

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
June 10, 2015**

**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-15-117	Construct an Accessory Building (detached Garage - 7.92m x 9.14m) and to demolish an existing Accessory Building (detached Garage) 9767 - 65 Avenue NW Project No.: 170952632-001
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II	10:30 A.M.	SDAB-D-15-118	Construct an Accessory Building (Bird Aviary, 3.66m x 5.79m), existing without permits. 3411 - 105 Avenue NW Project No.: 162865621-002
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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-15-117

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 170952632-001

APPLICATION TO: Construct an Accessory Building
(detached Garage - 7.92m x 9.14m) and to
demolish an existing Accessory Building
(detached Garage)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 12, 2015

DATE OF APPEAL: May 19, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9767 - 65 Avenue NW

LEGAL DESCRIPTION: Plan 6045HW Blk 28 Lot 54

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1. Section 50.3(2) - An Accessory building or structure shall not exceed 4.3 m nor one Storey in Height.

Proposed: 4.82 m

Exceeds by: 0.52 m

2. Section 814.3(20) - A rear detached Garage shall be fully contained within the rear 12.8 m of the Site.

Proposed: 13.8 m

Exceeds by: 1.0 m

Notes:

1. Unless otherwise stated, all references to section numbers refer to the Edmonton Zoning Bylaw 12800.

2. It should be noted that, as of the date of this decision, Community Consultation has not been conducted by the applicant as per the requirements of Section 814.3(24). It is recommended that the applicant conduct this consultation prior to the appeal hearing to ensure that neighbouring property owners are given an opportunity to provide comments about the proposed development.

APPELLANT'S SUBMISSION

I require the extra height to accommodate the correct size ceiling and height of door required to park my truck inside. While parked in the back lane outside and in the front outside on our street, it has been broken into at times. This has caused delays at work and problems causing quite a bit of difficulty. My truck is taller than ordinary.

As well the extra height will allow for extra shelving storage that we require (for winter stuff/summer stuff for our family). Currently we rent another garage in our area which causes a financial burden that will be alleviated with the additional space. The additional height is not so much as to stand out as very different in our area.

I require the additional distance behind the garage to be able to enter the garage reasonably, due to there being power poles and a fence opposite our garage in the back lane. Note that this extra space behind the garage does NOT cause the garage to be too close to the house (the distance is compliant) and there is still enough room for a good sized backyard.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone, Section 110.2(4).

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

The submitted Site Plan shows the subject site has a Site Width of 13.41 metres, and a Site depth of 42.91 metres. The proposed Accessory building (detached Garage) is located 0.90 metres (east) Side Lot Line, 3.37 metres from the (west) Side Lot Line, and 5.28 metres from the Principal Building to the north. The vehicle doors of the detached Garage face the rear lane and the Garage is 5.87 metres from the (south) Rear Lot Line.

Section 50.3(2) states an Accessory building or structure shall not exceed 4.3 metres nor one Storey in Height.

The Development Officer determined that the maximum allowable Height for the proposed development is 4.3 metres. The Development Officer determined the proposed development provides a Height of 4.82 metres which exceeds the maximum allowable Height by 0.52 metres.

Section 814.3(20) states a detached Garage shall be fully contained within the rear 12.8 metres of the Site.

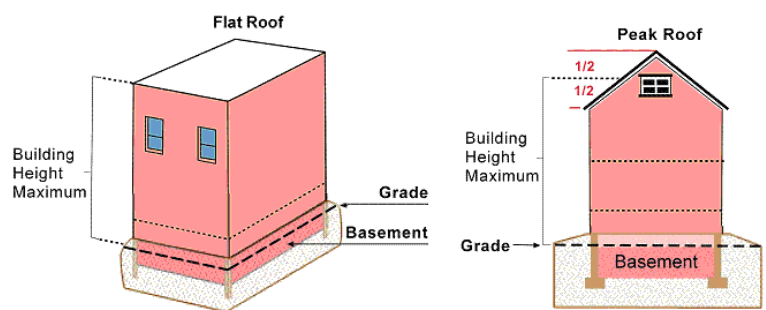
The Development Officer determined the detached Garage shall be contained within 12.8 metres from the Rear Lot Line. The proposed development is set back 13.8 metres from the (south) Rear Lot Line which is in excess of the requirement by 1.0 metre.

Section 814.3(24) states when a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 metres of the Site of the proposed development and the President of each affected Community League;
- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Under Section 6.1(49), **Height** means, when used with reference to a building or structure, the vertical distance between the horizontal plane through grade and a horizontal plane through:

- a. the highest point of the roof in the case of a building with a flat roof or a roof having a slope of less than 20 degrees; and
- b. The average level between eaves and ridges in the case of a pitched, gambrel, mansard or hipped roof, or a roof having a slope of more than 20 degrees; provided that in such cases the ridge line of the roof shall not extend more than 1.5 metres above the maximum permitted building Height of the Zone or in the case of a Garage Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.



