

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
September 30, 2015**

**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-15-216	To construct an addition to a Single Detached House (rear attached Garage and mudroom, irregular shape 11.88m x 6.11m x 6.91m) and to demolish an existing rear detached Garage)
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267 - Gariepy Crescent NW  
Project No.: 175159478-002

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**BREAK: 10:15 A.M. TO 10:30 A.M.**

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II	10:30 A.M.	SDAB-D-15-217	To construct a Semi-Detached House with front verandas, 2 fireplaces, rear uncovered decks (3.05m x 6.1m), uncovered rooftop patios (6.09m x 4.27m) and Basement development (Not to be used as an additional Dwellings), and to demolish a Single Detached House and Accessory Building rear Detached Garage
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11424 - 71 Avenue NW  
Project No.: 175574886-001

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**LUNCH BREAK: 12:30 P.M. TO 1:30 P.M.**

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III	1:30 P.M.	SDAB-D-15-218	To construct a Restaurant (376 sq.m. of Public Space; including outdoor patio)
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4303 - 167 Avenue NW  
Project No.: 164197540-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-15-216

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 175159478-002

APPLICATION TO: Construct an addition to a Single Detached House (rear attached Garage and mudroom, irregular shape 11.88m x 6.11m x 6.91m) and to demolish an existing rear detached Garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused (See pages 8-9 for Decision)

DECISION DATE: August 25, 2015

DATE OF APPEAL: September 8, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 267 Gariepy Crescent NW

LEGAL DESCRIPTION: Plan 7722037 Blk 2 Lot 17

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

***Grounds for Appeal***

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

- improve visibility especially in winter due to high windrows
  - lane narrowed in winter due to huge windrows
  - lane used primarily for walkers/dogs
  - improved property value with architectural design
  - senior so make it possible to continue living in my home
- [unedited]

***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 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
  - ...

The decision of the Development Authority was dated August 25, 2015. The Notice of Appeal Period expired on September 8, 2015 and the Notice of Appeal was filed on September 8, 2015.

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

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

Under section 7.2(9), **Single Detached Housing** is defined as follows:

... development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 140.1 states the following with respect to the **General Purpose** of the **RF1 Single Detached Residential Zone**:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

***Minimum Rear Setback***

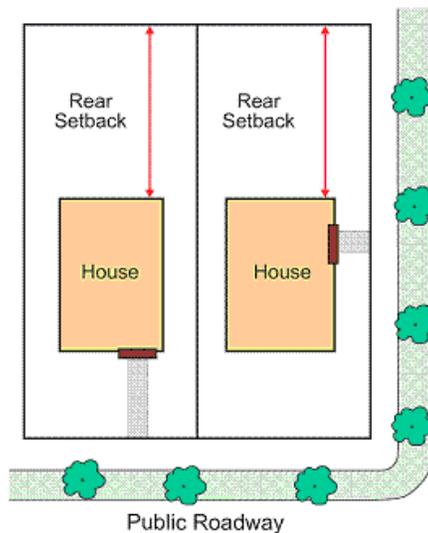
The *Edmonton Zoning Bylaw* states the following:

**110.4 Development Regulations for Permitted and Discretionary Uses**

...

9. The minimum Rear Setback shall be 7.5 m, except on a Corner Site, where a primary Dwelling with an attached Garage faces the flanking public roadway, it may be reduced to 4.5 m.

Section 6.1(82) defines **Rear Setback** as “the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.”



**Development Officer’s Determination**

1. Section 110.4(9) - The minimum Rear Setback shall be 7.5m.

Minimum Rear Setback: 7.50m

Proposed Rear Setback: 1.93m

Deficient by: 5.57m

[unedited]

**Side Setbacks**

The *Edmonton Zoning Bylaw* states the following:

**110.4 Development Regulations for Permitted and Discretionary Uses**

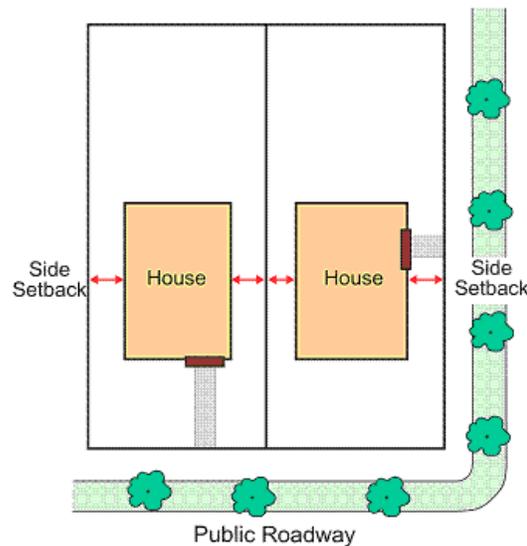
...

10. Side Setbacks shall be established on the following basis:

- a. Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side;
- b. where there is no Lane abutting the Site, one Side Setback shall be at least 3.0 m for vehicular access, unless there is an attached Garage or a Garage that is an integral part of a Dwelling;

...

Section 6.1(90) defines **Side Setback** as “the distance that a development or a specified portion of it, must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space or Separation Space.”



