

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

**Thursday, 9:00 A.M.**  
**February 4, 2021**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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I 9:00 A.M. SDAB-D-21-023

Construct a Garden Suite with a balcony.

15701 - 84 Avenue NW  
Project No.: 373342568-002

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II 10:30 A.M. SDAB-D-21-024

Change the use from a portion of Health Service unit to a Liquor Store and to construct exterior and interior alterations to the main floor of a Multi-unit Housing building (Unit 1).

9028 - Jasper Avenue NW  
Project No.: 378515786-002

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III 2:00 P.M. SDAB-D-21-025

Construct exterior alterations to a Single Detached House (front driveway extension 3.05m x 18.29m).

7319 - 80 Avenue NW  
Project No.: 375055822-002

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-023

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 373342568-002

APPLICATION TO: Construct a Garden Suite with a balcony

DECISION OF THE  
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: December 18, 2020

DATE OF APPEAL: January 5, 2021

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 15701 - 84 Avenue NW

LEGAL DESCRIPTION: Plan 5559KS Blk 3 Lot 16

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

Noted Reasons for Refusal in Refusal Report provided by CoE Reviewing Development Planner

Reason #1) - Garden Suite Location – The garden suite is fully contained within the rear 20.8m of the site instead of 12.8m. (Section 814.3.21).

Reason #2) - Floor Area – The total floor area of the garden suite is 168m<sup>2</sup> instead of 130m<sup>2</sup>. (Section 87.3)

Reason #3) - Platform Structure Location – The platform structure (exterior staircase with balcony) is fully contained within the rear 9.7m of the site, instead of 6.0m. (Section 87.13)

Reason #4) - Ridge Line of Roof Extension – A building roof ridge line shall not extend more than 1.5m above the permitted building Height of 6.5m (Reference Section 52.2(c)). - Maximum permitted building height to peak: 8.0m (1.5m + 6.5m), - Proposed: 8.6m, exceeds by 0.6m

Please find below my reasons for appealing each of the above noted reasons for refusal. I reserve the right to produce additional information in support of my reasons below in accordance with the disclosure dates provided by the Board.

Reason #1) Our lot has an unusual shape with alley access from 3 sides off the back portion of our lot. The Bylaw reads: A rear detached Garage or Garden Suite shall be fully contained within the rear 12.8 m of the Site.

In applying this provision, the DO utilized the site depth to determine what constitutes the rear 12.8m of the site. While the proposed development is contained within 12.8m of the 3 property lines flanking the lane, it offends the provision when using the Site Depth calculation to determine where the 12.8m calculation occurs. This has the impact of creating a hardship attributable to the configuration of the site. If this project were one lot North or not a corner site, the proposed development would be in compliance with the regulation. Diagrams will be provided to the Board in support of this proposition. Further to this, there are 2 mature trees that would require to be cut down if this is the only location for a garage suite to be built on our lot.

Therefore there will be no undue interference with the amenities of the neighbourhood, or material interference with or affect the use, enjoyment or value of neighbouring parcels of land given that if this project was not a corner site, the siting of the garage would comply with the practical requirements of the regulation.

Reason 2) The total site coverage of all existing buildings on our lot and the proposed Garden Suite Garage is 23.6% where an amount of 42% is allowable. The 2nd floor proposed suite area measures 49.7m<sup>2</sup> of an allowable maximum second storey floor area of 50m<sup>2</sup>.

Because our lot is so large I request a variance per Section 11.4.1.a due to practical difficulties peculiar to the character and situation of land. We submit that applying this regulation strictly would result in an absurdity.

If there was no garden suite located above the garage, the proposed development would be in compliance with the regulation. The only thing that renders this development non-compliant is the existence of the dwelling which conforms with the allowable dwelling area.

The aspect of the proposed development that infringes the regulations is having a 3 car garage in conjunction with the dwelling area. Since the total area calculation includes the parking area and dwelling, the proposed development triggers a variance. The total development is approximately half of what is permitted on the site in terms of site coverage.

Therefore, there will be no undue interference with the amenities of the neighbourhood, or material interference with or affect the use, enjoyment or value of neighbouring parcels of land given that the size of the structure would be permitted if it did not contain a garden suite without the need for a variance.

Reason #3) This regulation is designed to minimize overlook into neighbouring parcels of land from platform structures. A platform structure is defined as:

Platform Structure means an elevated structure intended for use as outdoor Amenity Area that may project and/or be recessed from the wall of a building, may be surrounded by guardrails, parapet walls or similar features. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

Amenity Area means:

a) with respect to Residential Uses, space outside a Dwelling or Sleeping Unit provided for the active or passive recreation and enjoyment of the occupants of a residential development, which may be for private or communal use and owned individually or in common, subject to the regulations of this Bylaw;

b) with respect to both Residential and non-Residential Uses, may include indoor or outdoor space, Platform Structures, Rooftop Terraces, and Accessory structures.

