

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
February 19, 2020**

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-20-003 Leave as built a Semi-Detached House
Postponed to April 15 or 16, 2020 9717 - 81 Avenue NW
Project No.: 340519935-002

NOTE: *Unless otherwise stated, all references to "Section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-003

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 340519935-002

APPLICATION TO: Leave as built a Semi-Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 19, 2019

DATE OF APPEAL: December 7, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9717 - 81 Avenue NW

LEGAL DESCRIPTION: Plan 2700R Blk 55 Lot 14

ZONE: RF3 (Small Scale Infill Development Zone)

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Ritchie Neighbourhood Improvement Plan / Area Redevelopment Plan

Grounds for Appeal

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

The Development officer decision is prejudicial. The Applicant is willing to address any concerns the development officer may have in granting the decision. The area is high density area and require housing.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on January 9, 2020:

“That the appeal hearing be scheduled for February 19 or 20, 2020 at the request of the Appellant.”

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 140.2(7), **Semi-detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(7), **Semi-detached Housing** means:

development consisting of a building containing two principal Dwellings joined in whole or in part at the side or rear with neither of those Dwellings being placed over another in whole or in part. Each principal Dwelling has separate, individual, and direct access to ground level. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use does not include Duplexes.

Section 140.1 states that the **General Purpose** of **(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:

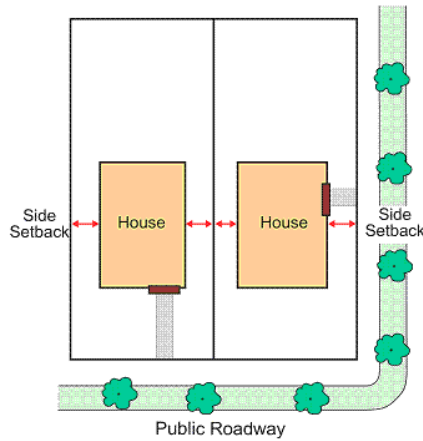
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the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

Side Setback

Section 814.3(3)(a) states “where the Site Width is 12.0 m or less, the minimum required setback shall be 1.2 m.”

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 Officer’s Determination

The minimum required Side Setback shall be 1.2 m. (Reference Section 814.3(3)(a.))

Existing: 0.7 m
Deficient by: 0.5 m [unedited]

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:


- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 3	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(3) – Side Setbacks

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	Project Number: 340519935-002 Application Date: SEP 23, 2019 Printed: November 19, 2019 at 11:04 AM Page: 1 of 2										
<h2 style="margin: 0;">Application for Minor Development Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
Applicant	Property Address(es) and Legal Description(s) 9717 - 81 AVENUE NW Plan 2700R Blk 55 Lot 14 Specific Address(es) Suite: 1, 9717 - 81 AVENUE NW Suite: 2, 9717 - 81 AVENUE NW Entryway: 1, 9717 - 81 AVENUE NW Entryway: 2, 9717 - 81 AVENUE NW Building: 1, 9717 - 81 AVENUE NW										
Scope of Application To leave as built a Semi-Detached House.											
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay								
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I/We certify that the above noted details are correct. Applicant signature: _____											
Development Application Decision Refused Issue Date: Nov 19, 2019 Development Authority: FOLKMAN, JEREMY Reason for Refusal The minimum required Side Setback shall be 1.2 m. (Reference Section 814.3(3).(a.)) Existing: 0.7 m Deficient by: 0.5 m Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.											
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%;">Fee Amount</th> <th style="width: 10%;">Amount Paid</th> <th style="width: 10%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$167.00</td> <td style="text-align: right;">\$167.00</td> <td style="text-align: right;">06161066</td> <td style="text-align: right;">Sep 23, 2019</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$167.00	\$167.00	06161066	Sep 23, 2019
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THIS IS NOT A PERMIT											



