

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Thursday, 9:00 A.M.**  
**February 18, 2021**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

I 9:00 A.M. SDAB-D-21-027

Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear uncovered deck (3.20m x 3.66m), Balcony, fireplace and Basement development (NOT to be used as an additional Dwelling) with wet bar

7804 - 142 Street NW  
Project No.: 373405254-002

II 10:30 A.M. SDAB-D-21-028

Construct an Accessory Building (detached Garage - 12.19m x 8.53m)

10350 - 145 Street NW  
Project No.: 380432404-005

III 1:30 P.M. SDAB-D-21-029

Change the Use from a General Retail Store to Liquor Store Use and to construct interior alterations

10130 - 105 Street NW  
Project No.: 378314238-002

**NOTE:** *Wpıgıuı'ıy gty kę'lac vgf.'c nlt gıgt gpegu'ıq '\$ Ugeıvıq p'wo dgt u\$'ıp'ıy kı'Ci gpf c'' tglgt'ıq'ıy g'c wıy qt kıl'ıwpf gt'ıy g'Gfo qpvıq'ı' qplıı 'D{ıvy '34: 220'*

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-027

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 373405254-002

APPLICATION TO: Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear uncovered deck (3.20m x 3.66m), Balcony, fireplace and Basement development (NOT to be used as an additional Dwelling) with wet bar

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 18, 2021

DATE OF APPEAL: January 20, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7804 - 142 Street NW

LEGAL DESCRIPTION: Plan 1623429 Blk 17 Lot 33A

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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

Reasons for appeal are:

- This lot is reverse pie shape where the front is wide and the back narrow ( with wright off way on one side for power utility post ) and it makes sense to have front attached garage.
- Neighbours on both sides have front access garage.
- House at 7806 142 str ( on the right side of the proposed development) got approved by SDAB on Sep.14/2017 # SDAB-D-17155
- Most houses in this neighbourhood have front access garages.
- This lot ( before subdivision ) had front access to the garage.
- It will fit with the look of the neighbourhood.
- The back alley is narrow and in very bad condition, access to garage from the back alley will be difficult.
- Front attached garage will give more backyard space.

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*I gpgt chlO cwgtu*

**Appeal Information:**

The *Owplekr chlI qxgt po gpv'Cev*, 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 *I co kpi . " Nks wqt " cpf " Ecppcdku " Cev* 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 *Gfo qpvwp 'l qplqi 'D{xy <'***

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.

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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.”

**Development Officers Determination**

**1. 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 (Reference Section 814.3.17)**

[unedited]

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Section 814.3(18) states:

Attached Garages shall be developed in accordance with the following:

- a. a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface;
- b. a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface;
- c. building mass shall be articulated through features such as recessions or off-sets, architectural treatments, and Landscaping; and
- d. ...

**Development Officers Determination**

**2. A Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface. Your proposed protrusion of the front attached garage is not characteristic of the blockface. (Reference Section 814.3.18)**

[unedited]

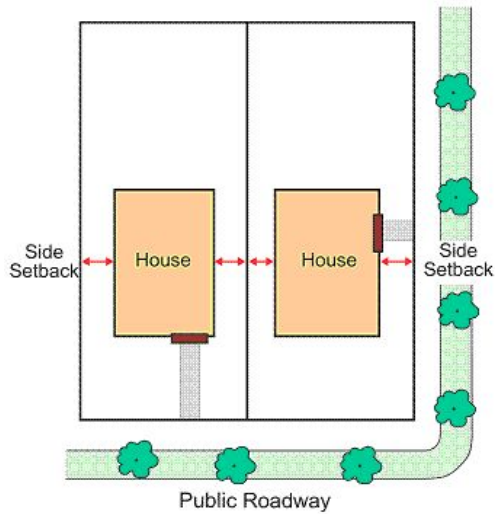
***Uyg'Ugulcem***

Section 814.3(3)(b) states “where a Site Width is greater than 12.0 m and less than 18.3 m, the Side Setback requirements of the underlying Zone shall apply.”

Section 110.4(10)(a) states “Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side.”

Under section 6.1, **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.



**Development Officers Determination**

**3. Side Yards shall total at least 20% of the site width. (Reference Section 110.4.10.a)**

**Proposed: 3m (18.75%)**

**Deficient by: 0.20m**

[unedited]



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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:


<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay to be Varied</b>
<b>Tier 1</b>	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m 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 60.0 m of the Site of the proposed development and the President of each Community League	814.3(17) - Driveway Access  814.3(18) - Attached Garage

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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.

