

Edmonton Subdivision and Development Appeal Board

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Date: May 15, 2015
Project Number: 166748650-001/LDA15-0027
File Number: SDAB-S-15-003

Notice of Decision

This appeal dated April 7, 2015, from the decision of the Subdivision Authority for permission to:

Create one (1) additional Single Detached Residential Lot

on Plan 2668HW Blk 21 Lot 13, located at 11439 - 44 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on April 30, 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 686 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the “MGA”).

The Board heard an appeal of the decision of refusal of the Subdivision Authority to create one (1) additional Single Detached Residential lot, located at 11439 - 44 Street NW. The subject site is zoned RF1 Single Detached Residential Zone and is within the Mature Neighbourhood Overlay. The proposed subdivision was refused because the proposed subdivision would not comply with Section 654 of the MGA, the proposed subdivision does not comply with the minimum Site area and minimum Site depth requirements for the RF1 Single Detached Residential Zone, and it is the position of the Subdivision Authority that the proposed subdivision does not comply with the spirit and intent of the Mature Neighbourhood Overlay. Any proposed development would not be sensitive in scale to the existing developments and would subsequently impact the existing streetscape.

Prior to the hearing the Board received one submission from the Appellant on April 24, 2015.

The Board heard from Mr. Golightly, the Appellant, who provided the following information in support of the appeal:

1. This neighbourhood is residential and if he were to construct a large Single Detached House, similar to the development across the street, there would be a greater massing impact than what is proposed.
2. He objected to the reference to the Mature Neighbourhood Overlay contained in the refusal of the Subdivision Authority.
3. He noted there was no objection form any city department to the proposed subdivision.
4. The recent amendments to the *Edmonton Zoning Bylaw* (the “EZB”) allow for what the proposed subdivision. In fact, the proposed subdivision provides larger Site Widths than the minimum allowed.
5. The support of the Community League was sought.
6. He was confused as to why the Subdivision Authority would refer to blockface in this neighbourhood as it is not referenced in relevant legislation.
7. The Beverly neighbourhood was designed for 25-foot (7.6-metre) lots.

The Board notes the absence of the Subdivision Authority at the hearing. In light of this absence, the Board considers the refusal of the Subdivision as the sole submission of the Subdivision Authority.

Decision:

that the appeal be ALLOWED, the decision of REFUSAL of the Subdivision Authority REVOKED and the SUBDIVISION APPROVED.

Reasons for Decision:

The Board finds the following:

1. The Site that is proposed to be subdivided is zoned RF1 Single Detached Residential Zone.
2. When the Subdivision Authority made its decision, section 110.4 of the *EZB* required a minimum Site Width of 12.0 metres. The proposed subdivision would create two lots, with widths of 12.8 metres and 10.06 metres. As a result, at the time the Subdivision Authority made its decision, the subdivision could not be approved unless the test set out in section 654(2) of the *MGA* was met, namely:
 - (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,and
 - (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

3. On April 13, 2015, the *EZB* was amended. At the time of this hearing the minimum Site Width for lots in the RF1 Single Detached Residential Zone is 7.6 metres. Accordingly, the application for subdivision complies with all of the provisions of the *EZB*.
4. However, the Board must still consider whether or not the land proposed to be subdivided is suitable for the purpose for which the subdivision is intended as per section 654(1) of the *MGA*.
5. The Board finds the land is suitable for the proposed purpose of the subdivision. The subdivision will allow future development of two smaller building envelopes that will permit an increased density. The Board notes that this local area has experienced some minor densification by the development of a Semi-detached House, containing two Dwellings, across the street from the proposed subdivision.
6. The Board accepts the submission of the Appellant that creating two smaller building pockets on this relatively large Site would more likely lead to developments that are less massive in scale and would therefore further the goals of the Mature Neighbourhood Overlay and maintain the character of the existing neighbourhood.
7. The Board is required to have regard to statutory plans when decision a subdivision appeal as per section 680(2)(a.1) of the *MGA*. Section 4.4.1.1 of the Municipal Development Plan, *The Way We Grow* (the “MDP”), states that it is a goal of the COE to:

Provide a broad and varied housing choice, incorporating housing for various demographic and income groups in all neighbourhoods.
8. Allowing the subdivision will, in the opinion of the Board, further policy 4.4.1.1 as set out in the MDP.
9. Accordingly, the appeal is allowed and the application for subdivision is granted.

Important Information for Applicant/Appellant

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.

Mr. I. Wachowicz, Presiding Officer
Subdivision and Development Appeal Board

CC: Gilbert Quashie-Sam / Blair McDowell, City of Edmonton, Sustainable Development