

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
December 5, 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-19-213	Construct a Single Detached House with front attached Garage, fireplace and Unenclosed Front Porch 12421 – Grand View Drive NW Project No.: 325119909-001
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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-19-213

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 325119909-001

APPLICATION TO: Construct a Single Detached House with front attached Garage, fireplace and Unenclosed Front Porch

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 29, 2019

DATE OF APPEAL: November 15, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12421 – Grand View Drive NW

LEGAL DESCRIPTION: Plan 1920810 Blk 12 Lot 11B

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 solicitors for Ping Du and Xin Li whose application for a Development Permit at the above captioned address was refused on October 29, 2019. On behalf of our client, we hereby appeal the Development Officer's refusal of their Permit application on the grounds that:

- Single detached housing is a Permitted Use in the RF1 Single Detached Residential Zone;
- The proposed variances to the regulations found in the Mature Neighbourhood Overlay and the RF1 Zone will not have any adverse

impact on the use, enjoyment and value of neighbouring properties or the amenities of the neighbourhood;

- The proposed development is appropriate at the subject site; and
- Such further and other grounds as may be presented at the hearing of the within appeal.

<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 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 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, Garden Suites, Semi-detached Housing and Duplex Housing.”

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

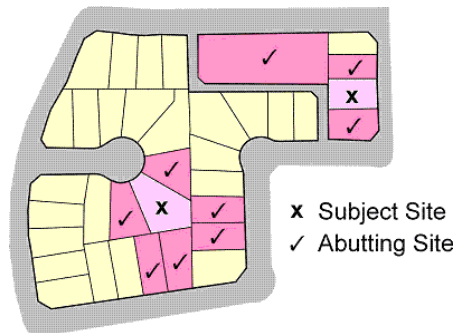
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the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

Driveway

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Under section 6.1 **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Under section 6.1 **Lane** means “an alley as defined in the Traffic Safety Act.”

Under section 6.1 **Driveway** means “an area that provides for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Development Officer’s Determination

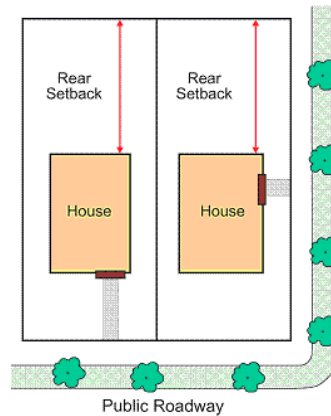
Driveway - The driveway is located off Grand View Drive (front) instead of the lane. (Section 814.3.17). [unedited]

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

Reduced Rear Setback: The distance from the principal Dwelling to the rear property line is 12.33m (30.97%) instead of 15.92 m (40%). Deficient by 3.59m. (Section 814.3.4) [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	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> 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 <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access
Tier 2	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(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.



Application for Minor Development Permit

Project Number: **325119909-001**
 Application Date: JUL 10, 2019
 Printed: October 29, 2019 at 12:39 PM
 Page: 1 of 1

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s) 12421 - GRAND VIEW DRIVE NW Plan 1920810 Blk 12 Lot 11B
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Scope of Application
To construct a Single Detached House with front attached Garage, fireplace and Unenclosed Front Porch.

Permit Details # 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: Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
 Refused