**Development Officer’s Determination**

2. Section 110.4(10) - Side Setbacks shall total at least 20% of the Site Width.

Required total of side setbacks: 3.08m  
 Proposed total of side setbacks: 2.68m  
 Deficient by: 0.40m  
 [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. 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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	Project Number: <b>175159478-002</b> Application Date: JUN 30, 2015 Printed: August 25, 2015 at 4:51 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Minor Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
<b>Applicant</b>  O'BRIEN, BEVERLEY 	<b>Property Address(es) and Legal Description(s)</b> 267 - GARIEPY CRESCENT NW Plan 7722037 Blk 2 Lot 17  <b>Specific Address(es)</b> Suite: 267 - GARIEPY CRESCENT NW Entryway: 267 - GARIEPY CRESCENT NW Building: 267 - GARIEPY CRESCENT NW		
<b>Scope of Application</b> To construct an addition to a Single Detached House (rear attached Garage and mudroom, irregular shape 11.88m x 6.11m x 6.91m) and to demolish an existing rear detached Garage)			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of Dwelling Units Add/Remove: 0                      Client File Reference Number:                      Minor Dev. Application Fee: House Addition                      Secondary Suite Included?: N                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     Class of Permit: (none)                      Lot Grading Needed?: N                      New Sewer Service Required: N                      Stat. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: House Addition Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: House Addition Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct.  Applicant signature: _____			
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> <ol style="list-style-type: none"> <li>1. Section 110.4(9) - The minimum Rear Setback shall be 7.5m.                       Minimum Rear Setback: 7.50m                      Proposed Rear Setback: 1.93m                      Deficient by: 5.57m</li>   <li>2. Section 110.4(10) - Side Setbacks shall total at least 20% of the Site Width.                       Required total of side setbacks: 3.08m                      Proposed total of side setbacks: 2.68m                      Deficient by: 0.40m</li> </ol>			
<b>Rights of Appeal</b> The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.			
<b>Issue Date:</b> Aug 25, 2015 <b>Development Authority:</b> XIE, JASON <b>Signature:</b> _____			
<b>THIS IS NOT A PERMIT</b>			



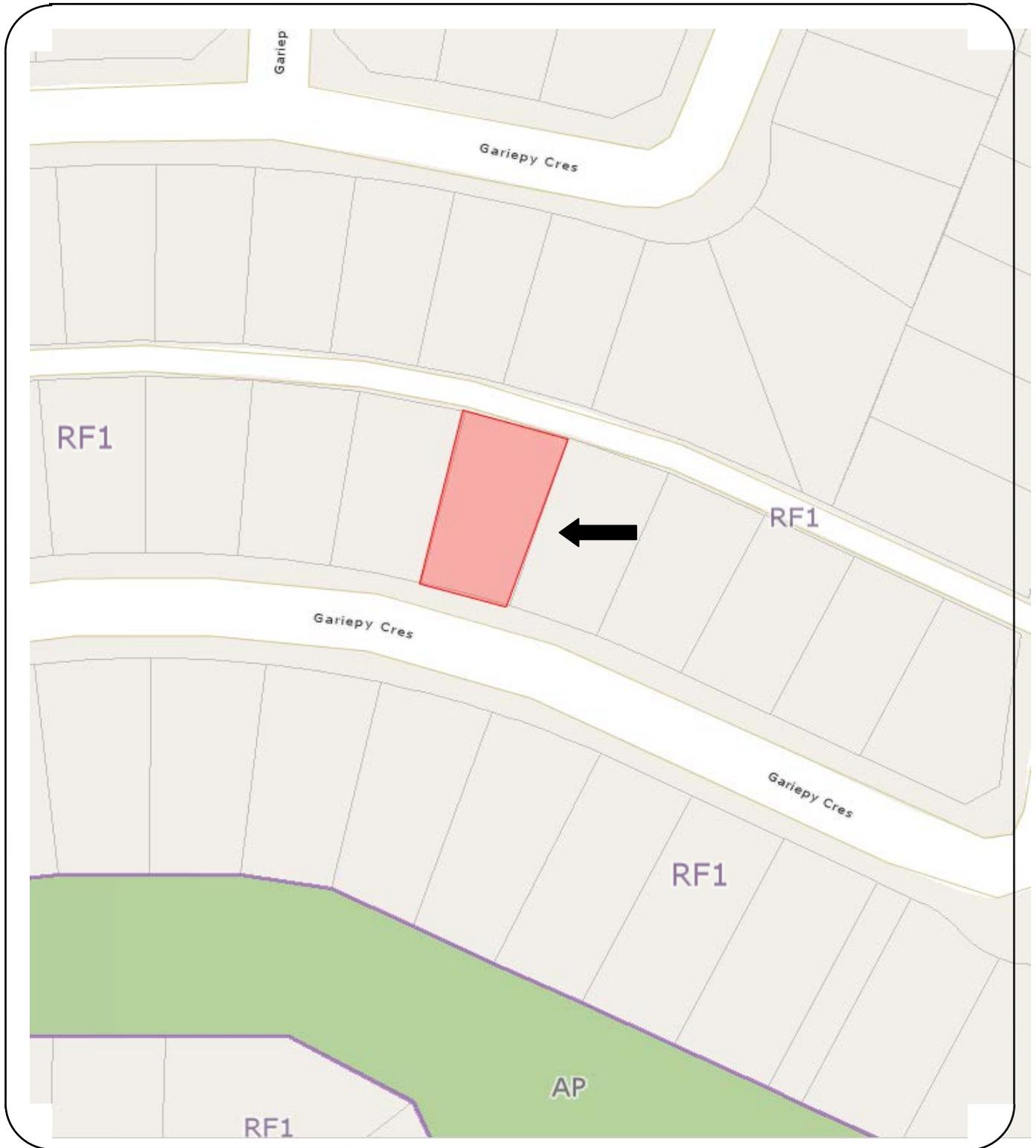
Project Number: **175159478-002**  
Application Date: JUN 30, 2015  
Printed: August 25, 2015 at 4:51 PM  
Page: 2 of 2

## Application for Minor Development Permit

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$385.00	\$385.00	02549972	Jun 30, 2015
Total GST Amount:	<u>\$0.00</u>	<u>          </u>		
Totals for Permit:	\$385.00	\$385.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-216



ITEM II: 10:30 A.M.

