

***Edmonton Subdivision and  
Development Appeal Board***

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**SDAB-D-15-113**

Application No. 170696905-001

An appeal to change the Use from Professional, Financial, and Office Support Services to Commercial Schools (maximum 4 students), General Retail Store and a Personal Service Shop use (Paw's Grooming), on Lot 2, Block 1, Plan 2239X, located at 7525 – 99 Street NW, was **WITHDRAWN**

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1603 Blackmore Court SW  
Edmonton AB T6W 1J2

Date: June 19, 2015  
Project Number: 168263655-001  
File Number: SDAB-S-15-005

### **Notice of Decision**

This appeal dated May 8, 2015, from the decision of the Subdivision Authority for permission to:

Create one additional Single Detached Residential Lot resulting in the creation of two 7.6 metre wide Lots

On Plan 2428HW Blk 20A Lot 13, located at 6314 - 109A Street NW, was heard by the Subdivision and Development Appeal Board on June 4, 2015. The decision of the Board was as follows:

#### **Summary of Hearing:**

At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The appeal was filed on time, in accordance with Section 678(2) of the *Municipal Government Act*, (“MGA”), R.S.A 2000, c. M-26.

The Board heard an appeal of the decision of the Subdivision Authority to refuse an application to create one additional Single Detached Residential Lot resulting in the creation of two 7.6 metre wide Lots, located at 6314 – 109A Street. The subject Site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay. The proposed subdivision application was refused because it was the opinion of the Subdivision Authority that the proposed lots are significantly smaller than the Lots characteristic to the block face, the proposed subdivision does not comply with the spirit and intent of the Mature Neighbourhood Overlay, the increased density would negatively impact adjacent property owners and there were five letters of non-support for the application.

The Board notes that a detailed written submission was received from the Applicant on June 1, 2015, a copy of which is on file. The Board also notes that an email of opposition was received from an affected property owner on June 1, 2015, a copy of which is on file. As well, the Board notes that the Subdivision Authority provided its file to the Board.

The Board heard from the Appellant, Mr. Shaikh, who referenced his written submission and made the following points in support of the appeal:

1. He has a young family and intends to build and reside in a house on one of the subdivided lots.

2. He purchased this lot in February 2015 based on the understanding that the *Edmonton Zoning Bylaw* would be amended to allow the lot to be subdivided.
3. When he spoke to the Subdivision Authority prior to making his application he was advised that the reviewing process could take up to 60 days so he proceeded to make the subdivision application in February in anticipation of the proposed change.
4. The amendment to the *Edmonton Zoning Bylaw* was brought before City Council on March 16, 2015, but was not enacted until April 13, 2015.
5. The Subdivision Authority refused his subdivision application on April 24, 2015.
6. It was his opinion that Parkallen is a perfect neighbourhood in which to implement the policies outlined in the Municipal Development Plan, *The Way We Grow*, the neighbourhood is close to the core of the City and the University of Alberta, has various transit options, and the utilization rate of its school (Parkallen School) was 50 percent in 2014.
7. After receiving the refusal, he spoke with Mr. McDowell at the Subdivision Authority who advised him that he would not be attending the Subdivision and Development Appeal Board hearing because of workload. Mr. McDowell also advised him that the Subdivision Authority only attends appeals of a contentious nature.
8. City Council passed the amendment to allow 7.6 metre wide lots in an attempt to increase densification, being well aware that no lots of this size currently exist in an R1 Single Detached Residential Zone.
9. It was his opinion that the development of two skinny houses on the proposed subdivided lots will not impact scale, site coverage or height any more than the development of one fully compliant and very large house on the existing lot. It is also difficult and premature to conclude that the development of these lots will not be sensitive in scale to existing development without reviewing development plans.
10. It was his opinion that the development of two high-end developments will increase property values in this neighbourhood where the majority of houses were built in the 1950s, some are in disrepair and some are rental properties.
11. Both of the houses built on these two lots will face east/west and will not impact sunlight penetration onto adjacent properties.
12. EPCOR did not object to the proposed subdivision.
13. Many new houses have been developed in this area and drainage was never identified as a concern.
14. The proposed subdivision will not impact traffic or parking in the area because of its proximity to public transit. In addition, two double garages (one for each home) will be built.
15. He is just as concerned about maintaining the atmosphere of this quiet mature neighbourhood as his neighbours.
16. He canvassed the neighbourhood and notes that nine neighbours were in support of the application, 6 were neutral and did not oppose it, while one neighbour was opposed to it and sent a letter of opposition to the appeal. He was unable to discuss the matter with 11 neighbours, notwithstanding attempts to. During this consultation he told neighbours of the lot location and of his intention to create two twenty five foot lots with two skinny houses. He was advised by the Subdivision Authority that the Community League sent a letter of objection but was never given a copy of the response.
17. The Board Officer provided a copy of the letter from the Community League to the Appellant and the members of the Board to review. Mr. Shaikh noted that the letter from the