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	<h2 style="margin: 0;">Application for Minor Development Permit</h2>	Project Number: <b>373405254-002</b> Application Date: SEP 21, 2020 Printed: January 18, 2021 at 12:05 PM Page: 1 of 2																									
This document is a Development Permit Decision for the development application described below.																											
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 7804 - 142 STREET NW Plan 1623429 Blk 17 Lot 33A																										
<b>Scope of Application</b> To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear uncovered deck (3.20m x 3.66m), Balcony, fireplace and Basement development (NOT to be used as an additional Dwelling) with wet bar.																											
<b>Permit Details</b> <table style="width: 100%; font-size: x-small;"> <tr> <td style="width: 50%;">                     # of Dwelling Units Add/Remove: 1                      # of Secondary Suite Dwelling Units To Construct:                      Client File Reference Number:                      Minor Dev. Application Fee: Single Detached House                      Secondary Suite Included?: N                 </td> <td style="width: 50%;">                     # of Primary Dwelling Units To Construct: 1                      Class of Permit: Class B                      Lot Grading Needed?:                      New Sewer Service Required: Y                      Str. Plan Overlay/Ames Area:                 </td> </tr> </table>			# of Dwelling Units Add/Remove: 1 # 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: Class B Lot Grading Needed?: New Sewer Service Required: Y Str. Plan Overlay/Ames Area:																							
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<b>Development Application Decision</b> Refused <b>Issue Date:</b> Jan 18, 2021 <b>Development Authority:</b> LANGILLE, BRANDON <b>Reason for Refusal</b> <ol style="list-style-type: none"> <li>1. 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 (Reference Section 814.3.17)</li> <li>2. A Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface. Your proposed protrusion of the front attached garage is not characteristic of the blockface. (Reference Section 814.3.18)</li> <li>3. Side Yards shall total at least 20% of the site width. (Reference Section 110.4.10.a)</li> </ol> Proposed: 3m (18.75%) Deficient by: 0.20m <b>Rights of Appeal</b> 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.																											
<b>Fees</b> <table style="width: 100%; font-size: x-small; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></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>Lot Grading Fee</td> <td style="text-align: right;">\$148.00</td> <td style="text-align: right;">\$148.00</td> <td>06754610</td> <td>Sep 28, 2020</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund</td> <td style="text-align: right;">\$1,712.00</td> <td style="text-align: right;">\$1,712.00</td> <td>06754610</td> <td>Sep 28, 2020</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$502.00</td> <td style="text-align: right;">\$502.00</td> <td>06754610</td> <td>Sep 28, 2020</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$211.00</td> <td style="text-align: right;">\$211.00</td> <td>06754610</td> <td>Sep 28, 2020</td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Lot Grading Fee	\$148.00	\$148.00	06754610	Sep 28, 2020	Sanitary Sewer Trunk Fund	\$1,712.00	\$1,712.00	06754610	Sep 28, 2020	Dev. Application Fee	\$502.00	\$502.00	06754610	Sep 28, 2020	Development Permit Inspection Fee	\$211.00	\$211.00	06754610	Sep 28, 2020
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THIS IS NOT A PERMIT																											



## Application for Minor Development Permit

Project Number: **373405254-002**  
Application Date: SEP 21, 2020  
Printed: January 18, 2021 at 12:05 PM  
Page: 2 of 2

