SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Thursday, 9:00 A.M. March 1, 2018

Hearing Room No. River Valley Room City Hall, 1 Sir Winston Churchill Square NW, Edmonton, AB

SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING ROOM NO. River Valley Room

	NOTE:	Unless otherwise sta	tted, all references to "Section numbers" refer to			
			8504 - 134 Street NW Project No.: 258728819-001			
II	10:30 A.M.	SDAB-D-18-039	Construct a Single Detached House with front attached Garage, veranda, fireplace, rear covered deck, balcony, and Basement development (NOT to be used as an additional Dwelling).			
			12119C - 124 Street NW Project No.: 257514590-002			
Ι	9:00 A.M.	SDAB-D-18-038	Convert an existing Semi-detached House to (4 Dwellings of Apartment Housing			

<u>ITEM I: 9:00 A.M.</u>		FILE: SDAB-D-18-038				
	AN APPEAL FROM THE DECISION OF T	N APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER				
	APPELLANT:					
	APPLICATION NO.:	257514590-002				
	APPLICATION TO:	Convert an existing Semi-detached House to (4) Dwellings of Apartment Housing				
	DECISION OF THE DEVELOPMENT AUTHORITY:	Refused				
	DECISION DATE:	January 17, 2018				
	DATE OF APPEAL:	January 29, 2018				
	MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	12119C - 124 Street NW				
	LEGAL DESCRIPTION:	Condo Common Area (Plan 1323298)				
	ZONE:	RF3 Small Scale Infill Development Zone				
	OVERLAY:	MNO Mature Neighburhood Overlay				
	STATUTORY PLAN:	N/A				

Grounds for Appeal

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

The Apartment Housing is a permitted use in the RF3 small scale infill development zone.

The existing Semi-detached house was a rental property and the owner thought that it was allowed to have basement suites in a Semi-detached house in City of Edmonton. The tenants have lived in the basement suites for some time.

The proposal development complies with all the development requirements for Apartment Housing except for the minimum required Site Area, minimum site width, and location criteria. The variances of the existing site area and site width from minimum requirement will be mitigated because the existing semi-detached house with secondary suites has existing on the subject site for some time and the associated activities of the Apartment

Housing will not adversely affect adjacent properties more than Semidetached House.

There are a few existing permitted 4-plex housing in the neighborhood which lot size and width are less minimum requirement, and is not meet location criteria, such as the permitted 4-plex: 12022 - 125 street, Edmonton.

There are existing eight on-site parking space and it will meet and exceed the overall on-site parking requirement for an Apartment Housing. This proposal development will not create any problems with street parking.

I believe the proposal development will not change the appearance of the Semi-detached Dwelling or the Accessory Building on site. The proposal development will not interfere with the amenities of the neighbourhood and value of the neighbouring parcels of land. [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

(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 decision is made under section 642...

Determining an Appeal

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;
 - ...
 - (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 140.1 states that the **General 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 under certain conditions, and including Secondary Suites and Garden Suites."

Section 814.1 states that the **General Purpose** of the **MNO Mature Neighbourhood Overlay** is:

[T]o 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.

Under section 140.2(1), **Apartment Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Section 7.2(1) states:

Apartment Housing means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Site Area and Site Width

Section 140.4(5) states:

- 5. Site regulations for Apartment Housing and Stacked Row Housing:
 - a. the minimum Site area shall be 750 m^2 ;
 - b. the minimum Site Width shall be 17.0 m; and
 - c. the minimum Site depth shall be 30.0 m

Development Officer's Determination

1. The minimum Site Area for an Apartment House is 750m2. The subject lot is 50.52m2 (Reference Section 140.4.5)

2. The minimum Site Width for an Apartment House is 17m. The subject lot is 15.24m (Reference Section 140.4.5)

Locational Criteria

Section 140.4(7) states:

- 7. 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 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.

Development Officer's Determination

3. The Site does not meet the location criteria for an Apartment House in the RF3 Zone (Reference Section 140.4.7)

Entrance Feature Facing Public Roadway

Section 140.4(23) states, in part:

Except for Garden Suites and Secondary Suites, each Dwelling that has direct access to Grade shall have an entrance door or entrance feature facing a public roadway, other than a Lane.

