

## Bylaw 18058

### Text Amendment to the Edmonton Zoning Bylaw 12800 - Limitation of Variance to Site Width and Rounding up of Numbers to Establish Site Width

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#### Purpose

To limit the ability to issue a variance to Site Width for Single Detached Housing and to limit the rounding up of numbers to determine Site Width for Single Detached Housing in the (RF1) Single Detached Residential Zone, (RF2) Low Density Infill Zone, (RF3) Small Scale Infill Development Zone, and (RF4) Semi-detached Residential Zone.

#### Readings

Bylaw 18058 is ready for three readings after the public hearing has been held. If Council wishes to give three readings during a single meeting, Council must unanimously agree "That Bylaw 18058 be considered for third reading."

#### Advertising and Signing

This Bylaw has been advertised in the Edmonton Journal on Friday, May 26, 2017, and Saturday, June 3, 2017. The Bylaw can be passed following third reading.

#### Position of Administration

Administration does not support this Bylaw.

#### Previous Council/Committee Action

At the January 18, 2017, Urban Planning Committee meeting, the following motion was passed:

That Administration prepare amendments to Zoning Bylaw 12800 as generally outlined in Option 2 of the January 18, 2017, Sustainable Development report CR\_4161, with the following changes:

- minimum site width for RF1, RF2, RF3, RF4 shall be 7.5 metres,
- explore options to accommodate irregular shaped lots,
- delete "measured by rounding to the nearest decimetre",

and return to a future City Council Public Hearing.

#### Report

##### Subdivision Practice

When reviewing applications for subdivision, the Subdivision Authority may encounter instances where a proposed subdivision would result in a new lot that does not conform to one or more regulations of Zoning Bylaw 12800. There are hundreds of lots across the city that, for a variety of reasons, do not have 'standard' lot dimensions.

Often, the use of the subdivision authority's variance power is based on some practical implication that would, otherwise, strongly meet the intention of Council to create infill in mature neighbourhoods. To accommodate this, the subdivision authority has, in the past, had a general rule to consider subdivisions where the lot width variance is less than two percent. The two percent rule would allow for a (RF1) Single Detached Residential Zone, (RF2) Low Density Infill Zone or (RF3) Small Scale Infill Development Zone lot that is 49 feet or 14.935 metres to be subdivided into two lots.

The working practice of the subdivision authority has been adjusted to reflect Council's October 2016 intention to establish a firm minimum lot width of 7.6 metres (within the closest decimeter) and is no longer granting variances that exceed this minimum threshold, unless truly unique circumstances exist. Once the general practice of approving subdivisions less than 7.6 metres (24.93 feet) in width stopped, the creation of lots less than 7.6 metres in width through the subdivision process ended. Based on analysis all but two of the lots created through the subdivision process since April 2015, would meet a revised Site Width of 7.5 metres.

### Development Permit - Limitation of Variance

Under Section 624 of the *Municipal Government Act*, City Council is required to appoint a Development Authority to exercise development powers on behalf of the municipality, which Council has done through the enactment of the City Administration Bylaw 16620. Through Section 640(6) of the *Municipal Government Act*, City Council may authorize a Development Authority to decide on Development Permit applications that do not comply with the land use bylaw. As the authority to vary regulations is conferred to Administration by City Council, City Council also has the ability to restrict variance abilities.

Through Section 11.3 *Limitation of Variance*, in Zoning Bylaw 12800, City Council has the ability to limit the variance abilities of the Development Authority. This limitation of variance does not apply to the Subdivision Authority nor the Subdivision and Development Appeals Board. Further to this, limiting the variance powers of the Development Authority may increase the number of development appeals, which has the potential to create more uncertainty and expense in the development permit process.

Currently, Section 11.3 limits the granting of a variance to "cases of unnecessary hardship or practical difficulties peculiar to the Use, character, or situation of land or a building, which are not generally common to other land in the same Zone; and shall adhere to the general purpose of the Zone." In addition, the Development Authority is prohibited from granting variances to use, height, density, and floor area ratio. As a result of Committee direction, the amendments contained in Bylaw 18058 will limit the ability of a Development Officer to issue a variance to Lot Width for Single Detached Housing on rectangular shaped lots.

### Implications of Limitation of Variance to Site Width

Limiting the ability of the Development Authority to grant variances to Site Width may cause hardship in cases where the City has created non standard lots through road plan registrations associated with road widening and LRT line extensions. In these exceptional circumstances remnant portions of lots are left as a result of road plan registrations; this is done outside of the subdivision procedure. Ongoing LRT line development as well as roadway projects may result in road plan registrations that create additional remnant lots. It may be desirable to develop some of those lots through the variance process.

### Irregular Lots

Committee's motion requested to have Administration prepare an amendment that would allow the Development Authority to be able to vary the minimum lot width for irregular shaped lots. This will be accomplished through the amendment by limiting the variance on rectangular shaped lots, thereby retaining the ability to vary minimum lot width on irregular shaped lots.

### Rounding Numbers

Committee's motion requested that Administration stop the practice of rounding up to the nearest decimetre when determining Site Width for Single Detached Housing. This is accomplished in the amendment by directing that measurements shall not be rounded up to determine Site Width for Single Detached Housing. Throughout the Zoning Bylaw it is the practice of the Development Authority to round up to the nearest decimetre.

### Summary of Non Support Position

Administration has identified the following considerations for not supporting this Bylaw:

- The general practice of subdivision has changed so that lots that do not meet the minimum Site Width are not being approved, unless truly unique circumstances exist
- The issue of Site Width is now being dealt with before the Development Permit stage, therefore, it is unnecessary to limit the Development Authority's variance power
- Remnant lots deficient in Site Width are created through non-subdivision processes such as the registration of road Right of Ways and for LRT corridors
- For development on remnant lots, the limitation of variance will require applications with a variance to Site Width to go to the Subdivision and Development Appeal Board
- Limitation of variance to Site Width could create lots that are unattractive to purchasers due to the risk associated with an appeal to obtain a Development Permit
- It is beneficial for the Development Authority to have the ability to grant variances to account for exceptional circumstances
- The variance process involves a series of checks and balances after approval such as Class B notifications and the appeals process

- Anomalies in Zoning Bylaw 12800, such as a different approach to rounding for a single aspect of a type of development, create confusion and inconsistency, and introduce an opportunity for error

### **Policy**

This report supports *The Way We Grow*, Edmonton's Municipal Development Plan policies:

- 3.5.1.1 Support redevelopment and residential infill that contribute to the livability and adaptability of established neighbourhoods and which are sensitive to existing development

### **Corporate Outcomes**

This report contributes to the corporate outcomes “Edmonton is attractive and compact” and “Edmonton is an environmentally sustainable and resilient city” as it will support the efficient use of land, and development in established areas of the city.

### **Public Consultation**

A draft of this report and the bylaw amendment was circulated on March 13, 2017, to Edmonton Federation of Community Leagues, Urban Development Institute - Edmonton Region, Infill Development Edmonton Association, and Canadian Home Builders' Association - Edmonton Region. No concerns were raised by these stakeholders.

### **Attachments**

1. Bylaw 18058
2. Mark-up of Proposed Text Amendment to Zoning Bylaw 12800