

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 11, 2019**

**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-19-143	Construct exterior alterations (increased finished floor elevation) to an existing Garden Suite 13827 - 90 Avenue NW Project No.: 261991333-012
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II	10:30 A.M.	SDAB-D-19-144	Construct a rear addition to a Duplex (breezeway between House and Garage, 4.23 metres by 7.06 metres) 10307 - 78 Street NW Project No.: 314861304-001
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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-19-143

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 261991333-012

APPLICATION TO: Construct exterior alterations (increased finished floor elevation) to an existing Garden Suite

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 9, 2019

DATE OF APPEAL: August 13, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13827 - 90 Avenue NW

LEGAL DESCRIPTION: Plan 3792KS Blk 9 Lot 37

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

The garage is 0.2 metres higher than permitted. We are requesting a variable.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,

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

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

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(2), **Garden Suites** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(3), **Garden Suites** means:

an Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use Class does not include Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Section 110.4(4) states “Garden Suites shall comply with Section 87 of this Bylaw.”

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.”

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Height

Section 87(2)(b) states the maximum Height shall be 6.2 metres where the Garden Suite has a roof slope of less than 4/12 (18.4°).

Development Officer's Determination

Height - The maximum height shall be 6.2m where the Garden Suite has a roof slope of less than 4/12.

Required: 6.2m

Proposed: 6.4m

Exceeds by 0.2m

Note: The Development Officer does not have the authority to vary the maximum Height regulation.

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.



Application for Minor Development Permit

Project Number: **261991333-012**
 Application Date: JUL 02, 2019
 Printed: August 13, 2019 at 2:09 PM
 Page: 1 of 2

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s)
<div style="border: 1px solid black; width: 280px; height: 50px; margin: 0 auto;"></div>	13827 - 90 AVENUE NW Plan 3792KS Blk 9 Lot 37
	Specific Address(es)
	Entryway: 13827A - 90 AVENUE NW Building: 13827A - 90 AVENUE NW

Scope of Application

To construct exterior alterations (increased finished floor elevation) to an existing Garden Suite.

Permit Details

# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: 0 Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 0 Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

Issue Date: Aug 09, 2019 **Development Authority:** YEUNG, KENNETH

Reason for Refusal

Height - The maximum height shall be 6.2m where the Garden Suite has a roof slope of less than 4/12.

Required: 6.2m
 Proposed: 6.4m
 Exceeds by 0.2m

Note: The Development Officer does not have the authority to vary the maximum Height regulation.

Rights of Appeal

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$167.00	\$167.00	05957930	Jul 02, 2019

THIS IS NOT A PERMIT



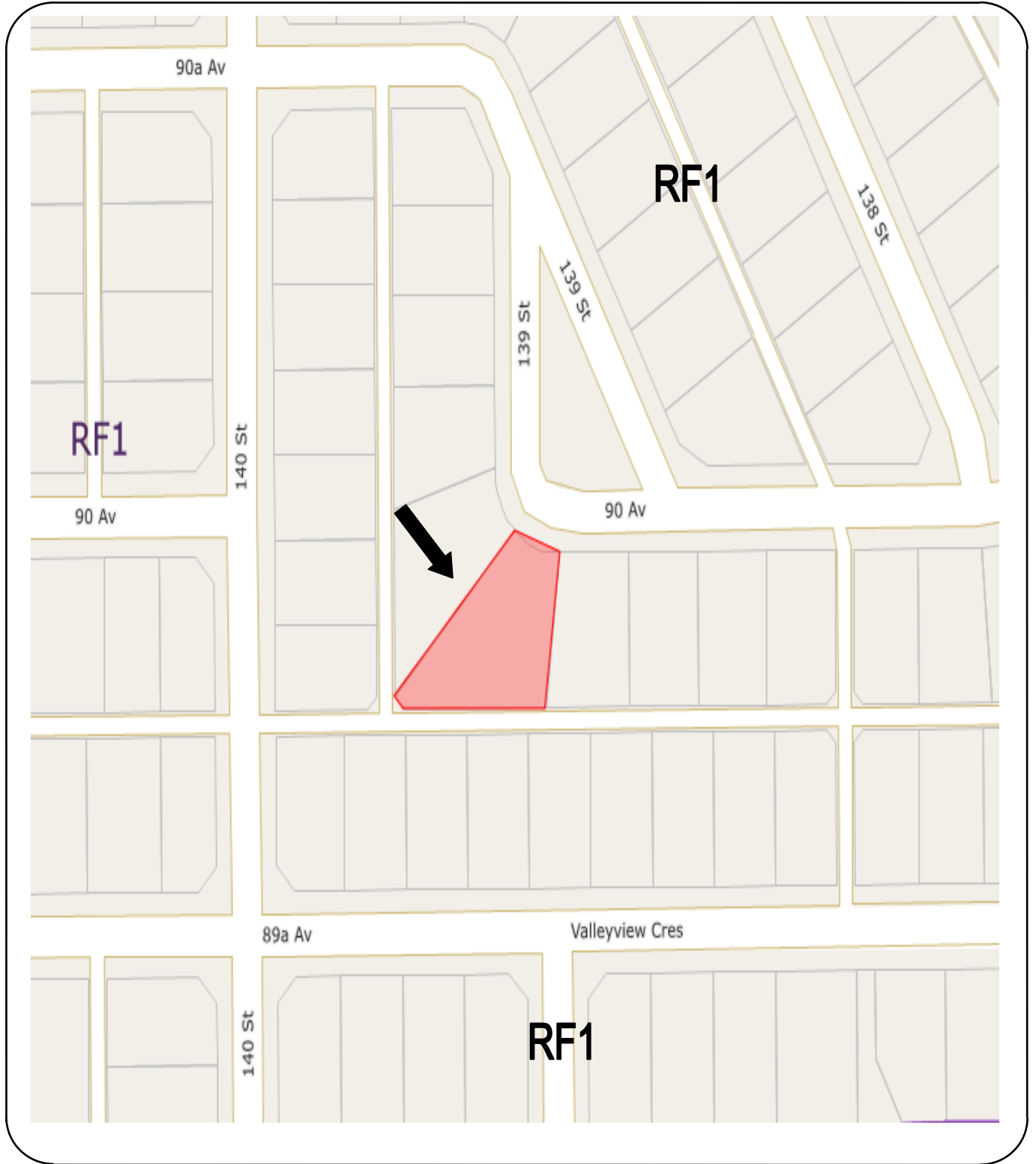
Application for Minor Development Permit

