

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
July 20, 2016**

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

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

I 9:00 A.M. SDAB-D-16-173

Convert the existing Semi-detached House to 4 Dwellings of Stacked Row Housing (existing without permits).

10729 - 64 Avenue NW
Project No.: 103360853-003

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-173

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 103360853-003

APPLICATION TO: Convert the existing Semi-detached House to 4 Dwellings of Stacked Row Housing (existing without permits).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 13, 2016

DATE OF APPEAL: June 24, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10729 - 64 Avenue NW

LEGAL DESCRIPTION: Plan 667KS Blk 18 Lot 10

ZONE: RF3-Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

This property was sold to us in September, 2005 containing 4 individual suites. The structure of the building lead us to believe that it was originally built for this purpose in 1976 but zoning was not established at that time. We have been trying since 2010 to sort this out and believed we had been granted permission in 2011. We enquired via telephone about the 'trunk fund' and what exactly those money's were for. As we received no response we simply forgot about it. We did not receive a subsequent bill and here we are, going through the motions again. We just want to get this settled. Please refer to Appeal and attachments sent by Post.

Thank you,
Michael and Shanann Zinger

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

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

appeal board

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

(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 140.2(6) states Stacked Row Housing is a **Permitted Use** in the **RF3 Small Scale Infill Development Zone**.

Under Section 7.2(10), **Stacked Row Housing** means development consisting of a building containing three or more Dwellings arranged two deep, either vertically so that Dwellings are placed over others, or horizontally so that Dwellings are attached at the rear as well as at the side. Each Dwelling shall have separate and individual access, not necessarily directly to Grade, provided that no more than two Dwellings may share access to Grade. This Use Class does not include Duplex Housing, Row Housing, or Apartment Housing.

Section 140.1 states the purpose of the RF3 Small Scale Infill Development Zone is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

Section 814.1 states the purpose of the Mature Neighbourhood Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay.

The Board is advised that on February 24, 2011, the Board heard an appeal of the decision of the Development Authority to refuse an application to change the use from Duplex Housing to Stacked Row Housing (four dwellings), located at 10729- 64 Avenue. The appeal was ALLOWED and the DEVELOPMENT GRANTED and the deficiency of 267 square metres in the minimum required Site Area, the deficiency of 6.6 metres in the minimum required Site Width, and the deficiency of 3 required onsite parking spaces was permitted, subject to the conditions.

Site Area

Section 140.4(5)(a) states the minimum Site Area for Stacked Row Housing shall be 750.00 square metres.

Development Officer's Determination

Proposed: 531.62 square metres

Deficient by: 218.38 square metres

Site Width

Section 140.4(5)(b) states the minimum Site Width for Stacked Row Housing shall be 17.0 metres.

Development Officer's Determination

Proposed: 13.40 metres

Deficient by: 3.60 metres

Location Criteria

Section 140.4(7) states Apartment Housing or Stacked Row Housing shall be located:

- a. on Corner Sites,
- b. on Sites Abutting an arterial or service road,
- c. where both Side Lot Lines Abut existing Apartment Housing or Stacked Row Housing, or
- d. where a minimum of one Side Lot Line:
 - i. Abuts a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use, or
 - ii. is not separated by a public roadway, including a Lane, more than 10.0 metres wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.

Development Officer’s Determination

Apartment Housing or Stacked Row Housing shall be located: (Reference Section 140.4(7))

a. on Corner Sites;

-Proposed development is not on a corner site

b. on Sites Abutting an arterial or service road,

- Proposed development is not abutting an arterial or service road

c. where both Side Lot Lines Abut existing Apartment Housing or Stacked Row Housing

- Proposed development have Single Detached Houses on both sides

d. where a minimum of one Side Lot Line:

i. Abuts a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use

- Proposed development is not abutting a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use

ii. is not separated by a public roadway, including a Lane, more than 10.0 metres wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.- Abuts a Site where a Commercial Use, or Stacked Row

- The proposed development is not separated by a public roadway, including a Lane, more than 10.0 metres wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.

<i>Site Coverage</i>

Section 140.4(10)(f) states the Maximum Site Coverage shall be as follows:

	Principal Dwelling building /	Accessory building	Principal building with attached Garage	Total Site Coverage
All other Uses	28 percent	12 percent	40 percent	40 percent

Under Section 6.1(94), **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

a. steps, eaves, cornices, and similar projections;

- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

Development Officer’s Determination

The Development Officer has provided the following information:

Site Area:	531.62 square metres
12 percent allowable Site Coverage:	63.79 square metres
28 percent allowable Site Coverage:	148.85 square metres
40 percent allowable Site Coverage:	212.65 square metres
Site Coverage, Accessory Building:	57.85 square metres
Site Coverage, Principal Building:	170.04 square metres
160.54 square metres + the area of balconies (1.32 metres by 3.6 metres x 2 balconies = 9.50 square metres)	
Total Site Coverage:	227.89 square metres

The maximum allowable Site Coverage for a Principal Building is 148.85 square metres, proposed is 170.04 square metres, which exceeds the maximum allowable Site Coverage for a Principal Building by 21.19 square metres.

