

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
December 8, 2016**

**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-16-317	Park a Recreational Vehicle in the Front Yard of a Single Detached House 7108 - 39 Avenue NW Project No.: 228839673-001
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TO BE RAISED

II	10:30 A.M.	SDAB-D-16-318	Construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits 4123 - 27 Avenue NW Project No.: 182548244-007
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TO BE RAISED

III	1:00 P.M.	SDAB-D-16-264	Construct exterior alterations to an approved Accessory Building (rear detached garage, 7.3 metres by 6.1 metres) 10927 - 97 Street NW Project No.: 176981065-003
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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-16-317

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 228839673-001

APPLICATION TO: Park a Recreational Vehicle in the Front Yard of a Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 25, 2016

DATE OF APPEAL: October 27, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7108 - 39 AVENUE NW

LEGAL DESCRIPTION: Plan 3414TR Blk 38 Lot 17

ZONE: RF1-Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

Want to continue parking R.V. in front yard year round.

Attached: Notice of Development Permit in the Edmonton Journal on March 20, 2016, No. 184709100-002

Neighbourhood Consultation.

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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Hearing and Decision

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

- ...
- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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 110.2(4), **Single Detached Housing** is a **Permitted Use** in the **RF1 Single Detached Residential Zone**.

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, Semi-detached Housing and Duplex Housing under certain conditions.

<p><i>Objects Prohibited or Restricted in Residential Zones</i></p>
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Section 45.3 states no person shall keep, in the Front Yard in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone, any large Recreational Vehicle for any longer than is reasonably necessary to load or unload such vehicle.

Section 45.4 states notwithstanding subsection 45.3, from April 1 through October 31 inclusive, on a residential Site with no rear Lane, large Recreational Vehicles may be parked to within 2.0 metres of the interior edge of the sidewalk, or within 2.0 metres of the curb if there is no sidewalk:

- a. where vehicular access is solely available through the Front Yard; or
- b. in the case of a corner Site, where vehicular access is solely available through the Front Yard or through the exterior flanking Side Yard,

subject to the discretion of the Development Officer, who may exercise his variance power to decrease this minimum Setback requirement on a Site by Site basis, given the proximity and orientation of driveways, parking areas, buildings and other physical features which may affect sight lines and amenities on the subject property and on adjacent properties.

Section 45.5 states for the purposes of subsections 45.3 and 45.4, a "large Recreational Vehicle" shall include any motorhome, travel trailer, or fifth wheel trailer; any camper when it is not mounted on a truck, but placed on the ground, on a stand or otherwise stored; or any similar vehicles.

Section 45.6 states for the purposes of subsections 45.3 and 45.4, a "large Recreational Vehicle" shall not include: small utility trailers; camper van conversions; tent trailers; campers which are mounted in trucks; boats; snowmobiles; all-terrain vehicles; jet skis; or motorcycles and trailers to carry them.

