

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
November 12, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-500

Construct a Temporary Storage Use

6520 - 8 Street NW

Project No.: 343174947-002

II 10:30 A.M. SDAB-D-20-155

Operate a Major Home Based Business
(BORAAS AIRBNB - Short term rental in the
Garden Suite), Maximum 2 Sleeping Units

APPEAL WITHDRAWN

10997 - 132 Street NW

Project No.: 369481584-001

III 1:30 P.M. SDAB-D-20-156

Construct a Single Detached House with front
attached Garage, veranda, balcony (above
garage), rear covered deck (3.66m x 2.44m),
rear uncovered deck (7.92m x 1.83m),
fireplace, secondary suite, and basement
development (NOT to be used as a secondary
suite)

3068 - Macneil Way NW

Project No.: 311683196-001

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-20-500

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 343174947-002

APPLICATION TO: Construct a Temporary Storage Use

DECISION OF THE
DEVELOPMENT AUTHORITY: No decision has yet been made

DECISION DATE: N/A

DATE OF APPEAL: October 20, 2020

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 6520 - 8 Street NW

LEGAL DESCRIPTION: Plan 138KS Lot 8

ZONE: DC1 - Direct Development Control Provision (Bylaw
15767)

OVERLAY: N/A

STATUTORY PLAN: Maple Ridge Industrial Area Structure Plan

Grounds for Appeal

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

This application was being discussed for several months. In May the Development Officer ceased communication. My last request was filed by email June 3, 2020. I wish to appeal on the basis of a “deemed refusal”.

<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.

(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.

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.

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

Hearing and decision

687(4) In the case of an appeal of the deemed refusal of an application under section 683.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 683.1(2).

Permit deemed refused

684(1) The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).

(2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.

(3) If the development authority does not make a decision referred to in subsection (1) within the time required under subsection (1) or (2), the application is, at the option of the applicant, deemed to be refused.

(4) Section 640(5) does not apply in the case of an application that was deemed to be refused under section 683.1(8).

Development applications

683.1(1) A development authority must, within 20 days after the receipt of an application for a development permit, determine whether the application is complete.

(2) An application is complete if, in the opinion of the development authority, the application contains the documents and other information necessary to review the application.

(3) The time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(a).

(4) If the development authority does not make a determination referred to in subsection (1) within the time required under subsection (1) or (3), the application is deemed to be complete.

(5) If a development authority determines that the application is complete, the development authority must issue to the applicant an acknowledgment in the form and manner provided for in the land use bylaw that the application is complete.

(6) If the development authority determines that the application is incomplete, the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application is incomplete and that any outstanding documents and information referred to in the notice must be submitted by a date set out in the notice or a later date agreed on between the applicant and the development authority in order for the application to be considered complete.

(7) If the development authority determines that the information and documents submitted under subsection (6) are complete, the development authority must issue to the applicant an acknowledgment in the form and manner provided for in the land use bylaw that the application is complete.

(8) If the applicant fails to submit all the outstanding information and documents on or before the date referred to in subsection (6), the application is deemed to be refused.

(9) If an application is deemed to be refused under subsection (8), the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application has been refused and the reason for the refusal.

(10) Despite that the development authority has issued an acknowledgment under subsection (5) or (7), in the course of reviewing the application, the development authority may request additional information or documentation from the applicant that the development authority considers necessary to review the application.

(11) If the development authority refuses the application for a development permit, the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application has been refused and the reasons for the refusal.

General Provisions from the DC1 - Direct Development Control Provision (Bylaw 15767)

Section 3.g states that **Temporary Storage** is a **Listed Use** in the **DC1**.

Section 1 states that the intent of this (DC1) Direct Control Provision is:

- To recognize existing residential and limited non-residential uses as permitted uses, but to prohibit any increase in the number of residential dwellings/lots.
- To permit improvements or additions to existing residential uses.
- To allow industrial uses with full City of Edmonton Standard services that are compatible with adjacent residential uses.

