

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
September 21, 2017

Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-17-174	Construct a two-Storey Accessory building (main floor Garage 11.58 metres by 7.01 metres, second floor Garage Suite, 9.14 metres by 7.01 metres) and to demolish the existing detached Garage 9907 - 82 Street NW Project No.: 256065457-001
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II	10:30 A.M.	SDAB-D-17-175	Apply for a Congregate Living Development Permit on or before September 14, 2017 OR Revert the property back to a Single Household on or before September 14, 2017. 3 unrelated tenants OR 1 Family + unrelated tenant. 9315 - 152 Street NW Project No.: 153328793-003
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WITHDRAWN

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-17-174

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 256065457-001

APPLICATION TO: Construct a two -Storey Accessory building (main floor Garage 11.58 metres by 7.01 metres, second floor Garage Suite, 9.14 metres by 7.01 metres) and to demolish the existing detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 28, 2017

DATE OF APPEAL: August 29, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9907 - 82 Street NW

LEGAL DESCRIPTION: Plan 6227HW Blk 28 Lot 2

ZONE: RF1 Single Detached Residential Zone

OVERLAY: MNO Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

Thank-you for the opportunity to appeal the decision of the Development Authority, for the construction of a garage suite at the address of 9907 82 Street.

Earlier this spring, The [T] family connected with myself [Niche Homes] to assist them in constructing a multi-generational garage suite. It would function as a residence for [JT] and [LT] (son and daughter in-law), and then eventually [BT] and [AT] (Mother and Father) would move into it once [JT] and [LT's] family started growing.

The lot size of the current property is 15.2 x 44.7m, and will comfortably host the suite with good remaining yard space for current residence, solid side yard on both north and south side (6' on each), and an appropriately sized driveway providing good access to the triple garage for all 3 vehicles that both families have in total. This triple garage will prevent any extra vehicles from needing to be parked on the street minimizing concerns adjacent property owners may have.

Niche Homes recently completed a two bedroom garage suite at the address 10303 81 Street, that initially was the catalyst for the T family to connect with me. It had the function they were looking for with the two bedroom, as the second bedroom could enable them to start a family and then switch with [BT] and [AT] once they felt the time was right.

We have successfully developed drawings that serve both family's needs including:

- Widened interior stairwell for assisted lift if required
- Parking for three cars
- Upper level balcony space overlooking lane and not adjacent neighbours to north and south
- Long term interior living design with good natural light, vaulted ceilings, two bedrooms, closet, laundry and other essential elements
- The architectural design is modern and clean with many energy efficient additions including triple pane windows, upgraded insulation, HRV system, balcony and LED recessed lighting. It is truly a structure that both the owners and community can be proud of.

With the changes being made as of September 1, 2017, to garage suites, we are a hybrid of what is currently allowed and the changes that are coming into effect. We are seeking some relaxation on the following items:

- Height of the structure
- Site coverage (exceed by 0.84) which is essentially the size of the balcony, with 0.84% being rounded down
- Size of the suite is greater than allowance by 4.10 m square

We are in process of consulting with neighbours to the north, south, and east, that are potentially the most impacted. We have explained the current application and rules, and outlined upcoming changes also. There is good support for the project as many see it as adding value to the area, and feel the aesthetics of the project also blend in nicely with the Forest Heights community. Residents also appreciate knowing the fact that the garage suite will serve as multi-generational home and not strictly for revenue purposes. We will provide documentation of our consult when requested by the Appeal board.

Should you have any questions please do not hesitate to contact me directly at [REDACTED] or my email [REDACTED]. We look forward to a favourable apply and anxiously await the opportunity to discuss things further with the board and to address any other concerns. [Content unedited; personal information redacted]

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 Officer is dated August 28, 2017. The Notice of Appeal was filed on August 29, 2017.

Determining an Appeal

Hearing and decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (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*:

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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Under section 3.2(1)(i), “Garage Suites is deemed to be Garden Suites.”

Under Section 110.2(1), **Garden Suites** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Section 7.2(3) states:

Garden Suite 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 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.