Development Officer's Determination

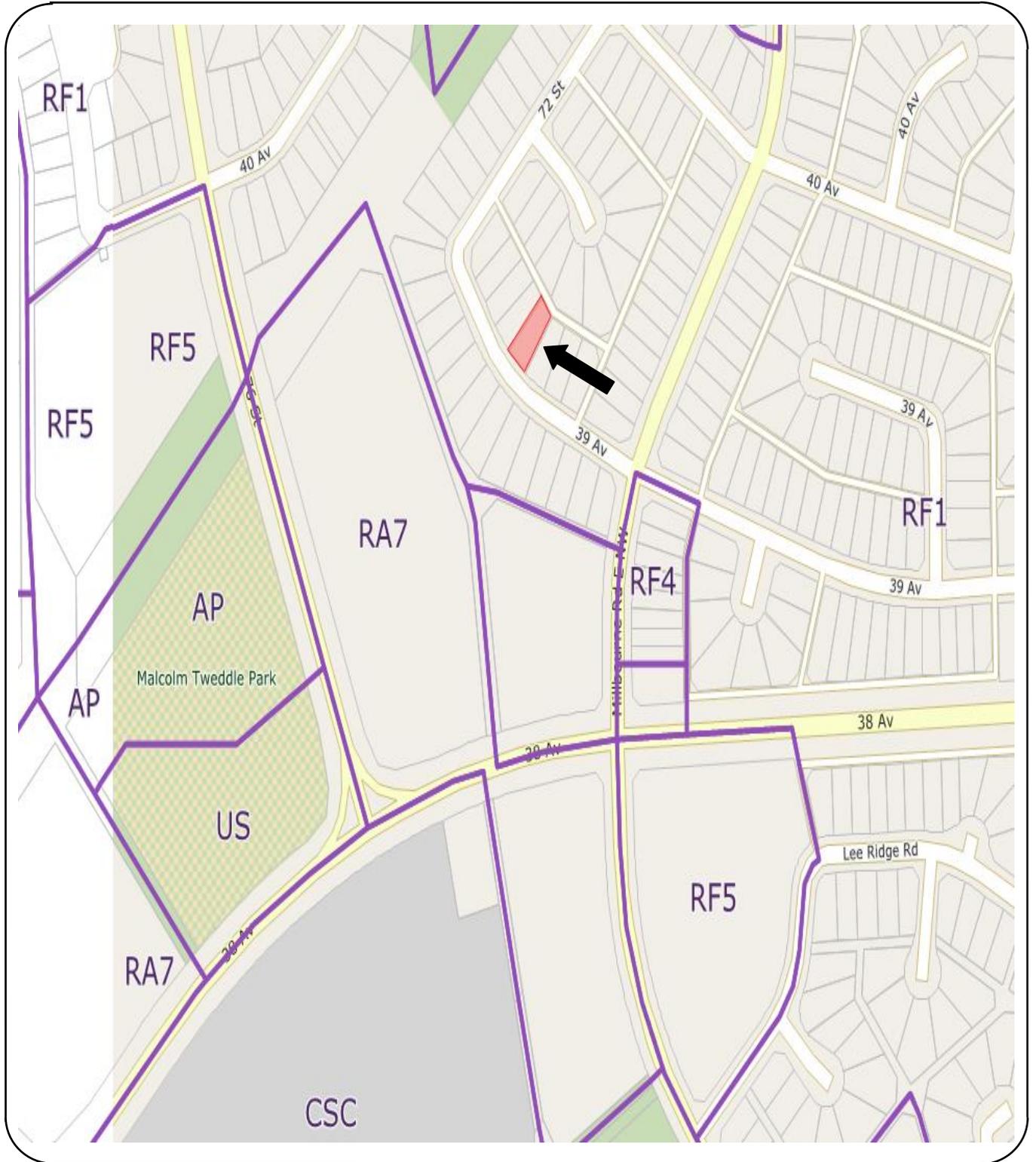
Objects Prohibited - No Recreational Vehicle parking is permitted for any longer than is reasonably necessary to load or unload such vehicle. There is a Recreational Vehicle parked in the Front Yard (Section 45.3).

Objects Prohibited - Large Recreational Vehicles may be parked to within 2.0 metres of the interior edge of the sidewalk, or within 2.0 metres of the curb if there is no sidewalk where vehicular access is solely available through the Front Yard. There is a lane at the rear of the property (Section 45.4(a)).

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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 228839673-001 Application Date: AUG 19, 2016 Printed: November 28, 2016 at 3:31 PM 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 <div style="border: 1px solid black; width: 200px; height: 40px; margin: 0 auto;"></div>	Property Address(es) and Legal Description(s) 7108 - 39 AVENUE NW Plan 3414TR Blk 38 Lot 17 Specific Address(es) Entryway: 7108 - 39 AVENUE NW Building: 7108 - 39 AVENUE NW																				
Scope of Application To park a Recreational Vehicle in the Front Yard of a Single Detached House.																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Park RV in Front Required Yard Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Park RV in Front Required Yard Secondary Suite Included?: N	Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: N 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 Reason for Refusal Objects Prohibited - No Recreational Vehicle parking is permitted for any longer than is reasonably necessary to load or unload such vehicle. There is a Recreational Vehicle parked in the Front Yard (Section 45.3). Objects Prohibited - Large Recreational Vehicles may be parked to within 2.0 m of the interior edge of the sidewalk, or within 2.0 m of the curb if there is no sidewalk where vehicular access is solely available through the Front Yard. There is a lane at the rear of the property. (Section 45.4(a)). Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.																					
Issue Date: Oct 25, 2016 Development Authority: ZIOBER, MELISSA Signature: _____																					
Fees <table style="width: 100%; border: none;"> <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: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$165.00</td> <td style="text-align: right;">\$165.00</td> <td style="text-align: right;">03536839</td> <td style="text-align: right;">Aug 19, 2016</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td style="text-align: right; border-top: 1px solid black;"></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right;">\$165.00</td> <td style="text-align: right;">\$165.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$165.00	\$165.00	03536839	Aug 19, 2016	Total GST Amount:	\$0.00				Totals for Permit:	\$165.00	\$165.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-317