Project Number: **261991333-012**
Application Date: JUL 02, 2019
Printed: August 13, 2019 at 2:09 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$167.00</u>	<u>\$167.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-143



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-144

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 314861304-001

APPLICATION TO: Construct a rear addition to a Duplex (breezeway between House and Garage, 4.23 metres by 7.06 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 29, 2019

DATE OF APPEAL: August 18, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10307 - 78 Street NW

LEGAL DESCRIPTION: Plan 4172HW Blk 14 Lot 2

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

I wish to appeal the decision of the Development Authority regarding File #314861304-001 for the reasons outlined below.

- 1) All the neighboring properties around this property are in favor of the structure as it exists and has existed for the past 35 years. Signatures & support letters have been provided indicating support of this existing structure.
- 2) There are several rear attached garages in the same community that are existing & not affecting the neighborhood in anyway. Documentation & pictures are provided.

- 3) Due to the fact that this property is located in a mature neighborhood with large overgrown Elm trees, there are a lot of leaves that are regularly blocking the eavestroughs as well as large roots that block the sewer lines. These issues increase the risk significantly by causing extremely icy conditions on the cement, or blocking the drain lines. This structure eliminates the risk.
- 4) The existing structure helps shelter the rear entrances for both units of the property. It provides a guaranteed secondary escape route in case of an emergency situation. Without this structure, winter conditions could lead to blockages of the entrances with ice/snow in the event of an emergency. Supporting documentation & pictures are provided.
- 5) The duplex rear entrances/exits are covered by this structure which is in place to accommodate the following safety codes. This structure keeps the duplex in accordance with the following Alberta Building Safety Codes, Section 3.2.1.1 – Division A – Section F30 (minimize the risk and injury to persons as a result of tripping, slipping, falling, contact, drowning or collision) and Section F10 (To facilitate the timely movement of persons to a safe place in an emergency).

<i>General Matters</i>

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.

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- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,

- (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 140.2(2), **Duplex Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(2), **Duplex Housing** means “development consisting of a building containing two principal Dwellings, with one of those Dwellings placed over the other in whole or in part. Each principal Dwelling has separate and individual access, not necessarily directly to ground level. This type of development is designed and constructed as two principal Dwellings at the time of initial construction of the building. This Use does not include Semi-detached Housing.”

Section 50.1(4) states:

Where any building or structure on a Site is attached to a principal building on the Site by a roof, an open or enclosed structure above Grade, a floor or a foundation greater than 1.0 metres above Grade, it is a part of the principal building and is not an Accessory building.

