

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
June 10, 2015**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I 9:00 A.M. SDAB-D-15-096

TO BE RAISED

Comply with an Order to cease any construction
on the land

70 - Sylvancroft Lane NW

Project No.: 154924225-001

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

TO BE RAISED
ITEM II: 1:00 P.M.

FILE: SDAB-D-15-096

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 154924225-001

STOP ORDER TO: Comply with an Order to cease any construction on the land.

DECISION DATE: April 15, 2015

DATE OF APPEAL: April 23, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 70 - Sylvanecroft Lane NW

LEGAL DESCRIPTION: Plan 1222257 Unit 7

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

DEVELOPMENT AUTHORITY'S DECISION

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 70 - SYLVANCROFT LANE NW, legally described as Plan 1222257 Unit 7.

On April 14, 2015 Development Compliance Officer Justin Hogberg from the City of Edmonton having the authority to exercise development powers under Section 642(1) of the Municipal Government Act, R.S.A. 2000 conducted a site inspection of the above noted property revealing that your site is being prepared for Development.

The Subdivision and Development Appeal Board has received information from the Alberta Court of Appeal that a "Leave to Appeal" has been Granted by a Provincial Court Justice. An appeal hearing will be heard at a later date which has yet to be determined.

As a result of this information your development permit application # 154924225-001 to construct a Single Detached House with attached Garage, Veranda, Fireplace, Rear Balcony and Basement Development has been suspended. The City of Edmonton Current Planning Branch will not go forward with your Development and Building Permit until the Court process has been resolved.

Edmonton Zoning Bylaw 12800

17.1 Validity of a Development Permit

(3) The Development Officer shall suspend a Development Permit upon receipt of a filed notice of appeal to the City of Edmonton from the Subdivision and Development Appeal Board in accordance with the Municipal Government Act, and Section 21.1 of this Bylaw. The Development Permit remains suspended until:

(c) the Alberta Court of Appeal has granted leave to appeal, heard the appeal on the merits, made its decision, and any appeal to the Supreme Court of Canada from that determination of the Alberta Court of Appeal has been finally determined.

Section 5 Approval Required for Development

5.1 (1) No Person:

Shall commence, or cause or allow to be commenced, a Development without a Development Permit therefor issued under the provisions of Section 12 of this Bylaw;
Shall carry on or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw

LAND USE INFRACTION:

The City of Edmonton has suspended Development Permit 154924225-006 as a result of the Court of Appeal granting a Leave to Appeal and our department revealed that construction is taking place on your land contrary to Section 5.1 of the City of Edmonton Zoning Bylaw 12800.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO: Cease any construction on the land

This order is to be complied with Immediately upon receipt of this Order
This Order also serves as a Violation Notice.

CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

The property will be inspected intermittently to determine compliance with this Order.
Failure to comply will result in action as described in Section 646.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

APPELLANT'S SUBMISSION

The development permit is suspended because neighbours have taken the SDAB's decision to approve the permit to the Alberta Court of Appeal. Their appeal that our application was incomplete was not allowed, but their contention that the SDAB does not have the authority to waive a "procedural" bylaw will be heard. This will not affect our permit because the Development Officer waived consultation because it was not needed to make the refusal decision we appealed. We have since reduced the front setback. Eliminating one of the two variances in the application and we have done the community consultation on this change. Whatever the Court of Appeal decides on the SDAB's powers to waive consultation, it will not affect our permit because the consultation has now been done.

We therefore ask that the Stop Work Order be overturned because the appeal is against the wording in the Municipal Government Act, but not against our permit. In the end we will be allowed to build this project, so we think it is very unfair to hold it up while the Court considers a Board point of law with respect to the SDAB's authority.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

The Subdivision and Development Appeal Board at a hearing on May 20, 2015 made and passed the following motion:

“that the appeal hearing be TABLED TO June 10, 2015.”

