

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
November 19, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

TO BE RAISED

I 9:00 A.M. SDAB-D-20-063

Install a Freestanding Billboard General Advertising Sign (freestanding Minor Digital On-Premises Off-Premises sign) (1-side 2.4m x 8.8m facing north) (OUTFRONT | 852 HONG KONG CAFE)

3010 - Calgary Trail NW
Project No.: 355752431-001

II 11:00 A.M. SDAB-D-20-161

Construct a Single Detached House with a rear attached garage, unenclosed front porch, fireplace, rear uncovered deck (3.05m x 3.66m), Secondary Suite over garage, and balcony (over garage)

2418 - San Fortunato Street NW
Project No.: 368937990-002

III 1:30 P.M. SDAB-D-20-162

Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear uncovered deck (3.66m x 4.27m), fireplace, side door, Basement development (NOT to be used as an additional Dwelling)

12515 - 40 Avenue NW
Project No.: 367954894-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-063

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 355752431-001

APPLICATION TO: Install a Freestanding Billboard General Advertising Sign (freestanding Minor Digital On-Premises Off-Premises sign) (1-side 2.4m x 8.8m facing north) (OUTFRONT | 852 HONG KONG CAFE)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 20, 2020

DATE OF APPEAL: May 8, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3010 - Calgary Trail NW

LEGAL DESCRIPTION: Plan 5711KS Blk A

ZONE: DC2.12 - Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

The digital sign would help the on-premise business better advertise their services. Existing landscaping would not be affected and sign would be incorporated into surroundings.

Other areas of Calgary Trail/Gateway Blvd currently have digital signage, properties on which the Calgary Trail LUS applies as well. Therefore we feel that this structure is not contrary to Study, and should be considered also.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board (the “Board”) at a hearing on August 12, 2020, made and passed the following motion:

“That the above noted hearing be scheduled for a date to be determined.”

The Subdivision and Development Appeal Board made and passed the following motion on June 3, 2020:

“That the appeal hearing be scheduled for August 12 or 13, 2020 at the written request of the Appellant and with the consent of the Development Authority.”

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 written decision is given under section 642, [...]

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.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject Direct Control Site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control Bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

General Provisions from the DC2.12 Site Specific Development Control Provision (“DC2.12”):

Section DC2.12.1 states that the **General Purpose** of DC2.12 is:

To provide a site specific development control district to accommodate commercial development on the site in a way which recognizes access constraints on the site and roadway constraints adjacent to the site, and is compatible with neighbouring residential and commercial uses.

Section DC2.12.4. states:

Signs shall be allowed in this district as provided for in Schedule 79H, and in accordance with the general provisions of Sections 79.1 to 79.9 inclusive, of the Land Use Bylaw.

Section DC2.12.4. states:

Developments in this district shall be evaluated with respect to compliance with the General Development Regulations of Sections 59 to 79 inclusive, of the Land Use Bylaw.

General Provisions from the Edmonton Land Use Bylaw 5996:

Section 14, Development Classes, states that the following classes of development are hereby established:

- 1) Class O - No Development Permit Required;
- 2) Class A - Minor Permitted Use;
- 3) Class B - Permitted Use;
- 4) Class C - Discretionary Use; and
- 5) Class D - Design Review.

Section 14.3 states

The developments included in this Class are those Permitted Uses where the regulations of this Bylaw are more complex and where the development application must be reviewed to determine its compliance with this Bylaw, or where conditions of approval or agreements to ensure compliance are considered necessary. The Development Officer shall issue a permit, with or without conditions for the development of Permitted Uses after reviewing the application and the submission requirements of this Class to ensure compliance with the regulations of this Bylaw. This Class shall include all Permitted Use developments, including those affected by an Overlay, except those identified in Class O or Class A

Class B shall also include the following sign uses and development:

1) Canopy, Undercanopy, Facia, Freestanding and Projecting On-premise Identification or Business Identification Signs including or not including the use of manual animation, running lights, scintillating lights, manual changeable copy and time and temperature displays;

2) Facia and Freestanding General Advertising Signs; except that where such signs are to be erected in the CNC, CSC, IB or AGI Districts, or within the civic centre area defined in Sign Schedule 79G, they shall be a Class C development;

(...)

Under section 9.2(2), **Animated Sign** means:

any sign or portion of a sign having moving parts or electronically controlled colour changes which depict action or give motion to the sign. Animated Sign does not include Flashing Signs, Rotating Signs, signs with accessory running lights or flashing lights, or electronically controlled Changeable Copy Signs such as those showing time and temperature displays.

