

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

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

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

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

I	9:00 A.M.	SDAB-D-15-201	Construct exterior alterations (front concrete extension, 4.27m x 10.98m), existing without permits 6015 - 164 Avenue NW Project No.: 171475852-002
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II	10:30 A.M.	SDAB-D-15-202	Develop a Secondary Suite in the Basement of a Single Detached House. 5122 - 1B Avenue SW Project No.: 174408720-001
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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-15-201

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 171475852-002

APPLICATION TO: Construct exterior alterations (front concrete extension, 4.27m x 10.98m), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 30, 2015

DATE OF APPEAL: August 12, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6015 - 164 Avenue NW

LEGAL DESCRIPTION: Plan 0622910 Blk 18 Lot 64

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Pilot Sound Area Structure Plan
Matt Berry Neighbourhood Structure Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1. Section 6.1(26) - Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.

-Other than the approved 6.1 m wide concrete front driveway, the existing concrete extension to the east side property line does not lead to an overhead garage door or parking area.

2. Section 54.2(2)(e) - Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following: (i) parking spaces shall not be located within a Front Yard.

- The Front Yard of this property (between the approved 6.1m Driveway and the East side lot line) is being used for parking. This area should be landscaped and parking is not allowed on the Front Yard.

3. Section 54.1(4) - The Front Yard of any at-grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall have: (b) for a Site 10.4 m wide or greater, have a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage. The Driveway shall lead directly from the roadway to the required Garage or Parking Area.

Proposed width of driveway and extension: 10.37m

Maximum width of driveway: 6.20m

Exceeds by: 4.17m

4. Section 55.4(1) - All open space including Front Yards, Rear Yards, Side Yards and Yards, at grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with trees, shrubs, flower beds, grass, ground cover or suitable decorative hardsurfacing, in accordance with the Landscape Plan submitted pursuant to subsection 55.3 and approved by the Development Officer.

- The existing concrete extension is in the Front Yard. Based on the landscaping regulations, the Front Yard must be landscaped. Monolithic concrete is not a form of landscaping (Reference Section 6.1(55)).

5. Section 11.3(1): Given the above observations, the proposed development would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring properties in the opinion of the Development Officer.

- The proposed concrete extension covering nearly all of the entire front yard is unsightly. Other than areas designated for driveway, the rest of the front yard should be landscaped. Parking on areas that should be landscaped also takes away from desirable curb appeal.

6. Section 17.1(1)(a) When an application for a Development Permit has been approved by the Development Officer, the Development Permit shall not be valid unless and until any conditions of approval, except those of a continuing nature, have been fulfilled.

- The hardsurfacing and landscaping conditions attached to Development Permit # 059357260-001 for the Single Detached House approval has not been fulfilled:

"All yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. Alternative forms of landscaping may be substituted for seeding or sodding as specified in Section 55.2(4)(b)."

NOTES:

Sufficient onsite parking is provided through the provision of a 2-car front attached garage and 2 parking spaces in tandem on the approved 6.1m Driveway for a total for 4 spaces, additional parking spaces create a negative impact to the site and the surrounding neighbourhood.

It is the opinion of the Development Authority that the concrete extension sets a negative precedent for the neighbourhood.

This sort of driveway extension is not characteristic of the neighbourhood, nor allowed in the City of Edmonton.

Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

APPELLANT'S SUBMISSION

At the time of the development in 2008 I was not aware that a permit was required. I was then notified 7 years later that a permit is needed for this type of development. We had completed the final monolithic concrete in the Front Yard as required per Bylaw 15632 created on December 13, 2010. Another Bylaw that states parking is not allowed in the Front Yard was not put forth until June 20, 2011 - Bylaw 15735. Not all of the Front Yard is covered with monolithic concrete, there is approved landscaping (decorative hardsurfacing) on the West and East side of the property. The "unsightly" look that the Development Officer proposed is not displeasing at all considering it is immaculate and does not take away from the desirable curb appeal.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Single Detached Housing is a Permitted Use in the **RF1 Single Detached Residential Zone**, Section 110.2(4).

Section 6.1(26) defines **Driveway** as "an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area."

The Development Officer determined the following:

Other than the approved 6.1 m wide concrete front driveway, the existing concrete extension to the east side property line does not lead to an overhead garage door or parking area.

The *Edmonton Zoning Bylaw* states the following with respect to the **Location of Vehicular Parking Facilities:**

54.2(2)(e) Except as otherwise provided for in this Bylaw, parking spaces required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following:

- i. parking spaces shall not be located within a Front Yard, except Single Detached, Duplex and Semi-detached Housing; and
- ii. ...

