

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
September 25, 2019**

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

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

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I	9:30 A.M.	SDAB-D-19-503	Remove and refrain from parking any vehicles and/or trailers in the required front yard.  7716 – 141 Avenue NW Project No.: 323613678-001
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II	10:00 A.M.	SDAB-D-19-154	Construct a Single Detached House with fireplace, rear uncovered deck (5.79 metres x 4.11 metres), rooftop deck (6.30 metres x 3.15 metres), and Basement development (NOT to be used as an additional Dwelling)  7616 - 83 Avenue NW Project No.: 323542029-001
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III	10:00 A.M.	SDAB-D-19-155	Construct a Garden Suite  7616G - 83 Avenue NW Project No.: 323769401-001
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IV	10:00 A.M.	SDAB-D-19-156	Construct a Single Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck (4.11 metres x 5.75 metres), roof top patio (6.30 metres x 3.15 metres), and Basement development (NOT to be used as an additional Dwelling)  7618 - 83 Avenue NW Project No.: 323769604-001
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**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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V	10:00 A.M.	SDAB-D-19-157	Construct a Garden Suite 7618G - 83 Avenue NW Project No.: 323770215-001
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VI	1:30 P.M.	SDAB-D-19-158	Install (1) Minor Digital On-premises Off- premises Freestanding Sign (2 sided Facing N/S: 3.8 metres x 7.7 metres) (ASTRAL   Revolve Home) 4219 - 99 Street NW Project No.: 277599944-001
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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: 9:30 A.M.

FILE: SDAB-D-19-503

AN APPEAL FROM THE DECISION OF THE BYLAW ENFORCEMENT OFFICER

APPELLANT:

APPLICATION NO.: 323613678-001

ORDER TO: Remove and refrain from parking any vehicles and/or trailers in the required front yard area.

DECISION OF THE BYLAW ENFORCEMENT OFFICER: Order Issued

DECISION DATE: July 22, 2019

DATE OF APPEAL: August 8, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7716 – 141 Avenue NW

LEGAL DESCRIPTION: Plan 5088NY Blk 11 Lot 9

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:

I am requesting a review of the non-conformance of the trailer being parked on the property.

Bylaw #45-4 states that on a site with no rear lane, where vehicle access is available through the front setback or through the flanking side setback, large recreational vehicles shall be parked at a setback of at least 0.6 m from the interior edge of the sidewalk, or curb where no sidewalk is present.

Bylaw #45-7 states, in the front yard of any site in any residential zone or in the case of a corner site, in the front yard or flanking side yard in any

residential zone; vehicles shall not be located on the landscaped portion of the yard. This trailer is parked on a RV pad made up of sidewalk blocks.

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

**(2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

**(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.

**(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.

**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 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;

...

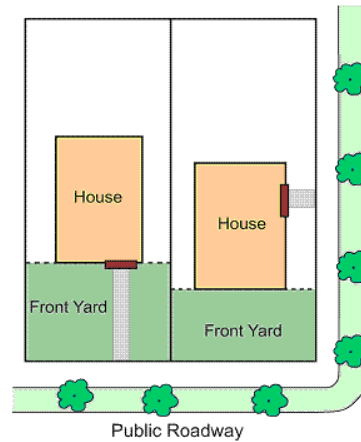
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development 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(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

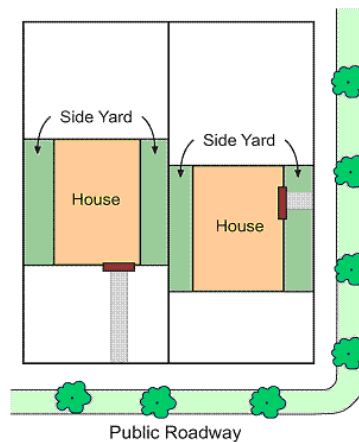
Under section 6.1, **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



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

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



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.”



Section 110.1 states that the **General Purpose** of **(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.

<p><b><i>Objects Prohibited or Restricted in Residential Zones</i></b></p>
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Section 45.7 states:

In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- a. vehicles shall not be located on the landscaped portion of the Yard; and
- b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

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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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Citizen Services  
Community Standards and Neighbourhoods

City of Edmonton  
2<sup>nd</sup> Floor, Edmonton Tower  
10111 - 104 Avenue NW  
Edmonton, AB T5J 0J4  
  
edmonton.ca



Date: July 22, 2019

Reference/File No: 323613678-001

## **ORDER**

(Issued Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000 c. M-26)

**RE: Municipal Address:** 7716 - 141 Avenue NW

**Legal Description:** Plan 5088NY Block 11 Lot 9

**Tax Roll Number:** 6699045

(hereinafter referred to as “the property”)

As a result of an inspection of the property on July 18, 2019:

I find that the use of the land is not in accordance with the City of Edmonton Zoning Bylaw (Bylaw 12800) as follows:

### **Section 45: Objects Prohibited or Restricted in Residential Zones**

45. (7) In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- (a) vehicles shall not be located on the landscaped portion of the Yard; and
- (b) vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

### **THEREFORE YOU ARE ORDERED TO:**

**Remove and refrain from parking any vehicles and/or trailers in the required front yard area.**

**YOU MUST COMPLY WITH THIS ORDER BEFORE: August 15, 2019**

**Officer: Darlene**  
Complaints and Investigations  
Community Standards Branch

**EMEO#23**

**Telephone: 780-496-5212**

**OFFENCE FOR NON-COMPLIANCE:**

Pursuant to Section 557(a.3) of the Municipal Government Act (hereinafter referred to as the "Act") a person who contravenes or does not comply with an order under section 645 is guilty of an offence and liable to prosecution.

Pursuant to Section 566(1) of the Act a person who is guilty of an offence is liable,

- (a) to a fine of not more than \$10 000, or
  - (b) to imprisonment for not more than one year,
- or to both fine and imprisonment.

**ADDITIONAL CONSEQUENCES FOR NON-COMPLIANCE:**

Pursuant to Section 646(1) of the Act if a person fails or refuses to comply with an order under section 645 the municipality may, enter on the land or building and take any action necessary to carry out the order.

Pursuant to Section 553(1)(h.1) of the Act when an order is carried out under section 646(1) the expenses and costs incurred in carrying out the order may be placed on the tax roll of the property and that amount:

- a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
- b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

If you fail to comply with the provisions of this order the City of Edmonton will, at its election, take action to enforce the order by taking whatever actions or measures are necessary to remedy the contravention of the bylaw or to prevent the re-occurrence, and all expenses of which will be placed on the tax roll of the property.

**PROCEDURE FOR STARTING AN APPEAL OF THE ORDER**

Pursuant to section 685(1) of the Act a person affected by an order under section 645 may appeal to the Subdivision and Development Appeal Board.