TO BE RAISED
ITEM II: 10:30 A.M.

FILE: SDAB-D-16-318

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

APPELLANT:

APPLICATION NO.: 182548244-007

ADDRESS OF APPELLANT: 4127 – 27 Avenue NW

APPLICATION TO: Construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: September 20, 2016

DATE OF APPEAL: September 26, 2016

NOTIFICATION PERIOD: Sep. 27, 2016 through Oct. 11, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 4123 - 27 Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4123 - 27 Avenue NW

LEGAL DESCRIPTION: Plan 8021676 Blk 46 Lot 20

ZONE: RF1-Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

As discussed over the phone, please accept this email as a summary of my appeal. I will submit more detailed explanations with pictures later this week. Here are some reasons for my appeal:

1. the shed does not comply with all the zoning rules and regulations:
 - a) It is far LESS than 0.9 metres from the side property line.
 - b) Site coverage (detached garage & shed) covers MORE than 12%.
 - c) It is NOT a free standing shed because it is touching the fence.
2. The shed's foundation is unstable, uneven & not level, nor it is property prepared and built.
3. Poor shed construction ... lots of quick fixes to make it look good from the exterior only. The shed is over 30 years old.
4. It impacts us directly as neighbour as well as our property.
5. The neighbours are dishonest and are masters of trickery, and they continue to abuse the public system to their advantage.
6. Issues with neighbour. They continue to trespass and encroach onto our property, bully and threaten the neighbourhood (not just us), and continue to do "stuff" on our property without our permission. (The neighbour was caught in the act of committing mischief to our property).
7. Example and proff of the "old" illegal shed that impacted us directly....learning from the past and do not want a recurrence and put ourselves into a similar situation again with the existing shed.

I am requesting that the tribunal hearing date be set for week of November 21, 2016, or after that date. My husband and I are leaving the country on September 30, 2016, and will not be returning until November 18, 2016. Please note that my original complaint was filed in November, 2015, via Mr. James Bailey, Development Compliance Officer. I am very disappointed this matter is taking such a long time to resolve, that being over 10 months now. It seems to be excessive waiting period to do enforcement and to complete the file, before I receive the letter of appeal.

<i>General Matters</i>

On September 29, 2016, the Subdivision and Development Appeal Board made the following decision:

“That the hearing for Project No. 182548244-007 be TABLED to December 7 or 8, 2016, at the written request of the Appellant and with the written consent of the Respondent and the Development Authority.”

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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

- (b) in the case of an appeal made by a person referred to in section 685(2), 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 and statutory plans and, subject to clause (d), the 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 110.2(4), **Single Detached Housing** is a **Permitted Use** in the **RF1 Single Detached Residential Zone**.

Under section 7.2(9), **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 Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class 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, Semi-detached Housing and Duplex Housing under certain conditions.

Site Coverage

Section 110.4(7) states the maximum Site Coverage shall be as follows:

	Principal Dwelling / building	Accessory building	Principal building with attached Garage or parking where provided underground	Total Site Coverage
(a) Single Detached Housing – Site area 300 square metres or greater	28 percent	12 percent	40 percent	40 percent

Under section 6.1(96), **Site Coverage** means:

the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres 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 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

Development Officer’s Determination

Site Area:	546.41 square metres
12 percent allowable Site Coverage:	65.57 square metres
28 percent allowable Site Coverage:	152.99 square metres
40 percent allowable Site Coverage:	218.56 square metres
Shed:	9.98 square metres
Garage:	62.40 square metres
Total, Accessory Buildings:	72.38 square metres

Site Coverage, Principal Dwelling: 115.32 square metres

Total Site Coverage: 187.70 square metres

Site Coverage - The detached garage and shed covers 13 percent of the site, instead of 12 percent. In total all the buildings cover 34 percent of the site, which is less than the total maximum site coverage (40 percent) allowed (Section 110.4.7.a).