Maximum Height

On July 10, 2017, City Council passed Bylaw 18115, to be effective September 1, 2017. Bylaw 18115 significantly amended the regulations pertaining to Garden Suites and Garage Suites. The following table provides a comparison of the applicable pre-amendment provision with the post-amendment provision.

Pre-Amendment	Post-Amendment: Bylaw 18115
<p>87(2)(a)(i) [T]he maximum Height shall be as follows:</p> <p>a. Garage containing a Garage Suite (above Grade):</p> <p>i. 6.5 m or up to 1.5m greater than the Height of the principal Dwelling as constructed at the time of the Development Permit Application, whichever is the lesser, where the building containing the Garage Suite has a roof slope of 4/12 (18.4°) or greater.</p>	<p>3.2(1)(i) Garage Suites is deemed to be Garden Suites</p> <p>87(3)(a) Garden Suites shall be developed in accordance with the following regulations:</p> <p>...</p> <p>3. The maximum Height shall be as follows:</p> <p>a. 6.5 m where the Garden Suite has a roof slope of 4/12 (18.4°) or greater.</p>

Development Officer’s Determination

Applying the pre-amendment regulations, the Development Officer determined:

Maximum height allowed: 4.96m
 Proposed height : 6.20m
 Exceeds by: 1.24m

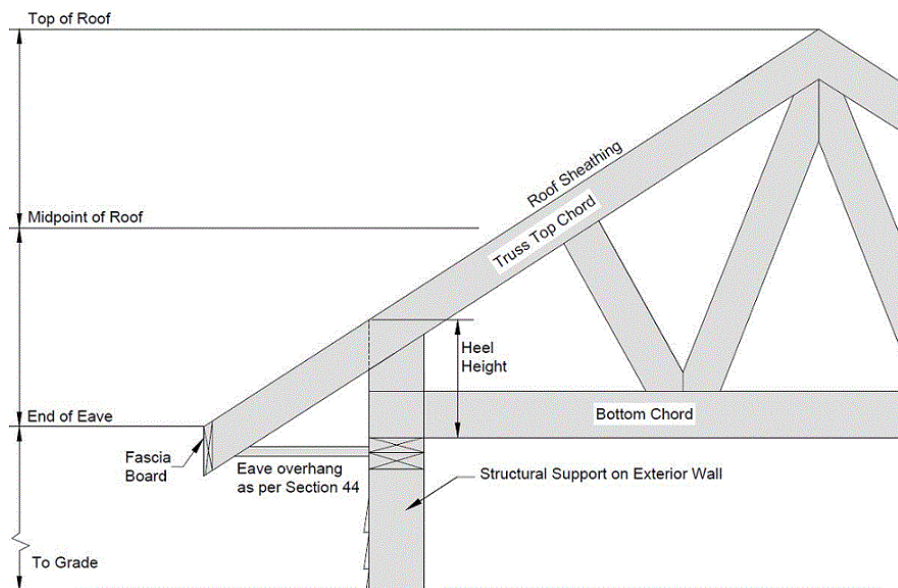
Height Calculation

Section 52(1)(a) provides as follows:

52. 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



Section 52(2)(c) states:

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.

Development Officer’s Determination

Maximum: 6.46m
 Proposed: 7.01m
 Exceeds by 0.55m

Maximum Site Coverage

Section 110.4(7)(a) provides as follows:

7. Maximum Site Coverage shall be as follows:

	Principal Dwelling/ building	Accessory building	Principal building with attached Garage	Total Site Coverage
D e v D e I a. Single Detached Housing - Site greater than 300 m ²	28%	12%	40%	40%

Development Officer’s Determination

Maximum: 12% (81.48 m²)
 Proposed: 12.84% (87.20 m²)
 Exceeds by 0.84% (5.72 m²)

Floor Area (Above Grade/Second Storey)