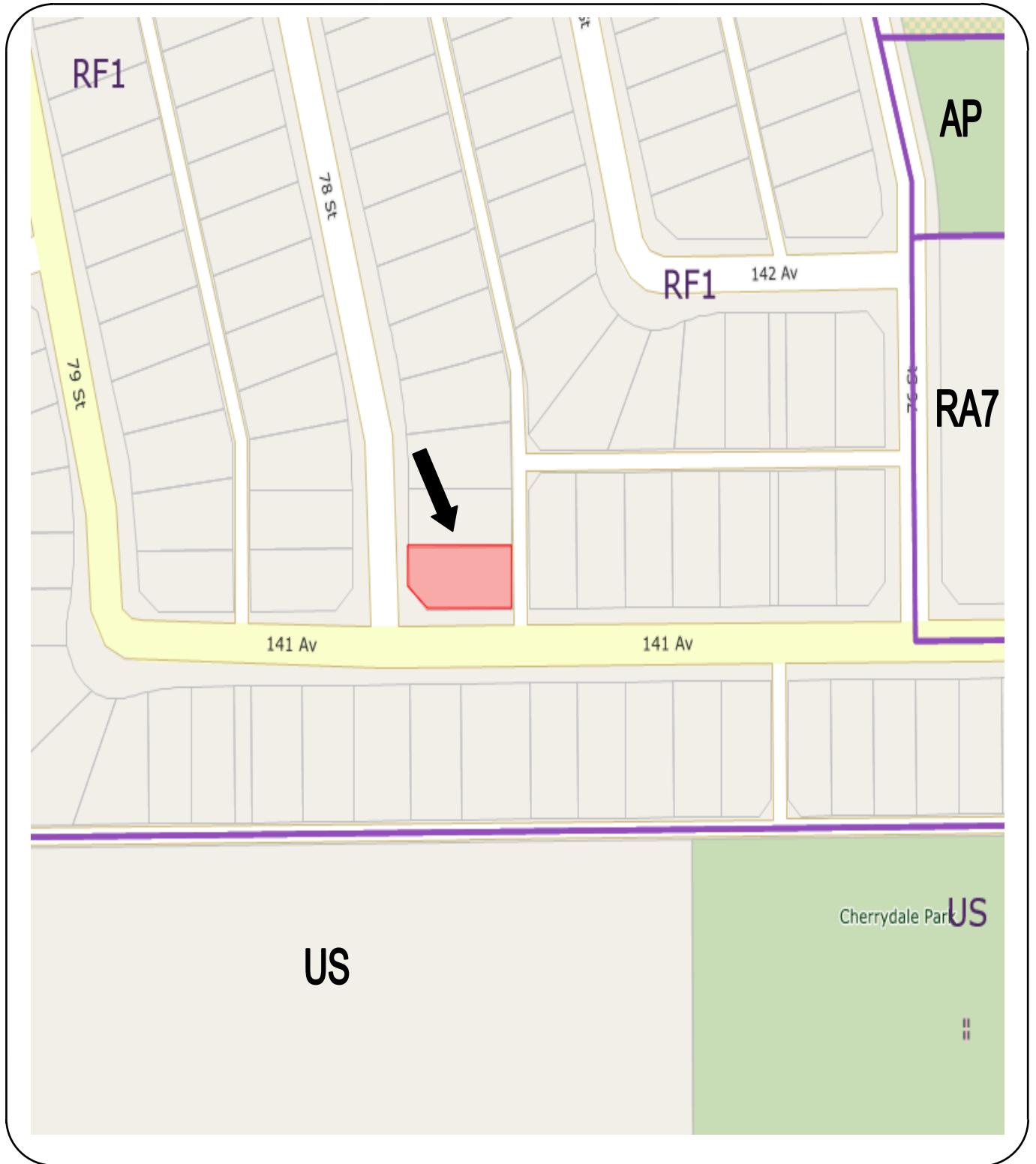
Pursuant to section 686(1) of the Act an appeal to the Subdivision and Development Appeal Board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days after the date on which the person is notified of the order under section 645.

Requests for review must be received by:

Subdivision and Development Appeal Board  
Office of the City Clerk  
10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9

Telephone: (780) 496-6079  
Fax: (780) 496-8175

The Notice of Appeal must be accompanied by a cheque or money order in the sum of \$72.00 payable to the City of Edmonton or it is not considered complete and will not be processed. If you are delivering your notice of appeal in person you may pay with cash.



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-503



ITEM II: 10:00 A.M.

FILE: SDAB-D-19-154

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 323542029-001

APPLICATION TO: Construct a Single Detached House with fireplace, rear uncovered deck (5.79 metres x 4.11 metres), rooftop deck (6.30 metres x 3.15 metres), and Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 20, 2019

DATE OF APPEAL: August 26, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7616 - 83 AVENUE NW

LEGAL DESCRIPTION: Plan 1922125 Blk 13 Lot 54

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

The proposed development (height of the single detached dwelling) does not unduly interfere with the amenities of the neighborhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

<i>General Matters</i>
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**Appeal Information:**

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

**Grounds for Appeal**

**685(1)** If a development authority

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

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

**Appeals**

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

- (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(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential 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 110.1 states that the **General Purpose** of **(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 814.3(5) states the maximum **Height** shall not exceed 8.9 metres.

Under section 6.1, **Height** means “a vertical distance between two points.”

Section 52.1(b) states “for the flat roof type, Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest parapet, provided the resulting top of the parapet is no more than 0.4 metres above the maximum Height allowed in the zone or overlay”

### **Development Officer’s Determination**

Height - The height shall not exceed 8.9m to the midpoint of the roof. (Section 814.3.5)

Required: 8.9m

Proposed: 10.2m

Deficiency: 1.3m

Height - The height shall not exceed 9.3m to the peak of the roof. (Section 52.1.b)

Required: 9.3m

Proposed: 10.4m

Deficiency: 1.1m

### ***Community Consultation***

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:


<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay to be Varied</b>
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 metres of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(5) – Height

