

SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Thursday, 9:00 A.M.
July 29, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-117

Construct a single-Storey Garden Suite with Basement development (NOT to be used as an additional Dwelling) (main floor, 12.80m x 5.75m)

17904 - 99 Avenue NW
Project No.: 380530132-002

II 10:30 A.M. SDAB-D-21-118

Construct a Single Detached House with front attached Garage, Basement development (NOT to be used as an additional Dwelling), covered deck (4.88 m x 2.90 m), fireplace, uncovered deck (4.11 m x 5.49 m), veranda and walkout Basement

4425 - Kennedy Cove SW
Project No.: 396014536-002

III 1:30 P.M. SDAB-D-21-119

Construct a Garden Suite to an existing detached Garage (main floor Garage, 10.97m x 7.93m and second floor Garden Suite, 10.97m x 7.93m)

9460 - 77 Street NW
Project No.: 367331603-002

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-21-117

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 380530132-002

APPLICATION TO: Construct a single-Storey Garden Suite with Basement development (NOT to be used as an additional Dwelling) (main floor, 12.80m x 5.75m)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: June 4, 2021

DATE OF APPEAL: June 29, 2021

NOTIFICATION PERIOD: June 10, 2021 through July 1, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17904 - 99 Avenue NW

LEGAL DESCRIPTION: Plan 7922441 Blk 64 Lot 14

ZONE: (RF1) Single Detached Residential 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:

The wording on the development permit notice, "single-Storey Garden Suite with Basement development (NOT to be used as an additional

dwelling)”, is being interpreted verbatim “not to be used as an additional dwelling” therefore the purpose of the accessory building is being questioned.

This is a mature, quiet neighbourhood and this development will now make it a construction zone for an indeterminate amount of time, adding noise pollution, construction congestion, potential property damage and the potential elimination of neighborhood green space with active nesting locations for birds. If built, there will be a further potential loss of privacy including the potential for added noise and light pollution. Depending on what could happen in the future, there is also a distinct possibility that this will become a rental unit. Based on these points alone, if I was in the market for a new home, I would not choose one that was adjacent to a property such as this therefore I believe that my resale value will be severely impacted as a result.

These points aside, Edmonton Zoning Bylaw 12800, 87.9 states that, “The minimum distance between the Garden Suite and the principal dwelling on the same Site, shall be 4.0m whereas the notice has a variance and/or discretionary notation stating a 3.0m distance. Considering that the Principal Dwelling and surrounding homes are made from combustible materials, reducing the minimum distance increases the potential fire hazard.

Since some liberality has been taken with minimum distance requirements, clarification regarding building height and minimum site coverage is being requested; where,

- As per 87.2.d, the maximum Height for the Accessory Building would be 4.3m. Nowhere on the notice does it state the building height.
- Does the Garden Suite contain a parking area? If no, are there allowances for this to be added in the future? If yes, where is the access? Parking area or not, are the maximum site coverage limitations as per 87.4.a being met?

What if any architectural controls are in place to ensure aesthetic compatibility?

What is the drainage/landscaping plan for after construction? Since the last renovation > 5 years, construction material has still not been removed causing an increased rodent issue, see Photo 1. This is a clear indication that without a proper landscaping/drainage plan, time and resources will not be spent necessary after construction; where, with the ground disturbance created, a lack of proper landscaping may also impact lot drainage and increase the potential for flooding onto adjacent properties. As well, adding additional corridors between building and property lines will exacerbate existing rodent issues and existing noxious weed issues including an uncontrolled tree population that has the potential of

disrupting drainage and an increased risk of property damage; ie foundation issues, see Photos 2 and 3. We have had numerous conversations with the owners with no satisfactory outcome. It has even come to the point where we have had to clean their side of the property line on occasion to control both the spread of noxious weeds and uncontrolled trees.

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 the decision in accordance with subsection (2.1).

Appeals

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

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

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

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

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or
- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

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

Under section 7.2(2), **Garden Suite** means:

an Accessory building containing a Dwelling which is located separate from the principal Use which is Single Detached Housing, Semi-detached Housing, or Multi-unit Housing in the form of row housing. This Use includes Mobile Homes that conform to Section 78 of this Bylaw. This Use does not include Secondary Suites.

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.”

