

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Tuesday, 9:00 A.M.
December 15, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-181

Erect a fence @ 2.44m in Height in the Rear Yard

1382 - McConachie Boulevard NW

Project No.: 374539185-002

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-20-181

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 374539185-002

APPLICATION TO: Erect a fence @ 2.44m in Height in the Rear Yard

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 28, 2020

DATE OF APPEAL: November 24, 2020

NOTIFICATION PERIOD: November 12, 2020 through December 3, 2020

RESPONDENT: D. Simon

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 1382 - McConachie Boulevard NW

LEGAL DESCRIPTION: Plan 1721305 Blk 23 Lot 22

ZONE: (RMD) Residential Mixed Dwelling Zone

OVERLAY: N/A

STATUTORY PLAN(S): McConachie Neighbourhood Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

We own 50% of the existing 6 ft fence built to the specs by Pacesetter Homes for the development as of Mclabs. Dev.

This extension of mismatched boards was built while we were out of the city and not consulted with and never approved what our neighbour did.

We put a complaint in to the Bylaws dept in May 2020 never looked at till the fall of 2020. This fence extension is causing us stress to the fact it looks unprofessional built and makes our yard shaded longer in the morning causing moisture to last longer in our yard after rainstorms our grass is deteriorating from the extra shade and so far this winter snow is building higher on our deck and walkway. This could cause our yard to stay wetter from the snow built up it will not melt quickly causing more damage to our lawn and decking.

This extension could cause a financial loss to us and devalue our property when ever we try to sell.It will be hard to explain why this extension was built and out of place for the neighbourhood .home owner at 1382 has a option of removing the extension when ever they decide to sell.

This permit could set a president for other homeowners to do the same and have a development with many different types of extensions and fences of over 8 ft are built, the development would look shabby .If a homeowner needs this type of privacy they should purchased in rural setting not a connected Townhome where there is a multi culture of people that have to neighbourly to each other a 6 ft fence is high enough for any development a 8 ft wall looks degrading.

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 155.2(4), **Row Housing** is a **Permitted Use** in the **(RMD) Residential Mixed Dwelling Zone**.

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

Under section 6.1, **Fence** means “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

Under section 6.1, **Height** means “a vertical distance between two points.”

Section 155.1 states that 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.

Fence Height

Section 49.1(g) states:

In the case where the permitted Height of a Fence, wall, or gate is 1.85 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 2.44 m, in order to provide additional screening from public roadways or incompatible adjacent Uses.


Development Officer's Determination (Based on Written Submission)

Fence Height - The fence in the rear yard adjacent to 1380 McConachie Blvd is 2.44m high, instead of 1.8m (Section 49.1.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: 374539185-002 Application Date: OCT 02, 2020 Printed: October 28, 2020 at 10:51 AM Page: 1 of 2												
	<h2>Overheight Fence 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	<table border="1"> <tr> <td colspan="2" data-bbox="824 451 1226 483">Property Address(es) and Legal Description(s)</td> </tr> <tr> <td colspan="2" data-bbox="857 478 1209 529">1382 - MCCONACHIE BOULEVARD NW Plan 1721305 Blk 23 Lot 22</td> </tr> <tr> <td colspan="2" data-bbox="824 541 998 567">Location(s) of Work</td> </tr> <tr> <td data-bbox="815 571 885 596">Suite:</td> <td data-bbox="906 571 1269 596">1382 - MCCONACHIE BOULEVARD NW</td> </tr> <tr> <td data-bbox="815 600 885 625">Entryway:</td> <td data-bbox="906 600 1269 625">1382 - MCCONACHIE BOULEVARD NW</td> </tr> <tr> <td data-bbox="815 630 885 655">Building:</td> <td data-bbox="906 630 1269 655">1382 - MCCONACHIE BOULEVARD NW</td> </tr> </table>	Property Address(es) and Legal Description(s)		1382 - MCCONACHIE BOULEVARD NW Plan 1721305 Blk 23 Lot 22		Location(s) of Work		Suite:	1382 - MCCONACHIE BOULEVARD NW	Entryway:	1382 - MCCONACHIE BOULEVARD NW	Building:	1382 - MCCONACHIE BOULEVARD NW
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Scope of Permit To erect a fence @ 2.44m in Height in the Rear Yard.													
Permit Details <table border="1"> <tr> <td data-bbox="279 793 803 844"> Class Of Permit: Class B Stat. Plan Overlay/Ames Area: (none) </td> <td data-bbox="815 793 1367 819"> Site Area (sq. m.): 267.31 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Ames Area: (none)	Site Area (sq. m.): 267.31										
Class Of Permit: Class B Stat. Plan Overlay/Ames Area: (none)	Site Area (sq. m.): 267.31												
Development Permit Decision Approved Issue Date: Oct 28, 2020 Development Authority: BERNUY, MICHELLE 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 fence @ 2.44m in Height in the Rear 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 (Section 57.3.1). Immediately upon completion of the development of the fence, the site shall be cleared of all debris. 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). 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.													



Project Number: **374539185-002**
Application Date: OCT 02, 2020
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Overheight Fence Permit

Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Dev Application Penalty Fee	\$182.00	\$182.00	06780259	Oct 15, 2020
Development Application Fee	\$182.00	\$182.00	00832509293F001	Oct 02, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$364.00	\$364.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-20-181