Section 645 of the *Municipal Government Act* states:

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,

- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

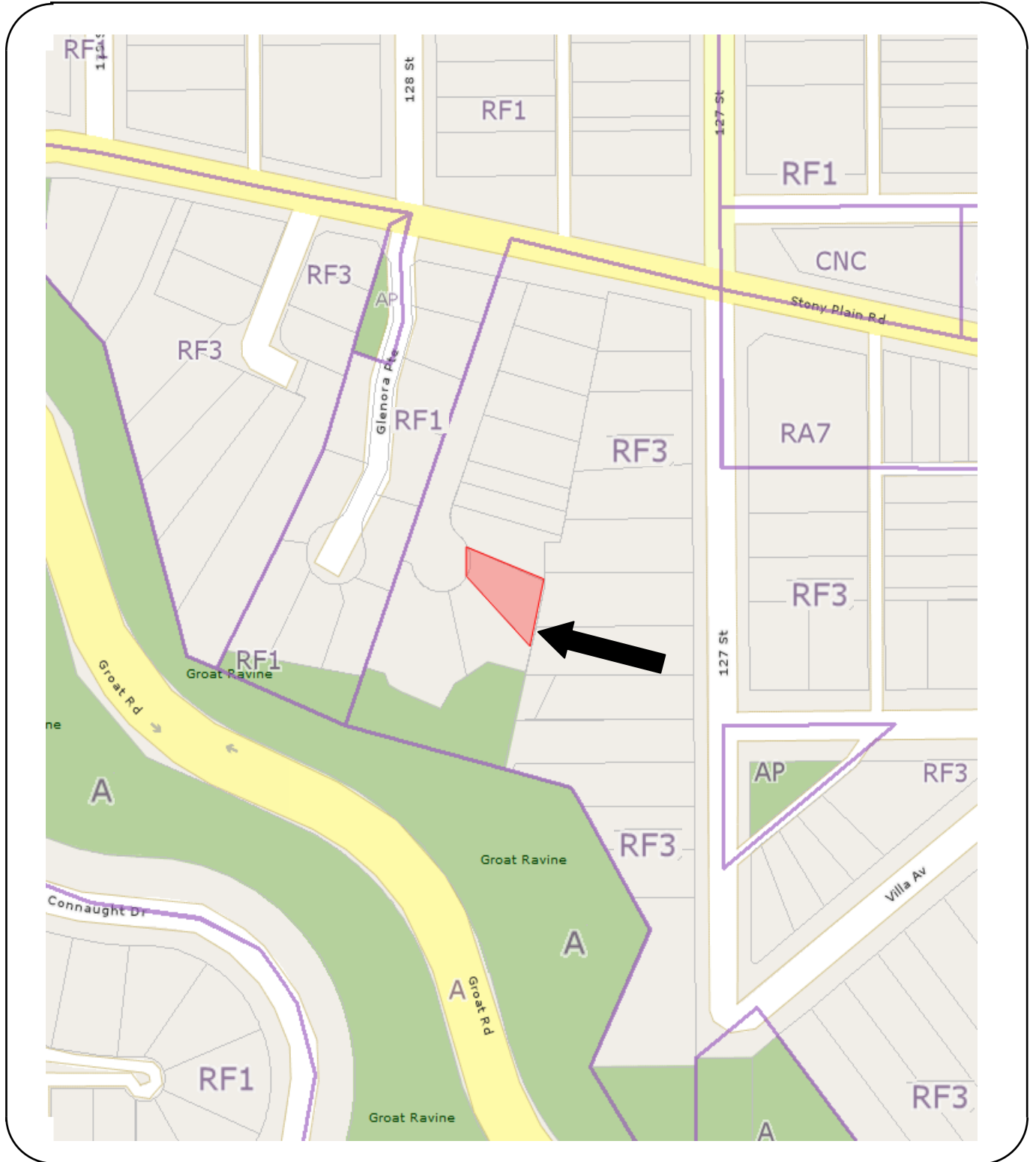
Section 5.1 of the Zoning Bylaw states:

No Person:

1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefore issued under the provisions of Section 12 of this Bylaw; or
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefore issued under Section 12 of this Bylaw.

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-096



BUSINESS LAID OVER

SDAB-D-15-093	An appeal by <u>Gurmit Brar</u> to construct exterior alterations to an existing Single Detached House (Driveway extension), existing without permits <i>June 10 or 11, 2015</i>
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APPEAL HEARINGS TO BE SCHEDULED

168696143-001	An appeal by <u>127 Avenue Developments Inc.</u> to comply with a Stop Order to dismantle and remove the Freestanding Off-premises Sign from the Site. <i>July 2, 2015</i>
170327437-001	An appeal by <u>Permit Solutions</u> to install (1) Freestanding Off-premises Sign (West Granville Centre). <i>June 24 or 25, 2015</i>