

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 7, 2018
River Valley Room
City Hall, 1 Sir Winston
Churchill Square NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
River Valley Room – City Hall**

I	9:00 A.M.	SDAB-S-18-003	R. Shinkaruk
			Create one (1) additional Single Detached Residential Lot
			10905 - 74 Street NW
			Project No.: 269439558-001

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-S-18-003

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:	R. Shinkaruk
APPLICATION NO.:	269439558-001
APPLICATION TO:	Create one (1) additional Single Detached Residential Lot
DECISION OF THE SUBDIVISION AUTHORITY:	Refused
DECISION DATE:	February 1, 2018
DATE OF APPEAL:	February 12, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10905 - 74 Street NW
LEGAL DESCRIPTION:	Plan 3079EO Blk 2 Lots 1-2
ZONE:	(RF1) Single Detached Residential Zone
OVERLAY:	Mature Neighbourhood Overlay
STATUTORY PLAN:	Stadium Station Area Redevelopment Plan

<i>Grounds for Appeal</i>

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

My name is Ron Shinkaruk and I own the 2 lots in question. I would like to build a house on one of the lots and would like to build a house that has some character.

The typical 25 foot wide infill house is not what I would like to build. These 2 lots are the only residential lots on the block with the school. The front of the school faces south and I feel that these 2 lots could face south without looking out of place.

At 5000 square feet per lot and a 40% fill ratio, this would give each lot 3000 square feet of lawn and landscaping.

The lots wouldn't meet the depth requirement, but would at 23.47 meters wide would give me a nice frontage to work with as far as house architecture and landscaping.

If I subdivide east to west, this would require one or both of the houses to have a front drive garage, which is uncharacteristic of the neighborhood. There is no alley. The lots facing south would have garages facing south which would look ok in the neighborhood.

I would also like to mention that the traffic speed on 74 street is generally 25 km faster than on 109 avenue. South facing garages would be safer to exit from.

I have seen similar corner lots developments facing south with the 2 houses backing onto houses facing west. (127 street and 122 / 120 avenue). I'm not sure if they are classified as a mature neighborhood. If you can approve this subdivision, I would think that my subdivision shouldn't be to much of a problem.

Thank you for this chance to convey my desire to build the house of my dreams. I have lived on those lots for the last 30 years before the house had to be demolished.

<i>General Matters</i>

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,

- (ii) the location of school reserve allocated to it, or
- (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board
 - (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,
 - (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
 - (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

- (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), “adjacent land” and “owner” have the same meanings as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) A decision of a subdivision authority must state

- (a) whether an appeal lies to a subdivision and development appeal board or to the Municipal Government Board, and
- (b) if an application for subdivision approval is refused, the reasons for the refusal.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (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) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.4(1)(c) states the following with respect to Site regulations for Single Detached Housing:

c. the minimum Site depth shall be 30.0 m.

Under section 6.1(103), **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

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, and Garden Suites, as well as 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*.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

February 1, 2018

File No. LDA17-0707

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lots 1-2, Block 2, Plan 3079 EO, located north of 109 Avenue NW and east of 74 Street NW; VIRGINIA PARK

The Subdivision by Plan is REFUSED on February 1, 2018 for the following reason(s):

1. The proposed subdivision does not comply with the minimum Development Regulations identified in Section 110.4(1) of the City of Edmonton Zoning Bylaw. The minimum site depth identified in the (RF1) Single Detached Residential Zone for permitted and discretionary uses is 30.0 metres. The site depth of proposed Lot A and Lot B is 20.01 metres and is therefore deficient by 9.9 metres or 33%.

This proposal will result in a site depth, and ultimately a lot size, that is uncharacteristically small when compared to properties on the adjacent block faces.

Please be advised that an appeal may be lodged in accordance with Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be five (5) days from the date the decision is mailed.

If you have further questions, please contact Stephanie Mah at stephanie.mah@edmonton.ca or 780-442-5387.

Regards,

A handwritten signature in blue ink, appearing to read "Blair McDowell".

Blair McDowell
Subdivision Authority

BM/sm/Posse #269439558-001

Enclosure(s)

