

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 1, 2019**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-19-061	Construct exterior alterations to a Semi Detached Housing (increase in Height) 7734 / 7736 - 80 Avenue NW Project No.: 302345691-001
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II	10:30 A.M.	SDAB-D-19-062	Construct an addition to a Single Detached House (breezeway connection to detached Garage) 3915 – Aspen Drive West NW Project No.: 256849571-022
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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-19-061

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 302345691-001

APPLICATION TO: Construct exterior alterations to a Semi Detached Housing (increase in Height)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 28, 2019

DATE OF APPEAL: April 4, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7734 / 7736 - 80 Avenue NW

LEGAL DESCRIPTION: Plan 1822210 Blk 52 Lot 10A and Lot 10B

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:

The City of Edmonton Development Authority refused the Development Permit application to increase the height of existing Semi Detached Housing.

The variances requested are minor in nature with the relaxation for height at approximately 4.3% and the relaxation for the roof ridge line approximately 1.9%. These relaxations are minor and well within the 10% typically considered by the Development Authority. The Semi Detached dwellings are constructed and reducing the height will cause considerable hardship.

In our opinion, the Development Authority failed to properly apply section 11.3 of the Land Use Bylaw when it refused the Development Permit as there is no evidence to suggest the proposed increase in height will negatively affect the use, enjoyment or value of neighbouring properties.

Additional information in support of the appeal will be provided at the hearing.

<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.

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, [...]

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 clauses (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 140.2(9), **Semi-detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(7), **Semi-detached Housing** means:

development consisting of a building containing two principal Dwellings joined in whole or in part at the side or rear with neither of those Dwellings being placed over another in whole or in part. Each principal Dwelling has separate, individual, and direct access to ground level. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building.

This Use does not include Duplexes.

Section 140.1 states that 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 principal Dwellings under certain conditions, including Secondary Suites and Garden Suites.

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.

<i>Height</i>

Section 814.3(5) states the maximum Height shall not exceed 8.9 metres.

Section 52.2(c) states where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 metres above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer's Determination

1. Height - The house shall not exceed 8.9m (Section 814.3(5))

Maximum Height: 8.9m

Proposed exceeds by: 0.4m (9.3m) [unedited]

2. Height - The house roof ridge line shall not extend more than 1.5m above the permitted building Height of 8.9m (Section 52.2(c))

Maximum ridge height: 10.4m (1.5m + 8.9m)

Proposed exceeds by: 0.2m (10.6m) [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 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 metres 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 60.0 metres of the Site of the proposed development and the President of each Community League	814.3(5) - Height

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.

	<h2>Application for Addition Permit</h2>			Project Number: 302345691-001 Application Date: JAN 11, 2019 Printed: March 28, 2019 at 8:24 AM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s)			
	7736 - 80 AVENUE NW Plan 1822210 Blk 52 Lot 10A 7734 - 80 AVENUE NW Plan 1822210 Blk 52 Lot 10B			
Location(s) of Work				
Entryway: 7736 - 80 AVENUE NW				
Building: 7734 - 80 AVENUE NW				
Scope of Application				
To construct exterior alterations to a Semi Detached Housing (increase in Height).				
Permit Details				
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 532.72			
I/We certify that the above noted details are correct.				
Applicant signature: _____				
Development Application Decision				
Refused				
Issue Date: Mar 28, 2019 Development Authority: BAUER, KERRY				
Reason for Refusal				
1. Height - The house shall not exceed 8.9m (Section 814.3(5)) Maximum Height: 8.9m Proposed exceeds by: 0.4m (9.3m)				
2. Height - The house roof ridge line shall not extend more than 1.5m above the permitted building Height of 8.9m (Section 52.2(c)) Maximum ridge height: 10.4m (1.5m + 8.9m) Proposed exceeds by: 0.2m (10.6m)				
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				
Fee Amount	Amount Paid	Receipt #	Date Paid	
THIS IS NOT A PERMIT				