This DC1 allows transition to future industrial development with full City of Edmonton services for roads, sanitary sewer, drainage and potable water. The DC1 implements the policies of the Maple Ridge Industrial Area Structure Plan (Section 4.8).

General Provisions from the Edmonton Zoning Bylaw:

Under section 7.5(6), **Temporary Storage** means:

development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

Section 21.3 states the following with respect to **Appeals**:

A Development Permit Application shall, at the option of the applicant, be deemed to be refused in accordance with the provisions of Section 16 of this Bylaw, and the applicant shall appeal in writing to the Subdivision and Development Appeal Board within 21 days after the date of expiry of the time period specified in section 16 of this Bylaw.

Section 16.1 states the following with respect to **Decisions on Development Permit Applications**:

if the Development Officer does not make a decision on an application for a Development Permit within 40 days after the applicant’s receipt of an acknowledgment that the application is complete in accordance with Section 11.2 of this Bylaw, the application shall, at the option of the applicant, be deemed to be refused.

Section 11.1 provides regulations with respect to **Duties with Respect to Development Applications.**

Section 11.2 provides regulations with respect to **Determining Complete Development Applications.**

Section 13.1 provides **General Conditions** with respect to a **Development Permit Application.**

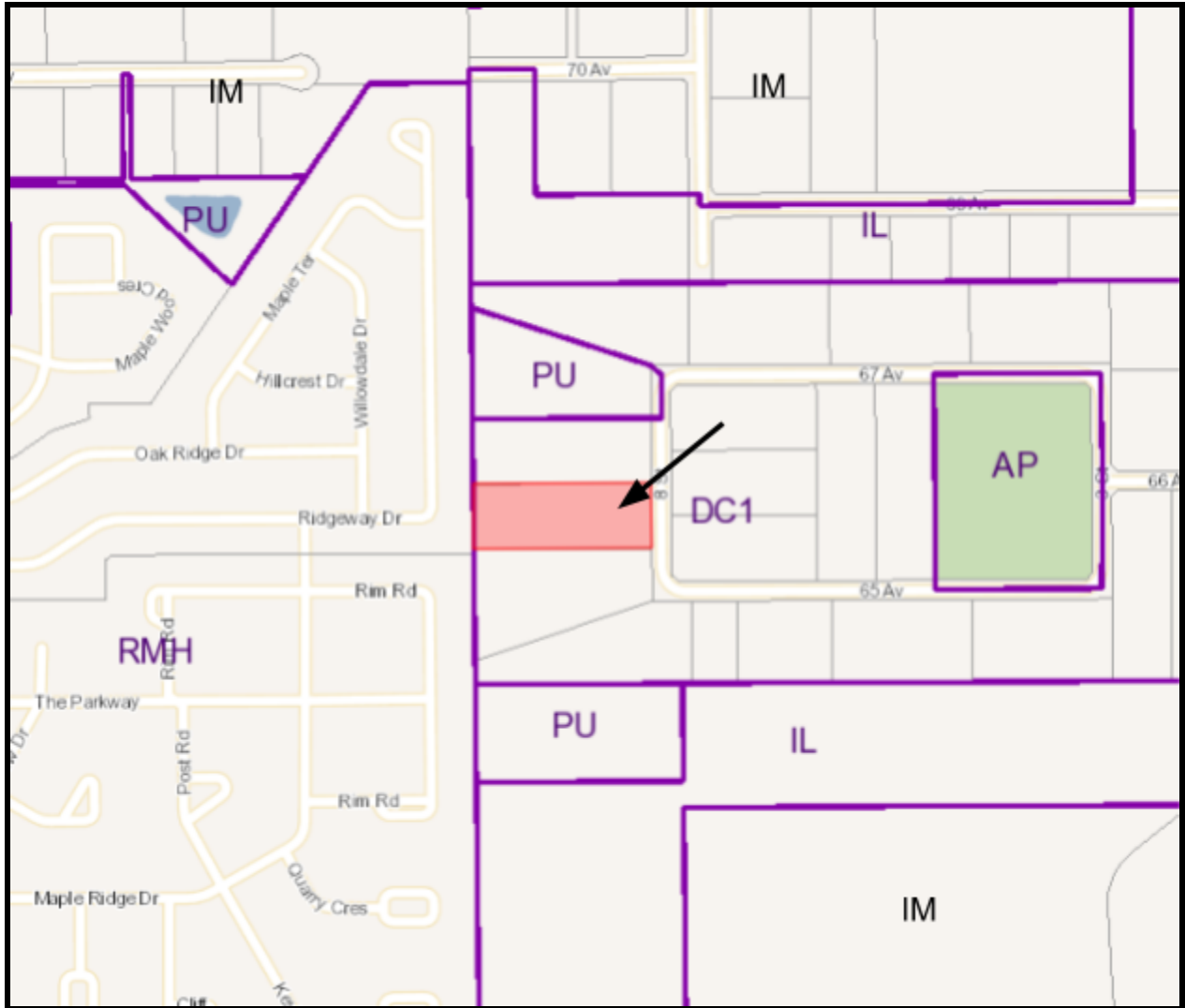
Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-16-165	Cease the General Industrial Use (Trucking Company) and remove all materials from the Site before July 4, 2016	July 28, 2016; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The Stop Order is UPHELD.
SDAB-D-12-217	Order to remove all large Recreational Vehicles, campers, motor homes, trailers and automobiles from this property location. The only vehicles that may remain stored at this site are those personal vehicles that are registered to and belong to the property owners of this property location. This order is to be complied with on or before August 6, 2012	February 8, 2013; that the appeal be DENIED and the Stop Order UPHELD subject to the following amendments to the Stop Order: 1. That the date for compliance to the Stop Order be extended to May 31, 2013; and 2. That no new contracts be entered into for the storage of large recreational vehicles, campers, motor homes, trailers and automobiles on the subject site as of the date of this decision.