Separation Distance

Section 87.9 states “The minimum distance between a Garden Suite and the principal Dwelling on the same Site, shall be 4 m.”


Development Officer’s Determination

Separation Distance - The distance between the garden suite and the principal dwelling is 3.0m instead of 4.0m (Section 87.9).

[unedited]

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.

	<p>Project Number: 380530132-002 Application Date: DEC 09, 2020 Printed: June 4, 2021 at 3:45 PM Page: 1 of 3</p>		
<h2>Minor Development Permit</h2>			
<p>This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 17904 - 99 AVENUE NW Plan 7922441 Blk 64 Lot 14</p> <p>Specific Address(es) Suite: 17904G - 99 AVENUE NW Entryway: 17904G - 99 AVENUE NW Building: 17904G - 99 AVENUE NW</p>		
<p>Scope of Permit To construct a single-Storey Garden Suite with Basement development (NOT to be used as an additional Dwelling) (main floor, 12.80m x 5.75m).</p>			
<p>Permit Details</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: (none) </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: (none)
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<p>Development Permit Decision Approved Issue Date: Jun 04, 2021 Development Authority: NICHOLAS, CAROLYN</p>			



Project Number: **380530132-002**
Application Date: DEC 09, 2020
Printed: June 4, 2021 at 3:45 PM
Page: 2 of 3

Minor Development Permit

Subject to the Following Conditions

This Development Permit authorizes the development of a single-Storey Garden Suite with Basement development (NOT to be used as an additional Dwelling) (main floor, 12.80m x 5.75m).

The development shall be constructed in accordance with the stamped and approved drawings.

WITHIN 14 DAYS OF THE END OF THE NOTIFICATION PERIOD with NO APPEAL and prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.6).

Frosted or translucent glass treatment shall be used on windows to minimize overlook into adjacent properties (Section 87.11).

Platform Structures greater than 1.0 m above Grade shall provide Privacy Screening to reduce overlook onto Abutting properties (Section 87.14).

Façades facing a Lane shall have exterior lighting (Section 87.17).

A maximum of one Household shall occupy a Garden Suite (Section 87.20).

A Garden Suite shall not be allowed within the same Site containing a Group Home or Limited Group Home, or a Major Home Based Business and an associated principal Dwelling, unless the Garage Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business (Section 87.21).

The Garden Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision (Section 87.23).

Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices (Section 51).

This development permit shall be revoked if the conditions of this permit are not met.

ADVISEMENTS:

The proposed Basement development(s) shall NOT be used as an additional Dwelling. An additional Dwelling shall require a new Development Permit application.


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 suitable for permanent residence for a single Household (Section 6.1).