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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>323542029-001</b> Application Date: JUN 23, 2019 Printed: August 26, 2019 at 12:00 PM Page: 1 of 2					
<h2 style="margin: 0;">Application for Minor Development Permit</h2>						
This document is a Development Permit Decision for the development application described below.						
<p><b>Applicant</b></p> <div style="border: 1px solid black; width: 280px; height: 80px; margin: 10px 0;"></div>	<p><b>Property Address(es) and Legal Description(s)</b></p> <p>7616 - 83 AVENUE NW                  Plan 4892HW Blk 13 Lot 31</p> <p>7616 - 83 AVENUE NW                  Plan 1922125 Blk 13 Lot 54</p> <hr/> <p><b>Specific Address(es)</b></p> <p>Entryway: 7616 - 83 AVENUE NW                  Building: 7616 - 83 AVENUE NW</p>					
<p><b>Scope of Application</b></p> <p>To construct a Single Detached House with fireplace, rear uncovered deck (5.79m x 4.11m), rooftop deck (6.30m x 3.15m), and Basement development (NOT to be used as an additional Dwelling).</p>						
<p><b>Permit Details</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;">                     # of Dwelling Units Add/Remove: 0                      # of Secondary Suite Dwelling Units To Construct: 0                      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?: Y                      New Sewer Service Required: N                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: 0 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?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay			
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: 0 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?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay					
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>						
<p><b>Development Application Decision</b></p> <p>Refused</p> <p><b>Issue Date:</b> Aug 20, 2019 <b>Development Authority:</b> SELTZ, AARON</p> <p><b>Reason for Refusal</b></p> <p>Height - The height shall not exceed 8.9m to the midpoint of the roof. (Section 814.3.5)                  Required: 8.9m                  Proposed: 10.2m                  Deficiency: 1.3m</p> <p>Height - The height shall not exceed 9.3m to the peak of the roof. (Section 52.1.b)                  Required: 9.3m                  Proposed: 10.4m                  Deficiency: 1.1m</p> <p><b>Rights of Appeal</b></p> <p>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.</p>						
<p><b>Fees</b></p> <table border="0" style="width: 100%; text-align: center;"> <tr> <td style="width: 30%;"></td> <td style="width: 20%;"><b>Fee Amount</b></td> <td style="width: 20%;"><b>Amount Paid</b></td> <td style="width: 20%;"><b>Receipt #</b></td> <td style="width: 10%;"><b>Date Paid</b></td> </tr> </table>			<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>		
<p><b>THIS IS NOT A PERMIT</b></p>						



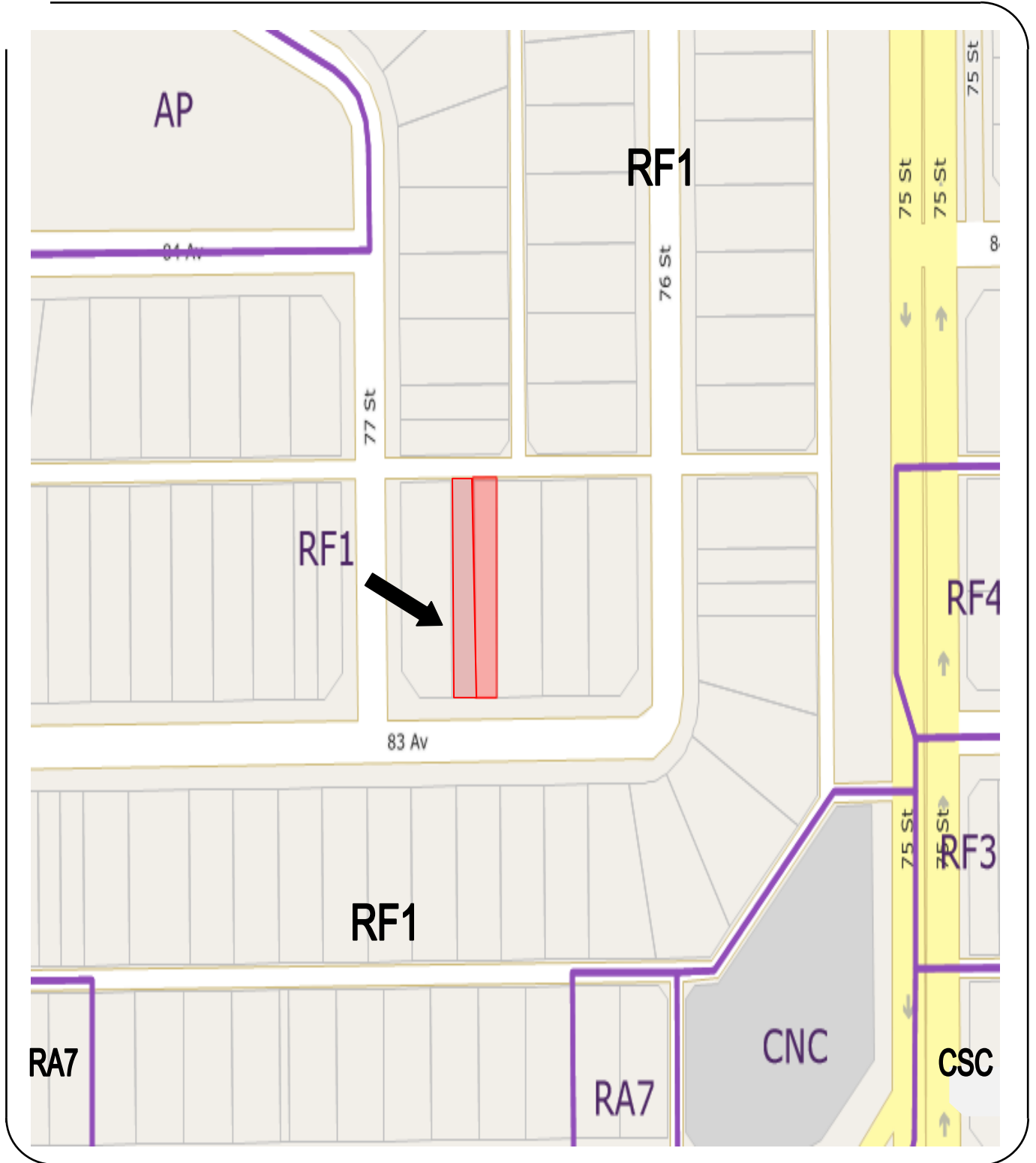
## Application for Minor Development Permit

Project Number: **323542029-001**  
Application Date: JUN 23, 2019  
Printed: August 26, 2019 at 12:00 PM  
Page: 2 of 2

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$493.00	\$493.00	8519420801710010	Jun 28, 2019
Lot Grading Fee	\$145.00	\$145.00	8519420801710010	Jun 28, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	8519420801710010	Jun 28, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$845.00</u>	<u>\$845.00</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-154



ITEM III: 10:00 A.M.

FILE: SDAB-D-19-155

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 323769401-001

APPLICATION TO: Construct a Garden Suite

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 20, 2019

DATE OF APPEAL: August 26, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7616G - 83 AVENUE NW

LEGAL DESCRIPTION: Plan 1922125 Blk 13 Lot 54

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 proposed development (location of garden suite) does not unduly interfere with the amenities of the neighborhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

***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 Suite** is a **Permitted Use** in the **(RF1) Single Detached Residential 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, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 7.2(3), **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.

Under section 6.1, **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.”

Section 110.1 states that the **General Purpose** of **(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.

#### ***Accessory Use***

Section 50.1(1) states "a Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site, if such Use complies with the definition of Accessory in this Bylaw. Notwithstanding the foregoing, Accessory parking may be on the same Site as the principal Use or comply with subsection 54.2(2) of this Bylaw."

Section 50.1(2) states "Accessory Uses and buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued."

#### **Development Officer's Determination**

Accessory Use - A Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site. (Section 50.1)

Proposed: The Garden Suite is not Accessory to a Permitted or Discretionary principal Use as there has been no approved principal building on the Site.

