

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
October 2, 2019**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-19-161	Construct exterior alterations (new front access, Driveway and parking space, 4.57 metres x 17.37 metres) 16046 - 93 AVENUE NW Project No.: 315278379-001
<hr/>			
II	10:30 A.M.	SDAB-D-19-162	Construct an Accessory Building (detached Garage, 7.32 metres by 6.71 metres) 9116 - 78 AVENUE NW Project No.: 316178173-001
<hr/>			
III	1:30 P.M.	SDAB-D-19-163	Comply with an Order to demolish and remove the Accessory Building before July 1, 2019 5904 - 51 AVENUE NW Project No.: 147373923-005
<hr/>			
IV	1:30 P.M.	SDAB-D-19-164	Comply with an Order to demolish and remove the covered addition (cold storage addition located at the northeast side of the principal building measuring 10 metres by 10.4 metres) before July 1, 2019 5904 - 51 AVENUE NW Project No.: 147373923-003
<hr/>			
<hr/>			

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

V	1:30 P.M.	SDAB-D-19-165	Comply with an Order to demolish and remove the Accessory Building before July 1, 2019 (centre of property) 5904 - 51 AVENUE NW Project No.: 147373923-004
---	-----------	---------------	--

VI	1:30 P.M.	SDAB-D-19-166	Comply with an Order to cease the Temporary Storage Use and REMOVE all related materials by July 1, 2019 5904 - 51 AVENUE NW Project No.: 147373923-001
----	-----------	---------------	---

VII	2:30 P.M.	SDAB-D-19-167	Comply with an Order acquire a Development Permit for the addition to Accessory Building (structure developed south of detached garage) before May 6, 2019 or demolish and remove the Addition to Accessory Building (structure developed south of detached garage) and clear the site of demolition materials before May 6, 2019 11414 - 81 STREET NW Project No.: 271309389-001
-----	-----------	---------------	---

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-161

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 315278379-001

APPLICATION TO: Construct exterior alterations (new front access, Driveway and parking space, 4.57 metres by 17.37 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 20, 2019

DATE OF APPEAL: September 9, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16046 - 93 AVENUE NW

LEGAL DESCRIPTION: Plan 4847KS Blk 36 Lot 23

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:

There are currently several houses on my Avenue with a driveway and detached garages facing the alley. I think its fair that I should have the same opportunity.

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.

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, [...]

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 clauses (a.4) and (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*:

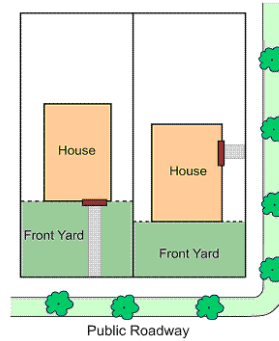
Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

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

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.



Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is:

The purpose of this 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

Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17).

Proposed: The vehicular access is located off of 93 Avenue NW (front).
[unedited]

Location of Vehicular Parking Facilities

Section 54.2(2) states:

...

e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:

- i. parking spaces shall not be located within a Front Yard in a Residential Zone;**

...

Development Officer's Determination

Parking - Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.i)

Proposed: The parking spaces are located within the Front Yard.
[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.