Our submission here is that no variance is required. An integral part of the definition of a Platform Structure is that it must be intended for use as an Amenity Area. This structure, on the other hand, is intended solely for access to and from the dwelling unit. No part of the structure will be used for active or passive recreation and enjoyment by the occupants. This is clear by the size and configuration of the access.

However, if we are incorrect in this submission, we further submit that granting the variance would not cause any undue interference with the amenities of the neighbourhood, or material interference with or affect the

use, enjoyment or value of neighbouring parcels of land. This is predominantly because the access structure is located over 16m from the property line between the neighbouring property to the West. There is zero risk of overlook and privacy concerns as 16m is wider than many residential lots.

Reason #4) After reviewing our proposed garage plans with both of our neighbours located on either side of us, neither one had issues with the additional 0.6m of building height. We will provide letters of support from both neighbours. The upcoming Transmission Line upgrade along 156 Street by Epcor approved by the Alberta Utilities Commission this Past Spring that is currently under construction will have poles reaching heights up to 26m tall. There was overwhelming and unanimous disapproval by Llynwood residents including ourselves of the project going above ground instead of being buried which received approval anyways. The poles will tower over our neighbours properties to the East of us which is the main reason we chose to locate the Garden Suite along this rear side of our property to block out our view of the poles as much as possible. The additional 0.6m in height of our proposed Garden Suite will help to minimize the visual impact of the poles from our backyard.

Moreover, the proposed development is in compliance with the height calculation relating to the midpoint of the roof. The only aspect of the development that requires a variance is due to the roof pitch chosen for the garage and the footprint of the garden suite which causes the ridgeline to be higher than permitted. However, we will produce a sun shadow impact for the Board to demonstrate that the impact of the variance will be de minimis. This sun shadow and the support of our neighbours should satisfy the Board that there will be no undue interference with the amenities of the neighbourhood, or material interference with or affect the use, enjoyment or value of neighbouring parcels of land.

We would further like to note that the DO had no issues granting variances to grounds 1, 2 and 3. However, the DO has no authority to grant a variance to height which is truly the only reason we are here before the Board. We would submit that had the DO had the authority to grant this variance, they would have done so when considering the impacts.

<i>General Matters</i>
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**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.

### **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 *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*:**

Section 110.2(2) states that a **Garden Suite** is a **Permitted Use** in the **RF1 Single Detached Residential Zone**.

**Garden Suite** means an Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use includes Mobile Homes that conform to Section 78 of this Bylaw. This Use does not include Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites (Section 7.2(2)).

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 Neighborhood 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.

<b><i>Garden Suite Location</i></b>
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Section 814.3(21) states a rear detached Garage or Garden Suite shall be fully contained within the rear 12.8 m of the Site.

**Development Officer's Determination**

**Garden Suite Location - The garden suite is fully contained within the rear 20.8m of the site instead of 12.8m. (Section 814.3.21)**

[unedited]

<b><i>Garden Suite Floor Area</i></b>
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Section 87.3 states Floor Area shall be provided in accordance with the following:

- a. for the purposes of this regulation, Floor Area shall exclude Basement areas within the Garden Suite, up to 6 m<sup>2</sup> of the area covered by elevators and any associated landing area on each storey, and up to 6 m<sup>2</sup> of the area covered by stairways;

- b. the maximum total Floor Area for a Garden Suite shall be 130 m<sup>2</sup>;
- c. in the RF1, RF2, RF3, RF4, RF5, RF6, RA7, RA8, and RA9 Zones, the maximum Second Storey Floor Area shall be 50 m<sup>2</sup>, except where the Garden Suite complies with the regulations of [Section 93](#) the maximum Second Storey Floor Area shall be 60 m<sup>2</sup>; and
- d. ...

**Development Officer’s Determination**

**Floor Area - The total floor area of the garden suite is 168 m<sup>2</sup> instead of 130 m<sup>2</sup>. (Section 87.3)**

[unedited]

***Platform Structure - Garden Suite***

Section 87.13 states Platform Structures greater than 1.0 m above Grade shall be fully contained within the rear 6.0 m of the Site, except that they may extend along the full length of a façade facing the Side Lot Line Abutting a flanking public roadway.

**Development Officer’s Determination**

**Platform Structure Location - The platform structure (exterior staircase with balcony) is fully contained within the rear 9.7m of the site, instead of 6.0 m. (Section 87.13)**

[unedited]

***Height - Garden Suite***

Section 87.2(a) states the maximum height shall be 6.5 metres where the Garden Suite has a roof slope of 4/12 (18.4°) or greater.

Under section 52.2 in determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

....