SDAB-D-12-080	Operate a Temporary Storage Facility (Recreational Vehicles) with an existing Single Detached House	April 19, 2012; that the appeal be DENIED and the decision of the Development Authority CONFIRMED.
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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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-500 ▲
N

ITEM II: 10:30 A.M.

FILE: SDAB-D-20-155

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 369481584-001

APPLICATION TO: Operate a Major Home Based Business (BORAAS AIRBNB - Short term rental in the Garden Suite), Maximum 2 Sleeping Units

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 5, 2020

DATE OF APPEAL: October 15, 2020

NOTIFICATION PERIOD: October 13, 2020 through November 3, 2020

RESPONDENT: **APPEAL WITHDRAWN**

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10997 - 132 Street NW

LEGAL DESCRIPTION: Plan RN60 Blk 21 Lots 11-12

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

ITEM III: 1:30 P.M.

FILE: SDAB-D-20-156

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 311683196-001

APPLICATION TO: Construct a Single Detached House with front attached Garage, veranda, balcony (above garage), rear covered deck (3.66m x 2.44m), rear uncovered deck (7.92m x 1.83m), fireplace, secondary suite, and basement development (NOT to be used as a secondary suite)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: July 25, 2019

DATE OF APPEAL: October 15, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3068 - Macneil Way NW

LEGAL DESCRIPTION: Plan 0524494 Blk 5 Lot 32

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Magrath Heights Neighbourhood Area Structure Plan

Grounds for Appeal

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

See Appendix "A"

<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.

