

SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Tuesday, 9:00 A.M.
December 1, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-170

Construct a rear uncovered deck to a Single Detached House (5.79m X 5.00m @ 1.00m in Height) and to construct an Accessory building (pergola, 5.00m x 4.62m - Existing without permits)

15509 - 47A Street NW
Project No.: 368743176-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-170

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 368743176-002

APPLICATION TO: Construct a rear uncovered deck to a Single Detached House (5.79m X 5.00m @ 1.00m in Height) and to construct an Accessory building (pergola, 5.00m x 4.62m - Existing without permits)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 13, 2020

DATE OF APPEAL: November 9, 2020

NOTIFICATION PERIOD: October 20, 2020 through November 10, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15509 - 47A Street NW

LEGAL DESCRIPTION: Plan 0522926 Blk 8 Lot 59

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Brintnell Area Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

This huge deck has been a nuisance in our back yards already. Because it is so high, I can hear people talking in a normal tone. But, there is a lot more than talking going on. Loud parties prove that this will not be tolerable. It will also allow the home to be sold, as is, then we will be left at the mercy of the new Owners.

At the lowest point, the deck may be only three feet off of the ground. At it's highest point, it is over six feet. It is also way too big. It comes too close to the rear of the Property, removing any small bit of privacy a person once had. This allows large groups of people to congregate above the fence line, while seated, in the lower part of the deck. In the higher area, people will stand five or six feet above the fence line! Due to the way the yards are graded, they drop off severely to the East for drainage. All of the homes there are affected. We have had incidents in the past and if this is approved, it will create more bad will between Neighbors in the future. It is not fair, or legal, for this to proceed. They have already shown this deck to be too high and too large. Why is it that they did not meet the size guidelines, but because they went ahead and built it, that it is being looked at now.

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 clause (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 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot 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, **Platform Structure** 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.

Section 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is:

to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

Projection into Setbacks and Separation Spaces

Section 115.4(7) states “The minimum Rear Setback shall be 7.5 m, except in the case of a corner Site it shall be 4.5 m.”

Section 44.3(b) states:

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

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

Development Officers Determination

Projection - The distance from the uncovered deck with pergola to the back property line property line (shared with 15508 - 47 STREET NW) is 2.4m, instead of 5.5m (Section 44.3.b)

[unedited]

Site Coverage

Section 115.4(5) states:

The maximum total Site Coverage shall not exceed 45%, inclusive of the attached Garage and any other Accessory buildings except that:

- a. The maximum total Site Coverage shall be increased by up to 2% of the Site Area, in addition to any increase allowed under Section 87, to accommodate single Storey Unenclosed Front Porches.

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

the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 m above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 m or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m above Grade;


Development Officers Determination


Site Coverage - The house covers 47% of the site, instead of 45%. In total all the buildings cover 47% of the site, instead of 45% (Section 115.4.5).

[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: 368743176-002 Application Date: JUL 25, 2020 Printed: October 13, 2020 at 10:45 AM Page: 1 of 2		
	<h2>Uncovered Deck 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) 15509 - 47A STREET NW Plan 0522926 Blk 8 Lot 59		
Scope of Permit To construct a rear uncovered deck to a Single Detached House (5.79m X 5.00m @ 1.00m in Height) and to construct an Accessory building (pergola, 5.00m x 4.62m). Existing without permits.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class Of Permit: Class A Stat. Plan Overlay/Annex Area: (none) </td> <td style="width: 50%;"> Site Area (sq. m.): 446.66 </td> </tr> </table>		Class Of Permit: Class A Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 446.66
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Development Permit Decision Approved Issue Date: Oct 13, 2020 Development Authority: TESSERA, HERAN Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21 (Section 17.1). This Development Permit authorizes the development of a rear uncovered deck to a Single Detached House (5.79m X 5.00m @ 1.00m in Height) and to construct an Accessory building (pergola, 5.00m x 4.62m). Existing without permits. 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 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 (Section 5.2). Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800. Variations Projection - The distance from the uncovered deck with pergola to the back property line property line (shared with 15508 - 47 STREET NW) is 2.4m, instead of 5.5m (Section 44.3.b) Site Coverage - The house covers 47% of the site, instead of 45%. In total all the buildings cover 47% of the site, instead of 45% (Section 115.4.5).			

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<p>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: Oct 20, 2020 Ends: Nov 10, 2020</p>																																									
<p>Building Permit Decision No decision has yet been made.</p>																																									
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <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>Existing Without Permit Dev Application Penalty Fee</td> <td style="text-align: right;">\$120.00</td> <td style="text-align: right;">\$120.00</td> <td>990983000396001</td> <td>Aug 19, 2020</td> </tr> <tr> <td>Building Permit Fee (Uncovered Deck)</td> <td style="text-align: right;">\$112.00</td> <td style="text-align: right;">\$112.00</td> <td>982257080535001</td> <td>Jul 25, 2020</td> </tr> <tr> <td>Safety Codes Fee</td> <td style="text-align: right;">\$4.50</td> <td style="text-align: right;">\$4.50</td> <td>982257080535001</td> <td>Jul 25, 2020</td> </tr> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$120.00</td> <td style="text-align: right;">\$120.00</td> <td>982257080535001</td> <td>Jul 25, 2020</td> </tr> <tr> <td>Existing Without Permit Building Penalty Fee</td> <td style="text-align: right;">\$112.00</td> <td style="text-align: right;">\$112.00</td> <td>990983000396001</td> <td>Aug 19, 2020</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;">\$468.50</td> <td style="text-align: right; border-top: 1px solid black;">\$468.50</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Existing Without Permit Dev Application Penalty Fee	\$120.00	\$120.00	990983000396001	Aug 19, 2020	Building Permit Fee (Uncovered Deck)	\$112.00	\$112.00	982257080535001	Jul 25, 2020	Safety Codes Fee	\$4.50	\$4.50	982257080535001	Jul 25, 2020	Development Application Fee	\$120.00	\$120.00	982257080535001	Jul 25, 2020	Existing Without Permit Building Penalty Fee	\$112.00	\$112.00	990983000396001	Aug 19, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$468.50	\$468.50		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-170

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