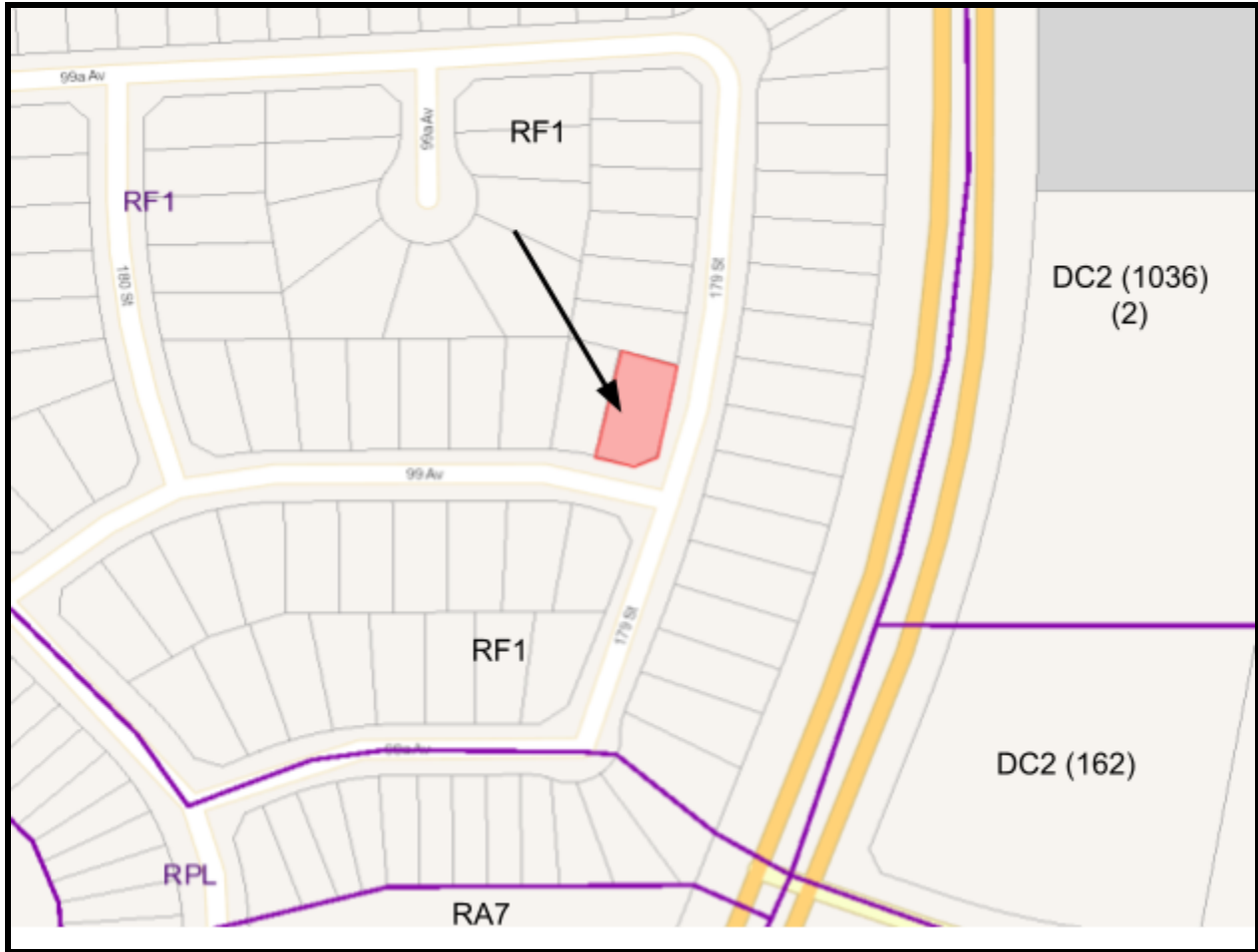
Household means: (i) one or more persons related by blood, adoption, foster care, marriage relationship; or (ii) a maximum of three unrelated persons; all living together as a single social and economic housekeeping group and using cooking facilities shared in common. For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative (Section 6.1).

Lot grades must match the Edmonton Drainage Bylaw 18093 and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

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

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.

	Project Number: 380530132-002 Application Date: DEC 09, 2020 Printed: June 4, 2021 at 3:45 PM Page: 3 of 3																									
<h2>Minor Development Permit</h2>																										
<p>An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Section 5.2).</p> <p>A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.</p> <p>Variations Separation Distance - The distance between the garden suite and the principal dwelling is 3.0m instead of 4.0m (Section 87.9).</p> <p>Rights of Appeal This approval is subject to the right of appeal to the Subdivision and Development Appeal Board (SDAB) as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.</p> <p>Notice Period Begins: Jun 10, 2021 Ends: Jul 01, 2021</p>																										
Fees																										
	<table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$293.00</td> <td style="text-align: right;">\$293.00</td> <td>0380810515010010</td> <td>Dec 17, 2020</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund (Secondary/Garden Suite)</td> <td style="text-align: right;">\$758.00</td> <td style="text-align: right;">\$758.00</td> <td>0380810515010010</td> <td>Dec 17, 2020</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$1,051.00</td> <td style="text-align: right; border-top: 1px solid black;">\$1,051.00</td> <td></td> <td></td> </tr> </tbody> </table>		Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$293.00	\$293.00	0380810515010010	Dec 17, 2020	Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$758.00	\$758.00	0380810515010010	Dec 17, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$1,051.00	\$1,051.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-21-117

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-118

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT(S):

APPLICATION NO.: 396014536-002

APPLICATION TO: Construct a Single Detached House with front attached Garage, Basement development (NOT to be used as an additional Dwelling), covered deck (4.88 m x 2.90 m), fireplace, uncovered deck (4.11 m x 5.49 m), veranda and walkout Basement

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: June 9, 2021

DATE OF APPEAL(S): June 30, 2021 and July 5, 2021

NOTIFICATION PERIOD: June 15, 2021 through July 6, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4425 - Kennedy Cove SW

