

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
June 15, 2017

Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-17-106	Comply with an Order to obtain an approved Development Permit for a three Dwelling Apartment House OR Decommission one of the Dwellings and obtain a Development Permit for a Secondary Suite in a Single Detached House OR Decommission both Dwellings and revert the building back into a Single-detached house with only one Dwelling. 12649 - 70 Street NW Project No.: 186048017-001
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NOTE: *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-106

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 186048017-001

APPLICATION TO: Comply with an Order to obtain an approved Development Permit for a three Dwelling Apartment House OR Decommission one of the Dwellings and obtain a Development Permit for a Secondary Suite in a Single Detached House OR Decommission both Dwellings and revert the building back into a Single-detached house with only one Dwelling.

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: May 1, 2017

DATE OF APPEAL: May 23, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12649 - 70 Street NW

LEGAL DESCRIPTION: Plan 0225483 Blk B Lot 1

ZONE: RF3-Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

At this time I am requesting on behalf of the tenants, an extension to the July 06 deadline to decommission both suites. Currently the tenants have come to Edmonton together as a racing team for Northlands, and will be returning to their permanent residence of Didsbury at September end. I have entered into their lease in good faith, and now with the information provided to me, I do not have the resources and capacity to have this house permitted as a multi dwelling, or secondary suite as per current codes.

I fully intend to comply with this order and seek to find the appropriate contractors and have the work done properly at the end of the designated lease, and at that time return the house to a single dwelling. I am asking for leniency in this situation for this group of visitors to our city. Thank you.

General Matters

The Board is advised the date of Stop Order is May 1, 2017. The Notice of Appeal was filed on May 23, 2017.

Appeal Information:

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

Stop order

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

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

the development authority may act under subsection (2).

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

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

within the time set out in the notice.

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

Permit

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Hearing and decision

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

...

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

...

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

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under Section 140.2(9), **Single Detached Housing** is a **Permitted Use** in the **RF3 Small Scale Infill Development Zone**.

Under Section 7.2(9), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Under Section 140.2(7), a **Secondary Suite** is a **Permitted Use** in the **RF3 Small Scale Infill Development Zone**.

Under Section 7.2(7), **Secondary Suite** means development consisting of a Dwelling located within, and Accessory to, a structure in which the principal Use is Single Detached Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from the side or rear of the structure. This Use includes the development or Conversion of Basement space or above Grade space to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Single Detached Dwelling. This Use does not include Apartment Housing, Duplex Housing, Garage Suites, Garden Suites, Semi-detached Housing, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

Under Section 140.2(1), **Apartment Housing** is a **Permitted Use** in the **RF3 Small Scale Infill Development Zone**.

Under Section 7.2(1), **Apartment Housing** means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

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

Section 814.1 states the **General Purpose** of the **Mature Neighbourhood Overlay** is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



MAILING ADDRESS:
2nd Floor, 10111 104 Avenue NW
Edmonton, Alberta T5J 0J4

May 1, 2017

Our File: 186048017-001

COLLEEN H MCCULLOUGH
353 - BYRNE COURT NW
EDMONTON AB T6W 1E1

Dear Sir/Madam:

A check with the Land Titles Office discloses that you are the registered owner of the property located at 12649 - 70 STREET NW, legally described as Plan 0225483 Blk B Lot 1. This property is zoned RF3 (Small Scale Infill Development Zone) in accordance with Section 140 of the Edmonton Zoning Bylaw. The purpose of this Zone is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

On April 20, 2017 Development Compliance Officer Brendan Bolstad from the City of Edmonton having Authority to exercise development powers under Section 542 of the Municipal Government Act R.S.A. 2000, conducted an interior land-use inspection of the building on the property noted above.

LAND USE INFRACTION:

Our investigation revealed that two additional Dwellings have been constructed: One on the top floor and one in the Basement. The addition of these Dwellings has changed the building from a Single-detached house into a three Dwelling Apartment House. The City of Edmonton has not issued a Development Permit for an Apartment House at this property, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1 and Section 23.1(2) of the Edmonton Zoning Bylaw 12800.

ORDER:

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

1. Obtain an approved Development Permit for a three Dwelling Apartment House;

OR

2. Decommission one of the Dwellings and obtain a Development Permit for a Secondary Suite in a Single Detached House. The steps to decommission are outlined in option 3.

OR

(continued on next page)

3. Decommission both Dwellings and revert the building back into a Single-detached house with only one Dwelling. To decommission you must:

- Remove the keyed lock separation between the upstairs and downstairs floors;
- Remove all cooking facilities from the basement and second floor, including the stoves and ranges;
- Remove the 220 volt outlets which connect to the stoves and ranges, and the 220 volt breakers from the electrical panel(s) associated to the stoves and ranges;
- Reduce the occupancy of the building to a single Household. The definition of a Household, as well as other applicable definitions has been included on a separate insert along with this Order.

