

---

Appeal File Numbers:	023-STU-025
Application Number:	2023-S-015
Appeal Against:	Subdivision Authority of Sturgeon County
Appellants:	Clayton & Anita Vest
Date and Location of Hearing:	October 17, 2023 Council Chambers and Through Electronic Communications
Date of Decision:	October 31, 2023
SDAB Members:	Lee Danchuk (Presiding Officer), Neal Comeau, Amanda Papadopoulos, and Lili Terry

---

### NOTICE OF DECISION

---

**IN THE MATTER OF** an appeal by Clayton and Anita Vest against the Subdivision Authority’s conditional approval to subdivide 2.22 hectares from 32.54 hectares at SW 1-57-27-W4M within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the “SDAB” or “Board”) on an appeal filed with the SDAB pursuant to section 678(1) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the “MGA” or “Act”).
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County’s Land Use Bylaw 1385/17 (the “Land Use Bylaw” or “LUB”), and Sturgeon County’s Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received and form part of the record:
  - a. The Notice of Appeal;
  - b. A copy of the subdivision application with attachments;
  - c. The Subdivision Authority’s written decision;
  - d. Planning & Development Services Report; and
  - e. Appellants’ submission

#### PRELIMINARY MATTERS

- [4] There were no preliminary matters addressed at the hearing.

#### PROCEDURAL MATTERS

- [5] The appeal was filed on time and in accordance with section 678(2) of the MGA.
- [6] There were no objections to the proposed hearing process as outlined by the Chair.
- [7] There were no objections to the composition of the Board hearing the appeal.

[8] The Board is satisfied that it has jurisdiction to deal with this matter.

## **ISSUES**

[9] The Appellants raised the following grounds of appeal:

- a. They desire to adjust the boundaries of the conditionally approved subdivision to align with that of the original subdivision application.

## **RECOMMENDATION OF THE SUBDIVISION AUTHORITY**

[10] Jonathan Heemskerk, representative for the Subdivision Authority, provided a presentation which included an issue analysis for the Appellants' proposal and reasons for the Subdivision Authority's conditional approval of Lot 1 with a parcel size of 2.22 hectares.

[11] Section 654(1) of the *Municipal Government Act* provides that 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; and (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.

[12] The proposal does not conform with the Municipal Development Plan Residential Type 4 policies noted below:

*2.3.17 Shall ensure acreage Lots minimize the total amount of land being taken out of agricultural production.*

*2.3.18 May vary the size of an Acreage Lot and Agricultural Parcel due to Land Fragmentation or to accommodate an existing farmstead.*

[13] Further, the proposal does not conform with the Land Use Bylaw as section 11.1.3(e) limits the size of an AG – Residential parcel to 1 hectare (2.47 acres).

[14] The Subdivision Authority conditionally approved the application with an alternative configuration to proposed Lot 1 with a size reduction from 6.87 hectares to 2.22 hectares encompassing existing site features while preserving the surrounding farmland. This configuration meets the requirements of the Municipal Development Plan and the Land Use Bylaw.

## **SUMMARY OF APPELLANTS' POSITION**

[15] The Appellant, Clayton Vest, attended the hearing and requested approval for the original application subdivision of a 6.87-hectare homestead parcel.

[16] The Appellant requested flexibility from the Board to maintain the agricultural aspects of the homestead and the existing shelterbelts. He submitted that the conditionally approved subdivision would minimize the agricultural support aspects of the homestead, limiting it to a primarily residential property.

[17] The Appellant stated that the proposed lot would afford the property with pasture and forage to support a small agricultural holding including livestock, providing a family the opportunity to have a small-scale agricultural operation.

## DECISION OF THE BOARD

[18] **The Board GRANTS the appeal and REVOKES the decision of the Subdivision Authority made on September 6, 2023 to conditionally approve subdivision application 2023-S-015 and approves the subdivision subject to the following conditions:**