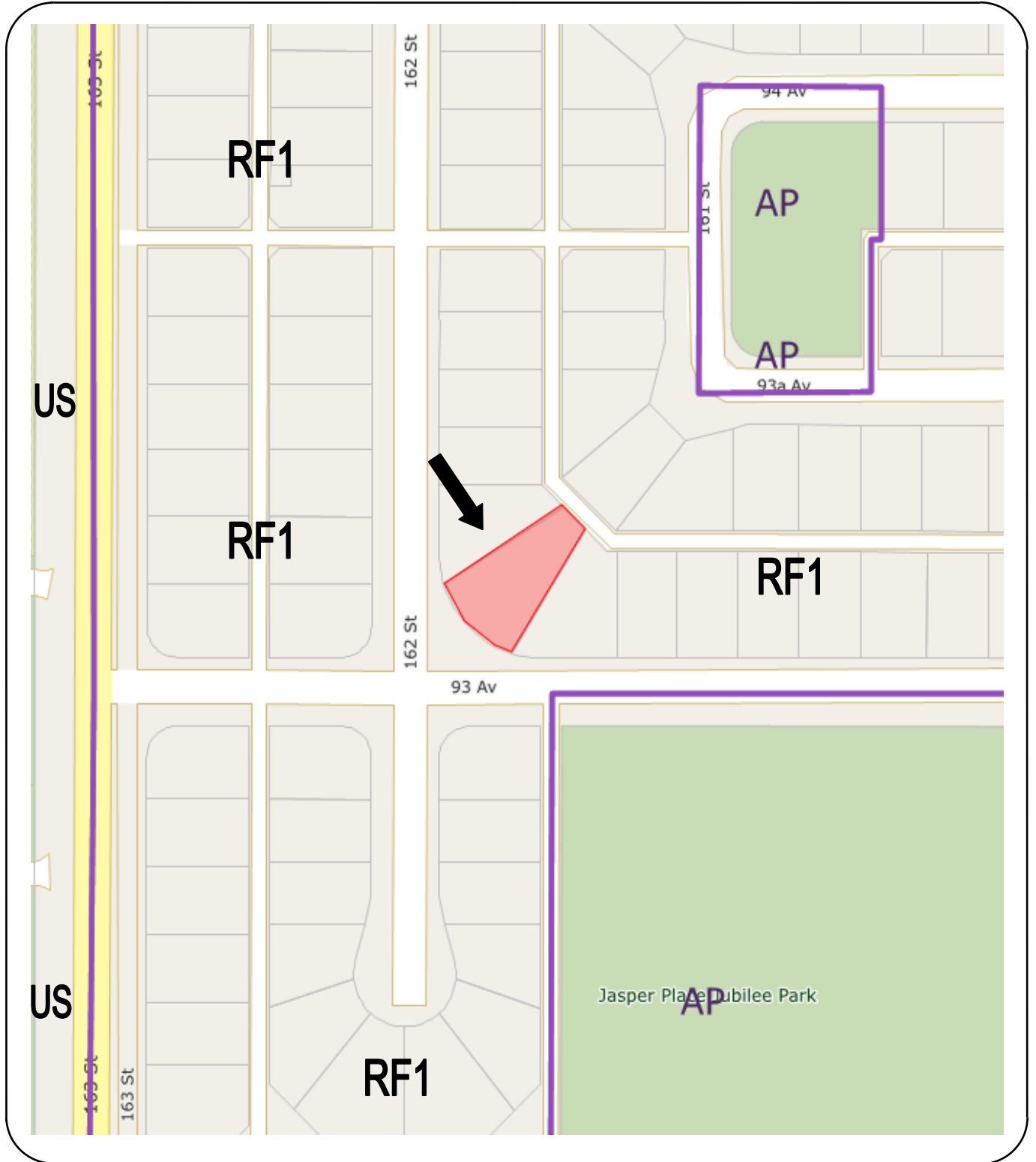
Section 814.5(2) states:

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 metres 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 metres of the Site of the proposed development and the President of each Community League	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.

	<h2 style="margin: 0;">Application for Driveway Extension Permit</h2>	Project Number: 315278379-001 Application Date: MAY 30, 2019 Printed: August 20, 2019 at 3:37 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
Applicant <div style="border: 1px solid black; width: 200px; height: 40px; margin: 0 auto;"></div>	Property Address(es) and Legal Description(s) 16046 - 93 AVENUE NW Plan 4847KS Blk 36 Lot 23 Location(s) of Work Entryway: 16046 - 93 AVENUE NW Building: 16046 - 93 AVENUE NW																					
Scope of Application To construct exterior alterations (new front access, Driveway and parking space, 4.57m x 17.37m).																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding-right: 10px;"> Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="padding-left: 10px;"> Site Area (sq. m.): 839.96 </td> </tr> </table>			Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 839.96																		
Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 839.96																					
I/We certify that the above noted details are correct. Applicant signature: _____																						
Development Application Decision Refused Issue Date: Aug 20, 2019 Development Authority: PAYNE, KYLE Reason for Refusal Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17). Proposed: The vehicular access is located off of 93 Avenue NW (front). Parking - Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.i) Proposed: The parking spaces are located within the Front Yard. 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 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>Development Application Fee</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">\$173.00</td> <td>05885786</td> <td>May 30, 2019</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;">\$173.00</td> <td style="text-align: right; border-top: 1px solid black;">\$173.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$173.00	\$173.00	05885786	May 30, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$173.00	\$173.00		
	Fee Amount	Amount Paid	Receipt #	Date Paid																		
Development Application Fee	\$173.00	\$173.00	05885786	May 30, 2019																		
Total GST Amount:	\$0.00																					
Totals for Permit:	\$173.00	\$173.00																				
THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-161



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-162

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 316178173-001

APPLICATION TO: Construct an Accessory Building
(detached Garage, 7.32 metres by 6.71 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 30, 2019

DATE OF APPEAL: September 5, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9116 - 78 AVENUE NW

LEGAL DESCRIPTION: Plan 2000U Blk 3 Lot 5

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 am building a garage with trusses designed for storage. It is over height by less than 1 meter overall which would not be very noticeable at all to the neighbourhood. As it stands right now garden suites can be well over 3 meters higher than a typical garage.

