

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
February 12, 2015**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**Members Scheduled**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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I	9:00 A.M.	SDAB-D-15-031	Construct a 250 Dwelling Unit Apartment Housing development with ground floor commercial units (General Retail Stores) and underground parkade (Corners 1)
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**TABLED TO FEBRUARY 25, 2015**

10225 - 95 Street NW  
Project No.: 147598066-001

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**LUNCH BREAK: 12:00 P.M. TO 12:30 P.M.**

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II	12:30 P.M.	SDAB-D-15-032	Construct a rear uncovered deck (irregular, 6.10 metres by 6.10 metres at 1.32 metres in Height), hot tub, and swimming pool (all existing without permits)
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815 – Hardy Place NW  
Project No.: 161959978-002

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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-15-031

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

APPELLANT:

APPLICATION NO.: 147598066-001

ADDRESS OF APPELLANT: 1450 - 10405 Jasper Avenue NW,  
Edmonton, AB T5J 3N4

APPLICATION TO: Construct a 250 Dwelling Unit Apartment  
Housing development with ground floor  
commercial units (General Retail Stores)  
and underground parkade (Corners 1)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: December 24, 2014

NOTIFICATION PERIOD: January 8, 2015 through January 21, 2015

DATE OF APPEAL: January 20, 2015

RESPONDENT:

ADDRESS OF RESPONDENT: 77 - Chippewa Road  
Sherwood Park, AB T8A 6J7

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10225 - 95 Street NW

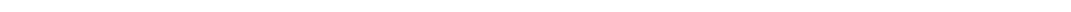
LEGAL DESCRIPTION: Plan RN23 Blk 1 Lot 1, Plan 1221938 Blk 1 Lot 2

ZONE: DC1 Direct Development Control Provision

OVERLAY: The Quarters Downtown Overlay

STATUTORY PLAN: The Quarters Downtown Area Redevelopment Plan

TABLED TO FEBRUARY 25, 2015



ITEM II: 12:30 P.M.

FILE: SDAB-D-15-032

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

APPELLANT:

APPLICATION NO.: 161959978-002

ADDRESS OF APPELLANT: 813 Hardy Place NW  
Edmonton, AB T6M 0G1

APPLICATION TO: Construct a rear uncovered deck  
(irregular, 6.10 metres by 6.10 metres at  
1.32 metres in Height), hot tub, and  
swimming pool (all existing without  
permits)

DECISION OF THE  
DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: January 8, 2015

NOTIFICATION PERIOD: January 13, 2015 through January 26,  
2015

DATE OF APPEAL: January 16, 2015

RESPONDENT:

ADDRESS OF RESPONDENT: 10, 51124 - R.R. 264  
Spruce Grove, AB T7Y 1E8

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 815 Hardy Place NW

LEGAL DESCRIPTION: Plan 0626545 Blk 15 Lot 70

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): The Grange Area Structure Plan  
The Hamptons Neighbourhood Structure  
Plan

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DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

An accessory building or structure shall not exceed 4.3m nor one storey in height. (Reference Section 6.1(35) and 50.3(2).)

Eave projections shall not exceed 0.46m into required yards or Separations spaces less than 1.2m. (Reference Section 44.1(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.

Variances:

1. Section 44.3(a) relaxed - Platform Structures provided such projections do not exceed 2.0 m into Setbacks or Separation Spaces with a depth of at least 4.0 m

Allowable Projection into Rearyard:	2.0m
Existing Projection into Rearyard:	2.07m
Deficient By:	0.70m

2. Section 50.3(4)(b) relaxed - the minimum side yard from 0.9m to 0.60m (Swimming Pool)

3. Section 50.3(4)(b) relaxed - the minimum side yard from 0.90m to 0.30m (Hot Tub)

Note: A variance was granted for this Development Permit pursuant to Sections 11.3 and 11.4. 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.

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APPELLANT'S SUBMISSION

The measurements in the permit must be incorrect. The minimum set back for RSL zoning is 7.5 m with an allowable projection into the rearyard of 2m. The measurement from the rear property line to the rear deck is 4.4m, putting the deck 1.1 m further into the rearyard than allowable. The rear yards slope down, and with the deck extending this far into the rearyard the deck is virtually at the same height as the top of the fence, taking away all privacy. The angles of the site lines from the deck at this distance also take away from the privacy inside our home.