Development Officer's Determination

5. Except for Garden Suites and Secondary Suites, each Dwelling that has direct access to Grade shall have an entrance door or entrance feature facing a public roadway. The basement units do not have an entrance feature facing a public roadway (Reference Section 140.4.23)

Non-Conformity

The Development Officer suggests that the proposed development no longer conforms to the existing regulations. Section 643 of the *Municipal Government Act* states:

Non-conforming use and non-conforming buildings

643(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.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

Development Officer's Determination

4. This structure no longer conforms to current zoning rules, which may have changed since it was originally constructed (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: 257514590-002 Application Date: SEP 08, 201
Ginomon	Application for Printed: January 17, 2018 at 4:00 PA Page: 1 of
Maj	or Development Permit
This document is a Development Permit Decision fo	r the development application described below.
Applicant	Property Address(es) and Legal Description(s)
	12119C - 124 STREET NW Condo Common Area (Plan 1323298)
	Specific Address(es)
	Suite: 12119 - 124 STREET NW
	Suite: 12121 - 124 STREET NW
	Suite: BSMT, 12119 - 124 STREET NW
	Suite: BSMT, 12121 - 124 STREET NW
	Entryway: 12119 - 124 STREET NW
	Entryway: 12121 - 124 STREET NW
	Building: 12119 - 124 STREET NW
Scope of Application To convert an existing Semi-detached House to	(4) Dwellings of Apartment Housing.
Permit Details	
Class of Permit:	Contact Person:
Gross Floor Area (sq.m.):	Lot Grading Needed?: N
New Sewer Service Required: Y	NumberOfMainFloorDwellings:
Site Area (sq. m.):	Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct.	
Applicant signature:	
Development Application Decision Refused	
Reason for Refusal	nt House is 750m2. The subject lot is 650.52m2 (Reference Section 140.4.5)
2. The minimum Site Width for an Apartm	ent House is 17m. The subject lot is 15.24m (Reference Section 140.4.5)
3. The Site does not meet the location crite	eria for an Apartment House in the RF3 Zone (Reference Section 140.4.7)
4. This structure no longer conforms to cu 11.3.3)	rrent zoning rules, which may have changed since it was originally constructed (Section
	y Suites, each Dwelling that has direct access to Grade shall have an entrance door or The basement units do not have an entrance feature facing a public roadway (Reference
	in 14 days of receiving notice of the Development Application Decision, as outlined in e Municipal Government Amendment Act.
	THE EVOT & DEDNIT
	THIS IS NOT A PERMIT

	P	Application 1	for	Project Nun Application Da Printed: Page:	ber: 257514590-00 te: SEP 08, 201 January 17, 2018 at 4:00 PN 2 of
	Majo	r Developme	ent Permit		
Issue Date: Jan 17, 2018 Develo	opment Authority	LANGILLE, BRANI)ON Sign	ature:	
Fees	<u>r</u> ,	,,			
Development Permit Inspection Fee Major Dev. Application Fee Sanitary Sewer Trunk Fund 2012+ Total GST Amount:	Fee Amount \$500.00 \$271.00 \$3,132.00 \$0.00	Amount Paid \$500.00 \$271.00	Receipt # 04464983 04464983	Date Paid Sep 19, 2017 Sep 19, 2017	
Totals for Permit: (\$3,132.00 outstanding)	\$3,903.00	\$771.00			
		THIS IS NOT A PER	RMIT		



Site Location

File: SDAB-D-18-038

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ITEM II: 10:30 A.M.		FILE: SDAB-D-18-039	
	AN APPEAL FROM THE DECISION OF T	HE DEVELOPMENT OFFICER	
	APPELLANT:		
	APPLICATION NO.:	258728819-001	
APPLICATION TO:		Construct a Single Detached House with front attached Garage, veranda, fireplace, rear covered deck, balcony, and Basement development (NOT to be used as an additional Dwelling).	
	DECISION OF THE DEVELOPMENT AUTHORITY:	Refused	
	DECISION DATE:	January 23, 2018	
	DATE OF APPEAL:	January 31, 2018	
	MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	8504 - 134 Street NW	
	LEGAL DESCRIPTION:	Plan 2128MC Blk 2 Lot 12	
	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:

The main reason for requesting the front attached garage is as majority of the street and community homes are equipped with front attached garages as we are proposing. Also, as the back alley road way is a gravel roadway it is unpleasant and dangerous to maneuver through. In addition, our proposed development is very consistent with the entire street. The rear yard encroachment is a result of placing the garage in the front. [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

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(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 decision is made under section 642...

Determining an Appeal

. . .

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;

. . .

- (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 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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions."

Section 814.1 states that the General Purpose of the MNO Mature Neighbourhood Overlay is:

[T]o 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.

Under section 110.2(4), **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Section 7.2(8) states:

Single Detached Housing means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Mature Neighbourhood Overlay Community Consultation

814.5 Proposed Variances

1. When the Development Officer receives a Development Permit Application for a new principal building, new Garage Suite, or 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) or 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 11.2 and 11.3.

Table 814.5(2)			
Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay Proposed to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(1) – Front Setback 814.3(2) – Front Setback (RF3 Corner Sites) 814.3(5) – Height 814.3(6) – Basement Elevation 814.3(7) – Dormer Width 814.3(13) – Façade Articulation between Semi- Detached Dwellings 814.3(14) – Façade Articulation for Row Housing Dwellings 814.3(15) – Architectural Treatment

Hearing Date: Thursday, March 1, 2018

	 814.3(16) – Variation of Building Design 814.3(17) – Driveway Access 814.3(18) – Attached Garage 814.4(1) – Additional Development Regulations for Specific Areas
	for specific Areas

Reduced Rear Setback

Section 814.3(4) states: "The minimum Rear Setback shall be 40% of Site Depth."