This Order is to be complied with on or before June 6, 2017.

If you choose option #2 or #3, the property will be inspected to determine compliance with this Order. Please contact our office at 780-944-1420 to schedule a decommissioning inspection once the required actions have been completed.

CONSEQUENCES FOR NON-COMPLIANCE:

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

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

If you have any questions in regards to this matter, please contact the writer at 780-442-7190.

Regards,



Brendan Bolstad
Development and Zoning
Development Services
Phone Number: 780-442-7190
Email Address: Brendan.Bolstad@edmonton.ca

**Adding
Amounts
Owing to tax
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

Stop order

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

**Enforcement of
stop order**

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

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

Permit

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

Grounds for appeal

- 685(1)** If a development authority

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

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

- (2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.
- (3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

Appeals

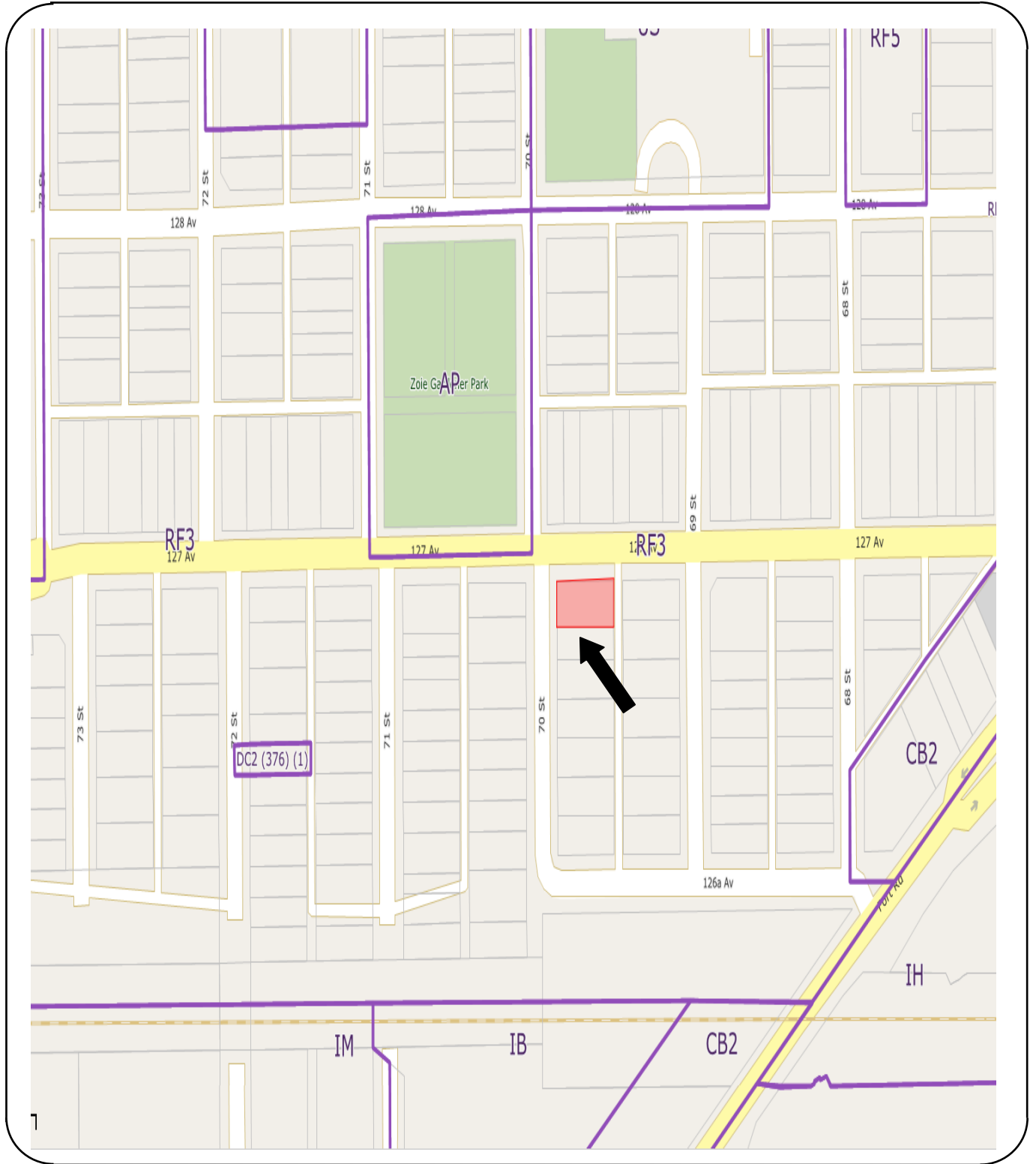
- 686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

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

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-106