Under section 9.2(4)(b), **Billboard** means:

a General Advertising Sign that has a sign area of more than 3.75 m² (40.35 sq. ft.). The display copy of the sign can be printed on a translucent vinyl sheet or painted on a number of plywood or light steel sections which are locked into a frame to form a single sign face.

Under section 9.2(6), **Business Identification Sign** means:

a sign identifying the name, dealer, franchise association, primary function, product or service of the commercial activity conducted on the premises, and may include local advertising and changeable copy.

Under section 9.2(8), **Changeable Copy Sign** means:

a permanent On-premise Sign or portion of such a sign on which copy can be readily changed manually through the utilization of attachable characters, or automatically through the electronic switching of lamp banks or illuminated tubes. Changeable Copy Signs include mechanically controlled time and temperature displays.

Under Section 9.2(15), **Freestanding Sign** means “any sign supported independently of a building and permanently fixed to the ground.”

Under Section 9.2(16), **General Advertising Sign** means:

a sign which directs attention to a business, activity, product, service or entertainment which cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises where the sign is displayed and general advertising has a similar meaning. Typical General Advertising Signs includes Billboards and Junior Panels as defined in this Bylaw.

Under Section 9.2(21), **Local Advertising Sign** means:

a sign or portion of a sign on which the copy refers only to products or merchandise produced, offered for sale or obtainable at the premises on which the sign is displayed and which are related to the principal function of such premises, and local advertising has a similar meaning.

Under Section 9.2(25), **On-premise Sign** means:

a sign identifying or advertising a business, activity, service or product located on the premises where the sign is erected. On-premise Signs includes signs erected on a site to provide warning or direction to persons entering upon the site.

Development Officers Determination

Based on Section 9.2 (4b and 16) Sign Definitions, of the Land Use Bylaw 5996 that was in effect at the time DC2(12) was amended May 24, 1994.

Reference LUB: Edmonton (Alta.) - 1991-1993 - Edmonton land use bylaw, number 5996_office consolidation number 9.

Schedule 79H of the Edmonton Land Use Bylaw 5996

Schedule 79H.1(1) states the following Signs shall be allowed, subject to the Sign Regulations of this Schedule:

- a) ...
- b) ...
- c) Awning, Canopy, Under-canopy, Facia, Freestanding, Projecting and Window, On-premise Business Identification Signs and On-premise Changeable Copy and Local Advertising Signs;
- d) ...
- e) ...
- f) Facia and Freestanding General Advertising Signs;
- g) ...

Calgary Trail Land Use Study

The *City of Edmonton Charter*, 2018 Regulation, Alta Reg 39/2018 states the following:

(31) In section 616 of the Act,

(e) clause (dd) is to be read as follows:

(dd) “statutory plan” means

- (i) an intermunicipal development plan,
- (ii) a municipal development plan,
- (iii) an area structure plan,

(iv) an area redevelopment plan, and

(v) an additional statutory plan under section 635.1

adopted by the City under Division 4;

Development Officers Determination

1) Section 3.4.b.ii of the Calgary Trail Land Use Study: The sign is located within the Calgary Trail Land Use Study adopted by Resolution of Council on September 11, 1984, with amendments in August 2015. Under the General Urban Design Policies of Section 3.4.b.ii of the Calgary Trail Land Use Study:

"Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards."

The proposed Freestanding Billboard General Advertising Sign (freestanding Minor Digital On-Premises Off-Premises sign) is contrary to Section 3.4.b.ii of the Calgary Trail Land Use Study.

General Provisions (General Advertising Signs) of the Edmonton Land Use Bylaw 5996

Section 79.8(1)(e) states "General Advertising Signs may be illuminated provided that the lighting is concealed or shielded to minimize glare."


Development Officers Determination

2) 79.8(1)(e): General advertising signs may be illuminated provided that the lighting is concealed or shielded to minimize glare.

Proposed: The sign is illuminated (digital panel) and is not shielded to minimize glare, therefore it does not comply with Section 79.8(1)(e).

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.