Community League was written on March 19, 2015, prior to the Bylaw amendments and that much of the objection was related to the proposed reduction in the lot sizes.

18. Mr. Shaikh sent an email to the Community League requesting a meeting. His request was unsuccessful.

**Decision:**

The appeal is ALLOWED and the decision of the Subdivision Authority REVOKED. The subdivision is approved subject to the following conditions:

1. The Applicant must enter into an agreement with the City of Edmonton to install or pay for the installation of public utilities, other than telecommunications systems or works, that are necessary to serve the subdivision to comply with Section 655(1)(b)(iii) of the *Municipal Government Act*;
2. In order to preserve the existing boulevard trees adjacent to the site on 109A Street, access to the lots must remain to the rear lane.

**Reasons for Decision:**

The Board finds the following:

1. The proposed subdivision will create two lots of the same size: Site Area of 324.29 square metres, Site Width of 7.6 metres and Site Depth of 42.67 metres.
2. This is the first proposed subdivision of one lot into two lots in Parkallen, therefore the new lots will be narrower than surrounding lots.
3. It is City Council's intention to increase density in mature neighbourhoods. This intention was most recently demonstrated in amendments to the *Edmonton Zoning Bylaw* adopted on April 13, 2015.
4. The dimensions of the two proposed lots meet or exceed the newly adopted minimum lot dimensions required for Single Detached Housing in all RF1 Single Detached Residential Zones, pursuant to Section 110.4 of the *Edmonton Zoning Bylaw*.
5. On April 13, 2015, City Council also added a new section specific to subdivision of lots:  
41.1(3) The Subdivision Authority may not approve the subdivision of a lot zoned RF1, as it existed on March 16, 2015, into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision:
  - a. is supported by one or more City Council approved Statutory Plans or City Council approved Policies; or
  - b. has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block.

The Board notes that Section 41.1(3) does not apply to the subdivision of one lot zoned RF1 into two lots.

6. Based on the above, the Board concludes that the proposed subdivision is consistent with the current *Edmonton Zoning Bylaw*. Therefore the Board disagrees with the first reason of refusal in the stated by the Subdivision Authority.
7. The proposed subdivision is also supported by several policies of the Municipal Development Plan, *The Way We Grow*, including the general growth coordination strategies (Section 3.1) and the policies for growth and redevelopment in established neighbourhoods in (Sections 3.5 and 4.2). These policies encourage higher density development and redevelopment and residential infill in established neighbourhoods such as Parkallen with its underutilized infrastructure and close proximity to LRT and bus transit. It is also in keeping with the objective to provide a broad and varied housing choice for various demographic and income groups in all neighbourhoods (Section 4.4.1.1).
8. The Board notes that reasons 2 and 3 for refusal stated by the Subdivision Authority (which list neighbourhood concerns) are related to the future development on the subdivided lots and are therefore premature at this appeal of the proposed subdivision.
9. The letter of opposition from the Community League predates the amendments to the *Edmonton Zoning Bylaw* passed by City Council on April 13, 2015. Some of the objections concern the amendments passed by City Council and the others relate to future development and will be addressed through the development permitting process.
10. In the written refusal, the Subdivision Authority did acknowledge that it may be possible to construct houses on the proposed lots.
11. Drainage Services had no objection to the proposed subdivision.

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#### **Important Information for the Applicant/Appellant**

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1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, R.S.A. 2000, c. M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.

Ms. K. Cherniawsky, Presiding Officer  
Subdivision and Development Appeal Board