Pre-Amendment	Post-Amendment: Bylaw 18115
<p>87(3) [T]he maximum Floor Area shall be:</p> <p>a. 60m² for a Garage Suite (above Grade). ...</p> <p>c. notwithstanding (a) and (b) above, the maximum floor area may be increased by up to 7.5 m², only where this additional floor area comprises the area of a Platform Structure associated with the Garage Suite or Garden Suite.</p>	<p>87(5)(d) Floor Area for Dwelling space in a Garden Suite shall be provided in accordance with the following:</p> <p>a. for the purposes of this regulation, Floor Area shall exclude Parking Areas within the Garden Suite, up to 4 m² of the area covered by stairways, and up to 6 m² of the area covered by elevators and any associated landing area;</p> <p>b. the maximum Floor Area shall be 75 m²;</p> <p>c. the minimum Floor Area shall be 30 m².</p> <p>d. in the RF1, RF2, RF3, RF4, RF5, RF6, RA7, RA8, and RA9 Zones, the maximum Second Storey Floor Area shall be 50 m²; and</p> <p>e. in all other Zones, the maximum Second Storey Floor Area shall be 60 m².</p>

Development Officer's Determination

Applying the pre-amendment regulations, the Development Officer determined:

Floor Area (Garage Suite excluding balcony)

Maximum: 60m²

Proposed: 64.10m²

Exceeds by 4.10m²

Floor Area (Garage Suite including balcony)

Maximum: 67.5m²

Proposed: 70.11m²

Exceeds by 2.61m²

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*.



Project Number: **256065457-001**
Application Date: JUL 04, 2017
Printed: September 13, 2017 at 10:03 AM
Page: 1 of 2

House Development and Building Permit

This document is a record of a Development Permit and/or Building 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, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit

Applicant 	Property Address(es) and Legal Description(s) 9907 - 82 STREET NW Plan 6227HW Blk 28 Lot 2
	Location(s) of Work Entryway: 9907A - 82 STREET NW Building: 9907A - 82 STREET NW

Scope of Application
To construct a two -Storey Accessory building (main floor Garage 11.58m x 7.01m , second floor Garage Suite , 9.14m x 7.01m) and to demolish the existing detached Garage.

Permit Details	
Affected Floor Area (sq. ft.): 1331 Class of Permit: Front Yard (m): Rear Yard (m): 2.82 Side Yard, left (m): 1.83 Site Area (sq. m.): 679 Site Width (m): 15.23	Building Height to Midpoint (m): 6.2 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.83 Site Depth (m): 44.53 Stat. Plan Overlay/Annex Area:

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

Applicant signature: _____

Development Application Decision
Appealed to SDAB



Project Number: **256065457-001**
 Application Date: JUL 04, 2017
 Printed: September 13, 2017 at 10:03 AM
 Page: 2 of 2

House Development and Building Permit

Reason for Refusal

1) Section 87(2)(a) Height - Maximum height shall be 6.5 m or up to 1.5m greater than the Height of the principal Dwelling as constructed at the time of the Development Permit Application, whichever is the lesser, where the building containing the Garage Suite has a roof slope of 4/12 (18.4%) or greater.

Maximum height allowed: 4.96m
 Proposed height : 6.20m
 Exceeds by: 1.24m

2) Section 52(2)(c) Height to peak - The ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Maximum: 6.46m
 Proposed: 7.01m
 Exceeds by 0.55m

3) Section 110.3(7)(a) Maximum Site Coverage - For Single Detached Housing Sites greater than 300 m2, Accessory Buildings shall be a maximum of 12% of Site Coverage.

Maximum: 12% (81.48 m2)
 Proposed: 12.84% (87.20 m2)
 Exceeds by 0.84% (5.72 m2)

4) Section 87(3)(a) Floor Area (Garage Suite excluding balcony) - Maximum floor area shall be 60 m2

Maximum: 60m2
 Proposed: 64.10m2
 Exceeds by 4.10m2

5) Section 87(3)(b) Floor Area (Garage Suite including balcony) - The maximum Floor Area may be increased by up to 7.5 m2, only where this additional floor area comprises the area of a Platform Structure associated with the Garage Suite or Garden Suite.