	<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	Project Number: 355752431-001 Application Date: FEB 24, 2020 Printed: May 8, 2020 at 12:37 PM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.		
Applicant	Property Address(es) and Legal Description(s) 3010 - CALGARY TRAIL NW Plan 5711KS Blk A	
Scope of Application To install a Freestanding Billboard General Advertising Sign (freestanding Minor Digital On-Premises Off-Premises sign) (1-side 2.4m x 8.8m facing north) (OUTFRONT 852 HONG KONG CAFE).		
Permit Details		
ASA Sticker No./Name of Engineer: Construction Value: 200000	Class of Permit: Expiry Date:	
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 1 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0	
Development Application Decision Refused Issue Date: Apr 20, 2020 Development Authority: NOORMAN, BRENDA Reason for Refusal Based on Section 9.2 (4b and 16) Sign Definitions, of the Land Use Bylaw 5996 that was in effect at the time DC2(12) was amended May 24, 1994. Reference LUB: Edmonton (Alta.) - 1991-1993 - Edmonton land use bylaw, number 5996_office consolidation number 9. 1) Section 3.4.b.ii of the Calgary Trail Land Use Study: The sign is located within the Calgary Trail Land Use Study adopted by Resolution of Council on September 11, 1984, with amendments in August 2015. Under the General Urban Design Policies of Section 3.4.b.ii of the Calgary Trail Land Use Study: "Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards." The proposed Freestanding Billboard General Advertising Sign (freestanding Minor Digital On-Premises Off-Premises sign) is contrary to Section 3.4.b.ii of the Calgary Trail Land Use Study. 2) 79.8(1)(e): General advertising signs may be illuminated provided that the lighting is concealed or shielded to minimize glare. Proposed: The sign is illuminated (digital panel) and is not shielded to minimize glare, therefore it does not comply with Section 79.8(1)(e).		
THIS IS NOT A PERMIT		



Project Number: **355752431-001**
Application Date: FEB 24, 2020
Printed: May 8, 2020 at 12:37 PM
Page: 2 of 2

