

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

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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I 9:00 A.M. SDAB-D-20-125

Leave as built a Single Detached house (reduced  
Front Setback from 7.31m to 5.5m)

10923 - 159 Street NW  
Project No.: 364536190-002

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-125

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 364536190-002

APPLICATION TO: Leave as built a Single Detached house (reduced Front Setback from 7.31m to 5.5m)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: July 29, 2020

DATE OF APPEAL: August 27, 2020

NOTIFICATION PERIOD: August 6, 2020 through August 27, 2020

RESPONDENT: A. Reinhart

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10923 - 159 Street NW

LEGAL DESCRIPTION: Plan 2020259 Blk 7 Lot 5B

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:

I was not informed of the development change to the setback of the home next door. The front set back was to be 7.31m and it is now 5.5m. All the other prior homes on the street are set back 7.31m.

I have lived in my home for 35 years and previously have had unobstructed view out my front window. Now there is a long wall on the left side of my home when I look out the same window. I am also concerned that in the future when I am looking to sell my home the perceived value will be less compared to another home on the same street because of this difference in set back from the street.

***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.

**(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 clause (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 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.

***Rear Setback***

Section 814.3(1) states:

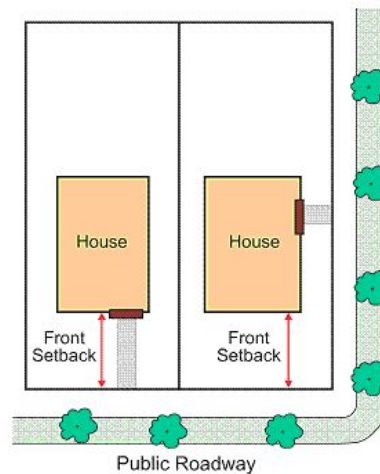
The Front Setback shall be in accordance with the following:

- a. the minimum Front Setback shall be 20% of site depth or 1.5 m less than the average Front Setback on Abutting Lots, whichever is less. In no case shall the Front Setback be less than 3.0 m;

- b. the maximum Front Setback shall be 1.5 m greater than the average Front Setback on Abutting Lots; and
- c. where an Abutting Lot is vacant, the vacant Lot shall be deemed to have a Front Setback of the next Abutting Lot.

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

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



### **Development Officers Determination**

**Reduce Front Setback - The front setback is 5.5m, instead of 7.3m.  
(Section 814.3.1)**

[unedited]

### ***Mature Neighbourhood Overlay - Community Consultation***

Section 814.5(1) states:

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 Proposed to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> 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 <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(1) – Front Setback


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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>364536190-002</b> Application Date: JUN 09, 2020 Printed: August 28, 2020 at 7:42 AM Page: 1 of 2		
<h2>Minor Development Permit</h2>			
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.			
<b>Applicant</b>	<table border="1"> <tr> <td data-bbox="818 447 1385 537"> <b>Property Address(es) and Legal Description(s)</b>                      10923 - 159 STREET NW                      Plan 2020259 Blk 7 Lot 5B                 </td> </tr> <tr> <td data-bbox="818 537 1385 646"> <b>Specific Address(es)</b>                      Entryway: 10923 - 159 STREET NW                      Building: 10923 - 159 STREET NW                 </td> </tr> </table>	<b>Property Address(es) and Legal Description(s)</b> 10923 - 159 STREET NW Plan 2020259 Blk 7 Lot 5B	<b>Specific Address(es)</b> Entryway: 10923 - 159 STREET NW Building: 10923 - 159 STREET NW
<b>Property Address(es) and Legal Description(s)</b> 10923 - 159 STREET NW Plan 2020259 Blk 7 Lot 5B			
<b>Specific Address(es)</b> Entryway: 10923 - 159 STREET NW Building: 10923 - 159 STREET NW			
<b>Scope of Permit</b> To leave as built a Single Detached house (reduced Front Setback from 7.31m to 5.5m).			
<b>Permit Details</b> <table border="1" style="width: 100%;"> <tr> <td data-bbox="264 772 802 930">                     # of Dwelling Units Add/Remove: 0                      # of Secondary Suite Dwelling Units To Construct:                      Client File Reference Number:                      Minor Dev. Application Fee: Leave as Built Single Detached House                      Secondary Suite Included?: N                 </td> <td data-bbox="802 772 1385 930">                     # of Primary Dwelling Units To Construct:                      Class of Permit: Class B                      Lot Grading Needed?: N                      New Sewer Service Required: N/A                      Sub. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N/A Sub. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N/A Sub. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
<b>Development Permit Decision</b> Approved <b>Issue Date:</b> Jul 29, 2020 <b>Development Authority:</b> LAI, ECHO <b>Subject to the Following Conditions:</b> NOTE: Subject to the right of appeal, the permit is NOT VALID until the required Notification Period expires (date noted below) in accordance with Sections 21.1 and 17.1.  This Development Permit authorizes the development of leave as built a Single Detached house (reduced front setback from 7.31m to 5.5m) Only. It does NOT authorize any exterior or interior alterations of the house.  The development shall be constructed in accordance with the stamped and approved drawings.  <b>ADVISEMENTS:</b>  Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request.  Unless otherwise stated, all the above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.  An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site.  <b>Variations</b> Reduce Front Setback - The front setback is 5.5m, instead of 7.3m. (Section 814.3.1)			



