

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 11, 2016**

**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-16-120	The House Company
			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)
			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.*

ITEM I: 9:00 A.M.FILE: SDAB-D-16-120AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	The House Company
APPLICATION NO.:	154924225-001
ADDRESS OF APPELLANT:	9860 – 90 Avenue NW
APPLICATION 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)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	July 25, 2014
DATE OF APPEAL:	July 28, 2014
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

<i>Grounds for Appeal</i>

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

Rear Yard Deficiency: The lot is pie-shaped so that there is 53 percent of the lot behind the 40 percent required rear yard. The principle building covers only 35 percent even with the requested variance. This is a hardship preventing the use of the area not present in rectangular lots.

<i>General Matters</i>

Appeal Information:

On August 21, 2014, the Subdivision and Development Appeal Board (SDAB) heard an appeal of a decision of the Development Authority to refuse an application 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), located at 70 Sylvanecroft Lane NW.

On September 5, 2014, the SDAB allowed the appeal and revoked the decision of the Development Authority. The development was GRANTED, subject to conditions and variances. This SDAB decision was appealed to the Alberta Court of Appeal.

On March 22, 2016, the Alberta Court of Appeal in *Thomas v. Edmonton (City)*, 2016 ABCA 57, allowed the appeal and quashed the Development Permit. The matter was remitted to the SDAB to be dealt with in accordance with that decision.

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,

General Provisions from the *Edmonton Zoning Bylaw*:

Section 140.1 states 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, and including Secondary Suites under certain conditions.

Section 814.1 states 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.

Under Section 140.2(9), **Single Detached Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Under Section 7.2(9), **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 Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Front Setback

Section 814.3(1) states (in part) that the Front Setback shall be a minimum of 3.0 metres and shall be consistent within 1.5 metres of the Front Setback on Abutting Lots and with the general context of the blockface. Separation Space and Privacy Zone shall be reduced to accommodate the Front Setback requirement where a Principal Living Room Window faces directly onto a local public roadway, other than a Lane.

Development Officer's Determination

Section 814.3(1) - The Front Setback shall be consistent within 1.5 metres of the Front Setback on Abutting Lots and with the general context of the blockface. However, the Front Setback shall not be less than 3.0 metres.

Required: Minimum 4.15 metres

Proposed: 3.27 metres

Deficient by: 0.88 metres

Rear Setback

Section 814.3(5) states the minimum Rear Setback shall be 40 percent of Site depth.

Development Officer's Determination

Section 814.3(5) - The minimum Rear Setback shall be 40 percent of Site depth.

Required: 12.77 metres

Proposed: 7.81 metres

Deficient by: 4.96 metres

Projections into Setbacks

Section 44.1(a) states verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, may project into a required Setback or Separation Space provided such projections do not exceed 0.6 metres in the case of Setbacks or Separation Spaces of 1.2 metres 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 metres above Grade.

Development Officer's Determination

Section 44.1(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 metres in the case of Setbacks or Separation Spaces of 1.2 metres or greater.

Maximum projection into Front Setback: 0.6 metres

Front unenclosed steps project: 3.94 metres

Exceeds by: 3.34 metres

Community Consultation

Section 814.3(24) states that when a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a) the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 metres of the Site of the proposed development and the President of each affected Community League;
- b) the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c) the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and

- d) the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

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: **154924225-001**
 Application Date: MAY 26, 2014
 Printed: July 28, 2014 at 3:45 PM
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Application for House Development and Building Permit

This document is a record of a Development Permit and/or Building Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit

<p>Applicant</p> <p>THE HOUSE COMPANY EDMONTON, ALBERTA CANADA T6E2T1</p>	<p>Property Address(es) and Legal Description(s)</p> <p>70 - SYLVANCROFT LANE NW Plan 1222257 Unit 7</p> <p style="text-align: right; font-size: 1.5em;">RF3 MNU</p>
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Scope of Application

To construct a Single Detached House with attached Garage, veranda, fireplace, rear balcony (irregular shape, 4.25m x 2.22m) and Basement development (NOT to be used as an additional dwelling).

