

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD****DECISION**

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Hearing held at: Calgary, Alberta

Date of hearing: February 16, 2012

Members present: Chairman, Rick Grol Dale Hodges  
John Attrell Terry Smith  
Brian Corkum

Basis of appeal: This is an appeal from an approval by the Development Authority for a development permit made on the application of **Gary M. Loftus** for a **new: secondary suite (basement of existing single detached dwelling)** at 121 Chaparral Ridge Point SE.

Appeals filed by: **Alicja and Jozef Ulatowski, Halina Surma and Dexter Daniels represented by Doug Badke**

**Description of Application:**

The appeal before the Subdivision and Development Appeal Board (Board) deals with an approval by the Development Authority of a development permit for a new secondary suite (basement of existing single detached dwelling) at 121 Chaparral Ridge Point SE. The property is located in the community of Chaparral and has a land use designation of Residential – Narrow Parcel One Dwelling (R-1N) District.

**Summary of Evidence:***Board report*

The Board report contains all the materials submitted by the Development Authority that pertain to the application, the appellant's notice of appeal and any submissions made by the appellant, applicant and any other parties to the appeal. All the evidence of the Development Authority is contained in the Board report.

*Hearing*

The Board heard verbal submissions from:

Alicja Ulatowski, an appellant in favour of the appeal; and  
Doug Badke of Badke Consulting, representing Dexter Daniels, an appellant, in favour of the appeal.

The Development Authority:

The Development Authority did not make a verbal presentation to the Board. Prior to the hearing, the Development Authority in response to the appeal provided a written submission including area map, and summary of factors, considerations and rationale for its decision.

In Favour of the Appeal:

Ms. Ulatowski presented a map, photographs, and raised the following points in favour of the appeal:

- She submitted that the cul-de-sac does not provide for a big frontage and the front driveways are attached to each other with front lots that are around 6.61 metres. The lots are pie lots. There are no back lanes as the lots are located on the ridge; therefore making it difficult to provide extra parking.
- Another concern is parking. She referenced section 295(c) and 305(c) of the Land Use Bylaw and stated that one of the conditions of the development permit for this secondary suite is to provide off-street parking but in the appellant's view, this cannot be accommodated in the subject site. There is a tandem garage in the subject site so if the property owners' cars are parked in their garage, no one can park in the driveway as it will be blocking the entrance/exit to the garage. If the proposed tenants are to park in the street, this will only compound to the already difficult parking condition in the small cul-de-sac. Appellants submitted that they realize parking on the street is public but with having to add more vehicles to park it will exacerbate the parking issues.

- She concluded that this secondary suite will negatively impact their use, value and enjoyment of their property.
- In response to an email received from the applicant dated February 15, 2012, Ms. Ulatowski questioned when the applicant would be allowed to apply for another development permit if he cancelled the current one.

Mr. Badke presented photographs, and submitted the following in favour of the appeal:

This letter is presented on behalf of Dexter and Sherry Daniels, who are out of the country at this time and are unable to attend the SDAB hearing. The following points are the reasons why the Daniels' strongly oppose the secondary suite in their next-door neighbour's house at 121 Chaparral Ridge Point SE.

#### *Invasion of Privacy*

The Daniels' bought their home as a single family residence on a quiet cul-de-sac; approving a secondary suite on this cul-de-sac will bring renters to the area and these renters have no obligation to behave as the owners on the cul-de-sac who have worked hard to afford their homes and who have the pride of ownership; this secondary suite is an invasion of the Daniels' privacy.

#### *Parking*

As shown on the attached photo of the house at 121, the driveways on either side come to a point at the curb which means there is no possibility of parking a car on the street in front of 121 without blocking the driveway. Assuming the owners have 2 cars (as evidenced by the markings on the driveway) and renters have 2 cars, it is unreasonable to believe that 2 cars will be placed in the garage and 2 on the driveway, as the cars on the driveway would forever need to be moved in order to access the cars in the garage. So one car might be on the driveway and one parked near the entrance to the cul-de-sac. This is a needless clutter of vehicles in the area. Also, there are no back alleys around the cul-de-sac so vehicles cannot be parked in the back of the lots.

#### *Property Values*

Allowing secondary suites on the cul-de-sac will devalue all the properties on the cul-de-sac due to the clutter of vehicles parked outside rather than in the garages, the extra people living on the cul-de-sac and the bickering between neighbours, which is already happening.

#### *Zoning change*

The zoning has been changed after people bought; the Daniels would never have bought in this area had they suspected this would become a rental area.

*Parcel width*

The textual amendments to Land Use Bylaw 1P2007 to accommodate secondary suites recommended that the parcel width be reduced to 9.0 metres from 13.0 metres. The frontage width of 121 is 6.81 metres at the front property line (5.64 metres at the curb) which is far less than the required 9.0 metres and should, in and of itself, be sufficient cause to disallow the secondary suite.

For the above reasons we request that the secondary suite at 121 Chaparral Ridge Point SE not be allowed.

Upon questioning, Mr. Badke addressed the following issues:

- He confirmed that he has seen the Real Property Report and it does show proper side yards of 4 feet.

Opposed to the Appeal:

No one spoke in opposition to the appeal and no letters of objection were received.

**Decision:**

In determining this appeal, the Board:

- Complied with the provincial legislation and land use policies, applicable statutory plans and, subject to variation by the Board, The City of Calgary Land Use Bylaw 1P2007, as amended, and all other relevant City of Calgary Bylaws;
- Had regard to the subdivision and development regulations; and
- Considered all the relevant planning evidence presented at the hearing, the arguments made and the circumstances and merits of the application.

**The appeal is struck.****Reasons:**

1 Having considered the written, verbal, and photographic evidence submitted, the Board notes that the appeal pertains to an approval by the Development Authority of a development permit for a new secondary suite (basement of existing single detached dwelling) at 121 Chaparral Ridge Point SE. The property has a land use designation of Residential – Narrow Parcel One Dwelling (R-1N) District pursuant to Land Use Bylaw 1P2007.

2 The Board takes into consideration the applicant advised that it would like to withdraw the subject development permit application and that they would not pursue the application any longer. The Board accepts this evidence for the purpose of the appeal.

3 In rendering its decision the Board has particular regard to section 687(3) of the *Municipal Government Act*, RSA 2000, cM-26, as amended, which states in part:

**687(3)** In determining an appeal, the subdivision and development appeal board

(a) [...]

(a.1) [...]

(b) [...]

(c) may confirm, revoke or vary the order, decision or issue or confirm the issue of a development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) [...]

4 The Board concludes that the applicant has no intention to proceed with the development permit DP2011-4625, which was approved by the Development Authority for the proposed development.

5 Pursuant to section 687(3)(c) of the *Municipal Government Act*, the Board finds it is thus warranted to overturn the decision of the Development Authority and to revoke development permit DP2011-4625.

6 For the above reasons, the Board overturns the decision of the Development Authority.

7 The development permit DP2011-4625 is revoked and, therefore, is null and void.

8 For the above reasons the appeal is struck.

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Rick Grol, Chairman  
Subdivision and Development Appeal Board

Issued on this 20<sup>th</sup> day of February, 2012

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