

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 15, 2019**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-19-066	Construct a Single Detached House with an Unenclosed Front Porch, a rear covered deck (2.13 m x 1.83 m), and a Secondary Suite in the Basement. 12235 - 89 Street NW Project No.: 306128517-001
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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-19-066

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

APPELLANT:

APPLICATION NO.: 306128517-001

APPLICATION TO: Construct a Single Detached House with an Unenclosed Front Porch, a rear covered deck (2.13 m x 1.83 m), and a Secondary Suite in the Basement.

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: March 19, 2019

DATE OF APPEAL: April 19, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12235 - 89 Street NW

LEGAL DESCRIPTION: Plan 1920454 Blk 33 Lot 9A

ZONE: (RF3) Small Scale Infill Development 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:

I am writing because I would like to appeal a development permit that has been approved by the City of Edmonton in my neighbourhood. This permit pertains to the property located next door to my house.

Up to this point, I was under the impression that only one house was being built as only one development permit was sent to me and only one sign was posted in front of the property, each indicating the development of one single home.

When looking at the site after receiving this notice however, it appeared that two separate basements were being built. I was taken aback by this because there was no sign posted indicating two houses were to be built on the property and I did not get a notice informing me of a second home. For this reason, once I saw that two separate basements were being built, I called the City of Edmonton at 311 to enquire about a second house. The first time I called, I was told I would receive a call back from the Development Department but even after 3 phone calls following this, I have yet to hear back from anyone. It was not until yesterday, when the foundation of both homes has already been laid down, that a second sign was posted. I am baffled by this because aside from the sign that was just put up yesterday (April 18,2019), I, as well as my fellow neighbours, have yet to receive any kind of notice informing us of the construction of the second house when it is already way into development.

Since we were not given any notice of a second home, we were also not given an opportunity to voice our concerns regarding the development of another home on the same property. We live in a mature neighbourhood and as it is now, most houses in the area are duplexes. My family lives in a duplex and a brand-new duplex was just built facing us last year. Although the property next to us is not technically going to be a duplex, with two separate houses being built on a lot that previously belonged to one home, the area is going to get much more crowded. This is especially because each of the two houses laid out to be built are planned to each have separate suites in the basement as well. When taking this into account, it now holds that a property that previously housed one family, will now have four families living on it. What's worse is that both families in the detached house closest to our home will have the same entrance facing exactly opposite to our entrance on the side of our home. There will be an increased amount of traffic in an already narrow passageway.

In addition to this, the house is also set out to be much taller than ours and only 4 feet away from our property line, now that two buildings are being constructed. Needless to say, we feel as though the surrounding homes were simply not taken into account in the plan for the new houses, since all of the existing houses on the street are much shorter than the ones set out to be built. For our home, this means a significant decrease in sunlight and a building that will overshadow our existing home especially because it is being built so close to us. To give an idea of the proximity with which the construction is taking place, today we woke up to our fence falling and caving in on us and a huge hole going into our sidewalk.

At this point, we don't know what to do and hope something can be done to reconsider the plan for this property. We are starting to feel helpless and want to know if anything can be done in this matter.

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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).

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 clauses (a.4) and (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.

The *Edmonton Zoning Bylaw* states the following:

Section 20 provides the following with respect to ***Notification of Development Permit Decisions***:

Section 20.2 Class A Permitted Development

1. For all lands in Residential Zones within the Mature Neighbourhood Overlay as shown in Appendix I to Section 814, and Established Neighbourhoods as identified in Edmonton's The Way We Grow: Municipal Development Plan, Bylaw 15100, Maps:
 - a. within seven days of the issuance of a Development Permit for a Class A Permitted Development, the Development Officer shall send notice of their decision to the municipal address and assessed owners of the land Abutting and directly adjacent across a Lane from the Site which is the subject of the Development Permit for construction of, and any demolition associated with new:
 - i. Apartment Housing, Duplex Housing, Garden Suite, Row Housing, Semi-detached Housing, Single Detached Housing, or Stacked Row Housing.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 140.2(10), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(8), **Single Detached Housing** means:

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is to:

to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four principal Dwellings under certain conditions, including Secondary Suites and Garden Suites.


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.

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.

		Project Number: 306128517-001 Application Date: MAR 01, 2019 Printed: March 19, 2019 at 1:58 PM Page: 1 of 3		
<h2>Minor Development Permit</h2>				
<p>This document is a record of a Development 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.</p>				
Applicant	Property Address(es) and Legal Description(s) 12235 - 89 STREET NW Plan 1920454 Blk 33 Lot 9A			
Scope of Permit To construct a Single Detached House with an Unenclosed Front Porch, a rear covered deck (2.13 m x 1.83 m), and a Secondary Suite in the Basement.				
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: Y </td> <td style="width: 50%; vertical-align: top;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Class A Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>			# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: Y	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class A Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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I/We certify that the above noted details are correct. Applicant signature: _____				
Development Permit Decision Approved Issue Date: Mar 19, 2019 Development Authority: POTTER, CHRISTINA				



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Minor Development Permit

Subject to the Following Conditions

WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.5)

The development shall be constructed in accordance with the stamped and approved drawings.

Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 m above the finished ground level, excluding any artificial embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties. (Reference Section 814.3(9))

Frosted or opaque glass treatment shall be used on windows to minimize overlook into adjacent properties (Reference Section 814.3(8)).