APPELLANT'S SUBMISSION (CONTINUED)

With regards to the hot tub and pool, our grass in the rearyard along side the fence up against the pool and hot tub is often saturated to where you can barely walk on it. Either caused by water splashing out of pool/hot tub or due to leaks. If these structures were placed at the appropriate distance from the fence, this would likely solve the saturation problems we have been experiencing.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to construct a rear uncovered deck (irregular, 6.10 metres by 6.10 metres at 1.32 metres in Height), hot tub, and swimming pool (all existing without permits).

The site is located in a cul-de-sac on the south side of Hardy Place, backs onto the north side of Hemingway Road, and is east of Hardy Point. The site is zoned RSL Residential Small Lot Zone, Section 115 of the Edmonton Zoning Bylaw 12800. The site is within the Grange Area Structure Plan, Bylaw 11749, as amended, approved by Council May 25, 1998 and The Hamptons Neighbourhood Structure Plan, Bylaw 11751, as amended, approved by Council June 2, 1998.

This application was approved by the Development Officer subject to conditions.

Pursuant to Section 11.3 and 11.4 and subject to the right of appeal to the Subdivision and Development Appeal Board, Section 21.1, the Development Officer granted the following variances:

Section 44.3(a) states Platform Structures may project into a required Setback or Separation Space provided such projections do not exceed 2.0 metres into Setbacks or Separation Spaces with a depth of at least 4.0 metres.

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

**The Development Officer determined the allowable projection into the Rear Setback is 2.0 metres. The Development Officer determined the proposed development provides a projection into the Rear Setback of 2.70 metres, and a relaxation of 0.70 metres was granted.**

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, except where it is a mutual Garage erected on the common property line to the satisfaction of the Development Officer, or where a Garage is placed on the common property line in accordance with the provisions of the RPL Zone, or where the Accessory Building does not exceed the permitted fence height or in the case of Garage Suites, where the minimum Side Setback shall be in accordance with Section 87.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS  
(CONTINUED)

**The Development Officer determined the swimming pool and hot tub are Accessory structures and must be 0.9 metres from the Side Lot Line. The swimming pool is 0.6 metres from the Side Lot Line, which is deficient by 0.3 metres. The hot tub is 0.3 metres from the Side Lot Line, which is deficient by 0.6 metres.**

The decision of approval by the Development Officer has been appealed by an adjacent property owner located immediately west at 813 Hardy Place.

**It should be noted** that Section 50.1(4) states here any building or structure on a Site is attached to a principal building on the Site by a roof, an open or enclosed structure above grade, a floor or a foundation which is above grade, or any structure below grade allowing access between the buildings such as a Parking Garage or a corridor or passageway connecting the buildings, it is a part of the principal building and is not an Accessory building.

Section 44.3(a) states Platform Structures may project into a required Setback or Separation Space provided such projections do not exceed 2.0 metres into Setbacks or Separation Spaces with a depth of at least 4.0 metres.

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

**The existing (south) Rear Setback is 10.90 metres from the Rear Lot Line to the Principal Building.**

**Therefore, the deck (with hot tub and swimming pool) may project 5.40 metres into the required Setback (10.90 metres metres – 7.5 metres = 3.40 metres + 2.00 metres), proposed is 10.30 metres and exceeds the maximum allowable by 4.90 metres.**

Section 44.3(b) states Platform Structures may project into a required Setback or Separation Space provided such projections do not exceed 0.60 metres for Setbacks or Separation Spaces with a depth of less than 4.0 metres.

Section 115.4(8)(a) states the Side Setback shall be a minimum of 1.2 metres.

**The existing (west) Side Setback is 1.23 metres from the Side Lot Line to the Principal Building.**

**Therefore, the deck may project 0.63 metres into the required Setback (1.23 metres – 1.2 metres = 0.03 metres + 0.60 metres), proposed is 0.93 metres and exceeds the maximum allowable by 0.30 metres.**

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS  
(CONTINUED)

The submitted Site Plan shows that the subject site is slightly irregular shaped with a (south) Site Width of 12.88 metres and a (west) Site depth of 36.00 metres. The existing Principal Building is located 1.23 metres from the (west) Side Lot Line, 1.27 metres from the (east) Side Lot Line, 8.03 metres from the (north) Front Lot Line, and 10.90 metres from the (south) Rear Lot Line.