- c. 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 metres above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

**Development Officer’s Determination**

**Ridge Line of Roof Extension - A building roof ridge line shall not extend more than 1.5m above the permitted building Height of 6.5m (Reference Section 52.2(c)).**

- **Maximum permitted building height to peak: 8.0m (1.5m + 6.5m),**
- **Proposed: 8.6m, exceeds by 0.6m.**

[unedited]

***Mature Neighbourhood Overlay - Community Consultation***

Section 814.5(1) states:

When the Development Officer receives a Development Permit Application for a new principal building or 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) or 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 Proposed to be Varied</b>
Tier 3	The municipal address and	The assessed	814.3(21) - Garden



	assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	owners of the land Abutting the Site of the proposed development	Suite Location
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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>373342568-002</b> Application Date: SEP 20, 2020 Printed: December 18, 2020 at 2:51 PM 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.																					
<b>Applicant</b> 	<b>Property Address(es) and Legal Description(s)</b> 15701 - 84 AVENUE NW Plan 5559KS Blk 3 Lot 16  <b>Specific Address(es)</b> Suite: 15701G - 84 AVENUE NW Entryway: 15701G - 84 AVENUE NW Building: 15701G - 84 AVENUE NW																				
<b>Scope of Application</b> To construct a Garden Suite with a balcony.																					
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of Dwelling Units Add/Remove: 1                      # of Secondary Suite Dwelling Units To Construct: 1                      Client File Reference Number:                      Minor Dev. Application Fee: Garden Suite                      Secondary Suite Included?: Y                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     # of Primary Dwelling Units To Construct: 0                      Class of Permit:                      Lot Grading Needed?:                      New Sewer Service Required: Y                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Garden Suite Secondary Suite Included?: Y	# of Primary Dwelling Units To Construct: 0 Class of Permit: Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																		
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<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Dec 18, 2020 <b>Development Authority:</b> LAI, ECHO  <b>Reason for Refusal</b> Garden Suite Location - The garden suite is fully contained within the rear 20.8m of the site instead of 12.8m. (Section 814.3.21)  Floor Area - The total floor area of the garden suite is 168 m <sup>2</sup> instead of 130 m <sup>2</sup> . (Section 87.3)  Platform Structure Location - The platform structure (exterior staircase with balcony) is fully contained within the rear 9.7m of the site, instead of 6.0 m. (Section 87.13)  Ridge Line of Roof Extension - A building roof ridge line shall not extend more than 1.5m above the permitted building Height of 6.5m (Reference Section 52.2(c)). - Maximum permitted building height to peak: 8.0m (1.5m + 6.5m). - Proposed: 8.6m, exceeds by 0.6m.																					
<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%; border: none;"> <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: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Sanitary Sewer Trunk Fund (Secondary/Garden Suite)</td> <td style="text-align: right;">\$758.00</td> <td style="text-align: right;">\$758.00</td> <td style="text-align: right;">00376001078I0010</td> <td style="text-align: right;">Sep 21, 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 style="text-align: right;">00376001078I0010</td> <td style="text-align: right;">Sep 21, 2020</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$293.00</td> <td style="text-align: right;">\$293.00</td> <td style="text-align: right;">00376001078I0010</td> <td style="text-align: right;">Sep 21, 2020</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$758.00	\$758.00	00376001078I0010	Sep 21, 2020	Development Permit Inspection Fee	\$211.00	\$211.00	00376001078I0010	Sep 21, 2020	Dev. Application Fee	\$293.00	\$293.00	00376001078I0010	Sep 21, 2020
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<b>THIS IS NOT A PERMIT</b>																					



