a back lane. Allowing our property to have similar access would fit well into the character of the neighbourhood and would meet the context of the area built form. In addition, having our garage situated with access off of 93rd Ave. would significantly increase the size and usability of our backyard, very much in line with the second premise noted above in the Mature Neighbourhood Overlay.
- 4) The recently approved redevelopment of the Holyrood Apartments property will add 1200 new residents to our neighbourhood. In addition to this, the Valley Line LRT extension will add two LRT stations within a two block radius of our property. The LRT construction has also resulted in the closure of a service road one-half block from our property, forcing residents living along the service road to park elsewhere. This collectively will undoubtedly increase the number of vehicles parking near our property and severely limit available space for visiting guests to park. Having driveway access off of 93rd Ave. would give us a larger driveway which we in turn could use to accommodate parking for any guests visiting.
- 5) We are sensitive to the need to preserve trees where possible. To that end, we did propose to pay to move the current boulevard tree 20 to 25 feet to the west, which would have allowed enough room for the driveway access being requested within the development permit. Unfortunately, Urban Forestry felt that the tree was too old and too large to be moved and denied this request. We are prepared to pay for the removal of the tree and have it replaced, which appears to be in line with the current arrangement surrounding the removal and replacement of trees associated with the Valley Line LRT extension. Placing a new tree on the existing boulevard would not look out of place given that a newer tree was planted on the same boulevard approximately five years ago.

<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.

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*

Section 110.2(2) states a **Single Detached House** 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 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.

Section 50.1(2) states Accessory Uses and buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.

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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

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 regardless of whether a Site has existing vehicular access from a public roadway, other than a Lane, no such access shall be permitted to continue where an Abutting Lane exists.

Development Officer's Determination

Driveway - The proposed driveway is located off of 93 Ave NW (flanking) instead of the alley (Section 814.3.17).

Community Consultation


Section 814.5 states:

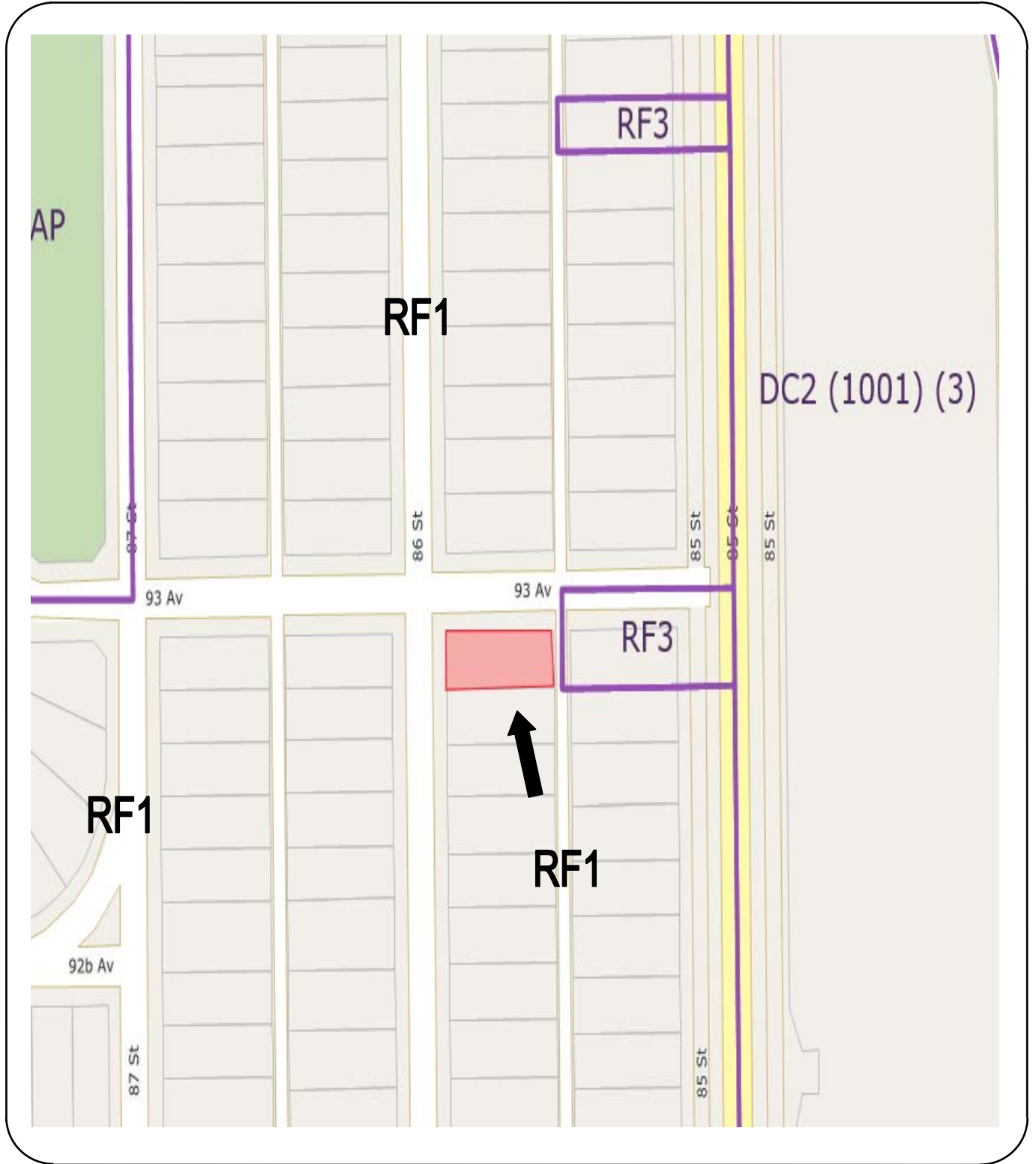
1. When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) or 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 11.2 and 11.3.