Section 140.1 states that the **General Purpose** of **(RF3) Small Scale Infill Development Zone** is “to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four principal Dwellings under certain conditions, including Secondary Suites and Garden Suites.”

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

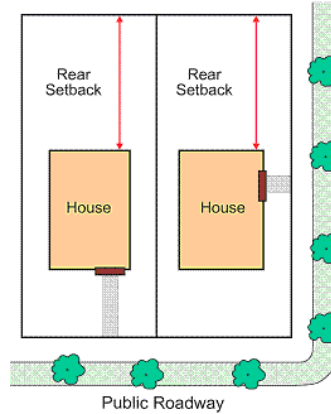
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Rear Setback

Section 814.3(4) states “The minimum Rear Setback shall be 40% of Site Depth.”

Under section 6.1, **Rear Setback** means:

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.



Under section 6.1, **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

Development Officer’s Determination

1. The minimum Rear Setback shall be 40% of Site Depth (Section 814.3.4).

Rear attached Garage

Section 814.3(19) states “Rear attached Garages shall not be allowed.”

Development Officer’s Determination

2. Rear attached Garages shall not be allowed (Section 814.3.19).

Site Coverage

Section 140.4(10)(a) states **Maximum Site Coverage** for Duplex Housing shall be as follows:

Principal Dwelling / building	Accessory Building	Principal building with attached Garage	Total Site Coverage
28 percent	12 percent	40 percent	40 percent

Under Section 6.1, **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;

- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

Development Officer’s Determination

3. Maximum Site Coverage for Principal building with attached Garage shall be 40% (Section 140.4.10.a).

Side Setback

Section 814.3(3) states:

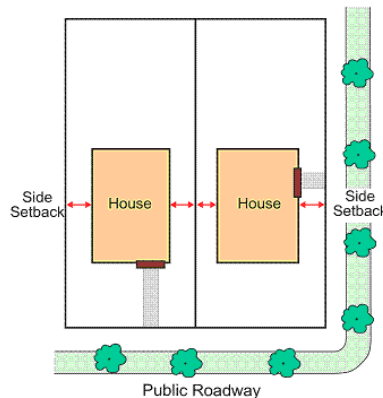
Side Setbacks shall be established on the following basis:

- a. ...
- b. where a Site Width is greater than 12.0 m and less than 18.3 m, the Side Setback requirements of the underlying Zone shall apply;
- c. ...

Section 140.4(14)(a) states “Side Setbacks shall total at least 20% of the Site Width to a maximum total of 6.0 metres, with a minimum Side Setback of 1.2 metres on each side.”

Under section 6.1, **Side Setback** means:

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.



Under section 6.1, **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

Development Officer’s Determination

4. Minimum Side Setback of 1.2 m on each side (Section 140.4.14).

<i>Community Consultation</i>

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1

Tier 2	The municipal address and assessed owners of the land Abutting the Site, directly adjacent across a Lane from the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback 814.3(19) – Rear Attached Garage
Tier 3	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(3) – Side Setbacks

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-09-072	To construct an addition to an existing Single Detached House and Detached Garage (4.23 metres by 7.06 metres rear covered patio connecting the House and Garage), existing without permits	May 29, 2009; “that the appeal be DENIED and the decision of the Development Officer CONFIRMED. The Development is REFUSED.”

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.



Application for Addition Permit

Project Number: **314861304-001**
 Application Date: MAY 28, 2019
 Printed: July 29, 2019 at 10:18 AM
 Page: 1 of 2

This document is a Development Permit Decision for the development application described below.

Applicant <div style="border: 1px solid black; width: 100%; height: 40px;"></div>	Property Address(es) and Legal Description(s) 10307 - 78 STREET NW Plan 4172HW Blk 14 Lot 2 Location(s) of Work Entryway: 10307 - 78 STREET NW Building: 10307 - 78 STREET NW
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Scope of Application

To construct a rear addition to a Duplex (breezeway between House and Garage, 4.23m x 7.06m).

Permit Details

Class Of Permit:
 Stat. Plan Overlay/Annex Area: Mature Neighbourhood
 Overlay

Site Area (sq. m.): 595.45

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

Issue Date: Jul 29, 2019 **Development Authority:** HETHERINGTON, FIONA

Reason for Refusal

1. The minimum Rear Setback shall be 40% of Site Depth (Section 814.3.4).
2. Rear attached Garages shall not be allowed (Section 814.3.19).
3. Maximum Site Coverage for Principal building with attached Garage shall be 40% (Section 140.4.10.a).
4. Minimum Side Setback of 1.2 m on each side (Section 140.4.14).