(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 clause (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.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot 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 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is:


to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

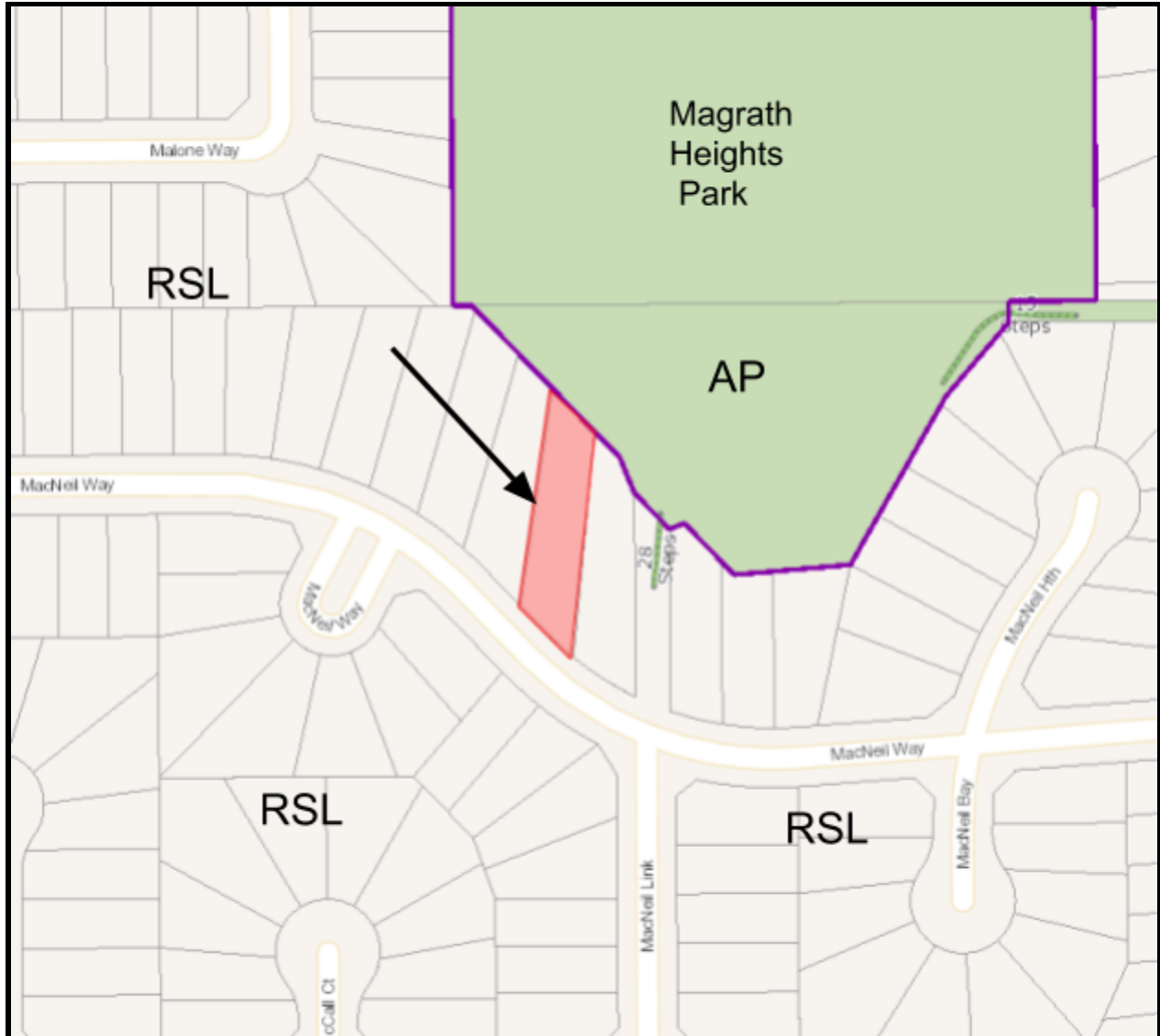
Notice to Applicant/Appellant

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: 311683196-001 Application Date: APR 23, 2019 Printed: October 16, 2020 at 7:26 AM Page: 1 of 3		
<h2>Minor Development Permit</h2>			
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.			
Applicant	Property Address(es) and Legal Description(s) 3068 - MACNEIL WAY NW Plan 0524494 Blk 5 Lot 32 Specific Address(es) Suite: 3068 - MACNEIL WAY NW Suite: BSMT, 3068 - MACNEIL WAY NW Entryway: 3068 - MACNEIL WAY NW Building: 3068 - MACNEIL WAY NW		
Scope of Permit To construct a Single Detached House with front attached Garage, veranda, balcony (above garage), rear covered deck (3.66m x 2.44m), rear uncovered deck (7.92m x 1.83m), fireplace, secondary suite, and basement development (NOT to be used as a secondary suite).			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of Dwelling Units Add/Remove: 2 # 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?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 2 # 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?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: (none)
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Development Permit Decision Approved Issue Date: Jul 25, 2019 Development Authority: WINGET, MARK			

