

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Friday, 9:00 A.M.  
January 15, 2016**

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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**TO BE RAISED**

I 9:00 A.M. SDAB-D-15-268 Leave as built a Single Detached House  
11542 - 75 Avenue NW  
Project No.: 157837120-014

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***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-15-268**

**AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER**

APPELLANT:

APPLICATION NO.: 157837120-014

ADDRESS OF APPELLANT: 11542 - 75 Avenue NW

APPLICATION TO: Leave as built a Single Detached House.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 9, 2015

DATE OF APPEAL: October 23, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11542 - 75 Avenue NW

LEGAL DESCRIPTION: Plan 1275HW Blk 3 Lot 10

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLANS IN EFFECT: McKernan-Belgravia Station 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 requested variance to "Leave as built a Single Detached House" has been disallowed. To relax the requirement that the basement elevation of structures of two or more storeys in Height shall be no more than 1.2 above Grade, to allow 1.6 above Grade. We are appealing this decision and wish to show that alterations have been made to ensure overall height of said structure will remain fully within the prescribed legal measurements allowed. [unedited]

***General Matters***

**Appeal Information:**

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

**Grounds for Appeal**

**685(1)** If a development authority

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

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

**Appeals**

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

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

The decision of the Development Authority is dated October 9, 2015. The Notice of Appeal Period expired on October 23, 2015. The Notice of Appeal was filed on October 23, 2015.

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

Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is to:

The purpose of this Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.2, **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

***Basement Elevation***

Section 814.3(16) states:

The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 m above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey.

Section 52(4) states the following with respect to **Grade**:

4. The Development Officer shall determine Grade by selecting, from the methods listed below, the method that best ensures compatibility with surrounding development:
  - a. if the applicant can show by reference to reliable topographical maps that the elevation of the Site varies by no more than one meter in 30 lineal meters, the Development Officer may determine Grade by calculating the average of the highest and lowest elevation on the Site;
  - b. the Development Officer may determine Grade by calculating the average of the elevation at the corners of the Site prior to construction as shown on the applicant's grading plan;
  - c. the Development Officer may determine Grade by calculating the average elevation of the corners of the buildings on all properties abutting the Site or separated from the Site by a Lane;
  - d. for a Site where the highest geodetic elevation at a corner of the front property line is greater than the lowest geodetic elevation at a corner of the rear property line by 2.0 m or more, the Development Officer may determine Grade by calculating the average elevation of the front corners of the Lot, and along the side property lines a distance equal to the minimum front Setback in the underlying Zone from the front property line. This method is intended for small scale development with a single Principal building and is not intended to be used for Multi-unit Project Developments; or
  - e. the Development Officer may use his variance power to determine Grade by a method other than the ones described in subsection 52.4.

**Development Officer's Decision**

Section 814.3(16): The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 m above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey.

Average Grade: 100.36m

Finished Floor of the first Storey: 102.04m

Height from Average Grade to Finished Floor: 1.68m  
Maximum Finished Floor: 1.2m  
Deficiency:0.48m [unedited]

***Side Setback***

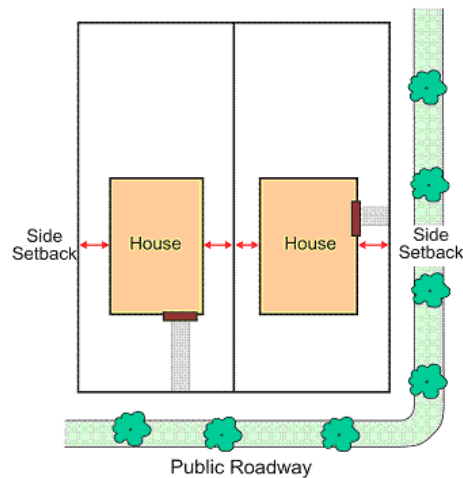
Section 110.4(10)(a) states:

Side Setbacks shall be established on the following basis:

- a. Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side;

Section 6.1(90) states:

**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 Decision**

Section 110.4.10(a): Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side.



Right Side Setback: 0.89m  
Required: 1.20m  
Deficiency: 0.31m  
[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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

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	Project Number: <b>157837120-014</b> Application Date: JUL 29, 2015 Printed: November 13, 2015 at 1:39 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>  KEN, CHEN 	<b>Property Address(es) and Legal Description(s)</b> 11542 - 75 AVENUE NW Plan 1275HW Blk 3 Lot 10  <b>Specific Address(es)</b> Entryway: 11542 - 75 AVENUE NW Building: 11542 - 75 AVENUE NW		
<b>Scope of Application</b> To leave as built a Single Detached House.			
<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: 0                      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;">                     Class of Permit: (none)                      Lot Grading Needed?: N                      New Sewer Service Required: N                       Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House  Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N  Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House  Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N  Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
I/We certify that the above noted details are correct.  Applicant signature: _____			
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b>  This application is refused for the following reasons:  1. Section 814.3(16): The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 m above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey.  Average Grade: 100.36m Finished Floor of the first Storey: 102.04m Height from Average Grade to Finished Floor: 1.68m Maximum Finished Floor: 1.2m Deficiency: 0.48m  2. Section 110.4.10(a): Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side.  Right Side Setback: 0.89m Required: 1.20m Deficiency: 0.31m  NOTES:  1. Unless otherwise stated, all references to section numbers refer to the Edmonton Zoning Bvlaw 12800.			
<b>THIS IS NOT A PERMIT</b>			





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-268



**BUSINESS LAID OVER**

SDAB-D-16-001	An appeal by Joseph D'Andrea to to develop a Secondary Suite in the Basement of a Single Detached House, existing without permits. <b><i>February 4, 2016</i></b>
SDAB-D-15-252	An appeal by <u>Southwest Muslim Community Centre</u> to change the se from an Indoor Participant Recreation Service to a Religious Assembly with a capacity of 456 seats, and to construct interior alterations (SouthWest Muslim Community Centre). <b><i>February 10 or 11, 2016</i></b>
SDAB-D-15-238	An appeal by <u>Ogilvie LLP</u> to comply with an Order to acquire valid development permits by September 25, 2015 or cease the Use and demolish and remove all materials by September 25, 2015; and to comply with all conditions of development permit No. 149045660-001. <b><i>February 17 or 18, 2016</i></b>
SDAB-D-15-285	An appeal by <u>Sakaw Daycare</u> to convert an existing Single Detached House into a Child Care Services Use Building (60 Children, 2- 12-18 months, 6 – 19 months-3 yrs, 32 – 3-4.5 yrs, 20 – above 4.5 yrs) and to construct interior and exterior alterations <b><i>March 2 or 3, 2016</i></b>
SDAB-D-15-247	An appeal by <u>Kennedy Agrios LLP VS. Eton-West Construction (Alta) Inc.</u> change the use of "Building E" from Professional, Financial and Office Support Services to General Retail Stores and to construct interior and exterior alterations (increase building size and change dimensions, revision to parking layout and Drive-thru). <b><i>March 9 or 10, 2016</i></b>

**APPEAL HEARINGS TO BE SCHEDULED**

159269966-003	An appeal by <u>Anh Padmore</u> to construct an exterior alteration to an existing Singe Detached House, (Driveway Extension 2.8m x 8.4m existing without permits). <b><i>January 21, 2016</i></b>
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