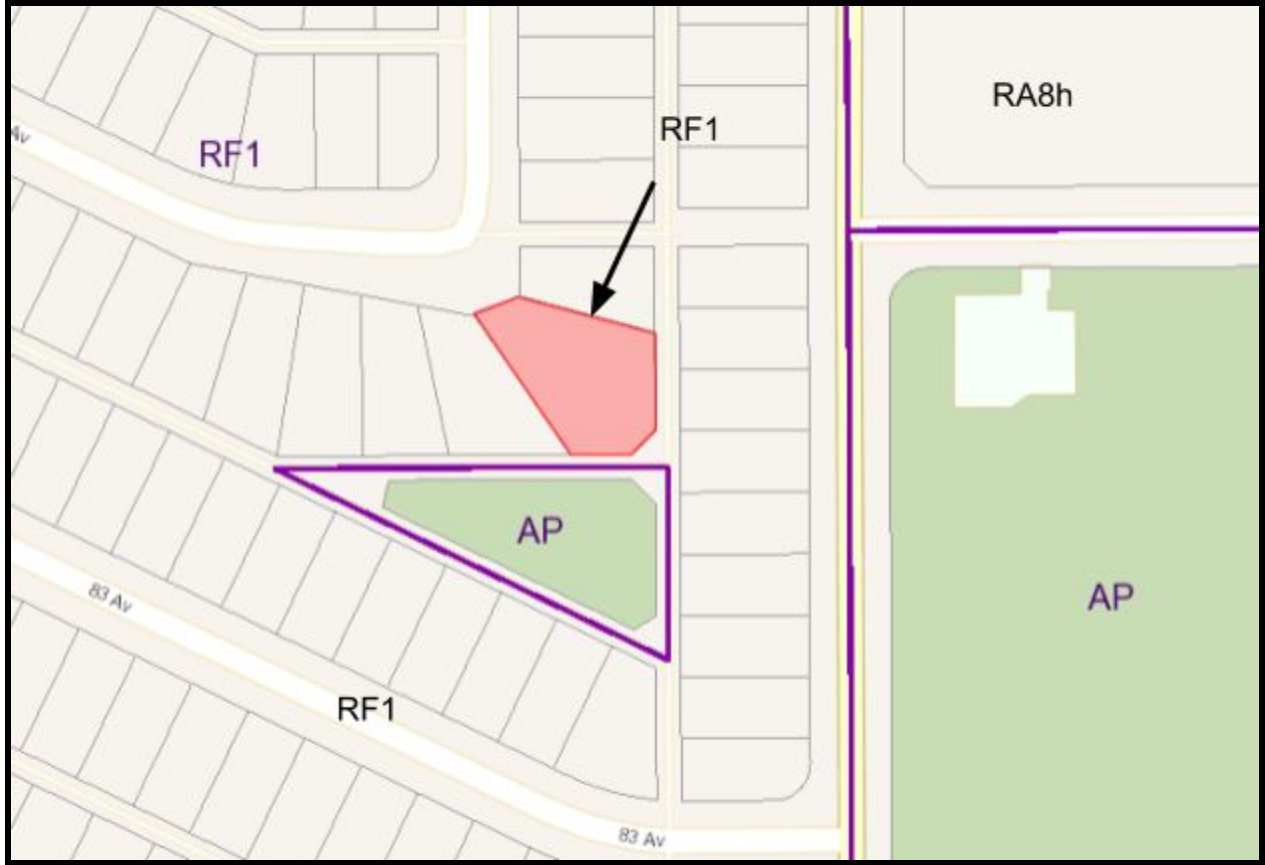
## Application for Minor Development Permit

Project Number: **373342568-002**  
Application Date: SEP 20, 2020  
Printed: December 18, 2020 at 2:51 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>\$1,262.00</u>	<u>\$1,262.00</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

**Site Location** ←

▲  
**N**

File: SDAB-D-21-023

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-024

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 378515786-002

APPLICATION TO: Change the use from a portion of Health Service unit to a Liquor Store and to construct exterior and interior alterations to the main floor of a Multi-unit Housing building (Unit 1)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: December 22, 2020

DATE OF APPEAL: January 9, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9028 - Jasper Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 9020613)

ZONE: (RA9) High Rise Apartment Zone

OVERLAY: N/A

STATUTORY PLAN: Boyle Street McCauley Area Redevelopment Plan

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***Grounds for Appeal***

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

The reasons for refusal should not apply given the site context. The DO has no variance ability on the stated clauses, but the site and surrounding context meet the intent of all required separation regulations:

Reason 1: There is a Liquor Store within 500m (458m)



This is true, however the Liquor Store in question (Crown Liquor - 9119 Stadium Rd NW) faces north, away from the site in question, and is separated by the LRT Line and a massive amount of density. An entrance-to-entrance measurement is greater than 500m.

Reason 2: The site is located near Dawson Park (28m)

This is true, however Dawson Park is located within the River Valley, and the nearest entrance to the park is more than 300m away (South)

Reason 3: the primary business entrance faces a parking lot instead of a public roadway.

This is an approved building, and the application is for a change of use. This is not a requirement of Section 85 of the ZBL. The parking lot also fronts onto Jasper Avenue, meaning all business entrances face Jasper Avenue as well.

<b><i>General Matters</i></b>
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**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.

**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 *Gaming, Liquor and Cannabis Act* 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.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 230.3(6), a **Liquor Store** is a **Discretionary Use** in the **(RA9) High Rise Apartment 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 230.1 states that the **General Purpose** of the **(RA9) High Rise Apartment Zone** is:

to develop high rise residential buildings that contain active residential or non-residential Frontages at ground level. This Zone is intended to allow supportive non-residential Uses that complement the primary residential Uses, and improve the pedestrian experience at ground level. Design regulations are included in the Zone to manage impacts that tall buildings can have in relation to shadow, wind, parking, context, massing and interface at ground level.

<b><i>Section 85 - Liquor Stores</i></b>
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- 1. Any Liquor Store shall not be located less than 500 m from any other Liquor Store.**
2. Notwithstanding subsection 85(1), a Liquor Store may be located less than 500 m from any other Liquor Store if located:
  - a. outside the boundary shown in Appendix 1 to Section 85, provided:
    - i. the Liquor Stores are located on separate Sites, and
    - ii. at least one Liquor Store is located on a Site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3.
3. For the purposes of Section 85, the 500 m separation distance shall be measured from the closest point of the Liquor Store to the closest point of any other approved Liquor Store.
- 4. 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.**
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).