Project Number: **364536190-002**  
 Application Date: JUN 09, 2020  
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## Minor Development Permit

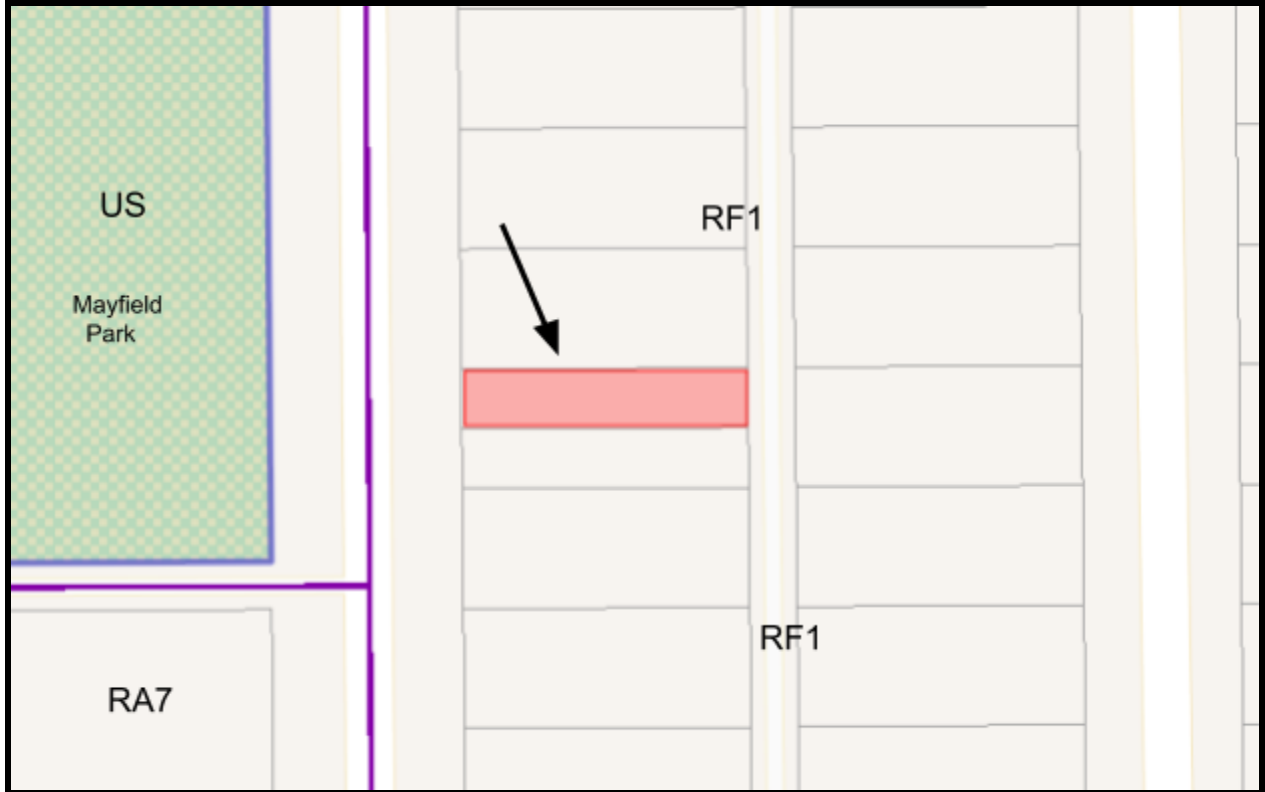
**Rights of Appeal**

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

**Notice Period Begins:** Aug 06, 2020      **Ends:** Aug 27, 2020

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$502.00	\$502.00	965251070239001	Jun 11, 2020
Lot Grading Fee	\$148.00	\$148.00	965251070239001	Jun 11, 2020
Sanitary Sewer Trunk Fund	\$0.00	\$1,712.00	965251070239001	Jun 11, 2020
Development Permit Inspection Fee	\$211.00	\$211.00	965251070239001	Jun 11, 2020
Lot Grading Refund	(\$148.00)			
Development Permit Inspection Refund	(\$211.00)			
Sanitary Sewer Single/Duplex Refund	\$0.00			
Development Application Refund	(\$332.00)			
Total GST Amount:	\$0.00			
Totals for Permit:	\$170.00	\$2,573.00		
(overpaid by (\$2,403.00))				



**SURROUNDING LAND USE DISTRICTS**

Site Location ←      File: SDAB-D-20-125      ▲  
N