Rights of Appeal

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

Building Permit Decision

Refused

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$4.50	\$4.50	05879380	May 28, 2019
Existing Without Permit Building Penalty Fee	\$110.00	\$110.00	05879380	May 28, 2019

THIS IS NOT A PERMIT



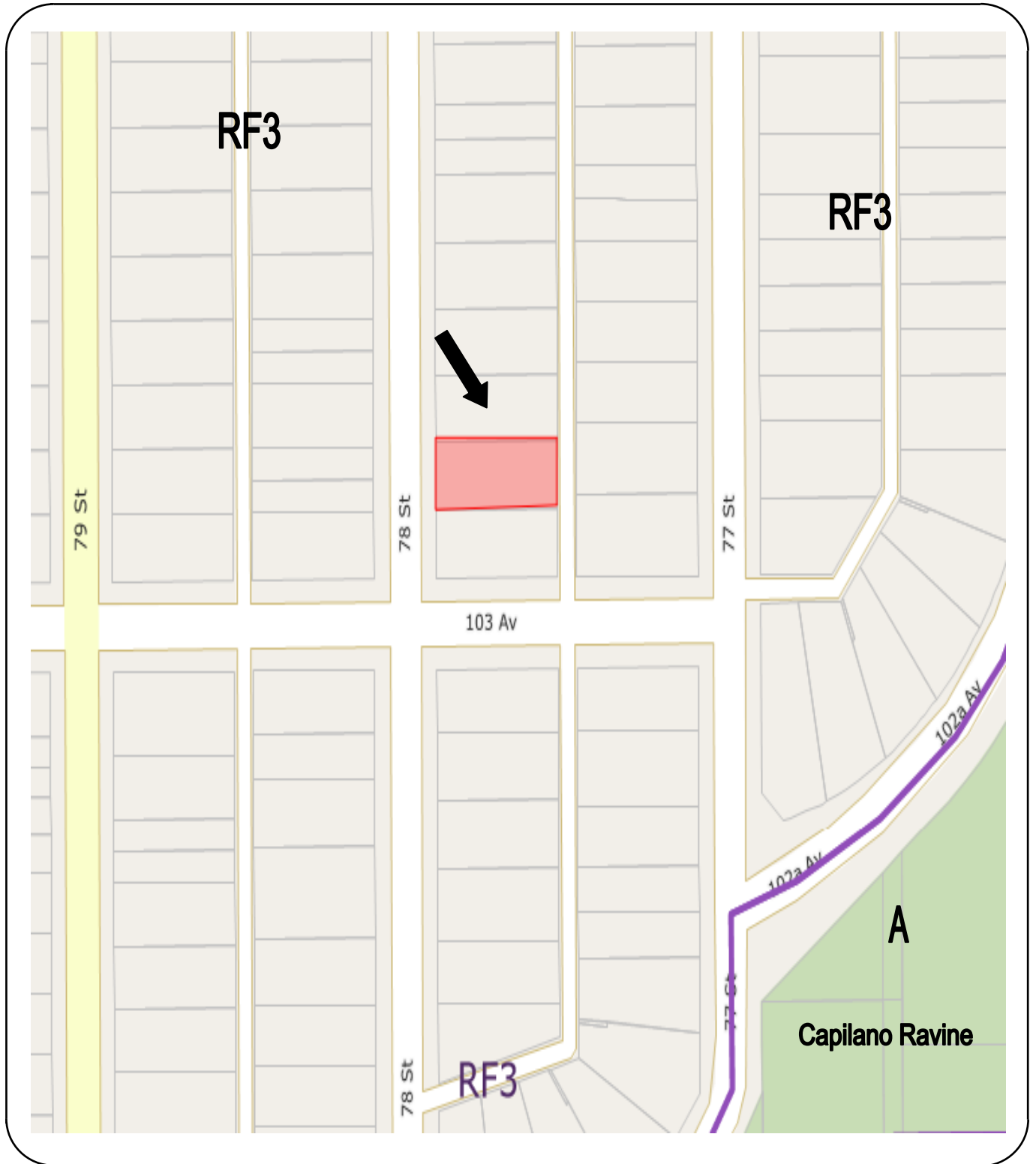
Application for Addition Permit

Project Number: **314861304-001**
Application Date: MAY 28, 2019
Printed: July 29, 2019 at 10:18 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Dev Application Penalty Fee	\$425.00	\$425.00	05879380	May 28, 2019
Building Permit Fee (Construction Value)	\$110.00	\$110.00	05879380	May 28, 2019
Development Application Fee	\$425.00	\$425.00	05879380	May 28, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,074.50</u>	<u>\$1,074.50</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-144