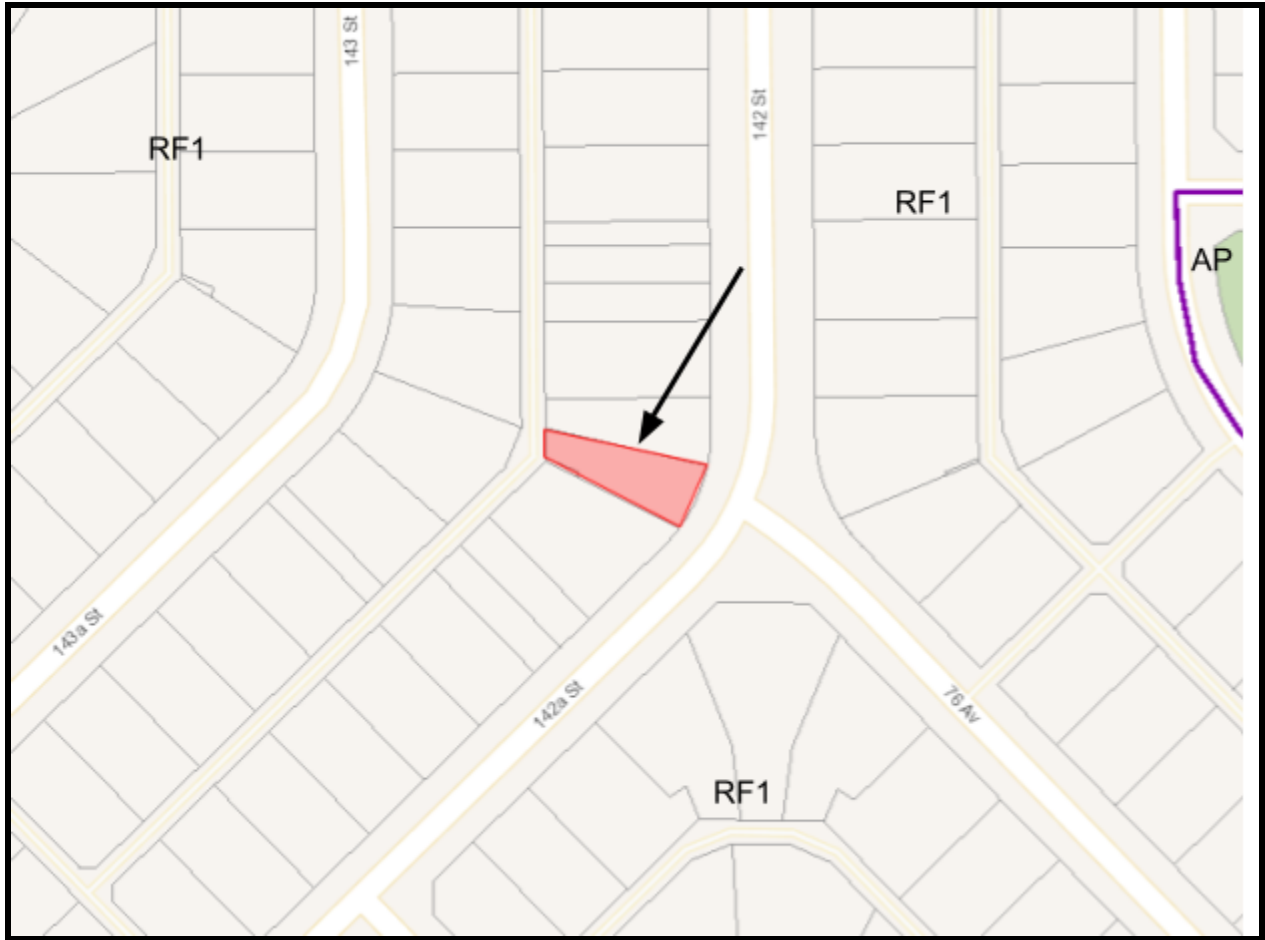
**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$2,573.00</u>	<u>\$2,573.00</u>		

**THIS IS NOT A PERMIT**

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

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**N**

File: SDAB-D-21-027

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ITEM II: 10:30 A.M.

FILE: SDAB-D-21-028

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 380432404-005

APPLICATION TO: Construct an Accessory Building (detached Garage - 12.19m x 8.53m)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 21, 2021 (**formal decision was rendered after the appeal was filed**)

DATE OF APPEAL: January 20, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10350 - 145 Street NW

LEGAL DESCRIPTION: Plan 6011ET Blk 5 Lot 10

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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