Table 814.5(2)			
Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay Proposed to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(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.

	Project Number: 256656933-004 Application Date: JUL 11, 2017 Printed: July 16, 2018 at 8:51 AM Page: 1 of 1																														
<h2 style="margin: 0;">Application for</h2> <h3 style="margin: 0;">Accessory Building Development and Building Permit</h3>																															
This document is a record of a Development Permit and/or Building 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, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.																															
Applicant <div style="border: 1px solid black; height: 50px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 9281 - 86 STREET NW Plan 2947HW Blk 7 Lot 20 Location(s) of Work Entryway: 9281 - 86 STREET NW Building: 9281 - 86 STREET NW																														
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Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Building Area (sq. ft.): 576 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%; border: none;"> Class of Permit: Class B Type of Accessory Building: Detached Garage (010) </td> </tr> </table>		Building Area (sq. ft.): 576 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Class of Permit: Class B Type of Accessory Building: Detached Garage (010)																												
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I/We certify that the above noted details are correct. Applicant signature: _____																															
Development Application Decision Refused Issue Date: Jun 26, 2018 Development Authority: BERNUY, MICHELLE Reasons for Refusal Driveway - The proposed driveway is located off of 93 Ave NW (flanking) instead of the alley (Section 814.3.17). 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-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Safety Codes Fee</td> <td style="text-align: right;">\$4.50</td> <td style="text-align: right;">\$4.50</td> <td>04302607</td> <td>Jul 19, 2017</td> </tr> <tr> <td>Building Permit Fee</td> <td style="text-align: right;">\$105.00</td> <td style="text-align: right;">\$105.00</td> <td>04302607</td> <td>Jul 19, 2017</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$113.00</td> <td style="text-align: right;">\$113.00</td> <td>04302607</td> <td>Jul 19, 2017</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;">\$222.50</td> <td style="text-align: right; border-top: 1px solid black;">\$222.50</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Safety Codes Fee	\$4.50	\$4.50	04302607	Jul 19, 2017	Building Permit Fee	\$105.00	\$105.00	04302607	Jul 19, 2017	Dev. Application Fee	\$113.00	\$113.00	04302607	Jul 19, 2017	Total GST Amount:	\$0.00				Totals for Permit:	\$222.50	\$222.50		
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THIS IS NOT A PERMIT																															



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-119



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

APPELLANT:

ADDRESS OF APPELLANT: 2672 - Maple Way NW

APPLICATION NO.: 270028546-002

APPLICATION TO: Leave as built a Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 24, 2018

DATE OF APPEAL: June 21, 2018

NOTIFICATION PERIOD: May 31, 2018 through June 21, 2018

RESPONDENT: Landmark Legacy Homes Inc./ Hillenbrand Kozicki LLP

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2674 - Maple Way NW

LEGAL DESCRIPTION: Plan 1623032 Blk 17 Lot 18

ZONE: RMD-Residential Mixed Dwelling Zone

OVERLAY: N/A

STATUTORY PLAN(S): The Maple Neighbourhood Structure Plan
The Meadows Neighbourhood Structure Plan

Grounds for Appeal

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

I wish to appeal this permit because the builder had not informed us when we were building this property that they are closer to our property. This would have affected our decision to purchase our property for over 406 000. They have not been transparent and have given us any information as to how this will affect our fence and garage permit as well. As well as for maintenance we now have less room to preform any maintenance on our house and if we

damage our neighbours house due to this we will be responsible. I would like the builder to refund our money for our house for lying to us. [unedited]

General Matters

The Subdivision and Development Appeal Board made and passed the following motion on July 18, 2018:

“That SDAB-D-18-103 be TABLED to August 9, 2018, at the written request of the Appellant and with the written consent of the Respondent.”