6. 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).
7. When the Development Officer receives an application for a Development Permit that is for the purpose of accommodating the temporary relocation of an approved Liquor Store within 500 m of its original location, a variance to subsection 85(1) or subsection 85(2) may be granted where:
  - a. the application for the Development Permit is for a Temporary Development, in order to limit the introduction of an additional Liquor Store within 500 m of the original approved Development Permit;
  - b. the temporary location for any Liquor Store is not within 500 m of any legally conforming Liquor Store; and
  - c. the application for a Development Permit will not result in a total Floor Area for a Liquor Store that is 10.0% greater than the Floor Area of the existing approved Liquor Store, to a maximum increase of 50 m<sup>2</sup>.
8. When a Development Officer receives an application for a Development Permit that is for the purpose of accommodating the reversion of an existing approved Liquor Store back to its original location on a Site, a variance of subsection 85(1) or subsection 85(2) may only be granted where the application for the reversion is submitted to the Development Officer within 5 years of the date of vacating the original location and the application will not result in a total Floor Area that is greater than the original approved Liquor Store.
9. The issuance of a Development Permit which contains a variance pursuant to subsection 85(7) shall be issued as a Temporary Development for a duration of up to 5 years or less, to be determined by the Development Officer.
10. The Development Officer may require lighting, signage or screening measures that ensure the proposed development is compatible with adjacent or nearby Residential Uses or Commercial Uses.
11. Liquor Stores shall include the following to allow for natural surveillance to promote safe surroundings:
  - a. Customer access is oriented to:
    - i. a public or internal roadway, other than a Lane;
    - ii. a shopping centre parking lot in front of the store; or
    - iii. a mall access that allows visibility from the interior of the mall into the store.
  - b. Premises located at ground level shall include:

- i. Ample transparency to maintain sight lines into and out of the premises. To ensure transparency and sight lines are maintained:
  1. Not more than 10% of the windows may be covered by Signs, the remainder shall be clear, untinted, and free from obstruction.
- ii. Outdoor lighting is required to provide a well-lit environment for pedestrians entering and exiting the premises and to illuminate the property. The Development Officer shall require the applicant to provide a plan showing the location and details of perimeter lighting to ensure adequate lighting.
- iii. Landscaping shall be located such that it does not obstruct sight lines into the premises.

**Development Officer's Determination**

**1. Section 85.1: Any Liquor Store shall not be located less than 500 m from any other Liquor Store.**

**Proposed: There is an existing Liquor Store (Minor Alcohol Sales) within 500 m to the proposed Liquor Store, contrary to Section 85.1. (Section 85.2 states that a Liquor Store may be located less than 500 m from any other Liquor Store, however, the proposed development does not meet the Site Criteria of Section 85.2.a)**

**Required separation distance: 500 m  
Proposed separation distance: 458 m  
Deficient by: 42 m**

**2. Section 85.4: Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for public lands at the time of the application for the Development Permit for the Liquor Store.**

**Proposed: A public land Site (Dawson Park) is identified less than 100 m from the Site of proposed Liquor Store, contrary to Section 85.4.**

**Required separation distance: 100 m  
Proposed separation distance: 28 m  
Deficient by: 72 m**

[unedited]

***Primary Business Entry***

Section 230.5(1)(c) states “For all non-residential, excluding residential-related Uses, building Façades at ground level that have building Façades fronting onto a Public Roadway, other than a Lane, the primary business entry shall face the Public Roadway.”

**Development Officer’s Determination**

**3. Section 230.5.1.c: For all non-residential, excluding residential-related Uses, building Façades at ground level that have building Façades fronting onto a Public Roadway, other than a Lane, the primary business entry shall face the Public Roadway.**

**Proposed: The proposed primary business entry (a double door) faces the existing Parking Lot, instead of Public Roadway, contrary to Section 230.5.1.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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	Project Number: <b>378515786-002</b> Application Date: NOV 17, 2020 Printed: December 22, 2020 at 9:49 AM Page: 1 of 2			
<h2>Application for Major Development Permit</h2>				
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> 9028 - JASPER AVENUE NW Condo Common Area (Plan 9020613) <hr/> <b>Specific Address(es)</b> Suite: 1, 9028 - JASPER AVENUE NW Entryway: 1, 9028 - JASPER AVENUE NW Entryway: 9028 - JASPER AVENUE NW Building: 9028 - JASPER AVENUE NW			
<b>Scope of Application</b> To change the use from a portion of Health Service unit to a Liquor Store and to construct exterior and interior alterations to the main floor of a Multi-unit Housing building (Unit 1).				
<b>Permit Details</b> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Class of Permit:  Gross Floor Area (sq. m.):  New Sewer Service Required:  Site Area (sq. m.): </td> <td style="width: 50%; vertical-align: top;"> Contact Person:  Lot Grading Needed?: N  NumberOfMainFloorDwellings:  Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>			Class of Permit: Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)			
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Dec 22, 2020 <b>Development Authority:</b> XU, HAILEE				
<b>THIS IS NOT A PERMIT</b>				





Project Number: **378515786-002**  
 Application Date: NOV 17, 2020  
 Printed: December 22, 2020 at 9:49 AM  
 Page: 2 of 2

## Application for Major Development Permit

**Reason for Refusal**

1. Section 85.1: Any Liquor Store shall not be located less than 500 m from any other Liquor Store.

Proposed: There is an existing Liquor Store (Minor Alcohol Sales) within 500 m to the proposed Liquor Store, contrary to Section 85.1.