LEGAL DESCRIPTION: Plan 1425027 Blk 9 Lot 104

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

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

Grounds for Appeal

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

B. Koshman

This is an appeal to the development permit variance granted to the property at 4425 Kennedy Cove SW, City file number 396014536-002. The variance was granted in respect of the rear setback of the proposed dwelling. It is my understanding that Zoning bylaw 12800 requires that a dwelling be located no closer than 7.5 meter from the rear property line. My property is located directly south of the subject property at 4423 Kennedy Cove SW. Based on my understanding of the proposed dwelling and the manner in which our lots are situated, that the proposed dwelling (even without the variance) will result in a considerable obstruction of my view to the north . The proposed dwelling will also cause privacy issues. The granting of this variance of approximately 2 feet will exacerbate the already considerable obstruction and privacy issues created by this very poorly thought out development. As it is my view that allowing this variance will have a detrimental impact on the use and enjoyment of my property I strongly urge the SDAB deny this variance and require that the dwelling be made to conform with the bylaw as it stands.

L. & P. Schalin

We are appealing this development because we have insufficient information about how this will affect our property. We are located immediately next door to the north. We are concerned that this development will negatively affect our sunshine and quality of life.

We have planted many flowers, shrubs and trees over the years and are concerned that the development may cause problems for their survival. We have spent tens of thousands of dollars in professional landscaping costs; our investment is considerable.

We have contacted the builder/developer, requesting clarification of this development permit, but have received no response whatsoever. We have requested the plot plan and have not heard anything. As a result, we are even more concerned due to the complete lack of communication. We feel that we have been ignored. We want to ensure that the plan for the home next to us will be following the building standards and guidelines set out by the developer for our area in Keswick. We want to ensure the aesthetics of our community are not compromised.

We have tried to submit an appeal online numerous times and the website will not let us do so because another party has already submitted an appeal. We want the opportunity to file our own appeal.

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 the decision in accordance with subsection (2.1).

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

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

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

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

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

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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

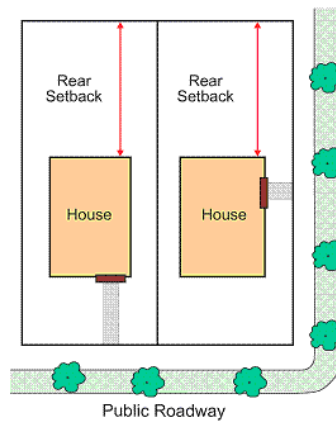
to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

Rear Setback

Section 115.4(7) states “The minimum Rear Setback shall be 7.5 m, except in the case of a corner Site it shall be 4.5 m.”

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

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



Development Officer's Determination


Reduced Rear Setback - The distance from the covered deck to the rear property line is 6.92 m instead of 7.5 m (Section 115.4.7)