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, within 21 days after the date on which the written decision is given under section 642, or
 - (A) 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

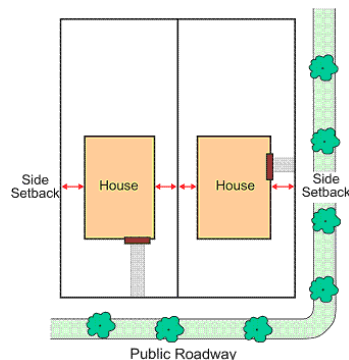
General Provisions from the *Edmonton Zoning Bylaw*:

Under Section 155.1, the **General Purpose** of the **(RMD) Residential Mixed Dwelling Zone** is to provide for a range of dwelling types and densities including Single Detached, Semi-detached and Row Housing that provides the opportunity for more efficient utilization of land in developing neighbourhoods, while encouraging diversity in built form.

Under Section 155.2(7), **Single Detached Housing** is a **Permitted Use** in this 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, **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 Side Setback** means “the distance that a development or a specified portion of it, must be set back from the outmost Side Lot Line of the Site. A Site Side Setback is not a Side Yard, Amenity Space or Separation Space.”

Under Section 6.1, **Zero Lot Line Development** means “a development on a Site where one Site Side Setback is reduced to 0 m and each Dwelling is developed on its own Lot.”

Side Setback

Section 155.4(4) states a Single Detached Housing, Semi-detached Housing and Row Housing may be developed as a **Zero Lot Line Development**.

Section 155.4(19) states **Site Side Setbacks** for Single Detached Housing, Semi-detached Housing, and Row Housing where vehicular access is not from the Lane, shall be reduced to 0 metres only on one side of a public roadway, other than a Lane, and shall not be allowed on collector roadways.

Under Section 155.4 (21), a **Zero Lot Line** Development shall only be permitted where:


- a. The other **Site Side Setback** is a minimum of 1.5 metres, except that:
 - i. the minimum Site Side Setback Abutting a public roadway other than a Lane shall be 20% of the width of the Lot abutting the flanking public roadway or 2.4 metres, whichever is greater;
 - ii. where a Garage is attached to the principal building, and the vehicle doors of the Garage face a flanking public roadway other than a Lane, the distance between any portion of these vehicle doors and the flanking public roadway shall not be less than 4.5 metres;
 - iii. the minimum Side Setback Abutting a Lane shall be 1.2 metres; or
 - iv. the minimum Side Setback Abutting a Treed Landscaped Boulevard, where the principal building faces the flanking Side Lot Line, shall be 3.0 metres.
- b. all roof leaders from the Dwelling are connected to the individual storm sewer service for each Lot;
- c. no roof leader discharge shall be directed to the maintenance easement; and
- d. the owner of a Lot within a development proposed for the Zero Lot Line Development and the owner of the adjacent Lot shall register, on titles for all adjacent lots, a 1.5 metres private maintenance easement that provides for:
 - i. a 0.30 metres eave encroachment easement with the requirement that the eaves must not be closer than 0.90 metres to the eaves of the building on an adjacent parcel;
 - ii. a 0.60 metres footing encroachment easement; and
 - iii. permission to access the easement area for maintenance of the properties.
- e. except for Sites proposed for a Zero Lot Line Development of Single Detached Housing, the owner of the Site proposed for the Zero Lot Line Development shall register on all titles within the Zero Lot Line Development Site as well as all titles on the adjacent Site a restrictive covenant and easement that:
 - i. requires a drainage swale constructed to City of Edmonton Design and Construction Standards; and
 - ii. provides for the protection of drainage of the Site, including the right for water to flow across Lots and the requirement not to inhibit the flow of water across Lots.
- f. except for Sites proposed for a Zero Lot Line Development of Single Detached Housing, the owner of the Site proposed for the Zero Lot Line Development shall register a utility easement(s) on, where necessary, all Lots within the Zero Lot Line development and the Abutting Lots to ensure adequate access for utility maintenance.

Development Officer's Determination

Reduce Side Setback – the distance from the house to the side property line abutting 2672 Maple Way NW is 1.4 metres, instead of 1.5 metres (Section 155.4(21)(d))

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: 270028546-002 Application Date: JAN 03, 2018 Printed: June 21, 2018 at 2:38 PM 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	Property Address(es) and Legal Description(s) 2674 - MAPLE WAY NW Plan 1623032 Blk 17 Lot 18
Scope of Permit To leave as built a Single Detached House.	
Permit Details	
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved 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 to Leave as Built a Single Detached House only. It DOES NOT authorize any other interior or exterior alterations to this house. The development shall be constructed in accordance with the stamped and approved drawings. ADVISEMENTS: An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.	
Variances Reduce Side Setback - the distance from the house to the side property line abutting 2672 Maple Way NW is 1.4m, instead of 1.5m. (Section 155.4(21)(d))	
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.	



Project Number: **270028546-002**
Application Date: JAN 03, 2018
Printed: June 21, 2018 at 2:38 PM
Page: 2 of 2

Minor Development Permit

Issue Date: May 24, 2018 **Development Authority:** LAI, ECHO
Notice Period Begins: May 31, 2018 **Ends:** Jun 21, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$164.00	\$164.00	04721671	Jan 03, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$164.00	<u>\$164.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-103



N