SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M. November 4, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

L 0.00 A.M CDAD D 20.170

I 9:00 A.M. SDAB-D-20-150

To erect a fence at 1.85 metres in Height in the

Front Yard abutting 134 Avenue NW

11108 - 134 Avenue NW Project No.: 365199074-002

II 10:30 A.M. SDAB-D-20-151

To construct an Accessory building (detached Garage, 9.15 metres by 7.31 metres) and to demolish an Accessory building (detached

Garage)

13804 - 101 Avenue NW Project No.: 369741605-002

III 1:30 P.M.. SDAB-D-20-152

WITHDRAWN

To install a Freestanding On-premises Sign (St.

Brendan School)

9260 - 58 Street NW

Project No.: 362987740-001

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

<u>ITEM I: 9:00 A.M.</u> <u>FILE: SDAB-D-20-150</u>

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 365199074-002

APPLICATION TO: Erect a Fence at 1.85 metres in Height in the Front Yard

abutting 134 Avenue NW

DECISION OF THE

DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: September 9, 2020

DATE OF APPEAL: October 2, 2020

NOTIFICATION PERIOD: September 22, 2020 through October 13, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 11108 - 134 Avenue NW

LEGAL DESCRIPTION: Plan 4724MC Blk 27 Lot 2

ZONE: (RF4) Semi-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:

Hearing Date: Wednesday, November 4, 2020

This house is a duplex and putting a high fence between us is not acceptable to me.

I will accept a 1.2 m fence. I am 77 years old and I have to walk with a cane. I don't go through the fence we have now so what's the idea of a 6 foot fence.

I have a beautiful front lawn and it will cut the morning sun right off my roses and my front window that I have flowers on. I should not have the sun removed by a 6' fence when it is not necessary. The noon sun is too hot.

This fellow has caused me nothing but migraine headaches since he moved in and I believe he is trying to get me to move out of my house. He has no respect for me, living in the same house. He acts like he's the only one living in this house and I'm not here. His front yard looks like a hay field, with Canada thistles, weeds that are all going to seed. His grass when he cuts it once a month goes into windrows like for hay and he doesn't pick it up. In the spring his yard is full of dandelions that I had to put a sheet on my fence so the seeds don't blow over in my garden.

He and his family are constantly banging something against the wall between us.

When I would talk to him he'd put his chin up high and pout out his chest like he was king and sneer at me.

I've lived here since 1991 (March) and people have moved out and in, into this other side, BUT NONE have been so rude and nasty as he has been to me. That's why I think he's trying to move me out.

I pray that this 6 foot fence will go to a 1.2 metre fence. That is sufficient.

- P.S. The only thing I can see why he'll need a 6 foot fence is if he is selling things and doesn't want me to see the people going in and out.
- P.S. This is very very upsetting for me.

General Matters

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 150.2(6), Semi-detached Housing is a Permitted Use in the (RF4) Semi-detached Residential Zone

Under section 6.1, **Accessory** means "when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site."

Under section 6.1, **Fence** "means a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary."

Section 150.1 states that the **General Purpose** of the **(RF4) Semi-detached Residential Zone** is "to provide for medium density housing, where some units may not have access at ground level."

Fence

49. Fences, Walls, Gates, and Privacy Screening in Residential Zones

- 1. Fences, walls and gates
 - a. The regulations contained within Section 49.1 of this Bylaw apply to:
 - i. the Height of the material used in the construction of a Fence, wall, or gate, such as but not limited to boards, panels, masonry, ornamental iron, and chain link, plus any additional elements used for screening, such as, but not limited to, lattice.
 - b. Notwithstanding subsection 49(1)(a), the regulations for Fences, walls, and gates contained within this Section do not apply to the Height of the posts or other supporting material used to anchor the Fence, wall, or gate.
 - c. The Height of a Fence, wall, or gate shall be measured from the general ground level 0.5 m back from the property line of the Site on which the Fence, wall, or gate is to be constructed.
 - d. On an Interior Site, the Height of a Fence, wall, or gate shall not exceed:
 - i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard, and
 - ii. 1.85 m in all other Yards.

. .

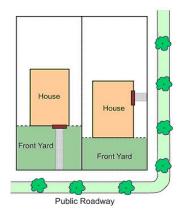
- f. In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,
- g. In the case where the permitted Height of a Fence, wall, or gate is 1.85 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 2.44 m, in order to provide additional screening from public roadways or incompatible adjacent Uses.

...

Under section 6.1, **Height** means "a vertical distance between two points."

Under section 6.1, Front Yard means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Development Officer's Determination

Fence Height - The fence along 134 Avenue NW is 1.85m high, instead of 1.2m (Section 49.4)

[unedited]

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: 365199074-002
Application Date: JUN 16, 2020
Printed: September 9, 2020 at 4:27 PM
Page: 1 of 2

Overheight Fence Permit

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)

11108 - 134 AVENUE NW Plan 4724MC Blk 27 Lot 2

Location(s) of Work

Suite: 11108 - 134 AVENUE NW Entryway: 11108 - 134 AVENUE NW Building: 11108 - 134 AVENUE NW

Scope of Permit

To erect a fence @ 1.85m in Height in the Front Yard abutting 134 Avenue NW.