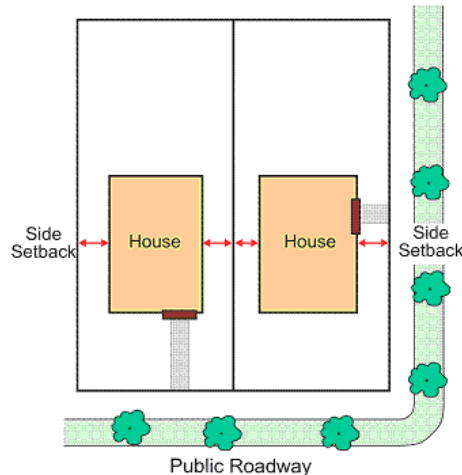
#### ***Side Setbacks***

Section 87.8 states "the minimum **Side Setback** shall be the same as that prescribed for Single Detached Housing within the underlying Zone or applicable Overlay."

Section 814.3(3)(a) where the Site Width is 12.0 metres or less, the minimum required setback shall be 1.2 metres.

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."





**Development Officer’s Determination**

Left Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)

Required: 1.2m  
Proposed: 0.9m  
Deficiency: 0.3m

Right Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)

Required: 1.2m  
Proposed: 0.9m  
Deficiency: 0.3m

***Community Consultation***

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:


<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay to be Varied</b>
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

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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 style="text-align: right;">Project Number: <b>323769401-001</b>                  Application Date: JUN 25, 2019                  Printed: August 26, 2019 at 11:29 AM                  Page: 1 of 2</p>		
<h2 style="margin: 0;">Application for Minor Development Permit</h2>			
<p>This document is a Development Permit Decision for the development application described below.</p>			
<p><b>Applicant</b></p> <div style="border: 1px solid black; width: 200px; height: 60px; margin: 10px 0;"></div>	<p><b>Property Address(es) and Legal Description(s)</b></p> <p>7616 - 83 AVENUE NW                  Plan 4892HW Blk 13 Lot 31                  7616 - 83 AVENUE NW                  Plan 1922125 Blk 13 Lot 54</p> <p><b>Specific Address(es)</b></p> <p>Suite: 7616G - 83 AVENUE NW                  Entryway: 7616G - 83 AVENUE NW                  Building: 7616G - 83 AVENUE NW</p>		
<p><b>Scope of Application</b>                  To construct a Garden Suite.</p>			
<p><b>Permit Details</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <p># of Dwelling Units Add/Remove: 1                              # of Secondary Suite Dwelling Units To Construct: 1                              Client File Reference Number:                              Minor Dev. Application Fee: Garden Suite                              Secondary Suite Included?: Y</p> </td> <td style="width: 50%; border: none;"> <p># 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</p> </td> </tr> </table>		<p># of Dwelling Units Add/Remove: 1                              # of Secondary Suite Dwelling Units To Construct: 1                              Client File Reference Number:                              Minor Dev. Application Fee: Garden Suite                              Secondary Suite Included?: Y</p>	<p># 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</p>
<p># of Dwelling Units Add/Remove: 1                              # of Secondary Suite Dwelling Units To Construct: 1                              Client File Reference Number:                              Minor Dev. Application Fee: Garden Suite                              Secondary Suite Included?: Y</p>	<p># 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</p>		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p><b>Development Application Decision</b>                  Refused</p> <p><b>Issue Date:</b> Aug 20, 2019 <b>Development Authority:</b> SELTZ, AARON</p> <p><b>Reason for Refusal</b></p> <p>Left Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)                  Required: 1.2m                  Proposed: 0.9m                  Deficiency: 0.3m</p> <p>Right Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)                  Required: 1.2m                  Proposed: 0.9m                  Deficiency: 0.3m</p> <p>Accessory Use - A Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site. (Section 50.1)                  Proposed: The Garden Suite is not Accessory to a Permitted or Discretionary principal Use as there has been no approved principal building on the Site.</p> <p><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.</p>			
<p><b>THIS IS NOT A PERMIT</b></p>			



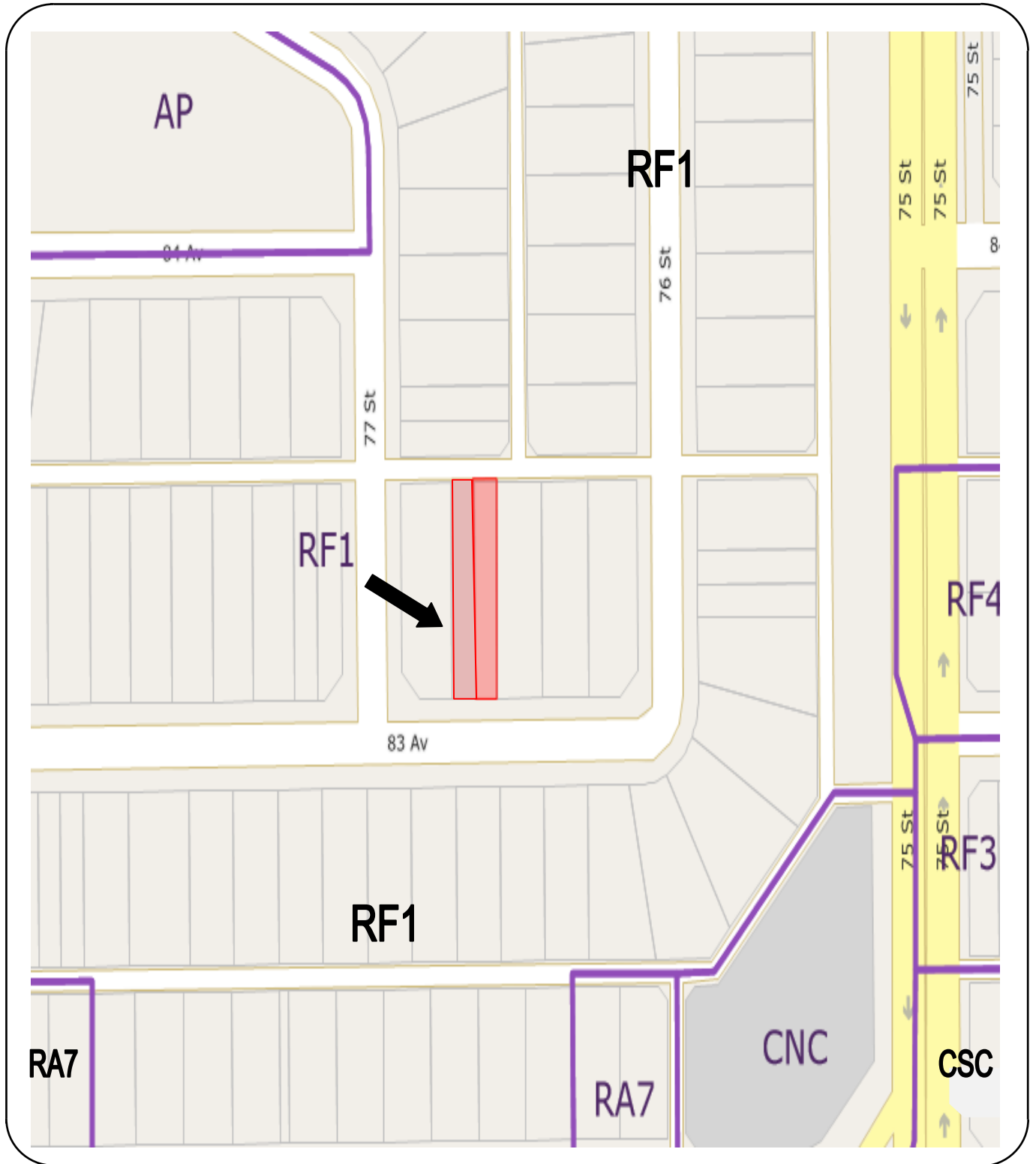
## Application for Minor Development Permit

