

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
October 21, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-140

Erect a Privacy Screen at 3.04 metres in Height and 2.05 metres in length in the Side Yard of the Single Detached House

9544 - 106 Avenue NW
Project No.: 367583834-002

II 10:30 A.M. SDAB-D-20-136

Operate a Major Home Based Business (Small engine repair - TOPNUTS). Expires August 28, 2025

5118 - Terwillegar Boulevard NW
Project No.: 367358823-001

III 1:30 P.M. SDAB-D-20-137

Operate a Major Home Based Business in a Semi-detached House (RITCHIE DENTAL HYGIENE CARE CENTER)

9123 - 74 Avenue NW
Project No.: 363070602-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-140

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 367583834-002

APPLICATION TO: Erect a Privacy Screen at 3.0 4metres in Height and 2.05 metres in length in the Side Yard of the Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 10, 2020

DATE OF APPEAL: September 27, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9544 - 106 Avenue NW

LEGAL DESCRIPTION: Plan ND Blk 20 Lot 32

ZONE: (RF6) Medium Density Multiple Family Zone

OVERLAY: N/A

STATUTORY PLAN: Boyle Street / McCauley Area Redevelopment Plan

Grounds for Appeal

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

On September 10, 2020, the City of Edmonton refused my permit request for a 3.05m privacy screen stating that the maximum height for a privacy screen in an interior yard is 1.85m (Development Decision 367583834-002 attached) as per Edmonton Zoning Bylaw 12800. However, Bylaw 12800 also states that "In the case where the permitted Height of Privacy

Screening is 1.85 m, the Development Officer may vary the Height of Privacy Screening to a maximum of 3.05 m, in order to prevent visual intrusion and provide additional screening from adjacent properties.” (Section 49.2 - J). I am appealing the City’s refusal of my permit application on the grounds that the purpose of the 3.05m privacy screen is to provide the necessary additional screening to prevent visual intrusion from the adjacent property.

<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 170.2(7), **Single Detached Housing** is a **Discretionary Use** in the **(RF6) Medium Density Multiple Family 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, **Privacy Screening** means:

a feature that obscures direct and otherwise unimpeded sightlines. Common examples include: vegetative screening, such as shrubs and trees, lattice, masonry or wooden walls, parapet walls, translucent glass or any combination of these or like features. Privacy Screening does not include a balustrade railing or similar railing system.

Section 170.1 states that the **General Purpose** of the **(RF6) Medium Density Multiple Family Zone** is “to provide for medium density housing, where some units may not have access at ground level.”

<i>Privacy Screening Height</i>
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Section 49.2(g) states:

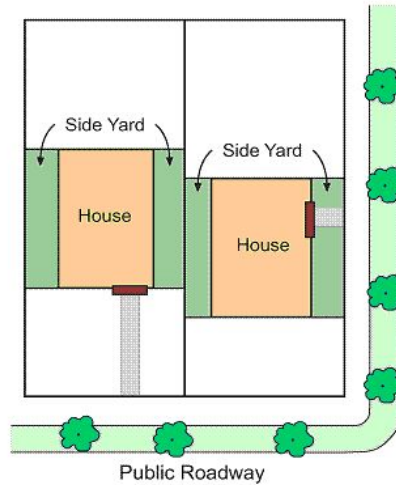
On an Interior Site, the Height of Privacy Screening, excluding vegetative screening, constructed at ground level, shall not exceed:

- i. 1.2 m for the portion of the Privacy Screening constructed in the Front Yard, and
- ii. 1.85 m in all other Yards.

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

Under section 6.1, **Side Yard** means:

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.




Development Officer’s Determination

1. The maximum height for privacy screening in the interior side yard is 1.85m (Section 49.2.g.ii).

Maximum: 1.85m
Proposed: 3.04m
Exceeds by 1.19m
 [unedited]

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-16-127	Erect a Fence higher than 1.2 metres in a Front Yard to 1.83 metres in the Front Yard	June 3, 2016; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as applied for to the Development Authority, subject to CONDITIONS.

