

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
July 30, 2015**

**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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I	9:00 A.M.	SDAB-D-15-165	To operate a Major Home Based Business (small engine mechanic - MIKE EASY MECHANIC)
			14211 - 78 Street NW Project No.: 171275327-001

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***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-15-165

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPLICATION NO.: 171275327-001

APPLICATION TO: Operate a Major Home Based Business (small engine mechanic - MIKE EASY MECHANIC)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: June 11, 2015

DATE OF APPEAL: July 2, 2015

NOTIFICATION PERIOD: June 18, 2015 through July 1, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 14211 - 78 Street NW

LEGAL DESCRIPTION: Plan 5088NY Blk 11 Lot 18

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

This Development Permit may be revoked or invalidated, at any time, if the Major

Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes.

The Major Home Based Business shall be operated by a resident of the Dwelling on the property and must be secondary to the residential use of the Building (Section 7.3(7)).

A minimum of three parking spaces [two are available inside the detached garage, two are available on rear driveway] shall be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the Single Detached House or Major Home Based Business. (Section 54.1(1)(c)). The parking spaces on the rear driveway shall be clearly signed as a small car space [if required](Section 54.2(4)(a)(iii)).

There shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling (section 75(1)).

There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings (section 75(2)).

The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (section 75(3)).

The number of non-resident employees or business partners working on-site shall not exceed two at any one time (Section 75(4)).

There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings (Section 75(5)).

The Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings (Section 75(6)).

A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling (Section 75(10)).

This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on June 11, 2020.

#### NOTES:

This Development Permit is not a Business Licence

Signs require separate Development Applications.

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

### APPELLANT'S SUBMISSION

Scope of Permit – describes the Major Home Based Business as small engine mechanic (quads, lawn mowers, snow blowers, etc...)

- No small engine equipment has been observed coming or going – it is clear that this home based business is for motor vehicle repair. This is obviously a breach of the permit as they are operating illegally.
- Unknown vehicles, some with no plates, are being shuffled around 78 Street and the alley of 77 Street.
- Bylaw has ticketed some vehicles on 78 Street – towing has occurred also.
- Residents are also concerned with proper disposal of engine liquids (diesel, oil, coolants, gasoline, etc.)

Section 75(3) – the business shall not generate pedestrian or vehicular traffic, or parking in excess

- The Applicant has 3 motor vehicles in front of his place, one of which has no plates.
- The Applicant has 3 motor vehicles behind his garage and 2 motor vehicles behind his neighbour's garage, all of which are in disrepair, and some without plates.
- The neighbouring residents have all expressed concern about the amount of vehicles – the residents in the alley between 77 and 78 Street sometimes have a hard time driving their own vehicles around the narrow alley because of all the vehicles parked there. For the residents on 78 Street the parking issue has become an issue as well, as those who do park on the street cannot park in front of their homes, hence a domino effect to everyone. In the winter, the snow furrows on the street, as well as the blading in the alley, leave minimal room for vehicles to pass. Someone commented that the street and alley resemble a Walmart parking lot on a Saturday.

Section 54.1(1)(c) – a minimum of 3 parking spaces (2 available inside the detached garage, 2 available on the rear driveway) to accommodate clients, customers, employees, members, residents or visitors.

- Minimum of 3 parking spaces – enough said. There are in excess of 8 vehicles daily, some permanently parked, and others shuffled around.

I have personally spoken to the Applicant in an attempt to settle this in a neighbourly fashion. This petition/appeal is from the overwhelming voice of all neighbours who are affected by this home based business. Attached is a petition of the neighbours that oppose this permit and would appreciate the permit cancelled/withdrawn.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 686(1)(b) of the *Municipal Government Act* states “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, in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.”

Section 685(2) of the *Municipal Government Act* states “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.”

**The Board is advised that the decision of approval by the Development Officer is dated June 11, 2015. The Notice of Appeal Period began June 18, 2015 and ended July 1, 2015 and the Notice of Appeal was filed on July 2, 2015.**

Section 22(1) and (2) of the *Interpretation Act*, RSA 2000, c I-8, states:

22(1) If in an enactment the time limited for the doing of a thing expires or falls on a holiday, the thing may be done on the day next following that is not a holiday.