The development officer has refused to approve the height of the garage included in this development permit application. This area is designated as RF3, and supports a diverse array of buildings including Catholic Social Services' commercial facilities within one block of this site, various churches, other commercial enterprises, row houses, skinny houses,

duplexes and new and old single detached homes. Additionally, RF3 zoning permits above garage garden suites which are allowed at heights in excess of what is proposed in this application. This application proposes a garage roof height of 5.169 m and a top ridgeline height of 7.3 m. The comparable garage suite heights are 6.5 m and 8 m respectively. The excess height under standard conditions requested is for 0.869 m. The excess height under standard conditions requested for the top ridgeline requested is 1.5 m. These amounts are less than garden suite heights permitted and existing in this neighbourhood. The intention of the proposed design is to provide storage in the attic area of the garage and not as living quarters. The use of this attic will not result in any additional parking requested. This lot is very large in the neighbourhood. It is 64 feet wide and 145 feet deep. A four-plex is built on the north side. Typical lots in the area range from 33 feet to 42 feet and 44 feet with a smattering of 50 foot lots. The house and garage proposed in this application have wide side yard set backs with the garage north side, side yard set back being in excess of 3.5 m. Sun will not be blocked to north side neighbours by height as the roof line is primarily north and south, and garage is at the back of the lot. Sun will not be blocked on the west as the garage is lower than the house which has already been approved for development permit. Many neighbourhoods in the City of Edmonton specifically provide for maximum garage heights higher than the standard 4.3 m. In this neighbourhood there are many new developments, primarily skinny houses and duplexes that are higher than the conventional two-storey home, including third level development in some cases. This variance request does not unduly interfere with the amenities of the neighbourhood: nor materially interfere with or affect the use, enjoyment or value of neighbouring properties. The garage in and of itself conforms with the use prescribed for this land and buildings thereon in the City of Edmonton land use bylaw. In fact, it is our position that this proposed development including the garage as proposed will have the effect of increasing the value of neighbouring properties. We request that the building height for the garage be approved as proposed in the development permit application without conditions. Thank you for your consideration.

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<i>I gpgt cnlO cwgtu</i>
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**Appeal Information:**

The *Owplkr cnlI qxgt po gpv'CeV*, 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 *I co kpi . " Nks wqt " cpf " Ecppcdku " Cev* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

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- (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.

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**General Provisions from the *Gfo qpwpp " qpkpi 'D{xy <'***

Under section 140.2(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development 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, **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.”

Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale 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.

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Section 50.3(3) states “an Accessory building or structure shall not exceed 4.3 m in Height, [...]”

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

**Development Officers Determination**

**1. The total midpoint height of the garage is 5.17m. The maximum allowable height for a detached garage is 4.3m (Reference Section 50.3.3)**

[unedited]

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Section 52.2(c) states:

Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or overlay, [...]

**Development Officers Determination**

**2. The total ridgeline height of the garage is 7.3m. The maximum allowable ridge height for a detached garage is 5.8m (Reference Section 52.2.c)**


[unedited]

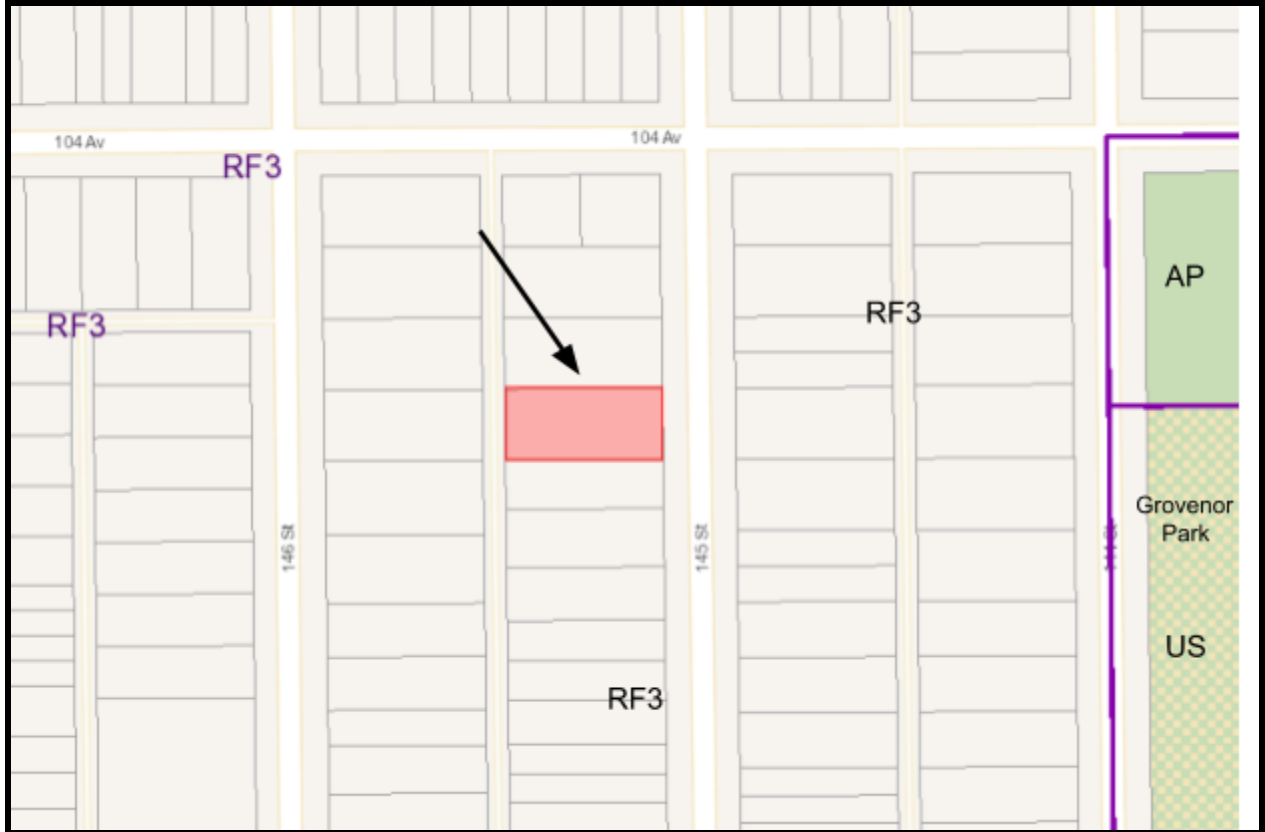
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Notice to Applicant/Appellant