	Project Number: 367583834-002 Application Date: JUL 14, 2020 Printed: September 10, 2020 at 11:20 AM Page: 1 of 1																							
<h2>Application for Overheight Fence Permit</h2>																								
This document is a Development Permit Decision for the development application described below.																								
Applicant	Property Address(es) and Legal Description(s) 9544 - 106 AVENUE NW Plan ND Blk 20 Lot 32 Location(s) of Work Suite: 9544 - 106 AVENUE NW Entryway: 9544 - 106 AVENUE NW Building: 9544 - 106 AVENUE NW																							
Scope of Application To erect a Privacy Screen @ 3.04m in Height & 2.05m in length in the Side Yard of the Single Detached House.																								
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%;"> Site Area (sq. m.): 376.14 </td> </tr> </table>					Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 376.14																		
Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 376.14																							
Development Application Decision Refused Issue Date: Sep 10, 2020 Development Authority: NICHOLAS, CAROLYN Reason for Refusal 1. The maximum height for privacy screening in the interior side yard is 1.85m (Section 49.2.g.ii). Maximum: 1.85m Proposed: 3.04m Exceeds by 1.19m 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 <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$182.00</td> <td style="text-align: right;">\$182.00</td> <td>97787009023B001</td> <td>Jul 14, 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;">\$182.00</td> <td style="text-align: right; border-top: 1px solid black;">\$182.00</td> <td></td> <td></td> </tr> </tbody> </table>						Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$182.00	\$182.00	97787009023B001	Jul 14, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$182.00	\$182.00		
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THIS IS NOT A PERMIT																								

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.

ITEM II: 10:30 A.M.

FILE: SDAB-D-20-136

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 367358823-001

APPLICATION TO: Operate a Major Home Based Business (Small engine repair - TOPNUTS). Expires August 28, 2025

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: August 28, 2020

DATE OF APPEAL: September 22, 2020

NOTIFICATION PERIOD: September 3, 2020 through September 24, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5118 - Terwillegar Boulevard NW

LEGAL DESCRIPTION: Plan 0325733 Blk 73 Lot 100

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: Special Area Terwillegar

STATUTORY PLAN(S): South Terwillegar Neighbourhood Area Structure Plan
Terwillegar Towne Neighbourhood Area Structure Plan

Grounds for Appeal

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

You have my comprehensive email and attached photographs--your reply email has indicated that my email and photos will be attached to the file. Please confirm receipt of the email and 7 photos relevant to the appeal. Please note, as per the email, this development adversely affects not only my property, but also that of multiple neighbors, all of whom lend support to this appeal.

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*:

Under section 115.3(5), a **Major Home Based Business** is a **Discretionary Use** in the **(RSL) Residential Small Lot Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

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.

Section 920.1 states that the **General Purpose** of the **Terwillegar Special Area** is:

to designate a portion of the Terwillegar Towne Neighbourhood, and a portion of the South Terwillegar Neighbourhood, as shown on Appendix I to this Section, as a Special Area and to adopt appropriate land Use regulations for this Special Area to achieve the objectives of the Terwillegar Town Neighbourhood Area Structure Plan (NASP), as adopted under Bylaw 11056, as amended, and the South Terwillegar Neighbourhood Area Structure Plan (NASP), as adopted under Bylaw 13454.

<i>Discretionary Use</i>

Development Officer's Determination

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed development complies with the Bylaw, and there are no variances to the development regulations.

[unedited]

Major Home Based Business


Under section 75 a **Major Home Based Business** shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;

8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

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: 367358823-001 Application Date: JUL 09, 2020 Printed: September 23, 2020 at 9:28 AM Page: 1 of 3		
<h2>Home Occupation</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) 5118 - TERWILLEGAR BOULEVARD NW Plan 0325733 Blk 73 Lot 100		
Scope of Permit To operate a Major Home Based Business (Small engine repair - TOPNUTS). Expires Aug. 28, 2025.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of business related visits/day: 3 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N </td> <td style="width: 50%; vertical-align: top;"> # of vehicles at one time: Business has Trailers or Equipment?: Description of Business: Lawnmower and small engine repair by appointment only. No more than 3 business related visits per day. Expiry Date: 2025-08-28 00:00:00 </td> </tr> </table>		# of business related visits/day: 3 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: Business has Trailers or Equipment?: Description of Business: Lawnmower and small engine repair by appointment only. No more than 3 business related visits per day. Expiry Date: 2025-08-28 00:00:00
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Development Permit Decision Approved Issue Date: Aug 28, 2020 Development Authority: FOLKMAN, JEREMY			



Project Number: **367358823-001**
Application Date: JUL 09, 2020
Printed: September 23, 2020 at 9:28 AM
Page: 2 of 3

Home Occupation

Subject to the Following Conditions

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

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
5. If there are visits associated with the business the number shall not exceed the number applied for with this application.
6. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
7. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
8. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighborhood.
9. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
10. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
11. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on Aug. 28, 2025.