Application for Sign Combo Permit

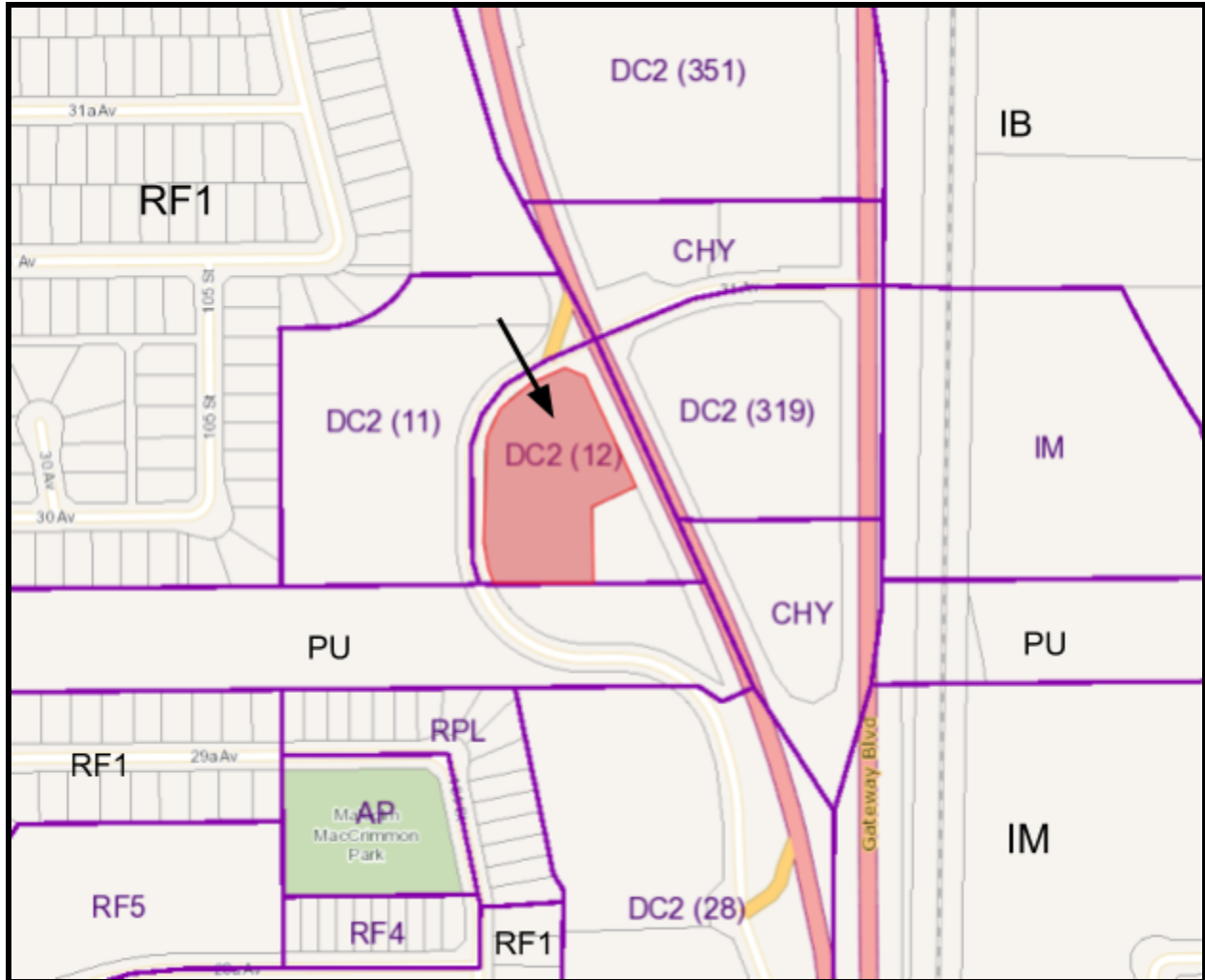
Rights of Appeal

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.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$86.16	\$86.16	06466036	Mar 06, 2020
Sign Building Permit Fee	\$2,154.00	\$2,154.00	06466036	Mar 06, 2020
Sign Dev Appl Fee - Digital Signs	\$467.00	\$467.00	06466036	Mar 06, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$2,707.16</u>	<u>\$2,707.16</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-20-063

ITEM II: 11:00 A.M.

FILE: SDAB-D-20-161

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 368937990-002

APPLICATION TO: Construct a Single Detached House with a rear attached garage, unenclosed front porch, fireplace, rear uncovered deck (3.05m x 3.66m), Secondary Suite over garage, and balcony (over garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: September 2, 2020

DATE OF APPEAL: October 22, 2020

RESPONDENT: R. Hinteregger

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2418 - San Fortunato Street NW

LEGAL DESCRIPTION: Plan 1523520 Blk 18 Lot 13

ZONE: (GLG) Griesbach Low Density (Garage Suite) Residential Zone

OVERLAY: Special Area Griesbach

STATUTORY PLAN: Griesbach Neighbourhood Area Structure Plan

Grounds for Appeal

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

We would like to formally request an appeal of the development happening at 2418 San Fortunato St NW that is directly adjacent to the south of our property.

Concept Homes has not given us any notice, returned any of our enquiry calls or emails and has no signage indicating permit information on the site but there is active construction happening.

We would like to appeal to gain access to the proposed plot plan and provide input on how it will affect our property negatively.

The general concern is around how this build (that will obscure the entirety of our yard space) will affect things such as...

- Future ability to potentially sell our property for top dollar.
- How will it effectively block almost all sunlight from our rear yard impacting our current landscape design.
- Boxes in the large open lot we selected for our home by surrounding 2 story buildings running through the center of the properties rather than parallel with other residential structures.
- The Village at Griesbach community prides itself on beautiful architecture and landscape with a real community feel between the residential and commercial layout. These surrounding structures are suffocating our yard and closing us in with oversized garages in an already dense section on the neighbourhood.

The root of our concern is that the same builder (and family members) had built a similar large two story garage for (personal use, not for a customer) with underground parking on the north adjacent property (2422 San Fortunato St NW) and the combination of both of their builds effectively and completely encases our property, negatively effecting it for the reasons stated above. The image bellow shows our property and yard space along with both the existing 2422 build and the new build location at 2418. This photo (taken at noonday during the summer months) also shows how a two-story build to the south obscuring the entirety of our yard will covers us in almost complete shadow.

For a better current view and state of the properties please find bellow a link to some arial drone footage that shows how this large build will affect us and the neighborhood in general.

<https://youtu.be/Ya6hTD05Xhg>

Thank you for your time in this regard and hearing us out. Other neighbors from all side of this build have also indicated to us interest in joining this appeal as it speaks to some of, but not all their concerns as well.

<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 940.9(3)(j), **Single Detached Housing** is a **Permitted Use** in the **(GLG) Griesbach Low Density Residential with Garden Suites Zone**.

Under section 940.9(3)(h), a **Secondary Suite** is a **Permitted Use** in the **(GLG) Griesbach Low Density Residential with Garden Suites 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.