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.

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	<h2 style="margin: 0;">Application for Accessory Building Permit</h2>	Project Number: <b>380432404-005</b> Application Date: DEC 23, 2020 Printed: January 21, 2021 at 9:08 AM Page: 1 of 1																														
This document is a Development Permit Decision for the development application described below.																																
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 10350 - 145 STREET NW Plan 6011ET Blk 5 Lot 10																															
	<b>Location(s) of Work</b> Entryway: 10350 - 145 STREET NW Building: 10350 - 145 STREET NW																															
<b>Scope of Application</b> To construct an Accessory Building (detached Garage - 12.19m x 8.53m).																																
<b>Permit Details</b>																																
Class Of Permit: Class A Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 847.16																															
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Jan 21, 2021 <b>Development Authority:</b> LANGILLE, BRANDON <b>Reason for Refusal</b> 1. The total midpoint height of the garage is 5.17m. The maximum allowable height for a detached garage is 4.3m (Reference Section 50.3.3)  2. The total ridgeline height of the garage is 7.3m. The maximum allowable ridge height for a detached garage is 5.8m (Reference Section 52.2.c)  <b>Rights of Appeal</b> 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.																																
<b>Building Permit Decision</b> No decision has yet been made.																																
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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

▲  
**N**

File: SDAB-D-21-028

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ITEM III: 1:30 P.M.

FILE: SDAB-D-21-029

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 378314238-002

APPLICATION TO: Change the Use from a General Retail Store to Liquor Store Use and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: December 10, 2020

DATE OF APPEAL: January 21, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10130 - 105 Street NW

LEGAL DESCRIPTION: Plan B2 Blk 5 Lots 191-192

ZONE: (UW) Urban Warehouse Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

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***I tqwpf u'ht 'Crr gcn***

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

We are the directors/tenants for 2315286 AB Ltd. writing on behalf of the Landlord (Greystone Property Management), whose application for a permit to operate a Liquor Store at the above captioned address was refused.

Firstly, there was a major miscommunication from the landlord/retailer to the tenants in terms of dates of DP applied and refusal when discussed signing the lease. In addition to that holidays, the ongoing Covid-19 restrictions and additional factors caused a delay for us to apply for the appeal for this project in time.

We write to request us an appeal the said refusal on the grounds that:

1. Liquor Stores on a site with (UW) Urban Warehouse fall under Permitted uses;
2. the proposed Liquor Store is appropriate at the subject location;
3. the proposed Liquor Store will not unduly interfere with the amenities of the neighborhoods, nor will it materially interfere with or affect the use, enjoyment and value of neighboring parcels of land;
4. the proposed Liquor store will fill in a current big void for supply and demand in evening and late night hours by providing service to Central community population;
5. the proposed Liquor store will be diversely different from surrounding wine store, cellar by supporting local goods to support more local businesses; and
6. such further and other grounds as may be presented at the hearing of the appeal.