Application for Addition Permit

Project Number: **302345691-001**
Application Date: JAN 11, 2019
Printed: March 28, 2019 at 8:24 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$425.00	\$425.00	05585378	Jan 11, 2019
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$425.00	<u>\$425.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-061



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-062

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 256849571-022

APPLICATION TO: Construct an addition to a Single Detached House (breezeway connection to detached Garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 28, 2019

DATE OF APPEAL: April 9, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3915 – Aspen Drive West NW

LEGAL DESCRIPTION: Plan 6773MC Blk 14 Lot 21

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 existing property has an existing house permit and garage permit. The proposed 10 foot addition was refused because it links the house and garage together, thereby exceeding the rear 40% rear yard.

We offer that this minor addition is in keeping with the characteristics of the neighborhood and does not materially affect the use or enjoyment of the neighboring properties, We can provide sun shadow studies, letters of support from neighbors and a number of aesthetic options to highlight this.

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.

Appeals

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 - (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, [...]

Hearing and Decision

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

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

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

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

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is to:

provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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

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

Rear Attached Garage

Section 814.3(19) states “Rear attached Garages shall not be allowed.”

Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Development Officer’s Determination

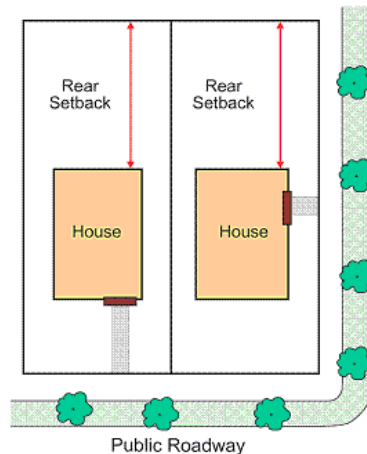
- 1. Attached Garage - The rear garage is attached, instead of detached (Section 814.3.19).** [unedited]

Rear Setback

Section 814.3(4) states “The minimum Rear Setback shall be 40% of Site Depth.”

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

2. Reduced Rear Setback - The distance from the House to the rear property line is 1.78m (5% of site depth) instead of 14.66m (40% of site depth) (Section 814.3.4). [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:


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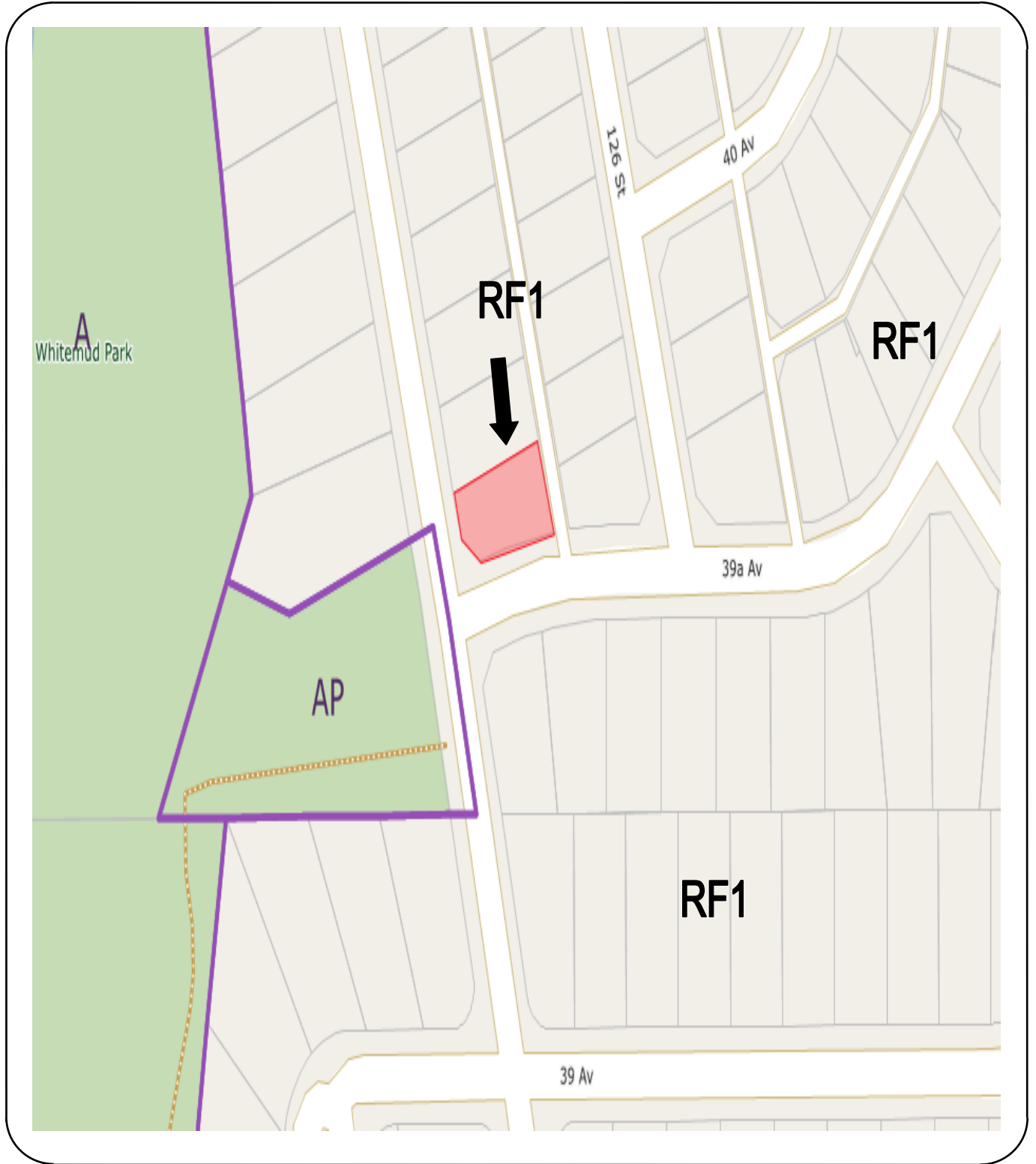
Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 2	The municipal address and assessed owners of the land Abutting the Site, directly adjacent across a Lane from the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback 814.3(19) – Rear Attached Garage

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.

	<h2 style="margin: 0;">Application for Minor Development Permit</h2>	Project Number: 256849571-022 Application Date: OCT 19, 2018 Printed: March 28, 2019 at 11:08 AM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
Applicant	Property Address(es) and Legal Description(s) 3915 - ASPEN DRIVE WEST NW Plan 6773MC Blk 14 Lot 21																					
Scope of Application To construct an addition to a Single Detached House (breezeway connection to detached Garage)																						
Permit Details																						
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: House Addition Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																					
I/We certify that the above noted details are correct. Applicant signature: _____																						
Development Application Decision Refused Issue Date: Mar 28, 2019 Development Authority: XIE, JASON Reason for Refusal <ol style="list-style-type: none"> 1. Attached Garage - The rear garage is attached, instead of detached (Section 814.3.19). 2. Reduced Rear Setback - The distance from the House to the rear property line is 1.78m (5% of site depth) instead of 14.66m (40% of site depth) (Section 814.3.4). 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.																						
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; border-bottom: 1px solid black;">Fee Amount</th> <th style="text-align: right; border-bottom: 1px solid black;">Amount Paid</th> <th style="text-align: left; border-bottom: 1px solid black;">Receipt #</th> <th style="text-align: left; border-bottom: 1px solid black;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$418.00</td> <td style="text-align: right;">\$418.00</td> <td>05486752</td> <td>Nov 22, 2018</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;">\$418.00</td> <td style="text-align: right; border-top: 1px solid black;">\$418.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$418.00	\$418.00	05486752	Nov 22, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$418.00	\$418.00		
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THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-062