Permit Details

Affected Floor Area (sq. ft.): 2248
 Class of Permit:
 Front Yard (m): 3.27
 Rear Yard (m): 7.81
 Side Yard, left (m): 1.2
 Site Area (sq. m.): 462.7
 Site Width (m): 12.1

Building Height to Midpoint (m):
 Dwelling Type: Single Detached House
 Home Design Type:
 Secondary Suite Included?: N
 Side Yard, right (m): 1.22
 Site Depth (m): 31.92
 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay

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

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

Section 814.3(1) - The Front Setback shall be consistent within 1.5 m of the Front Setback on Abutting Lots and with the general context of the blockface. However, the Front Setback shall not be less than 3.0 m.

Required: Minimum 4.15m
 Proposed: 3.27m
 Deficient by: 0.88m

Section 814.3(5) - The minimum Rear Setback shall be 40% of Site depth.

Required: 12.77m
 Proposed: 7.81m
 Deficient by: 4.96m

Section 44.1(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.

Maximum projection into Front Setback: 0.6m
 Front unenclosed steps project: 3.94m
 Exceeds by: 3.34m

THIS IS NOT A PERMIT



Project Number: **154924225-001**
 Application Date: **MAY 26, 2014**
 Printed: **July 28, 2014 at 3:45 PM**
 Page: **2 of 2**

Application for House Development and Building Permit

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: Jul 25, 2014

Development Authority: BOOTH, JEFF

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Water Usage Fee	\$54.45	\$54.45	01676506	May 26, 2014
Building Permit Fee	\$1,846.00	\$1,846.00	01676506	May 26, 2014
Electrical Fees (House)	\$281.00	\$281.00	01676506	May 26, 2014
Electrical Fee (Service)	\$75.00	\$75.00	01676506	May 26, 2014
Lot Grading Fee	\$135.00	\$135.00	01676506	May 26, 2014
Safety Codes Fee	\$73.84	\$73.84	01676506	May 26, 2014
Sanitary Sewer Trunk Fund	\$1,304.00	\$1,304.00	01676506	May 26, 2014
Electrical Safety Codes Fee	\$15.74	\$15.74	01676506	May 26, 2014
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$3,785.03</u>	<u>\$3,785.03</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-120



BUSINESS LAID OVER

SDAB-D-16-093	An appeal by Pro Consulting Design & Build to construct and operate a Child Care Services Use Building (95 children – 12, 0-11 months/15, 12-19 months/14, 19 months – 3 years/22, 3 – 4.5 years/15, 4.5 – 6 years/ 17, 6-12 years) and to construct exterior alterations (developing on-site outdoor play spaces and revisions to approved landscaping) May 13, 2016
SDAB-D-16-062	An appeal by Re/mex Excellence to operate an Automotive/Minor Recreation Vehicle Sales/Rental and to relocate an existing mobile office (Peace Motors). May 25 or 26, 2016
SDAB-D-16-501	An appeal by Darren Crocker to demolish an existing building May 25 or 26, 2016
SDAB-D-16-114	An appeal by Spasation Spa & Salon to install 3 Fascia On-Premises Signs (Spasation), existing without permits. June 1 or 2, 2016

APPEAL HEARINGS TO BE SCHEDULED

172854843-001	An appeal by <u>Capital Car & Truck Sales Ltd.</u> to comply with a Stop Order to comply with all conditions of Development Permit No. 139511609-001 before April 1, 2016 or Cease the Use (Operation of Automotive and Minor Recreation Vehicle Sales/Rentals Use and any subsequent Use) before April 1, 2016 and remove all stored material and equipment associated with the Use; including vehicles, tires, and vehicle parts before April 1, 2016 May 25, 2016
175846220-001	An appeal by <u>Capital Car & Truck Sales Ltd.</u> to remove all advertising signs located on the building before April 2, 2016 or submit a complete Development Permit Application which reflects the current sign(s) installed on the building before April 1, 2016 May 25, 2016