

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
May 24, 2018

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-18-075	Construct an addition (front attached Garage with second floor addition) to a Single Detached House 6520 - Capilano Crescent NW Project No.: 275535725-001
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II	10:30 A.M.	SDAB-D-18-076	Construct a Single Detached House with front veranda, fireplace, balcony, rear attached Garage, Secondary Suite (above rear attached Garage), uncovered deck, Rooftop Terrace and demolition of an existing Single Detached House 9123 - 68 Avenue NW Project No.: 272844623-001
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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-18-075

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 275535725-001

APPLICATION TO: Construct an addition (front attached Garage with second floor addition) to a Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 23, 2018

DATE OF APPEAL: April 23, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6520 - Capilano CrescenT NW

LEGAL DESCRIPTION: Plan 2442KS Blk 56 Lot 2

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:

1. The existing house previously had a front attached garage which is proposed to be moved the other other side of the house.
2. The grade at the rear of the house is unsuitable for the development of a rear detached garage.
3. A significant portion of the houses in the 60 meter radius, and neighbourhood in general have front attached garages.
4. The proposed development with variances will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment and value of neighbouring parcels of land.

5. Photographs and a petition of support from a community consultation will be provided.

<i>General Matters</i>

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, [...]

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*:

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

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

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.

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 **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

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

Driveway - The driveway is located off of Capilano Crescent NW (front) instead of the alley (Section 814.3.17). [unedited]

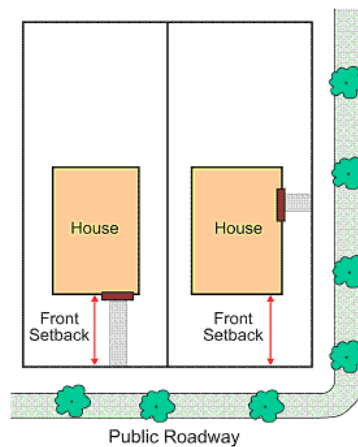
Front Setback

Section 814.3(1) states:

The Front Setback shall be a minimum of 3.0 m and shall be consistent within 1.5 m of the Front Setback on Abutting Lots, to a maximum of 20% of Site Depth. Where an Abutting Lot is vacant, the vacant Lot shall be deemed to have a Front Setback of the next Abutting Lot.

Under section 6.1(45), **Front Setback** means:

the distance that a development or a specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space or Separation Space.



Development Officer's Determination

Reduced Front Setback - The distance from the proposed addition to the property line along Capilano Crescent NW (front lot line) is 4.5m instead of 7.5m (Section 814.3.1.) [unedited]

Projection into Setbacks

Section 44(1) states:

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

- 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. [...].

Development Officer's Determination

Projection - The distance from the eaves of the proposed addition to the property line along Capilano Crescent NW (front lot line) is 3.9m, instead of 6.9m (Section 44.1). [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 11.2 and 11.3.