Project Number: **323769401-001**  
Application Date: JUN 25, 2019  
Printed: August 26, 2019 at 11:29 AM  
Page: 2 of 2

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Development Permit Inspection Fee	\$207.00	\$207.00	8519430010810010	Jun 28, 2019
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$735.00	\$735.00	8519430010810010	Jun 28, 2019
Dev. Application Fee	\$288.00	\$288.00	8519430010810010	Jun 28, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,230.00</u>	<u>\$1,230.00</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-155



ITEM IV: 10:00 A.M.

FILE: SDAB-D-19-156

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 323769604-001

APPLICATION TO: Construct a Single Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck (4.11 metres x 5.75 metres), roof top patio (6.30 metres x 3.15 metres), and Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 20, 2019

DATE OF APPEAL: August 26, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7618 - 83 AVENUE NW

LEGAL DESCRIPTION: Plan 1922125 Blk 13 Lot 55

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

The proposed development (height of single detached dwelling) does not unduly interfere with the amenities of the neighborhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

<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.

**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,
    - 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 110.1(7) **Single Detached Housing** is a **Permitted Use** in the **RF1 Single Detached Residential 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 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 814.3(5) states the maximum **Height** shall not exceed 8.9 metres.

Under Section 6.1 **Height** means "a vertical distance between two points".

Under Section 52.1(b) states "for the flat roof type, Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest parapet, provided the resulting top of the parapet is no more than 0.4 metres above the maximum Height allowed in the zone or overlay."

### **Development Officer's Determination**

Height - The Height shall not exceed 8.9m to the midpoint of the roof. (Section 814.3.5)

Required: 8.9m

Proposed: 10.3m

Deficiency: 1.4m

Height - The Height shall not exceed 9.3m to the peak of the roof. (Section 52.1.b)

Required: 9.3m

Proposed: 10.5m

Deficiency: 1.2m

### ***Community Consultation***

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 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) or 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:


<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay to be Varied</b>
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 metres of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(5) – Height

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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>323769604-001</b> Application Date: JUN 25, 2019 Printed: August 26, 2019 at 9:51 AM Page: 1 of 2								
<h2 style="margin: 0;">Application for Minor Development Permit</h2>									
This document is a Development Permit Decision for the development application described below.									
<b>Applicant</b> <div style="border: 1px solid black; height: 60px; width: 100%; margin-top: 5px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 7616 - 83 AVENUE NW Plan 4892HW Blk 13 Lot 31 7618 - 83 AVENUE NW Plan 1922125 Blk 13 Lot 55								
	<b>Specific Address(es)</b> Entryway: 7618 - 83 AVENUE NW Building: 7618 - 83 AVENUE NW								
<b>Scope of Application</b> To construct a Single Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck (4.11m x 5.75m), roof top patio (6.30m x 3.15m), and Basement development (NOT to be used as an additional Dwelling).									
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of Dwelling Units Add/Remove: 1                      # of Secondary Suite Dwelling Units To Construct: 0                      Client File Reference Number:                      Minor Dev. Application Fee: Single Detached House                      Secondary Suite Included?: Y                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     # of Primary Dwelling Units To Construct: 1                      Class of Permit: Class B                      Lot Grading Needed?: Y                      New Sewer Service Required: Y                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 0 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: Y	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay						
# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 0 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: Y	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay								
I/We certify that the above noted details are correct.  Applicant signature: _____									
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Aug 20, 2019 <b>Development Authority:</b> SELTZ, AARON  <b>Reason for Refusal</b> Height - The Height shall not exceed 8.9m to the midpoint of the roof. (Section 814.3.5) Required: 8.9m Proposed: 10.3m Deficiency: 1.4m  Height - The Height shall not exceed 9.3m to the peak of the roof. (Section 52.1.b) Required: 9.3m Proposed: 10.5m Deficiency: 1.2m  <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>Fees</b> <table style="width: 100%; border: none; margin-top: 5px;"> <thead> <tr> <th style="text-align: left;">Fee Amount</th> <th style="text-align: left;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td colspan="4" style="text-align: center; padding-top: 10px;"><b>THIS IS NOT A PERMIT</b></td> </tr> </tbody> </table>		Fee Amount	Amount Paid	Receipt #	Date Paid	<b>THIS IS NOT A PERMIT</b>			
Fee Amount	Amount Paid	Receipt #	Date Paid						
<b>THIS IS NOT A PERMIT</b>									