FILE: SDAB-D-15-217

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 175574886-001

APPLICATION TO: Construct a Semi-detached House with front verandas, 2 fireplaces, rear uncovered decks (3.05m x 6.1m), uncovered rooftop patios (6.09m x 4.27m) and Basement development (Not to be used as an additional Dwellings), and to demolish a Single Detached House and Accessory Building rear Detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused (See pages 17-18 for Decision)

DECISION DATE: September 1, 2015

DATE OF APPEAL: September 8, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11424 - 71 Avenue NW

LEGAL DESCRIPTION: Plan 2938HW Blk 13 Lot 63

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan-Belgravia Station Area Redevelopment Plan

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***Grounds for Appeal***

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

I am filing an appeal for development permit referenced above for a semi-detached dwelling at 11424 71 Avenue. The development permit was rejected, and I will address the issues here prior to the appeal hearing.

- 1) Height exceeds allowable maximum height under the Mature Neighborhood Overlay as outlined in Section 814.3. The allowable height

is 8.6m and the proposed height is 10m (over 1.4m). This height restriction is in place to prevent the development of homes in mature neighborhoods that will create a massing effect, abutting mature homes built typically in the 1950s. We have teamed up with a designer from Eurodesign to create a semi-detached dwelling that will have a flat roof with a loft that is set back from the second floor of the home.

The height is measured at the midpoint of the ridge, and for homes with pitched roofs, a greater massing effect is created in MNO neighborhoods: even though they meet the 8.6m requirement at the midpoint the total height can be over 10m. This is visible in the development permit for a property on the same lane, 11432 71 Avenue. For the development permit referenced above the total height is 10m; however, the loft area is set back to reduce the massing affect, and the total visible height from the lane is 6.43m, or the height of the two stories. This loft area is set back from the front and rear of the second story, occupying only 65% of the floor space atop the second story.

2) The second issue raised was that the roof top patio would overlook into the amenity spaces affecting the privacy of the adjacent neighbors. This issue will be addressed by our architect and discussed in the appeal hearing to ensure privacy of abutting neighbors is not affected.

3) The third issue with respect to the side setbacks will be amended to conform to the RF1 zoning bylaws by our architect, and re-submitted to the development office. [unedited]

<i>General Matters</i>
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**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 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
    - ...

The decision of the Development Authority was dated September 1, 2015. The Notice of Appeal Period expired on September 15, 2015 and the Notice of Appeal was filed on September 8, 2015.

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

Under section 110.3, Semi-detached Housing is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Under section 7.2(9), **Single Detached Housing** is defined as follows:

... development consisting of a building containing only two Dwellings joined in whole or in part at the side or rear with no Dwelling being placed over another in whole or in part. Each Dwelling has separate, individual, and direct access to Grade. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use Class does not include Secondary Suites or Duplexes.

Section 140.1 states the following with respect to the **General Purpose** of the **RF1 Single Detached Residential Zone**:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

***Mature Neighbourhood Overlay: Maximum Height***

The *Edmonton Zoning Bylaw* states the following:

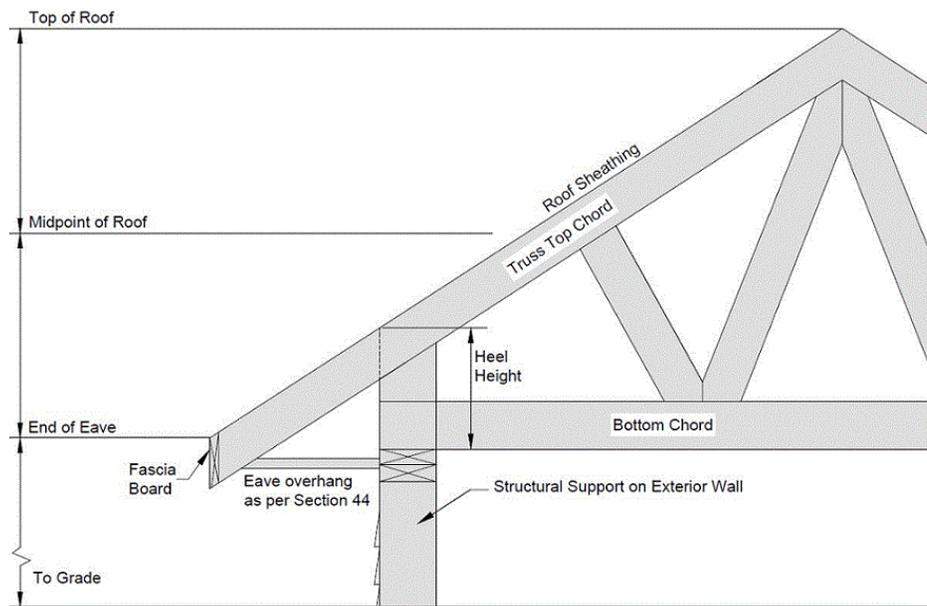
**814.3 Development Regulations**

...

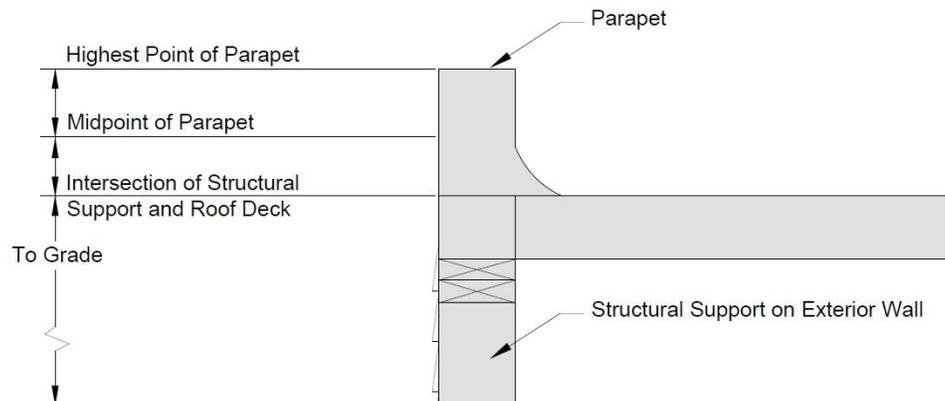
13. The maximum Height shall not exceed 8.6 m, in accordance with Section 52.