Notes:

1. 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 such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.
3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

Variations

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed development complies with the Bylaw, and there are no variations to the development regulations.



Project Number: **367358823-001**
Application Date: JUL 09, 2020
Printed: September 23, 2020 at 9:28 AM
Page: 3 of 3

Home Occupation

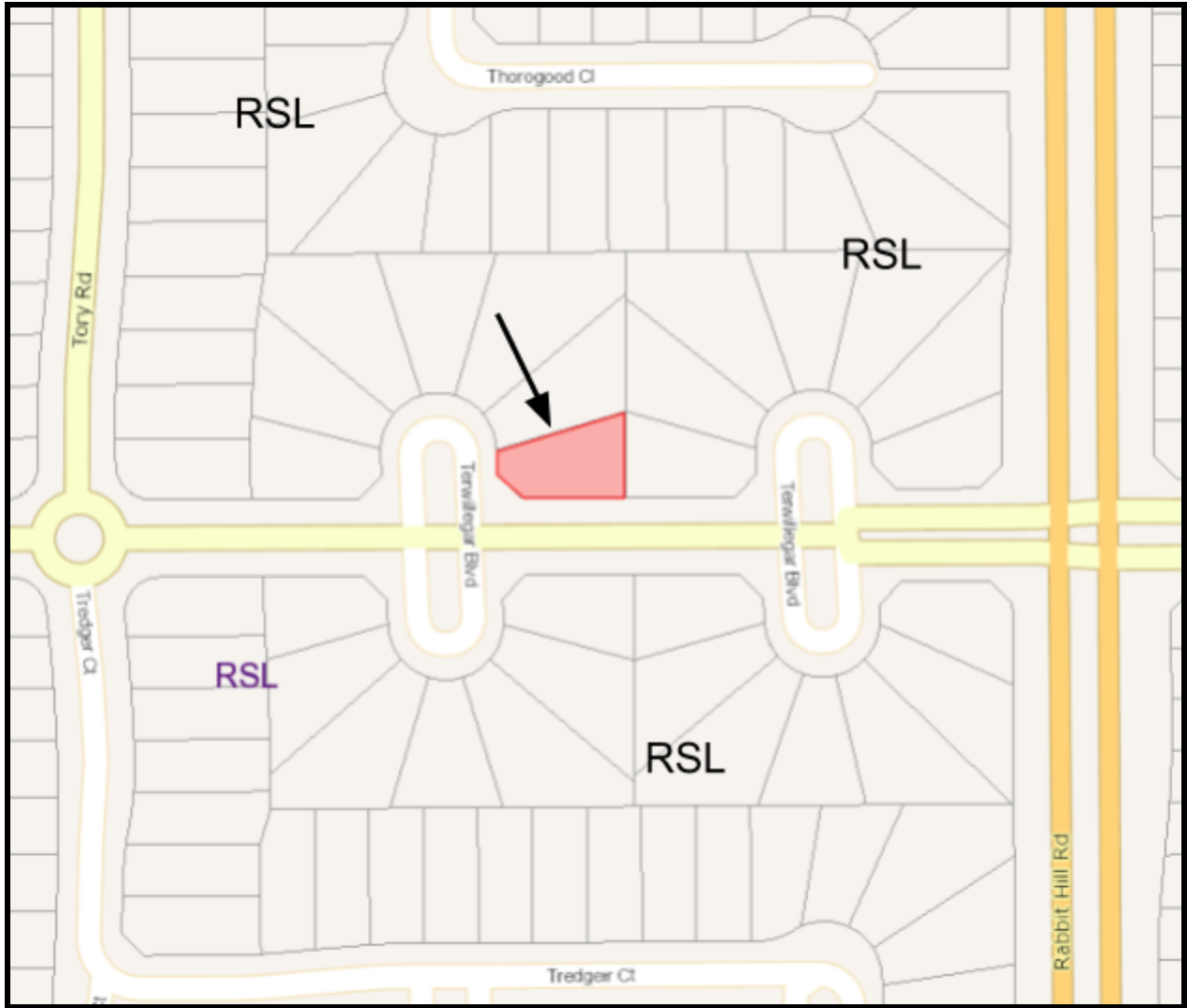
Rights of Appeal

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

Notice Period Begins: Sep 03, 2020 **Ends:** Sep 24, 2020

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$327.00	\$327.00	980520411981001	Jul 21, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$327.00	\$327.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-20-136

ITEM III: 1:30 P.M.