*I gpgt cnlO cwgtu*

**Appeal Information:**

The *Owpkkr cnlI qxgt po gpv'CeV*, 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 *I co kpi . " Nks wqt " cpf " Ecppcdku" Cev* 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 *Gfo qpvpp 'l qplpi 'D{ny <'***

Under section 910.11(2)(p), a **Liquor Store** is a **Permitted Use** in the **(UW) Urban Warehouse Zone**.

Under section 7.4(30), **Liquor Store** means:

development used for the retail sale of any and all types of alcoholic beverages to the public for off-site consumption. This Use may include retail sales of related products such as soft drinks and snack foods.

"

Section 910.11(1) states that the **General Purpose** of the **(UW) Urban Warehouse Zone** is:

to develop a unique mixed-use business commercial, educational and residential neighbourhood, accommodating a diversity of Uses, including residential, commercial, institutional, light manufacturing and assembly in a safe, walkable, human-scaled built environment that builds on the existing land use pattern and respects the architectural characteristics and functions of the area.

Section 910.1 states that the **General Purpose** of the **Downtown Special Area** is “To designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.”

*Nls wqt 'Uwqt gu'*

Section 85.1 states “Any Liquor Store shall not be located less than 500 m from any other Liquor Store.”

Section 85.4 states:

Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store. Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, are exempt from this restriction. For the purposes of this subsection only:

- a. the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
- b. the term "community or recreation activities" is limited to Community Recreation Services, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children’s playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits, or Religious Assembly;
- c. the term "public or private education facilities" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools; and
- d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.

Section 85.5 states “Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).”

Section 85.6 states “Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9).”

**Development Officer's Determination**

**1. The proposed Liquor Store Use does not comply with the minimum setback requirement from any other Liquor Store (Section 85(1)):**

**041818599-001  
10111 104 Street NW  
Required Setback: 500 m  
Proposed Setback: 152 m  
Deficient by 348 m**

**260786370-001  
10340 Jasper Ave NW  
Required Setback: 500 m  
Proposed Setback: 183 m  
Deficient by 317 m**

**000838734-001  
10266 103 Street NW  
Required Setback: 500 m  
Proposed Setback: 338 m  
Deficient by 162 m**

**007258871-001  
10155 102 Street NW  
Required Setback: 500 m  
Proposed Setback: 390 m  
Deficient by 110 m**

**015726935-001  
10824 102 Ave NW  
Required Setback: 500 m  
Proposed Setback: 420 m  
Deficient by 80 m**

**Under Sections 85.6 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor Store as Section 85(7), 85(8) and 85(9) do not apply.**

**2. The proposed Liquor Store Use does not comply with the minimum setback requirement from any Liquor Stores Uses (Section 85.4):**

**10440 Jasper Ave NW (Zoned AP)**

**Beaver Hill House Park**

**Required Setback: 100 m**

**Proposed Setback: 24 m**

**Deficient by 76 m**

**Under Sections 85(5) of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor Store Use.**

[unedited]

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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.

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	Project Number: <b>378314238-002</b> Application Date: NOV 16, 2020 Printed: December 10, 2020 at 1:10 PM Page: 1 of 3										
<h2 style="margin: 0;">Application for Major Development Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
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<b>Development Application Decision</b> Refused <b>Issue Date:</b> Dec 10, 2020 <b>Development Authority:</b> CHOW, STEPHEN											
<b>THIS IS NOT A PERMIT</b>											



Project Number: 378314238-002  
Application Date: NOV 16, 2020  
Printed: December 10, 2020 at 1:10 PM  
Page: 2 of 3

## Application for Major Development Permit

### Reason for Refusal

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### Rights of Appeal

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**THIS IS NOT A PERMIT**



## Application for Major Development Permit

Project Number: **378314238-002**  
Application Date: NOV 16, 2020  
Printed: December 10, 2020 at 1:10 PM  
Page: 3 of 3

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Major Dev. Application Fee	\$288.00	\$288.00	02780807359G001	Nov 23, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$288.00</u>	<u>\$288.00</u>		

**THIS IS NOT A PERMIT**