Maximum: 67.5m2
 Proposed: 70.11m2
 Exceeds by 2.61m2

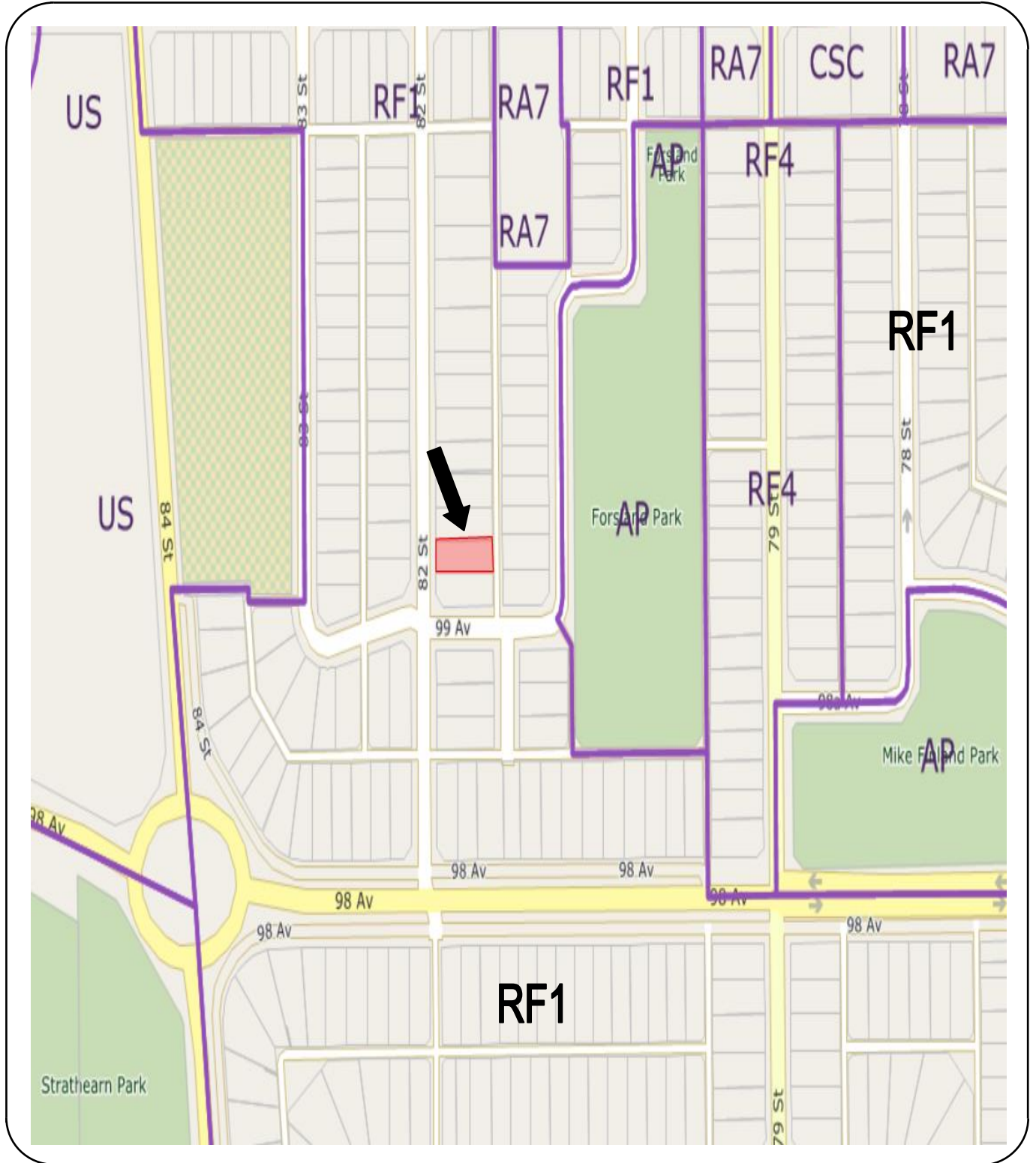
Rights of Appeal

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: Aug 28, 2017 **Development Authority:** HETHERINGTON, FIONA **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fees (House)	\$250.00	\$250.00	04269722	Jul 06, 2017
Sanitary Sewer Trunk Fund	\$693.00	\$693.00	04269722	Jul 06, 2017
Safety Codes Fee	\$56.56	\$56.56	04269722	Jul 06, 2017
Electrical Fee (Service)	\$79.00	\$79.00	04269722	Jul 06, 2017
Development Permit Inspection Fee	\$0.00	\$200.00	04269722	Jul 06, 2017
Building Permit Fee	\$1,414.00	\$1,414.00	04269722	Jul 06, 2017
Electrical Safety Codes Fee	\$14.50	\$14.50	04269722	Jul 06, 2017
Water Usage Fee	\$35.09	\$35.09	04269722	Jul 06, 2017
Lot Grading Fee	\$140.00	\$140.00	04269722	Jul 06, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,682.15	\$2,882.15		
(overpaid by \$200.00)				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-174