Thank you for your time.

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.

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, [...]

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 clauses (a.4) and (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 140.2(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development 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, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Section 140.1 states that the **General Purpose** of **(RF1) Single Detached Residential 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.

Accessory Buildings in Residential Zones - Height

Section 50.3(3) states "an Accessory building or structure shall not exceed 4.3 m [...]"

Development Officer's Determination

Garage Height (Height to midpoint) - An Accessory building shall not exceed 4.3m in Height. (Section 50.3.3)

- Required: 4.3m
- Proposed: 5.0m
- Exceeds by: 0.7m [unedited]

Height and Grade

Section 52.2(c) states:

In determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

...

- c. 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 Officer's Determination

Garage Height (Height to peak) - The ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height. (Section 52.2.c)

- Required: 5.8m
- Proposed: 6.7m
- Exceeds by: 0.9m [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: 316178173-001 Application Date: JUN 10, 2019 Printed: August 30, 2019 at 2:18 PM Page: 1 of 2										
<h2 style="margin: 0;">Application for Accessory Building Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
Applicant <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 9116 - 78 AVENUE NW Plan 2000U Blk 3 Lot 5										
Scope of Application To construct an Accessory Building (detached Garage, 7.32m x 6.71m).											
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding: 5px;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%; padding: 5px;"> Site Area (sq. m.): 404.18 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 404.18								
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 404.18										
I/We certify that the above noted details are correct. Applicant signature: _____											
Development Application Decision Refused Issue Date: Aug 30, 2019 Development Authority: SELTZ, AARON Reason for Refusal Garage Height (Height to midpoint) - An Accessory building shall not exceed 4.3m in Height. (Section 50.3.3) - Required: 4.3m - Proposed: 5.0m - Exceeds by: 0.7m Garage Height (Height to peak) - The ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height. (Section 52.2.c) - Required: 5.8m - Proposed: 6.7m - Exceeds by: 0.9m 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 style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%;">Fee Amount</th> <th style="width: 10%;">Amount Paid</th> <th style="width: 10%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Safety Codes Fee</td> <td style="text-align: center;">\$4.50</td> <td style="text-align: center;">\$4.50</td> <td style="text-align: center;">05910098</td> <td style="text-align: center;">Jun 10, 2019</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Safety Codes Fee	\$4.50	\$4.50	05910098	Jun 10, 2019
	Fee Amount	Amount Paid	Receipt #	Date Paid							
Safety Codes Fee	\$4.50	\$4.50	05910098	Jun 10, 2019							
THIS IS NOT A PERMIT											