The proposed hot tub is located 0.30 metres from the (west) Side Lot Line. The proposed swimming pool is located 0.60 metres from the (west) Side Lot Line and 0.60 metres from the (south) Rear Lot Line.

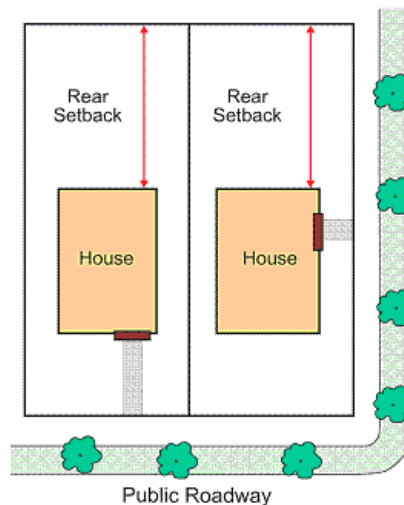
The Development Officer has provided the following information:

Site Area:	459.40 square metres
45 percent allowable Site Coverage:	206.73 square metres
Existing Principal Building (with front attached Garage, uncovered deck, hot tub, and swimming pool):	194.91 square metres

Section 115.4(5) states the maximum total Site Coverage shall not exceed 45 percent, inclusive of the attached Garage and any other Accessory Buildings.

Under Section 6.1(74), **Platform Structures** means structures projecting from the wall of a building that may be surrounded by guardrails or parapet walls. Common structures include: balconies, raised terraces and decks.

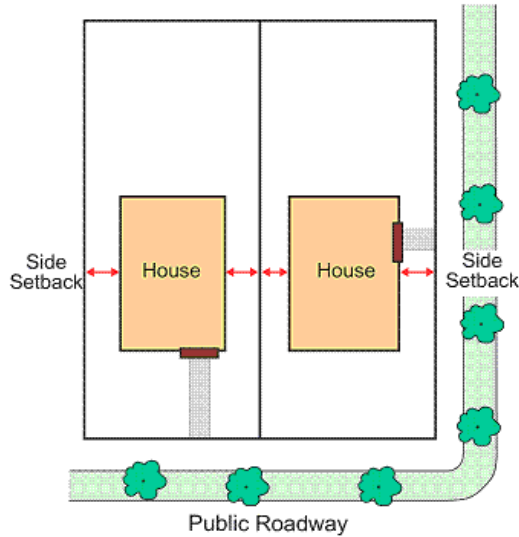
Under Section 6.1(82), **Rear Setback** means the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.





SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS  
(CONTINUED)

Under Section 6.1(90), **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.



Section 115.1 states the 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.

The following jobs are listed in the Sustainable Development POSSE system:

Application Number	Description	Decision
161959978-001	Violation Notice	<p>October 7, 2014; A hot tub, swimming pool, and deck have been added to this site for which, according to our records, no development permit have been issued.</p> <p>Section 5.1 (1) and (2) of the Edmonton Zoning Bylaw 12800, states as follows:</p> <p>5. Approval Required For Development</p>

