

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Wednesday, 9:00 A.M.**  
**September 8, 2021**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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**TO BE RAISED**

I 9:00 A.M. SDAB-D-21-056

To construct exterior alterations (Driveway extension, irregular shape (3.6 metres by 8.0 metres)

3650 - Westcliff Way SW  
Project No.: 379875196-002

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II 10:30 A.M. SDAB-D-21-142

To operate a Major Home Based Business with up to 6 client visits per day (Mandarin Teaching). Expires July 22, 2026

106 - Roche Crescent NW  
Project No.: 401495252-001

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III 1:30 P.M. SDAB-D-21-147

To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace, and rear uncovered deck (8.53 metres by 3.05 metres)

17503 - 46 Street NW  
Project No.: 402612120-002

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

**TO BE RAISED**

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-056

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 379875196-002

APPLICATION TO: Construct exterior alterations (Driveway extension, irregular shape (3.6 metres by 8.0 metres))

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 3, 2021

DATE OF APPEAL: March 16, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3650 - Westcliff Way SW

LEGAL DESCRIPTION: Plan 1224748 Blk 2 Lot 165

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Windermere Area Structure Plan  
Windermere Neighbourhood Structure Plan

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***Grounds for Appeal***

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

The development permit for the extension of the driveway was declined as per the response from the city for being compliant with section 54.3.3c .

Section 54 states: The Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site,

either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway.

The subject property is an inside cul-de-sac and therefore similar to a corner site. Because of the irregular shape of the lot, the driveway would have to accommodate the shape for a few reasons such as the approach to the garage and the sidewalk to the entry of the home. Also, because the narrow shape of the front (as it widens to the back) it limits the number of vehicles and the way the vehicles must park when guest is attending the homeowners home. So not block off the street or create any obstruction on the main road they will be forced to use the driveway.

If the garage was an L-shaped garage this section of the bylaw would not be applicable as the driveway would far exceed the multiple of 3.7m.

Beautiful landscaping of trees, shrubs and rocks will be on both sides of the driveway/sidewalk with beautiful lanterns on either side creating a beautiful site for the neighbors and area for this estate home.

<i>General Matters</i>
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**The Subdivision and Development Appeal Board (the “Board”) made and passed the following motion on June 23, 2021:**

**“That the appeal hearing be rescheduled to September 8, 2021, at the request of the Appellant.”**

**The Subdivision and Development Appeal Board (the “Board”) made and passed the following motion on April 14, 2021:**

**“That the appeal hearing be rescheduled to June 23 or June 24, 2021 at the request of the Appellant.”**

**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.

### **Hearing and Decision**

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

- (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 clause (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*:**

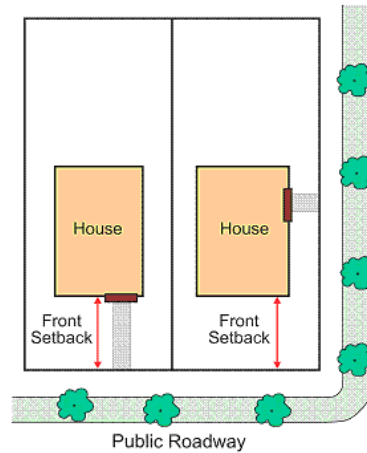
Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot Zone**

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 Setback** means:

the distance that a development or a specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space or Separation Space.



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 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is “to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.”

***Vehicle Parking Design for Low-density Residential***

Section 54.3(3) states:

The Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site, either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;
- ...
- c. for a Garage or Parking Area with two or more Vehicle Parking spaces, the width of the garage or parking area or the number of

side-by-side Vehicle Parking spaces multiplied by 3.7m;  
whichever is less; and

...