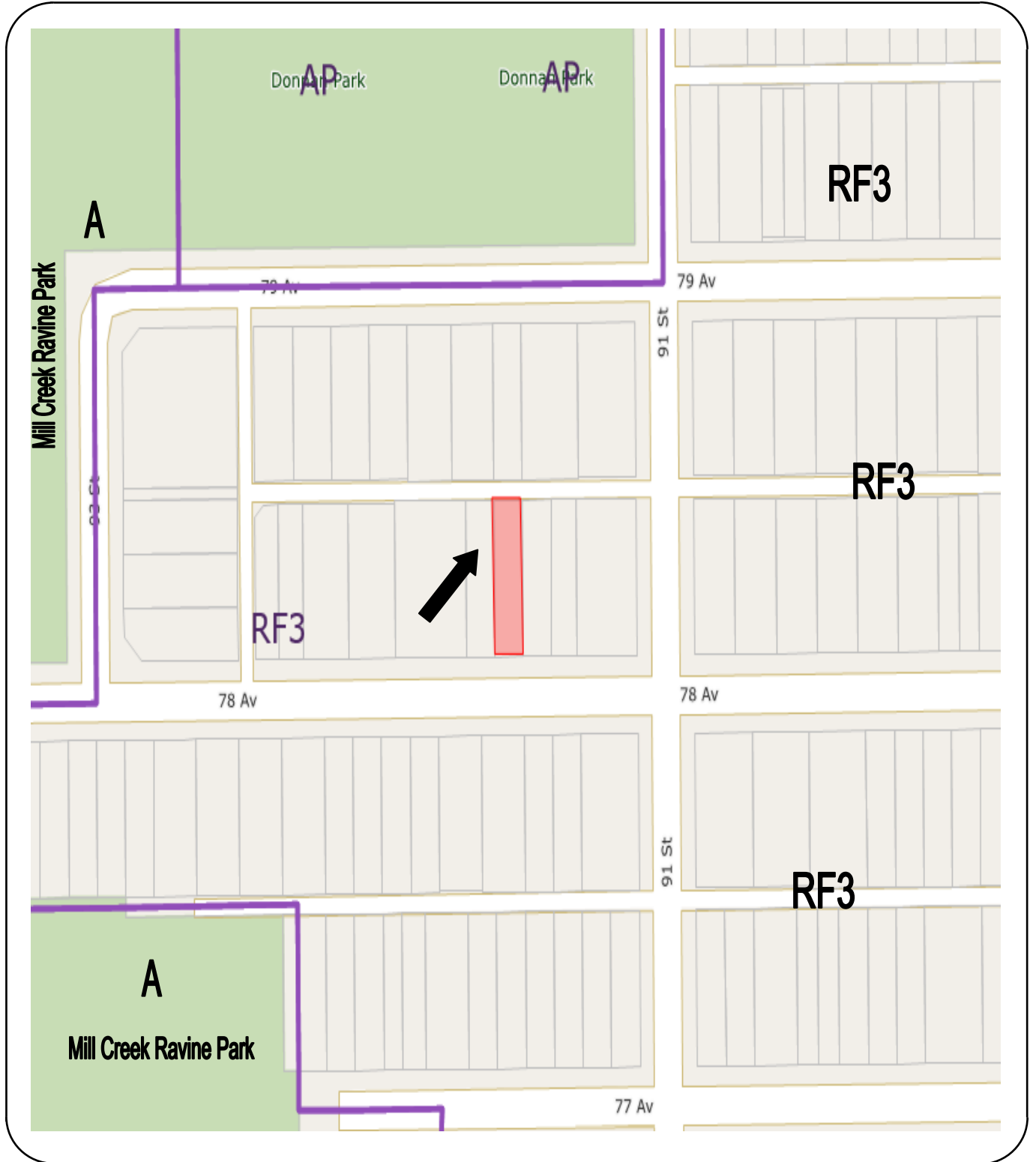
Application for Accessory Building Permit

Project Number: **316178173-001**
Application Date: JUN 10, 2019
Printed: August 30, 2019 at 2:18 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$118.00	\$118.00	05910098	Jun 10, 2019
Building Permit Fee (Accessory Building)	\$110.00	\$110.00	05910098	Jun 10, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$232.50</u>	<u>\$232.50</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-162



ITEM III/IV/V/VI: 1:30 P.M.

FILE: SDAB-D-19-163/164/165/166

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT COMPLIANCE OFFICER

APPELLANT:

APPLICATION NO.: 147373923-005 (SDAB-D-19-163)

ORDER TO: Demolish and remove the Accessory Building before July 1, 2019 (rear of the property)

APPLICATION NO.: 147373923-003 (SDAB-D-19-164)

ORDER TO: Demolish and remove the covered addition (cold storage addition located at the northeast side of the principal building measuring 10 metres by 10.4 metres) before July 1, 2019

APPLICATION NO.: 147373923-004 (SDAB-D-19-165)

ORDER TO: Demolish and remove the Accessory Building before July 1, 2019 (centre of property)

APPLICATION NO.: 147373923-001 (SDAB-D-19-166)

ORDER TO: Cease the Temporary Storage Use and REMOVE all related materials by July 1, 2019

ORDER DATES: March 13, 2019

DATE OF APPEALS: September 10, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5904 - 51 AVENUE NW

LEGAL DESCRIPTION: Plan 2069RS Lot 2

ZONE: A Metropolitan Recreation Zone
AGI Industrial Reserve Zone

OVERLAY: North Saskatchewan River Valley and Ravine System Protection Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

When the property was purchased it was under a different zoning clarification. We are working on the rezoning application.

General Matters

The Board is advised that the Stop Orders are dated March 13, 2019 and the Appeals are dated September 10, 2019.