The Development Officer determined the following:

The Front Yard of this property (between the approved 6.1m Driveway and the East side lot line) is being used for parking. This area should be landscaped and parking is not allowed on the Front Yard.

The *Edmonton Zoning Bylaw* states the following with respect to **Off-street Parking and Loading Regulations:**

54.1(4) The Front Yard of any at-grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall have:

- a. a minimum width of 3.1 m; and
- b. a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage ; and
- c. for a Site less than 10.4 m wide, have a maximum width of 3.1 m.

The Driveway shall lead directly from the roadway to the required Garage or Parking Area.

The Development Officer determined the following:

Proposed width of driveway extension: 10.37m
Maximum width of driveway: 6.20m
Exceeds by: 4.17m

The *Edmonton Zoning Bylaw* states the following with respect to **Landscaping General Requirements**:

55.4(1) All open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with trees, shrubs, flower beds, grass, ground cover or suitable decorative hardsurfacing, in accordance with the Landscape Plan submitted pursuant to subsection 55.3 and approved by the Development Officer. This requirement shall not apply to those areas designated for parking and circulation, which shall be landscaped in accordance with subsection 55.8 of this Bylaw. The Development Officer may require Landscaping of areas within a Site that are intended for future development if, in the opinion of the Development Officer, the lack of Landscaping creates a potential negative visual impact, given the visibility of these areas from adjacent properties and public roadways.

Under section 6.1(55), “**Landscaping** means the preservation or modification of the natural features of a Site through the placement or addition of any or a combination of the following:

- a. soft landscaping elements such as trees, shrubs, plants, lawns and ornamental plantings;
- b. decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
- c. architectural elements such as decorative fencing, walls and sculpture.”

The Development Officer determined the following:

The existing concrete extension is in the Front Yard. Based on the landscaping regulations, the Front Yard must be landscaped. Monolithic concrete is not a form of landscaping (Reference Section 6.1(55)).

Section 11.3(1): Given the above observations, the proposed development would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring properties in the opinion of the Development Officer.

The proposed concrete extension covering nearly all of the entire front yard is unsightly. Other than areas designated for driveway, the rest of the front yard should be landscaped. Parking on areas that should be landscaped also takes away from desirable curb appeal.

The *Edmonton Zoning Bylaw* states the following with respect to **Validity of a Development Permit**:

17.1(1)(a) When an application for a Development Permit has been approved by the Development Officer, the Development Permit shall not be valid unless and until any conditions of approval, except those of a continuing nature, have been fulfilled.

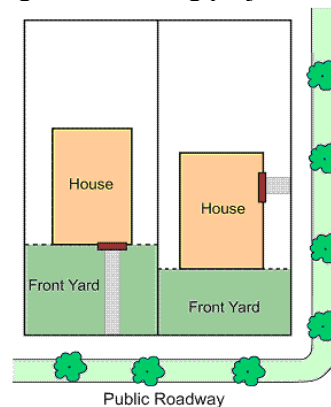
The Development Officer determined the following:

The hardsurfacing and landscaping conditions attached to Development Permit #059357260-001 for the Single Detached House approval has not been fulfilled:

“All yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. Alternative forms of landscaping may be substituted for seeding or sodding as specified in Section 55.2(4)(b).”

Section 6.1(69) defines **Parking Area** as “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.”