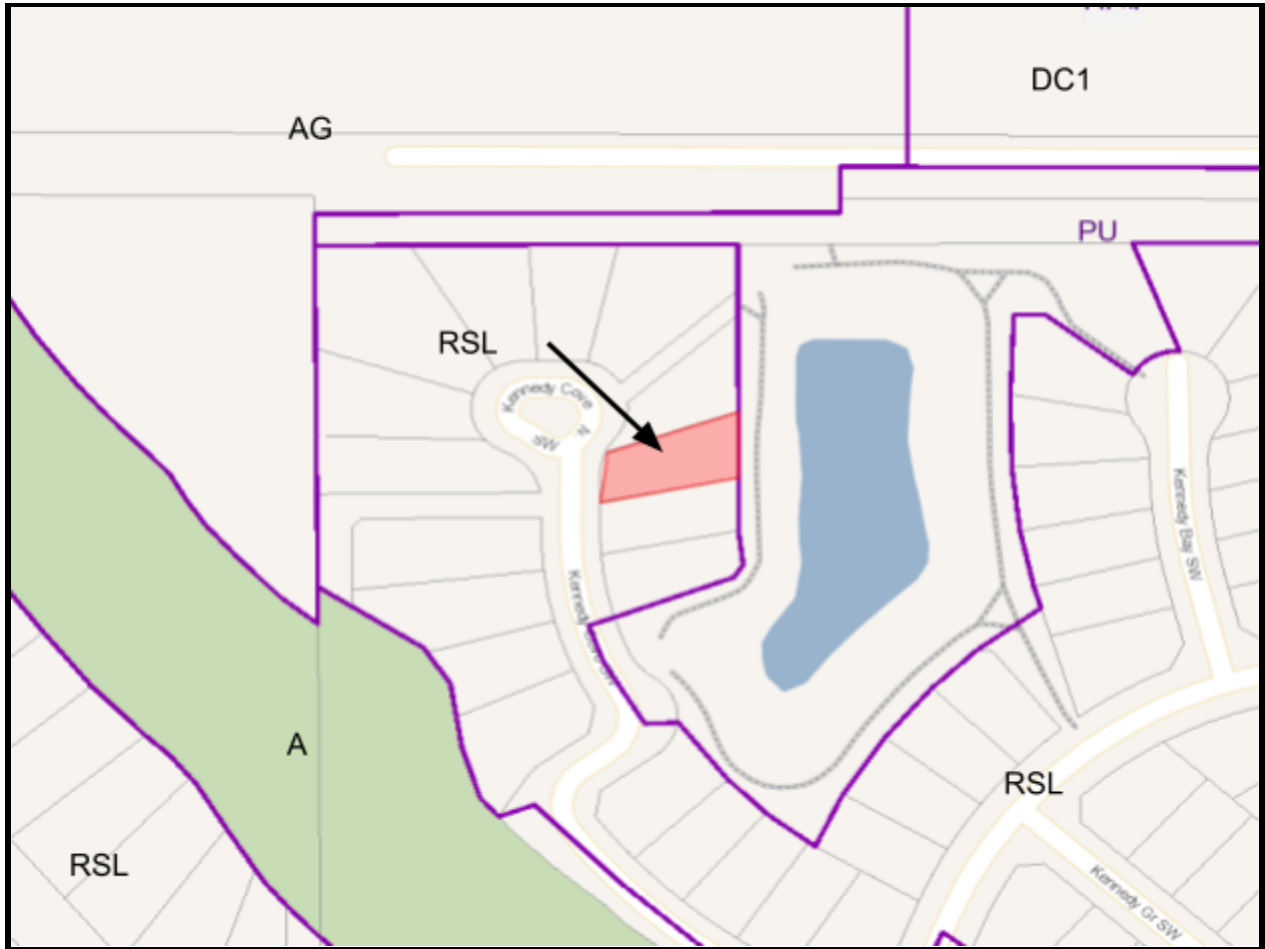
[unedited]

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.

	Project Number: 396014536-002 Application Date: MAY 14, 2021 Printed: June 9, 2021 at 3:28 PM 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.			
Applicant	Property Address(es) and Legal Description(s) 4425 - KENNEDY COVE SW Plan 1425027 Blk 9 Lot 104		
Scope of Permit To construct a Single Detached House with front attached Garage, Basement development (NOT to be used as an additional Dwelling), covered deck (4.88 m x 2.90 m), fireplace, uncovered deck (4.11 m x 5.49 m), veranda and walkout Basement.			
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Development Permit Decision Approved Issue Date: Jun 09, 2021 Development Authority: VOS, JENNIFER			