Appeal Information:

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

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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(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.

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.

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 clauses (a.4) and (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.

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

(a) to make it a conforming building,

(b) for routine maintenance of the building, if the development authority considers it necessary, or

(c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 610.1 states that the **General Purpose** of the **(AG) Agricultural Zone** is “to conserve agricultural and rural Uses.”

Section 630.1 states that the **General Purpose** of the **(AGI) Industrial Reserve Zone** “is to allow for agricultural and rural Uses that do not prejudice future Use when the lands are required for Industrial Use.”

Within the (AG) Agricultural Zone, **Temporary Storage** is not a listed use.

Within the (AGI) Industrial Reserve Zone, **Temporary Storage** is a Discretionary Use (Section 630.3(11)).

Under Section 7.5(6), **Temporary Storage** means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

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.”

<i>Requirement for a Development Permit</i>
--

Section 5.1 states:

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

<i>Previous Subdivision and Development Appeal Board Decision</i>
--

Application Number	Description	Decision
SDAB-D-05-294	To construct an Accessory General Industrial Use structure (bridge crossing to support a maximum weight of 27,216 kilograms)	November 4, 2005; that the appeal be DENIED and the DEVELOPMENT REFUSED

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.

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada
edmonton.ca/developmentcompliance



March 13, 2019

Our File: 147373923-005



MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 5904 51 Avenue NW in Edmonton, Alberta, legally described as Plan 2069RS Lot 2.

This Property was inspected by Development Compliance Officer Steven Gowda, on March 5, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

The Property is zoned as Metropolitan Recreation Zone (A) and Industrial Reserve Zone (AGI) in accordance with sections 540 and 630 of the Edmonton Zoning Bylaw 12800. Our investigation revealed an Accessory building (grey steel building located along the north portion of the property measuring 9.2m x 12.4m) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop an Accessory building which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are

hereby ordered to:

Demolish and remove the Accessory building before July 1, 2019. As indicated on Appendix A

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after July 1, 2019 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

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.

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 780-944-7697.

Regards,

Steven Gowda
Development and Zoning
Development Services
Phone Number: 780-944-7697
Email Address: Steven.Gowda@edmonton.ca

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

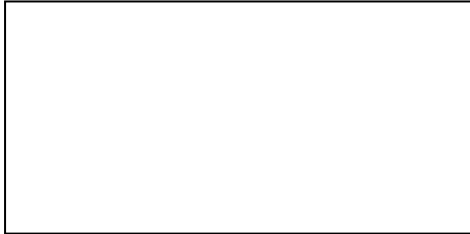
5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada



edmonton.ca/developmentcompliance

March 13, 2019

Our File: 147373923-003



MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 5904 51 Avenue NW in Edmonton, Alberta, legally described as Plan 2069RS Lot 2.

This Property was inspected by Development Compliance Officer Steven Gowda, on March 5, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

The Property is zoned as Metropolitan Recreation Zone (A) and Industrial Reserve Zone (AGI) in accordance with sections 540 and 630 of the Edmonton Zoning Bylaw 12800. Our investigation revealed a covered Addition (cold storage Addition located at the Northeast side of the principal building measuring 10m x 10.4m) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop a covered Addition which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Please note that a Development Permit cannot be acquired for this covered Addition as the principal industrial building is non-conforming per section 643 of the Municipal Government Act

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

1. Demolish and remove the covered Addition (cold storage Addition located at the Northeast side of the principal building measuring 10m x 10.4m) before July 1, 2019. As indicated in Appendix A

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after July 1, 2019 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

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.

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 780-944-7697.

Regards,

Steven Gowda
Development and Zoning
Development Services
Phone Number: 780-944-7697
Email Address: Steven.Gowda@edmonton.ca

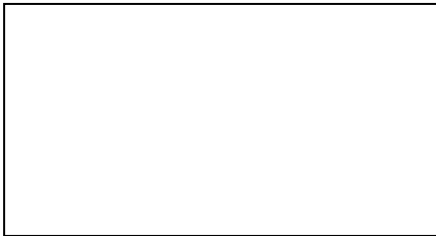
City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada

edmonton.ca/developmentcompliance

March 13, 2019

Our File: 147373923-004



MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 5904 51 Avenue NW in Edmonton, Alberta, legally described as Plan 2069RS Lot 2.