**Development Officer's Determination**

**The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a).**

**Proposed: The proposed Driveway extension does not lead directly to the Garage.**

**The Driveway shall be the width of the garage or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less. (Section 54.3.3.c)**

**Proposed: 13.97m**

**Exceeds by: 2.87m.**

[unedited]


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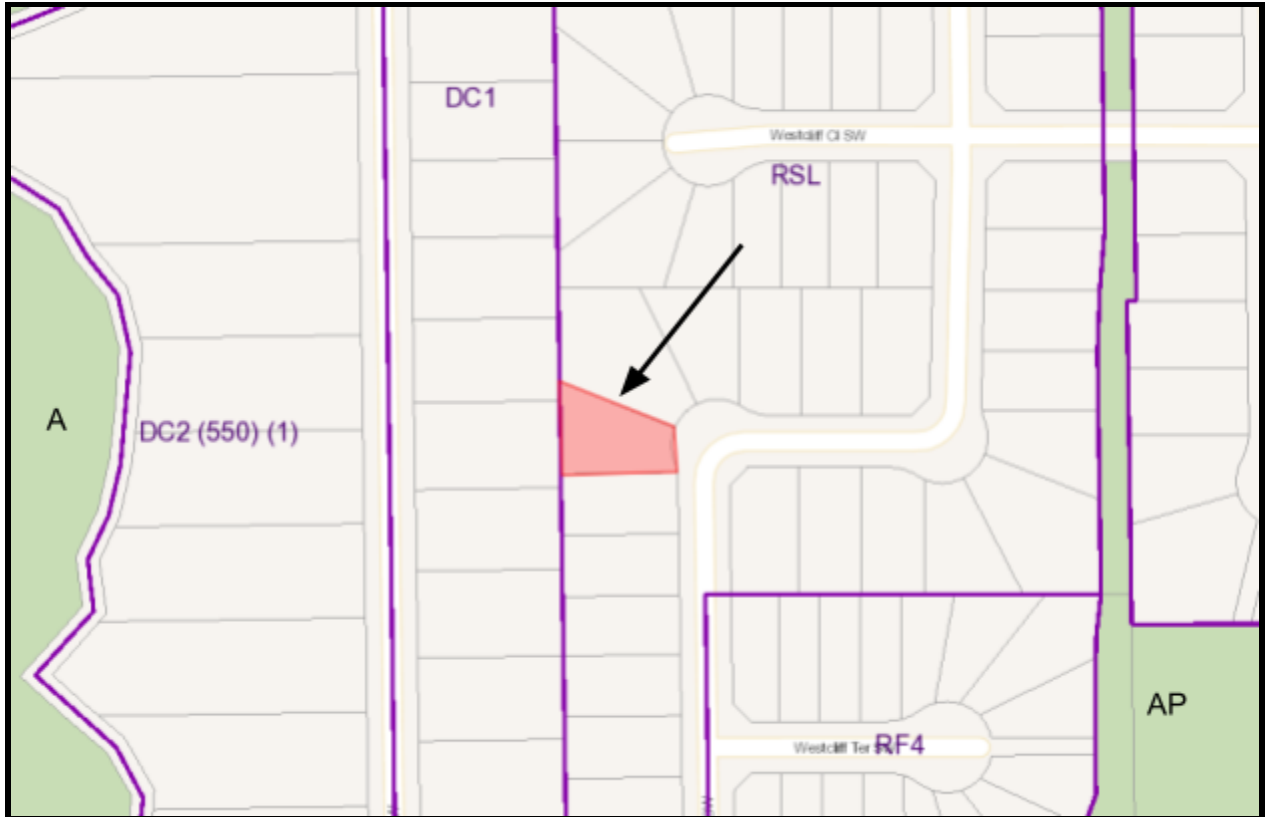
**Notice to Applicant/Appellant**

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.

