

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Tuesday, 9:00 A.M.
August 25, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-109 To construct a rear uncovered deck on a Single Detached House (8.53 metres by 3.66 metres at 1.6 metres in Height)

7812 - Getty Wynd NW
Project No.: 362894721-002

II 10:30 A.M. SDAB-D-20-111 To construct exterior alterations to a Single Detached House (Front Yard parking pad, 7.62 metres by 4.27 metres), existing without permits.

10808 - 107 Street NW
Project No.: 364197892-002

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-20-109

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 362894721-002

APPLICATION TO: Construct a rear uncovered deck on a Single Detached House (8.53 metres by 3.66 metres at 1.6 metres in Height)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: July 21, 2020

DATE OF APPEAL: July 28, 2020

NOTIFICATION PERIOD: July 28, 2020 through August 18, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7812 - Getty Wynd NW

LEGAL DESCRIPTION: Plan 1423710 Blk 6 Lot 45

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Granville Neighbourhood Structure Plan
The Grange Area Structure Plan

Grounds for Appeal

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

Rear attached deck encroaches property line 2.5 feet over required 18 foot set back. The deck height is 5.25 feet and the fence height is 6 feet. This means weather sitting or standing the residents of 7812 Getty Wynd are still towering over the 5 surrounding properties. The proposed deck takes away all privacy from our yard and neighboring yards. The new deck extends the whole 28 feet length of 7812 Getty Wynd. We request that the deck is either lowered or the variance removed and the deck build to Edmonton zoning requirements, meeting the 18 foot distance to the property line. If the deck is built to the 18 foot distance from the property line it would still be over 260 sq ft and a good sized deck. We have not signed the requested letter put forth by the property owners at 7812 Getty Wynd and had previously requested they considered a 10 foot deck rather than 12 feet.

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

Under section 6.1, **Platform Structure** means:

an elevated structure intended for use as outdoor Amenity Area that may project and/or be recessed from the wall of a building, may be surrounded by guardrails, parapet walls or similar features. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

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 [...]”

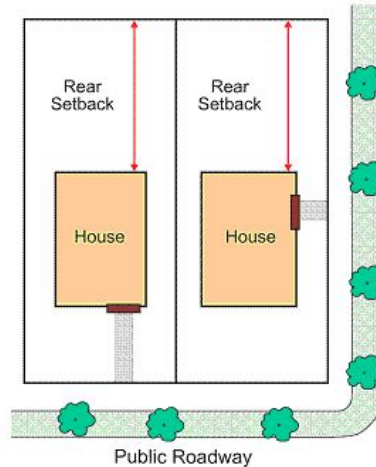
Section 44.3(b) states:

The following features may project into a required Setback [...]:

- b) Platform Structures provided such projections do not exceed 2.0 m into any other Setbacks or Separation Spaces with a depth of at least 4.0 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 Officers Determination

Reduced Rear Setback - The distance from the uncovered deck to the rear property line is 4.78m instead of 5.5m (Section 44.3.b).

[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: 362894721-002 Application Date: MAY 21, 2020 Printed: July 21, 2020 at 3:17 PM Page: 1 of 2		
<h2>Uncovered Deck 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	<table border="1"> <tr> <td data-bbox="829 457 1430 548"> Property Address(es) and Legal Description(s) 7812 - GETTY WYND NW Plan 1423710 Blk 6 Lot 45 </td> </tr> <tr> <td data-bbox="829 554 1430 684"> Location(s) of Work Suite: 7812 - GETTY WYND NW Entryway: 7812 - GETTY WYND NW Building: 7812 - GETTY WYND NW </td> </tr> </table>	Property Address(es) and Legal Description(s) 7812 - GETTY WYND NW Plan 1423710 Blk 6 Lot 45	Location(s) of Work Suite: 7812 - GETTY WYND NW Entryway: 7812 - GETTY WYND NW Building: 7812 - GETTY WYND NW
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Scope of Permit To construct a rear uncovered deck on a Single Detached House (8.53 m x 3.66 m @ 1.6 m in Height).			
Permit Details <table border="1" style="width: 100%;"> <tr> <td data-bbox="215 821 824 877"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none) </td> <td data-bbox="829 821 1430 877"> Site Area (sq. m.): 515.49 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 515.49
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 515.49		
Development Permit Decision Approved Issue Date: Development Authority: LANGILLE, BRANDON Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21 (Section 17.1). This Development Permit authorizes the development of a rear uncovered deck on a Single Detached House (8.53 m x 3.66 m @ 1.6 m in Height). The development shall be constructed in accordance with the stamped and approved drawings. Any future deck enclosure or cover requires a separate development and building permit approval. ADVISEMENTS: 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). 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 references to section numbers refer to the Edmonton Zoning Bylaw 12800. Variances Reduced Rear Setback - The distance from the uncovered deck to the rear property line is 4.78m instead of 5.5m (Section 44.3.b). 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.			