- 1) Pursuant to section 654(1)(d) of the *Municipal Government Act* (MGA), any outstanding taxes on the subject property shall be paid or arrangements be made, to the satisfaction of Sturgeon County, for the payment thereof.
- 2) The applicant shall retain the services of a professional Alberta Land Surveyor, who shall submit a drawing to Sturgeon County resembling Exhibit 3, dated October 26, 2023, and submit it in a manner that is acceptable to Land Titles.
- 3) Pursuant to section 662(1) of the MGA, as illustrated in Exhibit 3 and as required by Sturgeon County Engineering Services, a 5-metre-wide area parallel and adjacent to the boundary of the Proposed Lot and the adjacent road shall be dedicated as road allowance via plan of survey at no cost to Sturgeon County.
- 4) Pursuant to section 662(1) of the MGA, as illustrated in Exhibit 3 and as required by Sturgeon County Engineering Services, a 5-metre-wide area parallel and adjacent to the boundary of the Remnant Lot and the adjacent road shall be acquired by Sturgeon County in the future via the terms and conditions of a land acquisition agreement (note: this agreement to be prepared by Sturgeon County).
- 5) All upgrades to existing culverts and/or existing approaches, and construction/removal of approaches, as determined necessary by the Development Engineering Officer will be the responsibility of the developer and upgraded to the satisfaction of Sturgeon County Engineering Services and/or Sturgeon County Transportation Services before this subdivision is endorsed.
- 6) Pursuant to section 666 of the MGA, money in lieu of municipal reserve shall be provided to Sturgeon County respecting 10% of the area of the Proposed Lot. A payment will be made in place of reserves equal to \$4,109.61 (determined at a rate of \$5,981.97 per hectare X 10% 6.87 hectares = \$4,109.61. The money-in-lieu calculation will be based on the actual amount of land (in hectares) shown on a plan of survey.
- 7) Pursuant to section 669 of the MGA, municipal reserves owing on the Remnant Lot shall be deferred by caveat (note: this caveat to be prepared by Sturgeon County).
- 8) The applicant is to obtain all necessary permits to comply with the Land Use Bylaw, to the satisfaction of the Development Authority.
- 9) A restrictive covenant created by, and to the satisfaction of Sturgeon County shall be registered on the land title certificate of N½-SW-1-57-27-4 advising that no further subdivision shall occur on this parcel in consideration of Section 11.1.3(b) of the Land Use Bylaw 1385/17, which allows for only one residential 'acreage' or 'farmstead' subdivision on each half of a quarter-section. This restrictive covenant shall be created by, and to the satisfaction of Sturgeon County, and will act as a memorandum stipulating that any opportunity to subdivide a residential lot from the 'Remnant Lot' was already fulfilled on the other half of this quarter-section instead.
- 10) Pursuant to section 654(1)(c) of the MGA, the proposed subdivision must result in compliance with the 2015 Alberta Private Sewage Systems Standard of Practice. A certificate of compliance will be required from the County's Gas & Plumbing Inspector, confirming that the existing open discharge septic system either meets the Standard of Practice as-is, or has either been replaced, relocated, or redesigned to comply. Note: An Alberta Land Surveyor may be required to confirm distances from the septic system to property lines, buildings, or

other features, to the satisfaction of the Gas & Plumbing Inspector.

## REASONS FOR THE DECISION

- [19] The Appellants' request is to subdivide 6.87 hectares from 35.24 hectares at SW 1-57-27-W4M within Sturgeon County. The property is in the R1 - Country Residential district. There is an existing residence on the northwest corner of the property.
- [20] The proposal is to subdivide proposed Lot 1 to encompass the existing residence, outbuildings, and shelterbelt features. The remnant lot would consist of undeveloped agricultural land.
- [21] In recommending the conditional approval of the subdivision application with an alternate lot configuration, the Subdivision Authority submitted that, pursuant to section 654(1) of the *Municipal Government Act* (MGA), 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; and (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.
- [22] The Subdivision Authority submitted that the proposal does not conform with the Municipal Development Plan (a statutory plan), specifically Policy 2.3.17 which states that acreage lots shall minimize the total amount of agricultural land taken out of production and Policy 2.3.18 which states that the Subdivision Authority may vary the size of an Acreage Lot and Agricultural parcel due to Land Fragmentation or to accommodate an existing farmstead.
- [23] In interpreting Policy 2.3.17 of the Municipal Development Plan, the Board finds that the subdivision would not take agricultural land out of production, but rather would encourage a small-scale agricultural operation which would keep agricultural land in production, promote diversity in agriculture, and protect the shelterbelt to mitigate the effect of winds over open agricultural land. With respect to Policy 2.3.18, the Board finds that the variance to the acreage lot and the agricultural parcel is appropriate in order to accommodate the existing farmstead. Therefore, the Board finds the proposal consistent with the Municipal Development Plan.
- [24] The Subdivision Authority submitted that the proposal does not align with the subdivision regulations in the Land Use Bylaw, specifically Policy 11.1.3(3) which states that the maximum size for subdivision of farmland is 1 hectare (2.47 acres), although a larger size may be granted to encompass existing site features. While some land would encompass existing site features of the proposed Lot 1, approximately 4.65 hectares of additional farmland would be included.
- [25] Pursuant to section 654(2)(a)(i) of the MGA, the Board finds that it may approve an application for subdivision approval even though the proposed subdivision does not comply with the Land Use Bylaw if, in its opinion, the proposed subdivision would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and the proposed subdivision conforms with the use prescribed for that land in the Land Use Bylaw. Having received no evidence from adjacent landowners indicating opposition to the application, the Board finds

that the proposed subdivision would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land.

- [26] For all of these reasons, the Board grants the appeal, revokes the decision of the Subdivision Authority to conditionally approve the subdivision with an alternate configuration, and approves the subdivision subject to the conditions listed above.

Dated at the Town of Morinville, in the Province of Alberta, this 31<sup>st</sup> day of October, 2023.



---

Lee Danchuk, Presiding Officer

*Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.*

**APPENDIX "A"**  
**List of Submissions**

- The Notice of Appeal;
- A copy of the subdivision application with attachments;
- The Subdivision Authority's written decision;
- Planning & Development Services Report; and
- Appellants' submission.