Setback

Section 50.3.4.b states an Accessory building or structure shall be located not less than 0.9 metres from the Side Lot Line

Development Officer's Determination

Accessory Building Setback - The shed is 0.1 metres from the side property line instead of 0.9 metres. (Section 50.3.4.b)

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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: **182548244-007**
Application Date: AUG 10, 2016
Printed: September 26, 2016 at 12:19 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 <div style="border: 1px solid black; width: 200px; height: 30px;"></div>	Property Address(es) and Legal Description(s) 4123 - 27 AVENUE NW Plan 8021676 Blk 46 Lot 20
	Specific Address(es) Entryway: 4123 - 27 AVENUE NW Building: 4123 - 27 AVENUE NW

Scope of Permit
To construct an Accessory Building (Shed, 3.20m x 3.12m), existing without permits.

Permit Details	
# of Dwelling Units Add/Remove: 1	Class of Permit: Class B
Client File Reference Number:	Lot Grading Needed?:
Minor Dev. Application Fee: Accessory Buildings	New Sewer Service Required:
Secondary Suite Included?: N	Stat. Plan Overlay/Annex Area:

I/We certify that the above noted details are correct.
Applicant signature: _____

Development Permit Decision
Approved

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: **182548244-007**
 Application Date: AUG 10, 2016
 Printed: September 26, 2016 at 12:19 PM
 Page: 2 of 2

Minor Development Permit

Subject to the Following Conditions

1. This Development Permit authorizes the development of an Accessory Building (Shed, 3.20m x 3.12m), existing without permits. The development shall be constructed in accordance with the stamped and approved drawings. All other structures shown on the approved site plan is not included with this approval.
2. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
3. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification Fee of \$41.00.
4. The Accessory Building shall not be used as a Dwelling (Section 50.3.1)
5. Eave projections shall not exceed 0.46 m into required Yards or Separation Spaces less than 1.2 m. (Section 44.1.b)
6. The design and use of exterior finishing materials used on the Accessory Building shall be similar to, or better than, the standard of surrounding development (Section 57.2.1)

NOTES:

- A. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.
- B. 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.

Variations

1. Site Coverage - The detached garage and shed covers 13% of the site, instead of 12%. In total all the buildings cover 34% of the site, which is less than the total maximum site coverage (40%) allowed (Section 110.4.7.a).
2. Accessory Building Setback - The shed is 0.1 m from the side property line instead of 0.9 m. (Section 50.3.4.b)

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.

Issue Date: Sep 20, 2016 **Development Authority:** LIANG, BENNY **Signature:** _____
Notice Period Begins: Sep 27, 2016 **Ends:** Oct 11, 2016

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$108.00	\$108.00	03512734	Aug 10, 2016
DP Notification Fee	\$41.00	\$41.00	03616945	Sep 20, 2016
Existing Without Permit Penalty Fee	\$108.00	\$108.00	03512734	Aug 10, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$257.00	\$257.00		

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-318



TO BE RAISED
ITEM III: 1:00 P.M.

FILE: SDAB-D-16-264

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 176981065-003

APPLICATION TO: Construct exterior alterations to an approved Accessory Building (rear detached Garage, 7.3 metres by 6.1 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 26, 2016

DATE OF APPEAL: October 3, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10927 - 97 Street NW

LEGAL DESCRIPTION: Plan ND Blk 34 Lot 26

ZONE: DC1 (Area 5) Northwest McCauley Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Boyle Street / McCauley Area Redevelopment Plan

Grounds for Appeal

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

The Phoigraphic Arts Society of Alberta (Camera Club) is an organization with over 100 members. Because of the large membership a larger building is required to perform all their activities. The reason they are exceeding the height restrictions of 3.7 metres is that lighting equipment that will be installed requires the extra 0.5 metres.