Issue Date: Oct 29, 2019 **Development Authority:** HETHERINGTON, FIONA

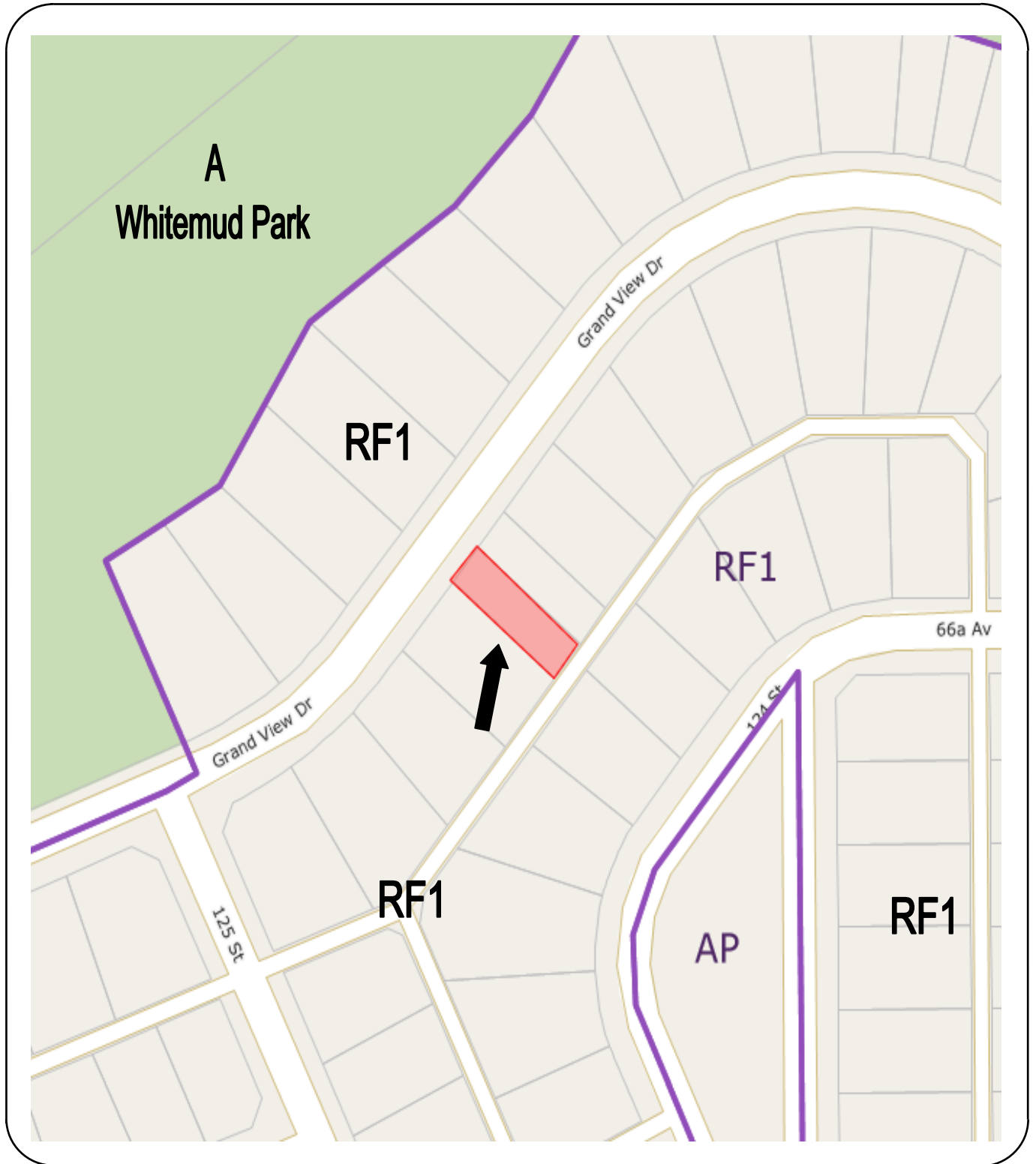
Reason for Refusal
 Driveway - The driveway is located off Grand View Drive (front) instead of the lane. (Section 814.3.17).

Reduced Rear Setback: The distance from the principal Dwelling to the rear property line is 12.33m (30.97%) instead of 15.92 m (40%). Deficient by 3.59m. (Section 814.3.4)

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	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$493.00	\$493.00	05985897	Jul 12, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	05985897	Jul 12, 2019
Lot Grading Fee	\$145.00	\$145.00	05985897	Jul 12, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$845.00	\$845.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-213