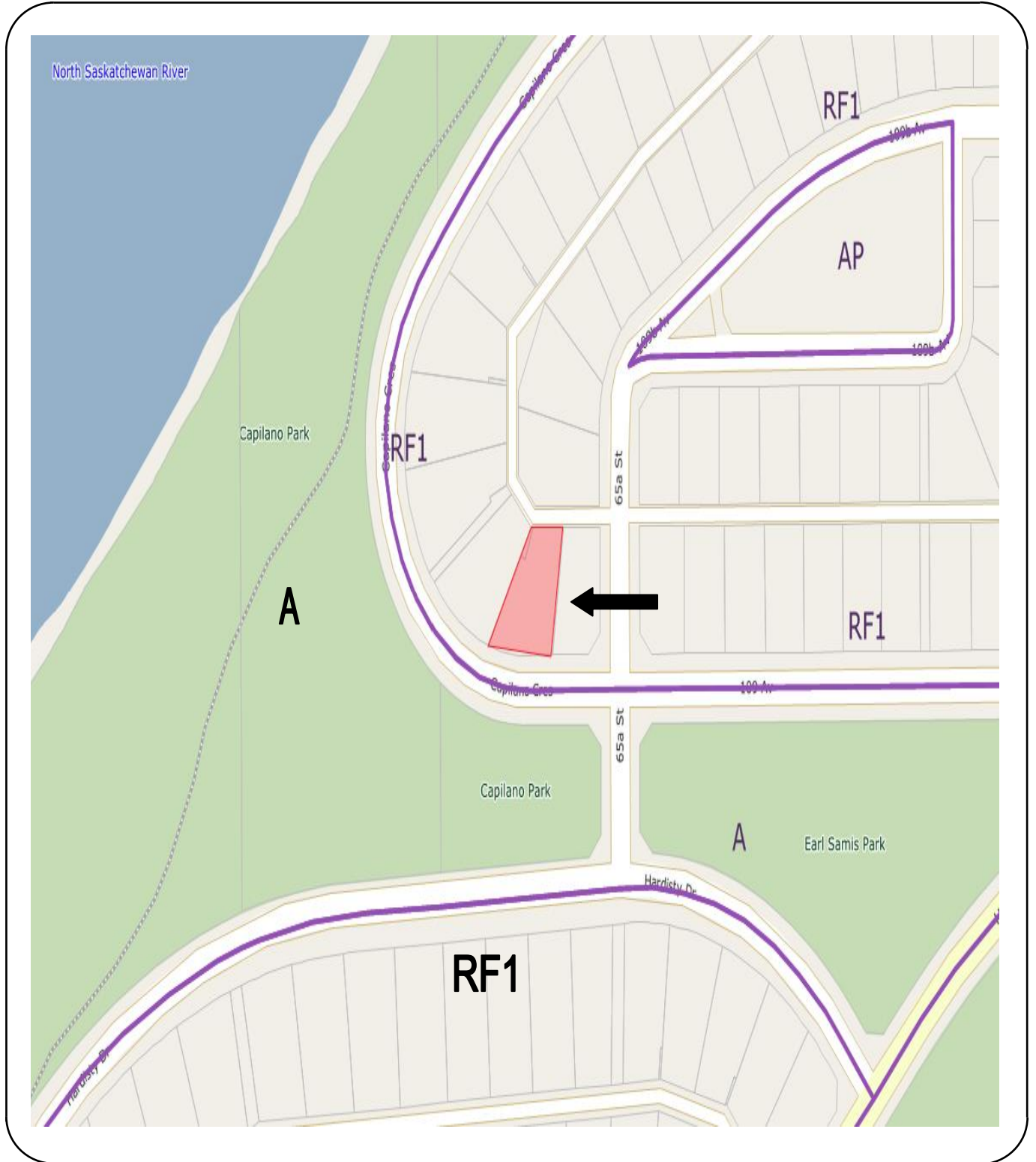
Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay 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(17) – Driveway access

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*.

	<h2 style="margin: 0;">Application for Minor Development Permit</h2>	Project Number: 275535725-001 Application Date: FEB 23, 2018 Printed: April 23, 2018 at 4:15 PM Page: 1 of 1		
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 6520 - CAPILANO CRESCENT NW Plan 2442KS Blk 56 Lot 2			
Scope of Application To construct an addition (front attached garage with 2nd floor addition) to a Single Detached House.				
Permit Details				
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: House Addition Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A 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 Driveway - The driveway is located off of Capilano Crescent NW (front) instead of the alley (Section 814.3.17). Reduced Front Setback - The distance from the proposed addition to the property line along Capilano Crescent NW (front lot line) is 4.5m instead of 7.5m (Section 814.3.1). Projection - The distance from the eaves of the proposed addition to the property line along Capilano Crescent NW (front lot line) is 3.9m, instead of 6.9m (Section 44.1). Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.				
Issue Date: Apr 23, 2018 Development Authority: YEUNG, KENNETH Signature: _____				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$418.00	\$418.00	04814090	Feb 23, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$418.00	\$418.00		
THIS IS NOT A PERMIT				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-075



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-076

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 272844623-001

APPLICATION TO: Construct a Single Detached House with front veranda, fireplace, balcony, rear attached Garage, Secondary Suite (above rear attached Garage), uncovered deck, Rooftop Terrace and demolition of an existing Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 27, 2018

DATE OF APPEAL: April 30, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9123 - 68 Avenue NW

LEGAL DESCRIPTION: Plan 6045HW Blk 17 Lot 3

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:

We understand that the main reason for the development refusal is due to the attached garage. We are appealing the refusal based on the hardships on this lot that our client is faced with:

The main hardship is the smaller lot size overall in comparison to the neighboring lots due to a design oversight for an back-lane turnaround which has never been designed nor utilized by the City of Edmonton or Alberta Transportation. It is a shorter lot, short by approximately 6.1 meters to provide the turnaround.

To provide the required setbacks for both the garage and the front of the house, there was minimal space leftover in between the house and the garage. The design solution of attaching the garage was made because the lot fit certain requirements to be considered for an attached garage:

- The lot is 15.23m wide which is one of the requirements to have an attached garage.
- The lot in question doesn't have a side street but instead has a City of Edmonton designated green-space (Argyll Park) bordering on the east side of the home with only a single adjacent neighbor to the west.