Section 52 states the following with respect to **Height and Grade**:

1. The Development Officer shall calculate building Height by determining the roof type, and applying the following:
  - a. For hip and gable roof types Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the end of the eave (intersection of the fascia board and the top of the roof sheathing, or less, in accordance with Section 44), and the top of the roof; or

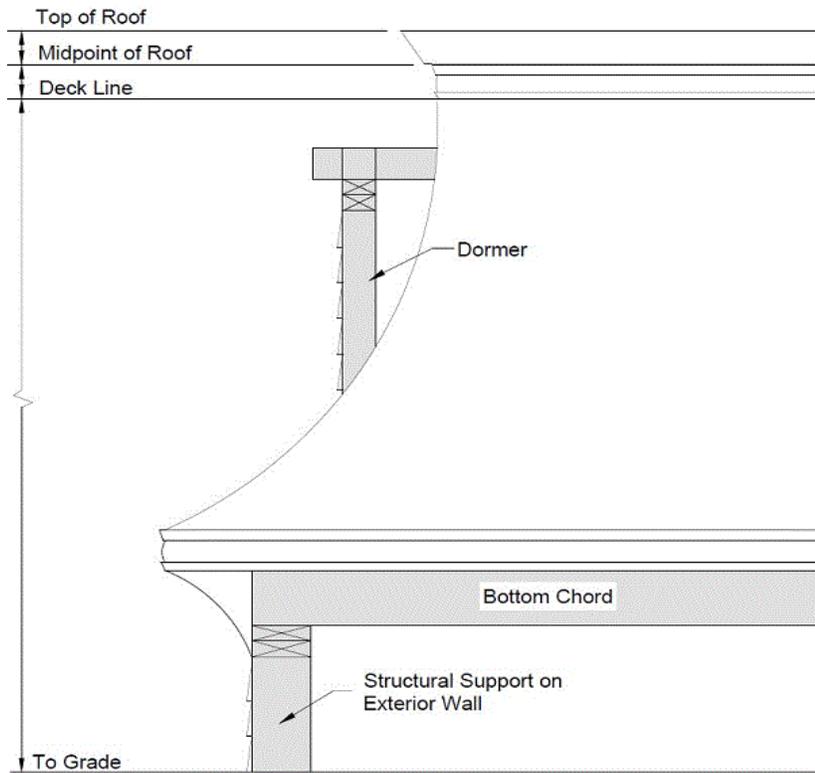
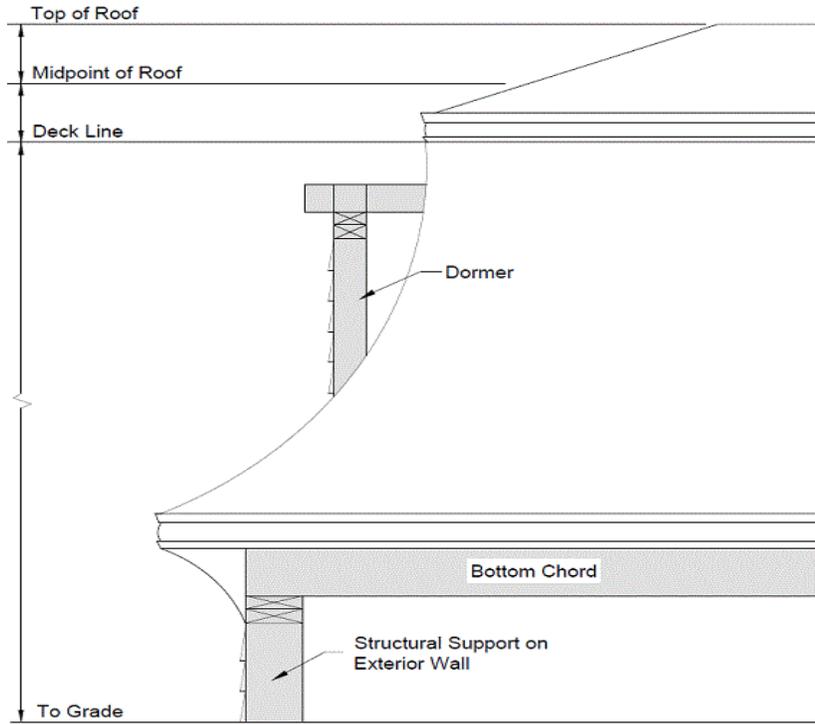


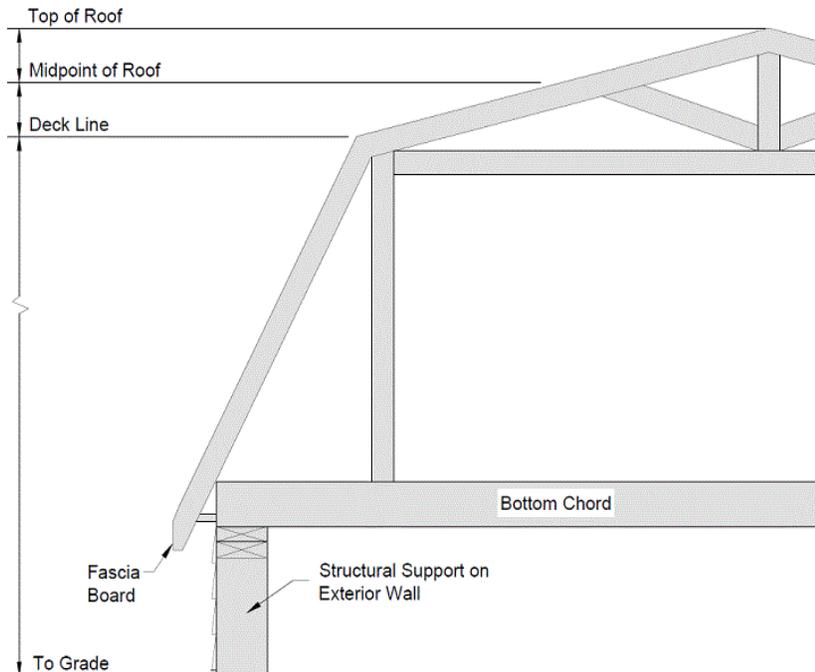
- b. For the flat roof type, Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest parapet, provided the resulting top of the parapet is no more than 0.4 metres above the maximum Height allowed in the zone or overlay; or