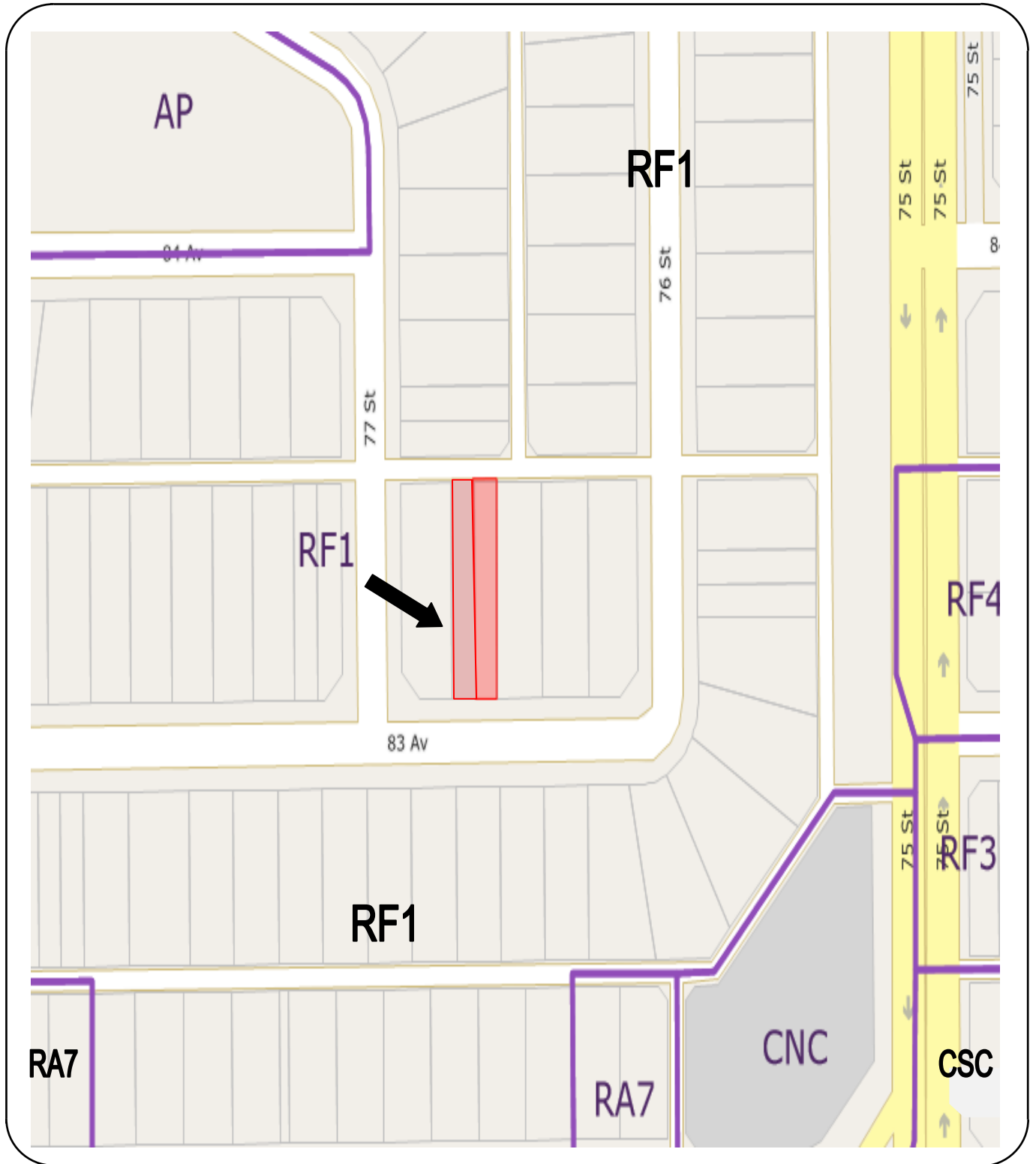
## Application for Minor Development Permit

Project Number: **323769604-001**  
 Application Date: JUN 25, 2019  
 Printed: August 26, 2019 at 9:51 AM  
 Page: 2 of 2

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$145.00	\$145.00	85194502084I0010	Jun 28, 2019
Dev. Application Fee	\$493.00	\$493.00	85194502084I0010	Jun 28, 2019
Sanitary Sewer Trunk Fund	\$1,662.00	\$1,662.00	852759217277001	Jul 01, 2019
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$0.00	\$0.00	85194502084I0010	Jul 01, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	85194502084I0010	Jun 28, 2019
Sanitary Sewer Single/Duplex Refund	(\$735.00)			
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,772.00	\$2,507.00		
(overpaid by (\$735.00))				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-156



ITEM V: 10:00 A.M.

FILE: SDAB-D-19-157

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 323770215-001

APPLICATION TO: Construct a Garden Suite

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 20, 2019

DATE OF APPEAL: August 26, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7618G - 83 AVENUE NW

LEGAL DESCRIPTION: Plan 1922125 Blk 13 Lot 55

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 location of the proposed development (garden suite) does not unduly interfere with the amenities of the neighborhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

***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 110.1(2) **Garden Suite** is a **Permitted Use** in the **RF1 – Single Detached Residential 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 **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under Section 7.2(3), **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.”

Under Section 6.1 **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.”



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.

### ***Accessory Use***

Section 50.1(1) states that “a Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site, if such Use complies with the definition of Accessory in this Bylaw. Notwithstanding the foregoing, Accessory parking may be on the same Site as the principal Use or comply with subsection 54.2(2) of this Bylaw.”

Section 50.1(2) states that “Accessory Uses and buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.”

### **Development Officer’s Determination**

Accessory Use - A Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site. (Section 50.1)

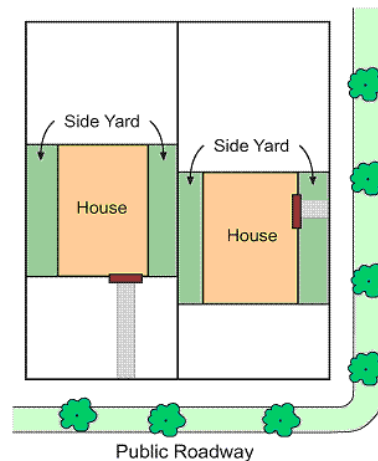
Proposed: The Garden Suite is not Accessory to a Permitted or Discretionary principal Use as there has been no approved principal building on the Site.

### ***Side Setbacks***

Section 87.8 states the minimum **Side Setback** shall be the same as that prescribed for Single Detached Housing within the underlying Zone or applicable Overlay.

Section 814.3(3)(a) requires that where the Site Width is 12.0 m or less, the minimum required setback shall be 1.2 metres.

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.”



**Development Officer’s Determination**

Left Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)

Required: 1.2m  
 Proposed: 0.9m  
 Deficiency: 0.3m

Right Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)

Required: 1.2m  
 Proposed: 0.9m  
 Deficiency: 0.3m

***Community Consultation***

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 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) or 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 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

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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>323770215-001</b> Application Date: JUN 25, 2019 Printed: August 26, 2019 at 10:53 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Minor Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
<p><b>Applicant</b></p> <div style="border: 1px solid black; width: 250px; height: 80px; margin: 10px 0;"></div>	<p><b>Property Address(es) and Legal Description(s)</b></p> 7616 - 83 AVENUE NW Plan 4892HW Blk 13 Lot 31 7618 - 83 AVENUE NW Plan 1922125 Blk 13 Lot 55		
<p><b>Scope of Application</b> To construct a Garden Suite.</p>			
<p><b>Permit Details</b></p> <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: 1                  Client File Reference Number:                  Minor Dev. Application Fee: Garden Suite                  Secondary Suite Included?: Y             </td> <td style="width: 50%; vertical-align: top;">                 # 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             </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Garden Suite Secondary Suite Included?: Y	# 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
# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Garden Suite Secondary Suite Included?: Y	# 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		
<p>I/We certify that the above noted details are correct.                  Applicant signature: _____</p>			
<p><b>Development Application Decision</b>                  Refused</p> <p><b>Issue Date:</b> Aug 20, 2019 <b>Development Authority:</b> SELTZ, AARON</p> <p><b>Reason for Refusal</b></p> <p>Left Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)                  Required: 1.2m                  Proposed: 0.9m                  Deficiency: 0.3m</p> <p>Right Side Setback - The minimum Side Setback for a Garden Suite shall be 1.2m. (Section 87.8)                  Required: 1.2m                  Proposed: 0.9m                  Deficiency: 0.3m</p> <p>Accessory Use - A Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site. (Section 50.1)                  Proposed: The Garden Suite is not Accessory to a Permitted or Discretionary principal Use as there has been no approved principal building on the Site.</p> <p><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.</p>			
<p><b>THIS IS NOT A PERMIT</b></p>			