Landscaping shall be installed and maintained in accordance with Section 55.

For the Secondary Suite, 1 on-site parking space in addition to the parking requirements for the Principal Dwelling shall be provided. (Reference Section 54.2 Schedule 1)

All required parking shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be Hardsurfaced. (Reference Section 54.6(1)(a)(i))

A Secondary Suite shall be developed in such a manner that the exterior of the principal Dwelling containing the Secondary Suite shall appear as a single Dwelling from a public roadway other than a Lane (Reference Section 86)

Only one of a Secondary Suite or a Garden Suite may be developed in conjunction with a principal Dwelling. (Reference Section 86)

A Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, Child Care Services or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business. (Reference Section 86)

A maximum of one Household shall occupy a Secondary Suite (Reference Section 86)

Dwelling means a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household. (Reference Section 6.1)

Locked separation that restricts the nonconsensual movement of persons between each Dwelling unit shall be installed.

Secondary Suites shall not be included in the calculation of densities in this Bylaw. (Reference Section 86)

ADVISEMENTS:

Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site.

A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further



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Minor Development Permit

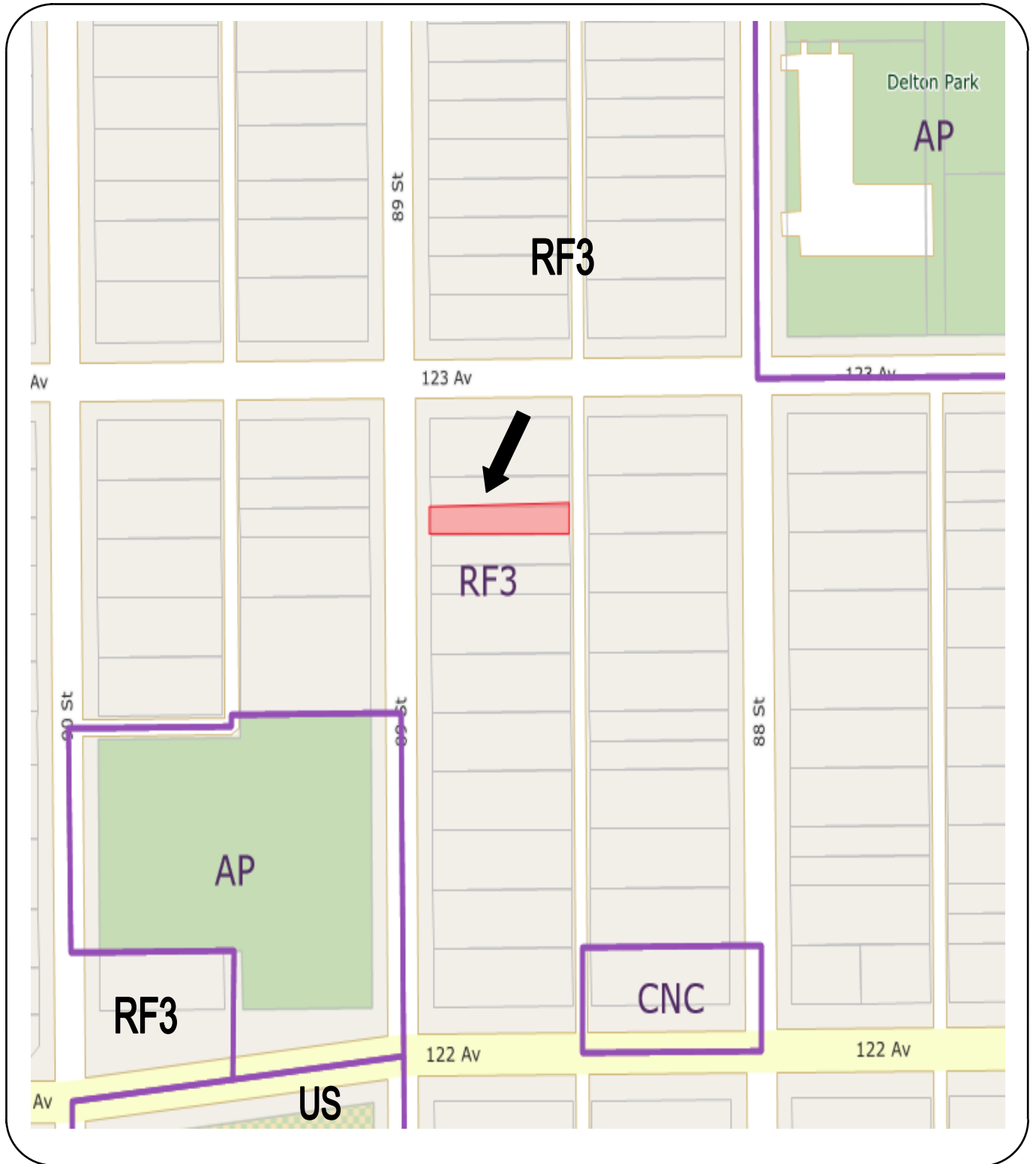
information.

Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Permit Inspection Fee	\$207.00	\$207.00	05683425	Mar 01, 2019
Lot Grading Fee	\$145.00	\$145.00	05683425	Mar 01, 2019
Dev. Application Fee	\$493.00	\$493.00	05683425	Mar 01, 2019
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$735.00	\$735.00	05683425	Mar 01, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,580.00</u>	<u>\$1,580.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-066

