

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 1:30 P.M.
May 9, 2019**

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

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

I	1:30 P.M.	SDAB-D-19-065	Construct a Single Detached House with Secondary Suite, Uncovered deck (3.7 metres by 4.0 metres), rear covered decks (3.6 metres by 2.7 metres), fireplaces, walkout Basement, uncovered front deck and to demolish an existing Single Detached House 10038 - 91 Avenue NW Project No.: 300999240-001
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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: 1:30 P.M.

FILE: SDAB-D-19-065

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 300999240-001

APPLICATION TO: Construct a Single Detached House with Secondary Suite, Uncovered deck (3.7 metres x 4.0 metres), rear covered decks (3.6 metres by 2.7 metres), fireplaces, walkout Basement, uncovered front deck and to demolish an existing Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 1, 2019

DATE OF APPEAL: April 12, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10038 - 91 Avenue NW

LEGAL DESCRIPTION: Plan 8057R Blk 3 Lot 12

ZONE: RF2 Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

In response to the Owners application for a Development Permit for a new residence to be constructed at 10038-91 avenue, Edmonton, the Owners are requesting the Subdivision and Development Appeal Board grant approval of their Development Permit for the proposed new residence. The Subdivision and Development Appeal Board's approval of this Development Permit would be consistent with past Subdivision and Development Appeal Board decisions to approve past Development Permit applications for the neighborhood of Lavigne. Since 1985, (22) approved Development Permits have been issued in the neighborhood of Lavigne for the construction of new homes.

The majority of these, if not all these Development Permit applications were reviewed and approved by the Subdivision and Development Appeal Board; there may have been a brief period of time when the approval of the Subdivision and Development Appeal Board was not a prerequisite to the issuance of a Development Permit for the neighborhood of Lavigne. Most recently in 2017/2018 the Subdivision and Development Appeal Board has granted approval of the Developments Permit applications for the residences located at 10044 - 90 avenue & 10066 - 90 avenue.

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

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*:

Section 120.2 (7) states **Single Attached Housing** is a **Permitted Use** in the **(RF2) Low Density Infill 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 120.1, the **General Purpose** of **(RF2) Low Density Infill Zone** is to retain Single Detached Housing, while allowing infill on narrow lots, and 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.

Section 811.1 states that the **General Purpose** of the **North Saskatchewan River Valley and Ravine System Protection Overlay** is "to provide a development Setback from the North Saskatchewan River Valley and Ravine System."

<p><i>North Saskatchewan River Valley and Ravine System Protection Overlay</i></p>
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Section 811.3(3) states any development permit application on a Site that Abuts or is partially or wholly contained within the North Saskatchewan River Valley and Ravine System, as shown in Appendix I to this Overlay, shall be accompanied by a report prepared by a registered Professional Engineer, and as set out in subsection 14.1 of this Bylaw, and that also details:

- a. the minimum Setback for structures on the Site; and
- b. any development conditions for the property required to prolong the stability of the bank.

The Development Officer shall seek the advice of Transportation Services with respect to these applications and may approve the conditions or refuse such applications accordingly.


Development Officer's Determination

1) The Development Officer shall seek the advice of Transportation Services with respect to the application and may approve the conditions or refuse such application accordingly (Reference Section 811.3.(3)).

Transportation Services recommend to refuse the application.