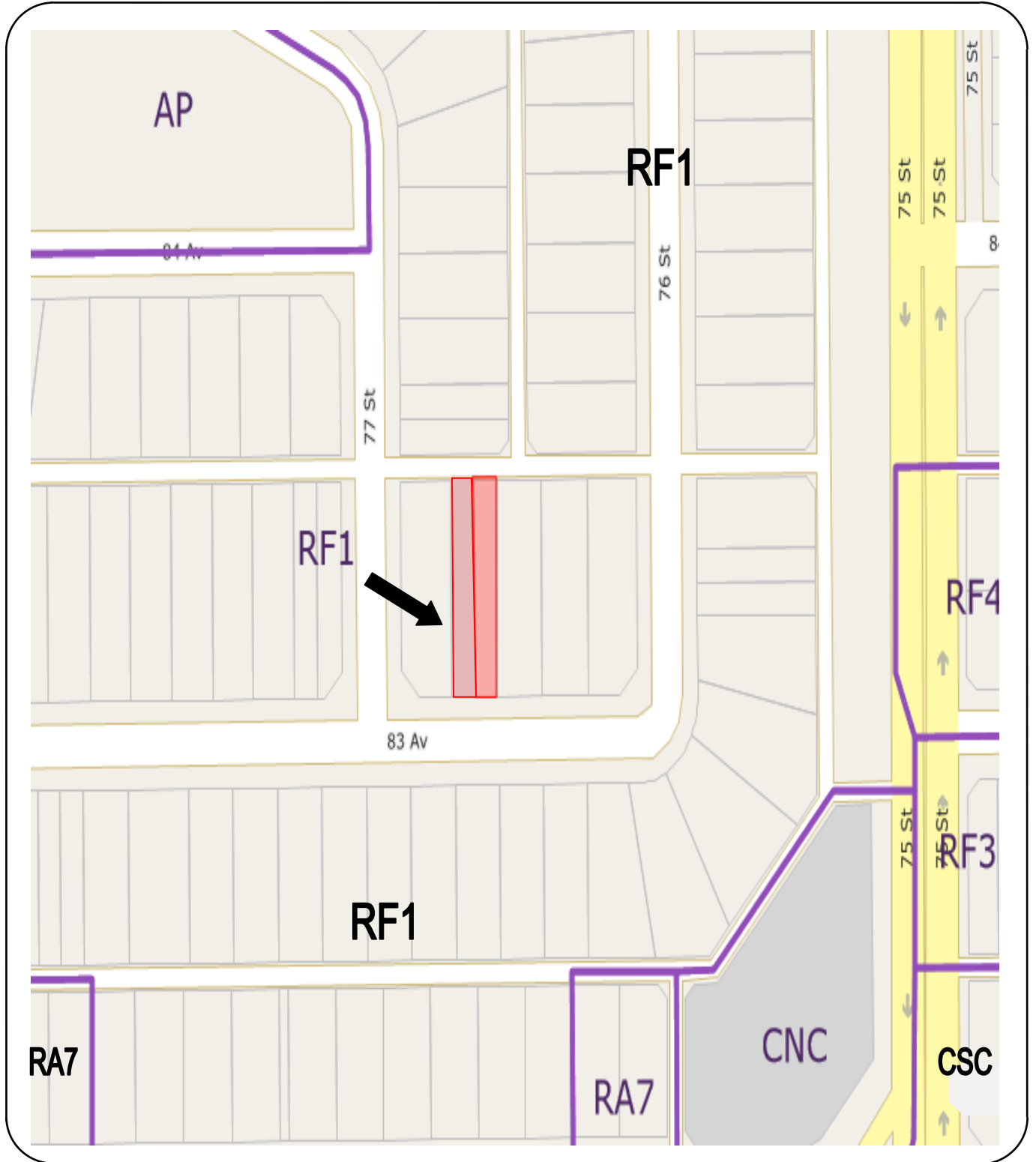
## Application for Minor Development Permit

Project Number: **323770215-001**  
Application Date: JUN 25, 2019  
Printed: August 26, 2019 at 10:53 AM  
Page: 2 of 2

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$288.00	\$288.00	8519460336910010	Jun 28, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	8519460336910010	Jun 28, 2019
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$735.00	\$735.00	8519460336910010	Jun 28, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,230.00	\$1,230.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-157



ITEM VI: 1:30 P.M.

FILE: SDAB-D-19-158

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 277599944-001

APPLICATION TO: Install (1) Minor Digital On-premises Off-premises Freestanding Sign (2 sided Facing N/S: 3.8 metres x 7.7 metres)(ASTRAL | Revolve Home)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

**DECISION DATE: July 3, 2019**

**DATE OF APPEAL: August 28, 2019**

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4219 - 99 STREET NW

LEGAL DESCRIPTION: Plan 9424063 Blk 6 Lot 10A

ZONE: IB Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

***Grounds for Appeal***

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

Lengthy submission from the Appellant. Refer to file.

***General Matters***

**The Board is advised that the date of the permit is July 3, 2019 and the date of the appeal is August 28, 2019.**

**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,  
[...]

### **Permitted and discretionary uses**

**642(1)** When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

(2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

(3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.

(4) If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.



(5) ...

**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.

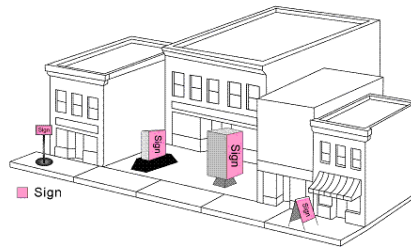
**General Provisions from the *Edmonton Zoning Bylaw*:**

Under Section 400.3(44), a **Minor Digital On-premises Off-premises Sign** is a **Discretionary Use** under the **(IB) Industrial Business Zone**.

Under Section 7.9(7), **Minor Digital On-premises Off-premises Signs** means

“a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays On-premises Advertising and/or Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.”

Under section 6.2, **Freestanding Signs** means “a sign supported independently of a building.”



Under Section 6.2, **Off-Premise Sign** means

“any Sign displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, service or entertainment provided on the premises or Site where the Sign is displayed.”

Under Section 400.1 the **purpose** of the **(IB) Industrial Business Zone**

“is to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways..”

Under Section 400.4(6) Signs shall comply with the regulations found in Schedule 59F.

***Separation Distance***

Under Section 59F.3(6)(e) proposed Sign locations shall be separated from Signs with Digital Copy greater than 8.0 m<sup>2</sup> or Off-premises Signs as follows:

Proposed Sign Area	Minimum separation distance from Signs with Digital Copy greater than <u>8.0 m<sup>2</sup></u> or Off-premises Signs
Greater than 8.0 m <sup>2</sup> to less than 20 m <sup>2</sup>	100 metres
20 m <sup>2</sup> to 40 m <sup>2</sup>	200 metres
Greater than 40 m <sup>2</sup>	300 metres

**Development Officer’s Determination**

1. The proposed Sign location shall be separated from any other Digital Sign greater than 8.0 m<sup>2</sup> or Off-premises Sign by 300 m.