This Property was inspected by Development Compliance Officer Steven Gowda, on March 5, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

The Property is zoned as Metropolitan Recreation Zone (A) and Industrial Reserve Zone (AGI) in accordance with sections 540 and 630 of the Edmonton Zoning Bylaw 12800. Our investigation revealed an Accessory building (grey steel building located centrally in the property measuring 12m x 15m) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop an Accessory building which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are

Hearing Date: Wednesday, October 2, 2019

32

hereby ordered to:

Demolish and remove the Accessory building before July 1, 2019. As indicated on Appendix A

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after July 1, 2019 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

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.

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 780-944-7697.

Regards,

Steven Gowda
Development and Zoning
Development Services
Phone Number: 780-944-7697
Email Address: Steven.Gowda@edmonton.ca

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada
edmonton.ca/developmentcompliance



March 13, 2019

Our File: 147373923-001



MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 5904 51 Avenue NW in Edmonton, Alberta, legally described as Plan 2069RS Lot 2.

This Property was inspected by Development Compliance Officer Steven Gowda, on March 5, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

The Property is zoned as Metropolitan Recreation Zone (A) and Industrial Reserve Zone (AGI) in accordance with sections 540 and 630 of the Edmonton Zoning Bylaw 12800. Our investigation revealed a Temporary Storage Use (fenced storage of commercial trucks, industrial machinery, tools, construction equipment at the North portion of the property) has been developed without a Development Permit.

Temporary Storage is a Discretionary Use in the Industrial Reserve Zone and is not a Permitted or Discretionary Use in the Metropolitan Recreation Zone. Please see the attached Appendix A outlining the above-noted area.

The City of Edmonton has not issued a Development Permit to develop a Temporary Storage Use which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Temporary Storage Use means:

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

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

CEASE the Temporary Storage Use and REMOVE all related materials by July 1, 2019. As indicated in Appendix A

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after July 1, 2019 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

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.

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 780-944-7697.

Regards,

Steven Gowda
Development and Zoning
Development Services
Phone Number: 780-944-7697

**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 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 Boa
- (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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(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

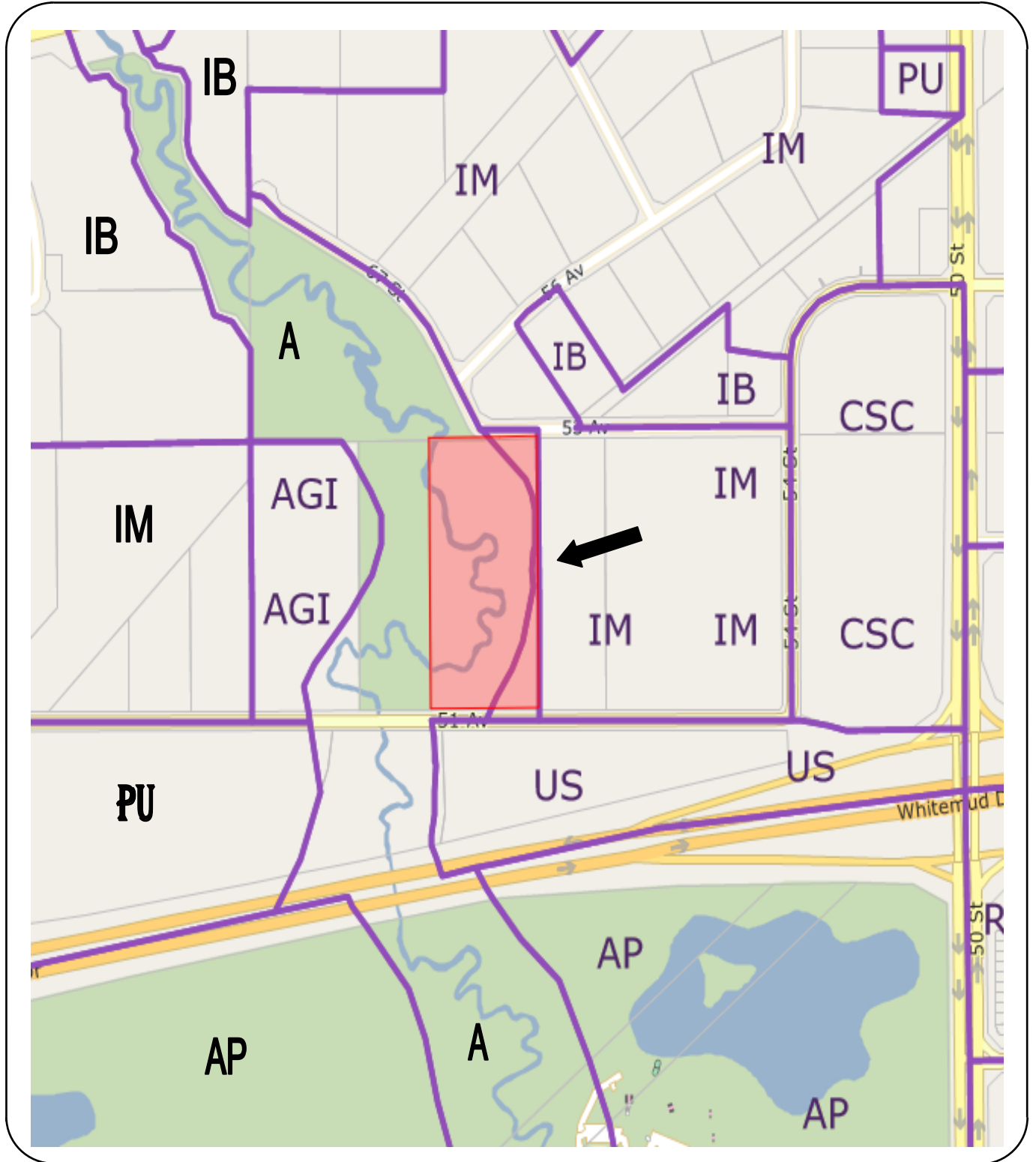
- 685(1)** If a development authority
 - (a) fails or refuses to issue a development permit to a person,
 - (b) issues a development permit subject to conditions, or
 - (c) issues an order under section 645,
 the person applying for the permit or affected by the order under section 645 may appeal to 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 or the application for the development permit was deemed to be refused under section 683.1(8).
- (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) is made by a council, there is no appeal to the subdivision and development appeal board, or
 - (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.