	Project Number: 396014536-002 Application Date: MAY 14, 2021 Printed: June 9, 2021 at 3:28 PM Page: 2 of 2																														
<h2>Minor Development Permit</h2>																															
<p>Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21 (Section 17.1).</p> <p>This Development Permit authorizes the development of a Single Detached House with front attached Garage, Basement development (NOT to be used as an additional Dwelling), covered deck (4.88 m x 2.90 m), fireplace, uncovered deck (4.11 m x 5.49 m), veranda and walkout Basement.</p> <p>The development shall be constructed in accordance with the stamped and approved drawings.</p> <p>Landscaping shall be installed and maintained in accordance with Section 55.</p> <p>ADVISEMENTS:</p> <p>Due to the roll face curb construction at this property, there are no requirements for a separate curb crossing permit under Section 1210 and 1211 of Traffic Bylaw No. 5590. Approval is given for the access under this Development Permit.</p> <p>Lot grades must match the Edmonton Drainage Bylaw 18093 and/or comply with the Engineered approved lot grading plans for the area. Contact Lot Grading at 780-496-5576 or lot_grading@edmonton.ca for lot grading inspection inquiries.</p> <p>The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.</p> <p>Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.</p> <p>An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Section 5.2).</p> <p>A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.</p> <p>Variances Reduced Rear Setback - The distance from the covered deck to the rear property line is 6.92 m instead of 7.5 m (Section 115.4.7)</p> <p>Rights of Appeal This approval is subject to the right of appeal to the Subdivision and Development Appeal Board (SDAB) as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.</p> <p>Notice Period Begins: Jun 15, 2021 Ends: Jul 06, 2021</p>																															
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$502.00</td> <td style="text-align: right;">\$502.00</td> <td>071520210517000</td> <td>May 17, 2021</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund</td> <td style="text-align: right;">\$1,748.00</td> <td style="text-align: right;">\$1,748.00</td> <td>071520210517000</td> <td>May 17, 2021</td> </tr> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$148.00</td> <td style="text-align: right;">\$148.00</td> <td>071520210517000</td> <td>May 17, 2021</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$2,396.00</td> <td style="text-align: right; border-top: 1px solid black;">\$2,396.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$502.00	\$502.00	071520210517000	May 17, 2021	Sanitary Sewer Trunk Fund	\$1,748.00	\$1,748.00	071520210517000	May 17, 2021	Lot Grading Fee	\$148.00	\$148.00	071520210517000	May 17, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$2,396.00	\$2,396.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-21-118 ▲
N

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 367331603-002

APPLICATION TO: Construct a Garden Suite to an existing detached Garage (main floor Garage, 10.97m x 7.93m and second floor Garden Suite, 10.97m x 7.93m)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 17, 2021

DATE OF APPEAL: June 30, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9460 - 77 Street NW

LEGAL DESCRIPTION: Plan 5863HW Blk 10 Lot 8

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 Garden Suite bylaw does not contemplate the condition of a garage addition very well, and as such we are faced with a number of variances. The explanation for these variances is as follows.

The Height variance is due to the existing garage height floor to floor of 10-9. When an 8 ceiling height is added to the 2nd story it creates a height variance. We also want to point out that if a sloping roof was put on the

structure the overall height would be higher, and would not require a variance with the way that the height of a sloping roof is calculated; which is to the midpoint of the roof slope. We are proposing a flat roof with this garden suite design. We have a diagram that illustrates that the shadowing impact is less with a flat roof. Further the structure does not take away any quiet enjoyment of any surrounding properties and has very little impact on sun-shading of surrounding houses seeing as the lot flanks a lane on two sides; to the west and north.

The north side yard setback variance is due to the existing garage location as it was designed to meet the accessory building bylaw requirements at the time it was built. The garage suite bylaw has different requirements for side yard setbacks. Please also note that this side yard is on a lane and has little impact to adjacent neighbours as there is a great deal of space with the width of the lane. The south side yard has a generous width that is larger than what is required as the minimum. This is a benefit to the adjacent neighbour providing for a more generous side yard setback from their adjacent property.

The floor area variance of the main level of the garage is due to the existing footprint and an existing square footage. This garage footprint and area already exists as is. This additional size is nor felt to be obtrusive in any way.

The floor area of the second story is contextually appropriate give the lot relative to the lane flanking two property lines to the north and west, and only one affected neighbour directly adjacent to the south. The form of the proposed garage is to compliment the architecture of the home that exists on the lot. The form of the proposed garage is suited to the architecture of the home adjacent and overall is believed to fit within the context.

<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.

...

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal the decision in accordance with subsection (2.1).

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clause (a.4) and (d), must comply with any land use bylaw in effect;

(a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

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

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

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

Under section 7.2(2), **Garden Suite** means:

an Accessory building containing a Dwelling which is located separate from the principal Use which is Single Detached Housing, Semi-detached Housing, or Multi-unit Housing in the form of row housing. This Use includes Mobile Homes that conform to Section 78 of this Bylaw. This Use does not include Secondary Suites.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is “to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.”

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

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

Height

Section 87.2(b) states the maximum Height shall be as follows:

6.2 m where the Garden Suite has a roof slope of less than 4/12 (18.4°).

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

Development Officer’s Determination

1. Height - The maximum Height shall be 6.2m where the Garden Suite has a roof slope of less than 4/12 (18.4°) (Section 87.2).