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-175

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 153328793-003

ORDER TO: Apply for a Congregate Living Development Permit on or before September 14, 2017 OR Revert the property back to a Single Household on or before September 14, 2017. 3 unrelated tenants OR 1 Family + unrelated tenant.

WITHDRAWN

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: August 17, 2017

DATE OF APPEAL: August 22, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9315 - 152 Street NW

LEGAL DESCRIPTION: Plan 1815AW Blk 49 Lot 14

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 number of people sharing facilities is 4 adults and 1 two year old.
- There is no impact on the community in terms of parking or congestion

General Matters

Appeal Information:

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

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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

...

Hearing and Decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

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

Under section 110.2(3), a **Secondary Suite** is a **Permitted Use** in the (RF1) Single Detached Residential Zone.

Under section 110.3(4), a **Lodging House** is a **Discretionary Use** in the (RF1) Single Detached Residential Zone.

Under Section 7.2(8), **Single Detached Housing** means:

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 in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Under section 7.2(6), **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, Garden Suites, Semi-detached Housing, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

Under section 7.3(6), **Lodging House** means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Under section 6.1(2), **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(19), **Congregate Living** means:

four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under section 6.1(32), **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Under section 6.1(57), **Household** means:

- i. one or more persons related by blood, adoption, foster care, marriage relationship; or
- ii. a maximum of three unrelated persons;

all living together as a single social and economic housekeeping group and using cooking facilities shared in common.

For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative.

Under section 6.1(107), **Sleeping Unit** means:

a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

- a. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
- b. may or may not be equipped with sanitary facilities; and
- c. provides accommodation for a maximum of two persons.

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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

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.

<p><i>Approval Required for Development</i></p>

Section 5 states:

5.1 No Person:

1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.

Sustainable Development | City of Edmonton
Development Services Branch
Development and Zoning Services
Development Compliance and Inquiries Unit

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada
edmonton.ca/developmentcompliance



August 17, 2017

Our File: 153328793-003

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 9315 - 152 STREET NW, legally described as Lot 14, Block 49, Plan 1815AW.

This property is zoned (RF1) Single Detached Residential Zone in accordance with Section 110 of the Edmonton Zoning Bylaw. The purpose of this 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.

ZONING BYLAW INFRACTION:

On August 16, 2017 Development Compliance Officer Justin Hogberg from the City of Edmonton having Authority to exercise development powers under Section 542 of the Municipal Government Act R.S.A. 2000, conducted an interior land-use inspection of the dwelling noted above. Our investigation revealed that Congregate Living has been developed without permits.

The City of Edmonton has no record of issuing a development permit for Congregate Living which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1. According to section 6.1(16) of the Edmonton Zoning Bylaw 12800:

"Congregate Living means four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses."

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

OPTION #1

Apply for a Congregate Living Development Permit on or before September 14, 2017

OR

OPTION #2

Revert the property back to a Single Household on or before September 14, 2017.
- 3 unrelated tenants OR 1 Family + 1 unrelated tenant

The property will be inspected after September 14, 2017 to determine compliance with this Order.

An inspection must be scheduled to confirm that the Lodging House has been decommissioned. Please contact Mary Jane Bongato at 780-944-1420 to schedule a decommissioning inspection to confirm compliance with this notice.

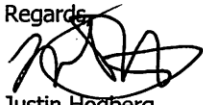
CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out and order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-496-6220.