	Project Number: 311683196-001 Application Date: APR 23, 2019 Printed: October 16, 2020 at 7:26 AM Page: 2 of 3
<h2>Minor Development Permit</h2>	
<p>Subject to the Following Conditions</p>	
<p>This Development Permit authorizes the development of a Single Detached House with front attached Garage, veranda, balcony (above garage), rear covered deck (3.66m x 2.44m), rear uncovered deck (7.92m x 1.83m), fireplace, and secondary suite. The development shall be constructed in accordance with the stamped and approved drawings.</p>	
<p>Landscaping shall be installed and maintained in accordance with Section 55.</p>	
<p>Any future deck enclosure or cover requires a separate development and building permit approval.</p>	
<p>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)</p>	
<p>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))</p>	
<p>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)</p>	
<p>Only one of a Secondary Suite or a Garden Suite may be developed in conjunction with a principal Dwelling. (Reference Section 86)</p>	
<p>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)</p>	
<p>A maximum of one Household shall occupy a Secondary Suite (Reference Section 86)</p>	
<p>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)</p>	
<p>Locked separation that restricts the nonconsensual movement of persons between each Dwelling unit shall be installed.</p>	
<p>Secondary Suites shall not be included in the calculation of densities in this Bylaw. (Reference Section 86)</p>	
<p>ADVISEMENTS:</p>	
<p>Due to the roll face curb construction at this property, there are no requirements for a separate curb crossing permit under Section 1210 and 1211 of Traffic Bylaw No. 5590. Approval is given for the access under this Development Permit.</p>	
<p>Lot grades must match the Edmonton Drainage Bylaw 18093 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.</p>	
<p>The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.</p>	
<p>Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.</p>	
<p>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. (Reference Section 5.2)</p>	
<p>A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.</p>	

	<p>Project Number: 311683196-001 Application Date: APR 23, 2019 Printed: October 16, 2020 at 7:26 AM Page: 3 of 3</p> <h2 style="text-align: center;">Minor Development Permit</h2>																																			
<p>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.</p>																																				
<p>Fees</p> <table border="1"><thead><tr><th></th><th>Fee Amount</th><th>Amount Paid</th><th>Receipt #</th><th>Date Paid</th></tr></thead><tbody><tr><td>Dev. Application Fee</td><td>\$493.00</td><td>\$493.00</td><td>05796398</td><td>Apr 23, 2019</td></tr><tr><td>Sanitary Sewer Trunk Fund (Secondary/Garden Suite)</td><td>\$735.00</td><td>\$735.00</td><td>05796398</td><td>Apr 23, 2019</td></tr><tr><td>Lot Grading Fee</td><td>\$145.00</td><td>\$145.00</td><td>05796398</td><td>Apr 23, 2019</td></tr><tr><td>Sanitary Sewer Trunk Fund</td><td>\$1,662.00</td><td>\$1,662.00</td><td>05796398</td><td>Apr 23, 2019</td></tr><tr><td>Total GST Amount:</td><td>\$0.00</td><td></td><td></td><td></td></tr><tr><td>Totals for Permit:</td><td><u>\$3,035.00</u></td><td><u>\$3,035.00</u></td><td></td><td></td></tr></tbody></table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$493.00	\$493.00	05796398	Apr 23, 2019	Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$735.00	\$735.00	05796398	Apr 23, 2019	Lot Grading Fee	\$145.00	\$145.00	05796398	Apr 23, 2019	Sanitary Sewer Trunk Fund	\$1,662.00	\$1,662.00	05796398	Apr 23, 2019	Total GST Amount:	\$0.00				Totals for Permit:	<u>\$3,035.00</u>	<u>\$3,035.00</u>		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-156

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Appendix A - Reasons for Appeal (SDAB-D-20-156)

I'm writing to express my concerns about the building under construction at 3068 MacNeil Way NW, Edmonton T6R 3V4.