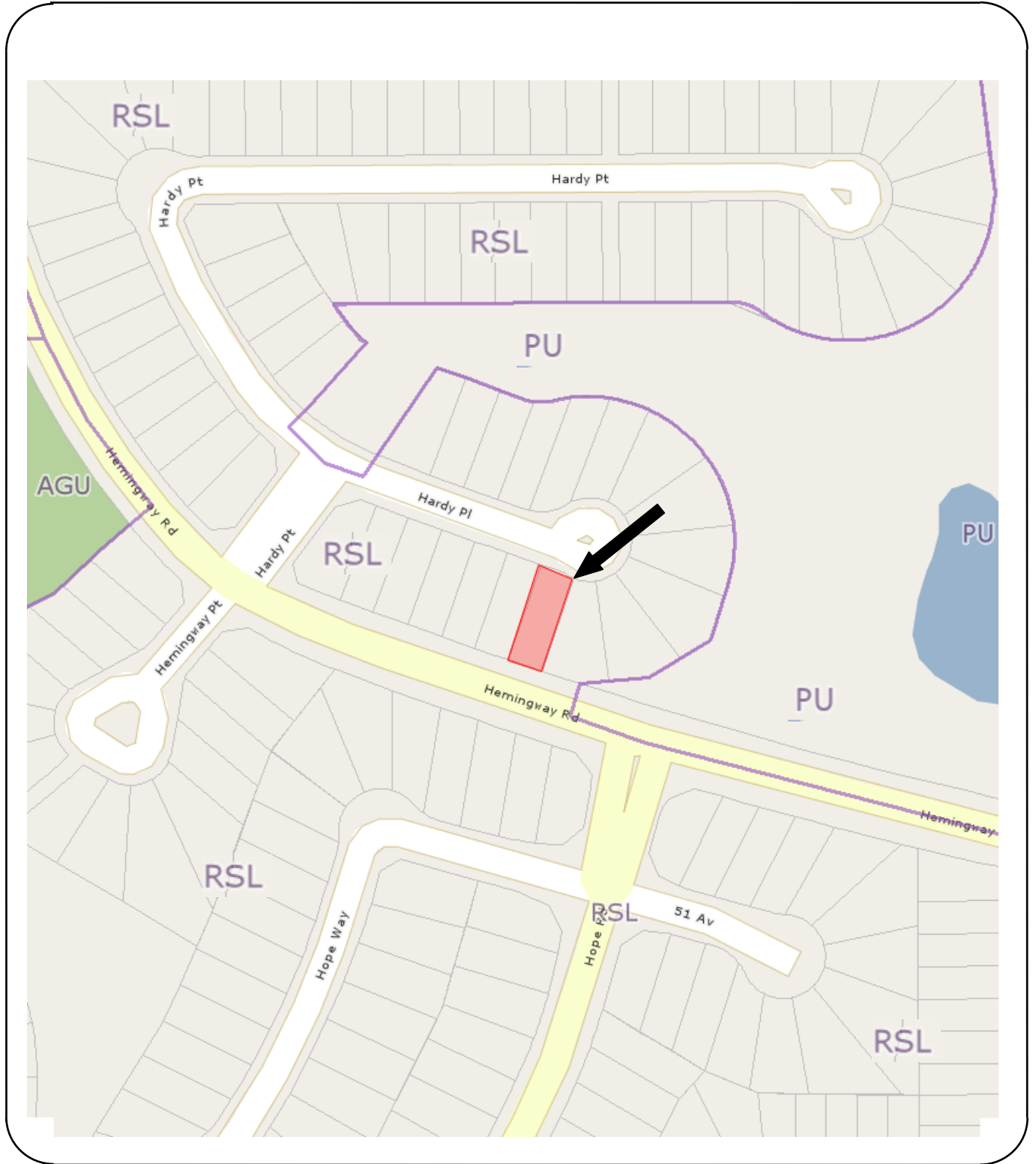
Application Number	Description	Decision
161959978-001 <i>Continued</i>		<p>5.1 No Person:</p> <p>1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefore issued under the provisions of Section 12 of this Bylaw; or</p> <p>2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefore issued under Section 12 of this Bylaw.</p> <p>You must obtain a development permit for the hot tub, pool, and deck or or dismantle the structures and remove them from the site.</p> <p>[...]</p>
66750033-001	To construct a single detached house with double attached garage, fireplace and rear uncovered deck (3.05 metres by 4.42 metres).	April 17, 2007; Approved with conditions.

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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.

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### SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-15-032



**BUSINESS LAID OVER**

<b>SDAB-D-15-011</b>	An appeal by <u>Vernon Lappi</u> VS <u>Nissamka Wijayanayaka</u> to operate a Major Home Based Business from December 3, 2014 to December 3, 2019 (printing and applying 3M hood protection film). <i>February 18 or 19, 2015</i>
<b>SDAB-D-15-019</b>	An appeal by <u>Art Lab</u> to construct an Accessory Building (detached Garage, 4.88 metres by 6.10 metres). <i>March 5, 2015</i>

**APPEAL HEARINGS TO BE SCHEDULED**

<b>161242059-003</b>	An appeal by <u>Tom Parada</u> to construct an uncovered deck (irregular, 8.61 metres by 4.89 metres at 0.95 metres in Height and 6.01 metres by 1.01 metres at 0.34 metres in Height), existing without permits. <i>March 12, 2015</i>
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