Development Officer's Determination

1. Reduced Rear Setback - The distance from the house to the rear property line is 11.4 m (29.9% of site depth) instead of 15.24m (40% of site depth). (Section 814.3.4)

Driveway Access

Section 814.3(17) states: "Regardless of whether a Site has existing vehicular access from a public roadway, other than a Lane, no such access shall be permitted to continue where an Abutting Lane exists."

Development Officer's Determination

2. Driveway - The driveway is located off of 134 Street NW (front) instead of the alley (Section 814.3.17).

Eave Projection

Section 44(1) states:

The following features may project into a required Setback or Separation Space as provided for below:

1. a) verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, provided such projections do not exceed 0.6 m in the case of Setbacks or Separation Spaces of 1.2 m or greater. Where unenclosed steps extend into Side Setbacks which are not used for vehicular access, such steps shall not exceed a Height of 1.0 m above Grade; and

b) eaves or similar architectural features on Accessory buildings provided that such projections do not exceed 0.6 m in the case of Setbacks or Separation Spaces of 1.2 m or greater, and 0.46 m for Setbacks or Separation Spaces of less than 1.2 m.

Development Officer's Determination

3. Projection - The distance from the eave to the back property line (rear lot line) is 10.03m, instead of 14.64m (Section 44.1).

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: 258728819-00 Application Date: AUG 01, 201 Printed: January 23, 2018 at 11:16 AN	
Application for				Page: 1 of	
	House Devel	opment and	Building	Permit	
described below, subject to the	imitations and condition	ns of this permit, of the	Edmonton Zoning	ord of the decision for the undertaking Bylaw 12800 as amended, Safety Codes n Bylaw 15894 Safety Codes Permit	
Applicant		Property Address(es) and Legal Description(s) 8504 - 134 STREET NW Plan 2128MC Blk 2 Lot 12			
		Loca	tion(s) of Work		
		Entryv	vay: 8504 - 134 ST	TREET NW	
		-	ng: 8504 - 134 ST		
Scope of Application		I			
To construct a Single Deta development (NOT to be		<u> </u>	la, fireplace, rear co	overed deck, balcony, and Basement	
Permit Details					
Affected Floor Area (sq. ft.): 53	58	Buildi	ng Height to Midpoint (1	n): 8.9	
Class of Permit:		Dwell	ng Type: Single Detach	ed House	
Front Yard (m): 7.72		Home	Design Type:		
Rear Yard (m):		Secon	lary Suite Included ?: N	r	
Side Yard, left (m): 2.75		Side Y	ard, right (m): 2.64		
Site Area (sq. m.): 998.71		Site D	epth (m): 38.1		
Site Width (m): 26.21		Stat. P	lan Overlay/Annex Area	: Mature Neighbourhood Overlay	
I/We certify that the above noted	details are correct.				
Applicant signature:					
Development Application De Refused	cision				
Reason for Refusal					
1. Reduced Rear Sette (40% of site depth). (the house to the rear p	roperty line is 11.4	m (29.9% of site depth) instead of 15.24m	
2. Driveway - The dr	iveway is located off of	134 Street NW (front)	instead of the alley	(Section 814.3.17).	
3. Projection - The d	istance from the eave to	the back property line	(rear lot line) is 10.	03m, instead of 14.64m (Section 44.1).	
	right of appeal within 83 through 689 of the N			nent Application Decision, as outlined in	
Issue Date: Jan 23, 2018	Development Authority	ROBINSON, GEOR	GE Sig	nature:	
Fees					
	Fee Amount	Amount Paid	Receipt #	Date Paid	
Safety Codes Fee	\$219.72	\$219.72	04340414	Aug 01, 2017	
		THIS IS NOT A PER	RMIT		

Application Date: Printed: **Application for** Page: **House Development and Building Permit** Fees Amount Paid Date Paid Fee Amount Receipt # Electrical Safety Codes Fee \$19.90 \$19.90 04340414 Aug 01, 2017 Electrical Fees (House) \$385.00 \$385.00 04340414 Aug 01, 2017 Development Permit Inspection Fee \$0.00 \$200.00 04340414 Aug 01, 2017 Water Usage Fee \$133.10 04340414 Aug 01, 2017 \$133.10 Building Permit Fee \$5,493.00 \$5,493.00 04340414 Aug 01, 2017 Lot Grading Fee \$140.00 \$140.00 04340414 Aug 01, 2017 Electrical Fee (Service) \$79.00 \$79.00 04340414 Aug 01, 2017 \$0.00 Total GST Amount: \$6,669.72 Totals for Permit: \$6,469.72 (overpaid by \$200.00

THIS IS NOT A PERMIT

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Project Number: 258728819-001 AUG 01, 2017 January 23, 2018 at 11:16 AM 2 of 2