I live in 3070 MacNeil Way NW, which is on the east side of the house under-construction.

3068 MacNeil Way NW has broken several City of Edmonton bylaws and Gas safety code of Alberta.

The house started construction in July 2019, and now it is still under construction.

I have raised several 311 tickets from Sep 2019 to Sep 2020 for these issues, but I didn't get issues resolved.

1. The house frames already finished but didn't get any permit issued in Sep 2019.

I called 311 and expressed my concerns about the height of this building. A ticket was assigned to Mark Winget (<mark.winget@edmonton.ca>). Please see the picture of house taken on Sep 19, 2019



thumbnail_20190919_190845.jpg

According to Mark Winget (<mark.winget@edmonton.ca>)'s email from City of Edmonton on Sep 23, 2019, "as all of the required permit have not yet been issued for the home". He has created a request to ask the compliance team to inspect. I will explain more details in below proof part.

I have emails and pictures available for reference.

2. The building under construction at 3068 MacNeil Way NW extremely exceeds the maximum allowable height 10 meters already when it began to build, In February 2020, the owner of the house requested to increase height again, and the house height increase change application got approved in Feb 2020 without neighborhood consultation.

I searched City of Edmonton web site in July 2020 and figured out the house in question has increased the height and got approved. So, I raised a new 311 ticket Reference # 311683196-008.

I got feedback email "As per the decision of the Development Officer, Mark Winget, the application to change the height met the regulations."

I strongly disagree his decision for the height calculation which is **6.5-meter** in height (I got the number from city inspector supervisor). Below are my proofs.

From the pictures below, this house is built on a flat field where the four corners of the house height elevation difference are much less than 1 m. Back to the house is a hill which has nearly 9 meters height difference. It is a 3-story building plus a basement. And the elevation of this house foundation is align with neighbors' house.



I talked with Mark Winget, the development officer, on Oct 14, 2020 on how the height of the house is calculated, he shared below information with me. I also talked with City compliance inspector in Oct 2020. Below is the timeline for the whole process.

Email from Sep 2019- Oct 2019 with Mark Winget – Conflict with final 6.5 meters final height measurement

- Sep 23rd, 2019. Mark stated in his email, “In regards to the height, they do have quite a high home but it does comply to the zoning regulation. The 10 meters applies to the midpoint of the roof, then the peak is allowed to extend another 1.5m above that. They managed to fit it just under the requirements.”
- Oct 7th, 2019, Mark replied again by email, “We measure the height from the final floor elevation to the midpoint of the main roof, and add on the distance between the average grade to the final floor. In that sense, his midpoint should be around 9.15m from the average grade. The peak is allowed to extend to 11.5 though, which his plans are already quite close to. From what I understand from your emails they don't seem to be putting much care into the accuracy of construction (also given that they don't have approved permits), so it's possible they are building higher than allowed. In which case our compliance team will find out.”

Dec 2019- Original inspection for my complaint in Sep 2019

- Mark Winget mentioned on Oct 14, 2020, the building did not construct the foundation as per original permit submitted for approval, “they screwed up on the height of foundation”.
- Mark Winget selected Method C to calculate the height of building (grade) which uses four corners of the building as the building is on a flat field.