The design on this mature lot, is based on what has been built in the Hazeldean community and is compatible with being close to a green space and brings tasteful and creative design to this community while meeting the functional needs of our client.

<i>General Matters</i>

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, [...]

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*:

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

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

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.

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 **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.

<i>Mature Neighbourhood Overlay</i>

Rear Attached Garage

Section 814.3(19) states "Rear attached Garages shall not be allowed."

Development Officer's Determination

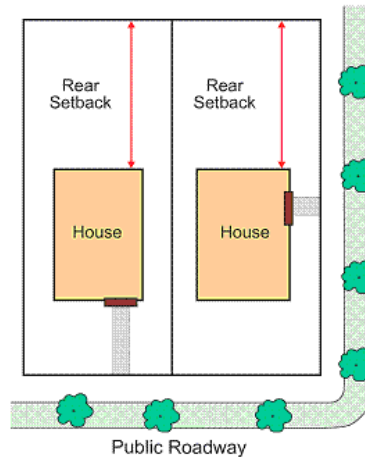
1. Attached Garage - The rear garage is attached, instead of detached (Section 814.3.19) [unedited]

Rear Setback

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

Under section 6.1(90), **Rear Setback** means:

the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



Development Officer’s Determination

2. Reduced Rear Setback - The distance from the House to the rear property line is 5.62m (15.70% of site depth) instead of 14.32m (40% of site depth). (Section 814.3.4) [unedited]

(RF1) Single Detached Residential Zone Development Regulations

Section 110.4(7)(a) states:

Maximum Site Coverage shall be as follows:

	Principal Dwelling / building	Accessory building	Principal building with attached Garage	Total Site Coverage
Single Detached Housing – Site greater than 300 m ²	28%	12%	40%	40%

Under section 6.1(103), **Site Coverage** means:

the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 m above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 m or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m above Grade.

Development Officer's Determination

3. Site Coverage - The Single Detached House covers 40.13% of the site, instead of 40% (Section 110.4.7) [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 11.2 and 11.3.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 2	The municipal address and assessed owners of the land Abutting the Site, directly adjacent across a Lane from the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback 814.3(19) – Rear Attached Garage