- c. For mansard and gambrel roof types, Height shall be determined by measuring from the horizontal plane through Grade to the

midpoint of the highest roof. The midpoint is determined to be between the deck line and the top of the roof; or





- d. For all other roof types, including saddle, dome, dual-pitch, shed, butterfly or combination roofs, the Development Officer shall determine Height by applying one of the previous three types that is most appropriate for balancing the development rights and the land use impact on adjacent properties.
2. In determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:
    - a. in any Zone other than a Residential Zone, the following features shall not be considered for the purpose of Height determination: chimney stacks, either free-standing or roof mounted, steeples, belfries, domes, or spires, monuments, elevator housings, roof stairways, entrances, water or other tanks, ventilating equipment, skylights, fire walls, plumbing stacks, receiving or transmitting structures, masts, flag poles, clearance markers or other similar erections;
    - b. in any Residential Zone, those features specified in subsection 52.2(a) shall not be considered for the purpose of Height determination, except that the maximum Height of receiving or transmitting structures, where these are Satellite Signal Receiving Antennae or Amateur Radio Antennae and Support Structures, shall be calculated in accordance with the regulations of subsections 50.5 and 50.6, respectively, of this Bylaw. The maximum Height for all other receiving or transmitting structures, other than those which may normally be required for adequate local television reception, shall be the maximum Height in the Zone, and not the maximum Height for Accessory buildings in Residential Zones specified in subsection 50.3(2);

- 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 Garage Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.
3. An applicant shall submit, for any Development Permit to construct, rebuild or increase the Height of a structure, a grading plan that shows the elevation of the Site at each corner of the Site before and after construction;
4. The Development Officer shall determine Grade by selecting, from the methods listed below, the method that best ensures compatibility with surrounding development:
  - a. if the applicant can show by reference to reliable topographical maps that the elevation of the Site varies by no more than one meter in 30 lineal meters, the Development Officer may determine Grade by calculating the average of the highest and lowest elevation on the Site;
  - b. the Development Officer may determine Grade by calculating the average of the elevation at the corners of the Site prior to construction as shown on the applicant's grading plan;
  - c. the Development Officer may determine Grade by calculating the average elevation of the corners of the buildings on all properties abutting the Site or separated from the Site by a Lane;
  - d. for a Site where the highest geodetic elevation at a corner of the front property line is greater than the lowest geodetic elevation at a corner of the rear property line by 2.0 m or more, the Development Officer may determine Grade by calculating the average elevation of the front corners of the Lot, and along the side property lines a distance equal to the minimum front Setback in the underlying Zone from the front property line. This method is intended for small scale development with a single Principal building and is not intended to be used for Multi-unit Project Developments; or
  - e. the Development Officer may use his variance power to determine Grade by a method other than the ones described in subsection 52.4. If so, this shall be a Class B Discretionary Development.
5. The applicant shall submit all information the Development Officer requires to determine Grade by the method the Development Officer chooses.

**Development Officer's Determination**

Section 814.3(13): The maximum Height shall not exceed 8.6 m, in accordance with Section 52.

Proposed: 10 meters

Over by: 1.4 meters [unedited]

***Mature Neighbourhood Overlay: General Purpose***

Section 814.1 states the following with respect to the **General Purpose** of the **Mature Neighbourhood Overlay**:

The purpose of this Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

**Development Officer's Determination:**

Section 814.1: The purpose of this Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Proposed: This proposed development significantly contrasts in scale to the surrounding properties, and the roof top patio would overlook into the amenity spaces affecting the privacy of the adjacent neighbours. Also, given the height and overall massing of the structure the proposed development may also impede on the sunlight penetration into adjacent properties. [unedited]

***Development Officer's Variance Powers***

Section 11.4 states the following:

**11.4 Limitation of Variance**

In approving an application for a Development Permit pursuant to Section 11.3, *the Development Officer shall adhere to the following:*

1. a variance shall be considered only in cases of unnecessary hardship or practical difficulties peculiar to the Use, character, or situation of land or a building, which are not generally common to other land in the same Zone;
2. *except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio and Density regulations, and*
3. *the General Purpose of the appropriate Zone.* [emphasis added]

**Development Officer’s Determination:**

Section 11.4(2)and 11.4(3): except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio and Density regulations, and the General Purpose of the appropriate Zone. [unedited]

**Board Officer’s Comments:**

The Development Officer references section 11.4(2)-(3), but the quotation provided by the Officer is, in fact, a combination of subsections (2) and (3). The combination of the two subsections into one sentence may provide an inaccurate interpretation of section 11.4. For that reason, the entirety of section 11.4 has been provided.

***Mature Neighbourhood Overlay: Side Setback***

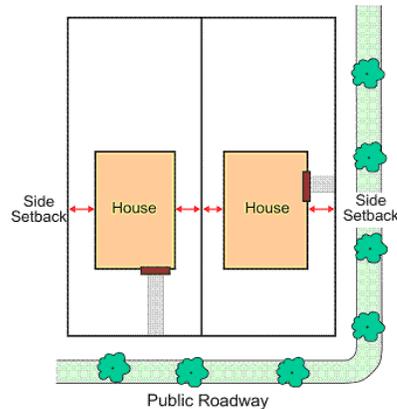
Section 814.3(3) states the following:

**814.3 Development Regulations**

...

- 3. Where the Site Width is 18.3 m or greater:
  - a. Side Setbacks shall total 20% of the Site Width but shall not be required to exceed 6.0 m in total;
  - b. the minimum interior Side Setback shall be 2.0 m; and
  - c. on a Corner Site, the Side Setback requirements on the flanking public roadway, other than a Lane, shall be in accordance with the requirements of the underlying Zone.