Permit Details

Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Site Area (sq. m.): 321.15

Development Permit Decision

Approved

Issue Date: Sep 09, 2020 Development Authority: LANGILLE, BRANDON

Subject to the Following Conditions

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21 (Section 17.1).

This Development Permit authorizes the development of a erect a fence @ 1.85m in Height in the Front Yard abutting 134 Avenue NW.

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

The fence shall be installed entirely on the subject property.

The fence shall not impede any sightlines for vehicular or pedestrian traffic.

As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development (Section 57.3.1).

Immediately upon completion of the development of the fence, the site shall be cleared of all debris.

ADVISEMENTS:

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).

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

Variances

Fence Height - The fence along 134 Avenue NW is 1.85m high, instead of 1.2m (Section 49.4)



Project Number: **365199074-002**Application Date: JUN 16, 2020
Printed: September 9, 2020 at 4:27 PM

Page: 2 of 2

Overheight Fence Permit

Rights of Appeal

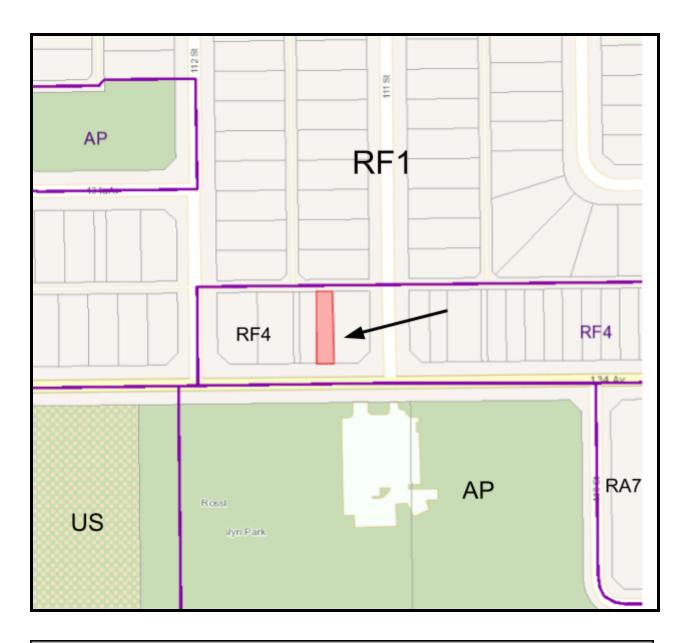
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$182.00	\$182.00	967768438853001	Jun 16, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$182.00	\$182.00		





<u>ITEM II: 10:30 A.M.</u> <u>FILE: SDAB-D-20-151</u>

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 369741605-002

APPLICATION TO: Construct an Accessory building (detached Garage, 9.15

metres by 7.31 metres) and to demolish an Accessory

building (detached Garage)

DECISION OF THE

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 23, 2020

DATE OF APPEAL: October 8, 2020

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 13804 - 101 Avenue NW

LEGAL DESCRIPTION: Plan 2602HW Blk 129 Lot 13

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 would like to appeal the refusal of our permit application #369741605-002 for the following reasons.

a) Vehicular Access - although used infrequently we would like to keep this potential parking space. The street in front of the park is often filled with cars so this gives us an opportunity to have space during these busy times. In addition, 3 of our immediate neighbors have both front and rear vehicular access so we feel there has been a precedent set in our neighborhood

Note: addresses with front and back vehicular access

- 1. 13806-101 Avenue
- 2. 13810-101 Avenue
- 3. 13814-Ravine Drive
- b) Height mid-point we want to have adequate storage above our garage and seek to exceed the midpoint maximum height by 1.2m. We will not be utilizing this space for a secondary suite or a living area but only to increase suitable storage area for our small lot. We are still under the height of many secondary buildings in our neighborhood that have suites above their garage.
- c) Height Peak we want to have adequate storage above our garage so seek to exceed the maximum height by .8m. We will not be utilizing this space for secondary suite or living space but only to increase suitable storage area for our small lot. We are still under the height of many secondary buildings in our neighborhood that have secondary suites above their garage.

Thank you for your attention regarding this matter.

General Matters

Appeal Information:

The Municipal Government Act, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a

development authority may appeal to the subdivision and development appeal board.

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*:

Section 110.2(7) states that a **Single Detached House** is a **Permitted Use** in the **RF1 Single Detached Residential Zone**.

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 7.2(8))

Under Section 6.1, **Accessory** means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Section 50.1(1) states: A Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site, if such Use complies with the definition of Accessory in this Bylaw.

Section 50.1(2) states: Accessory Uses and buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.

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.