C. the Development Officer may determine Grade by calculating the average elevation of the corners of the buildings on all properties abutting the Site or separated from the Site by a Lane;

Feb 2020- Permit amendment issued – Height increase

- Original inspection completed on December 20, 2019 based on my complaint in Sep 2019. Following the inspection, the 3068 Macneil Way NW constructor applied for a permit revision to **increase** the height.
- Mark Winget didn’t use the original Method C (Four corners of the house height) to calculate the house height increase. Instead, he chose to use method B to cover significant construction variance height change and approved the permit revision of 6.5-meter height. This permit was issued on February 4, 2020.

B. the Development Officer may determine Grade by calculating the average of the elevation at the corners of the Site prior to construction as shown on the applicant's grading plan

Oct 2020- Compliance inspection

In response of 311 ticket 8021827622, the compliance inspector called me in Oct 2020 mentioned the house met the compliance requirement based on the Feb 2020 permit of 6.5-meter height measurement.

My opinions:

2.1 Height calculation of 6.5 meters in amended permit issued in Feb 2020 – Wrong Calculation Method.

Mark original used Method C to calculate the height of building (grade) which uses four corners of the building. In Feb 2020 amended permit, he changed to Method B to calculate the grade. But in Method B, it mentioned “**Prior to construction as shown on the applicant’s grading plan**”. In Feb 2020, the house had already finished foundation and frame construction, he should not change to method B to calculate the amendment of permit.

Method B. the Development Officer may determine Grade by calculating the average of the elevation at the corners of the Site prior to construction as shown on the applicant's grading plan

- The house height calculation method should be consistent, if the officer changed the calculation method from C to B, he should have rationales to explain, but we didn’t get any update for it.
- Also, for the height calculation method change, do the city of Edmonton have any audition or peer review process for the change?

2.2 From the email chains range from Sep 2019 to Oct 2019 with Mark, the city already knew the house is built to the maximum limit of height, why in Feb 2020 they changed the grade calculation method and arbitrarily make the building height to be 6.5 meters.

2.3 According to bylaw 12800 52.4. the development officer determines the height of building respect to the grade, and the grade could be selected from the following 5 different ways. But the officer needs to pick “THE METHOD THAT IT IS THE BEST ENSURES COMPATIBILITY WITH SURROUNDING DEVELOPMENT.”

The house is back to a hill which has 9 meters elevation difference to the front of house, use the method b to calculate the grade would significantly decrease the calculated height of building, I was told the building height is 6.5 meters, which is ridiculous for a 3 levels house. And the office shall be competent to apply the best method and following proper procedure to issue a permit and peer review could easily discover this mistake.

- As per bylaw 12800 11.4 (b.), “except as otherwise provided in this Bylaw, there shall be no variance from MAXIMUM HEIGHT, Floor Area Ratio or Density regulations; and”, and the officer failed to abide to the bylaw; therefore, the issued permit revision violates bylaw 12800.

2.4 The compliance inspector didn't do any on site investigation and inspection, just based on the height increase permit issued on Feb 2020, mentioned the house was 6.5-meter height. This was not acceptable. I talked with inspector and his supervisor, but they could not provide reasonable explanation other than following the permit, not the bylaw. And pushed me to contact with development office, Mark, who issued the permit.

3. Feb 2020- Permit amendment issued – Side Setback change from 1.22 m to 1.19 m

As per Edmonton Zoning Bylaw 12800 -115 (RSL) Residential Small Lot Zone

The Side Setback shall be a minimum of **1.2 m**; the permit should not be issued on Feb 2020 as it broke the bylaw. It didn't get neighborhood consultation either.

I talked with the city inspector, he mentioned 1.19 m is well compliance with City bylaw standard.

the bylaw clearly states the minimum is 1.2 m for a good reason. If the landowner applied permit so close to the minimum, and the landowner shall be responsible to control the construction to be within the limit and take the consequence if violates the bylaw. Even though only 1 cm below limit, it is clearly failing to abide to bylaw. The inspection officer is hired by the city to re-enforce the bylaw and protect the public. If the officer gives in one cm this time; it may give in meters in the future. Why the City even need to issue any bylaw?