Section 6.1(90) defines **Side Setback** as “the distance that a development or a specified portion of it, must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space or Separation Space.”



**Development Officer's Determination:**

Section: 814.3(3)(b):Where the Site Width is 18.3 m or greater the minimum interior Side Setback shall be 2.0 m.

Proposed: Left (1.94m) Right (1.95m)

Deficient: Left (0.06m) Right (0.05m)

Therefore, it is the opinion of the Development Officer that the proposed development will unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties.

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**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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	Project Number: <b>175574886-001</b> Application Date: JUL 08, 2015 Printed: September 22, 2015 at 1:38 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Minor Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
<b>Applicant</b>  RANDHAWA, SUNDEEP 	<b>Property Address(es) and Legal Description(s)</b> 11424 - 71 AVENUE NW Plan 2938HW Blk 13 Lot 63  <b>Specific Address(es)</b> Entryway: 11424 - 71 AVENUE NW Entryway: 11426 - 71 AVENUE NW Building: 11424 - 71 AVENUE NW		
<b>Scope of Application</b> To construct a Semi-Detached House with front verandas, 2 fireplaces, rear uncovered decks (3.05m x 6.1m), uncovered rooftop patios (6.09m x 4.27m) and Basement development (Not to be used as an additional Dwellings), and to demolish Single Detached House and Accessory Building rear Detached Garage			
<b>Permit Details</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                             # of Dwelling Units Add/Remove: 2                              Client File Reference Number:                              Minor Dev. Application Fee: Semi-Detached House                              Secondary Suite Included?: N                         </td> <td style="width: 50%; border: none; vertical-align: top;">                             Class of Permit: (none)                              Lot Grading Needed?: Y                              New Sewer Service Required: Y                              Stat. Plan Overlay/Annex Area:                         </td> </tr> </table>		# of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:
# of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:		
I/We certify that the above noted details are correct.  Applicant signature: _____			
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> Section 814.3(13): The maximum Height shall not exceed 8.6 m, in accordance with Section 52. Proposed: 10 meters Over by: 1.4 meters  Section 814.1: The purpose of this Overlay is to ensure that new low density development in Edmontons mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.  Proposed: This proposed development significantly contrasts in scale to the surrounding properties, and the roof top patio would overlook into the amenity spaces affecting the privacy of the adjacent neighbours. Also, given the height and overall massing of the structure the proposed development may also impede on the sunlight penetration into adjacent properties.  Section 11.4(2) and 11.4(3): except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio and Density regulations, and the General Purpose of the appropriate Zone.  Section: 814.3(3)(b): Where the Site Width is 18.3 m or greater the minimum interior Side Setback shall be 2.0 m. Proposed: Left (1.94m) Right (1.95m) Deficient: Left (0.06m) Right (0.05m)  Therefore, it is the opinion of the Development Officer that the proposed development will unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties.			
<b>THIS IS NOT A PERMIT</b>			



Project Number: **175574886-001**  
 Application Date: JUL 08, 2015  
 Printed: September 22, 2015 at 1:38 PM  
 Page: 2 of 2

## Application for Minor Development Permit

**Rights of Appeal**

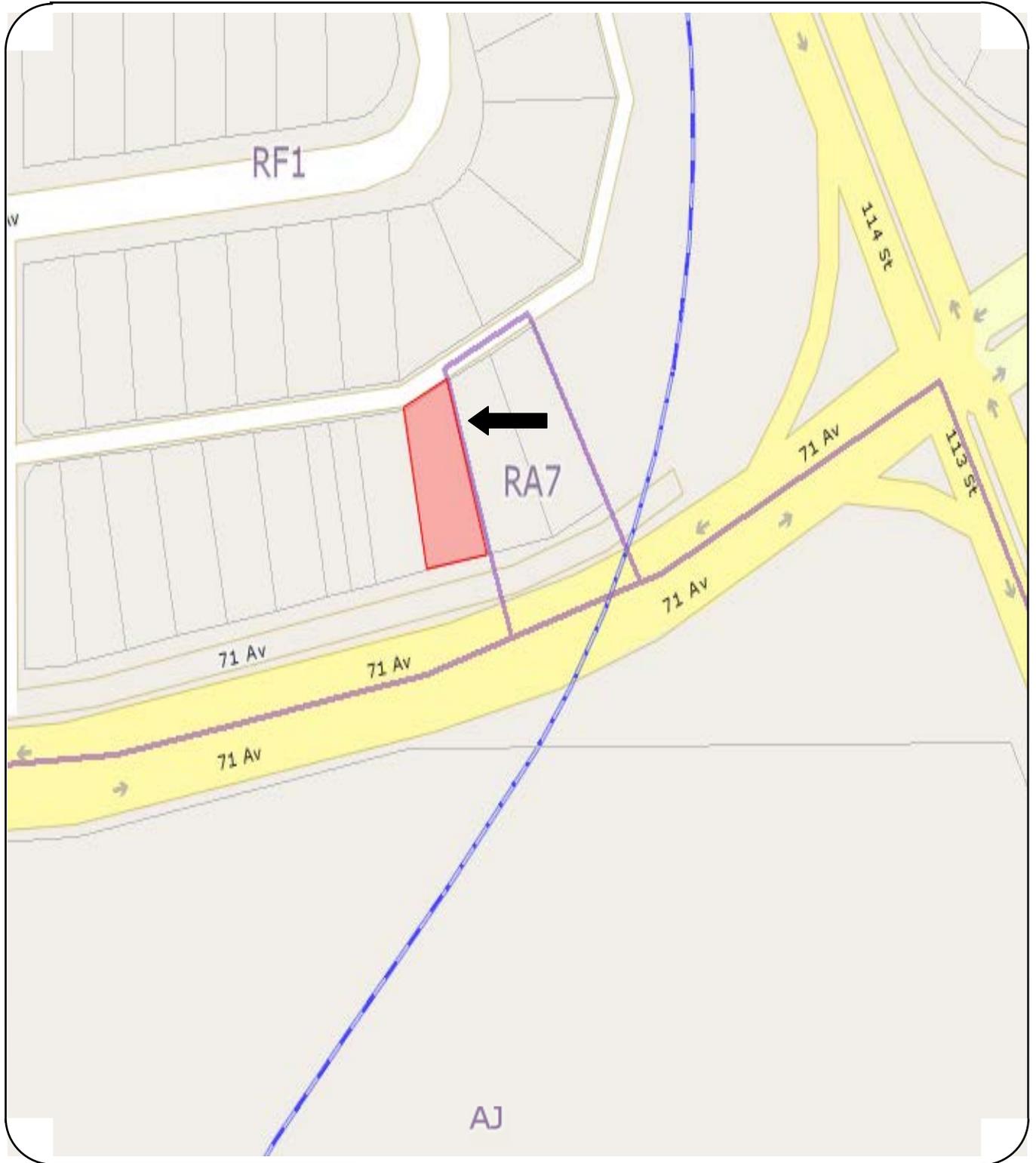
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Issue Date:** Sep 01, 2015    **Development Authority:** HEIMDAHL, KENDALL    **Signature:** \_\_\_\_\_