(2) If in an enactment the time limited for registration or filing of an instrument, or for the doing of anything, expires or falls on a day on which the office or place in which the instrument or thing is required to be registered, filed or done is not open during its regular hours of business, the instrument or thing may be registered, filed or done on the day next following on which the office or place is open.

**The Board is advised the Subdivision and Development Appeal Board office was closed on July 1, 2015 and re-opened on July 2, 2015.**

Under Section 110.3(2), a **Major Home Based Business** is a Discretionary Use in the RF1 Single Detached Residential Zone.

Under Section 7.3(7), **Major Home Based Business** is defined as follows:

...development consisting of the use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses such businesses may generate more than one business associated visit per day. The business use must be secondary to the residential Use of the building and shall not change the residential

character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use Class includes Bed and Breakfast Operations but does not include General Retail Sales.

The Home Based Business Application indicates the following:

1. Proposed business activities on site will include small engine repair for items such as lawn mowers, snow blowers, and quads;
2. No business visits are expected to occur on site;
3. No clients, couriers or employees are expected to visit the business; and
4. There is 1 vehicle registered to the property and there are 2 driveway parking spaces.

**The application was approved by the Development Officer subject to conditions.**

Section 75 states that a **Major Home Based Business** shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 centimetres by 30.5 centimetres in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling of Accessory buildings;
7. ...
8. in addition to the information requirements of subsection 13.2 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with

the business use are to be stored; and

9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Schedule 1(A)(3) of Section 54.2 states the following:

<b>Schedule 1(A) Areas outside of the Downtown Special Area</b>	
<b>Use of Building or Site</b>	<b>Minimum Number of Parking Spaces or Garage Spaces Required</b>
<b>Residential and Residential-Related Uses</b>	
3. Duplex Housing Mobile Homes (excluding Mobile Home Parks) Semi-detached Housing Single Detached Housing	2 parking spaces per Dwelling, may be in tandem and may include 1 Garage space.  Where a Front Yard driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this driveway as the provision of a second car parking space that is in tandem.

Schedule 1(A)(8) of Section 54.2 states the following:

<b>Schedule 1(A) Areas outside of the Downtown Special Area</b>	
<b>Use of Building or Site</b>	<b>Minimum Number of Parking Spaces or Garage Spaces Required</b>
<b>Residential and Residential-Related Uses</b>	
8. Major Home Based Business Except:  a. Bed and Breakfast	1 parking space in addition to parking required for primary Dwelling.  1 parking space per guest room is required in addition to the parking required for the primary Dwelling.

Section 54.2(4)(a)(i) states the following with respect to **Vehicular Parking Dimensions and Configuration**:

- a. All required parking spaces shall be clear of any access driveways, aisles, ramps, columns, Signs or other similar obstructions, and shall



conform to the following minimum dimensions:

- i. except as provided below, each required off-street parking space shall be a minimum of 2.6 m width with a minimum clear length of 5.5 m exclusive of access drives or aisles, ramps, columns. Parking spaces shall have a vertical clearance of at least 2.0 m. For parallel parking, the length of the parking spaces shall be increased to 7.0 m, except that an end space with an open end shall be a minimum length of 5.5 m.

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, Semi-detached Housing and Duplex Housing under certain conditions.”