The reason that 14 percent of the area is required is that more members would be able to work together on their projects. Some properties in the area exceed the height and area requirements. We feel this building will be accepted and approved by residents in this area.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board, at a hearing on October 26, 2016, made and passed the following motion:

"That the hearing for SDAB-D-16-264 be tabled to November 23 or 24, 2016, at the written request of the Appellant and with the verbal consent of the Development Authority."

The Subdivision and Development Appeal Board, at a hearing on November 23, 2016, made and passed the following motion:

"That the hearing for SDAB-D-16-264 be TABLED to December 7 or 8, 2016 at the verbal request of the Appellant and in agreement with the Development Officer on the condition that the Appellant provide legible elevation drawings, a site plan, and a cross-section plan to the Development Officer on or before December 1, 2016."

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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Designation of direct control districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

(a) ...

(b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject DC site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning 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 and statutory plans and, subject to clause (d), the 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 DC1 (Area 5) Northwest McCauley Direct Development Control Provision

Under section 8.4.16.3.10, **Single Detached** and Duplex **Housing** where lawfully existing on a site in this District on the effective date of this Bylaw on the same site only, is a **listed Use** in the DC1 (Area 5) Northwest McCauley Direct Development Control Provision.

Section 8.4.16.2 states that the **Rationale** of the **DC1 (Area 5) Northwest McCauley Direct Development Control Provision** is:

...To provide for a District which will promote the conservation and rehabilitation of the existing housing stock until this area is redeveloped for low intensity business uses in order to achieve the intent of Section 7.2.3 of this Plan.

General Provisions from the Edmonton Land Use Bylaw 5996

Under section 9.1(2), **Accessory** means, “when used to describe a use or building, a use or building naturally or normally incidental, subordinate, and exclusively devoted to the principal use or building, and located on the same lot or site.”

Under section 9.1(25), **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 section 9.1(28), **Height** means:

when used with reference to a building or structure, the vertical distance between the horizontal plane through grade and a horizontal plane through:

- a) the highest point of the roof in the case of a building with a flat roof or a roof having a slope of less than 20 degrees; and
- b) the average level between eaves and ridges in the case of a pitched, gambrel, mansard or hipped roof, or a roof having a slope of more than 20 degrees; provided that in such cases the ridge line of the roof shall not extend more than 1.5 m (4.9 ft.) above the maximum permitted building Height of the District.”

Under section 9.1(14), **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 (3.28 ft.) 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 (3.28 ft.) or more above grade; or
- c) unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m (3.28 ft.) above grade.

Under section 9.1(16), **District** means:

a specific group of listed Use Classes and Development Regulations which regulate the use and development of land within specific geographic areas of the City. The Use Classes and Development

Regulations are contained in Parts II, IV and V of this Bylaw, and may be subject to the regulations contained in Part I of this Bylaw, while the geographic areas to which they apply are shown on the Land Use District Map, comprising Part III of the Bylaw.

Development Criteria of the DCI (Area 5) Northwest McCauley Direct Development Control Provision

Section 8.4.16.4 states:

The following criteria shall apply to the prescribed uses pursuant to Section 710.4 of the Land Use Bylaw.

Section 8.4.16.4.2 states “The maximum building height shall not exceed 12 m (39.4 ft.) nor 3 storeys.”

Section 8.4.16.4.8 states:

Development in this district shall be evaluated with respect to compliance with the General Development Regulations of Sections 50 to 79 inclusive, of the Land Use Bylaw.

Accessory Buildings in Residential Districts of the Edmonton Land Use Bylaw 5996

Section 61.3(2) states “In a Residential District an Accessory Building or Structure shall not exceed 3.7 m (12.0 ft.) nor one storey in Height, except as provided in Sections 61.4 and 61.5.”

Section 61.3(3) states “In a Residential District the site coverage of Accessory Buildings or Structures shall not exceed 12%, except for the RPL District, where the site coverage shall not exceed 15%.”

