

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 1:30 P.M.
September 29, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 1:30 P.M. SDAB-D-21-162

Leave as built a Single Detached House.

63, 18343 - Lessard Road NW

Project No.: 403665185-002

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

ITEM I: 1:30 P.M.

FILE: SDAB-D-21-162

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 403665185-002

APPLICATION TO: Leave as built a Single Detached House.

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 26, 2021

DATE OF APPEAL: September 3, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 63, 18343 - Lessard Road NW

LEGAL DESCRIPTION: Plan 1223111 Unit 63

ZONE: DC2.953 - Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Donsdale Neighbourhood Structure Plan

Grounds for Appeal

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

The home was built in in 2016 and is currently occupied . The house did not have a prior RPR or compliance at the time of completion as it was set up as a show home. It was recently sold which is where the discrepancy came to light. It would be literally a huge issue to actually demolish the home and rebuild it in the proper location.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

...

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal the decision in accordance with subsection (2.1).

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.

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

General Provisions from the DC2.953 Site Specific Development Control Provision ("DC2"):

Under section DC2.953.3.c (Area A), **Single Detached Housing** is a **Listed Use** in the **DC2**.

Section DC2.953.1 states that the **General Purpose** of the **DC2** is:

To revise a Site Specific Development Control Provision (Area A, B & C) to accommodate the development of a comprehensively planned, seniors-oriented Continuing Care Retirement Community with low and medium density housing and institutional uses plus a variety of ancillary uses (e.g. dining facilities, health care services, recreation & fitness facilities) with site development regulations to ensure compatibility with adjacent residential development with a revision the east setback of Unit 34, Plan 1223111 from 4.5 m to 1.2 m.

DC2 Site Specific Development Control Provision

DC2.953.4.c (Area A) states:

Before any development permits are issued in Areas A, B or C, a subdivision application shall be approved to create a separate parcel for the DC2 site. Development in all areas shall comply with the recommendations of the Geotechnical Evaluation prepared by Nichol's Environmental Canada, dated November 1999.

Area A

Development within Area A shall be in general conformance with the concept illustrated on the site plan (Appendix 1) and shall comply with the following criteria:

- c. there shall be a minimum of 1.2m (3.94 ft) of space adjacent to the side wall of each building for a total of 2.4m (7.88 ft) between buildings. Where a building is located adjacent to a vehicular entrance to the site, there shall be a minimum of 3m (9.84 ft) between the building and the road carriageway.

Development Officer's Determination


Section DC2.953.4 (Area A) (c) - There shall be a minimum of 1.2m (3.94 ft) of space adjacent to the side wall of each building for a total of 2.4m (7.88 ft) between buildings.

