SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M. June 16, 2021

Ι	9:00 A.M.	SDAB-D-21-094	
			Erect a fence @ 1.8m in Height in the Front Yard
			along 134 Ave and in the Side Yard along 112
			Street, existing without permits
			13404 - 112 Street NW
			Project No.: 385812385-002
II	10:30 A.M.	SDAB-D-21-095	
			Construct an Accessory building (detached
			Garage, 16.81m x 7.80m)
			15701 - 84 Avenue NW
			Project No.: 389922397-002

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

ITEM I: 9:00 A.M.

AN APPEAL FROM THE DECIS	ION OF THE DEVELOPMENT OFFICER
APPELLANT:	
APPLICATION NO .:	385812385-002
APPLICATION TO:	Erect a fence @ 1.8m in Height in the Front Yard along 134 Ave and in the Side Yard along 112 Street, existing without permits
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	May 10, 2021
DATE OF APPEAL:	May 24, 2021
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	13404 - 112 Street NW
LEGAL DESCRIPTION:	Plan 6280KS Blk 1 Lot 27
ZONE:	(RF1) Single Detached Residential 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 is in response to the application of the overheight fence permit being refused at the above address.

I would like to appeal this decision due to the following reasons:

I have owned this property since June 2018 and have rented it out since date of purchase. I have had 2 tenants at this location. The first tenants lived there from June 2018 to August 2019. In this time period and prior to the fence being built they had the following items stolen from the yard on multiple occasions, Quad, Dirt Bike, Trailer and Welding Cables. Also their truck was broken into and fuel was taken. Once the fence was built they had no other issues of property being stolen.

The second tenants have lived there Nov 2019 to present. They have had no issues with property being stolen. They also have a young child and feel very safe due to the height of the fence of no one getting into the yard along with the future of their child getting out.

Along with the protection of property and safety of children, the fence offers privacy for the people living there.

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.

(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 110.2(7), Single Detached Housing is a Permitted Use in the (RF1) Single Detached Residential 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, **Fence** means "a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary."

Under section 6.1, Height means "a vertical distance between two points."

Under section 6.1, Front Yard means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1, Side Yard means:

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



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 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.

Fences, Walls, Gates, and Privacy Screening in Residential Zones

Section 49.1 states the following with respect to Fences, walls and gates:

- a. The regulations contained within Section 49.1 of this Bylaw apply to:
 - i. the Height of the material used in the construction of a Fence, wall, or gate, such as but not limited to boards, panels, masonry, ornamental iron, and chain link, plus any additional elements used for screening, such as, but not limited to, lattice.
- b. Notwithstanding subsection 49(1)(a), the regulations for Fences, walls, and gates contained within this Section do not apply to the Height of the posts or other supporting material used to anchor the Fence, wall, or gate.
- c. The Height of a Fence, wall, or gate shall be measured from the general ground level 0.5 m back from the property line of the Site on which the Fence, wall, or gate is to be constructed.
- d. On an Interior Site, the Height of a Fence, wall, or gate shall not exceed:
 - i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard, and
 - ii. 1.85 m in all other Yards.
- e. On a Corner Site, the Height of a Fence, wall, or gate shall not exceed:
 - i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard,
 - ii. 1.2 m for the portion of the Fence, wall, or gate situated between the flanking Side Lot Line and the foremost side Façade of the principal structure, and extending from the Front Lot Line to the Rear Lot Line, and
 - iii. 1.85 m in all other Yards.
- f. In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,
- g. In the case where the permitted Height of a Fence, wall, or gate is 1.85 m, the Development Officer may vary the Height of the Fence, wall, or

gate to a maximum of 2.44 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,

h. Notwithstanding subsection 49.1(f) and subsection 49.1(g) of this Bylaw, in the case of Double Fronting Sites, the Development Officer may grant a variance to allow a Fence, wall, or gate of up to 1.85 m in Height in one of the Front Yards, and allow a Fence, wall, or gate of up to 2.44 m in Height in the other Front Yard, having regard to the location of Fences, walls, and gates in the surrounding area and the requirement for screening.

Development Officer's Determination

Fence Height - The fence in the front yard along 134 Avenue and the fence in the flanking side yard along 112 Street are 1.8m high, instead of 1.2m high. (Section 49.1(e))

[unedited]

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.

Edmonton This document is a Development Per Applicant	Over		Pence Permit	and Legal Description(s) ET NW
	eight in the Front Y	ard along 134 A	we and in the Side Yard a	long 112 Street, existing without permits.
Permit Details Class Of Permit: Stat. Plan Overlay/Annex Area: Matu Overlay	re Neighbourhood		Site Area (1q. m.): 539.84	
instead of 1.2m high. (See Rights of Appeal The Applicant has the righ which the decision is made Section 683 through 685	velopment Author in the front yard alo tion 49.1(e)) t of appeal to the St e as outlined in Cha	ng 134 Avenue abdivision and I pter M-26,	and the fence in the flank Development Appeal Boar	ing side yard along 112 Street are 1.8m hig d (SDAB) within 21 days after the date on
Building Permit Decision No decision has yet been made	L			
Fees Development Application Fee Total GST Amount: Totals for Permit:	Fee Amount \$182.00 \$0.00 \$182.00	Amount Pa \$182.0 	00 06901457	Date Paid Feb 08, 2021
		THIS IS NOT	A PERMIT	





ITEM II: 10:30 A.M.