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	<p><b>Application for Driveway Extension Permit</b></p>				Project Number: <b>379875196-002</b> Application Date: DEC 02, 2020 Printed: March 3, 2021 at 3:08 PM Page: 1 of 1																			
This document is a Development Permit Decision for the development application described below.																								
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 3650 - WESTCLIFF WAY SW Plan 1224748 Blk 2 Lot 165																							
<b>Scope of Application</b> To construct exterior alterations (Driveway extension, irregular shape (3.6m x 8.0m)).																								
<b>Permit Details</b>  <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Class Of Permit:</td> <td style="width: 50%;">Site Area (sq. m.): 844.95</td> </tr> <tr> <td>Stat. Plan Overlay/Amnes Area:</td> <td></td> </tr> </table>					Class Of Permit:	Site Area (sq. m.): 844.95	Stat. Plan Overlay/Amnes Area:																	
Class Of Permit:	Site Area (sq. m.): 844.95																							
Stat. Plan Overlay/Amnes Area:																								
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Mar 03, 2021 <b>Development Authority:</b> BERNUY, MICHELLE <b>Reason for Refusal</b> The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.3.3.a). Proposed: The proposed Driveway extension does not lead directly to the Garage.  The Driveway shall be the width of the garage or the number of side-by-side Vehicle Parking spaces multiplied by 3.7m; whichever is less. (Section 54.3.3.c) Proposed: 13.97m Exceeds by: 2.87m.  <b>Rights of Appeal</b> 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.																								
<b>Building Permit Decision</b> No decision has yet been made.																								
<b>Fees</b> <table border="0" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 20%; text-align: left;">Receipt #</th> <th style="width: 15%; text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td>0321520538610010</td> <td>Dec 02, 2020</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><b>Totals for Permit:</b></td> <td style="text-align: right; border-top: 1px solid black;"><b>\$176.00</b></td> <td style="text-align: right; border-top: 1px solid black;"><b>\$176.00</b></td> <td></td> <td></td> </tr> </tbody> </table>						Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$176.00	\$176.00	0321520538610010	Dec 02, 2020	Total GST Amount:	\$0.00				<b>Totals for Permit:</b>	<b>\$176.00</b>	<b>\$176.00</b>		
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<b>THIS IS NOT A PERMIT</b>																								



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

▲  
**N**

File: SDAB-D-21-056

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-142

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 401495252-001

APPLICATION TO: Operate a Major Home Based Business with up to six client visits per day (Mandarin Teaching). Expires July 22, 2026

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: July 22, 2021

DATE OF APPEAL: August 11, 2021

NOTIFICATION PERIOD: July 29, 2021 through August 19, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 106 - Roche Crescent NW

LEGAL DESCRIPTION: Plan 8922081 Blk 54 Lot 31

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

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<i>Grounds for Appeal</i>
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The Appellant provided the following reasons for appealing the decision of the Development Authority:

We wish to appeal the grant of a development permit to allow a home based business to be conducted at 106 Roche Crescent. We were told that this business will be some sort of "Mandarin School" which will operate on nights and weekends as well, perhaps, as during the day. One of our neighbors was told (only by asking) by a person there that as many as 8 students will be involved. Disclosure of the plan has not been forthcoming. The parties given the permit did not consult or give notice to neighbors and are new to the location. We are concerned not only as to it being a business, but as to whether the nature of the business has been accurately described; it could be anything from adult education to a day care center. There is no reason such a business could not operate on commercial premises. City has recently removed bus service and students (if they are students) will arrive by vehicle into a keyhole crescent (cul de sac) where young children walk and play. There are no speed bumps or traffic control devices in place. There is no street parking available. We anticipate providing further details at the appeal.

<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.

...

**(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.

**Hearing and Decision**

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

(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 clause (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 110.3(4), a **Major Home Based Business** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

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, Garden Suites, Semi-detached Housing and Duplex Housing.

<b><i>Section 75 - Major Home Based Business</i></b>
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A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business may have more than two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

**Development Officer's Determination**

**You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.**

**Note: The proposed development complies with the Bylaw, and there are no variances to the development regulations.**

[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.