9845 - 42 Avenue  
 Proposed: 218 m  
 Deficient by: 82 m

The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs.

***Setback***

Under Section 59F.3(6)(j), proposed Signs with an Area greater than 8.0 square metres shall not be located within any Setback.

**Development Officer’s Determination**

2. Proposed Signs with an Area greater than 8.0 m<sup>2</sup> shall not be located within any Setback, a minimum Setback of 6.0 m shall be required where any lot line of a Site abuts a public roadway.

Proposed: 0.87 m  
 Deficient by: 5.13 m

In the Opinion of the Development Officer there is no unnecessary hardship or practical difficulties peculiar to the Site that would prevent the Sign from being located at the required setback.


***Previous Subdivision and Development Appeal Board Decision***

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-13-064	To construct an On/Off-Premises Freestanding Sign (WORLD HEALTH with 3.73m x 7.62m Minor Digital panel - double sided facing North / South and 2.13m x 7.62m On-premises panel).	April 18, 2013; “that the appeal be allowed and development granted with conditions and variances”

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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	<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	Project Number: <b>277599944-001</b> Application Date: MAR 21, 2018 Printed: July 3, 2019 at 9:28 AM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.		
<b>Applicant</b>  ASTRAL OUT OF HOME Care of: KYLE GREY 18520 - STONY PLAIN ROAD EDMONTON, ALBERTA CANADA T5S 1A8	<b>Property Address(es) and Legal Description(s)</b>  4219 - 99 STREET NW Plan 9424063 Blk 6 Lot 10A	
<b>Scope of Application</b> To install (1) Minor Digital On-premises Off-premises Freestanding Sign (2 sided Facing N/S: 3.8 m x 7.7 m)(ASTRAL   Revolve Home).		
<b>Permit Details</b>		
ASA Sticker No./Name of Engineer: Construction Value: 1	Class of Permit: Class B Expiry Date:	
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 2	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0	
I/We certify that the above noted details are correct.  Applicant signature: _____		
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Jul 03, 2019 <b>Development Authority:</b> MERCIER, KELSEY  <b>Reason for Refusal</b> 1. The proposed Sign location shall be separated from any other Digital Sign greater than 8.0 m2 or Off-premises Sign by 300 m. 9845 - 42 Avenue Proposed: 218 m Deficient by: 82 m  The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs.  2. Proposed Signs with an Area greater than 8.0 m2 shall not be located within any Setback, a minimum Setback of 6.0 m shall be required where any lot line of a Site abuts a public roadway. Proposed: 0.87 m Deficient by: 5.13 m  In the Opinion of the Development Officer there is no unnecessary hardship or practical difficulties peculiar to the Site that would prevent the Sign from being located at the required setback.		
<b>THIS IS NOT A PERMIT</b>		



## Application for Sign Combo Permit

Project Number: **277599944-001**  
Application Date: MAR 21, 2018  
Printed: July 3, 2019 at 9:28 AM  
Page: 2 of 2

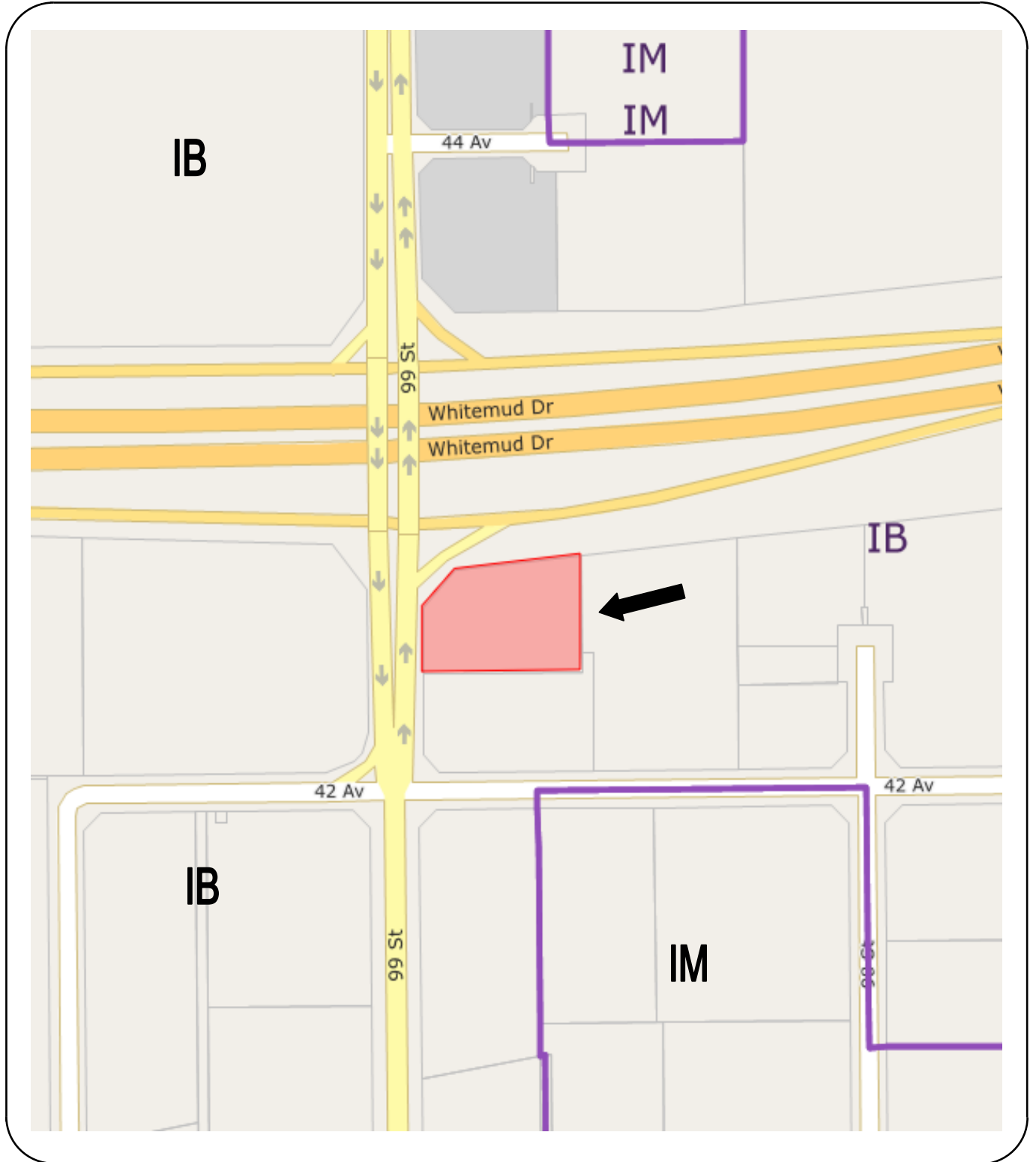
### Rights of Appeal

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

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Sign Dev Appl Fee - Digital Signs	\$902.00	\$902.00	04889805	Mar 21, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$902.00	\$902.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-158