Legal Description
Lot 1, 2
Block 2
Plan 3079 EO

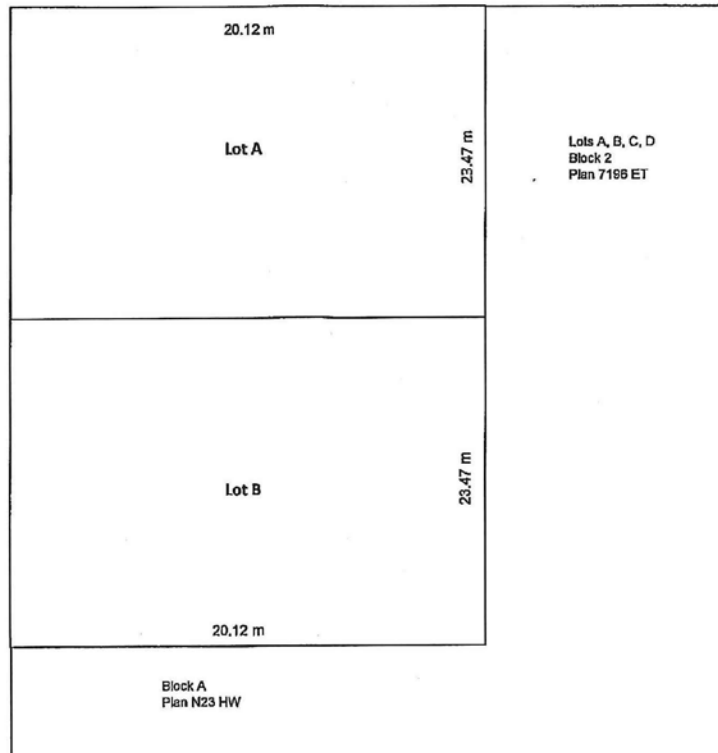
To 111 AVENUE NW



N

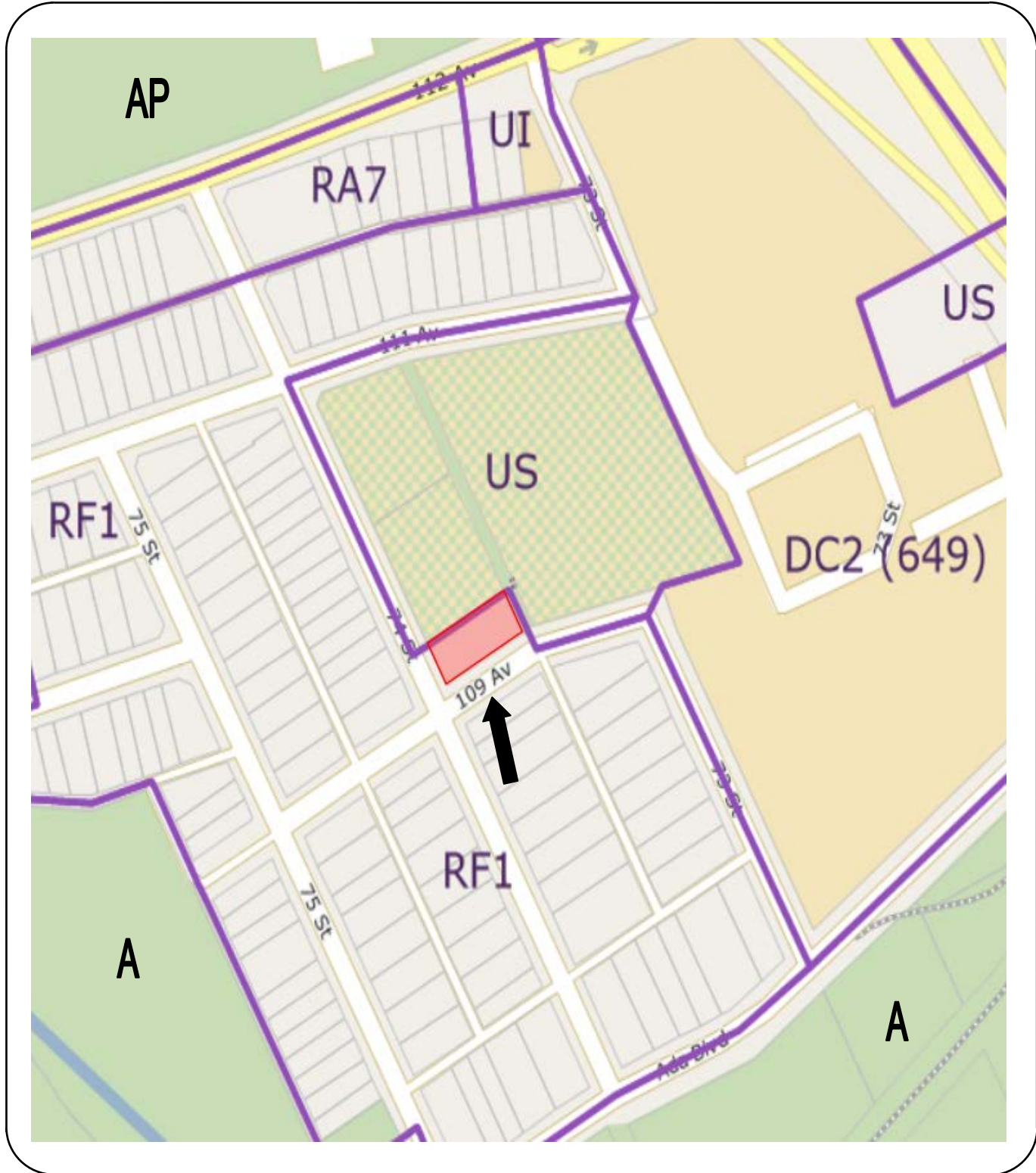
74 STREET NW

109 AVENUE NW



Lots A, B, C, D
Block 2
Plan 7188 ET

Block A
Plan N23 HW



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-18-003