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	Project Number: <b>401495252-001</b> Application Date: JUL 05, 2021 Printed: July 29, 2021 at 2:13 PM Page: 1 of 3		
<h2 style="margin: 0;">Home Occupation</h2>			
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.			
<b>Applicant</b> <div style="background-color: black; width: 100%; height: 50px; margin-top: 5px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 106 - ROCHE CRESCENT NW Plan 8922081 Blk 54 Lot 31 <hr/> <b>Specific Address(es)</b> Suite: 106 - ROCHE CRESCENT NW Entryway: 106 - ROCHE CRESCENT NW Building: 106 - ROCHE CRESCENT NW		
<b>Scope of Permit</b> To operate a Major Home Based Business with up to 6 client visits per day (Mandarin Teaching). Expires July 22, 2026.			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of business related visits/day: 6                      Administration Office Only?: N                      Class of Permit: Class B                       Do you live at the property?: Y                      Outdoor storage on site?:                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     # of vehicles at one time:                      Business has Trailers or Equipment?:                      Description of Business: Teaching kids Mandarin in the house walk-out basement in evening and weekend.                      Expiry Date: 2026-07-22 00:00:00                 </td> </tr> </table>		# of business related visits/day: 6 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?:	# of vehicles at one time: Business has Trailers or Equipment?: Description of Business: Teaching kids Mandarin in the house walk-out basement in evening and weekend. Expiry Date: 2026-07-22 00:00:00
# of business related visits/day: 6 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?:	# of vehicles at one time: Business has Trailers or Equipment?: Description of Business: Teaching kids Mandarin in the house walk-out basement in evening and weekend. Expiry Date: 2026-07-22 00:00:00		
<b>Development Permit Decision</b> Approved <b>Issue Date:</b> Jul 22, 2021 <b>Development Authority:</b> FOLKMAN, JEREMY			



Project Number: **401495252-001**  
Application Date: JUL 05, 2021  
Printed: July 29, 2021 at 2:13 PM  
Page: 2 of 3

## Home Occupation

### Subject to the Following Conditions

Unless otherwise stated, all references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw #12800, as amended.

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(6)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
5. If there are visits associated with the business the number shall not exceed the number applied for with this application.
6. Clients visit must be by-appointment only.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
9. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighborhood.
10. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
11. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
12. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on July 22, 2026.

### Notes:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.
3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

### VariANCES

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed development complies with the Bylaw, and there are no variances to the development regulations.



Project Number: **401495252-001**  
Application Date: JUL 05, 2021  
Printed: July 29, 2021 at 2:13 PM  
Page: 3 of 3