Maximum: 6.2m

Proposed: 7.1m

Exceeds by: 0.9m

[unedited]

Side Setback

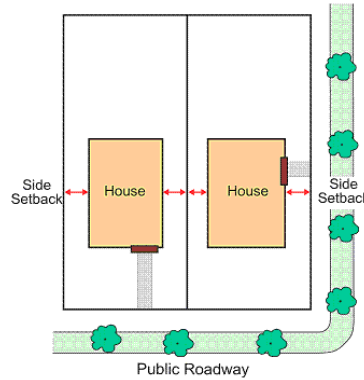
Section 87.8 states “The minimum Side Setback shall be the same as that prescribed for Single Detached Housing within the underlying Zone or applicable Overlay.”

Section 814.3(3)(c)(ii) states:

where the Site Width is 18.3 m or wider: the minimum interior Side Setback shall be 2.0 m, [...]

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

2. Reduced Side Setback - Where a Site Width is 18.3m or wider, the minimum interior Side Setback shall be 2.0 m (Section 87.8 and Section 814.3.c.ii).

Minimum: 2.0m to the north side property line (Abutting the lane).

**Proposed: 1.2m to the north side property line (Abutting the lane).
Deficient by: 0.8m**

[unedited]

Floor Area

Section 87.3 states Floor Area shall be provided in accordance with the following:

- a. ...
- b. the maximum total Floor Area for a Garden Suite shall be 130 m²;
- c. in the RF1, RF2, RF3, RF4, RF5, RF6, RA7, RA8, and RA9 Zones, the maximum Second Storey Floor Area shall be 50 m², except where the Garden Suite complies with the regulations of Section 93 the maximum Second Storey Floor Area shall be 60 m²; and
- d. ...

Under section 6.1, **Floor Area** means:

total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Development Officer's Determination

3. Total Floor Area - The maximum total Floor Area for a Garden Suite shall be 130m² (Section 87.3.b).

Maximum: 130m²

Proposed: 174m²

Exceeds by: 44m²

4. Second Floor Area - The maximum Second Storey Floor Area shall be 50m² (Section 87.3.c).

Maximum: 50m²

Proposed: 87m²

Exceeds by: 37m²

[unedited]

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:

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

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.

	<p>Project Number: 367331603-002 Application Date: JUL 09, 2020 Printed: June 30, 2021 at 2:23 PM Page: 1 of 2</p> <h2 style="text-align: center;">Application for Minor Development Permit</h2>		
<p>This document is a Development Permit Decision for the development application described below.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 9460 - 77 STREET NW Plm 5863HW Blk 10 Lot 8</p> <p>Specific Address(es) Suite: 9460G - 77 STREET NW Entryway: 9460G - 77 STREET NW Building: 9460G - 77 STREET NW</p>		
<p>Scope of Application To construct a Garden Suite to an existing detached Garage (main floor Garage, 10.97m x 7.93m and second floor Garden Suite, 10.97m x 7.93m).</p>			
<p>Permit Details</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <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%; vertical-align: top;"> <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>
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<p>Development Application Decision Refused</p> <p>Issue Date: Jun 17, 2021 Development Authority: ZHOU, ROWLEY</p> <p>Reason for Refusal</p> <ol style="list-style-type: none"> 1. Height - The maximum Height shall be 6.2m where the Garden Suite has a roof slope of less than 4/12 (18.4°) (Section 87.2). Maximum: 6.2m Proposed: 7.1m Exceeds by: 0.9m 2. Reduced Side Setback - Where a Site Width is 18.3m or wider, the minimum interior Side Setback shall be 2.0 m (Section 87.8 and Section 814.3.c.ii). Minimum: 2.0m to the north side property line (Abutting the lane). Proposed: 1.2m to the north side property line (Abutting the lane). Deficient by: 0.8m 3. Total Floor Area - The maximum total Floor Area for a Garden Suite shall be 130m² (Section 87.3.b). Maximum: 130m² Proposed: 174m² Exceeds by: 44m² 4. Second Floor Area - The maximum Second Storey Floor Area shall be 50m² (Section 87.3.c). Maximum: 50m² Proposed: 87m² Exceeds by: 37m² 			
<p>THIS IS NOT A PERMIT</p>			



Project Number: **367331603-002**
Application Date: JUL 09, 2020
Printed: June 30, 2021 at 2:23 PM
Page: 2 of 2