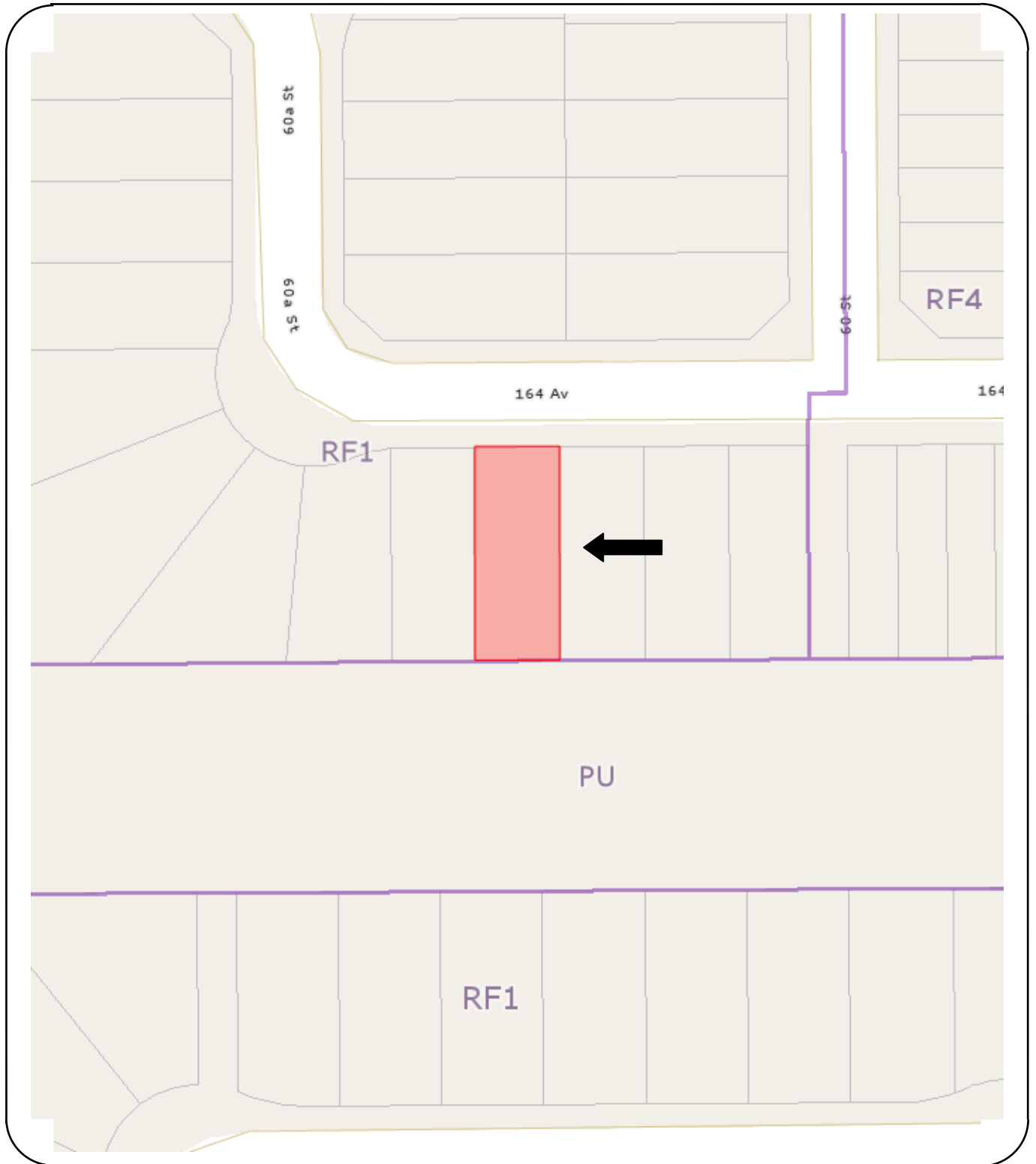
Section 6.1(40) defines **Front Yard** as “the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.”



Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** “is 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.”

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-201



ITEM II: 10:30 A.M.

FILE: SDAB-D-15-202

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 174408720-001

APPLICATION TO: Develop a Secondary Suite in the
Basement of a Single Detached House.

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 10, 2015

DATE OF APPEAL: August 13, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 5122 - 1B Avenue SW

LEGAL DESCRIPTION: Plan 1124065 Blk 29 Lot 37

ZONE: RPL Planned Lot Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Southeast Area Structure Plan
Charlesworth Neighbourhood Structure
Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1. The minimum Site area for a Single Detached Dwelling containing a Secondary Suite is 360 m², except in the case of the RR Zone, where it shall be the same as the minimum Site area for the Zone.

Proposed Site area: 318.3 m²
Minimum Site area: 360.0 m²
Deficient by: 41.7 m²

2. Section 54.2(1)(a) - Secondary Suite, 1 parking space per 2 Sleeping Units in addition to the parking requirements for primary Dwelling. Tandem Parking is allowed for Secondary Suites, Garage Suites and Garden Suites.

- The area on the Driveway, marked on the Site plan as parking spaces for the Secondary Suite, does not meet the minimum dimensions of a parking space (2.6m x 5.5m) and is not in Tandem. Therefore these are not parking spaces.

Proposed parking spaces for the Secondary Suite: 0

Minimum parking spaces required for the Secondary Suite: 1

Deficient by: 1

APPELLANT'S SUBMISSION

The application was refused because there was no big enough parking space. However, the owner is going to be living at the house and they won't need more than 2 parking spaces.