(Section 85.2 states that a Liquor Store may be located less than 500 m from any other Liquor Store, however, the proposed development does not meet the Site Criteria of Section 85.2.a)

Required separation distance: 500 m  
 Proposed separation distance: 458 m  
 Deficient by: 42 m

2. Section 85.4: Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for public lands at the time of the application for the Development Permit for the Liquor Store.

Proposed: A public land Site (Dawson Park) is identified less than 100 m from the Site of proposed Liquor Store, contrary to Section 85.4.

Required separation distance: 100 m  
 Proposed separation distance: 28 m  
 Deficient by: 72 m

3. Section 230.5.1.c: For all non-residential, excluding residential-related Uses, building Façades at ground level that have building Façades fronting onto a Public Roadway, other than a Lane, the primary business entry shall face the Public Roadway.

Proposed: The proposed primary business entry (a double door) faces the existing Parking Lot, instead of Public Roadway, contrary to Section 230.5.1.c.

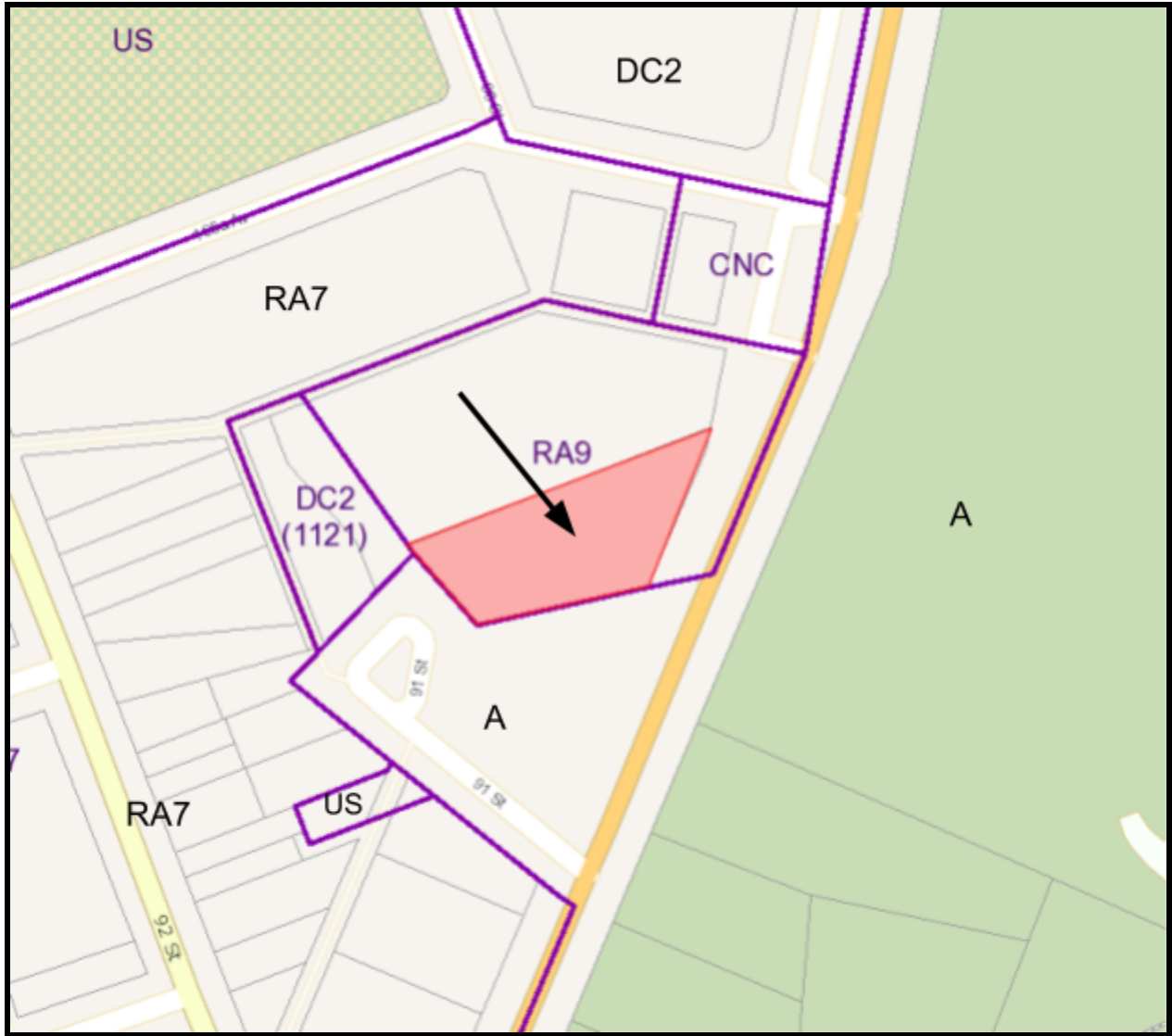
**Rights of Appeal**

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$528.00	\$528.00	02980001536Z001	Nov 27, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$528.00	\$528.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-21-024

▲  
**N**

ITEM III: 2:00 P.M.

FILE: SDAB-D-21-025

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 375055822-002

APPLICATION TO: Construct exterior alterations to a Single Detached House  
(front driveway extension 3.05m x 18.29m)

DECISION OF THE  
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 4, 2021

DATE OF APPEAL: January 11, 2021

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 7319 - 80 Avenue NW

LEGAL DESCRIPTION: Plan 1830NY Blk 13 Lots 5U,6A

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

This utility lot 5U had been rented from the City of Edmonton by Lois and Al weeks for decades and was being used by their basement tenants for parking to keep them off the street. This was also my intent when I purchased the lot from the City back in 2011, it had an approved approach coming off of 80ave., which I knew was required, and it was completely gravelled already. This area of King Edward Park is primarily commercial and multifamily and parking is very limited on the street. I've have had no complaints about parking in the front and I believe no one objected my