Regards,



Justin Hogberg
Development and Zoning
Development Services
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**Adding
Amounts
Owing to tax
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c.11 s.35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of
stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

- (3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Permit

- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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 to the subdivision and development appeal board.
- (3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

Appeals

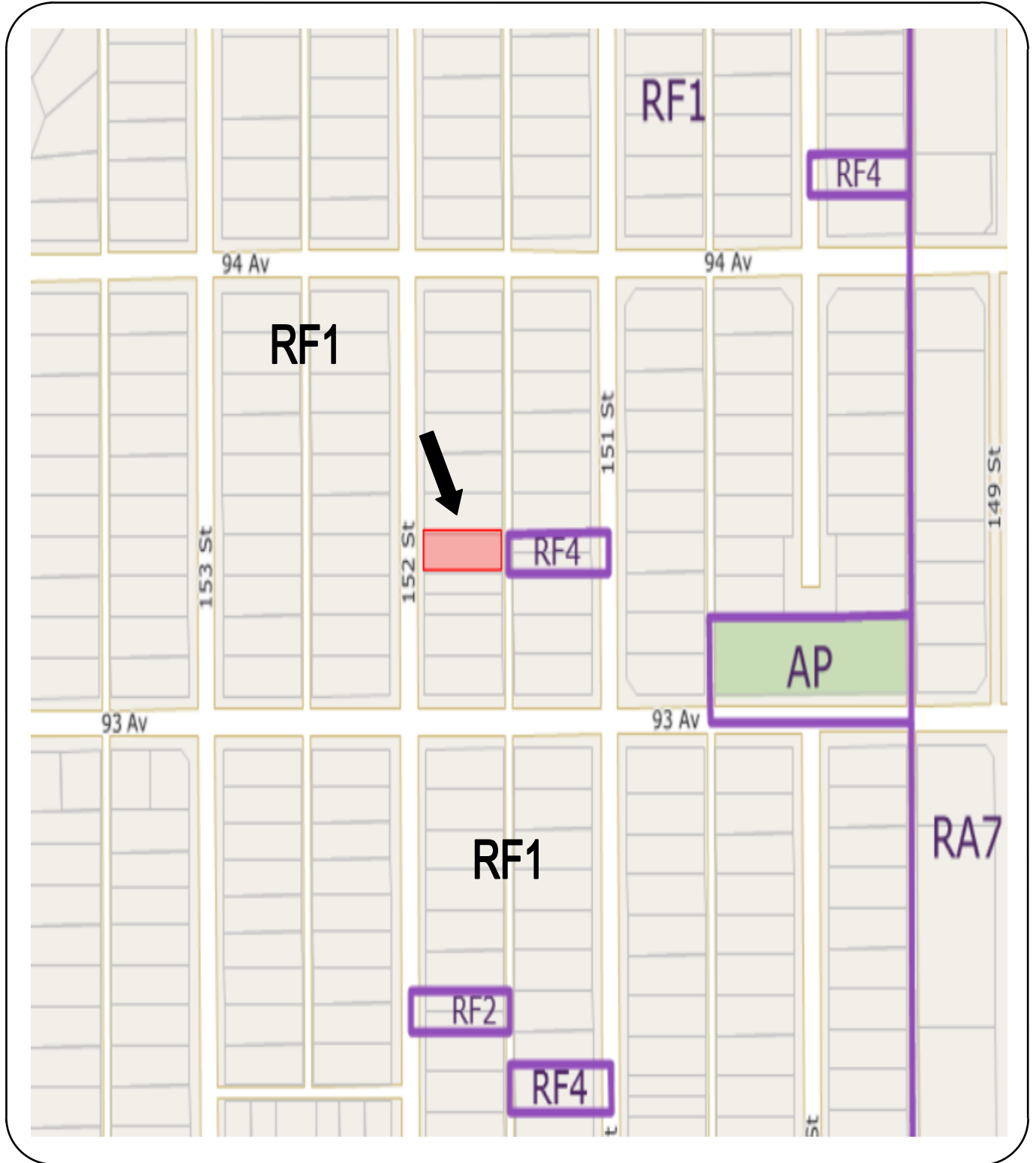
- 686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (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
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

- (2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3) The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing
- (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4) The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
- (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-175