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$447.00	\$447.00	02571809	Jul 08, 2015
Lot Grading Fee	\$270.00	\$270.00	02571809	Jul 08, 2015
Sanitary Sewer Trunk Fund	\$1,430.00	\$1,430.00	02571809	Jul 08, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,147.00	\$2,147.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-217



ITEM III: 1:30 P.M.

FILE: SDAB-D-15-218

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 164197540-001

APPLICATION TO: Construct a Restaurant (376 sq.m. of Public Space; including outdoor patio)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused (See pages 24-25 for Decision)

DECISION DATE: August 28, 2015

DATE OF APPEAL: September 3, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4303 - 167 Avenue NW

LEGAL DESCRIPTION: Plan 1421576 Blk 25 Lot 4

ZONE: CB2 General Business Zone

OVERLAY: N/A

STATUTORY PLAN: Britnell Neighbourhood Structure Plan  
Pilot Sound Area Structure Plan

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***Grounds for Appeal***

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

I act on behalf of the Applicant with respect to the above development permit application, which has been refused. The Applicant wishes to appeal the refusal. The grounds of appeal are as follows:

1. The proposed development is appropriate at this location and will not, in any manner, detract from nor diminish the character of the neighbourhood or the surrounding environment.

2. The proposed use as a restaurant is a discretionary use.

3. The locational criteria (that the site not be adjacent to a site zoned residential) is a development regulation that can be varied pursuant to Section 687(3)(d) of the *Municipal Government Act*.

4. Variance of the locational criteria and the minimum number of parking spaces will not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

5. Such further and other reasons as may be presented at the hearing of the within appeal.  
[unedited]

<b><i>General Matters</i></b>
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**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 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
  - ...

The decision of the Development Authority was dated August 28, 2015. The Notice of Appeal Period expired on September 11, 2015 and the Notice of Appeal was filed on September 3, 2015.

**Subdivision and Development Appeal Board's Powers**

In the Grounds for Appeal, the Appellant references Section 687(3)(d) of the *Municipal Government Act*, which states the following:

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

...

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

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

Section 340.1 states that the **General Purpose** of the **CB2 General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

***Discretionary Use***

Under section 340.3(33), “Restaurants, for more than 200 occupants and 240m<sup>2</sup> of Public Space,” is a **Discretionary Use** in the CB2 General Business Zone, “provided the Site is not adjacent to or across a lane from a Site zoned residential”.

Under section 7.4(45), the term **Restaurants** is defined as follows:

...development where the primary purpose of the facility is the sale of prepared foods and beverages to the public, for consumption within the premises or off the Site. Minors are never prohibited from any portion of the establishment at any time during the hours of operation. This Use Class

typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

**Development Officer's Determination:**

1) Restaurants are allowed as a Discretionary Use, for more than 200 occupants and 240 sq.m. of Public Space, provided that the Site is not adjacent to or across a lane from a Site zoned residential. [Reference Section 340.3(33)]  
- The proposed Restaurant is on a Site that is adjacent to a Site (to the south) zoned RA7 (Low Rise Apartment Zone). RA7 (Sub-section 210) is designated as a Residential Zone under Section 200 of the Zoning Bylaw. Therefore, the proposed Use does not comply with the locational criteria of the definition.  
[unedited]

***Vehicular Parking Requirements***

Schedule 1(A)(24) under Section 54.2 states that for Restaurants within Commercial Use Classes, "1 parking space per 3.6 m<sup>2</sup> of Public Space" is required.

**Development Officer's Determination:**

2) The minimum number of parking spaces shall be 105. [Reference Section 54.2, Schedule 1(24)]  
- 92 are provided which creates a deficiency of 13 spaces.  
[unedited]