FILE: SDAB-D-20-137

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 363070602-001

APPLICATION TO: Operate a Major Home Based Business in a Semi-detached House (RITCHIE DENTAL HYGIENE CARE CENTER)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 11, 2020

DATE OF APPEAL: September 23, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9123 - 74 Avenue NW

LEGAL DESCRIPTION: Plan 1220633 Blk 11 Lot 24A

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

I, Kavita Anand, wish to appeal the refusal decision of the development officer because I feel there is a misunderstanding of what my home based business requires for set up and maintenance. I believe by presenting supporting information, the outlined concerns will be mitigated.

I will provide examples of other RF3 zoning properties that provide health care services. I will provide information on the equipment I am anticipating to use with their sound production. This will support that noise disturbance will not be a concern for my shared wall neighbour.

I will also provide documentation from certified professionals showing the renovations required will not change the principal character of my home.

<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

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- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the 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

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- (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 140.3(5), a **Major Home Based Business** is a **Discretionary Use** in the **(RF3) Small Scale Infill Development Zone**.

Health Services is **neither** a Permitted Use **nor** a Discretionary Use in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Under section 7.4(6), **Health Services** means:

development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services, and medical Cannabis clinics and counseling services.

Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale 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.

Major Home Based Business regulations / Use

Under section 75 a **Major Home Based Business** shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. **there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;**
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. **the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;**
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. **the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately**

located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Development Officer's Determination

1. The proposed Major Home Based Business, DENTAL HYGIENE CARE CENTER, does not consistent with the general requirements of a Major Home Based Business. The proposed business fits the definition of Health Services.

- Health Services is not a listed Use within the RF3 Zone.

2. There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings. (Section 75.2)

- The use of the electrical/electronics equipment would generate external noise, audible interference to the abutting Dwelling due to the built form of the building (Semi-detached House) with a shared party wall.

3. the Major Home Based Business shall not change the principal character of the Dwelling. (Section 75.6)

- Change of use in the basement for the proposed business service area shall be required to meet the Alberta Building Codes for a Commercial Use.

The proposed Major Home Based Business shall not be allowed, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area. (Section 75.9)

Definition:


Health Services means development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services, and medical Cannabis clinics and counseling services. (Section 7.4(26))

Major Home Based Business means development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution. (Section 7.3(7))

[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: 363070602-001 Application Date: MAY 24, 2020 Printed: September 23, 2020 at 9:50 AM Page: 1 of 2			
	<h2>Application for Home Occupation</h2>			
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 9123 - 74 AVENUE NW Plan 1220633 Blk 11 Lot 24A			
	Specific Address(es) Suite: 9123 - 74 AVENUE NW Entryway: 9123 - 74 AVENUE NW Building: 9123 - 74 AVENUE NW			
Scope of Application To operate a Major Home Based Business in a Semi-detached House (RITCHIE DENTAL HYGIENE CARE CENTER).				
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of business related visits/day: 16 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N </td> <td style="width: 50%; vertical-align: top;"> # of vehicles at one time: Business has Trailers or Equipment?: Description of Business: It is my aim to provide dental hygiene care and services to individuals who value personalized oral care and education to facilitate a healthy lifestyle. This will be achieved through a team of dental hygienists who strive to deliver excellence in their craft. Expiry Date: </td> </tr> </table>			# of business related visits/day: 16 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: Business has Trailers or Equipment?: Description of Business: It is my aim to provide dental hygiene care and services to individuals who value personalized oral care and education to facilitate a healthy lifestyle. This will be achieved through a team of dental hygienists who strive to deliver excellence in their craft. Expiry Date:
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Development Application Decision Refused Issue Date: Development Authority: LAI, ECHO				
THIS IS NOT A PERMIT				



Project Number: **363070602-001**
 Application Date: MAY 24, 2020
 Printed: September 23, 2020 at 9:50 AM
 Page: 2 of 2

Application for Home Occupation

Reason for Refusal

1. The proposed Major Home Based Business, DENTAL HYGIENE CARE CENTER, does not consistent with the general requirements of a Major Home Based Business. The proposed business fits the definition of Health Services.
 - Health Services is not a listed Use within the RF3 Zone.

2. There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings. (Section 75.2)
 - The use of the electrical/electronics equipment would generate external noise, audible interference to the abutting Dwelling due to the built form of the building (Semi-detached House) with a shared party wall.

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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
Dev. Application Fee	\$327.00	\$327.00	96080902260S001	May 29, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$327.00	\$327.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-137

▲
N