FILE: SDAB-D-21-095

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER APPELLANT: APPLICATION NO.: 389922397-002 **APPLICATION TO:** Construct an Accessory building (detached Garage, 16.81m x 7.80m) **DECISION OF THE** DEVELOPMENT AUTHORITY: Approved with conditions DECISION DATE: April 28, 2021 DATE OF APPEAL: May 24, 2021 May 4, 2021 through May 25, 2021 NOTIFICATION PERIOD: **RESPONDENT:** MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15701 - 84 Avenue NW LEGAL DESCRIPTION: Plan 5559KS Blk 3 Lot 16 **ZONE**. (RF1) Single Detached Residential Zone Mature Neighbourhood Overlay OVERLAY: STATUTORY PLAN: N/A

Grounds for Appeal

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

We are writing today in response to a recent development permit, 389922397-002, with which we take issue. This permit grants our neighbor

The proposed structure has a height of 4.1 m to the midpoint and 5.0 m to the peak. The dimensions are $16.81 \text{ m} \times 7.8 \text{ m}$, for a total footprint of 131.1 m2. Although these dimensions fit within city regulations for secondary structure height and site coverage respectively, we ask you to consider the size relative to our home, which is a bungalow with a comparable height and dimensions of $12.31 \text{ m} \times 8.09 \text{ m}$, for a total footprint of 99.6 m. The proposed structure is significantly larger than our home. At its proposed location, this disproportionate relationship between this structure and our home will be significantly emphasized. We fear that the placement of this structure will create the illusion that our home is small. This will undoubtedly affect resale value. We also believe that the material impact to our use and enjoyment of our yard will be affected by the proposed location, which is much closer to our shared fence line.

For these reasons, we ask the Board to refuse the variant location of this structure. We submit that moving the proposed structure south so that it is closer to, if not fully contained within the allowed rear 12.8m of the site, would alleviate our concerns about the dwarfing effect this large garage will have on our home. Further, we believe locating the garage further south along the neighbours property line would be to the benefit of the entire community. We believe our home to be representative of homes in the neighbourhood, which are primarily bungalows with similar footprints. We believe the proposed garage would overwhelm most primary residences, and that it is in the best interest of the entire community to locate the proposed garage at a distance from most primary dwellings. As there is no property immediately to the south of our neighbor, we believe this location would minimize this large garage overwhelming any bungalow homes of comparable height in the area.

We sincerely appreciate your time and consideration in this matter. We reserve the right to produce additional information in support of the reasons provided here in accordance with paperwork deadlines set by the Board. Please also feel welcome to reach out with further questions in advance of the hearing.

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.

(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 110.2(7), Single Detached Housing is a Permitted Use in the (RF1) Single Detached Residential 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, **Garage** means "an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport."

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 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.

Mature Neighbourhood Overlay

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

Garage location - The rear detached garage is fully contained within the rear 20.5m of the site, instead of the rear 12.8m (Section 814.3.21)

[unedited]

Community Consultation

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

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

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

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 3	*		814.3(21)

Application Number	Description	Decision
SDAB-D-21-023	To construct a Garden Suite with a balcony.	February 17, 2021; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

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.

Edmonton	Project Number: 389922397-002 Application Date: MAR 21, 2021 Printed: May 25, 2021 at 8:01 AM Page: 1 of 3
Accessory Bu	uilding Permit
This document is a record of a Development and/or Building Permit a below, subject to the limitations and conditions of this permit, of the E Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, All Permit Bylaw.	pplication, and a record of the decision for the undertaking described idmonton Zoning Bylaw 12800 as amended and issued pursuant to the berta Building Code and City of Edmonton Bylaw 15894 Safety Codes
Applicant	Property Address(es) and Legal Description(s)
	15701 - 84 AVENUE NW Plan 5559KS Blk 3 Lot 16
	Location(s) of Work
	Suite: 15701 - 84 AVENUE NW
	Entryway: 15701 - 84 AVENUE NW
	Building: 15701 - 84 AVENUE NW
Scope of Permit To construct an Accessory building (detached Garage, 16.81m x	7.80m).
Permit Details	
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Manze Neighbourbood Overlay	Site Area (sq. m.): 1145.14
Development Permit Decision Approved	
Issue Date: Apr 28, 2021 Development Authority: NICHOL	AS, CAROLYN