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**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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	Project Number: <b>164197540-001</b> Application Date: NOV 18, 2014 Printed: September 22, 2015 at 2:23 PM Page: 1 of 2																									
<h2 style="margin: 0;">Application for Major Development Permit</h2>																										
This document is a Development Permit Decision for the development application described below.																										
<b>Applicant</b>  HODGSON SCHILF ARCHITECTS [REDACTED] [REDACTED] [REDACTED]	<b>Property Address(es) and Legal Description(s)</b> 4303 - 167 AVENUE NW Plan 1421576 Blk 25 Lot 4  <b>Specific Address(es)</b> Entryway: 4303 - 167 AVENUE NW Building: 4303 - 167 AVENUE NW																									
<b>Scope of Application</b> To construct a Restaurant (376 sq.m. of Public Space; including outdoor patio)																										
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                             Class of Permit: Class B                              Gross Floor Area (sq.m.): 522                              New Sewer Service Required: Y                              Site Area (sq. m.): 5118                         </td> <td style="width: 50%; border: none; vertical-align: top;">                             Contact Person:                              Lot Grading Needed?: Y                              NumberOfMainFloorDwellings: 0                              Stat. Plan Overlay/Annex Area: (none)                         </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 522 New Sewer Service Required: Y Site Area (sq. m.): 5118	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)																							
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I/We certify that the above noted details are correct.  Applicant signature: _____																										
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> 1) Restaurants are allowed as a Discretionary Use, for more than 200 occupants and 240 sq.m. of Public Space, provided that the Site is not adjacent to or across a lane from a Site zoned residential. [Reference Section 340.3(31)] - The proposed Restaurant is on a Site that is adjacent to a Site (to the south) zoned RA7 (Low Rise Apartment Zone). RA7 (Sub-section 210) is designated as a Residential Zone under Section 200 of the Zoning Bylaw. Therefore, the proposed Use does not comply with the locational criteria of the definition.  2) The minimum number of parking spaces shall be 105. [Reference Section 54.2, Schedule 1(24)] - 92 are provided which creates a deficiency of 13 spaces.  <b>Rights of Appeal</b> The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.																										
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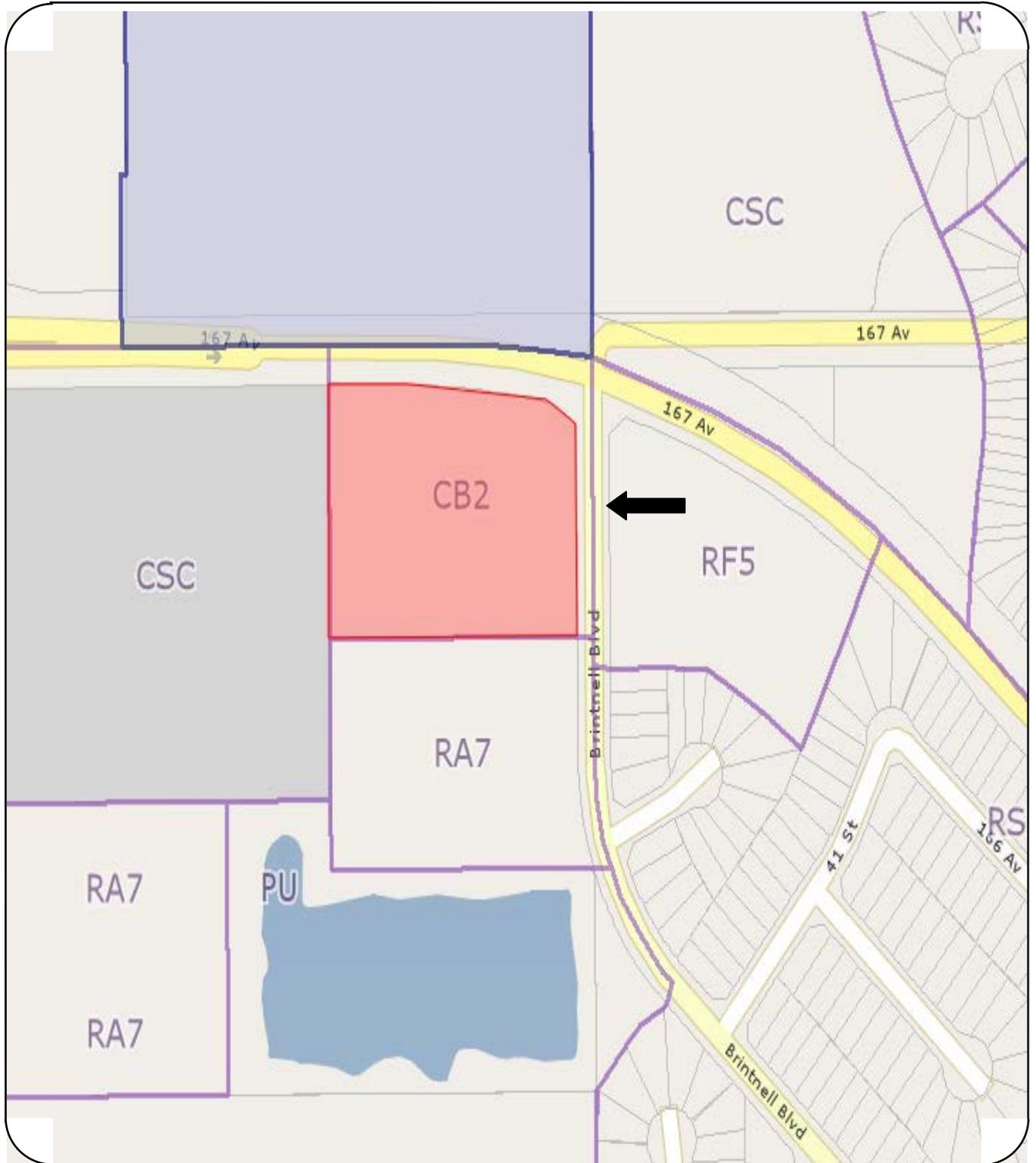
Project Number: **164197540-001**  
Application Date: NOV 18, 2014  
Printed: September 22, 2015 at 2:23 PM  
Page: 2 of 2

## Application for Major Development Permit

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
DP Notification Fee	\$100.00			
Total GST Amount:	<u>\$0.00</u>	<u>                    </u>		
Totals for Permit:	\$4,436.69	\$4,947.00		
(overpaid by \$510.31)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-218



**BUSINESS LAID OVER**

SDAB-D-15-211	An appeal by <u>Bigstone Health Commisson</u> to change the Use from Professional, Financial, and Office Support Services to General Retail Stores (main floor) and Health Services (2 <sup>nd</sup> floor), and construct additions, interior alterations, and exterior alterations <b><i>October 29, 2015</i></b>
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