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: 272844623-001 Application Date: FEB 05, 2018 Printed: April 27, 2018 at 3:49 PM Page: 1 of 2															
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>																
<p>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 and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.</p>																
Applicant	Property Address(es) and Legal Description(s) 9123 - 68 AVENUE NW Plan 6045HW Blk 17 Lot 3 Location(s) of Work Entryway: 9123 - 68 AVENUE NW Building: 9123 - 68 AVENUE NW															
Scope of Application To construct a Single Detached House with front veranda, fireplace, balcony, rear attached Garage, Secondary Suite (above rear attached garage), uncovered deck, rooftop terrace and demolition of an existing Single Detached House																
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Affected Floor Area (sq. ft.): 2820 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m): </td> <td style="width: 50%; border: none; vertical-align: top;"> Building Height to Midpoint (m): Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: Y Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Affected Floor Area (sq. ft.): 2820 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m):	Building Height to Midpoint (m): Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: Y Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay													
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Development Application Decision Refused Reason for Refusal <ol style="list-style-type: none"> 1. Attached Garage - The rear garage is attached, instead of detached (Section 814.3.19) 2. Reduced Rear Setback - The distance from the House to the rear property line is 5.62m (15.70% of site depth) instead of 14.32m (40% of site depth). (Section 814.3.4) 3. Site Coverage - The Single Detached House covers 40.13% of the site, instead of 40% (Section 110.4.7) Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																
Issue Date: Apr 27, 2018 Development Authority: LANGILLE, BRANDON Signature: _____																
Fees <table style="width: 100%; border: none; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Electrical Fees (House)</td> <td style="text-align: right;">\$324.00</td> <td style="text-align: right;">\$324.00</td> <td style="text-align: right;">04782775</td> <td style="text-align: right;">Feb 05, 2018</td> </tr> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$143.00</td> <td style="text-align: right;">\$143.00</td> <td style="text-align: right;">04782775</td> <td style="text-align: right;">Feb 05, 2018</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Electrical Fees (House)	\$324.00	\$324.00	04782775	Feb 05, 2018	Lot Grading Fee	\$143.00	\$143.00	04782775	Feb 05, 2018
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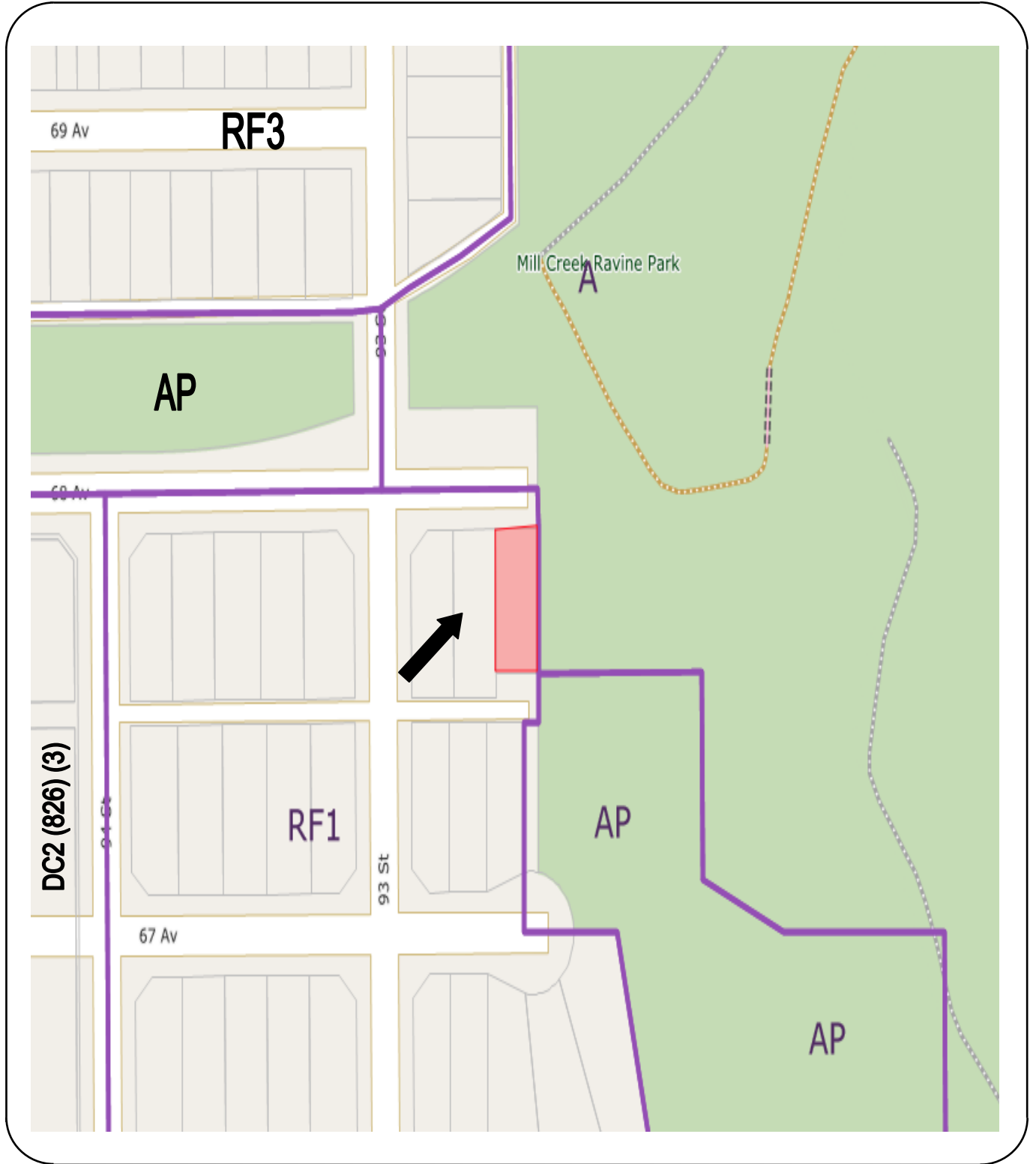
Application for House Development and Building Permit

Project Number: **272844623-001**
 Application Date: FEB 05, 2018
 Printed: April 27, 2018 at 3:49 PM
 Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$96.04	\$96.04	04782775	Feb 05, 2018
Water Usage Fee	\$72.60	\$72.60	04782775	Feb 05, 2018
Building Permit Fee	\$2,401.00	\$2,401.00	04782775	Feb 05, 2018
Electrical Safety Codes Fee	\$17.46	\$17.46	04782775	Feb 05, 2018
Development Permit Inspection Fee	\$0.00	\$204.00	04782775	Feb 05, 2018
Electrical Fee (Service)	\$81.00	\$81.00	04782775	Feb 05, 2018
Sec Suite SSTC Fee	\$721.00	\$721.00	04782775	Feb 05, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,856.10	\$4,060.10		
(overpaid by (\$204.00))				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-076