Accessory Buildings in Non-residential Districts of the Edmonton Land Use Bylaw 5996

Section 61.2(1) states “In any District other than a Residential District, an Accessory Building or Structure is subject to the Development Regulations for that District.”

Development Officer’s Determination:

1. An Accessory Building shall not exceed 3.7 m (Section 61.3.2 of the Land Use Bylaw 5996).

**Proposed Height = 4.2 m
Exceeds by = +0.5 m**

**2. The Site Coverage of Accessory Buildings shall not exceed 12%
(Section 61.3.3 of the Land Use Bylaw 5996).**

**Proposed Site Coverage = 14%
Exceeds by = +2%**

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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: **176981065-003**
 Application Date: SEP 02, 2016
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Application for Accessory Building Development and Building Permit

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 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit

Applicant	Property Address(es) and Legal Description(s) 10927 - 97 STREET NW Plan ND Blk 34 Lot 26
	Location(s) of Work Entryway: 10927 - 97 STREET NW Building: 10927 - 97 STREET NW

Scope of Application
 To construct exterior alterations to an approved Accessory Building (rear detached garage, 7.3 m x 6.1 m)

Permit Details

Building Area (sq. ft.): 480 Stat. Plan Overlay/Annex Area: Boyle Street/McCauley	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

Reasons for Refusal

- An Accessory Building shall not exceed 3.7 m (Section 61.3.2 of the Land Use Bylaw 5996).

 Proposed Height = 4.2 m
 Exceeds by = +0.5 m
- The Site Coverage of Accessory Buildings shall not exceed 12% (Section 61.3.3 of the Land Use Bylaw 5996).

 Proposed Site Coverage = 14%
 Exceeds by = +2%

Rights of Appeal
 The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Sep 26, 2016 **Development Authority:** LIANG, BENNY **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$4.50	\$4.50	03579702	Sep 06, 2016
Dev. Application Fee	\$108.00	\$108.00	03579702	Sep 06, 2016
Building Permit Fee	\$102.00	\$102.00	03579702	Sep 06, 2016

THIS IS NOT A PERMIT



Project Number: 176981065-003
Application Date: SEP 02, 2016
Printed: September 26, 2016 at 3:27 PM
Page: 2 of 2

Application for Accessory Building Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$41.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$255.50	\$214.50		
(\$41.00 outstanding)				

THIS IS NOT A PERMIT

BUSINESS LAID OVER

SDAB-D-16-293	An appeal by <u>Vishal Aggarwal</u> to change the Use of a General retail Store to a Major Alcohol Sales. January 11, 2017
SDAB-S-16-003	An appeal by <u>Stantec Consulting Ltd.</u> to create (1) additional rural residential lot January 11, or 12, 2017
SDAB-D-16-294	An appeal by <u>Wigalo Holdings Ltd.</u> to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. January 18 or 19, 2017
SDAB-D-16-295	An appeal by <u>Wigalo Holdings Ltd.</u> to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. January 18 or 19, 2017
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 January 25, 2017
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) February 2017

APPEAL HEARINGS TO BE SCHEDULED

231692613-001	An appeal by <u>Loan Star Jewellery & Loans; and Inglewood Business Association VS Cash Canada</u> to change the use of a Restaurant to a Pawn Store, a Secondhand Store and a Professional, Financial and Office Support Service, and to construct interior alterations. (Cash Canada) January 4 or 5, 2017
230469969-001	An appeal by <u>Pattison Outdoor Advertising / Ogilvie LLP</u> to install (1) freestanding Minor Digital Off-premises Sign (14.6m x 4.3m digital panel facing South, and static panel facing North); and to remove an existing Freestanding Off-premises Sign on 2920-101 Street, existing Freestanding Off-premises Signs on 2303 Gateway Boulevard NW, and existing Freestanding Off-premises Sign on 2950 Calgary Trail NW as shown on plans submitted. (PATTISON - KBR CANADA LTD.) January 26, 2017
152674334-001	An appeal by <u>A&E Architectural & Engineering Group Inc.</u> to construct an Auctioneering Establishments building and operate an Auctioneering Establishment on the entire Site (including existing storage building and shed), and demolish an existing storage building (Osman Auction Inc.) February 22, 2017