Under section 7.2(6), **Secondary Suite** means:

development consisting of a Dwelling located within, and Accessory to, a structure in which the principal Dwelling is in a building that is in the form of Single Detached Housing, Semi-detached Housing, Duplex Housing, or Multi-unit Housing that is built in the form of Row Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from outside the structure. This Use Class includes the Development or Conversion of Basement space or space above ground level to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Dwelling. A Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision. This Use Class does not include Garden Suites, Lodging Houses, or Blatchford Lane Suites.

Section 940.1 states that the **General Purpose** of the **Special Area Griesbach** is:

to designate Griesbach as shown on Appendix I to this Section, as a Special Area and to adopt appropriate land use regulations for this


Special Area in order to achieve the objectives of the *Griesbach Neighbourhood Area Structure Plan*, as adopted by Bylaw 12936, as amended.


Section 940.9(1) states that the **General Purpose** of the **(GLG) Griesbach Low Density Residential with Garden Suites Zone** is:

to provide for street oriented low density housing with opportunities for a limited number of Garden Suites and Secondary Suites and Row Housing under certain conditions, in accordance with the design objectives in the Griesbach Neighbourhood Area Structure Plan.

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: 368937990-002 Application Date: JUL 28, 2020 Printed: October 22, 2020 at 8:12 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) 2418 - SAN FORTUNATO STREET NW Plan 1523520 Blk 18 Lot 13 Specific Address(es) Suite: 2418 - SAN FORTUNATO STREET NW Suite: 2418G - SAN FORTUNATO STREET NW Entryway: 2418 - SAN FORTUNATO STREET NW Entryway: 2418G - SAN FORTUNATO STREET NW Building: 2418 - SAN FORTUNATO STREET NW Building: 2418G - SAN FORTUNATO STREET NW		
Scope of Permit To construct a Single Detached House with a rear attached garage, unenclosed front porch, fireplace, rear uncovered deck (3.05m x 3.66m), Secondary Suite over garage, and balcony (over garage).			
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)
# 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)		
Development Permit Decision Approved Issue Date: Sep 02, 2020 Development Authority: WINGET, MARK			

	Project Number: 368937990-002 Application Date: JUL 28, 2020 Printed: October 22, 2020 at 8:12 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 a rear attached garage, unenclosed front porch, fireplace, rear uncovered deck (3.05m x 3.66m), Secondary Suite over garage, and balcony (over garage).</p> <p>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>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 (Section 86.2).</p> <p>Only one of a Secondary Suite or a Garden Suite may be developed in conjunction with each principal Dwelling, except in the RF1, RF2, and RF3 Zones where one Secondary Suite and one Garden Suite may both be developed in conjunction with a Single Detached House (Section 86.3).</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 (Section 86.4).</p> <p>A maximum of one Household shall occupy a Secondary Suite (Reference Section 86.5).</p> <p>Secondary Suites shall not be included in the calculation of densities in this Bylaw (Section 86.6).</p> <p>Locked separation that restricts the nonconsensual movement of persons between each Dwelling unit shall be installed.</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>Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request.</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 (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>	



Project Number: **368937990-002**
Application Date: JUL 28, 2020
Printed: October 22, 2020 at 8:12 AM
Page: 3 of 3