## Home Occupation

**Rights of Appeal**

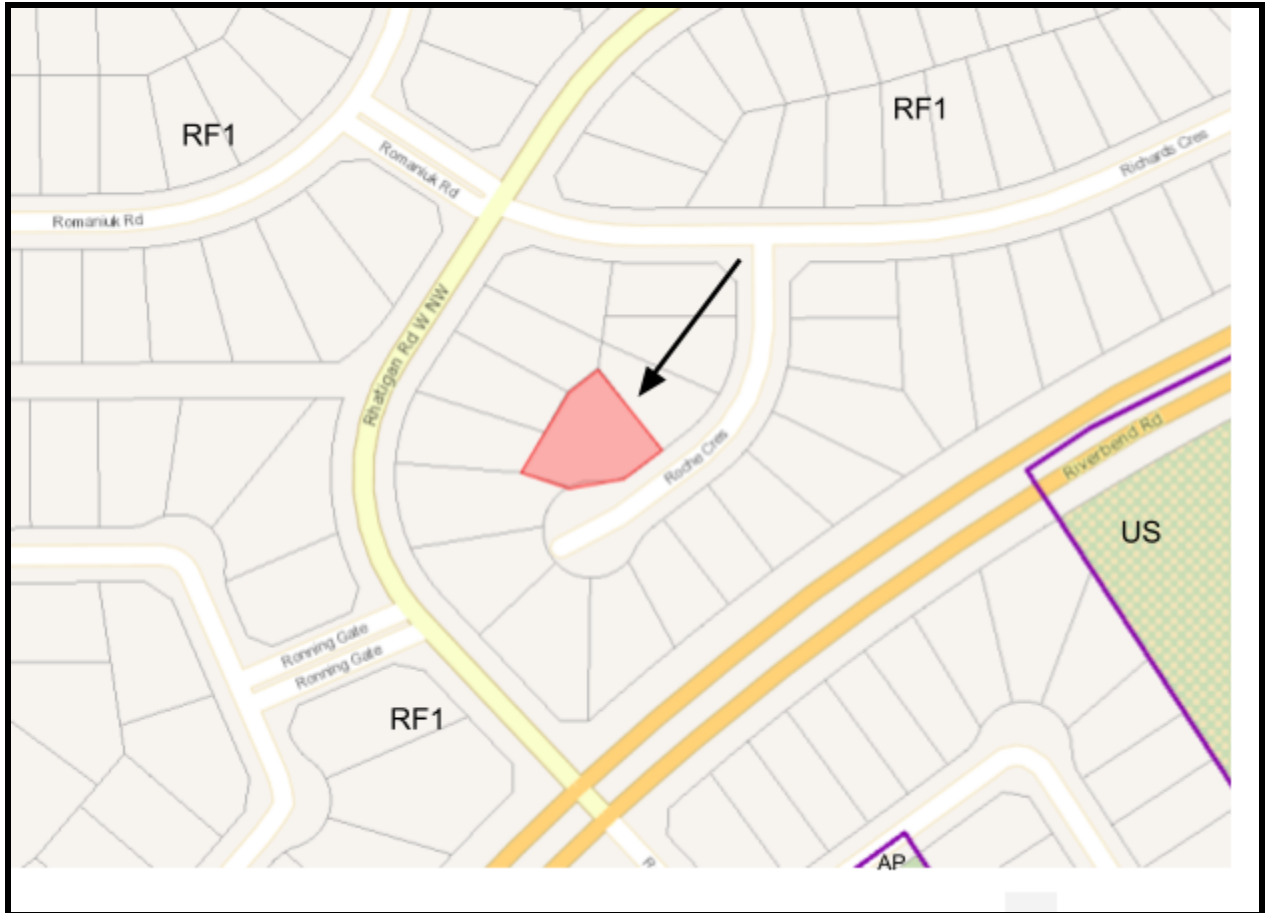
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Notice Period Begins:** Jul 29, 2021

**Ends:** Aug 19, 2021

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$327.00	\$327.00	1213760189810010	Jul 06, 2021
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$327.00</u>	<u>\$327.00</u>		



**SURROUNDING LAND USE DISTRICTS**

**Site Location** ←                      **File: SDAB-D-21-142**                      ▲  
**N**

ITEM III: 1:30 P.M.

FILE: SDAB-D-21-147

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 402612120-002

APPLICATION TO: Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace, and rear uncovered deck (8.53 metres by 3.05 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: July 26, 2021

DATE OF APPEAL: August 16, 2021

NOTIFICATION PERIOD: August 3, 2021 through August 24, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17503 - 46 Street NW

LEGAL DESCRIPTION: Plan 1823038 Blk 19 Lot 78

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Cy Becker Neighbourhood Structure Plan  
Pilot Sound Area Structure Plan

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<i>Grounds for Appeal</i>
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The Appellant provided the following reasons for appealing the decision of the Development Authority:

My name is Nam Tran and I am the owner of the property 17507 46 STREET NW, Edmonton AB. I am writing this to you today to file an appeal on the development permit that was approved for the property 17503 46 STREET NW that will undergo construction in the near future.

I have recently received a notice from the city that the builders of the aforementioned property have received approval to extend the deck closer to the back property line, making the distance 4.2 m instead of the standard 5.5 m. It is for this reason that I am writing my appeal as, upon personal investigation, discovered that the extension will completely hinder my ability to view the pond from my own deck. The proposed deck is not uniform with the pre-existing houses that have already been built and will serve to block the view of the other half of the pond we as homeowners are entitled to.

It is for these reasons that I would like to request that the distance from the deck to the back property line of home 17503 - 46 STREET NW be reversed to the standard of 5.5 m rather than the proposed 4.2 m. If I could please receive further information on this matter and the decision made on this appeal, that would be greatly appreciated. Thank you for your time and consideration and I look forward to hearing from you soon.