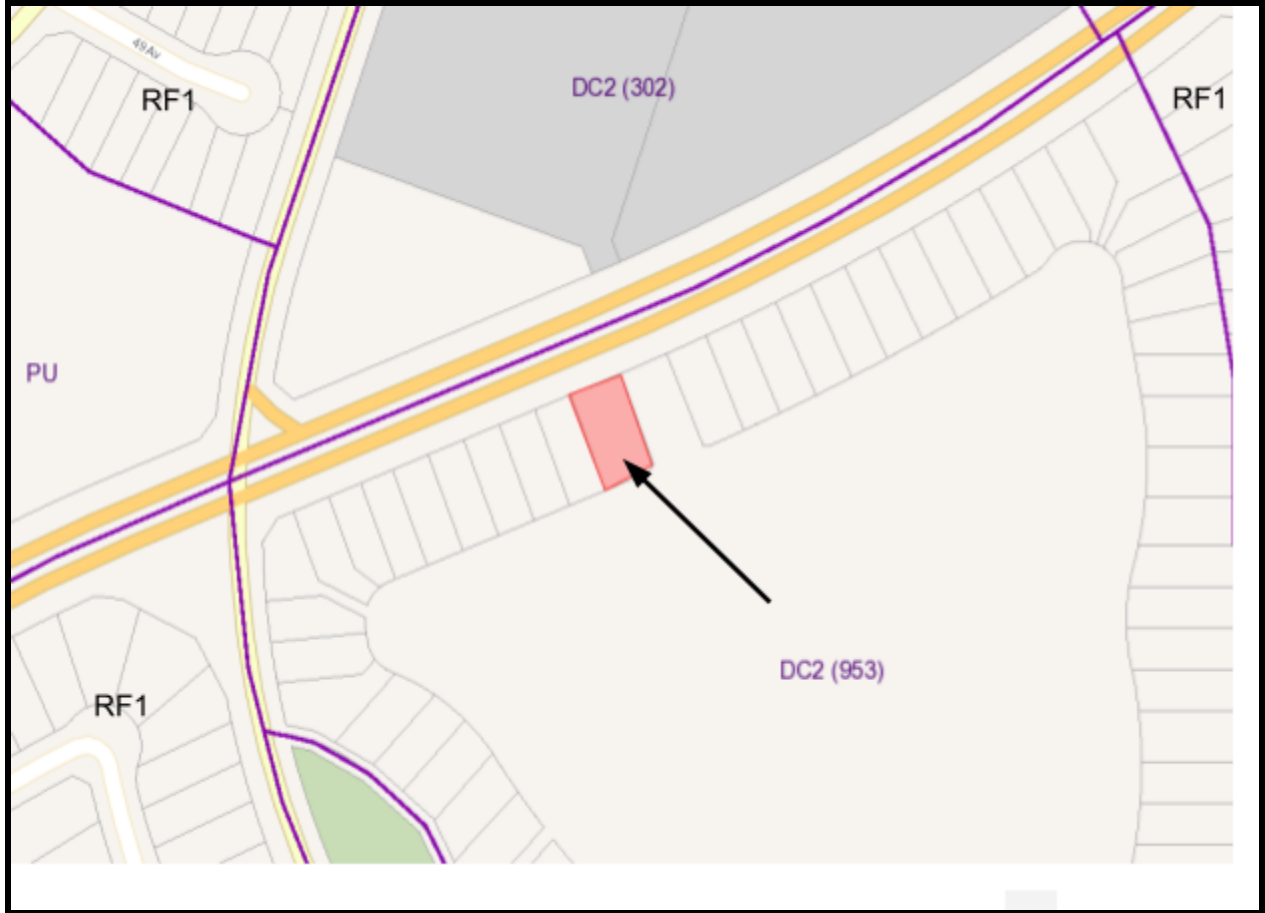
- Proposed "leave as built" minimum space: 0.93 m;
- Deficient by: 0.3m;
- Total space to the side wall of each building: 2.39m (0.93m (subject unit #63) + 1.46m (right abutting Unit #62))

[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: 403665185-002 Application Date: JUL 27, 2021 Printed: August 26, 2021 at 2:00 PM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 63, 18343 - LESSARD ROAD NW Plan 1223111 Unit 63																				
Scope of Application To leave as built a Single Detached House.																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area: (none)																		
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Development Application Decision Refused Issue Date: Aug 26, 2021 Development Authority: LAI, ECHO Reason for Refusal Section DC2.953.4 (Area A) (c) - There shall be a minimum of 1.2m (3.94 ft) of space adjacent to the side wall of each building for a total of 2.4m (7.88 ft) between buildings. <ul style="list-style-type: none"> - Proposed "leave as built" minimum space: 0.93 m; - Deficient by: 0.3m; - Total space to the side wall of each building: 2.39m (0.93m (subject unit #63) + 1.46m (right abutting Unit #62)) Rights of Appeal The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.																					
Fees <table style="width: 100%; border: none; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">07185609</td> <td style="text-align: right;">Aug 10, 2021</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;">\$170.00</td> <td style="text-align: right; border-top: 1px solid black;">\$170.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$170.00	\$170.00	07185609	Aug 10, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$170.00	\$170.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ← **File: SDAB-D-21-162** ▲
N