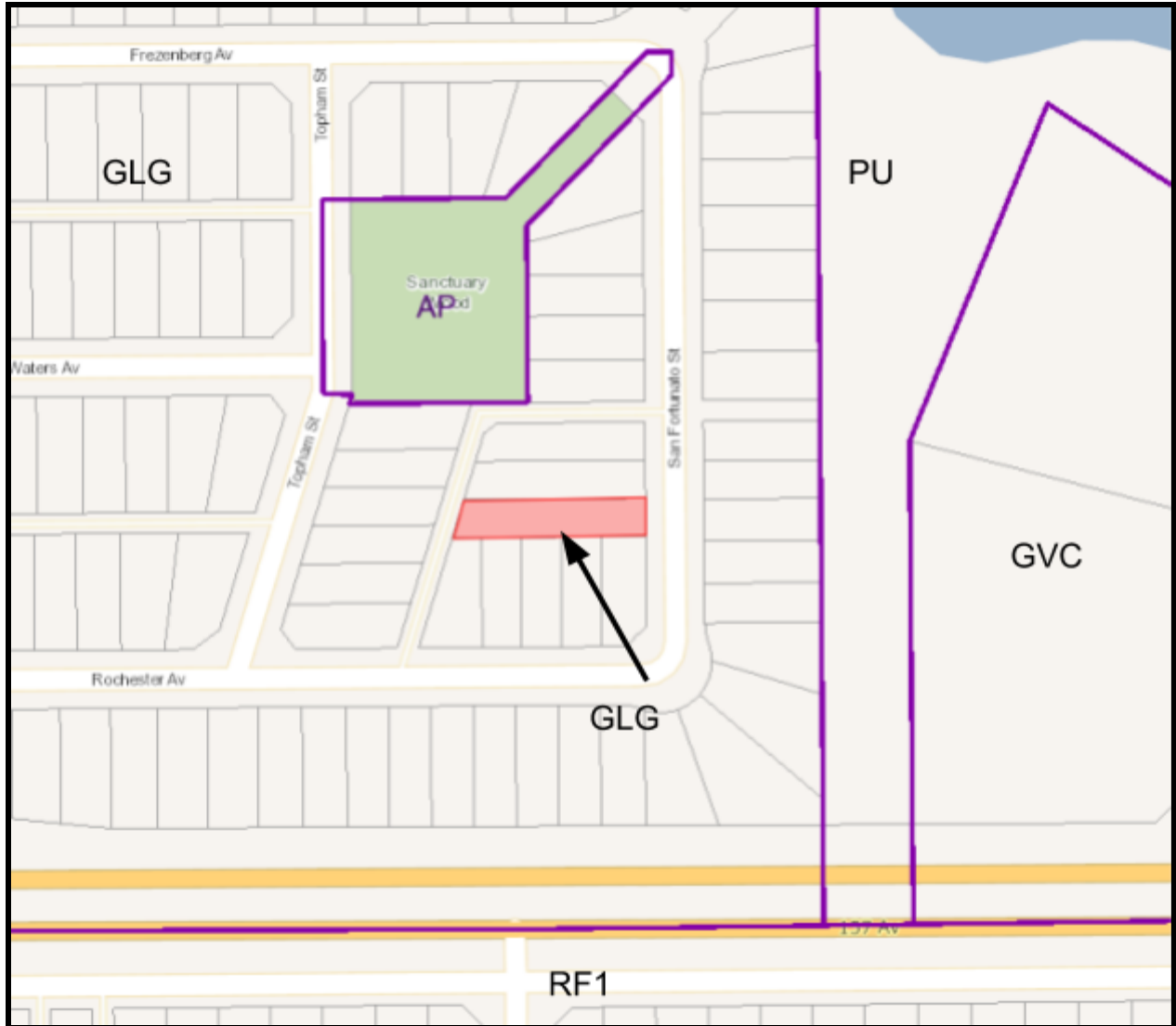
Minor Development Permit

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
Lot Grading Fee	\$148.00	\$148.00	06661823	Aug 10, 2020
Sanitary Sewer Trunk Fund	\$1,712.00	\$1,712.00	06661823	Aug 10, 2020
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$758.00	\$758.00	06661823	Aug 10, 2020
Dev. Application Fee	\$502.00	\$502.00	06661823	Aug 10, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$3,120.00</u>	<u>\$3,120.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-20-161

ITEM III: 1:30 P.M.

FILE: SDAB-D-20-162

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 367954894-002

APPLICATION TO: Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear uncovered deck (3.66m x 4.27m), fireplace, side door, Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 23, 2020

DATE OF APPEAL: October 27, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12515 - 40 Avenue NW

LEGAL DESCRIPTION: Plan 6773MC Blk 12 Lot 102

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:

I wish to appeal the Decision of the development authority for the reasons outlined below:

1) Driveway Locations

- a) The driveway of the previously existing home was located in the same location as the proposed new driveway.
- b) 65% of the nearby homes in the neighborhood have front access to the street.
- c) Some homes in this neighborhood do not have back lanes and front drive garages are the only option for these homes.

2) Reduced rear set back

- a) The rear setback for the previously existing home on this lot was less than is proposed for the new
- b) The mature area overlay is designed to accommodate space for a garage in the 40% rear setback. As the garage is proposed to be front attached, the extra depth of 40% is superfluous.

3) Projection of distance of deck to back property line

- a) The previously existing deck also was closer than 11.08 meters from rear property line
- b) With the absence of a rear detached garage, the amount of unfettered backyard space between the proposed deck and back property line is substantially larger than it would be in the case of a detached garage.