Project Number: **362894721-002**
Application Date: MAY 21, 2020
Printed: July 21, 2020 at 3:17 PM
Page: 2 of 2

Uncovered Deck Permit

Notice Period Begins: Jul 28, 2020

Ends: Aug 18, 2020

Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Building Permit Fee (Uncovered Deck)	\$112.00	\$112.00	95789102292S001	May 21, 2020
Safety Codes Fee	\$4.50	\$4.50	95789102292S001	May 21, 2020
Development Application Fee	\$120.00	\$120.00	95789102292S001	May 21, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$236.50</u>	<u>\$236.50</u>		

ITEM II: 10:30 A.M.

FILE: SDAB-D-20-111

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 364197892-002

APPLICATION TO: Construct exterior alterations to a Single Detached House (Front Yard parking pad, 7.62 metres by 4.27 metres), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 22, 2020

DATE OF APPEAL: August 1, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10808 - 107 Street NW

LEGAL DESCRIPTION: Plan 7540AH Blk 7 Lot 428

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN(S): Central McDougall / Queen Mary Park Area Redevelopment Plan

Grounds for Appeal

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

We have has a driveway on the front of the property sense 2007. There has been no issues with the driveway until we found out it was not permitted.. we applied for a permit as soon as we where advised of the issue.

Upon our application we were asked to make minor alterations in drawing and measurements. These were completed. Roadways had no issues with the frontage parking except that we do have alley access. At this point we were told a consultations request would be sent out to the community and the community league.

All was looking acceptable. The location of the driveway was good and the roadways responded with no objection however the community consultation was never received and no known response was made by the community league. I actually show letter to the president of the community league, it's the first time she has seen it. The day I received our refusal email is the same day I received a consultations letter in the mail, both reflecting the same dates for final response. How do you get a refusal letter the same day as the community consultation cutoff.

All my neighbours want to know why they did not receive the consultation in the mail, the community league also want to know why they never received the consultation. So it appears the city made an in house decision without informing anyone. The permit was setup to fail.

My argument is clear. The driveway was on the location for 13 years without issue. No objections were made from the community. Roadways has no objection of minus the access available from an alley. The lot is a large lot 50 x 150 with lots of room for the driveway.

As a long term board member of the community league I excluded myself from any vote on the consultation of variance however it appears the consultation never happened.

If the permit office was not going to follow its own process for consultation for the variance then it would be assumed that the process failed.

This simple permit has turned into a time consuming costly mess for no reason. All my neighbours cannot believe what I am going through to keep the driveway. None of them objected to the driveway, none received any letter.

Please reconsider this request for the permit. We should not be penalized for a lack in following process.

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*:

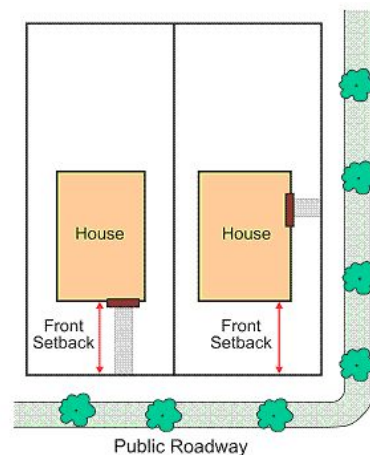
Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 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, **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.”

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.



Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

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.

Mature Neighbourhood Overlay - Driveway Access

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Development Officer’s Determination

1. Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue. (Reference Section 814.3.17)

The Site Abuts a lane and proposes front vehicular access from 107 Street NW. [unedited]

General On-Site Parking and Loading Requirements

Section 54.1(4) states “Unless otherwise specified, Parking Areas and loading facilities shall not be located within a Front Setback or a Side Setback Abutting the flanking public roadway, other than a Lane.”

Development Officer’s Determination

2. Unless otherwise specified, Parking Areas and loading facilities shall not be located within a Front Setback or a Side Setback Abutting the flanking public roadway, other than a Lane. (Reference Section 54.1.4)

The parking pad is proposed in the Front Setback. [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(17) - Driveway Access

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: 364197892-002 Application Date: MAY 27, 2020 Printed: July 22, 2020 at 11:58 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Alterations Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 10808 - 107 STREET NW Plan 7540AH Blk 7 Lot 428 Location(s) of Work Suite: 10808 - 107 STREET NW Entryway: 10808 - 107 STREET NW Building: 10808 - 107 STREET NW																				
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Development Application Decision Refused Issue Date: Development Authority: NICHOLAS, CAROLYN Reason for Refusal 1. Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue. (Reference Section 814.3.17) The Site Abuts a lane and proposes front vehicular access from 107 Street NW. 2. Unless otherwise specified, Parking Areas and loading facilities shall not be located within a Front Setback or a Side Setback Abutting the flanking public roadway, other than a Lane. (Reference Section 54.1.4) The parking pad is proposed in the Front Setback. 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.																					
Building Permit Decision Refused																					
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <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: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">06560242</td> <td style="text-align: right;">Jun 08, 2020</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$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;">\$176.00</td> <td style="text-align: right; border-top: 1px solid black;">\$176.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$176.00	\$176.00	06560242	Jun 08, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$176.00	\$176.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-111

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N