permit application. Also with-in 2 blocks of me there are about 20 house that have access coming off the main roadways and 11 of those that have parking in front with no garages. The addresses of houses with parking in front with no garages are 7127-78ave, 7215-78ave, 7316-78ave, 7120-80ave, 7124-80ave, 7311-80ave, 8003-75st, 7424-81ave, 7211-81ave, 7119-81ave, 8004-73st. As you can see by allowing me to have parking it will not affect the overall appearance of the neighbourhood.

<b><i>General Matters</i></b>
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**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.

**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 *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*:**

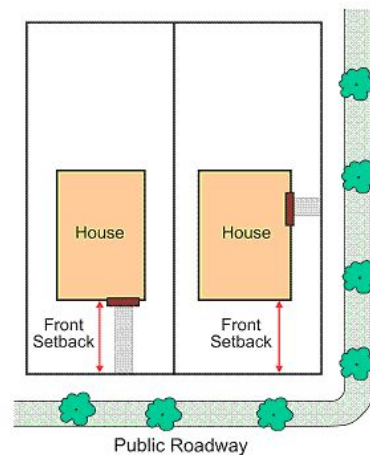
Under section 140.2(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

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

Under section 6.1, **Front Setback** means:

the distance that a development or a specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space or Separation Space.



Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

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.

***Vehicle Parking Design for Low-density Residential***

Section 54.3(3) states:

The Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site, either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;
- ...

**Development Officer’s Determination**

**1. Driveway - The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a)**

***Vehicle Parking Design for Low-density Residential***

Section 54.3(4) states:

Except as otherwise provided for in this Bylaw, Vehicle Parking spaces, not including Driveways, shall be located in accordance with the following:

- a. Vehicle Parking spaces shall not be located within a Front Yard, other than those located on a Driveway;

**Development Officer's Determination**

**2. Parking Location - Vehicle Parking spaces shall not be located within a Front Yard (Section 54.3.4.a)**

[unedited]

***Driveway Access***

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**

**3. Access Location - Section 814.3.17 - The access is proposed from the public roadway (abutting 80 Avenue NW), instead of the laneway.**

[unedited]

***Mature Neighbourhood Overlay - Community Consultation***

Section 814.5(1) states:

When the Development Officer receives a Development Permit Application for a new principal building or 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) or 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 Proposed to be Varied</b>
Tier 1	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