The maximum allowable total Site Coverage is 212.65 square metres, proposed is 227.89 square metres, which exceeds the maximum allowable total Site Coverage by 15.24 square metres.

Non-conforming Building

Section 643 of the *Municipal Government Act*, RSA 2000, c M-26, states the following:

- (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
- (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.
- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

- (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
- (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except
 - (a) to make it a conforming building,
 - (b) for routine maintenance of the building, if the development authority considers it necessary, or
 - (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

Section 11.3(3) states that the Development Officer may approve, with or without conditions as a Class B Development, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for the land in this Bylaw and the proposed development would not, in his opinion:

- a) unduly interfere with the amenities of the neighbourhood; or
- b) materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Development Officer's Advisement

The existing building is a non-conforming building. A non-conforming building may continue to be used, but the building shall not be enlarged, added to, rebuilt or structurally altered. (Reference Section 11.3(3))

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*.



Project Number: 103360853-003
Application Date: MAY 17, 2016
Printed: June 24, 2016 at 2:23 PM
Page: 1 of 3

Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

Applicant

1184689 AB LTD



Property Address(es) and Legal Description(s)

10729 - 64 AVENUE NW
Plan 667KS Blk 18 Lot 10

Specific Address(es)

Suite: BSMT, 10727 - 64 AVENUE NW
Suite: BSMT, 10729 - 64 AVENUE NW
Entryway: 10727 - 64 AVENUE NW
Entryway: 10729 - 64 AVENUE NW
Building: 10729 - 64 AVENUE NW

Scope of Application

To convert the existing Semi-Detached House to 4 Dwellings of Stacked Row Housing (existing without permits).

Permit Details

Class of Permit: (none)
Gross Floor Area (sq.m.): 362.32
New Sewer Service Required: Y
Site Area (sq. m.): 531.62

Contact Person:
Lot Grading Needed?: N/A
NumberOfMainFloorDwellings: 2
Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

THIS IS NOT A PERMIT



Project Number: **103360853-003**
 Application Date: MAY 17, 2016
 Printed: June 24, 2016 at 2:23 PM
 Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

1. The minimum Site Area for Stacked Row Housing shall be shall be 750 sm. (Reference Section 140.4(5)(a))
 Proposed: 531.62 sm
 Deficient by: 218.38 sm

2. The minimum Site Width for Stacked Row Housing shall be shall be 17 m. (Reference Section 140.4(5)(b))
 Proposed: 13.40 m
 Deficient by: 3.6 m

3. Apartment Housing or Stacked Row Housing shall be located: (Reference Section 140.4(7))
 - a. on Corner Sites;
 -Proposed development is not on a corner site
 - b. on Sites Abutting an arterial or service road,
 - Proposed development is not abutting an arterial or service road
 - c. where both Side Lot Lines Abut existing Apartment Housing or Stacked Row Housing
 - Proposed development have Single Detached Houses on both sides
 - d. where a minimum of one Side Lot Line:
 - i. Abuts a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use
 - Proposed development is not abutting a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use
 - ii. is not separated by a public roadway, including a Lane, more than 10.0 m wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.- Abuts a Site where a Commercial Use, or Stacked Row
 - The proposed development is not separated by a public roadway, including a Lane, more than 10.0 m wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.

4. The maximum Site Coverage shall be 28% for the Stacked Row Housing and 40% for all buildings (Stacked Row Housing and Detached Garage). (Reference Section 140.4(10))
 Proposed for Stacked Row Housing: 32%
 Over by: 4%
 Proposed total Site Coverage of all buildings (Stacked Row Housing and Detached Garage): 43%
 Over by: 3%

ADVISEMENT:

The existing building is a non-conforming building. A non-conforming building may continue to be used, but the building shall not be enlarged, added to, rebuilt or structurally altered. (Reference Section 11.3(3))

Rights of Appeal

The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jun 13, 2016 **Development Authority:** ANGELES, JOSELITO **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$260.00	\$260.00	03288661	May 17, 2016

THIS IS NOT A PERMIT



Project Number: **103360853-003**
Application Date: MAY 17, 2016
Printed: June 24, 2016 at 2:23 PM
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Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund 2012+	\$1,340.00	\$0.00		
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$1,600.00	\$260.00		
(\$1,340.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-173



BUSINESS LAID OVER

SDAB-D-16-120	An appeal to construct a Single Detached House with attached Garage, veranda, fireplace, rear balcony (irregular shape, 4.25 metres by 2.22 metres) and Basement development (NOT to be used as an additional Dwelling) <i>August 3, 2016</i>
SDAB-D-16-136	An appeal to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing South) <i>August 17 or 18, 2016</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>