Building Height: Is measured halfway between eaves and roof peak. On a flat roof it is measured from grade to the top of the roof.

Section 814.1 states the 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.

Section 110.1 states the 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, Semi-detached Housing and Duplex Housing under certain conditions.

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-117



ITEM II: 10:30 A.M.

FILE: SDAB-D-15-118

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN
ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 162865621-002

APPLICATION TO: Construct an Accessory Building (Bird
Aviary, 3.66m x 5.79m), existing without
permits.

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: April 30, 2015

DATE OF APPEAL: May 13, 2015

NOTIFICATION PERIOD: May 5, 2015 through May 18, 2015

RESPONDENT: Linda Gergley

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 3411 - 105 Avenue NW

LEGAL DESCRIPTION: Plan 1888NY Blk 17 Lot 6

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

1. This Development Permit authorizes the development of an Accessory Building (Bird Aviary, 3.66m x 5.79m), existing without permits. The development shall be constructed in accordance with the stamped and approved drawings.

2. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

3. An Accessory Building or Structure shall not exceed 4.3m nor one storey in height. (Reference Section 6.1(49) and 50.3(2).)

Notes:

1. 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 such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

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

VARIANCE:

1. Section 50.3(4)(a) relaxed - an Accessory building or structure shall be located not less than 18.0 m from the Front Lot Line, unless it complies with the Setback requirements for a principal building.

Proposed: 17.86 m

Notes:

A variance was granted for this Development Permit pursuant to Sections 11.3 and 11.4. 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.

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

APPELLANT'S SUBMISSION

- Unsightly structure erected last September (2014) while we were on vacation.
- Noise of parrots makes it impossible to enjoy our garden.
- The smell from droppings.
- It devalues our property.
- It is attached to the garage.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone, Section 110.2(4).

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

The submitted Site Plan shows the subject site has a Site Width of 15.81 metres and a Site depth of 36.58 metres. The proposed Accessory building is 3.66 metres by 5.79 metres in size and is located 17.86 metres from the (north) Front Lot Line, 1.07 metres from the (west) Side Lot Line, and 13.17 metres from the (south) Rear Lot Line.

This application was approved by the Development Officer with conditions.

Pursuant to Section 11.3 and 11.4 and subject to the right of appeal to the Subdivision and Development Appeal Board, Section 21.1, the Development Officer granted the following variance:

Section 50.3(4)(a) an Accessory building or structure on an Interior Site shall be located not less than 18.0 metres from the Front Lot Line, unless it complies with the Setback requirements for a principal building.

The Development Officer determined the required Setback from the Front Lot Line is 18.00 metres. The Development Officer determined the proposed development provides a Setback of 17.86 metres, and a relaxation of 0.14 metres was granted.

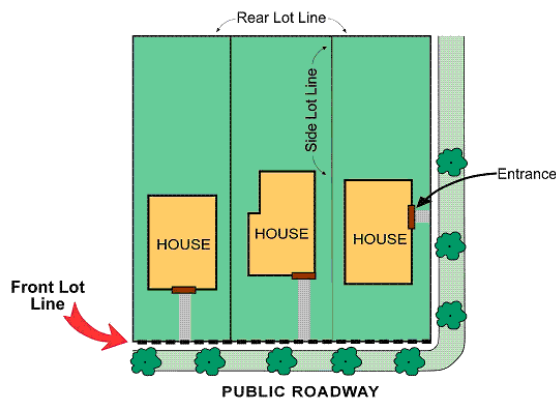
The decision of approval by the Development Officer has been appealed by an abutting property owner located west at 3415 - 105 Avenue.

Section 814.3(5), the minimum Rear Setback shall be 40% of Site depth.

Section 814.3(2) states where the Site Width is less than 18.3 m, the Side Setback requirements of the underlying Residential Zone shall apply.

Section 110.4(10)(a) states Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side.

Under Section 6.1(38), **Front Lot Line** means the property line separating a lot from an abutting public roadway other than a Lane. In the case of a Corner Lot, the Front Line is the shorter of the property lines abutting a public roadway, other than a Lane. In the case of a Corner Lot formed by a curbed corner, the Front Lot Line shall be the shorter of the two segments of the property line lying between the point determined to be the actual corner and the two points at the extremities of that property line.