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: 30099240-001 Application Date: DEC 19, 2018 Printed: April 12, 2019 at 3:42 PM Page: 1 of 2																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 10038 - 91 AVENUE NW Plan 8057R Blk 3 Lot 12 Specific Address(es) Suite: 10038 - 91 AVENUE NW Suite: BSMT, 10038 - 91 AVENUE NW Entryway: 10038 - 91 AVENUE NW Building: 10038 - 91 AVENUE NW Building: 10038 - 91 AVENUE NW																				
Scope of Application To construct a Single Detached House with Secondary Suite, Uncovered deck (3.7m x 4.0m), rear covered decks (3.6m x 2.7m), fireplaces, walkout Basement, uncovered front deck and to demolish an existing Single Detached House.																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; 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: Single Detached House Secondary Suite Included?: Y </td> <td style="width: 50%; border: none; vertical-align: top;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </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: Single Detached House Secondary Suite Included?: Y	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Issue Date: Apr 01, 2019 Development Authority: BAUER, KERRY Reason for Refusal 1) The Development Officer shall seek the advice of Transportation Services with respect to the application and may approve the conditions or refuse such application accordingly (Reference Section 811.3.(3)). Transportation Services recommend to refuse the application. 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: none;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 15%;">Fee Amount</th> <th style="width: 15%;">Amount Paid</th> <th style="width: 15%;">Receipt #</th> <th style="width: 25%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Lot Grading Fee</td> <td>\$143.00</td> <td>\$143.00</td> <td>05541319</td> <td>Dec 19, 2018</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td>\$204.00</td> <td>\$204.00</td> <td>05541319</td> <td>Dec 19, 2018</td> </tr> <tr> <td>Dev. Application Fee</td> <td>\$485.00</td> <td>\$485.00</td> <td>05541319</td> <td>Dec 19, 2018</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Lot Grading Fee	\$143.00	\$143.00	05541319	Dec 19, 2018	Development Permit Inspection Fee	\$204.00	\$204.00	05541319	Dec 19, 2018	Dev. Application Fee	\$485.00	\$485.00	05541319	Dec 19, 2018
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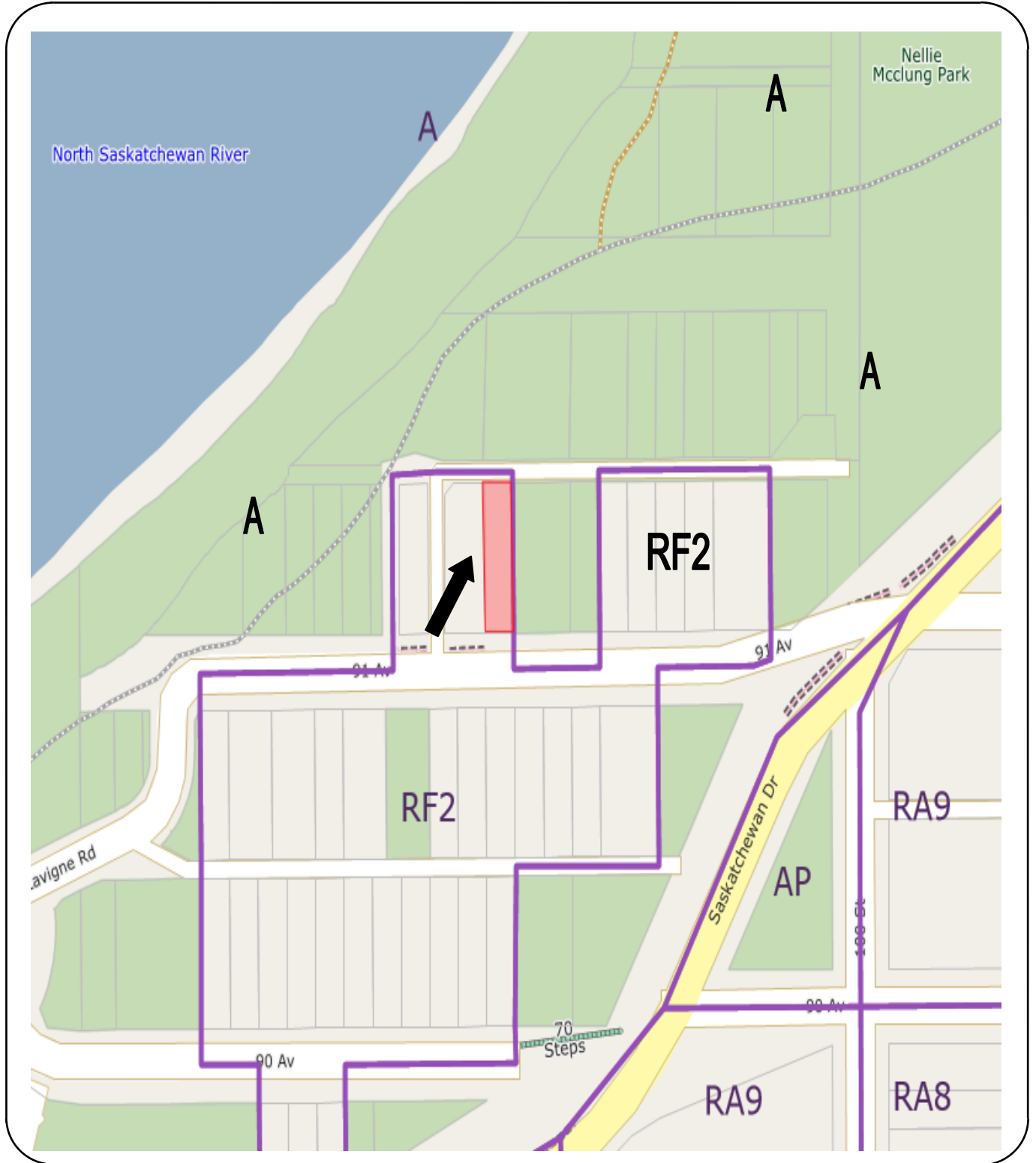
Application for Minor Development Permit

Project Number: **300999240-001**
Application Date: DEC 19, 2018
Printed: April 12, 2019 at 3:42 PM
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Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$721.00	\$721.00	05541319	Dec 19, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,553.00</u>	<u>\$1,553.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-065