4. 3068 Macneil Way NW, Edmonton has violated GAS SAFETY code of Alberta (G-01-10 [Rev1] (File number 16090-G01)) of sidewall venting distance of **1.2 m or greater to the property line**

It installed 3 furnaces and have 6 side wall gas pipeline vents to the property line against my house.

It installed 2 hot water heaters have 4 side wall gas pipeline vents to the property line against my house.

According to the GAS SAFETY code of Alberta, the sidewall venting should have distance to property line at least 1.2 m or greater. Again, the permit issued on Feb 2020 has resulted the impact to the violation of Gas safety code of Alberta. I have created 311 ticket 8021802002 which is still in process.

Sidewall Vent terminations require; • A vent from a category III or category IV appliance or an appliance with a special venting system exceeding 35 000 Btuh shall not extend through an exterior wall and terminate adjacent to the exterior wall unless there is a minimum unobstructed distance of 4 ft. (1.2m) or greater from the foundation to the property line.

<http://www.municipalaffairs.alberta.ca/documents/G-01-10-Rev1-SidewallVentTerminations.pdf>

5. Impact to neighbors

According to the Feb 2020 approved amended permit, the house was built quite close to my house.

- It has 1.19 m to the property line, during the construction time, it dropped lots construction garages in my backyard and generated safety concerns to my family.
- The house is over 10 meters, it opens two windows at the 3rd level facing my backyard which break my privacy.
- It has 3 furnaces and 2 hot water heats side venting to my backyard. It turned on the furnaces and run 24 hours a day generated noise over 50 DB after 10 PM to 7 AM in the morning which is also against **Community Standards Bylaw** of City of Edmonton below.

OVERNIGHT DECIBEL LEVEL – RESIDENTIAL 20 (1) A person shall not cause or permit any sound exceeding 50 dB(A), as measured at the property line of a property zoned for use as residential, before 7 a.m. or after 10 p.m. (2) A person shall not cause or permit property they own or occupy to be used so that any sound coming from the property exceeds 50 dB(A), as measured at the property line of a property zoned for use as residential, before 7 a.m. or after 10 p.m.

As per bylaw 12800 11.3.2,

“The Development Officer may approve, with or without conditions as a Class B Discretionary Development, an enlargement, alteration or addition to a non-conforming building if the non-conforming building complies with the Uses prescribed for that land in this Bylaw and the proposed development would not, in their opinion:

- a. unduly interfere with the amenities of the neighbourhood; or
- b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.”

For this case, the development officer ignored the fact that this building to be constructed is significantly larger and taller than any other houses in the neighborhood, and negligent to consultant with neighbors

before original permit and permit revision were approved; even though my wife and myself filed in complaint numerous times from Sep 2019 to Sep 2020 which the approval process and compliance process undergoing simultaneously.

I strongly request the permit to be reviewed and reconsidered.

Appendix A

Bylaw 12800, 52.4

“ The Development Officer shall determine Grade by selecting, from the methods listed below, the method that best ensures compatibility with surrounding development:

A. if the applicant can show by reference to reliable topographical maps that the elevation of the Site varies by no more than one meter in 30 lineal meters, the Development Officer may determine Grade by calculating the average of the highest and lowest elevation on the Site;

B. the Development Officer may determine Grade by calculating the average of the elevation at the corners of the Site prior to construction as shown on the applicant's grading plan;

C. the Development Officer may determine Grade by calculating the average elevation of the corners of the buildings on all properties abutting the Site or separated from the Site by a Lane;

D. for a Site where the highest geodetic elevation at a corner of the front property line is greater than the lowest geodetic elevation at a corner of the rear property line by 2.0 m or more, the Development Officer may

determine Grade by calculating the average elevation of the front corners of the Lot, and along the side property lines a distance equal to the minimum front Setback in the underlying Zone from the front property line. This method is intended for small scale development with a single Principal building and is not intended to be used for Multi-unit Project Developments; or

E. the Development Officer may use his variance power to determine Grade by a method other than the ones described in subsection 52.4. If so, this shall be a Class B Discretionary Development. “