The application was also denied because the site area is deficient just by 41.7 m². As said before this house is going to be occupied by its owner and they have lots of space on the main floor.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

A **Secondary Suite** is a Permitted Use in the **RPL Planned Lot Residential Zone**, section 130.2(3).

Under section 7.2(7), **Secondary Suite** means:

development consisting of a Dwelling located within, and Accessory to, a structure in which the principal use is Single Detached Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from the side or rear of the structure. This Use Class includes the Development or Conversion of Basement space or above Grade space to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Single Detached Dwelling. This Use Class does not include Apartment Housing, Duplex Housing, Garage Suites, Garden Suites, Semi-detached Housing, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

With respect to **Development Regulations for Permitted and Discretionary Uses** within the **RPL Planned Lot Residential Zone**, section 130.4(17) states "Secondary Suites shall comply with Section 86 of this Bylaw."

Section 86 provides the following with respect to **Secondary Suites**:

A Secondary Suite shall comply with the following regulations:

1. **the minimum Site area for a Single Detached Dwelling containing a Secondary Suite is 360 m², except in the case of the RR Zone, where it shall be the same as the minimum Site area for the Zone.**
2. the maximum Floor Area of the Secondary Suite shall be as follows:
 - a. in the case of a Secondary Suite located completely below the first storey of a Single Detached Dwelling (other than stairways or a common landing), the Floor Area (excluding the area covered by stairways) shall not exceed the Floor Area of the first storey of the associated principal Dwelling.
 - b. in the case of a Secondary Suite developed completely or partially above Grade, the Floor Area (excluding the area covered by stairways) shall not exceed 40% of the total Floor Area above Grade of the building containing the associated principal Dwelling, nor 70 m², whichever is the lesser.
3. the minimum Floor Area for a Secondary Suite shall be not less than 30 m².
4. a Secondary Suite shall be developed in such a manner that the exterior of the principal building containing the Secondary Suite shall appear as a single Dwelling.
5. only one of a Secondary Suite, a Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling.
6. a Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business;
7. notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Secondary Suite shall not exceed three.
8. the Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision.
9. Secondary Suites shall not be included in the calculation of densities in this Bylaw.
10. notwithstanding Secondary Suites being listed as Permitted or Discretionary Uses within any Zone, they shall be subject to the regulations of the Edmonton-Strathcona County Joint Planning Study Area Secondary, Garage and Garden Suites Overlay in Section 822 of this Bylaw.

The Development Officer determined the following:

Proposed Site area: 318.3 m²

Minimum Site area: 360.0 m²

Deficient by: 41.7 m²

The *Edmonton Zoning Bylaw* states the following with respect to **Minimum Number of Parking Spaces or Garage Spaces Required:**

54.2 Schedule 1(A)(2) Secondary Suite:

1 parking space per 2 Sleeping Units in addition to the parking requirements for primary Dwelling.

Tandem Parking is allowed for Secondary Suites, Garage Suites and Garden Suites.

54.2 Schedule 1(A)(3) Single Detached Housing:

2 parking spaces per Dwelling, may be in tandem and may include 1 Garage space.

Where a Front Yard driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this driveway as the provision of a second car parking space that is in tandem.

Section 54.2(4) states the following with respect to **Vehicular Parking Dimensions and Configuration:**

- a. All required parking spaces shall be clear of any access driveways, aisles, ramps, columns, Signs or other similar obstructions, and shall conform to the following minimum dimensions:
 - i. except as provided below, each required off-street parking space shall be a minimum of 2.6 m width with a minimum clear length of 5.5 m exclusive of access drives or aisles, ramps, columns. Parking spaces shall have a vertical clearance of at least 2.0 m. For parallel parking, the length of the parking spaces shall be increased to 7.0 m, except that an end space with an open end shall be a minimum length of 5.5 m.

...

The Development Officer determined the following:

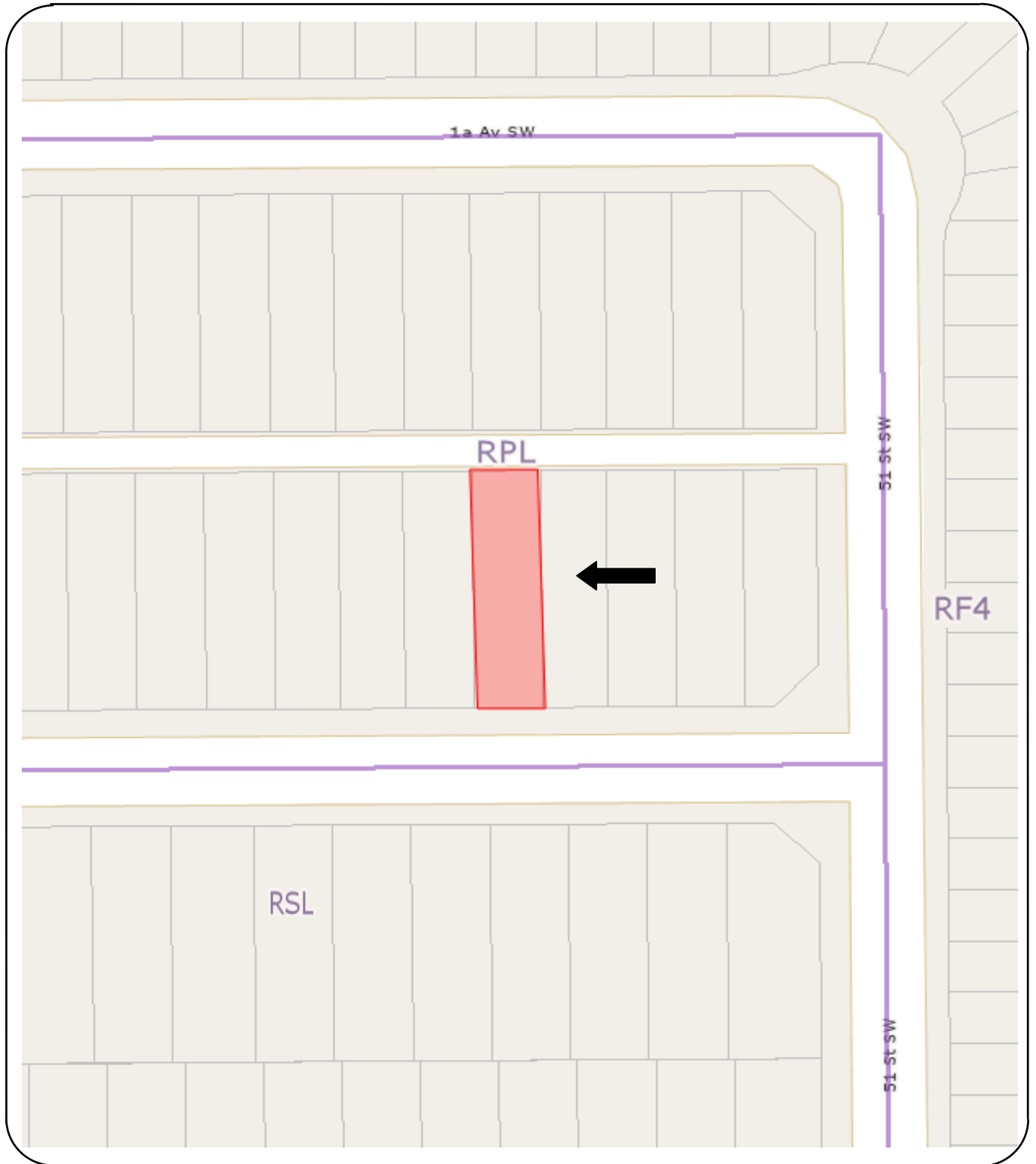
The area on the Driveway, marked on the Site plan as parking spaces for the Secondary Suite, does not meet the minimum dimensions of a parking space (2.6m x 5.5m) and is not in Tandem. Therefore these are not parking spaces.

Proposed parking spaces for the Secondary Suite: 0
Minimum parking spaces required for the Secondary Suite: 1
Deficient by: 1

Section 130.1 states the **General Purpose** of the **RPL Planned Lot Residential Zone** “is to provide for small lot Single Detached Housing, serviced by both a Public Roadway and a Lane that provides the opportunity for the more efficient utilization of land in developing neighbourhoods, while maintaining the privacy and independence afforded by Single Detached Housing forms.”

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-202



BUSINESS LAID OVER

SDAB-D-15-161	An appeal by <u>Ali Abdulhadi</u> to construct four Dwellings of Row Housing with attached Garages and to demolish the existing Single Detached House and rear detached Garage <i>September 23 or 24, 2015</i>
SDAB-D-15-195	An appeal by Romana Latenko VS Highstreet Crystallina Apartments Ltd. to construct 3 Apartment Housing buildings (184 Dwellings) with underground parkdades and an Accessory Building (amenity building) <i>September 23, 2015</i>