

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
October 6, 2016**

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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I	9:00 A.M.	SDAB-D-16-214	Immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite  11918 - 124 Street NW Project No.: 223356733-001
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***NOTE:*** *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM II: 10:30 A.M.

FILE: SDAB-D-16-214

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 223356733-001

ORDER TO: To comply with an Order to immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

ORDER DATE: July 22, 2016

DATE OF APPEAL: August 10, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11918 - 124 Street NW

LEGAL DESCRIPTION: Plan RN64 Blk 9 Lot 4

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

RF3 zone.  
Basement was already developed and tenents in place  
MLS listing.

[unedited]

***General Matters***

**Appeal Information:**

The Subdivision and Development Appeal Board (the “Board”) at a hearing on September 7, 2016, made and passed the following motion:

"That the appeal hearing be scheduled for October 5 or 6, 2016."

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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit,

**The Board is advised that the decision of the Development Officer is dated July 22, 2016. The Notice of Appeal was filed on August 10, 2016.**

**Determining an Appeal**

The *Municipal Government Act* states the following:

**Hearing and decision**

**687(3)** In determining an appeal, the subdivision and development appeal board

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
    - (i) the proposed development would not
      - (A) unduly interfere with the amenities of the neighbourhood, or
      - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

**Stop order**

**645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

**(2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Section 5 provides the following with respect to **Approval Required for Development**:

5.1 **No Person:**

1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.

Section 140.1 states that the **General Purpose** of the **RF3 Small Scale Infill Development Zone** is:

...to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

Under Section 140.2, **Secondary Suites** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Section 7.2(7) states:

**Secondary Suite** means development consisting of a Dwelling located within, and Accessory to, a structure in which the principal use is Single Detached 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 the side or rear of the structure. This Use Class includes the Development or Conversion of Basement space or above Grade space to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Single Detached Dwelling. This Use Class does not include Apartment Housing, Duplex Housing, Garage Suites, Garden Suites, Semi-detached Housing, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

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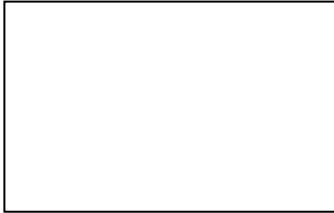


MAILING ADDRESS:  
5th Floor, 10250 - 101 Street NW  
Edmonton, AB T5J 3P4

REGISTERED

July 22, 2016

Our File: 223356733-001



Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 11918 - 124 STREET NW, legally described as Plan RN64 Blk 9 Lot 4.

**LAND USE INFRACTION:**

This property is zoned RF3 (Small Scale Infill Development Zone) in accordance with Section 140 of the Edmonton Zoning Bylaw.

On July 21, 2016 Development Compliance Officer Brendan Bolstad from the City of Edmonton having Authority to exercise development powers under Section 542 of the Municipal Government Act R.S.A. 2000, conducted an interior land-use inspection of the dwelling noted above.

Our investigation revealed that illegal Secondary Suites have been built at basement level on both sides of the semi-detached dwelling. The City of Edmonton has not issued a development permit to construct Secondary Suites at this property, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

According to section 7.2(7) of the Edmonton Zoning Bylaw 12800:

"Secondary Suite means development consisting of a Dwelling located within, and Accessory to, a structure in which the principal use is Single Detached 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 the side or rear of the structure."



**ORDER:**

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

1. Immediately cease the use of the basement as Secondary Suites.

AND

2. Decommission the Secondary Suites. This will include:
  - Removing the keyed lock separation between the upstairs and downstairs floors;
  - Remove the stove, the 220 Volt Outlet that attaches to the stove, and the 220 breaker from the electrical panel associated to the stove;
  - Remove the door, hinges, and jamb that separates the common landing between the floors, and at the entrance of the basement within the dwelling.
  - Obtain a development permit for the existing basement development, or revert the basement back to an undeveloped state.

According to section 150(1)(2) Secondary Suites within a Semi-detached dwelling is neither a permitted nor discretionary Use.

This order is to be complied with on or before August 15, 2016.

The property will be inspected to determine compliance with this Order. Furthermore, an inspection must be scheduled to confirm that the Secondary Suites have been decommissioned. Please contact Arriane Pineda at 780-944-1420 to schedule a decommissioning inspection to confirm compliance with this notice.

If you require additional assistance due to extenuating circumstances, please contact the writer at (780) 442-7190.

**CONSEQUENCES FOR NON-COMPLIANCE:**

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment. Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that if this Order is not complied with by the August 15, 2016 deadline, the City of Edmonton may carry out the Order pursuant to Section 646 by taking any action necessary to ensure that the order has been complied with and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at /80-442-/190.

Regards,

Brendan Bolstad  
Development and Zoning  
Development Services  
Phone Number: 780-442-7190  
Email Address: [Brendan.Bolstad@edmonton.ca](mailto:Brendan.Bolstad@edmonton.ca)

**Adding  
Amounts  
Owing to tax  
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
  - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
  - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
  - (d), (e) repealed 1999 c11 s35;
  - (f) costs associated with tax recovery proceedings related to the parcel;
  - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
  - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
  - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
  - (h.1) the expenses and costs of carrying out an order under section 646;
  - (i) any other amount that may be added to the tax roll under an enactment.

**Stop order**

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
  - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
  - (b) demolish, remove or replace the development, or
  - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of  
stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.

- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

- (3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

**Permit**

- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

**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.

**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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after

- (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

- (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

- (2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.

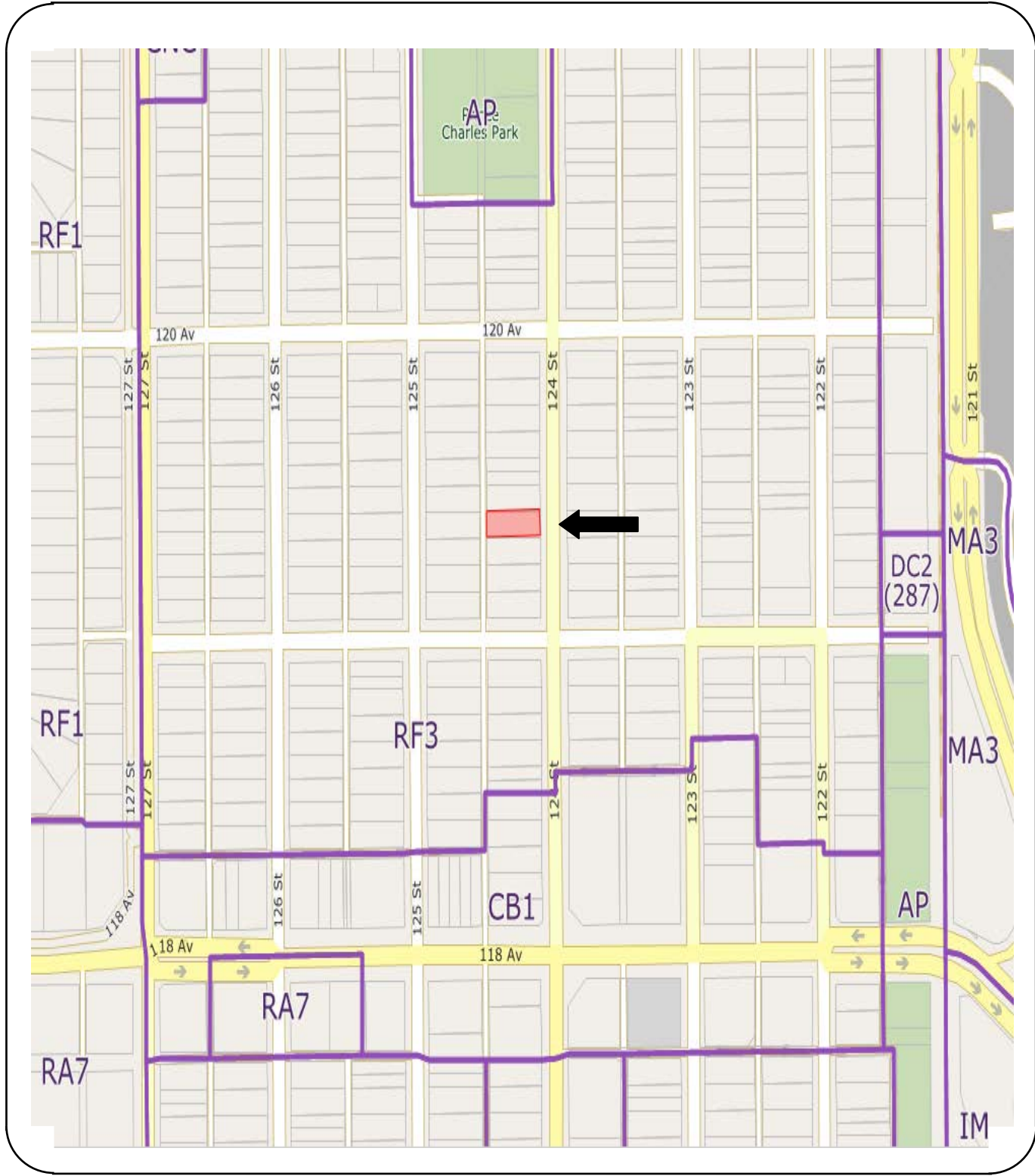
- (3) The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing

- (a) to the appellant,
- (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
- (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.

- (4) The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including

- (a) the application for the development permit, the decision and the notice of appeal, or
- (b) the order under section 645.

- (5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-214



**BUSINESS LAID OVER**

SDAB-D-16-225	An appeal by <u>Zhan (Jake) Chang (The Little Gym)</u> to change the use of a portion of a Professional, Financial and Office Support Service to an Indoor Participant Recreation Service <b><i>October 12 or 13, 2016</i></b>
SDAB-D-16-242	An appeal by Ogilvie Law to change the Use from a General retail store to a Minor Alcohol Sales Use. <b><i>October 20, 2016</i></b>
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <b><i>October 31, 2016</i></b>
SDAB-D-16-237	An appeal by <u>Pattison Outdoor Advertising</u> to install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W) <b><i>November 3, 2016</i></b>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <b><i>November 30 or December 1, 2016</i></b>

**APPEAL HEARINGS TO BE SCHEDULED**

188282372-001	An appeal by <u>Kennedy Agrios</u> to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <b><i>November 2 or 3, 2016</i></b>
188283359-001	An appeal by <u>Kennedy Agrios</u> to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <b><i>November 23 or 24, 2016</i></b>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah &amp; Terence Nikolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <b><i>December 7 or 8, 2016</i></b>