Edmonton	Accessory Buildi	1	Project Number Application Date: Printed: Page:	T: 389922397-002 MAR 21, 2021 May 25, 2021 at 8:01 AM 2 of 3
	the Following Conditions Development Permit is NOT valid until the Notification Period	0	ection 21 (Section	on 17.1).
This I	- Development Permit authorizes the development of an Access	ory building (detached Garas	ge, 16.81m x 7.	80m).
The d	evelopment shall be constructed in accordance with the stamp	ed and approved drawings.		
An Ao	cessory building or structure shall not exceed 4.3m in Height	(Section 50.3.3 and 52.1).		
than 0	may project 0.6m for Setbacks or Separation Spaces of 1.2m .9m, except that the distance between eave projections and a ty abuts road right of way (Section 44.1.c.ii).			
The o Sectio	ff-street parking (including aisles or driveways) shall be hards n 54.	aurfaced, curbed, drained and	l maintained in	accordance to
The d	riveway access must maintain a minimum clearance of 1.5m f	rom all surface utilities.		
	roposed Garage development shall NOT be used as an additio equire a new Development Permit application.	nal Dwelling. An additional	Dwelling such	as a Garden Suite
princi	ing means a self contained unit comprised of one or more roo pal kitchen for food preparation, cooking, and serving. A Dwe on 6.1).			
ADV	SEMENTS:			
does 1 Munic	proved Development Permit means that the proposed develop tot remove obligations to conform with other legislation, byla sipal Government Act, the Safety Codes Act or any caveats, re section 5.2).	ws or land title instruments i	including, but n	ot limited to, the
by the	roposed change from the original approved drawings is subje reviewing officer based on the scope of the request and in ac ted for each change request.			
Unles	s otherwise stated, all above references to section numbers ref	er to the authority under the	Edmonton Zon	ing Bylaw 12800.
	lding Permit is required for any construction or change in use nation.	of a building. Please contact	t the 311 Call C	entre for further
Variances Garag 814.3	e location - The rear detached garage is fully contained within	1 the rear 20.5m of the site, i	nstead of the re	ar 12.8m (Section
	Appeal pproval is subject to the right of appeal to the Subdivision and Section 683 through 689 of the Municipal Government Act.	l Development Appeal Board	d (SDAB) as ou	tlined in Chapter
	e Period Begins:May 04, 2021 Ends: May 25, 202	1		
Building Perm Issued	it Decision			
	: May 19, 2021 Permit Issuer: ACHESON, MICH.	AEL		
L				

Edmonton	Acces	ssory Build	ding Permit	Project Number: 389922397-002 Application Date: MAR 21, 2021 Printed: May 25, 2021 at 8:01 AM Page: 3 of 3	
Utilities at 780-424-5222. -No eaves or projections a -Non vented soffits are rec -At least one egress door i -Foundations supporting e -Window openings are not -The stamped drawings for (building inspectors) at AI	all not be construct re allowed within 0 uired on any soffit s required (ABC20 xterior walls shall t permitted in a wal r which the buildin	ed over a natural ga 0.45 m (18'') of a pr within 1.2m of a pr 19 NBC (AE):B:9.9 be at least 150mm (1 with a limiting dis g permit is issued n	operty line. roperty line as outlined 9.6.4. and 9.9.8.2.). (6'') above the finished g stance of less than 1.2m must be available on the		
 ADVISEMENTS: The stamped drawings for which the building permit is issued must be available on the site for use of Safety Codes Officers (inspectors) at ALL inspection stages. Printed plans MUST BE LEGIBLE. Visit edmonton.ca/safetycodeinspections for inspection information. Deviation from approved drawings/site plans may be made only with written approval of the permit issuing office. Request permit revisions by contacting the permit issuer identified on this permit. Contact Alberta One Call www.albertaonecall.com 1-800-242-3447 to request utility locate service. A building permit expires if work on the project to which it applies is not started within 90 days from the date of issue of the permit or if abandoned for 120 days. If expired, a new permit must be obtained and fees paid before work is commenced or restarted. Work must comply with the requirements of National Building Code-Alberta Edition (NBC(AE)), the Safety Codes Act and related regulations. The owner is responsible for the repair of any damage to public property or works located on public property that may occur as a result of undertaking work regulated by NBC(AE). All sidewalks, streets or other public property that have been damaged shall be restored to a safe condition. An owner or constructor shall, upon request, provide written assurance from the person supervising construction that the work was in compliance with the requirements of NBC(AE) and any permits issued. 					
Fees					
	Fee Amount	Amount Paid	Receipt #	Date Paid	
Safety Codes Fee	\$4.50	\$4.50	0754460937010010	Mar 21, 2021	
Development Application Fee	\$120.00	\$120.00	0754460937010010	Mar 21, 2021	
Building Permit Fee (Accessory Building) Total GST Amount:	\$112.00 \$0.00	\$112.00	0754460937010010	Mar 21, 2021	
Totals for Permit:	\$236.50	\$236.50			