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) within 21 days after the date on which the decision is made under section 642, or
 - (A) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
 - (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) 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), 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.
- (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.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (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-19-163/164/165/166



ITEM VII: 2:30 P.M.

FILE: SDAB-D-19-167

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT COMPLIANCE OFFICER

APPELLANT:

APPLICATION NO.: 271309389-001

ORDER TO: Acquire a Development Permit for the addition to Accessory Building (structure developed south of detached garage) before May 6, 2019 or demolish and remove the Addition to Accessory Building (structure developed south of detached garage) and clear the site of demolition materials before May 6, 2019

DECISION OF THE BYLAW ENFORCEMENT OFFICER: Order Issued

DECISION DATE: April 8, 2019

DATE OF APPEAL: September 4, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11414 - 81 STREET NW

LEGAL DESCRIPTION: Plan 5850R Blk 3 Lot 23

ZONE: RA8 Medium Rise Apartment Zone

OVERLAY: N/A

STATUTORY PLAN: Parkdale Area Redevelopment Plan

Grounds for Appeal

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

I was not aware of the rules.

General Matters

The Board is advised that the Stop Order is dated April 8, 2019 and the Appeal is dated September 4, 2019.

Appeal Information:

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

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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(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.

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.

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 clauses (a.4) and (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 220.3(11), **Single Detached Housing that existed prior to August 26, 2019**, is a Discretionary Use in the (RA8) Medium Rise Apartment 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 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, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

<i>Section 5.1</i>

5. Approval Required For Development

5.1 Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

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.

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada



edmonton.ca/developmentcompliance

April 8, 2019

Our File: 271309389-001



MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 11414 - 81 STREET NW in Edmonton, Alberta, legally described as Plan 5850R Blk 3 Lot 23.

This Property was inspected by Development Compliance Officer Justin Hogberg, on April 4, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned (RA8) Medium Rise Apartment Zone in accordance with Section 220 of Edmonton Zoning Bylaw 12800. Our investigation revealed an Addition to an Accessory building (structure developed south of detached garage) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop an Addition to an Accessory building which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

1. Acquire a Development Permit for the Addition to Accessory building (structure developed south of detached garage) before May 6, 2019.

OR

2. Demolish and remove the Addition to Accessory building (structure developed south of detached garage) and clear the site of demolition materials before May 6, 2019.

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after May 6, 2019 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

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 780-496-6220.