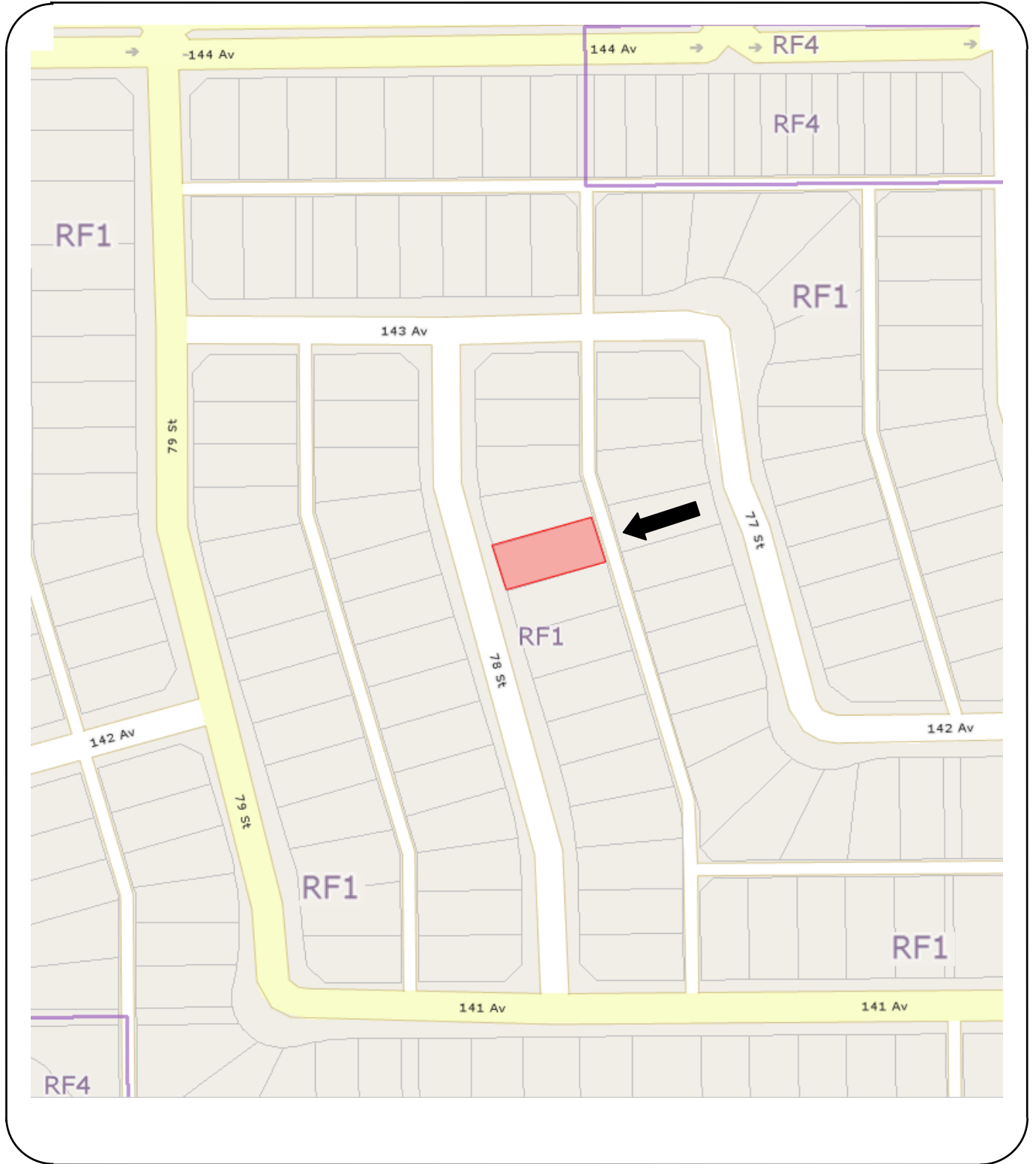
Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** “is to ensure that new low density development in Edmonton’s mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of 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 regulations.”

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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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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-165



**BUSINESS LAID OVER**

SDAB-D-15-138	An appeal to develop a Secondary Suite in an existing Single Detached House <i>August 5 or 6, 2015</i>
SDAB-D-15-145	An appeal to change the Use from a General Industrial Use to a Personal Service Shop operating as a Body Rub Centre <i>August 5, 2015</i>
SDAB-D-15-161	An appeal to construct four Dwellings of Row Housing with attached Garages and to demolish the existing Single Detached House and rear detached Garage <i>September 23 or 24, 2015</i>

**APPEAL HEARINGS TO BE SCHEDULED**

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