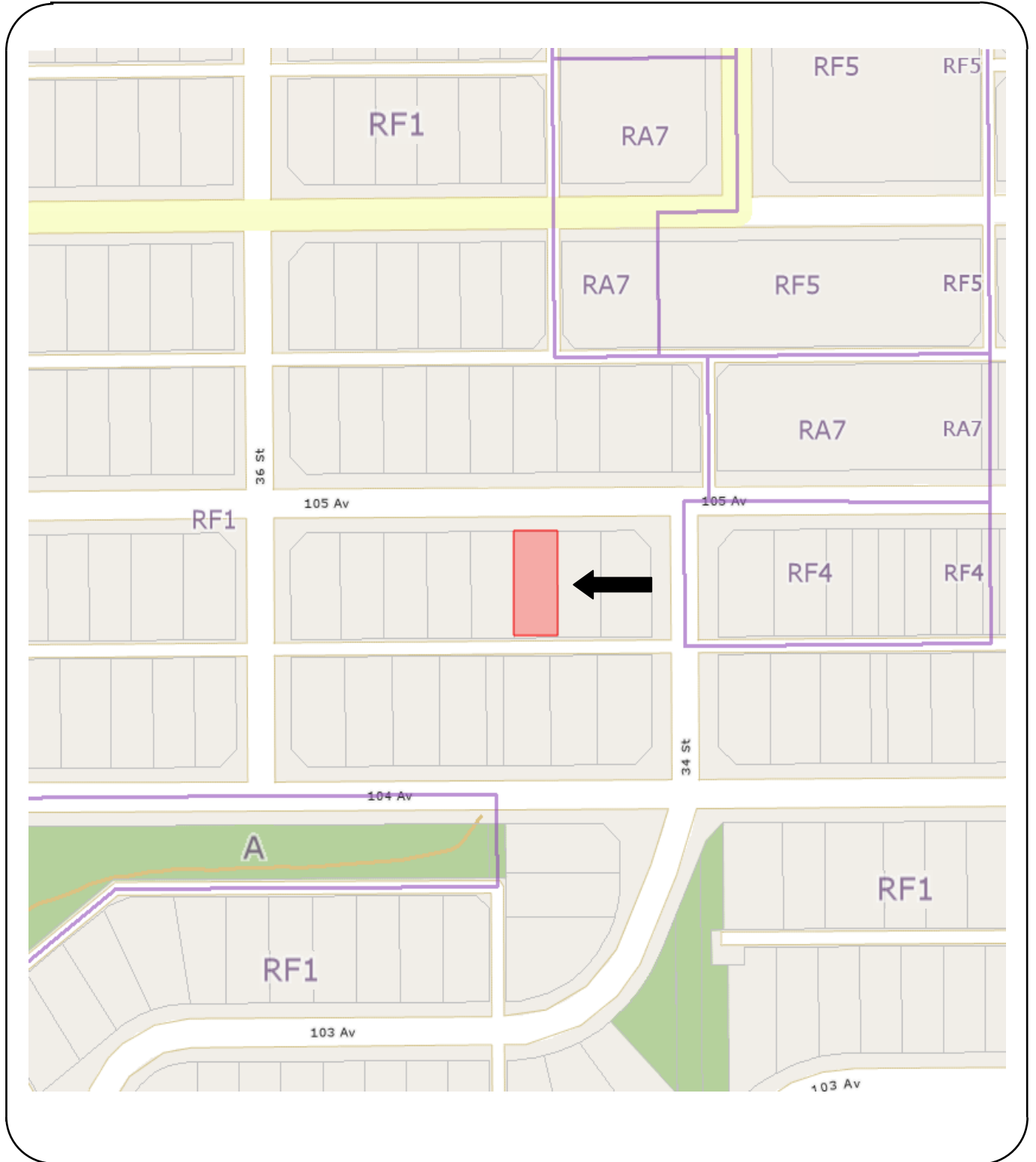
Under Section 6.1(88), **Setback** means the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.

Section 814.1 states the 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.

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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-118



BUSINESS LAID OVER

SDAB-D-15-093	An appeal by <u>Gurmit Brar</u> to construct exterior alterations to an existing Single Detached House (Driveway extension), existing without permits <i>June 10 or 11, 2015</i>
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APPEAL HEARINGS TO BE SCHEDULED

168696143-001	An appeal by <u>127 Avenue Developments Inc.</u> to comply with a Stop Order to dismantle and remove the Freestanding Off-premises Sign from the Site. <i>July 2, 2015</i>
170327437-001	An appeal by <u>Permit Solutions</u> to install (1) Freestanding Off-premises Sign (West Granville Centre). <i>June 24 or 25, 2015</i>