Regards,

Justin Hogberg
Development and Zoning
Development Services
Phone Number: 780-496-6220
Fax Number: 780-496-6054
Email Address: Justin.Hogberg@edmonton.ca

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

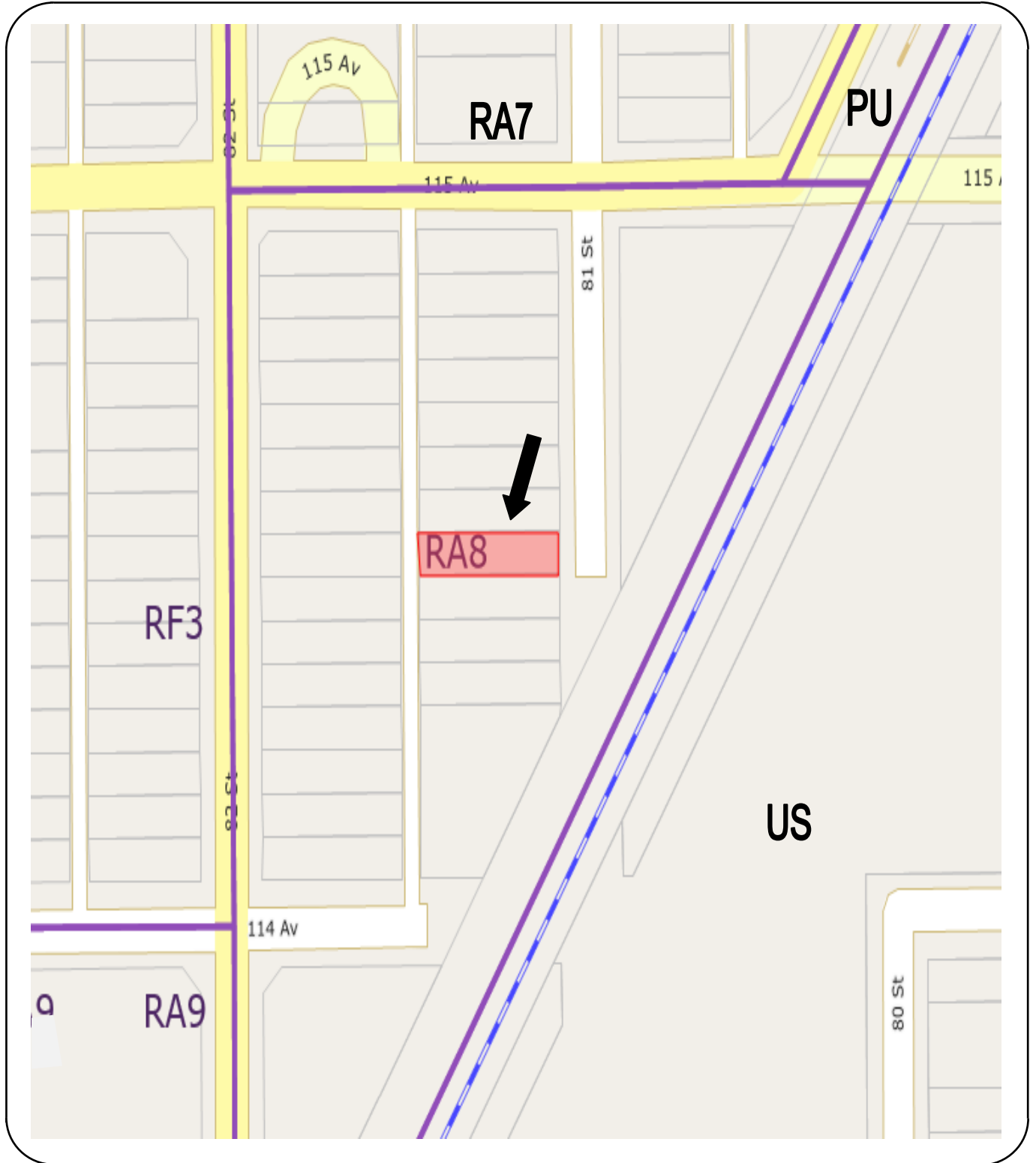
- 685(1)** If a development authority
- (a) fails or refuses to issue a development permit to a person,
 - (b) issues a development permit subject to conditions, or
 - (c) issues an order under section 645,
- the person applying for the permit or affected by the order under section 645 may appeal to 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 or the application for the development permit was deemed to be refused under section 683.1(8).
- (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) is made by a council, there is no appeal to the subdivision and development appeal board, or
 - (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.

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) within 21 days after the date on which the decision is made under section 642, or
 - (A) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
 - (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) 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), 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.
- (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.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (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-19-167