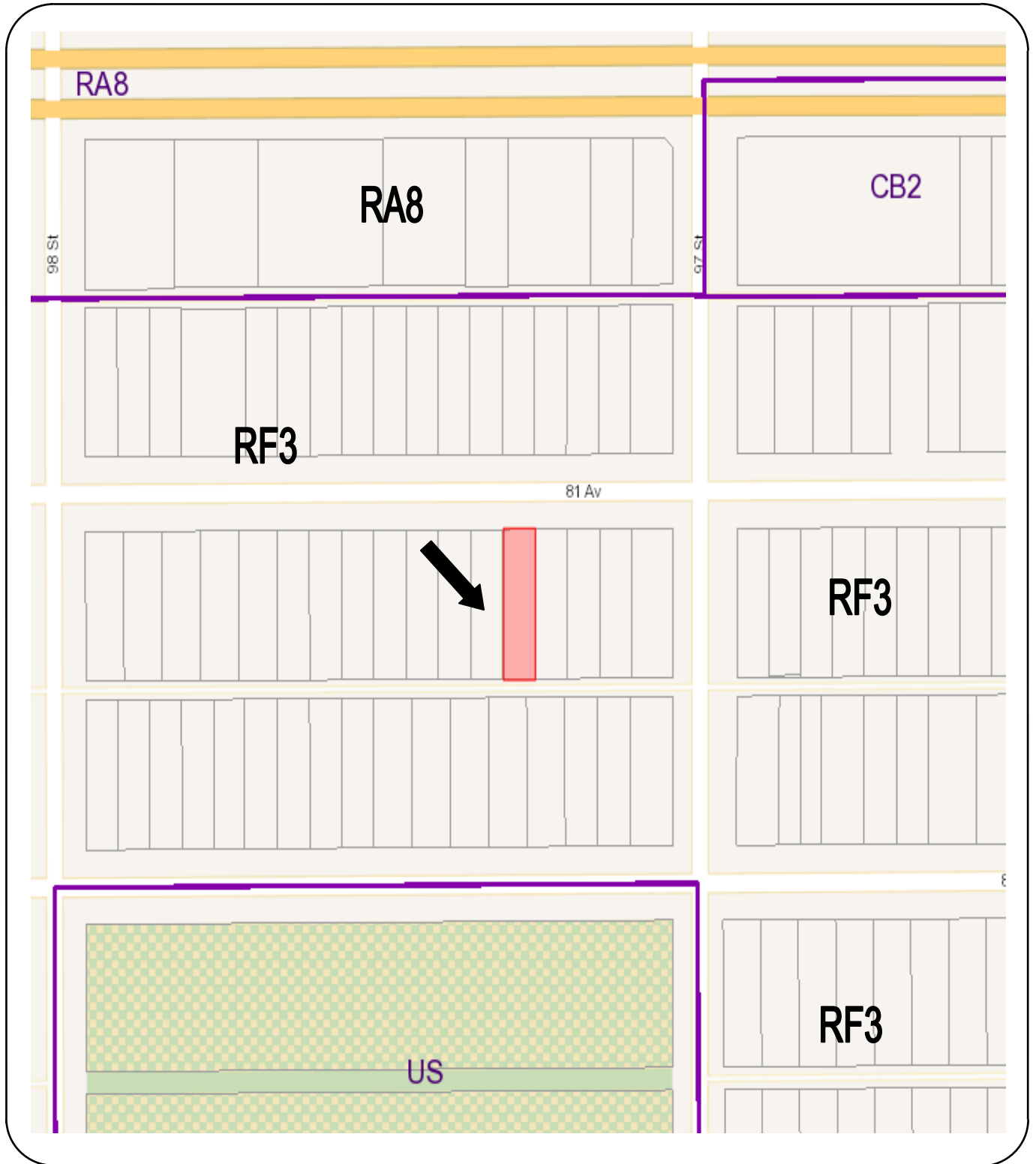
Application for Minor Development Permit

Project Number: **340519935-002**
Application Date: SEP 23, 2019
Printed: November 19, 2019 at 11:04 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$167.00</u>	<u>\$167.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-003