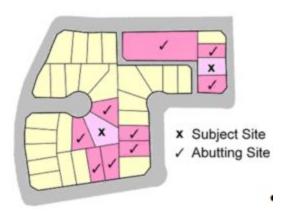
Section 814.1 states that the **General Purpose** of the **Mature Neighborhood Overlay** is to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Driveway

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."

Under section 6.1 **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Under section 6.1 Lane means "an alley as defined in the Traffic Safety Act."

Under section 6.1 **Driveway** means "an area that provides for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway."

Development Officer's Determination

1. Vehicular Access - 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 (Section 814.3.17).

This existing site access off of 101 Avenue no longer conforms to current zoning rules, which have changed since it was originally constructed (Section 11.2.2 and Section 814.3.17).

[unedited]

Height

Section 50.3(3) states "an Accessory building or structure shall not exceed 4.3 m in Height"

Under section 6.1, **Height** means "a vertical distance between two points."

Development Officers Determination

2. Height Midpoint - The garage shall not exceed a Height of 4.3m (Section 50.3.3).

Maximum: 4.3m

Proposed: 5.5m

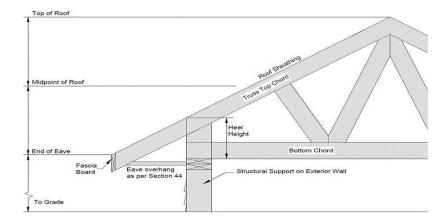
Exceeds by: 1.2m

[unedited]

Height and Grade

Section 52.1(a) states:

For hip and gable roof types Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the end of the eave (intersection of the fascia board and the top of the roof sheathing, or less, in accordance with Section 44), and the top of the roof;



Section 52(2)(c) states "Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw."

Development Officers Determination

3. Height Peak- The garage roof ridge line shall not extend more than 1.5m above the permitted building Height of 4.3m (Section 52.2.c).

Maximum ridge height: 5.8m (4.3m + 1.5m)

Proposed ridge height: 6.6m

Exceeds by: 0.8m

[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 land wholly or partially located within a distance of 60.0 m of the	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.



Application for

Project Number: **369741605-002**Application Date: AUG 07, 2020

Printed: September 23, 2020 at 3:45 PM

Page: 1 of 2

Home Improvement Permit

This document is a Development Permit Decision for the development application described below.

Applicant



Property Address(es) and Legal Description(s)

13804 - 101 AVENUE NW Plan 2602HW Blk 129 Lot 13

Location(s) of Work

Suite: 13804 - 101 AVENUE NW Entryway: 13804 - 101 AVENUE NW Building: 13804 - 101 AVENUE NW

Scope of Application

To construct an Accessory building (detached Garage, 9.15m x 7.31m) and to demolish an Accessory building (detached Garage).

Permit Details

Class Of Permit: Class B

Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay Site Area (sq. m.): 910.9

Development Application Decision

Refused

Issue Date: Sep 23, 2020 Development Authority: ZHOU, ROWLEY

Reason for Refusal

 Vehicular Access - 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 (Section \$14.3.17).

This existing site access off of 101 Avenue no longer conforms to current zoning rules, which have changed since it was originally constructed (Section 11.2.2 and Section \$14.3.17).

2. Height Midpoint - The garage shall not exceed a Height of 4.3m (Section 50.3.3).

Maximum: 4.3m Proposed: 5.5m Exceeds by: 1.2m

3. Height Peak- The garage roof ridge line shall not extend more than 1.5m above the permitted building Height of 4.3m (Section 52.2 c)

Maximum ridge height: 5.8m (4.3m + 1.5m)

Proposed ridge height: 6.6m

Exceeds by: 0.8m

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.

Building Permit Decision

Refused

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$8.96	\$8.96	9866240171510010	Aug 07, 2020

THIS IS NOT A PERMIT



Application for

Project Number: **369741605-002**Application Date: AUG 07, 2020
Printed: September 23, 2020 at 3:45 PM
Page: 2 of 2

Home Improvement Permit

	-			D / D !!	
	Fee Amount	Amount Paid	Receipt #	Date Paid	
Development Application Fee	\$120.00	\$120.00	9866240171510010	Aug 07, 2020	
Building Permit Fee (Accessory Building)	\$112.00	\$112.00	9866240171510010	Aug 07, 2020	
Building Permit Fee (Demolition)	\$112.00	\$112.00	9866240171510010	Aug 07, 2020	
Total GST Amount:	\$0.00				
Totals for Permit:	\$352.96	\$352.96			

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS ▲ Site Location ← File: SDAB-D-20-151

<u>ITEM III: 1:30 P.M.</u> <u>FILE: SDAB-D-20-152</u>

WITHDRAWN

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 3629877400-001

APPLICATION TO: Install a Freestanding ON-premises Sign (st. Brendan

School)

DECISION OF THE

DEVELOPMENT AUTHORITY: Approved

DECISION DATE: October 9, 2020

DATE OF APPEAL: October 13 2020

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 9260 - 58 Street NW

LEGAL DESCRIPTION: Plan 2862MC Blk 34 Lot 31R

ZONE: US Urban Services Zone