<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.

...

(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.

### **Hearing and Decision**

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

- (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 clause (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 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot 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.

Section 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is:

to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.



***Projection***

Section 44.3, Projections into Setbacks and Separation Spaces, states:

The following features may project into a required Setback or Separation Space as provided for below:

- a) Platform Structures provided such projections do not exceed 2.5 m into a Front Setback;
- b) Platform Structures provided such projections do not exceed 2.0 m into any other Setbacks or Separation Spaces with a depth of at least 4.0 m;
- c) Platform Structures provided such projections do not exceed 0.6 m into any other Setbacks or Separation Spaces with a depth of less than 4.0 m; and
- d) Notwithstanding subsection 44(3)(b) and subsection 44(3)(c), Platform Structures 1.2 m or less in Height may be constructed to the Lot lines Abutting an interior Side Yard and Rear Yard;
- e) ....

**Development Officers Determination**

**Projection - The distance from the deck to the back property line (rear lot line) is 4.2 m, instead of 5.5 m (Section 44.3)**



[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.

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	<b>Project Number: 402612120-002</b> Application Date: JUL 15, 2021 Printed: July 26, 2021 at 3:26 PM Page: 1 of 2		
<h2>Minor Development Permit</h2>			
<p>This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.</p>			
<b>Applicant</b> 	<b>Property Address(es) and Legal Description(s)</b> 17503 - 46 STREET NW Plan 1823038 Blk 19 Lot 78		
<b>Scope of Permit</b> To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace, and rear uncovered deck (8.53m x 3.05m).			
<b>Permit Details</b> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;">           # of Dwelling Units Add/Remove: 1            # of Secondary Suite Dwelling Units To Construct:            Client File Reference Number:            Minor Dev. Application Fee: Single Detached House            Secondary Suite Included?: N         </td> <td style="width: 50%; vertical-align: top;">           # of Primary Dwelling Units To Construct: 1            Class of Permit: Class B            Lot Grading Needed?:            New Sewer Service Required: Y            Strat. Plan Overlay/Annex Area:         </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Strat. Plan Overlay/Annex Area:
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<b>Development Permit Decision</b> Approved <b>Issue Date:</b> Jul 26, 2021 <b>Development Authority:</b> SAHL, RAMANJYOT			

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<p><b>Subject to the Following Conditions</b></p> <p>This Development Permit authorizes the development of a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace, and rear uncovered deck (8.53m x 3.05m).</p> <p>The development shall be constructed in accordance with the stamped and approved drawings.</p> <p>Landscaping shall be installed and maintained in accordance with Section 55.</p> <p>This Development Permit authorizes the development of a rear uncovered deck.</p> <p>The development shall be constructed in accordance with the stamped and approved drawings.</p> <p>Any future deck enclosure or cover requires a separate development and building permit approval.</p> <p><b>ADVISEMENTS:</b></p> <p>Due to the roll face curb construction at this property, there are no requirements for a separate curb crossing permit under Section 1210 and 1211 of Traffic Bylaw No. 5590. Approval is given for the access under this Development Permit.</p> <p>Lot grades must match the Edmonton Drainage Bylaw 18093 and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or <a href="mailto:lot.grading@edmonton.ca">lot.grading@edmonton.ca</a> for lot grading inspection inquiries.</p> <p>The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.</p> <p>Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.</p> <p>An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Section 5.2).</p> <p>A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.</p> <p><b>VariANCES</b></p> <p>Projection - The distance from the deck to the back property line (rear lot line) is 4.2 m, instead of 5.5 m (Section 44.3)</p> <p><b>Rights of Appeal</b></p> <p>This approval is subject to the right of appeal to the Subdivision and Development Appeal Board (SDAB) as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.</p> <p><b>Notice Period Begins:</b> Aug 03, 2021      <b>Ends:</b> Aug 24, 2021</p>																															
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**SURROUNDING LAND USE DISTRICTS**

**Site Location** ←      **File: SDAB-D-21-147**      **N** ▲