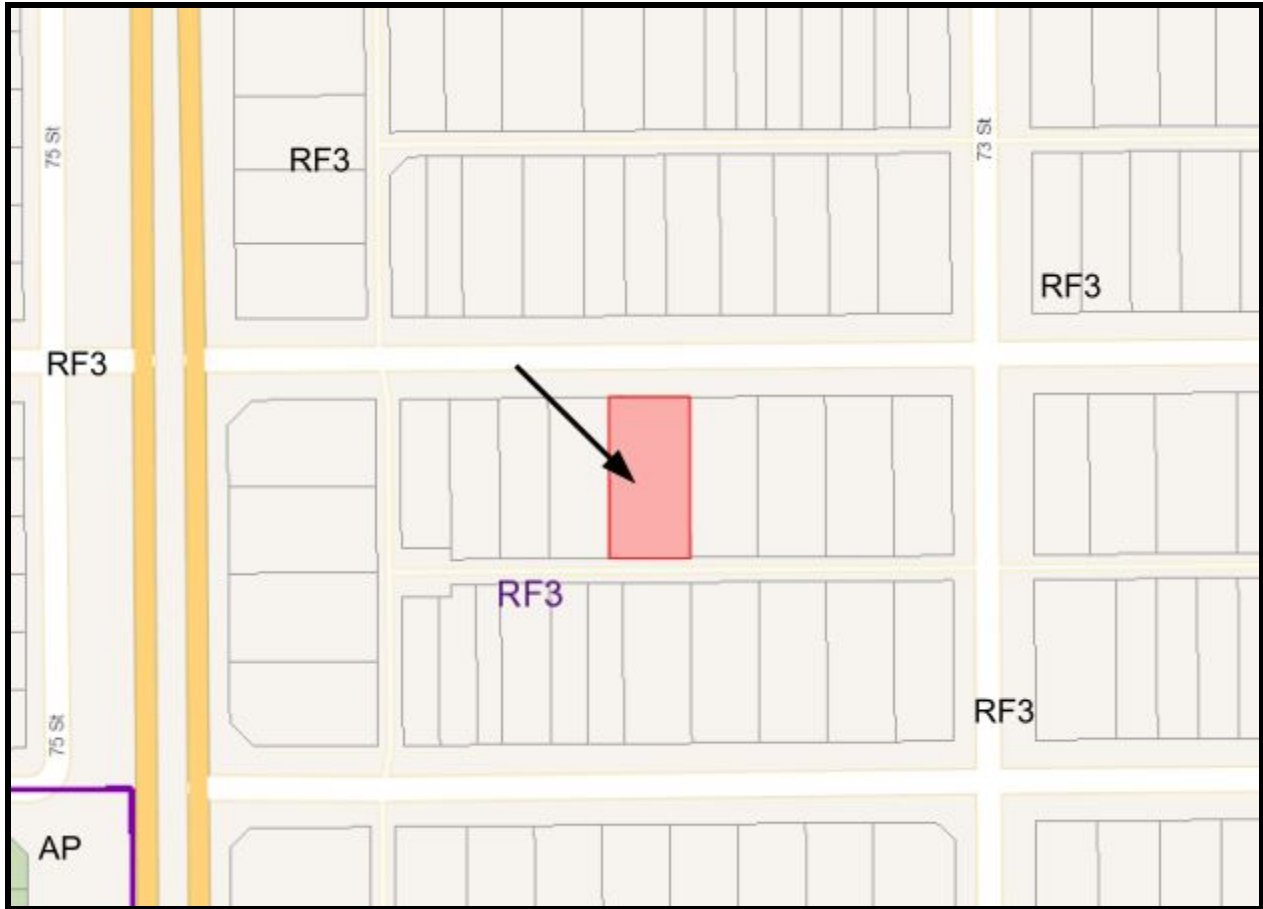
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Notice to Applicant/Appellant

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 Driveway Extension Permit</h2>	Project Number: <b>375055822-002</b> Application Date: OCT 08, 2020 Printed: January 4, 2021 at 3:19 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
<b>Applicant</b>  <div style="background-color: black; width: 100%; height: 40px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 7319 - 80 AVENUE NW Plan 1830NY Blk 13 Lots 5U,6A  <b>Location(s) of Work</b> Suite: 7319 - 80 AVENUE NW Entryway: 7319 - 80 AVENUE NW Building: 7319 - 80 AVENUE NW																					
<b>Scope of Application</b> To construct exterior alterations to a Single Detached House (front driveway extension 3.05m x 18.29m).																						
<b>Permit Details</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     Class Of Permit:                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> <td style="width: 50%; border: none;">                     Site Area (sq. m.): 786.63                 </td> </tr> </table>			Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 786.63																		
Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 786.63																					
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Jan 04, 2021 <b>Development Authority:</b> LANGILLE, BRANDON  <b>Reason for Refusal</b> 1. Driveway - The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a)  2. Parking Location - Vehicle Parking spaces shall not be located within a Front Yard (Section 54.3.4.a)  3. Access Location - Section 814.3.17 - The access is proposed from the public roadway (abutting 80 Avenue NW), instead of the laneway.  <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.																						
<b>Fees</b>  <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right; font-weight: normal;">Fee Amount</th> <th style="text-align: right; font-weight: normal;">Amount Paid</th> <th style="text-align: right; font-weight: normal;">Receipt #</th> <th style="text-align: right; font-weight: normal;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">01028904768J001</td> <td style="text-align: right;">Oct 08, 2020</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$176.00</td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$176.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$176.00	\$176.00	01028904768J001	Oct 08, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$176.00	\$176.00		
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<b>THIS IS NOT A PERMIT</b>																						



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

▲  
**N**

File: SDAB-D-21-025