Application for Minor Development Permit

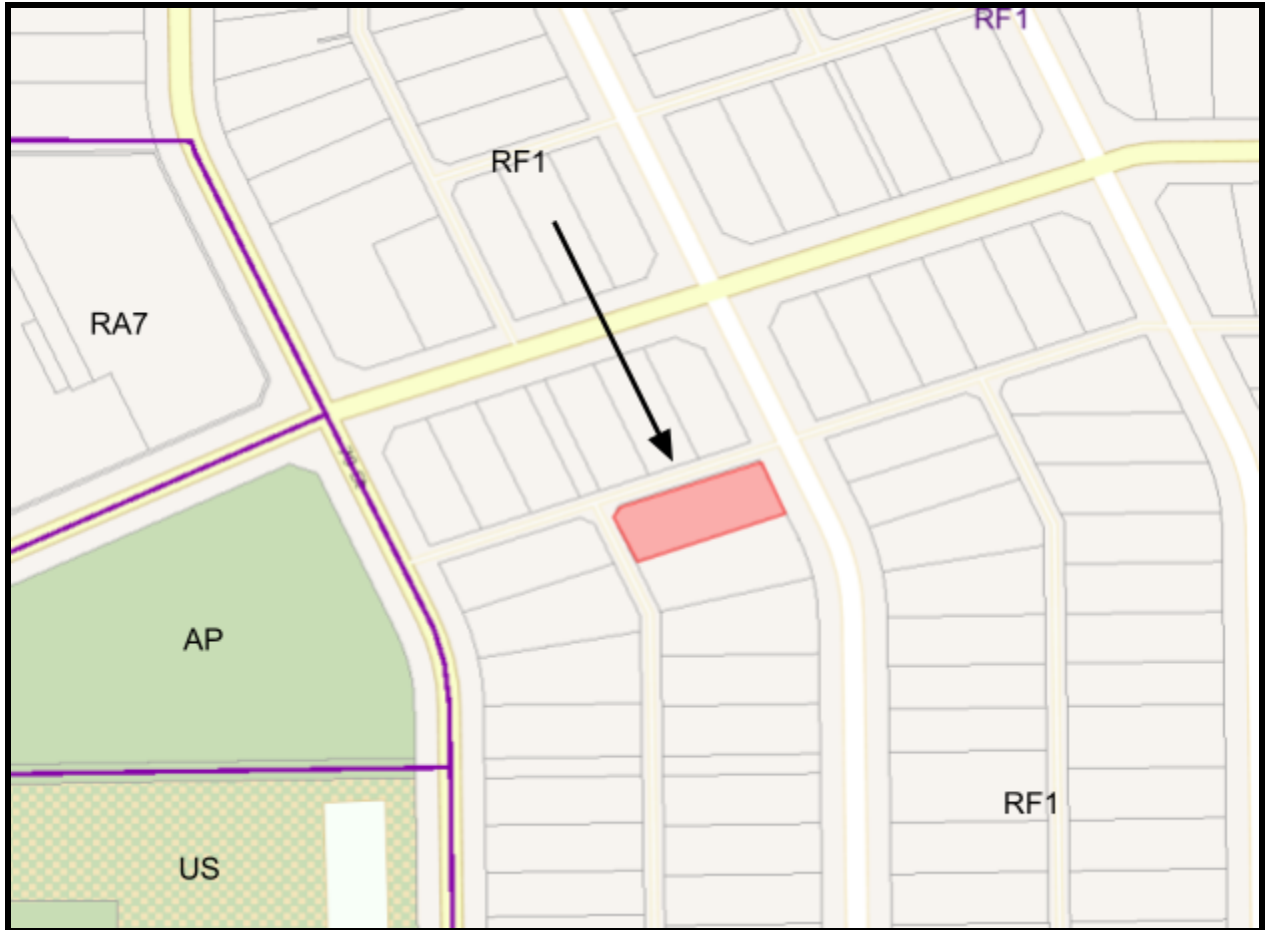
Rights of Appeal

The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$758.00	\$758.00	976068009464001	Jul 09, 2020
Development Permit Inspection Fee	\$211.00	\$211.00	976068009464001	Jul 09, 2020
Dev. Application Fee	\$293.00	\$293.00	976068009464001	Jul 09, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,262.00	\$1,262.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-119 ▲
N