4) Projection of eaves to back property line

- a) The previously existing eaves of the original home were closer to the back property line than the eaves of the proposed new home.

Furthermore we are submitting an overview of our proposed new home.

Page 1 – Rendering of front of home

Page 2 – Project overview

Page 3 – Comparison to original home

Page 4 – Variances over pocket on rear

Page 5 – Variance – front garage instead of rear detached garage

Page 6 – Front garage currently existing in neighbourhood

Page 7 – Front garage in place of side garage

Page 8 & 9 – Side garage concerns and Design impacts

Page 10, 11, 12 – Front garage impact to neighbours

Page 13 – Front garage and rear setback neighbour support

Page 14 – Summary

<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.

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 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential 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 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, Garden Suites, Semi-detached Housing and Duplex Housing.”

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.

Driveway Access

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Development Officer’s Determination

1. Driveway - The driveway is located off of 40 Avenue NW (front) instead of the alley (Section 814.3.17).

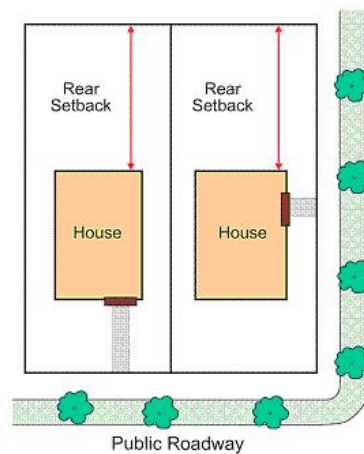
[unedited]

Rear Setback

Section 814.3(4) states “The minimum Rear Setback shall be 40% of Site Depth [...]”

Under section 6.1, **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 Single Detached House to the rear property line is 9.09m (27.8% of site depth) instead of 13.08m (40% of site depth). (Section 814.3.4)

[unedited]

Projection into Setbacks and Separation Spaces

Section 44 states:

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

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

...

3(b) Platform Structures provided such projections do not exceed 2.0 m into any other Setbacks or Separation Spaces with a depth of at least 4.0 m;

...

Development Officer's Determination

3. Projection - The distance from the uncovered deck to the back property line (rear lot line) is 6.95m, instead of 11.08m (Section 44.3)

4. Projection - The distance from the eaves to the back property line (rear lot line) is 7.87m, instead of 12.48m (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 11.3 and 11.4.

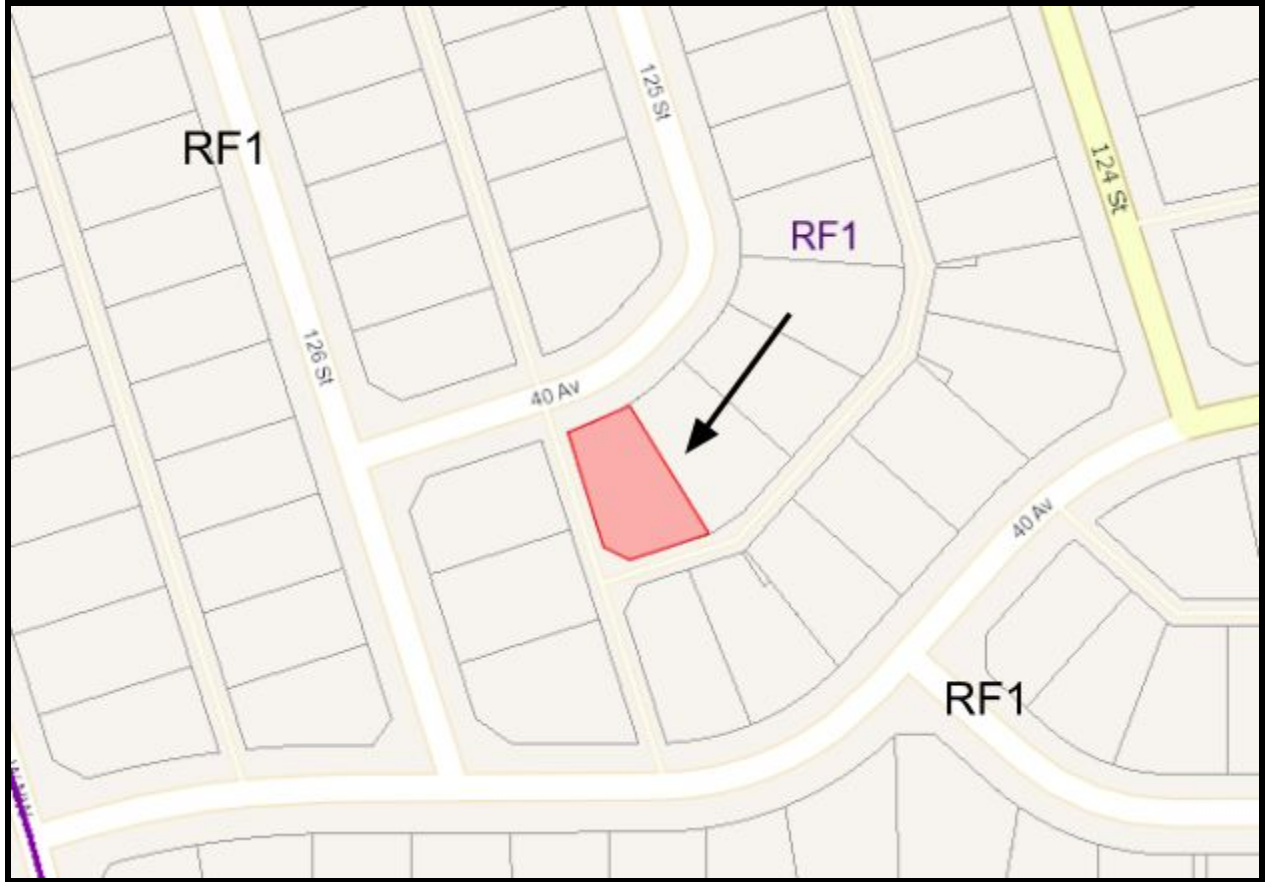
Section 814.5(2) states:

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(17) - Driveway Access
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

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.

	<h2 style="margin: 0;">Application for Minor Development Permit</h2>	Project Number: 367954894-002 Application Date: JUL 16, 2020 Printed: October 27, 2020 at 9:24 AM 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) 12515 - 40 AVENUE NW Plan 6773MC Blk 12 Lot 102																															
	Specific Address(es) Entryway: 12515 - 40 AVENUE NW Building: 12515 - 40 AVENUE NW																															
Scope of Application To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear uncovered deck (3.66m x 4.27m), fireplace, side door, Basement development (NOT to be used as an additional Dwelling).																																
Permit Details																																
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N Stat. Plan Overlay/Annex Area:																															
Development Application Decision Refused Issue Date: Oct 23, 2020 Development Authority: LANGILLE, BRANDON Reason for Refusal <ol style="list-style-type: none"> 1. Driveway - The driveway is located off of 40 Avenue NW (front) instead of the alley (Section 814.3.17). 2. Reduced Rear Setback - The distance from the Single Detached House to the rear property line is 9.09m (27.8% of site depth) instead of 13.08m (40% of site depth). (Section 814.3.4) 3. Projection - The distance from the uncovered deck to the back property line (rear lot line) is 6.95m, instead of 11.08m (Section 44.3) 4. Projection - The distance from the eaves to the back property line (rear lot line) is 7.87m, instead of 12.48m (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.																																
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 10%;">Receipt #</th> <th style="text-align: left; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$148.00</td> <td style="text-align: right;">\$148.00</td> <td>984424032745001</td> <td>Jul 31, 2020</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$211.00</td> <td style="text-align: right;">\$211.00</td> <td>984424032745001</td> <td>Jul 31, 2020</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$502.00</td> <td style="text-align: right;">\$502.00</td> <td>984424032745001</td> <td>Jul 31, 2020</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$861.00</td> <td style="text-align: right; border-top: 1px solid black;">\$861.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Lot Grading Fee	\$148.00	\$148.00	984424032745001	Jul 31, 2020	Development Permit Inspection Fee	\$211.00	\$211.00	984424032745001	Jul 31, 2020	Dev. Application Fee	\$502.00	\$502.00	984424032745001	Jul 31, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$861.00	\$861.00		
	Fee Amount	Amount Paid	Receipt #	Date Paid																												
Lot Grading Fee	\$148.00	\$148.00	984424032745001	Jul 31, 2020																												
Development Permit Inspection Fee	\$211.00	\$211.00	984424032745001	Jul 31, 2020																												
Dev. Application Fee	\$502.00	\$502.00	984424032745001	Jul 31, 2020																												
Total GST Amount:	\$0.00																															
Totals for Permit:	\$861.00	\$861.00																														
THIS IS NOT A PERMIT																																



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-162

▲
N